

# THE DYNAMICS OF FISCAL FEDERALISM IN NIGERIA 1999 - 2011

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## CERTIFICATION

This is to certify that this thesis has been read and approved as meeting part of the requirements for the award of a Ph.d Degree in Political Science of the Department of Political Science, University of Ilorin, Nigeria.

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## **DEDICATION**

This thesis is dedicated to  
Temidayo  
and my three E<sup>s</sup>  
Esther, Emmanuel and Emmanuella.

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**Idowu, O.O.**  
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## **ABBREVIATIONS**

|          |   |                                                                     |
|----------|---|---------------------------------------------------------------------|
| AFDB     | B | African Development Bank                                            |
| AFEM     | B | Autonomous Foreign Exchange Market                                  |
| ASMDF&TR | B | Agricultural/Solid Minerals Development Fund and Technical Research |
| CBN      | B | Central Bank of Nigeria                                             |
| DMO      | B | Debt Management Office                                              |
| DNR      | B | Development of Natural Resources                                    |
| DPA      | B | Distributive Pool Account                                           |
| DPR      | B | Department of Petroleum Resources                                   |
| ECA      | B | Excess Crude Account                                                |
| FGFF     | B | First Generation Theory of Fiscal Federalism                        |
| FGN      | B | Federal Government of Nigeria                                       |
| FIRS     | B | Federal Inland Revenue Services                                     |
| GDP      | B | Gross Domestic Product                                              |
| JVC      | B | Joint Venture Cash Calls                                            |
| MSCF     | B | Million Standard Cubic Feet                                         |
| NAI      | B | National Archive Ibadan                                             |
| NCS      | B | Nigeria Customs Service                                             |
| NEITI    | B | Nigeria Extractive Industries Transparency Initiative               |
| NERFUND  | B | National Economic Recovery Fund                                     |
| NNPC     | B | Nigerian National Petroleum Corporation                             |
| NRMAFC   | B | National Revenue Mobilization, Allocation and Fiscal Commission.    |
| OECD     | B | Organisation for Economic Cooperation and Development               |
| PPT      | B | Petroleum Profit Tax.                                               |
| PTF      | B | Petroleum Trust Fund                                                |
| RMAFC    | B | Revenue Mobilization, Allocation and Fiscal Commission              |
| SGFF     | B | Second Generation Theory of Fiscal Federalism                       |
| SWF      | B | Sovereign Wealth Fund                                               |
| UNECA    | B | United Nations Economic Commission for Africa                       |
| VAT      | B | Value Added Tax                                                     |

## ABSTRACT

Fiscal federalism in Nigeria has been a source of intense political contestation for many decades. The contentious issues are equitable distribution and utilisation of revenue among tiers of government and inadequate legal instrument for revenue generation. The frustration arising from this fiscal dilemma has given rise to strident calls for political and economic restructuring of Nigeria. This study examined the dynamics and challenges of Nigerian fiscal arrangement under the Fourth Republic. The objectives of this study were to (i) examine the changing pattern of fiscal federalism in Nigeria between 1999 and 2011; (ii) analyse the challenges of Nigeria's fiscal federalism; and (iii) assess the extent of the application of the revenue allocation principle.

The study adopted decentralization theory which explained the extent to which subnational governments were given autonomy to determine the generation, allocation and utilization of their own revenue. Data for this study were sourced from both secondary and primary sources. Secondary data were derived from government official publications along with journal articles and books. Primary data were sourced from interviews with twenty respondents who were key stakeholders in the area of study. The study utilized qualitative research methodology for the analysis of data. The descriptive and historical aspect of qualitative analysis was adopted as the major tool of analysis.

The findings of the study were that:

- (i) there was a noticeable concentration of governmental functions at the federal level thereby making it to dominate major tax nets to the fiscal disadvantage of the other tiers of government. The 1999 constitution (as amended) lend credence to this observable phenomenon.
- (ii) there was lack of transparency on the part of federal agencies generating revenue to the distributive pool;
- (iii) visible inequality exists in national revenue distribution as a result of wide disparity in the per capital allocation between states generating bulk of the Value Added Tax revenue vis-à-vis states contributing little to the pool.
- (iv) with the lopsided nature of Nigeria's fiscal federalism, virtually all the tiers of government were dependent on the allocation from the Federation account. This suggest that the federal structure has almost been transformed into a unitary form; with allocation formula in the ratio of 52.68%, 26.6% and 20.60% for federal, state and local governments respectively. This has led to a serious agitation for a review of the extant revenue allocation formula.

The study concluded that in Nigeria, an urgent fiscal reform that would redress the existing mismatch through the increase of the taxing powers of lower level governments is very necessary. The study recommended the linking of equity and accountability in revenue allocation, effective government and balanced development to the core issue of national integration. This in essence can lead to resolving the problem of fiscal federalism and the national question in Nigeria.

# CHAPTER ONE

## INTRODUCTION

### 1.1 Background to the Study

Federalism is the desire of the people in an area to form a federal union without a loss of their identity. Federalism therefore is a compromise to solve the problems of multinational states which are of two dimensions. The first dimension is the determination of a national government which guarantees and ensures security for all the nation states while the second deals with self determination of the constituent states to retain their varying identities and autonomy. Federalism could therefore be seen as a way of reflecting the diverse interests of the people in an area, be it political, economic, social and cultural within the broader framework of unity. It is an attempt at the satisfaction of the need for cooperation in some things and the need for separate action in others. It is only federalism that has the attribute to fulfil this desire for unity where it co-exists with a determination not to smother local identity and local power. Discussions on contemporary federalism seem to have begun with Wheare (1963:10) when he defined federal government as a constitutional arrangement that divides law making powers and functions of the state amongst two levels of government which are co-ordinate and independent in status.

The concept of federalism in political literature is essentially contentious (See, Riker, 1975:93, Awa, 1977:1, Elazar, 1977:26, Jinadu, 1979:15). The reason for this lies in the fact that the meaning of the word federalism seems to have been thoroughly confused as a result of the dramatic changes in the institutions to which it refers. Thus federalism which originally refers to institutions with emphasis on local self government also connotes domination or force. The rights of both the federal government and the constituent state governments in a federal structure are specifically stated in the constitution. In modern federal countries, at least two levels of government, each distinguished by the scope of the geographical areas over which their respective jurisdiction extends are recognized. These are the federal government and state government. The jurisdiction of the federal (central) government covers the entire country on some subject matters, regional (state) government jurisdiction covers sub-sections of the country and local government exercise responsibilities over non-

overlapping areas within a state. To exercise these responsibilities over their various jurisdictions, the various governments require revenue.

Thus, revenue in terms of what is allocated and could be raised from taxation is very strategic in the life of federations, hence Wheare (1963:93) argued that each level of government should have adequate resources to perform its functions. In virtually all federations and likewise unitary systems, there are polemics on how best to handle the issue of finance. For instance, who and what to tax, how to spend and whether to run surpluses or deficits. An added layer of complexity on fiscal federalism deals with the existence of at least two constitutionally established levels of government, each with its own powers, responsibilities and perspectives. This has made debates around fiscal issues to be perennial in different forms of governmental arrangements be it federal or unitary and the outcomes evolve to reflect the predisposition of the different parties in power, directions or shifts of regional wealth and the prevailing wisdom existing at a given time. It is to be noted that the dynamic and critical role of >fiscal federalism= makes it one of the most studied aspects of federalism. This is because federal constitutions are typically quite stable because special majorities are needed to change them. Financial arrangements on the other hand, are much less stable hence shares and sources of revenues, the priorities of public spending and government surpluses or deficits can shift dramatically in short periods making it fluid. For instance, Nigeria since 1960 till date has had to review the fiscal distribution arrangements sixteen times.

Nigeria became a federation in 1954 with the federal provisions enshrined in the Lyttleton=s Constitution of that year. It is important to note that the Nigerian federation is one of the twenty (20) federal states globally that have adapted the federalism principle as part of the fundamental constitutional framework for the governance of their states (Oyewo, 2018:104). The constitution made clear provisions for decentralized fiscal federalism. The practice of fiscal federalism right from the colonial era to the present day has never been perfect and has, at various times, manifested a broad spectrum of vulnerability to the dictates of the ethnic nationalities. Indeed, Nigeria=s matrix of cultural pluralism has been affected by issues of complexities in its practice of federalism. In the face of such complexities, several principles of fiscal federalism have been recommended, adopted, faulted and discarded. The non resolution of the issues of

fiscal federalism has therefore been a recurring tension within the political spectrum of Nigeria, and debates on the future of Nigerian federalism have largely been affected by the significance of fiscal and financial issues. (Oyovbaire, 1985:162, Mbanefoh and Egwaikhide 1998:213, Emenuga 1993:80, Ojo, 2009:188, Ojo, 2010:16 and Ayoade, 2020:6).

Nigeria at independence in 1960 was a federation of three regions that is Western, Northern and Eastern along with a Federal Capital. In 1963, a fourth region, the Midwestern Region was created out of the Western Region. There was the provision of a tax base for each region which was composed largely of revenue that could be easily identified as originating from that region like personal income taxes, licensing fees etc. A pool account was put in place for the distribution of revenues that were considered to be of national significance such as custom duties i.e. import and export, mining rents and royalties, company taxes and excise duties. Derivation as a principle of revenue sharing played an important role in the pooled resources at this time since the country was concerned with setting the right incentives for tapping local revenue sources and encouraging fiscal responsibility in the regions. Although revenue commissions were appointed between independence and the military take over in 1966, the fiscal system in place was largely decentralized. The debilitating imbalance of the federating units made the preponderant size and population of the Northern Region to put the rest of the country under the perpetual domination of the Northern Region. Also the number of the federating units was too few, leading to perpetual face to face conflicts. Thus, in 1967 before the outbreak of the civil war, the country was split into twelve states by the military government. This transformation of the federal structure to Aiyede (2009:257) was accompanied by a concentration of the main government revenues into a common pool for distribution among the various tiers of government which led to a heavy financial dependence on the common pool revenue by the federating units. This situation characterized the distribution of revenue up till the beginning of the democratic dispensation in 1999.

In the 1999 constitution, the Nigerian federation was made up of three tiers of government i.e. the federal government, 36 state governments (and a federal capital territory) and 774 local governments. It is to be noted that in Nigeria's history i.e. 1966 to 1999 (with perhaps the exception of the period of the second republic) 1979 to 1983,

Nigeria has operated more or less as a unitary state with power centralized in the central government. The constitution of 1999 reverted the country to a federal arrangement. As such, it might likely take a while for the various tiers of government to fully understand and grasp what their responsibilities are and how they could jointly work together to ensure the success of the system. For instance, democratically elected state governments seems to be under a greater pressure from their people to deliver on their constitutionally assigned expenditure mandates and they see a massive increase in spending as the only instrument for its achievement. The reason for this is that over the years, especially during military administrations, fiscal allocations to the states and local governments were low coupled with low tax base. The resultant effect was a dislocation between the assigned responsibilities and the financial resources needed to execute these responsibilities.

In essence, it is to be noted that no federal system is a model for another. The system that is acceptable to a country could be deemed to be a true federalism to it. The issue in Nigeria is that there is too much agitation for appropriate revenue allocation formula, and it is for this reason that it has not been easy to find out solutions to the problem of an acceptable revenue allocation formula.

## **1.2 Statement of the Research Problem**

The structure of fiscal federalism focuses upon three closely related matters viz: what level of government will be given the authority to impose and administer and or retain what portion of the revenue actually realized from taxation. It also attempts to deal with the question of socio-economic disparities among the component units of the federal system and the question of economic growth, stabilization and development of the whole federation. Since fiscal arrangements in many federations have often trumped constitutional or political arrangements, in the sense that money has often gone where power is, the natural tendency is that fiscal issues are often at the heart of political debates in federations. Hence, to Bird (2003:1) six basic questions usually arise with respect to fiscal federalism in any federal system. These are:

- (i) Who should do what? B the question of *expenditure assignment*;
- (ii) Who should levy what taxes? B the question of *revenue assignment*;
- (iii) How should any imbalance between revenues and expenditures of sub-national governments that results from answers to the first two questions be resolved? B

the question of *vertical imbalance*;

- (iv) To what extent should fiscal institutions attempt to adjust for the differences in needs and capacities between different governmental units at the same level of government? B the question of *horizontal imbalance or equalization*;
- (v) What, if any, rules should exist with respect to sub-national borrowing? and
- (vi) How are these questions answered? B the institutional framework within which the technical and political problems of fiscal federalism are resolved.

Nigeria has persistently grappled with the problem of effective management of the growing mismatch between functions and resources at all tiers of government. The reason being that as a result of the different economic potentials among the various units, those units that have economic advantage had shown a reluctance in sharing their resources with those units that are less endowed. In the nation's experience, the problem had not been that of allocating powers and jurisdiction over taxation but that of allocating the revenue generated between the various levels of government. Since 1999, the issue of resource control by the oil producing states has crept into the fiscal arena and this deals with the question of socio-economic disparities and development. The effect on Nigeria is the assignment of political, religious and social dimensions to fiscal matters as it has gone beyond the purview of economics alone.

Issues revolving around fiscal federalism in Nigeria has always being problematic. To Omelle (2003: 235), the nature of the ad-hoc and inconsistent revenue allocation principles adopted by the various Nigerian governments partly explains the frequent creation or the need for new revenue allocation commissions. Another explanation has to do with the multiplicity of ethnic groups which now co-exist in various degrees of inter-dependence. The unilateral amalgamation of the Southern and Northern Protectorates in 1914 by the British colonialists was to Omelle (2003:235) the beginning of the geo-structural defects, or misadventures, that have made authentic federalism and a fiscal equilibrium increasingly unattainable in Nigeria four decades after political independence. In such a situation, there is problem in any genuine attempt to eradicate numerous micro-loyalties and thus re-orientate the various ethnic society into professing national identity and outlook.

One of the major problem which the Nigerian federalism is facing is how to equitably distribute the revenue between the constituent units of the federation. In the period before and after independence, the political elite from each of the regions

exhibited the fear of political control of one over the other, and was distrustful of one another. To this extent, each wanted its region to control the government at the centre. Since the character of the rentier neo-colonial state provides the ruling classes with very lucrative sources of accumulation, therefore in the struggle for this accumulation, there were no holds in the struggle. The result was and is the continuous struggle among the political elites for the control of the resources of the country. In the Nigerian federation today, the dominant groups seem unsatisfied with what they have already cornered for themselves and they want more, minorities are in perpetual fear of losing what they perceive to be their fast shrinking political and economic spaces. This resulted in mutual fears and suspicion which heighten unhealthy, if not deadly competition and rivalries amongst the upper classes of these groups over control of political power and the state.

Revenue allocation in Nigeria has a great potential for conflict, especially between the federal government and state governments, and between states and local governments. Despite the several and lengthy discussions that have taken place on the issue for several years, agreements has not been reached concerning the optimal system to adopt. The issue of allocation of revenue has therefore been a recurring one in Nigeria=s fiscal federalism. There has been the problem of how to allocate revenue to the different levels of government in relation to their constitutionally assigned functions. The reason for this is the warped nature of various revenue allocation formulae utilized so far which does not enjoy a consensus from all parts of the country. Rather the fiscal allocative policy thrusts tended to reflect the views of the individuals, groups within the commission or the commissions itself. The effect is a proclivity for postulating theories, approaches, ideals and beliefs which do not only prove unrealistic but also contributed to the dislocations within the nation. Consequently to Ubi and Inyang (2017:35) the operation of these theories of fiscal federalism in the Nigerian federation has been criticized and adjudged to tilt too far in favour of the central/federal government to the detriment of the federating states, particularly in the area of allocation, resource control and management. Hence, the fiscal practice is defective. An ideal practice of fiscal federalism must, firstly, be conducive to rational and equitable allocation of the country's resources among the different tiers of governments, and groups, secondly minimize intergovernmental and intergroup tension, and thirdly, promote national unity. It is to be noted that all these are in short supply in the current fiscal arrangements.

The practice of fiscal federalism in a federal system of government creates complex problems. This complexity stems from the distinctive nature of federation as a form of government in which the legislative, executive and judicial functions or powers of the state are shared amongst the three levels of government. In Nigeria, the matrix of cultural pluralism which has interactively been affected by the issues of regionalism, ethnicity, language and religion has manifested in the broad spectrum of vulnerability to which it had been afflicted. Some of the most contentious arguments against the practice of federalism in Nigeria relate to fiscal federalism and they explain ongoing agitation for restructuring or reconfiguration of the institutional and political frameworks that will address the inequitable management and control of resources/revenue by the federal government and the deficiencies of the practice of fiscal federalism in Nigeria. (Oyewo, 2018:109).

This study's focus is to attempt an indepth study of the dynamics of the nature of Nigeria's fiscal federalism in the fourth republic (1999 B 2011). It seeks to examine the patterns of generation and distribution of fiscal funds and the how this has influenced and shaped an enduring inter-governmental relationship in the republic under review in particular and Nigeria in general.

### **1.3 Research Questions**

This work is anchored on three basic research questions which are stated below:

- (i) How does the structure and practice of fiscal federalism in the Fourth Republic influence the nation's distribution of resources?
- (ii) What are the challenges affecting the stability of the fiscal system?
- (iii) What can be done to solve the problems of fiscal federalism in Nigeria?

### **1.4 Objectives of the Study**

This study's objectives are both general and specific viz:

The general objective of the study is to examine the various factors promoting or inhibiting the practice of stable principle of fiscal federalism in Nigeria. The specific objectives are to:

- (i) examine the changing pattern of fiscal federalism in Nigeria between 1999 and 2011;
- (ii) analyse the challenges of Nigerian fiscal federalism; and
- (iii) access the extent of the application of the revenue allocation principle.

### **1.5 Justifications for the Study**

The justification for this study is that, inspite of the works of different scholars and researchers on the different aspects of fiscal federalism in Nigeria, in the last decade when democracy was re-inaugurated in 1999, these have not resulted in the emergence of a more stable fiscal system and much cogent attention has not been focused on fiscal federalism. The need for this attention is very imperative with the realization that the three tiers of government that is the federal, states and local needs adequate revenue to perform their constitutionally assigned functions. Adequate financial resources are a sine-qua-non for the attainment of the nation's political, developmental objectives. This has not been achieved because the National Assembly despite the constitutional provision of regular review of the existing revenue formula has not come up with any new revenue formula since 1999. Again, the constituional body, that is the RMAFC which is expected to midwife the new formula is emasculated by the constitutional provision which places its input as purely advisory to the President. This situation has resulted in the unwillingness of the executive to review the existing revenue formula (See Third Schedule, Part II, Section 32, Sub-section b of the 1999 Constitution) as shall be discussed later in the study.

It is also noted that a preponderance of scholars tended to focus on the allocative aspect of the fiscal system with the neglect of highlighting how the sources of the funds to be allocated can be enhanced. There seems to be an underlying assumption that oil will continue to be a major source of funds without taking into consideration that it might in the future be completely depleted or that the world might develop an alternative to oil. This gap is a major one and the intent of this study is not only to examine the problems associated with the allocative policies of fiscal federalism in Nigeria, but to also attempt a discussion on issues relating to the stability of the fiscal system as this is germane to the avoidance of conflict and promotion of peaceful co-existynce in the country. Also many scholars have neglected to highlight the areas of comparative advantage of the various states in the federation and the need to maximize such advantages to the benefit of the states concerned, thereby reducing the pressures on the polity.

### **1.6 Scope of the Study**

This study's intent is to assess the issues relating to fiscal federalism in Nigeria in

the first twelve years of fourth republic 1999 - 2011. Since the beginning of the fourth republic in 1999 what has been one of the front burners of political discourse has been the need to restructure the country towards the practice of *true federalism*. Some of the major focus here has been issues relating to fiscal decentralization, control of natural resources, formulation and adoption of an acceptable revenue allocation template and management of the federation account. A look at these issues therefore becomes imperative. The time scope for the study is between 1999 and 2011. Although the fourth republic is ongoing, the period chosen represents the first twelve years of democracy. The justification for this is that 1999 represents the beginning of the fourth republic and the year 2011 marked the end of the third term of twelve years of continuous democratic rule. 2011 also represents the commencement of this study.

### **1.7 Limitations to the Study**

The limitations of this study is to reflect in the sources of data collection and analysis. One major limitation is the principal participants in the process of fiscal federalism (i.e. past and present Heads of States, Finance Ministers and Chairmen of RMAFC) who were not easily accessible to be interviewed. The interview questions were sent to them through their aides to enable them have a foreknowledge of the intended questions. In the end, it was not feasible to meet them as a result of their busy schedule and neither do they return their prepared answers. The nature of the office they held and their inaccessibility makes the application of any form of primary source of data collection (that is questionnaire, interview, observation etc.) on them a very difficult task. Despite this limitation, seventeen people made up of former Senators, former Honourable, Members of the House of Representatives, former Finance Commissioners, Accountant Generals of States, former Senior staff of the RMAFC, Federal Ministry of Finance, Office of the Accountant General of the Federation, and Chairmen of Local Governments who were accessible were interviewed. It is noted here that, although their role and involvement in the process of fiscal federalism were very limited, interviewing them added value to the study. To ensure a solution to the problem enumerated above, the study had to rely heavily on maximizing the analysis of existing documents, hence data was gathered from government organizations, agencies and other sources of secondary data collection.

### **1.8 Organization of the Study**

The study is divided into seven chapters. Chapter one discusses issues relating to

the background to the study, statement of the problem, justification of the study, research questions, scope of the study and limitations to the study. Chapter two deals mainly with literature review and theoretical framework. The kernel of chapter three is a discussion on the methodological approach utilized. Chapter four is a review of the evolution and practice of fiscal federalism in Nigeria's pre-independence to May 29<sup>th</sup> 1999. Chapter five extensively dwells on the structure and practice of fiscal federalism in Nigeria within the study period that is, 1999 - 2011. Issues relating to constitutional provisions for fiscal federalism under the 1999 constitution and the actual practice of fiscal federalism were discussed. Chapter six discusses the dynamics of fiscal federalism in Nigeria from 1999 to 2011. Here, some critical issues that inhibit in the effective and efficient operation of fiscal federalism were extensively discussed. The selected issues analysed were centralization and decentralization of the fiscal system, management of the federation account, fiscal dependency of the states and local governments, control of natural resources and the stability of the federal system, mismanagement, corruption and indiscipline in the fiscal system. Chapter seven presented the summary, research findings, conclusion, recommendations and the contributions of the study to knowledge.

## **CHAPTER TWO**

### **LITERATURE REVIEW AND THEORETICAL FRAMEWORK**

#### **2.1 LITERATURE REVIEW**

##### **2.1.1 Preamble**

This chapter has two foci made up of Literature Review and Theoretical Framework. It is acknowledged that several works have been done in the various field of fiscal federalism by scholars, however the discussion on literature review is broken down to the following sub-headings namely conceptualizing federalism, concept of fiscal federalism, principles of fiscal federalism, comparative fiscal federalism in some selected federal states and political economy of fiscal federalism in Nigeria.

##### **2.1.2 Conceptualizing Federalism**

Federalism which was derived from the Latin word *Foedus* (meaning league, pact or covenant) is a political concept in which a group of members are bound together by covenant with a governing representative as the head. Federalism is viewed as one of the political organizations that had been able to weather the test of time in most democratic politics. Hence, to Ayoade (2020:3) “federalism is an ingenious political device for the accommodation of diversity in a single political entity or alternately, for ensuring oversight over a wide expanse of territory”. This perhaps explains why Akindele and Olaopa (2017:169) were of the view that the political utility of federalism as a policy building mechanism and an enhancer of people’s liberty is deep-seatedly rooted in history. Therefore to them, it has always continued to be relevant and gain vitality by ways of practical utilization in different countries all over the world. To scholars like Schmit (1997:19) according to Akindele and Olaopa (2017:170), it is only federalism during the modern epoch that has offered a model of statehood which is able to serve as an alternative to the reified state. The acceptability of this form of political arrangement by peoples around the world is not in doubt. With empirical documentation, Schmit (1997: 24) stated that nearly 40 percent of the world’s population currently lives within political systems which are formally federal. Schmit (1997:24) further observed that federalism is perhaps one of the most widespread of the various revolutions which are changing the face of the globe.

However, federalism is essentially a contentious concept with no clear or universally acceptable meaning among scholars. Federalism is usually viewed as a form of government and institutional structure, deliberately designed by political architects to

cope with the twin but difficult task of maintaining unity while also preserving diversity (Jinadu, 1979:18). However, this conception of federalism becomes problematic and compounded as pointed out by Elazar (1977:26) that there are several varieties of political arrangements to which the term has properly been applied. Besides, Riker (1975:93) noted that an initial difficulty in any discussion of federalism is that the meaning of the word has been thoroughly confused by dramatic changes in the institution to which it refers. Hence, to Encyclopedia Britannica (1969:136) federalism being highly dynamic, the equilibrium of its power is continuously changing in ways beneficial to its adherents. This perhaps explains why Akindele (1995a: 92) stated that 'The concept of federalism, because of many tones already written on it, has not been free from definitional pluralism... In other words... it is not an exception as far as the problems of definition are concerned.'

In spite of contrasting conception of the term, the discussion of contemporary federalism generally started with Wheare whose formulation is perhaps the most cogent and clearly expressed. The reason for using Wheare as the analytical take off of the discussion on the theory of federalism is premised on his universal acceptance as the father of contemporary federalism. To Wheare (1963:10) federalism is defined from the view point of constitutional arrangement which divides law making power and functions between two levels of government. According to him 'By the federal principle I mean the method of dividing powers so that central and regional governments are each, within their sphere, coordinate and independent'. Wheare (1963: 35-36) in prescribing the two prerequisites of federalism stated that 'to begin with, the communities of states concerned must desire to be under a single independent government for some purposes at any rate... They must desire at the same time to retain or establish independent regional governments in some matters at least.'

Wheare's doctrine of federalism to Akindele and Olaopa (2003:171) which although recognised the inevitability of conflicts among the components of the federation, prescriptively advocates the mechanism for dealing with such conflicts constitutionally.

These mechanisms include:

- (i) the division of governmental responsibilities between levels of government.
- (ii) a written constitution spelling out this division and from which federal and state authorities derive their powers.
- (iii) a judiciary independent of both levels of government that act as an arbiter in cases where there are conflicts over the jurisdictions enumerated in (i) above and
- (iv) the federal arrangement emphasizing co equal supremacy of the various levels each in its respective field of operation... the citizens of the federation being concurrently under two authorities and owing loyalties to them.

It should be noted that the legal framework of Wheare (1963:35-36) was to define the objectives (union) which are to be attained as well as to establish a system of government. Hence the constitutional form is brought about by circumstances where people are prepared to give up only certain limited powers and wish to retain other limited powers, both set of powers to be exercised by coordinate authorities.

Carnell (1961) holds the same view as Wheare that federalism is essentially constitutional government because it is based on respect for the constitution. According to him Aa federal structure is one where a number of autonomous regions are in one sovereign state, with the powers to the legislature and executive divided between the various governments, and with each government, autonomous in its own area of power acting on the people.@

Other scholars such as Smiley (1972) and Elaigwu (1994) shared Wheare and Carnell=s categorization of federalism. Quoting Smiley (1976:2), Akintunde and Olaopa (2017:170) asserted that Athe most characteristic aspect of a federal constitution is its division of law making powers between the central and regional governments@. Elaigwu=s (1994:148) position was within the same bracket according to Akindele and Olaopa (2017:170) when he asserted that:

A federal system of government often arises from the desire of a people to form a union without losing their identity... It is a compromise in a multinational state between two types of self-determination B the determination to maintain a supra-national framework of government which guarantees security for all in the state, nation or the nation B state on one hand and the self determination of component groups to retain their individual identities on the other hand.

Some scholars Birch (1968), Ajayi (1997), Livingston (1956), Friedrich (1968)

and Alazar (1985) who have commented on federalism have however been displeased with the rigidity (legalism) of the definitions of Wheare and Carnell on the platform that they are unrealistic in modern practice of federalism. Birch (1968:15) criticized Wheare=s theory of federalism as being too legalistic and infeasible. Ajayi (1997:151) writing in the same vein stated that A=Wheare=s reliance on jurisprudence for the operation of the federal system... makes his theory to be too legalistic, rigid and not to be true all the times for all or most polities since his Aequal and co-ordinate@ thesis does not hold in practice@.

Livingston=s (1956:1) criticism of Wheare=s theory was on the issue of its being narrow and nonsociological. To Livingston, social diversity is a reflection of federation, thus a process instead of a design operating in both the direction of integration and differentiation. He observed that Athe essence of federalism lies not in the institutional or constitutional structure, but in the society itself..

Friedrich (1968:3) asserted that federalism is a general principle of social organisation and that the degree of federalism in a political system is a function of sociological factors or federal qualities of society. He observed that Athe essence of federalism lies not in the institutional or constitutional structure but the society itself. Federal government is a device by which the federal qualities of the society are articulated and protected.@

Writing within the same purview, Alazar (1985:26) saw federalism as being a social phenomenon. On this parameter, federalism was conceptualized in two ways. The first deals with the capacity or predilection of citizens as individuals and groups in their federal relation. This involves being respective partners of each other=s integrity in their search for the common good in all aspect of life. Secondly, federalism encourages the existence and permanence of a multi-ethnic cultural and religious pillars or camps in which the political system is organized.

Amuwo=s (1998:2) view is that in terms of power sharing, federalism instructs that it is not enough A... to share power constitutionally (juridically) but, to be meaningful and intelligible, power has to be shared behaviourally (or politically)@. This presupposes that federalism is developed on, at least, a dual sovereignty. To Amuwo, the assumption is that it is only when power is divided as well as susceptible to being divided or parcelled out is individual liberty best guaranteed. This is in line with Meehan=s (1966:100) argument that Athe central interest of true federalism in all its species is liberty@.

He asserts that liberty may either be individual or collective. In a poly communal or multinational state, diversity may not only be the source of strength and a major advantage if skillfully and intelligently managed. In fact, to him, it may “be more important than uniformity for the protection of rights”. Federalism from Peterson=s (1995:8) perspective focused on the protection of minority interests by Afore-closing or perhaps more correctly, narrowing the possibility of majoritarian tyrannical rule@. It is also to Lar (1994:39) an instrument for the peaceful coexistence of unity and diversity. Logams (1994:168) argued that when all contestations on the concept of federalism are put together, federalism theory and its contestations are based upon the idea that the existing structure of societal resources, consensus and conflicts can be grouped into at least two communities to which citizens belong.

### **2.1.3 Concept of Fiscal Federalism**

Fiscal federalism is a central issue within the political arena as well as in the academics as a result of its importance in the existence of any federal system. No matter the type of a decentralization of power, the fiscal dimension is always important. In most cases, it is a factor in the determination of the outcomes of the entire process. Farber and Valdesalici (2017:3) notes that just like federalism, there is no one-size-fits all model and there is no universal agreement on a common definition of fiscal federalism. Furthermore, there are notable differences with regards to the terminology used in the context of fiscal federalism. There are no generally accepted definitions of terms such as ‘financial relations’ or ‘fiscal arrangements’, ‘fiscal federalism’, ‘fiscal decentralization’, ‘financial regimes’ or ‘fiscal constitutions’ and sometimes these terms are sometimes difficult to distinguish.

Originally, the concept of fiscal federalism was associated with the United States prototype referring to it as the ‘assignment of functions to different levels of government and the appropriate fiscal instruments for carrying out these functions’ (Oates, 1999:82). Fiscal federalism as a technical term was developed by Richard Musgrave, an American economist in 1959 (Sinha, 2015:1) Musgrave argued that federal government systems have the ability to solve many issues local governments face by providing the balance and stability needed to overcome disruptive issues like uneven distribution of wealth and lack of widely available resources. Musgrave further theorized that federal governments should manage a nations money from the top and give it to states, who can distribute it locally as needed (Sinha, 2015:1).

Fiscal federalism therefore is primarily concerned with “understanding which

functions and instruments are best centralized and which are best placed in the sphere of decentralized level of government” (Oates, 1999:83). Writing within the same purview, fiscal federalism to Ipaye (2010) “...concerns the analysis of problems that give rise to, and arise from the existence of more than one level of government within the same geographical area. The theory of fiscal federalism concerns the division of public sector function and finances in a logical way among multiple layers of government”. In other words, it is the study of how competences (expenditure side) and fiscal instruments (revenue side) are allocated across different (vertical) layers of administration.

It is worth noting that the performance and success of the taxing powers and revenue sharing formula is measured by the impact of the ‘vertical fiscal balance or imbalance’ and ‘horizontal fiscal balance or imbalance’. Rapu (2006) notes that many federal system attempt to achieve equity through revenue sharing between the central, regional (states) and local governments and among states and local governments. This reflect the fact that most high yielding revenue types are assigned to the central government while substantial and growing expenditures are devolve to the sub-national governments, reflecting the presence of vertical imbalance. A vertical fiscal imbalance is measured by the extent to which a tier of government expenditure is financed by own assigned taxes. There is also the horizontal fiscal imbalance, since revenue raising capacities of each of the sub-national government vary, and they face different cost, revenue – shock and demand pressures as they attempt to meet their assigned expenditure. In this context, a horizontal imbalance is measured by the portion of which the government at the lower level’s spending is financed by the assigned revenue compare to their counterparts. Thus revenue sharing in a federal system to a large extent is aimed at not only to redistribute resources within the nation but also to effectively control borrowing capacities of the sub-national governments.

The concept of fiscal federalism has some common foundations. The key aspects of these foundations to Anderson (2010:14) include:

- (i) The spending powers to carry out public functions each entity is vested with, with a focus on the following questions: Who is responsible for which expenditures? How are they assigned among all tiers?
- (ii) The revenue responsibilities, including both the (legislative) power to tax and the power over revenue. The legislative power to tax involves decisions not only on

who is in charge to tax and what can be taxed, but also how to share such powers among the different tiers of government. One could refer to this category in terms of tax-base sharing schemes. Once decided on who is responsible for tax raising and how taxing powers are shared among the different levels, distribution of the revenue, i.e. the revenue sharing scheme. This is typically done by addressing the following questions: How does the distribution of intergovernmental revenue work? How is revenue shared vertically among the different levels as well as horizontally that is among the entities belonging to the same level? Looking at the existing case studies, two major patterns can be detected: tax revenue sharing arrangement and/or equalization schemes (or transfers in a broader sense). These are flows of money distributed on the basis of different criteria or a combination thereof, like the derivation principle, but also others such as population, fiscal capacity (the lower the fiscal capacity, the higher the amount of transfers), or spending needs.

- (iii) The borrowing powers – that is the distribution of this power and the limitations each entity undergoes. Who can borrow? How much freedom do subnational governments have in this respect?
- (iv) The institutional dimension - who decides on all of this? This is of relevance as financial relations are necessarily an area of cooperation and conflict, including not only conflicts with regards to the distribution of powers but specifically related to redistribution of funds which ultimately affects the stability of a political system.

It is to be noted that each inter-governmental system of finance distribution adopted is the product of political bargaining and compromise within that political system.

The ideas of fiscal federalism to Mesfin and Bogale (2013:1) are relevant for all kinds of governments, be it federal, unitary and confederal. The concept of fiscal federalism is not to be associated with fiscal decentralization in officially declared federations only, it is applicable even to non-federal states (having no formal constitutional arrangement) in the sense that they encompass different levels of government which have de-facto decision making authority. This to Mesfin and Bogale (2013:1) however does not mean that all forms of government are ‘fiscally’ federal, it

only means that ‘fiscal federalism’ is a set of principles that can be applied to all countries attempting ‘fiscal decentralization’. In fact, fiscal federalism is a general normative framework for assignment of functions to the different levels of government and appropriate fiscal instruments for carrying out these functions. Two questions arise (a) How federal and non-federal countries are different with respect to ‘fiscal federalism’ or ‘fiscal decentralization’ and (b) How ‘fiscal federalism’ and ‘fiscal decentralization’ are related (similar or different)? While fiscal federalism constitutes a set of guiding principles, a guiding concept that helps in designing financial relations between the national and sub-national levels of the government, fiscal decentralization on the other hand is a process of applying such principles. Federal and non-federal countries differ in the manner in which such principles are applied. Application differs because unitary and federal governments differ in their political and legislative context and thus provide different opportunities for fiscal decentralization.

In summary, the concept of fiscal federalism presupposes a system of government in which the fiscal responsibilities lie with the various levels of government in the country. For instance, in Nigeria, the three levels (federal, state and local governments) have the joint responsibility of raising and utilizing the revenue raised to carry on governmental responsibilities. It is therefore imperative that the various levels in the federation must not only have verifiable independent sources of revenue, but that such independent sources should to a large extent provide a solid base for its revenue needs and promote the economic potentialities of the nation.

#### **2.1.4 Principles of Fiscal Federalism**

In federations with sub-national units that have diverse economic opportunities and potentials, revenue allocation is politically very sensitive because its evolution was usually on the basis of a zero-sum game principle. It is also necessary for the various federal levels to have control over their constitutional functions and utilize this control in their own way with their own resources which is akin to the financing of public goods with the utilization of the derivation principle. As a result of the reasons enumerated above and the need for federal equilibrium, some principles have evolved over time to guide the application of inter-governmental fiscal relations although the adoption of the principles varies from one country to another as a result of different peculiar national experience and circumstances. The principles of fiscal federalism according to Shah (2007:2) are concerned with the design of fiscal constitutions that is, how taxing, spending and regulatory functions are allocated among governments and how inter-

governmental transfers are structured.

Scholars like Brown and Jackson (1990: 278 B 279), Ekpo (1994: 1129B1146) and Agiobenebo (1999: 41B43) highlighted the principles that guide the inter-governmental fiscal relations as:

- (i) ***The Principle of Diversity:*** A federal system must have the capacity of accommodating a large variety of diversities. As such, the fiscal system must provide the scope for variety and differences to supply national, regional (state) and local public goods.
- (ii) ***The Principle of Equivalence:*** There is a difference in the geographical incidence of public goods. Hence, allocative efficiency requires the equalization of locational advantages arising from inter- jurisdictional differences with a combination of taxes, public goods and services.
- (iii) ***The Principle of Centralized Stabilization:*** The requirement of this principle is the utilization of fiscal instruments for achieving macroeconomic objectives of growth, stabilization and full employment at the national level.
- (iv) ***Correction of Spill over Effects:*** This brings about the correction of inter-jurisdictional externalities by the system. This refers to externalities (both benefits enjoyed and harm suffered) experienced by residents of different geo-political units. The requirement is expected to control what in fiscal decentralization literature is referred to as Acentral city exploitation thesis@.
- (v) ***Minimum Provision of Essential Public Goods and Services:*** This principle assures all citizens that irrespective of where they reside, fiscal federalism will ensure the minimum provision of certain essential public goods and services.
- (vi) ***Fiscal Equalization Principle:*** Some level of fiscal equalization among the various units of government is required to reduce the sharp regional differences in resource endowments and fiscal capacity. This will bring about minimum provision of certain public goods and services.
- (vii) ***The Efficiency Principle:*** The implication of this principle is that efficiency must be applied in the course of allocating resources. In addition, each level of government should be able to control some of their resources as they deem fit.
- (ix) ***The Principle of Locational Neutrality:*** Interregional fiscal differences tend to influence locational choices of individuals and firms. As a result of different resource endowments, capacity and effort, some degree of locational interference will be an inevitable cost of intergovernmental fiscal relations. The focus of the policy therefore will be to minimize distortions that might arise as a result of such

interference. Differential taxes that might create locational distortions should therefore be avoided as much as practicable.

- (x) ***The Principle of Centralized Redistribution:*** This principle states that the redistribution function of fiscal policy through progressive taxation and expenditure programmes should be centralized at the federal level. This seems consistent with the principle of locational mentality. That is if the redistributive function is decentralized, it can result in distortions in locational decision.

An important point to note is that these principles are not mutually consistent. Since they are difficult to be applied simultaneously, trade-offs are necessary in order to avoid conflicts. There is no doubt to Ekpo (2004: 28) that the general principles of fiscal federalism appeared to have informed Nigeria's attempt at intergovernmental fiscal relations. The different principles adopted have been dictated by a combination of historical experiences, political, cultural and social factors. After almost four decades in search of a workable fiscal federalism, there still exist challenges which policy makers must address.

Nigeria has since 1946 to the present adopted sixteen revenue sharing principles that is (twelve *Equity* and four *Efficiency*) for the horizontal distribution of revenue as shown in Table I. *Equity* means equality or *Equal share* or *Equal treatment*. States and Local Governments are treated as being equal in the distribution of revenue when the equity principles are applied. In the utilization of the *Efficiency* principles, a state is seen as being more efficient than another if it is able to spend proportionately less than another state to collect the same amount of revenue or to collect more from the same revenue base to achieve a faster growth rate than another state at the same level of income (Okigbo, Vol. I, 1980: 25). Of all the principles, population, equality and derivation have dominated the system of revenue allocation in Nigeria.

In the period between 1950 and 1960, the three regions of the North, East and West, in their drive to ensure maximum benefits from their natural resources were vociferous in advocating the utilization of the derivation principle. Ayoade (1973: 57 B 74) asserted that with cotton and groundnuts in the North, rubber and cocoa in the West and palm oil in the East, derivation principle was loudly and passionately advocated, with each region using secession as a regressive mechanism should derivation be discarded.

**Table I:**  
**Horizontal Revenue Sharing Principles**

| Equity Principles                                                                                                                                                                                                                                             | Efficiency Principles                                                         |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------|
| Derivation<br>Equality<br>Population<br>Even Development<br>Need<br>Minimum Responsibility<br>Equality of Access to Development<br>Continuity in Government Services<br>Minimum National Standard<br>National Interest<br>Landmass<br>Financial Comparability | Absorptive Capacity<br>Tax Effort<br>Independent Revenue<br>Fiscal Efficiency |

**Source:** Compiled by the Researcher from Okigbo, P.N.C. (1980) Report of the Presidential Commission on Revenue Allocation. Vol. 1, Main Report and Minority Views. Lagos. Federal Government Press.

The situation changed from 1970 to date with the assumption of oil as the prime revenue earner coupled with a military administration with centralization tenets. The result was the foisting of fiscal centralization on Nigeria and the utilization of derivation principle which was downplayed. The effect had been that Nigerians were divided into those that wanted the retention of derivation and those that favour the use of other principles. The reason for this was that the creation and proliferation of states have projected the application of equality and population as attractive distributive principles.

#### **2.1.5 Comparative Fiscal Federalism in Some Selected Federal States**

In spite of the sound theoretical justification for fiscal federalism, its operation and practicability differs in various federal systems when it is viewed from cultural and historical antecedents. This section provides a comparative analysis of policy issues and trends in some federal systems. The aim here is to identify some issues of fiscal decentralization and inter-governmental fiscal relations that have shaped the practice of fiscal federalism in these countries and how appropriate lessons could be drawn from them to help shape Nigeria=s practice. It is to be noted that problems associated with fiscal centralization and decentralization by their nature have important economic, political and institutional dimensions. These vary from one country to another, hence the need to undertake a comparison of the diverse experiences of various countries. The selected federations for comparison are Switzerland, South Africa, India, Spain, Russia,

Australia, Malaysia, Canada, Germany, United States, Brazil and Nigeria. The experiences of these federations will be analysed using some parameters. These are:

**(i) Modes of Federalism**

The selected federations have diverse models of federalism. Switzerland, Canada and the United States model is more of the coordinate authority model of dual federalism with states enjoying significant autonomy. Here, the local governments are mere creations of the states with little or no direct relationship with the federal government. In Malaysia and Spain, their model of federalism has the character of an asymmetric layer-cake model of dual federalism. Some states like Sabah and Sarawak (Malaysia) and Basque and Navaore (Spain) have autonomous status and they are treated more equally than other constituent states of the federation. For India, Russia and Australia, their model is more of the layer-cake dual federalism, which projects a stronger national government role in the federal system. Here, the responsibilities of both levels are distinct and separate with a hierarchical relationship among the tiers of government with the federal government at the apex. The features of co-operative federalism are evident in the model practiced by South Africa, Germany, Brazil and Nigeria. There are interdependent spheres of government (hierarchical ), although in these countries, the federal government assumes an almost exclusive role in legislative authority for policies and standards. Nigeria has a three-tier hierarchical system with a strong federal government. In contrast, Brazil is a form of cooperative model of federalism with three independent spheres of government. In these federal systems, South Africa, Brazil, India and Nigeria have constitutionally recognized local governments, while in the other federations, local governments are creatures of the state or provincial governments (Broadway, 2006:9, Shah, 2007:371). It is to be noted that these federations choice of different models was a result of differences in their political history, cultural affiliations and ethnic configuration.

**(ii) Allocation of Taxing Powers**

Tax assignment (tax base and rate determination) are highly centralized (75 percent or more revenues) in South Africa, Malaysia, and Australia, centralized (60 percent to 75 percent of revenue collected by the centre) in India, Brazil, Russia and the United States, highly decentralized (37 percent of total revenues collected by the centre) in Switzerland, and decentralized (40 percent to 50 percent at the centre) in Nigeria and Canada. The other countries fall into the intermediate range (Shah 2007:380). There is

the need to note that in Brazil there are federal taxes on wealth (large fortunes), banking, finance, insurance and rural properties. In India, the federal taxes include estate duties and inter-state trade tax (Onimode, 2000:149).

At the state level, India, Brazil, Switzerland, Canada, Nigeria and the United States have the highest number of taxes, hence their taxing powers are wide. They are quite restrained in Australia, Spain, South Africa and Malaysia. The state tax autonomy (having responsibility for base and rate determination of non-taxes) is high in Canada, Switzerland, Australia, United States, Nigeria, India and Brazil but constrained in Spain, Germany, Russia and Malaysia. In the later countries, states are given some discretion in setting tax rates but the tax-base determination is a federal responsibility (Shah, 2007:380, Onimode, 2000: 149).

### **(iii) Division of Fiscal Powers: Allocation of Spending and Regulatory Powers**

To Shah (2007:378) the constitutional division of powers on the spending and regulatory responsibilities in all the federal countries used as case studies generally conform to the subsidiary principle. The exceptions here are Malaysia, South Africa and India where as a response to historical legacies, a dominant federal role was carved out by the constitution. In addition, the case of India was further strengthened by a centrally appointed and unified civil service.

There is a wide variety in the practice in most federal countries because of the difference in historical, cultural, institutional factors and legal - judicial interpretation of the federal system. It is noted that most of the federal countries with the exception of Canada have given a wider role to the federal level than originally envisaged by the framers of the constitution. The original federal role was largely restricted to services having national scope such as peace, order and good governance. This role was later expanded as a result of wars and judicial interpretation of the constitution as in the United States and Australia, threat of secession as in Russia and India, issues in combating terrorism and promoting racial equality as in the United States, natural resource management and environmental protection as in Brazil, Nigeria and United States, debt management and fiscal disruption as in Brazil, protection of the indigenous majority as in Malaysia. There is also the more common use of regulatory and spending powers by the federal level to realize the national objective of a common economic union in most the federal countries. On many instances, the use of federal regulatory powers often results in unfunded or underfunded mandates whereas the use of conditional matching grants can lead to fiscal stress for regional and local governments. The overall role of the

intermediate orders of government is the strongest in Canada and Switzerland, fairly strong in Brazil, United States and Australia and relatively weak in Spain, India, Russia, Malaysia, Germany, South Africa and Nigeria (Shah, 2007:378).

**(iv) Fiscal Prudence and Fiscal Discipline**

The issue of lack of fiscal discipline among subnational government is a matter of concern in most federal countries. This is more so in view of the significant subnational autonomy together with the possibility of a central government bail out. In older federations, the coordination of fiscal policy for the sustenance of fiscal discipline is exercised through both legislative and executive federalism, as well as by the institution of a formal standard of equalization that determines both the total pool as well as allocations across constituent units. Such a principled approach to equalization is desirable as it results in greater transparency and objectivity in allocating equalization payments. All other programmes utilize a fixed pool but use allocation formulae to determine allocation across units (Shah, 2007:385).

In the federal systems of our case study, the federal level has both the foreign and domestic borrowing power, while the states have only domestic borrowing power through both the exclusive and concurrent legislative list. Although the impression might be created that local governments cannot borrow, this is not the case. After the decentralization in Brazil and Argentina, popular pressures increased for subnational governments to spend more and tax with less taxation. This resulted in budget deficits which led to bailouts by the federal government which consequently increased the national deficits. In Australia, the Commonwealth Credit Council allocates loan to all the levels of government under the fiscal coordination scheme even if foreign loans are taken by the federal government. Both the cantons and communes (sub-national governments) in Switzerland can borrow for capital projects through popular referenda, although they must be self financing. In Brazil, although local governments have access to domestic loans, a law enacted in 2000 imposed limits on the level of local government indebtedness. Also in Russia, Nigeria, Spain and Malaysia, local governments have access to domestic credit and this is guaranteed by federal or state governments (Rezende 2006:6, Onimode 2000: 136, 137, 144 & 161).

**(v) Institutional Approaches to the Design and Practice of Equalization Transfer**

The various countries used as case studies utilized diverse approaches to institutional arrangements for equalization transfers. These diverse arrangements have

been designed to suit the context of individual countries. In Switzerland, Malaysia, Spain, Russia and South Africa, the Federal Ministry of Finance or Treasury is responsible for decisions on the total pool and allocation among constituent units. In Brazil, the total pool is determined by the constitution and the federal senate determines the allocation for state and local governments. In India, Australia and Nigeria (semi-independent), independent grant commissions are given the powers to make recommendation on the parameters (formula) for allocating such transfer, although the total pool is determined by legislation. In Canada, inter-governmental forums make initial determination. These decisions are then approved and legislated upon by the federal parliament, and implemented by the Federal Ministry of Finance. In Germany, a federal compact determines the allocation, which is legislated by the federal government and implemented by the Ministry of Finance (Morris 2006:3, Shah 2007:390).

The equity and efficiency implications of equalization programmes continues to be a source of debate in most federal countries. The complexity introduced by expenditure needs compensation in Australia is an important source of discontent with the existing formula. In Canada, natural resources which are owned by the provinces are a major source of provincial fiscal disparities, and the treatment of natural resources equalization programmes remains contentious. In Germany, the application of overly progressive equalization formulae results in a reversal of fortunes for some rich jurisdictions. Some rich Landers in Germany have in the past, taken this matter to the Constitutional Court to limit their contributions to the equalization pool. In Spain, the treatment of autonomous communities (charter regime) and the rest of the regions (common regime) in an asymmetric manner for equalization purposes is seen as a continuing source of contention. In India, Brazil, Malaysia, South Africa and Russia, debate and moral controversy is generated by the equity and efficiency impact of existing policies. In Nigeria, the arbitrary use of the Federation Account (resource revenue pool) to settle federal debt and revenue sharing formula components, especially the 13 percent share for the derivation component are sources of concern (Shah 2007:390, Onimode, 2000:161).

In conclusion, since no institutional arrangement is perfect, there is no one institutional arrangement that is preferable to another. Experience has shown that in designing transfer format, independent grant commissions always typically opt for greater complexity and this leads to much acrimony and debate. Also, leaving these decisions to the federal government alone makes such transfers to be vulnerable to the whims of the

people or regime in power. Inter-governmental forums therefore offer the best alternative since all the relevant stakeholders will be involved in the decisions in such transfer.

As pointed out earlier that the practice of fiscal federalism vary from one federal system to another, hence there is the need for clarity in responsibilities. Hence the system has to develop constitutional and legal systems that will produce the mechanism for the building of societal consensus for new compacts which is amenable to changing realities.

#### **2.1.6 Political Economy of Fiscal Federalism in Nigeria**

Nigeria is a federation and this leads to the use of fiscal federalism or a decentralized fiscal system in the utilization of the nation=s resources. Fiscal federalism to Musgrave (1959:179) refers to Adifferent groups living in various states to express different preferences to public services@. Okigbo=s (1964:34) assertion tallied with this definition when he referred to fiscal federalism as Athe existence in one country of more than one level of government, each with different expenditure responsibilities and taxing powers@. Therefore under fiscal federalism, an individual is subject to the influence of the fiscal operations of the different levels of government. This, perhaps explains why Broadway (1979: 200) referred to it as the Aeconomics of multi-level or federal systems of government@ where the public sector is stratified into more than one level of government, each having a different set of expenditure responsibilities and taxing powers.

A general assumption on the discussion of fiscal federalism is that the methods of taking collective decisions are predetermined and relatively efficient. That is, governments, as a result of role-maximizing or whatever tends to take resource allocation decisions according to the collective preferences of the constituents. This has made Anyanwu (1997:44) to be of the view that the distinction between the positive theory of fiscal federalism and the normative theory tends to become blurred since governments are treated as if they behave optimally.

Fiscal federalism and inter-governmental fiscal relations are often used interchangeably. To Musgrave and Musgrave (1989:4), inter-governmental fiscal relations refer Ato the fiscal transactions and coordinating arrangements among the various tiers of government in a federation@. Its nature therefore to them constituted an extremely relevant consideration for the attainment of fiscal rationality within a decentralized political structure. In intergovernmental fiscal relations, there are two

major dimensions, that is (a) the budgetary influence between levels of government known as the area of vertical intergovernmental fiscal relations, and (b) the budgetary influence among different governmental units at the same level which is referred to as the area of horizontal intergovernmental fiscal relations.

Onwudiwe and Suberu (2005:7) have argued that political scientists have been preoccupied with the notion that in Africa, federalism is an institutional design to deal with the problem of unity and diversity. Therefore, they have focused primarily on the need to achieve political stability through the means of political inclusiveness and accommodation, with little or no attention being given to the economic incentives of federalism. In the same vein, economic discourses to Olowu (1991:167) had failed to deal directly with the politics of federalism, especially as it relates with state-society relations and produced values of government. Yet, it is important to note that federal designs and practice remarkably affect economic growth and development.

Federalism brings about many advantages and disadvantages in macroeconomic management. Therefore, fiscal federalism is seen as a thoroughly political matter that touches on the very possibility of the success or the failure of, not only the federal project but the state itself. (Montero 2001:45). To him, there is the involvement of perennial struggles between national and sub-national actors for the distribution of authority between different levels of government. Aiyede (2009:252) observed that how federalism can be made to do more good than harm in terms of collective prosperity must be highlighted and given more premium in discourses of federalism in less-developed countries. Hence, the focus of the political economy of federalism will be to find out how federal designs can integrate the political values of federalism with economic prosperity in these countries. As far as fiscal federalism is concerned, he asserted, horizontal and vertical interactions and linkages amongst and between tiers of government should be such as to influence government to promote productive activities and development.

In his exposition on the political economy of Nigeria=s fiscal federalism, Obi (1998:262) argued that Athe political economy of fiscal federalism confronts the power relations that underlie the authoritative allocation of resources among the various tiers of the Nigeria federation@. This to him deals with the outcomes of the allocative process and the conditions under which it brings about crisis. Instead of locating the principles of fiscal federalism within the ambit of straightjacket specialised approaches which provide a narrow view based on how Athe principles of horizontal equity and efficient allocation of resources are fulfilled in the context of fiscal federalism@ as advocated by Olalokun (1979:3), Obi argued for the adoption of a holistic approach. This approach does not only look at the treatment of fiscal allocation as the distribution of resources to specified

tiers, responsibilities and functions, but also addresses the relations in the power struggle within the factions of the ruling class that are rooted territorially, regionally, locally or at times ethnically or numerically. To him, such factional struggles for access and control over national resources are meant to consolidate the gains of those in power or advance the ambitions of those who seek entry into the circle of power. This makes the issue of revenue allocation to strike at the very basis of the existence of the Nigerian federalism and the rules of entry and exit from the ruling class.

Writing on the political economy of revenue allocation, Suberu (2009:80) asserted that Nigeria's intergovernmental financial relations lack the competitive economic decentralization associated with a system of market preserving federalism. To him, economic prosperity in a market enhancing federal system will be driven by competitiveness and prudence of sub-national governments who are predominantly self-financing and are able to exercise primary responsibilities for the economic health of their jurisdictions. The practice in Nigeria is for the most lucrative and profitable taxes to be levied and received by the Federal Government and this is transferred into the federation account. The situation therefore is that while the decentralized levels in Nigeria receive about 80% or more of their revenues from transfers from the central fund, (Suberu, 2009:81) the percentage in other federations are Canada 20%, USA 22%, Switzerland 28%, Brazil 31%, Australia 51% and India 52% (Rodden and Wibbels, 2002:504). This fiscal centralism to Anderson (2007:5) revealed the fact that out of all the world federations, Nigeria is the most oil dependent with the oil and gas sector contributing 99% of export revenue, 85% of government income and 52% of gross domestic product.

Suberu (2009:82) highlighted three positive features and six fundamental weaknesses of the Nigerian fiscal system. The first positive feature is that the system is relatively simple with a fairly uncomplicated vertical and horizontal distribution formula for centrally collected funds. This ensures that public resources are distributed on criteria that would be intelligible to the average political representative. Secondly, the centralized assignment of taxing powers is also consistent with the economic orthodoxy that prescribes the centralization of the jurisdiction for major sources of tax in order to enable the federal government to undertake the critical function of macro-economic stabilization and inter-regional economic equalization. Finally, in promoting the centralized collection

and redistribution of oil revenues, the revenue sharing system in Nigeria includes the mechanisms for the accommodation of the special claims and needs of the oil-bearing units.

The weaknesses to him are firstly, the revenue B sharing system is problematic and dysfunctional, producing significant economic pathologies and political contention in the federation. One primary weakness of the system by Suberu quoting Anderson is the promotion of a cake-sharing syndrome as evidenced in the Arelatively narrow focus on the appropriate formula for sharing the major revenues rather than on other issues of public and fiscal policy@. These issues of public and fiscal policy revolve around the management of the volatility of the swings of the petro-economy, overwhelming dependence of the economy on petroleum, dependence of states and local governments on federation account without developing other sources of revenue etc.

Secondly, inspite of its apparent simplicity and popularity, the horizontal revenue scheme is dysfunctional in political and developmental terms. There is the feeling that the overwhelming dominance of the system by equity-oriented principles of equal inter-unit shares and relative population has furnished a powerful inducement for the proliferation of fiscally dependent and incompetent decentralized administrations, and an inducement to politicize and manipulate population census.

Thirdly, the fiscal dependence of all governments on unearned and redistributed oil rents has led to the destruction of the nexus between revenue B raising capacity and expenditure authority. This thereby undermines the basic foundation of fiscal efficiency, political accountability and good governance.

Fourthly, the highly centralized system of revenue collection and distribution in Nigeria has promoted fiscal hegemony of the federal government while abetting financial coercion, manipulation and subordination of the lower level governments. Evidence of this relates to the non-transparent financial practices of the major federal revenue collection agencies, and the non-remittance or underpayment of centrally collected revenues into the federation account.

Fifthly, the Nigerian revenue - sharing system in essence has promoted truly monumental levels of corruption and predation at all levels of governance. This has resulted in dysfunctional governance, anti-developmental outcomes, social frustrations, political agitations and violence.

Finally, the revenue sharing system suffers from the absence of a legitimate and effective mechanism for the sub-federal governments to contribute to maintaining macro-economic stability. Hence, sub-national levels, especially states have always resisted the federal government's policy of saving, rather than distributing windfall oil revenues. Such resistance has resulted in the promotion of a syndrome of coefficient public spending, inflation and macroeconomic mismanagement.

In the analysis of issues relating to fiscal federalism, Obi (1998:262) was of the view that a conceptual treatment that limits itself to the economics of fiscal federalism or divorces it from its political context would not serve as an appropriate tool for analysis. Rather by inserting a historical perspective into the holistic framework, it is possible to connect the political economy of fiscal federalism to the current crisis besetting the federation and the ability to proffer concrete suggestions for its solution. Therefore, in any discussion on the fiscal system in Nigeria, there is the necessity to understand revenue allocation as an expression of balancing political and social forces within the state, for ultimately, the power of allocation rests with the state, and this can be threatened when the struggle for power and access to resources get out of hand. For as Aiyede (2009:257) succinctly stated, 'The concentration of revenue in the federation account serves the purpose of private accumulation by the political elite'.

An assessment of the economies of some federal countries like US, Australia, Canada and Germany tends to show a correlation between federalism and economic development. There seems to be a consensus among scholars of fiscal federalism that decentralization of spending responsibilities in federal states bring about economic development (See Broadway, 2006). This view is attested to by this study's review of the political economy of fiscal federalism in Nigeria is not sustainable in Nigeria. The country's flawed domestic political economy with its over dependency of oil as the predominant revenue earner could be highlighted as a major explanation for its poor economic performance. Nigeria had therefore been operating a fiscal arrangement where the needs of the component states are catered for by the rents received from sale of oil. Also, there are a myriad of centrifugal forces such as economic disparity among the federating units, ethnic diversity etc.

The prevalence of corruption in Nigeria's political economy poses a big threat to

its economic development. Although it is not limited to any particular society, its spread in Nigeria in which it has somehow become a subculture could be adduced as being partly responsible for the failure of the practice of fiscal federalism to stimulate economic growth.

## **2.2 THEORETICAL FRAMEWORK**

### **2.2.1 Preamble**

Scholars have developed several theories to explain and analyse the practice of fiscal federalism within the federal system. Some of the theories relevant to this study are decentralization, fiscal interest, new political economy and market preserving. However, the most appropriate theory selected for this study is the decentralization theory. This study chose the theory because it is a template for greater transfer of resources to sub-national governments who are expected to deliver better efficiency in the provision of public goods and services which leads to greater economic growth. It also ensures the transfer of responsibility for planning, management resources raising and allocation from central government to the lower levels of government. With the spread of democracy in the world, decentralization enhances local participation in governance.

### **2.2.2 Decentralization Theory**

The principle of the classical normative theory of fiscal federalism also known as First Generation Theory (FGT) deals with theoretical issues of intergovernmental fiscal relations and how these relations impinge on macroeconomic management. They focus on questions of efficient economic structure of multi-level public sector. Hence, the pre-occupation of the theory of fiscal federalism is to answer the fundamental questions of the rationale for adopting a federal structure in a country; rules for the assignment of the function and sources of revenue to different levels of government; efficiency of free migration from one jurisdiction to another; the role of inter-governmental resource transfers and their most desirable forms in a federal system.

Fiscal federalism primarily deals with the division of the functions and finances of the public sector to the different tiers of government (Musgrave 1959:40, Oates, 1972:30 and Tanzi, 1995:101). The basic foundations for the initial theory of fiscal federalism were to Oso-Eson (2009:1) laid by Kenneth Arrow, Richard Musgrave's and Paul S. Samuelson's two important papers (1954, 1955) on the theory of public goods. Arrow's (1970) discourse on the roles of the public and private sectors and Musgrave's book (1959) on public finance (Oso-Eson 2009:1, Oates 2005:2). The economic framework for

the proper role of the state is laid by these works and they identified three basic roles of firstly, allocation, which is aimed at correcting the various forms of market failure, secondly, distribution, income and thirdly stabilization for the government.

Where there is a failure of market mechanism as a result of the various types of public goods, the government is expected to step in to introduce policies to correct the failure. This happens because public goods if left to the private market mechanisms will be under-provided because there is the tendency for the private provider to under invest in their provision because the benefits accruable to the provider might be far lower than the total benefit for the society. Thus, government being the custodian of the general interest of the society would seek to maximize the provision of public goods.

There are two major types of public goods, the first being national public goods, the provision of which services cover the entire population of a country (like defence, international affairs, currency etc.) The second are the local public goods which are limited to particular geographic areas (like transportation, street lighting etc.) (Taiwo, 1999, Oates 1999).

The role of the state in maximizing the provision of public goods in a multi-level government provides the basic ingredients for the theory of fiscal federalism. The theory postulates that each level of government will seek to maximize the social welfare of the people within its jurisdiction. This multi-layered setting is imperative where there is the existence of public goods whose consumption is localized and not national in character. This principle is what Oates (1972:35) referred to as the Decentralization Theorem. The theorem to Oates established that

... in the absence of cost-saving from the centralized provision of a (local public) good, and of inter-jurisdictional externalities, the level of welfare will always be as high (and typically higher) if pareto – efficient levels of consumption are provided in each jurisdiction than if any single, uniform level of consumption is maintained across all jurisdictions.

Oates (1972: 43) provided a strong rationale for decentralization of public goods and services on following grounds:

- (i) The provision of public goods and services by federal government leads to uniform level of consumption and utilization of goods and services respectively across all regions. Such uniformity may lead to inefficiencies. Decentralized provision allows governments to cater better to the tastes and needs of local residents.
- (ii) The possibilities of welfare gains in case of decentralized provision of goods and services are further enhanced by the phenomenon of consumer mobility.

“Citizens vote with their feet”. This implies that a consumer can to some extent select his place of residence that provides a fiscal package best suited to his or her preferences.

- (iii) Decentralization may also result in greater experimentation and innovation in production of public goods and services. With a large number of independent producers of public good, one may expect a variety of approaches that, in the long run, promise greater progress in the modes of production of such goods and services.
- (iv) Inter-jurisdictional competition as a result of decentralization may also lead to efficiency in the provision of public goods and services. This means that if one jurisdiction, for example, discovers a particular effective way of providing certain service, the governments of other jurisdictions are also likely to adopt similar techniques, or even better techniques and methods.
- (v) Finally, it is argued that the decentralization of allocative functions may lead to more efficient levels of public output because expenditure decisions are tied more closely to real resource cost. If a community is required to finance its own public programme through local taxation, its members are more likely to weigh the benefits of the programme against its actual cost (Oates, 1972:43).

Thus, in brief, normative theoretical considerations strongly support decentralization on the ground of efficiency, accountability, manageability, and autonomy principles. However, this does not mean that First Generation Theories (FGT) favours a decentralized model for assignment of tax.

Basically, this theorem focuses on situations where the different tiers of government provide efficient levels of outputs of public goods. This situation was what Olson (1969) refers to as the principle of “fiscal equivalence” where a setting was envisioned in which different levels of government are expected to provide outputs of public goods at efficient levels for those goods whose “spatial patterns of benefits were encompassed by the geographical scope of their jurisdiction” (Oates 2005:3). The contention of this principle was that the overlapping of political jurisdiction and benefit area eliminates the free rider problem and legalizes the marginal benefit and the marginal cost. This, to him, ensures the optimal provision of public services.

Theoretically, there is the acceptance that the remaining two roles of distribution and stabilization are better performed by the central government (Musgrave and Musgrave 1989:152; Oates 1999:84). Oates argued that “this theory contends that the

central government should have the basic responsibility for the macroeconomic stabilization function and for income redistribution”. The argument for the central government to perform the function of equitable redistribution of income is that such a policy would apply evenly to citizens that are resident in all jurisdictions. To understand the rationale for the assignment of the function to the central government, this function, if granted to the lower tier governments will result in its inefficient performance for two interrelated reasons according to Taiwo (1997:7). These are the difficulties in appropriating the full social benefits of the programmes undertaken at that levels, and the tendency towards the free rider problem. For instance, if a lower level government embarks on a programme of redistribution of wealth from the rich to the poor, that government will be faced with the problem of emigration of the rich to the jurisdiction where the programme does not exist, and immigration of the poor from such jurisdiction to the redistributing one. With the assignment given to the central government, there would be no induced migration.

The argument for the stabilization function also follows the same pattern. Taking into consideration the openness that characterises the relationship between the lower tier governments, there is every likelihood that they will be grossly constrained in carrying out effective stabilization policies. Problem will likely arise if, for instance, a particular local jurisdiction wants to increase its economic activity through increase in the production of goods and services. Such activity might be achieved through a rise in taxes. Since people are mobile, residents of one jurisdiction are likely to migrate to the jurisdiction that initiated the programme to benefit from it. The conclusion from the role assignment which flows from the basic theory of fiscal federalism is that the central government is in a suitable position to ensure the equitable distribution of income, maintain macro-economic stability and provide national public goods. Sub-national governments on the other hand are to see to the provision of local public goods (Taiwo 1999:6, Oso – Eson 2009:1).

The next step in the theoretical framework after the assignment of functions is to identify the taxes that matched effectively the assigned functions that were given to the relevant level of government. Vansqez et al (1995) cited by Vincent (2001:7) highlights three main attributes of tax assignment, namely power to legislate and set rates, the power of administration and the right to revenue collected. Galadima (2007:67) in his discourse identifies two factors that have been determined to constitute the major basis for the assignment of taxing powers in a federation. These are administrative efficiency and fiscal independence. Efficiency criterion demands that a tax be assigned to the level that

will administer it efficiently at minimum cost, while fiscal independence requires that each tier of government is to raise adequate resources from the revenue sources assigned to it to meet its needs and responsibilities. For the success of any federal arrangement, a fiscal criterion usually employed in tax assignment is to assign progressive and redistributive taxes, taxes for economic stabilization and taxes on mobile factors of production to the central government. On the other hand taxes like benefit taxes and user charges and immobile factors of production were assigned to the lower level governments. Musgrave and Musgrave (1989:165) gave the guidelines as follows:

- (i) Taxes suitable for economic stabilization should be assigned to the federal government;
- (ii) Progressive redistributive tax should be centralized;
- (iii) Taxes on mobile factors of production are best administered at the central level;
- (iv) Tax base highly unequally distributed between different jurisdictions should be centralized;
- (v) Taxes on immobile factors of production are best suited for local levels;
- (vi) Residence-based taxes such as sales of consumption goods to consumers or excise are suitable for states;
- (vii) Benefit taxes and user charges might appropriately be used at all levels of government. Table II further elaborates the above guidelines and theoretical insights.

The final element of the theory of fiscal federalism deals with the allocation aspect. Within the framework of decentralized public choices, the basic requirement of allocation of resources is that each level of government must be allocated adequate funds or means of resource mobilization to effectively and efficiently discharge their assigned responsibilities. The allocation aspect is therefore concerned with the design of an effective and efficient fiscal structure by which assignments made on the basis of the benefit areas, and defined in the most practical sense of geo-political areas can be effectively and efficiently solved (Agiobenebo, 1999:39).

**Table II:**  
**Assignment of Tax Responsibilities**

| <b>Tax</b> | <b>Determination of Base</b> | <b>Determination of Rate</b> | <b>Tax Collection and Admin.</b> | <b>Comments</b>               |
|------------|------------------------------|------------------------------|----------------------------------|-------------------------------|
| Customs    | F                            | F                            | F                                | International trade           |
| Income Tax | F                            | F,S                          | F                                | Redistributive, mobile factor |

|                   |       |       |       |                                         |
|-------------------|-------|-------|-------|-----------------------------------------|
| Estates and Gifts | F     | F,S   | F     | Redistributive                          |
| Corporate Tax     | F     | F,S   | F     | Mobile factor                           |
| Resource Tax      | F     | F,S   | F     | Unequally distributed                   |
| Retails Sails     | F     | S     | S     | Higher compliance cost                  |
| Value Added Tax   | F     | F,S   | F,SC  | Boarder tax adjustment possible         |
| Excise            | S     | S     | S     | Residence-based taxes                   |
| Property Tax      | S     | L     | L     | Completely immobile factor, benefit tax |
| User Charges      | F,S,L | F,S,L | F,S,L | Payment for service received            |

**Notes:** F – Federal, S – State/Province, L – Municipality/Local, SC – The Council of States.

**Source:** Shah, A., *New Fiscal Federalism in Brazil*, World Bank Discussion Paper No. 124 (Washington, D.C., 1991), p. 11.

Allocation of revenue in a federation is generally predicated on three principles. The first is the nature of the functions and the revenue available to the three levels of government. Generally, because imbalance exists between the function and resource base, there is the necessity for the central government to transfer revenue to the lower level. Such allocation has been described by Graham (1964:6) as “deficiency transfers or balancing”. It is deficiency and balancing in the sense that it seeks to make up for the differences in the level of functions devolved to the lower government and the resources available to it either through constitutional provisions or other government arrangement.

The second principle of revenue transfer is referred to in the literature as “equalization transfer” (Graham, 1964:6; Oates, 2008:5). To Oates (2005:4) these grants could be justified on the grounds of both equity and efficiency. In a federation where national standards of services have been set and accepted, and where some states are unable to generate internally sufficient revenue to meet this minimum standard, there might be the necessity for that state to impose higher taxes. Higher taxation as a rule will drive away business and the economy of the state will be further depressed. In order to avoid this kind of bleak economic situation, higher level government transfer resources to the lower level to make up for the difference between its internally generated revenue and those needed to maintain minimum standard. The above two types of resource transfers i.e. balancing and equalization transfers are commonly referred to in the literature as intergovernmental grants-in—aid whose function is ideally suited to off-setting or balancing any general fiscal deficiencies of the state or local government.

The third principle relates to the encouragement of the lower level government to

undertake certain activities. Such grants or transfers are known by different names i.e. “stimulation”, “promotional”, or “incentive” (Beak 1967:108), “functional” or “conditional” (Maxwell, 1969:67) grants. Their main distinguishing feature is that they are earmarked and targeted for special purposes. An important feature of resource transfer is their use in optimizing resource allocation to public spending on activities that generate externalities at lower levels of government.

To this theory, a multi-level system of government which provides efficient output of public goods at each level to its constitution is envisioned. It is to be expected as noted earlier that the central government will provide what is termed as national public goods while the other levels will provide appropriate local public goods. This to Oates (2008:5) is “too neat and tidy”. He argued that with the costly nature of governance, it is difficult to have a patterns of costs and benefits of public goods corresponding to a distinct level of government. Obviously, there are instances of lower level government’s involvement in the provision of local goods with a spill-over effect on the populace. Obviously, there will be instances where lower level governments are involved in the provision of local outputs that have spill-over effects on the residents in other localities other than their own. For instance, local infrastructures like roads are utilized by both residents and visitors traveling through the area. To resolve this problem, for fiscal federalism theory, there is a candid way with the prescription that whenever benefits spill over which affects the provision of public goods, the federal government should provide inter-governmental grants that is to internalize the external benefits. The availability of these transfer will be an encouragement to local level government to ensure an efficient level of local service provision.

An analysis of the theory of fiscal federalism reveals some weaknesses. There is an inherent assumption in the theory that lower jurisdictions are completely aware of the tastes of their people and are therefore in a position to maximize their welfare. This assumption to Taiwo (1999:20) may be far-fetched in feudal or military regimes, since accountability and responsibility are best enhanced under a democratic political system. The theory begins from the position of the provision of certain public goods without specifying how these will be provided. The ability to provide these goods depends on technical and administrative capabilities of the localities concerned. Taiwo (1999:20) argued that where the technology is poor or the local bureaucracy is grossly inefficient, it might be highly unlikely that localities will be able to live up to their responsibilities. He added that even if localities have established democracies, and are technically and

administratively competent to perform their functions, they may be hampered by the erosion of their powers by higher – level governments or financial incapacity.

The rallying point of all the theories of fiscal federalism (first and second generation) is the presumption that there has been a growing movement (even in non-federal states) towards greater fiscal decentralization in recent years which to Ozo-Eson (2009:1) is a result to globalization and deepening democratization the world over and increasing incomes. Other reasons for the increase in globalization are (i) central governments increasingly are finding that it is impossible for them to meet all of the competing needs of their various constituencies and are attempting to build local capacity by delegating responsibilities downward to their regional governments (ii) central governments are looking to local and regional governments to assist them on national economic development strategies and (iii) regional and local political leaders are demanding more autonomy and want the taxation powers that go along with their expenditure responsibility.

In fiscal federalism, the federal state shares fiscal policy making with the regions/states and this include the character of allocation of revenue. Thus, fiscal policy is devolved to the federating units that make up the federation and they share this responsibility with the government at the centre. More than this, fiscal federalism connotes recognition of the different contributions of each unit in a federation to the national revenue in the process of allocation.

### **2.2.3 The Gaps Between the Theory and Practice**

There is the assumption that the federal government is ‘benevolent’ in FGT (Brennan and Buchanman, 1980:185). Also is a presumption of a principal-agent type of relationship between the federal and lower level governments in which the former can design it own policy without any consultation with the latter. This practice according to Chandra (2013:11) may, however provide a picture quite different from that envisioned at the abstract theoretical level. It is to be noted that political bargaining and compromise by different governments and political forces in a federation affects the nature of inter-governmental fiscal relations. To this end, it cannot be said that inter-governmental transfers are independent of sub-national interests. Hence, transfers are often made for vested political gains; for instance in order to stay in power and other purposes.

Bird (2003:899) gave a highlight into the political use of inter-governmental transfers. They argue that there might be the necessity, for example to transfer some resources to jurisdictions that do not really need them. It may also be essential to transfer resources simply in order to keep some economically non-viable sub-national governments alive in power for purely political reasons. From an economic point of view,

the problem is to avoid inflicting collateral damage in the course of achieving whatever be such political objectives. They also stated that when major changes are made in intergovernmental fiscal arrangements, they often result from important political developments that create the need and opportunity for change but not the time to think through the changes adequately. Moreover, once a political settlement is reached in inter-governmental arrangements, it often proves exceptionally hard to alter thereafter.

Borrowings by decentralized sub-national governments in developing countries often cause political controversies; and have led to debates and discussions at the academic and policy making levels over the negative implications of borrowings, particularly in federal countries (Chandra, 2013:12). There is the argument that the federal system is more vulnerable to such problems. FGT did not recognise the problem, for it failed to see that sub-national governments also influence macro-economic management though not so overfly. The problems of borrowing and incurring debts by sub-national governments and thereby contributing to the problem of macro-economic management, especially in decentralized system in developing countries, is admittedly as much an economic problem as it is a political problem. (Chandra, 2013:12). This has led to interest among economists to study political aspects of fiscal federalism, as well as the entry of political scientists into the territory of fiscal federalism.

The question that arises therefore is whether sub-national borrowing is per se good or bad? Bird (2004:6) observed that “borrowing may of course be the economically appropriate way to finance capital outlays”. He further argued that in order to achieve both allocative efficiency and inter-generational equity, it is often good to finance long-lived investment projects by borrowings rather than relying solely upon current public savings or transfers from federal government. Since sub-national borrowings can be good as well as bad, it is as important therefore to encourage the good borrowing and discourage bad borrowing. But how to discourage bad borrowing by sub-national governments in federal developing countries is one of the most troubling problems of fiscal federalism. Bird affirmed that imposing too strict and arbitrary limits by federal government to sub-national borrowings may have perverse results. This is because debt limits and similar controls raise ‘moral hazard problems’ precisely because they prevent ‘market discipline’ from being applied.

It is noted that unlike federal government, sub-national governments face few of international incentives for economic reform and electoral considerations discourage sound sub-national policy, particularly where decentralized politics is dependent on patronage. As a result, the fiscal incentives of sub-national governments often run in the

directions of over-spending. This places a premium on the policy of macro-economic stability pursued by federal government. Hence careful attention needs to be paid to sub-national borrowings to avoid serious fiscal problems. This can be done either by redesigning inter-governmental fiscal relations to reduce the temptation on the part of sub-national governments to borrow irresponsibly or by enacting legislation for constraining such borrowings (Wibbels, 2000:697).

#### **2.2.4 Application of the Theory to this Study**

The underlying theories of fiscal federalism hardly relates to the Nigerian discourse. This is because debates that usually goes on are not guided by fiscal federalism theories. Hence, Ozo-Eson (2009:5) rhetorically asked the following questions: (i) How could Nigeria restructure its fiscal federalism so as to maximize the reaping of economic efficiency and the stimulation of national development? (ii) Does theory for example have anything to tell Nigerians about the implications of the present centralized control over resources? The contention is that failure to give control of resources to the government at the lower levels impedes national growth and development. The centralization of oil resource with the attendant corresponding dependence of all governments (federal, states and local governments) on the revenue therefrom, despite the endowment of all parts of the country with resources has increased the national degeneration into resource curse. This has led to the affliction of the Dutch disease. The effect of this is the shielding of the states from a hard budget constraint with their encouragement to merely raid the commons. The overall growth and development of the states was stultified as a result of the denial of incentives to develop own tax base and resources.

The literature on the theory of fiscal federalism, especially in relation to developing countries like Nigeria has three serious shortcomings. These shortcomings are centred on equity, social pluralism and the developmental imperative. The main principles of fiscal federalism are not definitive on equity, and this is not entirely assured by distribution, equalization and derivation. It is possible to have all these principles and still operate an inequitable federal fiscal system as in Nigeria and other federations. Equity is not merely in relation to the tiers of government and to individuals which are the main targets of the mainstream principles (See, *Economic Policy Watch*, September 2001:4). A basic equity question which must be addressed is the social one i.e. equity to the federating or associating units, nationalities/ethnicities and communities. These are

the primordial pedestals on the conflicts of unjust, unfair and inequitable fiscal federalism in Nigeria and other parts of the world. For instance Agiobenebo (1999:47) pointed out that the displacement effect of oil exploration and production in Nigeria=s Niger Delta had negatively affected the income and generating power of agriculture and fisheries with attendant socio-economic and cultural consequences. A Aprogressive equity@ rather than a Aregressive equity@ being currently used through arbitrary allocation of 2% for ecology, 1% derivation and 3% for development of mineral producing areas in the 1999 Revenue Allocation Act will seek to place them on a higher welfare contour (Agiobenebo, 1999:44). Although, currently, the percentage ascribed to derivation has been increased to 13%, this, to the proponents of the application of the derivation principle, is a far cry from what is deemed to be just.

Social pluralism is the taproot of the question of equity. Probably because older federations were inhabited by homogeneous populations, the questions of ethnic diversity have been marginalised in the theoretical literature on fiscal federalism. In a situation where the federating units were large autonomous nationalities and similar social groups, the theory of fiscal federalism must have a clear socio-cultural component that leads to the principle of social equity. The developmental goals of the federation (especially younger ones) must be addressed, and these constitute new responsibilities to the central government, in addition to maintaining macro-economic stability. All these require a massive investment in human resource development, infrastructure, capital goods industries and general industrialization. The central government has to guide and lead these processes while decentralization is required to generate participatory bottom-up self development. The fiscal arrangements have to meet these requirements.

It is noted that governments in developing countries tend more towards centralization than those of developed countries, and this is a major phenomena of under-developed economies. In Nigeria, at one end, the federal level takes the major share of fiscal responsibility, hence the other levels of government are weak in comparison to the federal government. At the other end, the lower level of governments have inadequate fiscal capacity with the federal government=s control of the major sources of revenue. This has raised the problem of fiscal dependence of the lower levels on the federal level, and this has an effect on the rate of the development of the lower level governments. In theoretical terms, fiscal federalism, assist the understanding of (i) the factors determining the optimal degree of fiscal decentralization; (ii) principles underlining the assignment of functions and sources of finance of governments of different vertical levels; and (iii) to

design suitable inter-governmental transfer schemes to fulfill the objectives of “equity” and “efficiency” (Rao and Singh, 2005:102). There are some elements that are present in fiscal decentralization: the transfer of public service functions from the higher level to lower level governments, accompanied by authority and resources to exercise the functions.

With regard to this, the working theory of this study is fiscal decentralization and it is defined as “the devolution of public functions from central government to sub-national governments with the administrative authority and fiscal instruments to execute such functions” (Savitri, 2013:18). For the effective functioning of any federal system, it must be able to achieve the following: assignment of expenditure responsibilities between the respective levels of government; definition of how the revenue to finance these expenditures will be raised in terms of tax and revenue by the different levels of government; specification of the nature of transfers between the different levels of government; and addressing the ability of sub-national governments to borrow.

It is to be noted that the centralized provision of some uniform output may result in a resource allocation system that is not efficient because variations in individual consumption preferences may not be taken into consideration. Hence, to this study, the view is that with adequate fiscal decentralization in Nigeria, there is the tendency that lower level governments are likely to be able to provide a variety of public goods and services. This is because since they are more likely than the federal level to take into consideration the different needs of the people resident in their respective areas.

To achieve this, the dominant fiscal tools of fiscal decentralization needed are taxation, revenue allocation among the tiers of government, inter-governmental grants or transfers and debt from sub-national borrowing. This will form the basis of the central analytical framework in the process of attempting an indepth analysis of the politics of the practice of fiscal federalism in the fourth republic of Nigeria.

## **CHAPTER THREE**

### **RESEARCH METHODOLOGY**

#### **3.1 Preamble**

The major preoccupation of this chapter no doubt is precisely an explication of research method adopted for this work. The foci of the chapter are (i) sources of data used for this work, (ii) the method of data collection and (iii) data analysis. This study relies on the methodological approach of qualitative research; which is a method of enquiry that is primarily directed at ensuring an in-depth understanding of human behaviour and the reasons that govern such behaviour. This method investigates the why and how of decision making, not just what, where and when. Hence smaller but focused samples are more often used than large samples (Alade, 2010:23).

#### **3.2 Sources of Data**

The study relies to a large extent on purposive sampling method. Purposive sampling (also known as judgement, selective or subjective sampling) is a sampling technique in which the researcher relies on his or her own judgement when choosing members of population to participate in the study. It is a non-probability sampling method and it occurs when elements selected for the sample are chosen by the judgement of the researcher. Researchers often believe that they can detain a representative sample by using a sound judgement, which will result in saving time and money (Black, 2010:78). The selection of the respondents in sourcing for primary data for this work was predicated on those who will give useful and adequate responses to the investigation. Hence, this study identified the following respondents being past players on the practice of fiscal federalism in Nigeria. Those concerned were seventeen respondents. They are two former Senators, two former members of the House of Representatives, three former State Finance Commissioners, two former State Accountant Generals and one former federal commissioner of the Revenue Mobilization, Allocation and Fiscal Commission who represented Niger State. Also, a former senior staff each of RMAFC, Federal Ministry of Finance and Office of the Accountant General of the Federation, two former Local Government Chairmen in Kwara State and one each in Oyo and Osun States were interviewed to harvest information on the fiscal relations between federal, states and local governments. Data was also harvested from a discussion with two senior academics.

The analysis of existing documents or texts is another central source of

qualitative data utilized for this study. As Seltiz (2002:83) succinctly points out, "Documents are part of the fabric of our world... as the question often becomes not how to get one's hands on relevant documents, but rather how many documents are too many". An important advantage of utilizing this source is that the gathering of information from such sources does not require the cooperation of individuals about whom information is being sought as do other sources, hence this study also relies, to a large extent, on this source.

### **3.3 Methods of Data Collection**

There are a variety of methods of data collection in qualitative research such as interviews, textual and video analysis. There are three fundamental types of research interviews: structured, semi-structured and unstructured. For primary data, this study utilized semi-structured interview. This type of interview consists of many key questions that help to define, not only the areas to be explored, but also gives the interviewer or interviewee the leverage to diverge in order to pursue an idea or response in more detailed manner (Britten, 1999:12). In the designing of the interview, questions that are likely to yield as much information about the study area as possible and also address the objectives of the research were formulated and applied to the respondents. The study also utilized archival materials which is another source of primary data.

Textual data being secondary data were obtained through critical analysis and are grouped into two categories. The first are the general documents such as textbooks, journal articles, unpublished theses, seminars, conferences and workshops presentations, magazines and newspaper articles. The second are the official documents and statistics. These are data from governmental and international organisations like the Revenue Mobilization and Fiscal Commission, Central Bank of Nigeria, Federal Bureau of Statistics, World Bank and International Monetary Fund. The researcher also utilized the Internet sources for gathering data and information.

### **3.4 The Methods of Data Analysis Adopted**

Owing to the nature of the research area, the method of data analysis used is the qualitative method. The descriptive and historical aspect of qualitative analysis was adopted as the major tool of analysis. This involves systematically collecting and objectively evaluating the data relating to past occurrences in order to test hypotheses or answer research questions concerning causes, effects or trends of these events that may help to explain present events and anticipate future events. To interpret and analyse the response of respondents to the interview questions, the realist approach to interview data was adopted. This approach treats answers by respondents as having some external reality (for example feelings and meanings) (Silverman, 2005:205). The evaluation was therefore interpretative. It proceeded to locating concepts and issues that are significant within the interview responses.

Discourse or critical analysis was utilized to analyse secondary data. This type of analysis makes it possible to reveal the hidden motivations behind a text or behind the choice of a particular method of research to interpret that text. It is to (Somekh and Levin, 2005:80) an interdisciplinary approach that deals with critical analysis of meaning within its political and socio-cultural context. It looks at the interpretation of the essence rather than the rate of occurrence of the phrases, theme or words as in content analysis. An important purpose of Discourse Analysis is not to provide definite answers but the expansion of our personal horizon and making us to realize our shortcomings as well as that of others. Critical Analysis reveals what is going on behind the scene and which determine our account. The beauty of this mode of analysis is its applicability to every situation and subject.

## **CHAPTER FOUR**

### **EVOLUTION AND PRACTICE OF FISCAL FEDERALISM IN NIGERIA'S PRE-INDEPENDENCE TO MAY 29<sup>TH</sup> 1999**

#### **4.1 Preamble**

Federal principle was accepted by the colonial administration and the Nigerian nationalist leaders and it became enshrined in the Lyttleton Constitution of 1954. Since then, varying attempts have been made to strengthen the federal practice through the creation of states. It is instructive to note that in her drive towards nationhood, a perennial factor that had been militating against the realization of this goal had been the phenomenal lack of trust among the federating units. Inter-ethnic distrust to Takaya (2001:71) had been a recurring decimal that has bedeviled virtually every effort directed at evolving a common sense of belonging and co-operation in the nation. This had led to a situation where attempting to solve a problem at one point produces others at the other end.

One of such problem areas has been how to equitably distribute the resources of the federation among the federating units. A federation is lubricated by its fiscal dimension since this deals with the mobilization and allocation of the scarce but distributable resources in such a manner as to create equality among its component units. It is worthy to note that debates on Nigeria's fiscal federalism predated the introduction of federalism in 1954, as the first fiscal commission was appointed under a unitarist colonial administration in 1947. Since then, issues relating to the utilization of fiscal federalism in Nigeria have heightened the political tension in the country. This is because the poly-ethnic nature of Nigeria has always led to disagreements by some segments of the country on the constitutional forms adopted and the revenue sharing system that follows them.

In order to have a grasp of the dynamics of fiscal federalism in Nigeria during the pre-study period and the need to respond to the exigencies that might arise, this chapter focuses attention on fiscal practices prior to and after independence up to May 29<sup>th</sup> 1999 being the terminal date of military administration in Nigeria and commencement of the civilian administration of the fourth republic.

## **4.2 Evolution of Fiscal Federalism in Nigeria, Pre - Independence**

Constitutional developments from the Richards Constitution of 1946 contained some financial consequences, and this had a great effect on the development of fiscal federalism in colonial Nigeria. Between 1946 and 1960, there were four revenue allocation commissions which had the mandate to examine the challenges of the authoritative allocation of federal revenues consequent upon the constitutional changes of the period. Thus, the years of the setting up of revenue allocation commissions which coincide with the years of constitutional changes conveniently divided the development of fiscal federalism in colonial Nigeria into four major and identifiable phases. These are 1948 B 1951 for the Sydney Phillipson Review Commission, 1952 B 1954 for the Hicks-Phillipson Revenue Commission, 1954 B 1959 for the Louis Chicks Revenue Commission and 1959 B 1964 for the Jeremy Tress Raisman Revenue Allocation Review Commission. These fiscal commissions will be analysed in chronological order.

### **4.2.1 The Sydney Phillipson Commission: 1948 B 1951**

Arthur Richards became the Governor of Nigeria in 1943. His arrival in the country coincided with the increased tempo of agitation by Nigerian nationalists for institutional reforms. After a year in office, the Governor drafted constitutional proposal to review the existing 1922 Clifford Constitution without consulting Nigerians (Ezera 1960:66). The promulgation of the Richard Constitution in 1946 led to the provision of some measures of fiscal responsibility to the regional governments recognized and created by the constitution. Each region was to have its own budget and this made it expedient for funds to be made available to meet the requirements of its responsibility. It was the importance that was attached to this that led to the appointment of Sir Sydney Phillipson in June 1946 to examine comprehensively the issues involved in the fiscal allocation scheme to be utilized. This commission was to formulate the administrative and financial system to be adopted under the Richards Constitution (Mbanefoh 1990:191).

To Mbanefoh (1990:191), the commission's terms of reference were:

- (i) To study comprehensively and make recommendations regarding the problems of the administrative and financial procedure to be adopted under the new constitution and
- (ii) To examine, in the light of its historical antecedents, the problem of financial relations between the Nigerian government and the native administrations with a view to making recommendations as to the policy and procedure which should

determine those relations in the future (Phillipson 1948:1).

To solve these problems, Phillipson adopted the financial and administrative arrangement of the government to the requirement of the new constitution. This was important because it was imperative that the new political institutions should be working smoothly, hence their preparatory and initial stages do not suffer from any foreseeable and avoidable inadequacy in the executive, administrative and financial organizations. Thus the objective was to foresee possible difficulties and overcome them (Phillipson 1948:4). Hence, the commission in resolving the onerous task of designing a formula for the distribution of grants to the regions considered two principles viz: derivation and even progress or even development. Osemwota (1983:8) stated that Awith the absence of an accurate population census, and since only population could have been utilized as a surrogate for need and even development, Phillipson was forced to apply the principle of derivation alone.@ The principle of derivation was applied in such a way that each region got for its purpose the full amount of its share of direct taxes and all revenues that were declared as regional. Added to this, each region received a block grant from other sources in strict proportion to the contribution which the region made to other revenues (Phillipson 1948:20, Egwakhide and Aregbeyen 1999:108B109).

The formula of revenue allocation recommended by Phillipson and utilized by the colonial government generated a lot of controversy. His recommendation of the use of the derivation principle when applied to the regions created problems. For instance, the funds available for allocation were not in correspondence with the relative level of expenditure of regional services. The level of expenditure in the Northern region was found to be materially below the Aideal@ derivation allocation, while the Eastern region level of expenditure was found to be materially higher than the appropriate derivation allocation (Hicks and Phillipson 1951:60). Part of the problem to Osemwota (1983:8) were the absence of reliable statistics to determine which state consumed most of the imported commodities, the taxation of which was being shared on derivation basis. He also asserted that Phillipson did not consider the principle of deficiency, categorical transfer and equalization. To Osemwota Athe application of derivation principle went further to widen the economic development gulf between the richer states that could afford to consume imported items vis-a-vis poorer states that were unable to do so@. The accurate determination of the destination of imported goods cleared by the customs was

another major area of controversy.

This principle provoked unequivocally inter-regional misunderstanding as the Action Group memo to the Nigerian Constitutional Conference of 1951 in Ibadan vehemently protested the cheating of the West in the allocation of funds. The Action Group claimed that the application of the Phillipson recommendation erred on two grounds; (i) the data on which Phillipson based regional contribution to the revenue of Nigeria were wrong. Its Aideal@ percentages attributed to regions were not ideal. (ii) Phillipson=s proposition that a region which at the inauguration of the constitution was accustomed to a scale of expenditure which was out of proportion to the revenue attributable to it be allowed to continue its obvious overspending at the expense of another was not proper. The obvious result from this proposition was that the West and the North which were allocated ^17,700,000 by the Richards Constitution for the three fiscal years 1948 B 1951 respectively lost ^372,700 and ^1,132,800 to the East which thus gained ^1,132,800 at the expense of others (NAINC/B12 B 1951:187).

Phillips (2001:147) corroborated the argument of the Action Group when he affirmed that in the 1949/50 fiscal year, through the application of the derivation principle, the relative share of the North was 35%, West 28% and East 39%. To him, this contrasted greatly with the figures that were recommended that is North 45%, West 29% and East 26%. This arrangement made it feasible for the Eastern Region to receive more revenue than its contribution to the total revenue of the country. Not only that, it obtained funds that were in excess of its expenditure on regional services.

#### **4.2.2 The Hicks B Phillipson Commission 1951**

The dissatisfaction with the Phillipson formula of revenue sharing and the new Macpherson Constitution that was envisaged in 1951 led to the setting up of an expert and independent committee of the Ibadan Constitutional Conference of 1951 to look at the division of the revenue between the central government and the three regions. This led to the setting up of the Hicks - Phillipson Fiscal Commission in 1950. The Hick - Phillipson Commission had as members Dr. J.R. Hicks, Fellow of Nuffield College, Oxford, Mr. D.A. Skelton, Assistant Deputy Canada and Sir Sydney Phillipson, the former Financial Secretary of Nigeria. With the death of Mr. Skelton before the commencement of the commission=s duty, Mrs. Hicks a lecturer of Public Finance joined the Commission (Hicks - Phillipson 1951:5).

The terms of reference of the Commission were:

- (i) to recommend to the Governor how best to allocate equitably between the Centre and the regions for the next five years.
- (ii) if any region had been unfairly treated in the past, the commission should identify the region and recommend a block grant for that region (Hicks & Phillipson: 1951:5).

The Commission in its review of the application of the Phillipson's recommendation noted that the progress towards the realization of the objectives of policy put in place in which the financial provision of the Richards Constitution had been in force was not met. The policy objective had been to allocate to each region, expenditure on regional services and works, the full amount of the government's share of the tax collected under the direct taxation ordinance of 1940 and all other revenues declared as regional. Each region was also to be allocated a grant from other revenues i.e. Non-Declared revenues in strict proportion to the contribution which the region makes to those other revenues (Hicks & Phillipson 1951:16). The reason for the inability to achieve an ideal derivation allocation was the inadequacy of the statistical data needed to calculate the two principles derivation and even progress (need). This was because there was absence of any statistical organization to assist the government and the statistics utilized to compute regional consumption of inputs and dutiable commodities were defective. So also was the unavailability of the statistics to calculate population figures for the application of the principle of need. The available figures were those of the 1931 census that had become obsolete (Okigbo 1965:33).

With this background, the Commission recommended that, subject to the usual safeguards, regional governments be given legal power to regulate items of revenue that had hitherto been declared regional. Also recommended was the power to regulate at least one tax that was under central control and to raise and regulate certain specified new taxes. From the Commission's perspective, these were fundamental matters without whose complementary powers of taxation and appropriation, the region would not be regarded as possessing the degree of autonomous status in fiscal matters which the general shape of the constitution clearly implies (Hicks & Phillipson 1951:18). The Commission could therefore be seen to have formalized the authority of the regions to

raise, regulate and appropriate the Adeclared revenues@, established the legal rights of the regions to particular proportions of certain central revenues and made provision for statutory financial grants from the centre to the regions (Suberu 2002:6). Thus, there emerged for the first time in Nigerian federal finance, the principle of AIndependent Revenues@ which, in the view of the constitution was desirable both in the interest of the regional autonomy and of proper financial responsibility and efficiency of administration (Teriba, 1966:363).

The recommendations of the Commission were accepted by the Government and given constitutional sanction in the Nigeria (Revenue Allocation) Order in Council of 1951 (Teriba 1966:369 and Osemwota 1984:9). For vertical allocation of revenue, two options that is AAllocation Principle@ and AIndependent Revenue Method@ were considered. For the allocation principle, the revenue was divided according to some agreed formula. This arrangement although fair had some inherent disadvantages in the sense that the relative needs of the various governments could not be foreseen. This invariably led to a situation where some regions got much more than others. The second option, that is, Independent Revenue to the Commission was better. Its strength lay in the fact that historically, it had enabled various governments in a federation to cooperate comfortably for long periods without constitutional review. The method is the division of revenue, not by a fixed formula, but by reserving particular types of tax for different governments. To the Commission, this option was better than the other one because if the needs of a region increased, it could raise revenue from its own people. In this way, all levels of government enjoyed a considerable level of financial liberty and area of dispute among them was reduced. In summary, in vertical allocation, the commission recommended a combination of independent taxes to regional governments. This they could control and adjust together with grants through the formula system from the central government (Hicks - Phillipson 1951:55).

For horizontal allocation, the commission recommended the utilization of derivation, need and national interest. In applying the derivation principle, the commission=s view was that its utilization be confined to such taxes whose regional origin and proportion could easily be ascertained. To Them, the principle of need ensured the provision of a fair distribution of revenues by regions which in turn brings about

unity. National interest was predicated on the fact that it will grant some form of expenditure to the regions which is in the national interest to encourage or support without too much attention being paid to the geographical distribution of the expenditure (Hicks B Phillipson 1951: 78).

With the utilization of the principles of derivation, need and national interest, the North was extremely favoured, the East fairly favoured and quite unfair to the West. This led to the West criticism of the implementation of the Commission=s report as being partial, and in favour of the North and East. The Commission was accused of departing from the principles of derivation solely and rather recommended four principles of derivation, independent revenue, need and national interest. The commission was accused of going beyond its terms of reference through the allocation of a block grant of ^2,000,000 to the North (NAI NC/B12, 1954:22). What resulted was intense rivalry among the regions as the leader of delegations faulted the portion of the Commission=s report that does not favour them, hence according to Obina (1988:78), the need principle was the battle cry of the eastern delegation while the north and west requested a reversion to derivation. The effect of all these was that the implementation of the Commission=s report rather than narrow areas of inter-regional frictions and misunderstanding, served to widen and aggravate them with one region favouring particular principle or principles for reasons exactly opposite to those making them anathema to the other or others (Teriba 1966:366).

#### **4.2.3 The Chick Report and the Revenue Allocation System 1954 B 1959**

At the London Constitutional Conference of July to August 1953, Chief Obafemi Awolowo argued that on the issue of finances, the present percentages of revenues allocated to the regions were not sufficient for the effective performance of their responsibilities. To solve this problem, a proposal by him was the establishment of a machinery where the centre would collect revenues and allocate them in proportion to the regions. Awolowo in essence advocated a return to full derivation as the principle of revenue allocation (NAI NC/B10). As a result of the observation of delegates, the conference set up the Louis Chick Commission. The terms of reference were:

- (i) to assess the cost of central services and those of the regions;
- (ii) to recommend how best revenue should be collected and distributed having regard to the need to provide the centre and the regions an adequate measure of fiscal autonomy and the importance of applying the principle of derivation to the fullest

degree compatible with meeting the reasonable needs of the Centre and the regions; and

- (iii) to examine the financial ramifications of the Southern part of the Camerouns becoming a separate region (Ekpo 2004:8).

In the course of carrying out his work, Chicks had some reservations and also made some observations. In the first instance, the principle of derivation was incapable of general application, since it could not be utilized in the distribution of certain central finances like interest on loans, surplus funds and duties on imports collected by the central government as their regional source cannot be absolutely determined. Again, trading activities in the regions were characterized by fluidity and not clear cut because trading companies were primarily concerned with trading activities without being bothered with records confirming their regional boundaries (Adebayo, 1993:74).

Secondly, the Federal Constitution had envisaged a government at the centre which would be independent of the regional governments with its own sphere. It was only proper that the federal government of Nigeria should have its own revenue to cater for its needs. Again, the federal government should be financially capable of making grants to assist the regional governments whenever they have serious financial difficulties from situations beyond their control. This was what led Chicks to propose that only the revenues collected by the federal government in excess of its own needs will and should be available for distribution (Adebayo 1993:75).

The recommendation of Chick was adopted by the Federal Government with minor modifications, and they formed the basis of revenue allocation between 1954 and 1958. The basic formula used for distribution of revenue was to estimate the consumption of dutiable imports and goods on which excise taxes were paid for each region and then utilize this estimate to weigh its share of revenues to be allocated by the federal government (Olaloku, 1979:116). To avoid complications, there was unanimous agreement to use Prest and Stewart prepared 1950 B 51 Nigerian National Income Estimate. This was applied to weighing each region=s share of the total federal allocated revenue. The expenditure weights to each region from the computation were East 27.4%, West 45.4% and North 27.2% (Raisman and Tress 1958:56).

The Western Region as the richest of the regions was most favoured as a result of the dominance of derivation in revenue allocation. The West's share in total statutory allocation to all the regions rose from 38% in 1954/55 to about 44% in 1958/59. In the corresponding period, the North's share fell from about 33% to 30% and the East's share averaged 26% (Phillips, 2001:150).

To Phillips (2001:150B151), the unlimited application of derivation formula with the regionalization of marketing boards meant that the regions had exchanged assured revenue, which obtained under the grant system with limited utilization of derivation for variable revenue. Thus regional income became directly tied to the random behaviour and fluctuations of the international economic environment. Although this revenue distribution scheme enhanced the financial profile of the regions at the detriment of the central government (Phillips 2001:150), it needs be noted that regional governments got barely enough revenue from taxes under their jurisdiction to satisfy a quarter of their expenditure requirements. This did not augur well for the distribution of functions that were designed to make the regions the real centre of power in the federation (Adebayo, 1999:251).

The London Constitutional Conference of 1957 provided the platform for delegates to raise fundamental and severe criticisms against the Louis Chick revenue allocation formula. The allocation was criticized on three grounds and these were (i) insufficient revenue to the regions; (ii) the utilization of the principle of derivation in revenue allocation; and (iii) the rejection of the principles of need and national interest in revenue allocation (Raisman and Tress 1958:5; Teriba, 1966:368 and Ekpo 2004:12B13).

According to Teriba (1966:368) the first of the three was in general the chosen theme of the exponents of maximum regional fiscal autonomy and fiscal independence while the last was usually expatiated upon by the advocates of national economic policy and balanced development. To him, the second was by far more serious as a source of inter-regional rivalry. This was because the criticisms made of the application of the principle of derivation centred primarily on the percentage allocation between the regions of the proceeds of other import duties except those on motor spirit and tobacco, and on the precise extent of the proceeds of duties on import (other than those on motor spirit and tobacco) attributable to Lagos and on the extent to which it was right to include Lagos distribution for consumption in the Western Region=s share of duties levied in respect of tobacco, motor spirit and locally brewed beer. The Raisman report stated that the financial losses suffered by the Northern Region through errors of defective derivation percentages was estimated at approximately ^500,000 per year over the revenue allocation period (Raisman and Tress 1958:46). As a result of these shortcomings, another fiscal revenue review commission was inaugurated by the 1957 constitutional conference. The Chairman of the Commission was Sir Jeremy Raisman with R.C. Tress as member (Raisman and Tress 1958:2).

#### **4.2.4 The Raisman - Tress Commission Report 1958**

According to Ekpo (2004:13), The Raisman - Tress Commission had the mandate to examine the division of power to levy taxes on the Federation of Nigeria and the system of allocation of the revenue thereby derived in the light of: (i) experience of the system to date; (ii) the allocation of functions between the governments in the federation as agreed at the conference; (iii) the desirability of ensuring that the maximum possible proportion of the income of the regional governments should be within the exclusive power of these governments to levy and collect, taking into account consideration of national and inter-regional policy; (iv) as regards item 3, the special problems in the area of indirect taxation given the position of Lagos as a federal territory; (v) in so far as the independent revenues that can be secured for the various governments are insufficient to provide not only for their immediate needs but also for a reasonable degree of expansion, and bearing in mind the federal government=s own further needs, the desirability of allocating further federal revenue in accordance with such arrangement as will best serve the overall interest of the federation as a whole.

The Commission=s report was published in 1958 and most of its suggestions and recommendations were accepted. The Raisman Commission=s intent was that the federal government should be financially strong in order to cater for its needs and to be able to provide grants to needy regions. This explains why the federal level still retains control over import duties, excise duties and some others. It is important to also note that the commission introduced new taxes like those on partnership, clubs, trusts and other unincorporated associations and these were to accrue to the regional level. Therefore, it could be adduced that the commission=s aim was to broaden regional sources of revenue.

Two main principles were applied in the allocation of federally collected revenue to the regions. The first was the principle of derivation where the commission recommended the distribution of the proceeds of import duties on motor spirit and excise duties on tobacco products to regions in proportion to their consumption. In the application of the second principle that is needs, a Distributive Pool Account was created where a recommended amount of 30% of all import duties (except those on beer, wine and liquor, motor spirit, diesel and tobacco) and 30% of mining rents and royalties were to be paid into. The Commission adopted four criteria in the allocation of revenue to the Distributive Pool and these were balanced development, continuity in regional government services, maintenance of minimum responsibilities and population (Ekpo 2004:14). The distribution of the funds in the Distributive Pool to the regions was in the fixed proportion of 40/95 to the North, 24/95 to the West, 31/95 to the East and 5/95 to the Southern Cameron them administered as part of Nigeria (Teriba 1966:370, Obina

1988:176 and Ehwarieme 1999:64).

The Raisman - Tress report could be said to have been a major watershed in Nigerian history of revenue allocation with its fundamental recommendation for the utilization of a distributive pool, placement of less emphasis in the utilization of derivation principle and enhanced fiscal autonomy for the regions.

#### **4.3 Issues of Fiscal Federalism in the First Republic 1960 - 1966**

At independence, the 1960 Constitution of the Federal Republic of Nigeria recognized a federal structure that was made up of strong regions and a central government with limited powers. A major feature of the 1960 Constitution to *The Nation* was A...the extensive powers granted the regions, making them effectively autonomous entities and the revenue arrangements which ensured that the regions had the resources to carry out their immense responsibilities@ (See, *The Nation*, May 18, 2008:A11). It is important to note that the 1960 Independence Constitution and the 1963 Republican Constitution contained identical provisions, except replacement of Her Majesty Queen of England (1960) as Head of State with a Ceremonial President (1963). Also the Judicial Committee of the Privy Council in London (1960) was replaced with the Supreme Court of Nigeria (1963) as the highest court of judicial appeals.

In the First Republic, there was the practise of what to a major section of the Nigerian populace was their notion of true federalism and some of the features which made this feasible were that:

- (i) Each region had its own separate Constitution, in addition to the Federal Government Constitution,
- (ii) Each region had its own coat and motto separately from the federal government.
- (iii) Each region established its own semi-independent mission in the UK headed by >Agent-General=.
- (iv) Separate regional judiciaries and the power of the regions to establish not only high courts, but also regional courts of appeal
- (v) The regions had their own separate electoral commissions for regional and local government elections. However, the Chairman of the Federal Electoral Commission was the statutory Chairman of the regional commission
- (vi) The revenue allocation system under the 1963 Constitution was strictly based on derivation. (See, *The Nation*, May 19, 2008: A11&A13).

##### **4.3.1 Distribution of Powers and Responsibilities**

The distribution of powers and responsibilities between 1960 B 1966 is shown in

table III below.

**Table III:**  
**Allocation of Power and Responsibilities to the Federal and Regional Governments 1960 B 1966**

| <b>Responsible level of Government</b> | <b>Expenditure Category</b>                                                                                                                                                                                                                                                                                                                                                                                   |
|----------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Federal Government only (exclusive)    | Aviation, Borrowing of moneys outside Nigeria, Borrowing of moneys within Nigeria, Control of capital issues, Copyright, Currency, Coinage and legal tender, Customs and excise duties, Defence, Deportation, External Affairs, Exchange Control, Extradiction, Immigration, Maritime shipping and navigation, Mines and minerals, Naval, army and airforces, Nuclear energy, Posts and telegraphs, Railways. |
| Federal/Regions (Concurrent)           | Antiquities, Arms and Ammunition, Bankruptcy and insolvency, Census, Commercial and Industrial monopolies, Combines and trusts, Higher Education, Industrial development, Labour, the regulation of professions, Maintaining and securing of public safety and public order, Quarantine, Registration of Business name, Scientific and industrial research, statistics.                                       |
| Regional Government only               | Residual power i.e. any subject not assigned to federal or local level by the Constitution.                                                                                                                                                                                                                                                                                                                   |

**Source:** Federal Republic of Nigeria (1963). The Constitution of the Federal Republic of Nigeria. Lagos. Federal Government Press.

From the table, it could be discerned that important items were listed in the concurrent list. Significant ones among them included Arms and Ammunition, Bankruptcy and Insolvency, Census, Commercial and Industrial monopolies, Combines and trusts etc. Although mines and minerals were placed in the exclusive list in both the 1960 and 1963 Constitutions, there was a strict adherence to the application of the derivation principle in the allocation of the proceeds from mineral exploitation.

#### **4.3.2 Assignment of Power of Taxation and Responsibilities**

The Federal Government had the responsibility to assign and collect the following taxes: duties levied on imports of goods into Nigeria, import duties on tobacco, corporation tax, export duties on produce including hides and skins, and mining rents and royalties. It is worth noting that at this period, agriculture was the mainstay of the Nigerian economy. The regions had full control of other items of taxation which included taxation on incomes, profits and capital gains, property tax, sales tax, entertainment tax,

amusement tax and any other tax imposed by a law of the region (Ekwueme, 2002:1).

On the distribution of the taxes imposed and collected by the Federal Government to the federating units, Sections 136 B 145 of the 1963 Republican Constitution set out the parameters to be utilized. The prescribed parameters were as follows:

- (i) Import Duties on all imported commodities into Nigeria (other than motor spirit, diesel oil, tobacco, wine, potable water or wine)
  - (a) 70% retained by the Federal Government
  - (b) 30% to be paid into the Distributive Pool Account (Section 136).
- (ii) Duties on motor spirit or diesel oil imported into Nigeria, 100% to the regions in proportion to the amount distributed for consumption in each region (after the deduction of the amount consumed in the federal territory) (Section 137).
- (iii) Excise duty on tobacco  
100% to the regions in proportion to the amount distributed for consumption in each region (after the deduction of the amount consumed in the federal territory) (Section 138).
- (iv) Duty on export products, hides and skins  
100% to regions in proportion to the revenue attributed to exports derived from the region (Sub-Section 4 stated that any commodity purchased in the federal territory was attributable to Western Region (Section 139).
- (v) Mining Rents and Royalties
  - (a) 50% to region of derivation
  - (b) 30% to distributable pool
  - (c) 20% to Federal Government (Section 140).

It is to be noted that Section 140, Sub-section 5 of the 1963 Constitution provided that Afor the purposes of this section, the continental shelf of a region shall be deemed to be part of that region@.

Section 141 of the Constitution prescribes the manner in which the funds that were held in the Distributive Pool was to be distributed by the Federal Government. In paying to the regions, the Federal Government was to do this in accordance with this formula:

- (a) Northern Nigeria B 40 divided by 95 which gave 0.42%.
- (b) Eastern Nigeria B 31 divided by 95 which gave 0.33%.
- (c) Western Nigerian B 18 divided by 95 which gave 0.19%.

(d) Mid-Western Nigerian B 6 divided by 95 which gave 0.06%.

This brought the total to 1 which was equivalent to 100%.

Section 142 required that each region was to contribute on pro-rata basis the expenditure incurred by the department of customs and excise in the collection of the duties. Also, Section 143 empowered the Federal Government to set off any sum due to the federation from a region in respect of any loan made by the federation to that region from the region=s funds.

An important feature to note from the fiscal arrangements highlighted above was that in the first republic, the regions exercised a high degree of fiscal autonomy, hence the view by many scholars that fiscal decentralization was the mainstay of the political system in this period.

#### **4.3.3 The Binns Revenue Commission of 1964**

The introduction of the Republican Constitution in 1963 led to the appointment of the Binns Revenue Commission with J.K. Binns as sole Commissioner in 1964 to carry out a review of inter-governmental fiscal relations. The terms of reference of the commission included an examination of the appropriateness in the circumstances of Nigeria, of (i) the formula for the allocation of the proceeds of mining rents and royalties laid down in Section 140 of the Constitution of the federation; (ii) the formula for the distribution of funds in the distributable pool account laid down in Section 141 of the constitution of the federation (Binns 1964:5B6). Although one of the guiding principles of the Binns Commission to Teriba (1966:379) was that the Federal Government has to, as a result of the nature of the Nigerian Federal Republic, occupy a position of paramount financial authority such that it could, through its own financial strength, guarantee the financial stability of the whole republic. One major plank of his recommendation was to reduce the level of revenue available to the federal government. In this wise, the commission recommended that the percentage of federally collected revenue from import duties, mining rents and royalties paid into the distributive pool be increased to 35% while the percentage payable to the Federal Government was correspondingly reduced from 20% to 15%.

The Commission adopted the utilization of the principles of regional financial compatibility, continuity in government services and maintenance of minimum responsibilities in place of derivation and need, and the distributive pool account was distributed among the region on the basis of North 42%, East 30%, West 20% and Mid-West 8% (Ekpo 2004:19). From this distribution the North which had an increase of 2%

over the Raisman - Tress formula appeared to have had the greatest benefit and this perhaps was as a result of the commission's view that the North must be helped to the fullest extent possible to achieve a greater measure of parity with the other regions (Binns 1964:34). The East benefitted least from this arrangement because it lost 1% and the West whose fortune had changed for the worst since 1959 gained 2% and if the Mid-West share which was carved out of the Western Region was added, it came up to 28% from 24%.

In the fiscal arrangement between 1960 and 1966 was the pervasive feature of the reduction in emphasizing derivation and an increase in the utilization of the principles of need, population, continuity and balanced development all of which inadvertently favoured the North. Omorogiowa (1981:24-28) in looking at the fiscal profile of the three regions stated that comparatively in terms of revenue, the Northern Region received ₦246.44 million or 255.68% of statutory revenues allocated to the regions from the centre, the West got ₦209.68 million or 230.48% and the East ₦191.81 million or 197.66%. The change in the revenue profile of the West particularly between 1963/64 to 1965/66 in relation to other regions resulted in the loss of its advantage on the other regions. The reason for this situation was the view held by the Raisman - Tress Commission that the West had enjoyed an undue favourable treatment under the Chicks revenue allocation system. Therefore, in order to ensure parity, Raisman - Tress felt that it was expedient to recommend a scheme that would inevitably checkmate the rate of expansion of government services in the Western region while expanding the revenue positions of both the North and the East (Raisman, 1968:32-33). What, to the Commission, would be a temporary check on the Western Region, turned out to, in the words of Adedeji, (1969:143) as a penalization of the West. To him, the effect would not have been very profound but for the fact that it tallied with the period when there was a drastic fall in the prices of cocoa in the world market, and it also coincided with the period when the Mid-West Region which just began to produce oil in commercial quantities was carved out of the Western Region resulting in the loss of a potentially important source of revenue.

A major point to highlight from the period was that the membership of the ad-hoc fiscal commissions were predominantly British with the commission being either sole commission with a member or at most three members. Therefore, the pattern of distribution of revenue reflected their nature and their preference or governmental level of emphasis, either federal or regions. What perhaps explains the federal predominance in revenue sharing during this period was the absence of definite principles in the determination of how the centrally collected revenue would be shared between the federal

and regional governments as the fiscal commissions only focused on how non-declared revenue could be shared among the regions (Osakwe 1999:532). The effect of this was the predilection of the federal government to generally supplement the revenue profile of the regions through grants while it kept for itself the major revenues. Although the Raisman Commission attempted to identify sources of regional revenue, and their proportionate share from the centrally collected revenue, the formula utilized which still gave preponderant share of centrally collected revenue to the federal government was still not clear. To Osakwe (1999:532) Political economists probably attributed this supremacy of federal fiscal powers to immense responsibilities bestowed upon the federal government by the various constitutions.

To sum up, Oyovbaire (1985:163) divided the historical fiscal experience of Nigeria between 1948 to 1966 into four phases. The first phase (1948 B 52) was basically an arrangement of centralized financial and fiscal jurisdictions with the stipulation that the budget excesses of the central government be allocated to regional governments on the principle of derivation, that is on the basis of the relative contributions made to the national finances by the public revenue yielding activities in each region. The second phase (1952B54) saw the introduction of autonomous revenue and tax jurisdictions of regional governments, a development which the third phase (1954B59) entrenched. This phase emphasized the need to provide to the regions and to the centre an adequate measure of fiscal autonomy within their own sphere of government and the importance of ensuring that the total revenues available to Nigeria are allocated in such a way that the principle of derivation is followed to the fullest degree compatible with meeting the reasonable needs of the centre and each of the regions.

The fourth phase (1959B66) according to him was best remembered for two things: (i) it attempted to play down the revenue-yielding activities in each region; it rested on the conviction that the financial stability of the federal centre must be the main guarantee of the financial stability of Nigeria as a whole; (ii) this period also established a joint revenue account for the regional governments, the Distributive Pool Account into which certain prescribed tax proceeds were collected and paid by the federal government and then distributed to the regions on four main principles: continuity in government services; minimum responsibilities dischargeable by government; need as indicated by relative population and the balanced development of the federation.

#### **4.4 Military Government and Fiscal Federalism (1966 – 1979)**

The civilian administration was overthrown by a military coup d'état on the 15<sup>th</sup> of January 1966. The period between 1966 B 1979 witnessed four military

administrations that is Ironsi (15<sup>th</sup> January B 29<sup>th</sup> July, 1966), Gowon (1966 B 1975), Mohammed (1975 B 1 x976) and Obasanjo administrations (1976 B 1979). The appearance of the military in the political arena seriously affected the practice of federalism in Nigeria as real federalism cannot exist in a military administration. Ijalaye (1979:151) succinctly argued that A military rule by its very nature does not favour ideal federalism since the unified command of the army has not been trained for such a system of government. What we have found is that by and large, state governments tend to become mere agents of supreme command because of the strictly hierarchical structure of the army@. What this portends to Ozoigbo (2010:5) was that Nigeria for the greater part of her history has practiced inadequate federalism because of the involvement of the military in politics.

In support of the above assertion, the very first decree issued by the military administration after taking over from a civilian administration negatively affected the foundation of federalism. Thus Section 3 of Decree No. 1 of 1966 stated inter alia: AThe Federal Military Government shall have power to make laws for the peace, order and good government of Nigeria or any part thereof with respect to any matter whatever@. It went further to state that the military governor of a region A shall not have the power to make laws with respect to any matter included in the Exclusive Legislative List, and except with prior consent of the Federal Military Government shall not make any law with respect to any matter included in the Concurrent Legislative List@. The implication of this aspect of Decree No. 1 of 1966 was the complete undermining of the federal nature of Nigeria since it gave itself the power to make laws with respect to any matter whatsoever for the whole of Nigeria. It was as if the component units of Nigeria do not exist (FMG, 1966).

The effect of the military incursion into the politics of Nigeria has been the manifestation of centralization of Nigerian federalism. The import of this was that firstly since 1967, the federal government had demonstrated an increased capacity to alter unilaterally and in its own favour, the existing distribution of power between it and the regional governments, and indeed among the various levels of government. Secondly, there has been an increasing accretion to the federal government of functions previously allocated to the regional (or state) governments and thirdly, the resources (coercive, bureaucratic, ideological and financial) directly available to the component units (regions or states) for carrying out their constitutional functions have steadily diminished in range

and quantum while those at the disposal of the federal government have increased (Asobie, 2001:128).

#### **4.4.1 Inherited Fiscal Structure by Gowon=s Administration**

The inherited fiscal system by the Gowon=s administration was the revenue allocation system as per the Binn=s approved allocation structure. It is noted here that in the Binn=s approved structure which has been in operation since 1965, 35% of general imports revenues, and 35% of revenues from mining rents and royalties were to be credited to the Distributive Pool Account (DPA) Phillips (2008:41). The problem of this inherited fiscal and financial structure to Oyovbaire (1985:166) was the fixed criteria for the distribution of the fund in the DPA. Therefore, before the creation of states in 1967, the sharing formula of the funds in the DPA was still 42% for the North, 30% East, 20% West and 8% Mid-West, and four principles were utilized for this distribution namely: relative population, financial needs, revenue yielding capacity of the regions and balanced development. Therefore, when political exigency led to the balkanization of the former four regions into twelve states in May 1967 by the Gowon administration, Oyovbaire (1985:166) argued that Any qualification of these criteria (principles) was attempted. It was therefore difficult to alter these percentages on any objective basis to meet the new - twelve states system. Furthermore, he continued, the state boundaries did not cut across the wider frontiers of the old regions. It was not surprising therefore when the Federal Military Government divided the regional percentages arbitrarily by promulgating as an interim measure Constitution (Financial Provisions) Decree No. 15 of May 1967.

In the distribution of revenue to the new twelve states, North=s share of 42% was allocated on the basis of equality to the six new states created from the region with each receiving 7%. The former East of three states of East Central State, South Eastern State and Rivers State received 17.5%, 7.5% and 5% respectively. The share for the former West was shared in the proportion of 18% and 2% respectively for Western State and Lagos State, and the Mid-West which was still retained as a state had 8% (FMG, 1967).

#### **4.4.2 1968 Dina Interim Revenue Allocation Review Committee**

The arbitrary manner in which the revenue allocation to states in 1967 was made threw up some challenges. Although relative population appeared to have been utilized in the distribution among the states in both the former western and eastern region, this

obviously was not utilized in the northern states. This aroused resentment in the more populous states who argued that the finance at their disposal could not meet up with their constitutional responsibilities.

It also gave the notion that with the pattern adopted for the sharing of revenue among the six northern states, the north was still regarded as a single entity (Elaigwu 1979:169). Also the 1967 ad-hoc arrangement created some elements of inequality in its distribution of revenue as exemplified by the River State=s allocation of 5%. This was the second lowest allocation after Lagos State and this inequity was in spite of the fact that Rivers was the highest producer of crude oil during the period with 57% of production. Others were Mid-West 34.6%, East Central 2.8% and South East 5.5% (Dudley 1982:259). These challenges and others made the allocation system to be defective and a source of conflict which led to the appointment of the 1968 Dina Interim Revenue Allocation Review Committee.

The Dina Committee had as members Chief I.O. Dina, Professor Ojetunji Aboyade and Mr. A.E. Ekuinam (Adesina 1998:236). The Committee being the first of such body which consisted of only Nigerians was mandated to look into and suggest any change in the existing system of revenue allocation as a whole as well as new revenue sources (Ayida 1987:8 and Ekpo 2004:20). To Ekpo (2004:20), this included all forms of revenue going to each government besides and including the distributive account. The Committee in the course of its mandate recommended the following principles as the criteria for revenue allocation viz basic needs, minimum national standards, population, tax effort, financial prudence, fiscal adequacy, balanced development, independent revenue, derivation and national interest. The distribution of revenue between the federal government and state governments was segmented into independent revenue and shared revenue. Principally, the independent revenue of the federal government were to be made of company (including oil companies) income tax, while that of the state governments were personal income tax, licenses, fees etc. Shared revenue were made up of revenue from excise duty, import duty, export duty, mining rent and royalties from off-shore operations and royalties from in-shore operations in respect of oil and solid minerals (Ekpo, 2004:20B21).

On the shared revenue, the committee=s recommendation was that this should be distributed between the federal government, states joint account (replacement for DPA), the special grant account and the derivation account. The modalities for the distribution of the states joint account was also worked out by the Committee. In applying the derivation principle, the recommendation was that the rent derived from in-shore oil

exploration should be assigned in full to the state from which the oil was extracted while 10% of the royalties should be shared on the basis of derivation.

The Dina Committee in its recommendation focused attention on vital issues. For instance, it called for the centralization of certain functions, the overhauling of tax administration throughout the country as well as uniform personal income taxes, measures that will increase the revenue of both the federal and state governments and the intensification of federal government spending on public goods that have the characteristics of spill-overs in their consumption (Ekpo 2004:22).

The Dina Committee's recommendations were neither accepted by the government nor were they published officially. Adesina (1998: 236) was of the view that the Dina report was considered controversial not because of its explicit economic proposals but because of its political assumptions and other related issues which were pivotal to the realization of a realistic revenue allocation principle, but which, to powerful people, was unfortunately considered outside the committee's terms of reference. The power brokers' grouse with the committee, according to Adesina (1998:236) was its declaration that

We believe that fiscal arrangements in this country should reflect the new spirit of unity to which the nation is dedicated. No more evidence of this is necessary than the present war to preserve this unity at the cost of human lives, material resources and the radical change in this country's structure. It is in the spirit of this new - found unity that we have viewed all the sources of revenue of this country as the common funds of the country to be used for executing the kinds of programmes which can maintain this unity.

Despite the rejection of the Dina report, its recommendations and proposals were, to Ayida (1987:8) not only one of the best documentation on the country's fiscal system, but also one which was too far ahead of its time. The spearheads for the rejection of the report were the states who were of the view that the report was defective on the grounds that accepting the report would enhance the central government powers at the expense of the other tier, and virtually transform the country into a unitary state (Phillips 1975:3 & 4).

#### **4.4.3 Constitution (Distributive Pool Account) Decree No. 13 of 1970 (Retroactive**

### **April 1969), Decree No. 9 of 1971 and Decree No. 51 of 1972**

The Federal Military Government after the rejection of the Dina Committee's report and the successful prosecution of the civil war which ended in January 1970, found it expedient to alter the structure of the existing revenue allocation system. This was done by repealing Constitution (Financial Provisions) Decree No. 15 of 1967 and the Promulgation of the Constitution (Distributive Pool Account) Decree No. 13 of 1970 with retroactive effect from 1<sup>st</sup> April 1969. The major elements of the provisions of the Decree were as follows: (i) the horizontal principle for the sharing of the funds in the DPA were population and equality of states with each having equal allocation of 50% (ii) the excise duties proceeds on petroleum products and tobacco were to be shared equally between the federal government and the DPA instead of the previous system of its transfer to the states on the basis of relative consumption. The implication of this on the state governments was a 50% reduction on this source of revenue. (iii) export duties were to be shared on the ratio of 3:2 by the state of origin and the DPA as against the previous 100% to the state of derivation. (iv) state of derivation with the former 50%, federal government with 15% and 35% to the DPA respectively was adjusted to 45% state of derivation, 5% federal and 50% DPA (v) the import duties on motor fuel fell from 100% to 50% to the states with the federal government taking the other 50% (Oyovbaire 1985:167, Uwatt and Umoh 2003:125).

Although these changes to Uwatt and Umoh (2003:125) might have been informed by the financial requirements to execute the civil war and the post war reconstruction, the changes to Oyovbaire (1985:167) had three cumulative effects (i) they increased the financial strength of the federal government vis-a-vis the states (as the federal government share from the federally collected revenue was increased to 57.5% with the states being left with 42.5%), (ii) the amount of revenue accruing to the DPA was increased and (iii) there was the introduction of some measure of fiscal equalization among the states.

In 1971, the Federal Military Government promulgated Decree No. 9 of 1971 which amended Section 140 (6) of the 1963 Constitution. This section provided that the continental shelf of a region or state is part of that state. Decree 9 stated that (i) the ownership of and title to the territorial waters and the continental shelf shall vest in the federal military government and (ii) all royalties, rents and other revenues derived from or relating to the exploration, prospecting or searching for on the mining or working of petrol (as defined in the Petroleum Decree 1969) in the territorial waters and the continental shelf shall accrue to the federal government (Ekpo 2004:23). What this translated into was that all revenues accruing from all off-shore operations now belong to

the federal government. Those of the on-shore were still allocated on the existing formula i.e. 45% derivation, 50% DPA and 5% federal government.

#### **4.4.4 Decree No. 6 of 1975 and Its Effects on Revenue Allocation**

In his independence address to the nation on 1<sup>st</sup> October 1974, General Gowon highlighted the decision of the Supreme Military Council to de-emphasize the utilization of the derivation principle in the allocation of both the oil and non-oil revenue, and the transfer of the revenue that will accrue to the states. He declared in his speech that

As a practical application of the foregoing principle, as from the 1<sup>st</sup> April 1975, all portions of Customs and Excise Duties formerly payable to the State Governments on the basis of derivation would be payable to the Distributive Pool Account; the percentage of royalties payable to State Governments on the basis of derivation would be reduced from 45 to 20 and the Federal Government will surrender its entire share of both on-shore and off-shore royalties into the Distributive Pool Account. (See, *Daily Times*, October 2, 1974:2).

The details of this speech were enacted into law vide Decree No. 6 of 1975 which took effect from 1<sup>st</sup> April 1975. The fundamental changes of the decree as compared with the existing arrangement are shown in Table IV. From the table, one major fallout of the implementation of the decree was the drastic de-emphasis of the derivation principle in the allocation scheme. There was also the enlargement of the DPA, and this made the DPA the major source for the distribution of funds to the states. The principle of horizontal allocation still remained 50% equality of states and 50% population.

As at the time of the promulgation of Decree No. 6 of 1975, the eventual creation of additional states was not envisaged. Thus with the increase of states from 12 to 19 by the Mohammed=s administration in 1976, serious implications arose in the distribution of revenue for states.

**Table IV:  
Structure of Revenue Allocation**

| Revenue Source                                                                          | Allocation to March 1975                                                                  | Allocation from April 1975 to March 1979                                                              |
|-----------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------|
| Export duties:<br>Produce, hides and skins,<br>other exports                            | Approx. 87% to state of origin;<br>approx. 13% to DPA<br>100% to state of origin          | Zero to State of origin<br>100% to DPA                                                                |
| Import duties:<br>Tobacco<br>Petroleum products                                         | 100% to state of origin<br>Approx. 91% to state of<br>consumption; approx. 9% to<br>DPA   | Zero to state of consumption;<br>100% to DPA                                                          |
| Mining rents and royalties:<br>(i) On-shore production<br><br>(ii) Off-shore production | 45% to state of derivation;<br>50% to DPA; 5% to Fed. Govt.<br>100% to Federal Government | 20% to state of derivation<br>80% to DPA; zero to Fed.<br>Govt.<br>100% to DPA; zero to Fed.<br>Govt. |

**Notes:** (i) Other revenue sources to the Distributive Pool Account (DPA) not affected by Decree No. 6 of 1975 included 35% of the proceeds from >unspecified imports= and excise duties.

(ii) Allocation of the funds in the DPA remained on the basis of 50% equality and 50% relative population.

**Source:** Oyovbaire (1985) "Fiscal Federalism under Military Rule 1966 B 1979." In Oyovbaire, S.E. *Federalism in Nigeria*. London and Basingstoke: Macmillan Publishers Ltd. P. 167.

For instance when the allocation formular was utilized in 1976/77 financial year, Oyovbaire (1985:193) asserted that the percentage revenue allocation to the ten northern states was 47.03 as against 44.6 in 1975/76. With the continuation of the utilization of the allocation system to March 1979, the implication was that the creation of states resulted in the system being more beneficial to the northern states. The 3 states created in the western region also gained with an increase of almost 4% while the old eastern region lost almost 3 percent.

Two other important reforms were announced in the same independence speech that ushered in Decree No. 6 of 1975. The first was that the country=s revenue allocation system will henceforth be reviewed at regular intervals corresponding to the development plan period. To Phillips (1975:18) Aat least in respect of timing if not in other respects, this reform, if implemented and adhered to, will contribute to reducing the dichotomy between revenue allocation and development planning exercises@.

The second reform was that the revenue allocation system was no longer embodied in the constitution as in the past, but would be implemented through normal

legislation or decrees. The advantage of this was that the rigidity that was manifested in the system during the Pre - 1966 period will be a thing of the past and there would be the facilitation of speedy and continuous improvements in the system.

#### **4.4.5 The Aboyade Technical Committee On Revenue Allocation B 1977**

In 1977, as part of the plan to return the country to civil rule in 1979, the Federal Military Government set up the Aboyade Technical Committee on Revenue Allocation. The terms of reference of the Aboyade Committee were stated as follows:

Taking into consideration the need to ensure that each government of the Federation has adequate revenue to enable it to discharge its responsibilities and having regard to the factors of population, equality of status among the states, derivation, geographical peculiarities, even development, the national interest and any other factors bearing on the problem, the Committee should:

- (a) examine the present formular with a view to determining its adequacy in the light of the factors mentioned above and representations from the Federal Government and the State Governments and any other interested parties
- (b) following from the findings in (a) recommend new proposals as necessary for the allocation of revenue as between the Federal, States as well as Local Governments, and also amongst the states, and the Local Governments; and
- (c) make whatever recommendations are considered necessary for the effective collection and distribution of Federal and State revenues (Aboyade 1977:2B3).

The Aboyade Committee had a clear conviction and motivation to carry out its assignment when it claimed as representing Aa new conscience of the nation, a new spirit of national rediscovery, and a new spirit of social inter-dependence@ (Aboyade 1979:52).

The Committee in its report asserted that

Having gone through the crucible of a long wasting civil war for national survival and national integration, and having witnessed the potential strength of a new spirit of national interdependence and purposeful leadership, it is important that a new revenue allocation system is designed and built on different premises from the present fissiparous >principles=. There is at least the need for a cooling-off period to unlearn the deep prejudices of the past and return the wavelengths of national political and economic debates along more positive and integrationist lines. (Aboyade, 1977:52).

With this motivation and reasoning, the Aboyade Committee approached its terms of reference with what Oyovbaire (1985:191) termed methodology of development planning which revolves around the centralization of national resources and the allocation of total available resources to achieve equity and efficiency.

The main highlights of the Aboyade Committee=s recommendations could be summarized as follows:

- (i) All federally collected revenue (except the personal income tax of the armed forces, external affairs officers and the new federal capital territory) be paid into one account. The funds that so accrue were to be distributed between the federal, states and local governments in the order of 60 percent, 30 percent and 10 percent respectively. The implication of this arrangement was that for the first time, the other levels of governments will benefit from the lucrative petroleum profit tax and companies income tax. These two revenue sources had before this time been reserved exclusively for the federal government.
- (ii) 3 percent from the Federal Government share of 60 percent to be credited into a Special Grants Account to benefit the mineral resources producing areas and other areas in need of federal government intervention as a result of ecological problems.
- (iii) Each state government was to allocate 10 percent of it own total revenue to local governments in its areas. This was in addition to the amount that the local governments will receive from the federation account.
- (iv) For horizontal allocation, five factors with prescribed weights were to be utilized.

These were:

|                                                     |   |      |
|-----------------------------------------------------|---|------|
| Equality of access to development opportunities     | B | 0.25 |
| National minimum standards for national integration | B | 0.22 |
| Absorptive capacity                                 | B | 0.20 |
| Independent revenue and tax effort                  | B | 0.18 |
| Fiscal efficiency                                   | B | 0.15 |

The Committee stated that the allocation criteria was to be applied to the incremental changes in the state joint account and not to the total absolute amount. Applying this will ensure that there will be the maintenance of minimum continuity of services in each state for it to carry out its duties. This same formula was to be utilized for local government sharing.

- (v) A Joint Fiscal and Planning Commission to ensure the need for better integrated planning of the national economy was to be established.
- (vi) The concurrent subjects in the new constitution would be similar to those of the 1963 Constitution.
- (vii) The local governments should be entrenched in the new constitution as the third

tier of government.

- (viii) All mineral rights were to be vested in public ownership.
- (ix) All the levels of government were to be allocated tax powers and functions.

**Table V:**

**Formulae and weights for revenue allocation B Aboyade Report and Federal Government=s modification.**

|    | Factors                                              | Recommended by Aboyade Committee | Weights accepted by the government |
|----|------------------------------------------------------|----------------------------------|------------------------------------|
| 1. | Equality of access to development opportunities      | 0.25                             | 0.27                               |
| 2. | National minimum standards for national integration. | 0.22                             | 0.28                               |
| 3. | Absorptive capacity                                  | 0.20                             | 0.20                               |
| 4. | Independent revenue and tax effort                   | 0.18                             | 0.12                               |
| 5. | Fiscal efficiency                                    | 0.15                             | 0.13                               |
|    |                                                      | 1.00                             | 1.00                               |

**Source:** Oyovbaire (1985) “Fiscal Federalism Under Military Rule 1966 B 1979” in Oyovbaire S.E. *Federalism in Nigeria*. London and Basingstoke. Macmillan Publishers Ltd. P. 189.

The Federal Military Government with a slight modification of the weights for horizontal revenue allocation (See Table V) virtually accepted the Aboyade Report and it was used as the platform for allocation of revenue to all the tiers of government from April 1979 to the end of the military administration on October 1<sup>st</sup> 1979. This was in spite of the fact that the Aboyade Committee either jettisoned or rejected factors like population, equality of status among the states, derivation, geographical peculiarities, even development and national interest that the military administration enjoined the Committee to take account of in its work.

The Aboyade Committee articulated the first two factors on the basis of the equity consideration while efficiency considerations were the basis of the last three. One noticeable effect of the report of the committee was the complete elimination of the principle of derivation from the revenue allocation system, and the hiding of the population element behind concepts like >development opportunities= and >national integration=.

To Oyovbaire (1985:190) the federalist assumptions of the Aboyade Report were

Aunclear, shaky and dilettante@ with its argument going one step forward and two backwards. For example, in its disquisition on federalism, the Aboyade Committee to Oyovbaire (1985:190B191) recognized clearly that >the military presence in the Nigerian contemporary situation only strengthened an underlying historical process brought about by recent structural shifts in relative fiscal fortunes of the central government and the units governments in virtually all federations against the responsibilities which have been constitutionally assigned to them=. Yet the Aboyade Committee castigated the same historical process as having failed to provide the >essential characteristics of a modern virile federal system= in Nigeria, and >co-ordinate powers= to the states and federal government. It then preceeded to describe the states as >little more than glorified provincial governments in an administratively decentralized unitary system=. In May 1978, the Federal Government sent the report to the Constituent Assembly for debating and noting. The Aboyade Report was discussed, condemned and rejected by the Constituent Assembly.

The Constituent Assembly was not unmindful of the attempt by the military administration to get them democratically legitimize the Aboyade Report. To the Assembly, such endorsement would likely bind the incoming civilian administration to utilize the report, for as Justice Udoma asserted in the Assembly Debates (1978:2571) that AA Government should be able to be in a position to come into office and realize its own responsibility without being fitted into a straight jacket. That government would then be free to negotiate with the various State Governments@. The Constituent Assembly therefore resolved that pending enactment of a new revenue allocation formula by the National Assembly, the system in existence up to March 1979 should be reverted to and continue to apply, provided that where functions under this constitution have been transferred from the federal government to the states and from states to the local government, the funds in respect of such functions are to be transferred to the appropriate level of government (1978:2585).

#### **4.5 An Overview of Fiscal Federalism in the Second Republic, 1979 – 1983**

On 1<sup>st</sup> October 1979, the military administration under the headship of General Olusegun Obasanjo handed over the reigns of power to democratically elected civilian President Shehu Shagari thereby signifying the termination of military rule in Nigeria, and the beginning of a civilian administration. This act marked the stepping into the threshold of the Second Republic of Nigeria.

##### **4.5.1 Distribution of Expenditure Powers and Responsibilities**

The second schedule of the 1979 Constitution of the Federal Republic of Nigeria specified the allocation of responsibilities among the various levels of government in the Nigerian federal system (i.e. federal and state). This section allocated legislative function vide the exclusive list (an area where it is only the federal government that can legislate), concurrent legislative list (consists of functions for the legislation of both the federal and state governments) and the residual list (this list is not like the other two, but it consists of those functions that were not specifically assigned to the federal or local government B this area was exclusive to the states). Also Section 7 of the constitution provided for the operation of the local governments, and their functions are specified in the fourth schedule. Table VI summarizes the assigned expenditure responsibilities. An analysis of the table indicated that most of predominant functions were given exclusively to the federal government. This functional allocation among the levels of government in Nigeria, to Akindele and Olaopa (2002:9), was more or less a political rather than an economic exercise. This was manifested in the fact that a rigid dichotomy in the concurrent functions performed by both the federal and state government could not be discerned, hence states could legislate in areas that were formally federal (for instance higher education) while federal had also ventured into the preserve of states (that is secondary education). Section 4(5) of the 1979 Constitution further asserted the overriding power of the federal government over the states in relation to making of laws over the responsibilities highlighted in the concurrent list. The provision of the section and sub-section allows federal laws to take precedence in areas of overlapping jurisdiction.

**Table VI:**  
**Allocation of Expenditure Responsibilities in Nigeria Under the 1979**  
**Constitution**

| <b>Responsible Level of Government</b> | <b>Expenditure Category</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|----------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Federal Only                           | Arms, Ammunition and Explosives,<br>Aviation, Railways, Postal Service<br>Defence, Foreign Affairs,<br>Currency, Banking, Borrowing, Exchange Control<br>Elections<br>International Trade<br>Police and Other Security Service<br>Regulation of Labour, Interstate Commerce<br>Use of water resources, shipping, federal trunk roads<br>Telecommunications, Immigration<br>Mines and minerals, nuclear energy, citizenship and naturalization rights.<br>Social security, insurance, census, births, deaths<br>Business registration, patents, trademarks<br>Prescription of minimum standards of education<br>Commercial and industrial monopolies, combines and trusts. |
| Federal & State (Shared)               | Antiquities, Monuments, archives<br>health, social welfare<br>Education (post primary)<br>Electricity (generation, transmission, distribution)<br>Scientific and technological research, statistics<br>commerce, industry                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| State Only                             | Residual power i.e. any subject not assigned to Federal or Local Government level by the constitution.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| Local Government                       | Economic planning and development<br>Health services, land use, marriages,<br>Control and regulation of advertisement, pets,<br>small businesses, markets, public conveniences,<br>Social welfare, sewage and refuse disposal,<br>Registration of births and deaths<br>Primary, adult and vocational education<br>Development of agriculture and natural resources.                                                                                                                                                                                                                                                                                                       |

**Source:** Federal Republic of Nigeria (1979) The Constitution of The Federal Republic of Nigeria. Lagos. Federal Government Press.

#### **4.5.2 Assignment of Powers of Taxation**

In line with the federal systems all over the world, the taxing authority in Nigeria in the Second Republic was divided among the three tiers of government. Table VII presents the disposition of major tax powers among the three levels of government. An analysis of table VII gives a picture of federal dominance in the choice of taxes that come under its administration. The major ones such as import and export duties, petroleum profit tax, rents and royalties among others were not only under federal jurisdiction but were administered and collected by it.

#### **4.5.3 Presidential Commission on Revenue Allocation**

The Shagari administration inherited, at its inception, the revenue allocation utilized by the military administration up till March 1979. In order to ensure that the revenue allocation was fair and just, President Shehu Shagari on 23<sup>rd</sup> November 1979 inaugurated a Presidential Commission on Revenue Allocation under the Chairmanship of Dr. Pius Okigbo.

Other members of the commission were Professor Dotun Phillips, Dr. G.B. Leton and Alhaji Ahmed Talib (Okigbo, 1980:3). The terms of reference of the Commission were

- (i) to explore ways of ensuring that each of the three tiers of government was adequately funded to carry-out its constitutional obligations;
- (ii) to review and make recommendations on existing revenue sharing criteria such as derivation, population, even development and national interest (Okigbo, 1980:4).

The Commission submitted its report in June 1980, and it was ironical that Pius Okigbo, who was prominent in discrediting Aboyade's report, headed the Presidential Commission on Revenue Allocation which was characterized by contradictions. This perhaps explains why the Commission submitted one majority report and two minority reports. The white paper representing the Federal Government's views and positions was published in August 1980.

**Table VII:****Disposition of Major Tax Powers Among the Three Tiers of Government**

| <b>S/N.</b> | <b>Federal Government of Nigeria</b>                                                                                                                                                                                                                        | <b>State Government</b>                              | <b>Local Government</b>                                                      |
|-------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------|------------------------------------------------------------------------------|
| 1.          | Import Duties                                                                                                                                                                                                                                               | Personal Income Tax (Administration and Collection)  | Property Taxes and Ratings (Tenement Rate)                                   |
| 2.          | Companies Income Tax                                                                                                                                                                                                                                        | Withholding Tax (on individuals)                     | Market and Trading Licenses and Fees                                         |
| 3.          | Withholding Tax on Companies                                                                                                                                                                                                                                | Capital Gain Tax (Administration and on individuals) | Motor Park Dues                                                              |
| 4.          | Petroleum Profit Tax                                                                                                                                                                                                                                        | Stamp Duties on individuals                          | Radio and Television Licenses (other than radio and television transmitters) |
| 5.          | Capital Gains Tax (Legal Basis)                                                                                                                                                                                                                             | Entertainment Tax                                    | Marriage, Birth and Death Registration Fees                                  |
| 6.          | Mining Rents and Royalties                                                                                                                                                                                                                                  | Road Taxes (motor vehicles and driver=s licences)    | Bicycles, Trunk, Canoe and Wheel Barrow Fees                                 |
| 7.          | Stamp Duties on Corporate Body                                                                                                                                                                                                                              | Pools betting and lotteries and gaming taxes         | Public Conveniences, Sewage and Refuse Disposal Fees                         |
| 8.          | Value Added Tax (VAT)                                                                                                                                                                                                                                       | Land registration and survey fees                    | Signboard and Advertisement Permit Fees                                      |
| 9.          | Education Tax                                                                                                                                                                                                                                               | Development levy                                     |                                                                              |
| 10.         | Personal Income Tax (except in respect of members of the Armed Forces of the Federation, members of the Nigerian Police Force; residents of the Federal Capital Territory, Abuja and staff of the Ministry of Foreign Affairs and non-resident individuals) |                                                      |                                                                              |

**Source:** Ekpo, A.H. (2004). "Intergovernmental Fiscal Relations: The Nigerian Experience." Paper Presented at the 10<sup>th</sup> Year Anniversary of the Financial and Fiscal Commission of South Africa. Cape Town. Available on [http://www.ffc.co.za/cruf/papers/nigeria\\_igfr](http://www.ffc.co.za/cruf/papers/nigeria_igfr). Visited on 24th December, 2011. Pg. 13.

The Commission recommended a vertical distribution format of 53 percent to the Federal Government, 30 percent to the State Governments, 10 percent to the Local Governments and 7 percent to a Special Fund. The special fund was intended to fund the initial development of the Federal Capital Territory, compensation for mineral producing areas and other areas experiencing continuing ecological problems and revenue equalization among governments. For horizontal allocation among the states and local governments, the Commission recommended as follows, minimum responsibility of government 40 percent, population 40 percent, social development factor as calculated from primary school enrolment 15 percent and internal revenue effort 5 percent. From the 15 percent allocated to social development, 11.25 percent direct enrolment and 3.75% inverse enrolment (See Appendix I).

The White Paper released by the Federal Government modified some aspects of the commission=s proposals. In the White Paper, 55 percent of the total federally collected revenue was allocated for the federal government, an increase of 2 percent, 30 percent for state governments, 8 percent to local governments and 7 percent to special fund. Although the commission did not make any provision for the utilization of the derivation principle, the government proposed that 3.5 percent of total national revenue under the special fund will be distributed on the basis of derivation among the mineral producing areas. Other modifications were in respect of inverse enrolment figure where it was stated that it should be based on the actual number of children who could not go to school for one reason or another. With respect to internal revenue effort, it was stated that it should be based on recurrent expenditure and not total expenditure (FGN, 1980:17).

Suberu (1999:273B279) noted that three lines of cleavages arose from both the Okigbo Commission Report and the Government=s White Paper on it. To him, the first reflected the special interests and demands of the oil producing states. A statement issued by the Governors of the major oil - producing states of Bendel, Rivers and, Cross River in July 1980 denounced the Okigbo Commission Report (which although yet to be published had apparently been made available to them) as politically tainted, prejudiced, insensitive and biased. Their objection was the commission=s neglect of the principle of derivation. The Governors proposed that the 7 percent recommended as special fund be paid wholly to the oil producing states on the basis of derivation.

The second cleavage to Suberu (1999:274) had a north-south dimension. Some

northern NPN members in the National Assembly were of the feeling that the social development factor proposed by the Okigbo Commission and accepted by the Government would favour the educationally advantaged states of the South. They therefore advocated for the inclusion of the principle of landmass in the horizontal sharing preferably as a substitute for social development factor. The initial Allocation of Revenue Act 1981 embodied this Northern position by substituting social development principle with landmass with a weight of 10 percent. The revised 1981 Allocation Act reverted to the original proposal by the Okigbo Commission.

The most fundamental line of cleavage to Suberu (1999:276) was the difference between the federal government and the state governments over what proportion of the national revenue should go to the two levels. The Federal Government's argument in justifying the increase of its allocation from 53 percent to 55 percent was that the commission had not adequately highlighted the constitutional functions of the federal government and their implications. All the states (with the exception of Cross River, Kwara and Sokoto which proposed 50 percent for the federal level) were unanimous in their view that the federal government in fact required less than - half of the federation account to fulfil its constitutional obligations.

This difference in the position of both the federal government and state governments on the basis of what the federal share should have, polarized the National Assembly when the Revenue Allocation Bill was considered between December 1980 and January 1981. The House of Representatives approved a 50: 40: 10 ratio. The 50 percent approved for the federal government included 2.5 percent of the federation account to be used for the initial development of the federal capital territory while 3.5 percent of the 40 percent approved for the states was for the benefit of the mineral producing states. On horizontal allocation, the House of Representatives approved the utilization of three weights namely: minimum responsibility of government 45 percent, population 50 percent and internal revenue effort 5 percent. The Senate however adopted the federal government's position with a distribution ratio of 58.5: 31.5:10 for federal, state and local governments respectively. 2.5 percent and 1 percent of the federal allocation were for the initial development of the federal capital territory and amelioration of ecological problems respectively. With respect to the state allocation, 5 percent was for the benefit of mineral producing areas. The remaining 26.5 percent was to be distributed horizontally using the following weights: minimum responsibility of government 50 percent, population 40 percent, and landmass 10 percent (Suberu 1990:280 B 281). In

Suberu=s (1990:281) view, the Senate version apparently tried to satisfy two geo-political interests, that is the three oil producing states of Rivers, Cross Rivers and Bendel (an area in which the National Party of Nigeria (NPN) enjoyed substantial support) and the geographically large states concentrated in the Northern power base of the NPN.

In view of the divergent position of both houses of the National Assembly on the Revenue Allocation Bill, a Joint Finance Committee made up of twelve members from each house in accordance with Section 55 (2) of the 1979 Constitution was constituted to consolidate the two versions. The Senate version was adopted by the Committee with a vote of 13 to 11. The Bill was then forwarded to the President for assent without being referred to the two houses for concurrence. The President on 2<sup>nd</sup> February 1981 signed it into law and it became known as Allocation of Revenue (Federation Account etc.) Act of 1981.

The assent of the bill by the President opened a floodgate of reactions which eventually led to exchange of political and legal diatribe between the federal and state governments. The State Governments especially those on the platform of Unity Party of Nigeria and Nigeria Peoples Party denounced both the manner of the enactment of the bill and the large percentage of revenue given to the federal government at the detriment of other levels. The presumed illegal and unconstitutional procedure utilized in passing the bills served as the basis for the institution of separate court cases at the Supreme Court by nine states although the Supreme Court finally decided to use the suit filed by the Bendel State as the text case.

In the judgement delivered on 2<sup>nd</sup> October 1981, the seven justices that heard the case were unanimous in ruling that the Joint Finance Committee acted unconstitutionally by failing to refer its resolutions to the two houses of the National Assembly. As Justice Fatai - Williams (1981:32 B 33) succinctly asserted in his lead judgement

I confess that I am unable to resist the conclusion that the Joint Finance Committee of 24 has, for want of a better phrase, taken over the powers given to the National Assembly B two Houses consisting of 95 Senators and 450 members of the House of Representatives B by the constitution.... I cannot conceive of a situation in any country with a parliamentary democracy where legislative powers generally, and those relating to money bills in particular, could be handed over by the elected representatives of the people to a caucus of twenty-four of such members, no matter how eminent they may be.

The Supreme Court therefore ruled that the Revenue Allocation Act 1981 was not

valid since, according to Fatai - Williams (1981:36), it carried death wounds on its face. It was therefore declared null and void and of no effect. With the Supreme Court declaration, President Shagari late in 1981 presented a modified version of the Revenue Allocation Bill to the National Assembly. The modified bill had a distribution ratio of 55: 35: 10 to the federal, state and local governments respectively from the federation account. The Federal Capital Territory was now to be treated as a state in revenue allocation. 3.5 percent of the revenue accruable to the states was to be distributed among the oil producing states in the following proportion 3.2 percent to be transferred directly to the states in direct proportion of the value of the minerals extracted from the territory of each state and 1.5 percent to be paid into a fund to be managed by the Federal Government for the development of mineral producing areas. Another 1 percent from the states share was to be kept by the Federal Government for the resolution of ecological problems.

Suberu (1999:288) highlighting the politics of its passage at the National Assembly stated that when the bill was tabled before the House of Representatives, it was passed in less than two hours. The Senate however still passed its previous bill as embodied in the nullified Revenue Act and rejected the President's bill even after it was approved by the Joint Finance Committee of the two houses. The impasse was resolved after convening a joint session of the two houses which eventually passed the President's bill unamended in December 1981. The bill was signed into law on 22<sup>nd</sup> January 1982 and it became known as the Allocation of Revenue (Federation Account etc.) Act, 1981 (No. 1 of 1982).

Again the Bendel State Government in suit number SC108/1982 challenged the new Act in the Supreme Court. Its grounds of disagreement were:

- (i) that subsections 1 and 2 of Section 2 of the new Revenue Act are null and void because they purport to provide for the administration by the federal government of funds already allocated to the states for the development of mineral producing areas and the amelioration of ecological problems.
- (ii) that subsection 1 of Section 6 of the aforesaid Act is unconstitutional and void in so far as it enacts the establishment of a body to be known as the State - Local Government Account Allocation Committee and
- (iii) that the Government of Bendel State is entitled to have, from time to time, a true and correct statement of all moneys paid by the federal government into the federation account kept pursuant to Section 149 of the constitution.

In respect of ground (iii), the Bendel State Government averred that inspite of a letter dated 24<sup>th</sup> February 1982, and a reminder dated 11<sup>th</sup> March 1982, the Federal Government since it came into power in October 1979 had never given any statement of money in the Federation Account nor given the state any opportunity to discuss the issue (Uwais, 1982:7).

In its judgement delivered on 3<sup>rd</sup> June 1983, the Supreme Court ruled in favour of Bendel State Government on the first and third grounds of disagreement but rejected the second ground. On the issue of the right of the federal government to administer funds that belongs to the states for special purposes, the seven judges that heard the suit were unanimous that, by no stretch of the imagination, could the relevant provisions of the constitution be construed as vesting in the National Assembly the powers to enable the federal government administer at its own discretion the funds already allocated to the states. To Eso (1982:113) Aon an ordinary literal interpretation of Section 149 of the 1979 Constitution, it is plain and beyond doubt that any enactment that gives any portion, however so small, of the percentage due to the states to any person, project, organisation or institution other than the states is void and unconstitutional. And so be it in this case@.

On the third ground, the court ruled in favour of Bendel State that it was entitled to request and have within a reasonable time a true and correct statement of all monies into the Federation Account by the Federal Government. Justice Uwais (1982:154) in his lead judgement put it succinctly when he stated that

The position of the Federal Government in maintaining the Federation Account is by virtue of S.149 (1) of the constitution, that of a trustee for the State Governments and Local Government Councils of the States. It is settled that it is the duty of a trustee to keep a proper account of the trust he administers. And the beneficiary has a right to call upon the trustee for accurate information as to the state of the trust. Consequently, it is imperative for the Federal Government to render accurate and regular account to the beneficiaries of all monies paid into the Federation Account when requested to do so.

It is to be noted from the foregoing that the Supreme Court performed an important role in giving adequate legal interpretation to the various Sections of the 1979 Constitution as it related to revenue in the federation account and the revenue allocation act. This not only assisted the states to reassert their rights on issues pertaining to

revenue allocation, it also highlighted the proper role and responsibility of both the legislative and executive arm of the Federal Government on issues relating to the management of fiscal issues affecting all the tiers of government.

#### **4.5.4 Distribution of Revenue**

Section 149 (1) of the 1979 Constitution established a special account for Nigeria called 'The Federation Account'. The constitution also stated that all revenues collected by the Government of the Federation shall be paid into this account. The exception was the personal income tax of the personnel of the Armed Forces, Nigeria Police Force, External Affairs Officers and Resident of the Federal Capital Territory. Sub-section 2 of the same section also mandated that the revenue standing to the credit of the Federation Account shall, from time to time, be distributed among the various levels of government that is federal, state and local governments on such terms and manner prescribed by the National Assembly.

In the second republic, the revenues flowing to the federation account were shared vertically (among the three levels of government) and horizontally (among the two lower levels) according to the prevailing revenue allocation formula. The Federal Government which operated the federation account in trust (as per Supreme Court June 3<sup>rd</sup> 1983 judgement) on behalf of the other levels of government had not kept faith with these other levels as not all revenues collected by the government of the federation were paid into the federation account (Table VIII).

**Table VIII:**  
**Percentage Allocation to Federation Account From the**  
**Federally Collected Revenue 1980 - 1983**

| Year | Total Collected<br>Revenue (Federal)<br>(× Million) | Federation Account<br>(× Million) | Percentage Allocation<br>to Federation Account |
|------|-----------------------------------------------------|-----------------------------------|------------------------------------------------|
| 1980 | 15,233.5                                            | 14,746.5                          | 96.8                                           |
| 1981 | 13,290.5                                            | 10,182.8                          | 76.6                                           |
| 1982 | 11,433.7                                            | 9,884.9                           | 86.5                                           |
| 1983 | 10,508.7                                            | 9,798.6                           | 93.2                                           |

**Source:** Central Bank of Nigeria (2006) Statistical Bulletin, Vol. 17, 2006.

From the table, column 3 indicated that a large percentage of the revenue that

was supposed to be paid into the federation account was not remitted by the federal government. The average percentage remittance for the four years i.e. 1980 B 1983 was 88.3 percent. The implication of this was that the amount available in the federation account was what was distributed by the three tiers of government (the data for local governments was not available) as shown in Table IX.

The table shows that inspite of the legal and political steps undertaken by the states during the second republic to ensure the security of their financial and economic interests, they still suffered serious fiscal crisis. The average percentage of the total revenue sourced by the states between 1980 B 1983 was 36.5 percent. The states were unable to generate sufficient revenue through internal sources, hence they were predominantly financed by revenue from the statutory allocation from the federation account.

**Table IX:**  
**Sources of Revenue to Governments in Nigeria (x Million)**

|                                                  | 1980     | 1981     | 1982     | 1983     |
|--------------------------------------------------|----------|----------|----------|----------|
| Federal Government                               |          |          |          |          |
| Statutory allocation from the federation account | 12,505.8 | 5,514.3  | 5,086.3  | 5,561.9  |
| Independent revenue                              | 487.5    | 1,997.3  | 732.8    | 710.1    |
| Sub-total                                        | 12,993.3 | 7,511.6  | 5819.1   | 6,272.0  |
| % of Total                                       | 77.3     | 60.6     | 56.1     | 60.1     |
| State Governments and FCT Abuja                  |          |          |          |          |
| Statutory allocation from the federation account | 3695.4   | 3,825.6  | 3245.7   | 2958.5   |
| Internally generated revenue                     | 121.7    | 142.6    | 74.9     | 38.0     |
| Grants and others                                | C        | 906.6    | 1240.9   | 1332.9   |
| Sub-Total                                        | 3817.1   | 4,874.8  | 4561.5   | 4329.4   |
| % of Total                                       | 22.7     | 39.4     | 43.9     | 39.9     |
| Total                                            | 16,810.4 | 12,386.4 | 10,380.6 | 10,601.4 |

**Source:** Central Bank of Nigeria (2006) Statistical Bulletin Vol. 17, 2006.

To meet up with some of their expenditure responsibilities, grants and other sources were resorted to because they were rendered virtually financially bankrupt by the reducing receipts from federally collected revenue. This was an effect of the financial crisis which resulted as a result of decreasing earnings from the sale of crude oil. For instance, states had to rely on federal assistance which in 1981 had to disburse x285 million as loans to states to assist them implement the new minimum wage of x125.00 per month (Suberu 1999:297).

The states debt situation was so serious to the extent that by February 1983, the

federal government had suspended repayments of loans to the states amounting to over a billion naira (Suberu 1999: 297). This action did not preclude the federal government granting the states further loans, and this acute dependence on financial relief was a source of frustration for the states. This perhaps explains the reason for the call for a new revenue allocation formula by states which cut across party lines. *New Nigerian* of 6 October, 1983:2 reported the lamentation of Governor Mbakwe of Imo State that the existing revenue formula left the states and local governments virtually incapacitated and at the mercy of the federal government (See, *New Nigerian*, October 6, 1983:2).

The unpalatable fiscal situation of the lower level governments adversely affected federal - state - local governments fiscal relationships. With the near total dependence on oil as the major foreign exchange earner, the slump in the price of crude oil in the world market triggered a fiscal crisis at the federal and especially at the state and local governments level. This resulted in a series of problems which affected key macro-economic indicators which led to the adoption of some counter depression measures under the adopted adjustment programmes. What was clearly brought out by these economic problems was how inert the Nigerian economy was (Egwaikhide and Ekpo 2003:27). The Federal Government rather than viewing the states fiscal problems from a realistic angle tended to oversimplify the problem through its stance that the problems were primarily due to unrealistic programmes and projects drawn up and presented without any regard to the availability of revenues with which to finance them (Suberu 1999:299). Obviously to Smith (1981:366) the federal government still had the feeling that states should be restricted to their subordinate economic roles under military rule when state governments were allocated only 21.7 percent of capital expenditure programmes while the federal government, in most cases, incurred as much as 83 percent. In conclusion, a revenue allocation system in which the combined share from the national revenue of the 19 states and 300 local governments was not up to the federal government share could not be said to be equitable.

#### **4.6 Military Rule and Fiscal Federalism, 1983 – 1999**

The military on 31<sup>st</sup> December 1983 took over power from the democratically elected civilian administration and Major Gen. Muhammadu Buhari became the Head of Government. As at the period of the military take over, the prevailing revenue allocation scheme was the 1981 Revenue Allocation Act. The basic provisions of this act gave the federal government 55 percent of revenue from the federation account, states 30.5 percent, local governments 10 percent and special funds 4.5 percent. The 30.5 percent states share was distributed on the following criteria population 40 percent, minimum responsibility of government 40 percent, social development 15 percent and internal revenue effort 5 percent. The 4.5 percent special funds were distributed in the following order: allocations to mineral producing areas in proportion of minerals extract 2 percent, federal funds for ecological problems in all states 1 percent and remaining 1.5 percent which is for the development of the mineral producing areas is to be administered by the federal government. Local government's allocation utilized the same factors. The 1981 Act was, except with a slight modification in 1984, utilized up till 1989 making it one of the longest standing revenue formula in Nigeria's history of fiscal federalism. The revenue act was in existence for such a long time not because it was just or equitable but because the two military administrations of Buhari and Babangida decided to ignore the criticisms against it.

The modification of the 1981 Act was effected through the promulgation of the Revenue (Federation Account etc.) Amendment Decree No. 36 of 1984. The modification led to the increase of the states share to 32.5 percent out of which derivation was allocated 2 percent. Special funds was reduced to 2.5 percent and it was made up of 1.5 percent as fund for the development of minerals producing areas and ecological fund 1 percent. A major fallout of this modification was that the power of the Federal Military Government was strengthened as the sole distributive agent.

Gen. Babangida took over the reigns of government on 27<sup>th</sup> August 1985 after the overthrow of the Buhari administration. The fiscal system inherited by Babangida was the 1981 revenue act that was modified by Buhari and to Adesina (1998:239) as a result of the peculiar circumstances of the Babangida's administration, the revenue allocation principle it inherited, and the formats adopted or recommended for it clearly represented a classical case of travesty of the principles of federalism.

In 1989, the Federal Government vide Decree No. 49 set up a standing revenue

body called the National Revenue Mobilization, Allocation and Fiscal Commission (NRMAFC). The Commission's powers and functions, among others, were:

- (i) Systematic design, and effective mobilization of all sources of public sector revenues;
- (ii) Periodic review of the revenue allocation principles and formulae such that would minimize short-term political pressure;
- (iii) Prescription and application of revenue allocation formulae after due approval by the Federal Government for the purpose of sharing the Federation Account between the federal, state and local governments;
- (iv) Monitoring the accruals and disbursement of revenue from the Federal Account, States Joint Account, the Local Government Joint Account, the various Special Purposes Accounts and such accounts that may, from time to time, be established or designated by the commission with the approval of the Federal Government.
- (v) Ensuring full compliance with established revenue sharing arrangements as well as full public accountability for all funds so allocated to various governments and/or agencies involved in the disposition of the Federation Account.

The Commission which was the first permanent commission on revenue allocation in Nigeria was expected to address the issue of equity and social justice. The Commission was under the Chairmanship of General T.Y. Danjuma, and in line with its stated objectives recommended in 1989 to the Armed Forces Ruling Council, a revenue allocation principle which was approved with some amendments (See Table X) for the vertical allocation and it became operational from January 1990.

The principle of horizontal allocation recommended by NRMAFC and approved by the Federal Military Government for the states and local governments is tabulated in Table XI. The 10 percent Social Development allocation was divided into education 4 percent, health 3 percent and water 3 percent (Danjuma 1994: 108). From Table X the most significant modification by the Federal Military Government on the vertical allocation was the transfer of 3 percent from the special funds to increase the federal government share from 47 percent to 50 percent.

In his analysis of the revenue allocation formula, Ikeji (2011:124) was of the view that although the formula was intended to address the shortcomings of the 1981 Act, a

studious perusal of the new formula revealed that not only did it retain some of the anachronisms of the earlier ones but also introduced obnoxious aspects of its own. To him, first of all, the act of picking a soldier to head the revenue commission when the nation was trying to grapple with the negative effects of a commandist structure was in bad taste. Secondly, whatever gains the formula might have made on equity, reasonableness and acceptability was circumscribed by the adherence to, among others, the low percentage it accorded the principle of derivation and the disproportionate weights assigned to population and equality of states.

**Table X:**  
**National Revenue Mobilization, Allocation and Fiscal Commission**  
**Recommendations on Vertical Allocation of Revenue and Federal Military**  
**Government=s Approval.**

|    |                                                        | NRMAFC<br>Recommendation   | Federal Military<br>Government=s<br>Approval |
|----|--------------------------------------------------------|----------------------------|----------------------------------------------|
| 1. | Federal Government                                     | 47%                        | 50%                                          |
| 2. | State Governments                                      | 30%                        | 30%                                          |
| 3. | Local Governments                                      | 15%                        | 15%                                          |
| 4. | Special Funds                                          | 8%                         | 5%                                           |
|    | (i) Federal Capital Territory                          | 1%                         | 1%                                           |
|    | (ii) Stabilization                                     | 0.5%                       | 0.5%                                         |
|    | (iii) Savings                                          | 2.0%                       | 0%                                           |
|    | (iv) Derivation                                        | 2.0%                       | 1%                                           |
|    | (v) Development of oil and mineral<br>producing areas  | 1.5%                       | 1.5%                                         |
|    | (vi) Development of non-oil mineral<br>producing areas | 0.5% of non-oil<br>revenue | 0%                                           |
|    | (vii) General Ecology                                  | 0.5%                       | 1%                                           |
|    | Total                                                  | 100%                       | 100%                                         |

**Source:** Danjuma T.Y. (1994) 'Revenue Sharing and the Political Economy of Nigerian Federalism' in Elaigwu J.I., Logams P.C. and H.S. Galadima (eds) Federalism and Nation Building in Nigeria: The Challenges of the 21<sup>st</sup> Century. Abuja, NCIR. Pg. 108.

**Table XI:**  
**NRMAFC Horizontal Allocation approved by the Federal Military Government**

| Equality of States | NRMAFC Recommendation | Federal Military Govt. Approval |
|--------------------|-----------------------|---------------------------------|
| Equality of States | 40 percent            | 40 percent                      |
| Population         | 30 percent            | 30 percent                      |
| Landmass           | 10 percent            | 10 percent                      |
| Social Development | 10 percent            | 10 percent                      |
| Internal Revenue   | 20 percent            | 10 percent                      |
| Generation Effort  |                       |                                 |
| Total              | 100 percent           | 100 percent                     |

**Source:** Danjuma T.Y. (1994) 'Revenue Sharing and the Political Economy of Nigerian Federalism' in Elaigwu J.I., Logams P.C. and H.S. Galadima (eds) Federalism and Nation Building in Nigeria: The Challenges of the 21<sup>st</sup> Century. Abuja, NCIR. Pg. 109.

The NRMAFC was also criticized for advocating a horizontal principle that was cumbersome, static and utilizing arbitrary yardstick (Ikeji, 2011:125). Although landmass as a principle of horizontal allocation was not recommended by the NRMAFC, its introduction by the Babangida administration could be regarded as being retrogressive and unequitable. The landmass issue came up once as an issue of revenue allocation in the Second Republic but it never came to be because of nullification of the Revenue Act of 1980 by the Supreme Court (Ovwas 1995: 181). Its introduction with a weight of 10 percent had greatly swung the pendulum of horizontal allocation in favour of the northern states. For example, in the year before the application of the landmass principle, that is 1990/91 financial year, the total statutory allocation to the sixteen northern states was ₦8,182 million, ₦4,292 million for the nine southern eastern states and ₦3,721.8 million for the five western states (CBN 1991: 61). As a result of the application of the landmass principle to horizontal revenue allocation in the 1991/92 fiscal year, the allocation to the northern states was ₦9,474.2 million representing an increase of ₦1,292 million over the previous year. For the eastern states, there was a marginal increase of ₦62.3 million over the previous year that is ₦4,354.3 million while the western states allocation was ₦3,054 million representing a decrease of ₦667.8 million from the previous year's allocation (CBN 1992: 59).

The utilization of landmass as one of the indices of horizontal allocation to *The*

*Guardian* was reprehensible. To the newspaper, having a large land is supposed to be an asset to be used to produce large wealth, and if not presently utilized, could be accepted as fallow until it can be properly used. Making other parts of the country to pay for a large land size that yields little or nothing is part of the tragedy of our history (See, *The Guardian*, July 19, 2005:9). Ojo (2009:187) was of the same view when he asserted that the re-introduction by the Babangida administration of the discredited principle of landmass with an assigned weight of 10 percent resulted in ethno-regional opposition to this apparent bias of the North with only about half of the nation=s population encompasses some three quarters of the national territory. Mbanefoh and Egwakhide (1998:220) on their analysis of the use of land mass and terrain, and equality of states and the weights of 10 percent and 40 percent attached to them respectively were of the view that they were being used as an instrument of resource redistribution from areas where revenue are generated to the poor regions. This is premised on the argument that on the basis of equality of states, the region that was balkanized into more states received more from the federation account. Landmass was also seen to have favoured the northern states than the other regions. To them, Athis is not a transparent way of redistributing financial resources in a federal setting and these principles have formed part of the latent factors for the creation of more states and local councils in recent years@ (Mbanefoh and Egwakhide 1998:220). This, perhaps explains the move by some members of the National Constitutional Conference to propose the inclusion of the countervailing Apolitical principle of population density@ in the horizontal revenue sharing scheme (Ojo, 2010:27).

In the Budget speech of January 1992, the Federal Government increased the share of the Local Governments from the Federation Account from 15 percent to 20 percent with a corresponding reduction of the states share from 30 percent to 25 percent. The increase in the local government share was to take care of the primary education fund of 5 percent to be managed by an autonomous body in line with the recommendation of NRMAFC (Danjuma 1994:110). Yet again in June of the same year that is 1992, the Federal Military Government through the Armed Forces Ruling Council approved another revision of the revenue allocation formula. This revision led to a reduction of the federal government share to 48.5 percent from 50 percent and state governments share from 25 percent to 24 percent. The General Ecology Fund and Development of Minerals

Producing Areas shares of the federation account were doubled to 2% and 3% respectively (Anyanwu, 1997:7). Table XII shows the vertical allocation table from 1981 to the terminal date of military administration on 29<sup>th</sup> May 1999 while Table XIII indicates the horizontal revenue allocation for the same period.

**Table XII:**  
**Vertical Allocation of the Federation Account from 1981 to the Terminal of**  
**Military Administration on 29<sup>th</sup> May 1999.**

|       | Recipients                          | 1981<br>(i) | 1984<br>(ii) | Jan.<br>1990<br>(iii) | Jan.<br>1992<br>(iv) | Jun.<br>1992<br>(v) |
|-------|-------------------------------------|-------------|--------------|-----------------------|----------------------|---------------------|
| (i)   | Federal Government                  | 55%         | 55%          | 50%                   | 50%                  | 48.5%               |
| (ii)  | State Governments                   | 30.5%       | 32.5a%       | 30%                   | 25%                  | 24%                 |
| (iii) | Local Governments                   | 10%         | 10%          | 15%                   | 20%                  | 20%                 |
| (iv)  | Special Funds                       |             | 2.5%         | 5%                    | 5%                   | 7.5%                |
|       | Fed. Cap. Territory                 |             |              | 1%                    | 1%                   | 1%                  |
|       | Stabilization                       |             |              | 0.5%                  | 0.5%                 | 0.5%                |
|       | Derivation                          | 2%          | 2%b          | 1%                    | 1%                   | 1%                  |
|       | Dev. Of Oil Mineral Producing Areas | 1.5%        | 1.5%c        | 1.5%                  | 1.5%                 | 3%                  |
|       | Gen. Ecological Problem             | 1%          | 1%           | 1%                    | 1%                   | 1%                  |
|       |                                     | 100%        | 100%         | 100%                  | 100%                 | 100%                |

- Note:**
- (a) What is shared among states is 32.5% of the federation account.
  - (b) This 2% is not of the federation account but of the mineral revenue component of the 32.5% state share of the federation account.
  - (c) This 1.5% of the revenue accruing to the federation account derived from the mineral producing areas.

**Sources:** Anyanwu J.C. (1997). "Revenue Allocation in Nigeria" in Anyanwu, J.C. Nigerian Public Finance. Onitsha. Joanee Educational Publishers Ltd. P. 7.  
Ojo, E.O. (2010). "The Politics of Revenue Allocation and Resource Control in Nigeria: Implications for Federal Stability" in *Federal Governance*. Vol. 7, No. 1. Pg. 20.

A major revenue source developed during the period of the military administration was the Value Added Tax (VAT). The introduction of VAT in 1993 literally replaced the existing sales tax that was being administered by state governments. The arrangement put in place was for the proceeds of VAT to be paid into a VAT pool account and this will be distributed among the federal, state and local governments. The sharing formula utilized for VAT is highlighted in Table XIV.

It is to be noted that successive military administrations in the period between

1985 and 1998 increasingly sidelined the revenue allocation arrangements through the introduction of ad-hoc measures and projects that enable them to create special accounts outside the Federation Account for their own use. Uwatt and Umoh (2003:132) identified such funds and projects like National Economic Recovery Fund (NERFUND) created in 1986 but phased out in 1989, Stabilization Account created in 1989, National Priority Projects in 1995, Autonomous Foreign Exchange Market (AFEM) operated by the federal government alone for two years, Nigerian National Petroleum Corporation (NNPC) Priority Projects, Joint Ventures Cash Calls Payment Account (JVC) and Petroleum (Special) Trust Fund (PTF).

**Table XIII:**  
**Horizontal Revenue Allocation (Among States and Local Governments)**  
**Formulae in Nigeria in % 1984 B 1999.**

|       | Principles                                                      | Percentage Weight Assigned     |                                   |
|-------|-----------------------------------------------------------------|--------------------------------|-----------------------------------|
|       |                                                                 | 1984 Amendment to the 1981 Act | From January 1990 to July 29 1999 |
| (i)   | Minimum Responsibility of Government (Based on States Equality) | 40.00                          | 40.00                             |
| (ii)  | Population                                                      | 40.00                          | 30.00                             |
| (iii) | Social Development Factor                                       |                                |                                   |
|       | (a) Primary School enrolment of which                           |                                |                                   |
|       | B Direct enrolment                                              | 11.25                          |                                   |
|       | B Inverse enrolment                                             | 3.75                           |                                   |
|       | (b) Education                                                   |                                | 4.00                              |
|       | (c) Health                                                      |                                | 3.00                              |
|       | (d) Water                                                       |                                | 3.00                              |
| (iv)  | Landmass                                                        |                                | 10.00                             |
| (v)   | Revenue Effort (Internal)                                       | 5.00                           | 10.00                             |

**Sources:** Anyanwu J.C. (1997). "Revenue Allocation in Nigeria" in Anyanwu, J.C. Nigerian Public Finance. Onitsha. Joanee Educational Publishers Ltd. P. 7.  
Ojo, E.O. (2010). "The Politics of Revenue Allocation and Resource Control in Nigeria: Implications for Federal Stability" in *Federal Governance*. Vol. 7, No. 1. Pg. 20.

The funds for these projects were being drawn directly from the federation account since 1995 before the actual allocation according to the prevailing principles and formulae were made (that is first line charge).

**Table XIV:**

### VAT Allocation Formula 1994 B 1999

| Year              | Federal | State | Local Governments |
|-------------------|---------|-------|-------------------|
| 1994              | 20      | 80    | C                 |
| 1995 Jan. B March | 50      | 25    | 25                |
| 1995 Apr. B Dec.  | 40      | 35    | 25                |
| 1996              | 35      | 40    | 25                |
| 1997              | 35      | 40    | 25                |
| 1998              | 25      | 45    | 30                |
| 1999              | 15      | 50    | 35                |

**Note:** The VAT formula has remained constant since 1999.

**Source:** Uwatt U.B. and Umoh, D.J. (2003). "Revenue Allocation in Nigeria During the Military" in Ekpo, A.H. and Ubok-Udom E.U. (eds) Issues in Fiscal Federalism and Revenue Allocation in Nigeria. Ibadan. Future Publishing. Pg. 125.

The consequence of these special arrangement was the continual increase in the share of the federal government from federally collected revenue. For instance, between 1984 and 1997, the federal government got 73.4 percent of total federally collected revenue made up of 52.8 percent from the federation account and 20.6 percent from other federal accounts. The state and local governments on the other hand received 18.6 percent and 8 percent respectively.

The promulgation of the revenue allocation formula led to and encouraged a fiscal centralization which made it feasible for the federal military government to perpetrate an inescapable sense of dependence among the states. Adesina (1998:241) asserted that during the Babangida era, Athe disposal of funds over statutory allocation by the federal military government empowered it to facilitate an inequitable distribution of official patronage and at the whim of the President@. In conclusion, it is not gainsaying to state that both the Babangida and Abacha military junta did not exercise any qualms or compunction over the consideration of any sensitivity associated with the distribution and usage of the federal funds. As Eminue (2003:149B153) has copiously shown, the management by the Federal Military Government of the Federation Account between 1984 and 1998 was characterized by praetorianism, increased authoritarianism, patriarchialism and unilateralist actions on the part of the federal government rather than

by discussion, negotiation, compromise and consensus which are the hallmarks of federation and democracy.

A perusal of the annual budget of the federal government throughout the period 1990-1998 will confirm that the federal government had committed what could be regarded as a gargantuan fraud and travesty of trust against the state and local governments. A few examples will suffice. Babangida in his 1991 budget speech stated inter alia: A...from oil and non-oil sources, a total sum of ₦68.730 billion is thus projected for 1991 as federally collected revenue. From this amount, as reported by the *New Nigerian* of January 5<sup>th</sup>, 1991: 2, ₦63.929 billion is credited to the Federation Account. The implication of this was a deduction of ₦4.803 billion by the federal government unilaterally for its own use outside what it will get from the federation account. In 1996, ₦545 billion was received and ₦179 billion was transferred to the Federation Account with ₦366 billion deducted unilaterally (Egwakhide, 2004:7). In the 1997 budget speech, *The Guardian* of 21<sup>st</sup> January 1997 page 22 stated that Abacha announced Aa total revenue of ₦404 billion is projected as gross revenue from oil and non-oil sources in 1997... The balance of ₦189 billion is transferred to the Federation Accounts. Here, the federal government had deducted ₦215 billion unilaterally. In 1998, Budget Speech, *The Guardian* of 7<sup>th</sup> January 1998, page 26 reported that Abacha stated that A... a sum of ₦424 billion is projected as total Gross Revenue from oil and non-oil sources in 1998... the balance of ₦189 billion is transferred to the Federation Account. The amount deducted was ₦235 billion by the federal government.

With this scenario of a political structure that was highly militarized with unitarist tendencies, the federal government that was expected to be the custodian and trustee of the Federation Account had been making various deductions under the veil of first line charge before crediting the remnants to the Federation Account to be distributed among the three tiers of government and what this has done was to impoverish both the state and local governments. Thus, under this kind of climate, the most potent victims became the principles of federalism.

## **CHAPTER FIVE**

### **THE STRUCTURE AND PRACTICE OF FISCAL FEDERALISM**

#### **IN NIGERIA, 1999 - 2011**

##### **5.1 Preamble**

Nigeria transited from military authoritarian rule to civilian constitutional democracy on May 29<sup>th</sup> 1999 after about fifteen and a half years of military interregnum. It is also worth noting that of Nigeria's thirty eight and half years of existence, civilian rule has only been experienced for ten years, the rest being the era of military absolutism in government. This situation therefore makes the May 29 1999 transition from military to civilian rule a historic event that was of great significance because of the fundamental changes that were expected from the system of administration. It is pertinent to note at this juncture, that by the period of the transition, Nigerian federalism had moved from that of dual federalism that was in existence during the first republic (1960 – 1966) to cooperative federalism. For elucidation, dual federalism entails a situation where two separate and independent levels of governments with their own clearly defined areas of responsibility were created by the constitution. It is on the other hand, cooperative federalism entails the functioning of federalism through the cooperation among the various tiers of government. The emphasis is on partnership among the various levels of government which results in the effective provision of public service to the polity. Therefore, this system is characterized more by cooperation and shared functions than conflict and competition (Tella 1999: 173 – 174).

As the country began a new journey through cooperative federalism into democratic governance, certain posers arose. Such posers to Elaigwu (2007: 11) revolved around issues such as what are the challenges faced by the Nigerian federation? What problems have arisen in the federal process? How are these being resolved or tackled? and what are the prospects of federalism in the new century, especially in the first decade of this century? To answer these posers, Elaigwu (2007: 11) suggested that

- (i) the Nigerian federation at the dawn of the 21<sup>st</sup> Century, is characterized by strong unitarist streaks as a response to almost three decades of military rule;
- (ii) there are therefore intense pressures for a review of the legislative list to devolve many of the powers concentrated at the centre to subnational units;
- (iii) the issues of resource distribution and/or management have become important issues of debate as Nigerian groups reassess the federation;
- (iv) in the context of the new democratic polity, new issues have emerged as part of

- the politics of federalism in response to the explosion of subnational identities;
- (v) there is a friction between the federal grid and the democratic process; and
- (vi) the quality of leadership is important in effecting necessary compromises in Nigeria's reconciliation system.

From the foregoing, it could be stated without equivocation that Nigeria as at May 29 1999 was a highly centralized federation with the centre having enormous political and economic powers at the detriment of the other federating units. Hence, there was dissatisfaction. There were a few areas of dissatisfaction among which was the distribution of available resources. This explains why the main thrust of this entire project and especially this chapter is to assess the challenges of resource mobilization and distribution management being faced in the fourth republic. This will be done through an assessment of the three important elements of fiscal federalism viz: assignment of responsibilities and functions to the various levels of government, assignment of taxing powers and the distribution of centrally collected revenue to the various levels of government. Attempts will be made to assess and compare the experiences of other federations in the course of this analysis. This is to compare Nigerian practices with those of other federations with the objective of drawing appropriate lessons that could assist Nigeria in establishing an enduring fiscal federalism.

## **5.2 The 1999 Constitution (as amended) and Fiscal Federalism in Nigeria**

The 1999 Constitution (as amended) made provisions for the practice of fiscal federalism in Nigeria. Not only did it provide for the assignment of responsibilities and expenditure power vide the Second and Fourth Schedules which highlighted the exclusive, concurrent and residual powers for the three levels of government, it also assigned sources of revenue to the three levels of government.

Section 162, Subsection 1 of the Constitution states that:

The federation shall maintain a special account to be called *The Federation Account* into which shall be paid all the proceeds collected by the Government of the Federation except the proceeds of the personal income tax of the personnel of the armed forces of the Federation, the Nigeria Police Force, the Ministry or Department of Government charged with responsibility for Foreign Affairs and the residents of the Federal Capital Territory,

Abuja.

The mode of the operation of the Federation Account is espoused in sub-sections 3 to 5. For instance, sub-section 3 states that:

Any amount standing to the credit of the Federation Account shall be distributed among the Federal, State Governments and Local Government Councils in each state in such terms and in such manner as may be prescribed by the National Assembly.

Sub-Sections 4 and 5 explained the mode of the distribution of revenue standing to the credit of both the state governments and local governments respectively.

To ensure proper fiscal management of the country, the standing revenue commission named the National Revenue Mobilization Allocation and Fiscal Commission which was created vide Decree No. 49 of 1989 and amended by Decree No. 98 of 1993 was incorporated into the 1999 Constitution (as amended) and listed as one of the fourteen Federal Executive Bodies in Section 153, Sub-section 1 with a changed nomenclature of Revenue Mobilization, Allocation and Fiscal Commission (RMAFC). The RMAFC is independent from all the tiers of government (federal, state or local government) although its funds are drawn from the consolidated revenue of the federal government. The commission performs a vital role in the fiscal management of Nigeria and it has, as members, an Executive Chairman and 37 members, one from each state of the federation and the federal capital territory.

By virtue of Paragraph 32, Part 1 of the Third Schedule of the 1999 Constitution (as amended) of the Federal Republic of Nigeria, the Commission was specifically empowered to, among others (i) monitor the accruals to and disbursement of revenue from the Federation Account; (ii) review from time to time, the revenue allocation formulae and principles in operation to ensure conformity with changing realities, provided that any revenue formula which has been accepted by an Act of the National Assembly shall remain in force for a period of not less than five years from the date of commencement of the Act; (iii) advise the federal and state governments on fiscal efficiency and methods by which their revenue can be increased; and (iv) perform any other duties conferred on the commission by this Constitution and any other law enacted

by the National Assembly.

As attested to by Tukur (the former Chairman of the Commission) (2005:2), the constitution gave the Commission very sensitive and challenging function which are very critical to the operation of true fiscal federalism in Nigeria. To carry out these sensitive and challenging tasks, the Commission is operated on the Committee system and no decision of the Commission is valid until approved by all the commissioners sitting in a Plenary Session and presided over by the Chairman of the Commission. To assist the Commission in the performance of its functions, there are eight Constitutional Committees and these are (i) Non-Oil and Royalties; (ii) Disbursement and Indices; (iii) Fiscal Efficiency and Budget; (iv) Remuneration and Monetization; (v) Solid Minerals; (vi) Federal Account; (vii) Gas Monitoring and (viii) Crude Oil Monitoring (RMAFC: 2012:1).

The laws establishing the Commission made it a statutory member of some agencies which are (i) Federation Account Allocation Committee (FAAC); (ii) Local Government Joint Accounts Allocation Committee of All States of the Federation and the Federal Capital Territory; (iii) Joint Tax Board; (iv) Ecological Fund Committee and (v) National Council on Statistics. For ease of discharging its constitutional mandate, the laws also equally empower the Commission to demand and obtain regular and relevant information, data or returns from any federal, state and local government and their agencies, particularly (i) Nigerian National Petroleum Corporation (NNPC); (ii) The Nigerian Customs Service; (iii) The Federal Board of Inland Revenue (FIRS); (iv) The Central Bank of Nigeria (CBN); and The Federal Ministry of Finance (RMAFC, 2012:1).

The Commission in the process of monitoring accruals into and disbursements from the Federation Account which is considered very critical to the fiscal survival of all the levels of government ensures that (i) all revenues accruable to the Federation Account are promptly collected and transferred into the Account; (ii) proper accounting is made for all revenues designated for the Federation Account and (iii) leakages and inefficiencies in the revenue collecting system are minimized. In the pursuance of the above mentioned objectives, the RMAFC undertakes field exercises to monitor the activities of revenue collecting agencies such as NNPC, NCS, FIRS and DPR.

In the course of the monitoring activities of RMAFC, Tukur (2004:4) highlighted some challenges faced by the Commission and these have far-reaching impact on the Federation Account in terms of the distributable funds that are available to all the levels of government. The issues the Commission had to contend with include (i) concessionary domestic crude oil allocation and sales price of crude oil to the NNPC; (ii) concessionary fixed foreign exchange to the NNPC; (iii) exceptionally high venture cash calls invariably with high exchange rates; (iv) opening of different accounts by the NNPC, especially the Operating Cost Account; (v) open-ended but undisclosed subsidy on petroleum; (vi) delayed remittance of monies collected by designated banks on behalf of the Nigerian Customs and Federal Inland Revenue Services resulting in substantial amounts hanging in transfer and (vii) shortfalls arising from duty exemptions/waivers. Also identified as challenging is the determination of the indices to be utilized for the distribution of accrued funds in the Federation Account in order to ensure that disbursements are made in accordance with the indices so provided.

#### **5.2.1 Distribution of Powers and Responsibilities (Expenditure and Functional Assignments)**

Distribution of powers and responsibilities is a *sine-qua-non* in federal arrangements and this presupposes that without it, there cannot be a stable federalism and there is no model that is ideal. The powers of the federal government according to Ayoade (2011:28) are guided by two basic principles. First, these are powers that will result in ineffectiveness and inefficiency if they are split between states. They are therefore seen as the powers that unite the states because they produce the national common goods and are characterized by their indivisibility. The second is the subsidiary principle which bars a government at the higher level from whatever the lower level governments has capacity to perform. The United States of America model which is

under pinned by the philosophy of a small federal government is based on only the exclusive list which is exclusively for the federal government. All the unlisted powers are the preserve of the states. In Canada, the condition under which powers are allocated to higher level of government is referred to as *Aprovincial inability*®. This emphasizes economy of effort and enables each level of government to specialize. The Canadian federation is different from that of United States of America because, to Ayoade (2011:28), it has three legislative lists which are subject to the elastic clause in Section 91 that gives the federal government the powers *Ato make laws for peace, order and good government of Canada*® on any matter not exclusively assigned to the Provinces. The Canadian Courts inspite of this strong instrument in the hands of the Federal Government has not allowed it as a sweeping power but power that can be deployed in cases of national emergency and for matters of national concern.

The Australian Federation has some similarities to the American system in the division of powers. Specific powers are reserved to the Commonwealth although most of those powers are also concurrent like trade, taxation and marriage. The concurrent powers are subject to an *Ainconsistency rule*® giving primacy to a federal law when a state law contradicts it. The States protect themselves by the process of Residual Powers. Section 106 of the Constitution stipulates that state constitutions are not vitiated by the creation of the commonwealth. Jurisdictional boundaries are protected by Section 107 which asserts that powers not exclusively assigned to the Commonwealth remains the powers of the state (Ayoade, 2011:28).

The division of responsibilities or powers in the 1999 Nigerian Constitution (as amended) is unlike any of the countries discussed above. The assignment of responsibilities was included in the 1999 Constitution (as amended) just as it had been done in the previous constitutions of 1960, 1963 and 1979. The underlying generally acceptable principle of division of powers and responsibilities is to allocate matters of common interest in the federal system to the centre, and those issues that are regional or provisional to the state or province. The 1999 Constitution (as amended) of the Federal Republic of Nigeria followed the same format where, in the Second Schedule, it provided for the sharing of powers between the federal and state levels. Two functional lists were provided in the Second Schedule, that is, Exclusive Legislative List and Concurrent Legislative List. The exclusive list which contained 68 items could only be legislated upon exclusively by the federal government. National public goods such as

national defence, foreign affairs and others are in this list.

The second list is the Concurrent Legislative List and this contains 18 items which could be acted upon by both the federal and state governments. It is necessary to point out, at this juncture, that if the federal and any state government makes law on the same issue in any of the items in this list, the federal law will supercede that of the state law. All other issues that were not listed in either of the lists is usually referred to as Residual and the power to legislate on them belongs exclusively to the state governments. The Fourth Schedule of the Constitution also provided for the functions of the local governments. Table XV is a compendium of all the lists.

A perusal of the table indicates that the reservation of 68 items for the Federal Government under the exclusive list signifies a big and overloaded government. To Ayoade (2011:29), this is an ambitious sweet recipe for inefficiency since it violates the norms of composite government being responsible for only issues of common national significance. It also violates the subsidiary principle which could have freed the federal government to concentrate on important issues. The exclusive list when applied with the concurrency principle enshrined in the constitution, implies that with the 18 items listed in the concurrent list, the federal government has a load of 86 legislative items. The contention here is that the concurrent powers of the federal government are potential exclusive powers for it when the inconsistency provision in Section 1 (3) of the 1999 Constitution (as amended) is taken into consideration. The conclusion to be arrived at is that under the situation prescribed by the Constitution in relation to division of powers, states are operating under the grace and permissive will of the Federal Government.

From the foregoing analysis, it could be seen that right from the birth of the Fourth Republic the federal government has been placed in a position of pre-eminence over the other tiers of government in terms of the distribution of powers and responsibilities.

**Table XV:**  
**Allocation of Responsibilities to the Three Levels of Government**  
**Under the 1999 Constitution (as amended)**

| <b>Responsible level of Government</b> | <b>Expenditure Category</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|----------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Federal Government only                | Defence, Military (Army, Navy, Air force), Foreign Affairs, International Trade including export marketing, Currency, Banking, borrowing, exchange control, Use of Water Resources, Shipping, Federal Trunk Roads, Elections, Aviation, Railways, Postal Service, Police and other Security services, Regulation of Labour, Inter-state commerce, Telecommunications, Immigration, Mines and Minerals, Nuclear Energy, Citizenship and Naturalization Rights, Social Security, Insurance, National Statistical System (census, birth, death, etc.) Guidelines and Basis for Minimum Education, Business Registration, Meteorology, National Parks, Price Control. |
| Federal/State Governments shared       | Health, Social Welfare, Education (Post primary/ technology), Culture, Antiquities, Monuments, Archives, Statistics, Stamp Duties, Collection of Taxes, Commerce, Industry, Electricity (Generation, Transmission, Distribution), Scientific and Technological Research, Trigonometrical, Cadastral and Topographical Surveys, Electoral Law, Exhibition of Cinematography Films, Agricultural Development.                                                                                                                                                                                                                                                       |
| State Government only                  | Residual power i.e. any subject not assigned to federal or local level by the Constitution.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| Local Governments                      | Economic Planning and Development, Health Services, Land Use, Control and Regulation of Advertisements, Pets, Small Business Markets, Public conveniences, Social Welfare, Sewage and Refuse Disposal, Registration of Births, Deaths, Marriages, Primary, Adult and Vocational Education, Development of Agriculture and Natural Resources.                                                                                                                                                                                                                                                                                                                      |

**Source:** Federal Republic of Nigeria (1999) The Constitution of the Federal Republic of Nigeria. Abuja. Federal Government Press.

### **5.2.2 Powers of Taxation**

Taxation is one of the major sources of revenue to any government. This is so because government has the inherent power to levy taxes and levies. In a federal system, it is important that tax assignment power is done in a manner that will ensure coordinate independent authority to impose taxes and maximize comparative advantages in terms of achieving a higher level of efficiency in the taxation system (Ojo, 2010:7). On a comparative note, the countries with the least federal taxes are Mexico, United States,

Australia and Canada. Brazil has the highest number of federal taxes followed by India, Indonesia, China and Nigeria. At the state level, India, China, Brazil and Nigeria have the highest number of taxes. In all cases, income taxes are state taxes except in India, Brazil, Indonesia, China and Nigeria (company income tax only) where they are federal. Brazil and Nigeria has the highest list of local level taxes with property tax in United States (Onimode, 2000:149).

It is to be noted that Mexico has only federal transfers and no federal taxes. In Brazil, which runs a federal fiscal system that has become highly decentralized, there are federal taxes like wealth tax (on large fortunes), banking, insurance and industrialized goods. The states are assigned high yielding taxes like value added tax with the power to set the rates, collect and utilize, and inheritance tax. At the local level, there are urban property, property transfer and frontage taxes. India=s fiscal federalism gives the centre the exclusive power to levy taxes on production (excise duty), non-agricultural income, estate duties and inter-state trade tax. Consequently, in India, like other large federations like Brazil, Canada, Australia, Germany and the United States, constitutional provisions on taxing power favour subnational (state and local) governments (Onimode, 2000:149 and Ojo, 2010:7). In contrast, events in the last forty years have propelled Nigeria into the opposite direction in relation to state tax autonomy. Fiscal autonomy derived from coordinate and independent fiscal powers by the federal level and the state/regions has been lost. While between 1954 and 1966, this used to be major principle of fiscal federalism in Nigeria, most of the autonomous tax powers of the states have been removed (Ojo, 2010:8).

In Nigeria, the provisions of the Constitution usually guide the assignment of taxes, hence, the 1999 Constitution (as amended) assigned the central government the power to exclusively levy and collect taxes such as mining rents, petroleum profit tax, customs and excise, company tax and education tax among others. The states and the local government also had the power to levy certain taxes.

There is the necessity in an ideal fiscal system to assign revenue sources to each

level of government and ensure that such sources are commensurate with its level of responsibilities. It is also important at the same time to reconcile efficiency factors (minimum resource costs) with equity (rational expenditure and revenue needs) (Iniodu and Archibong, 2003:189). The above assertion forms the basis of the principles governing the assignment of taxing process in Nigeria. According to these principles:

- (i) progressive redistribution taxes should be central;
- (ii) taxes suitable for economic stabilization should be central while lower level taxes should be cyclically stable;
- (iii) tax bases distributed equally between jurisdictions should be centralized;
- (iv) taxes on mobile factors of production should be administered at the centre;
- (v) residence based taxes like excise or sales on consumption goods to consumers are suited to the states;
- (vi) taxes on completely immobile factors are best sited for local level; and
- (vii) benefits taxes and user charges may be used at all levels (Anyanwu, 1999:125-126).

Table XVI depicts the disposition of major tax powers among the three tiers of government, while table 5.3 presents a summary of tax jurisdictions of the three levels with an indication of the source of power to collect the tax (law), who has the duty to collect it (administration and collection) and who has the right to the revenue so collected from May 29<sup>th</sup> 1999 to December 2011. One important thing to note is the relative long-term stability of the allocation of tax raising power in Nigeria as there has not been any major change over the years (Akindele and Olaopa, 2002:9, Jimoh, 2003:9).

**Table XVI:**  
**Disposition of Major Tax Powers Among the Three Tiers of Government.**

| S/N. | Federal Government of Nigeria                                                                                                                                                                                                                              | State Government                                     | Local Government                                                             |
|------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------|------------------------------------------------------------------------------|
| 1.   | Import Duties                                                                                                                                                                                                                                              | Personal Income Tax (Administration and Collection)  | Property Taxes and Ratings (Tenement Rates)                                  |
| 2.   | Companies Income Tax                                                                                                                                                                                                                                       | Withholding Tax (on individuals)                     | Market and Trading Licenses and Fees                                         |
| 3.   | Withholding Tax on Companies                                                                                                                                                                                                                               | Capital Gain Tax (Administration and on individuals) | Motor Park Dues                                                              |
| 4.   | Petroleum Profit Tax                                                                                                                                                                                                                                       | Stamp Duties on individuals                          | Radio and Television Licenses (other than Radio and Television Transmitters) |
| 5.   | Capital Gains Tax (Legal Basis)                                                                                                                                                                                                                            | Entertainment Tax                                    | Marriage, Birth and Death Registration Fees                                  |
| 6.   | Mining Rents and Royalties                                                                                                                                                                                                                                 | Road Taxes (Motor Vehicles and Driver=s Licenses)    | Bicycles, Trunk, Canoe and Wheel Barrow Fees                                 |
| 7.   | Stamp Duties on Corporate Body                                                                                                                                                                                                                             | Pools Betting and Lotteries and Gaming Taxes         | Public Conveniences, Sewage and Refuse Disposal Fees.                        |
| 8.   | Value Added Tax (VAT)                                                                                                                                                                                                                                      | Land Registration and Survey Fees                    | Signboard and Advertisement Permit Fees.                                     |
| 9.   | Education Tax                                                                                                                                                                                                                                              | Development Levy                                     |                                                                              |
| 10.  | Personal Income Tax (except in respect of members of the Armed Forces of the Federation, members of the Nigeria Police Force; residents of the Federal Capital Territory, Abuja and staff of the Ministry of Foreign Affairs and non-resident individuals) |                                                      |                                                                              |

**Source:** Ekpo, A.H. (2007) "Fiscal Federalism in Nigeria: The Challenges of the Next Decade" in Elaigwu J.I. (ed) Fiscal Federalism in Nigeria: Facing the Challenges of the Future. Jos. Aha Publishing House. Pg. 103.

**Table XVII:****Nigeria=s Major Tax Jurisdictions and Right to Revenue (1999)**

| S/N. | Types of Tax                                     | Law     | Jurisdiction<br>Administration &<br>Collection | Right to Revenue     |
|------|--------------------------------------------------|---------|------------------------------------------------|----------------------|
| 1.   | Import Duties                                    | Federal | Federal                                        | Federation Account   |
| 2.   | Excise Duties                                    | Federal | Federal                                        | Federation Account   |
| 3.   | Export Duties                                    | Federal | Federal                                        | Federation Account   |
| 4.   | Mining rents and royalties                       | Federal | Federal                                        | Federation Account   |
| 5.   | Petroleum profit tax                             | Federal | Federal                                        | Federation Account   |
| 6.   | Companies Income Tax                             | Federal | Federal                                        | Federation Account   |
| 7.   | Capital Gains Tax                                | Federal | Federal/States                                 | State                |
| 8.   | Personal Income Tax (A)<br>(see note 1)          | Federal | States                                         | State                |
| 9.   | Personal Income Tax (B)<br>(see note 2)          | Federal | Federal                                        | Federal              |
| 10.  | Licence fees on television<br>and wireless radio | Federal | Local                                          | Local                |
| 11.  | Stamp Duties                                     | Federal | Federal/States                                 | States               |
| 12.  | Capital Transfer Tax                             | Federal | States                                         | States               |
| 13.  | Value Added Tax                                  | Federal | Federal/States                                 | Federal/States/Local |
| 14.  | Pools betting and other<br>betting taxes         | State   | States                                         | States               |
| 15.  | Motor vehicle and driver<br>licences             | State   | States                                         | States               |
| 16.  | Entertainment tax                                | State   | States                                         | State                |
| 17.  | Land registration and survey<br>fees             | State   | States                                         | State                |
| 18.  | Property taxes and rating                        | State   | Local                                          | States/Local         |
| 19.  | Market and trading licence<br>and fees           | State   | Local                                          | Local                |

**Note:**

1. Personal income tax other than those listed in note 2.
2. Personal income tax for armed forces, external affairs officers, residents of Federal Capital Territory and Nigeria Police.
3. The peculiar status of the Federal Capital Territory has not been taken into consideration.

**Source:** Jimoh, A. (2003). "Fiscal Federalism: The Nigerian Experience". Paper Presented at the Ad-Hoc Expert Group Meeting on Fiscal Policy and Growth in Africa: Fiscal Federalism, Decentralization and Incidence of Taxation, 7 – 9 October. Economic Commission for Africa. Pg. 9.

From tables XVI and XVII, the deduction is that the major taxes such as duties, petroleum profit tax, rents and royalties, company tax and others are not only under the federal administration but they are collected by the federal government through its agencies. The items listed (1) to (6) in table XVII accounts for between 85 to 90 percent of all federal revenues going into the federation account. The concentration of the

lucrative taxes on the federal level could be seen in tables XVI and XVII. Although the reasons for this concentration to Ekpo (2007:103) might be administrative efficiency and/or fiscal independence, this has left the other two levels of government with jurisdiction over poor-yielding and minor revenue sources and has led to the non-correspondence problem in Nigeria's practice of fiscal federalism. To Jimoh (2003:9) the conclusion that could be reached is that while responsibilities for the administration and collection of major taxes would seem, on the surface, to approximate an optimal distribution, a closer look will reveal that the federal level has cleverly chosen the mix to ensure that the lion's share of total Nigerian revenue is collected and retained by it.

In the period under review that is 1999 to 2011, Nigeria's the sources of public revenue were principally from taxes, sale of crude oil, tolls, fines, charges and penalties. According to a 2010 Joint African Economic Outlook report by the African Development Bank (AFDB), United Nation Economic Commission for Africa (UNECA) and Organisation for Economic Cooperation and Development (OECD), out of all the sources of revenue, oil revenues were the main source of public revenue accounting for about 80 to 85 percent of the total revenue. For instance, in the period between 2001 to 2009, oil revenue averaged 27 percent of the Gross Domestic Product while tax revenues averaged 6.4 percent. To the report, oil revenues have been volatile, ranging from 35.6 percent in 2001 to 19.6 percent in 2009 when the global recession led to the dropping of oil prices. Nigeria, like other African countries of Algeria, Angola, Libya and Equatorial Guinea relied heavily on a single type of tax, which is quite unlike Mauritania, South Africa and Kenya which have a balanced mix of various types of taxes. The only federation that came close to Nigeria in terms of oil dependency according to Anderson (2007: 9) was Iraq. On a lesser dependency ratio were Venezuela, Mexico and Russia.

Anderson (2007: 10) went on to highlight the problems such a huge dependence on oil revenues has on Nigeria's revenue generation efforts. Such problems are:

- (i) Political accountability because the federal government raises its revenues from such a narrow base and most states contribute very little to national or their own revenues. Only six out of the 36 states produce petroleum with four being the most important. Thus, the large majority of states turn to the federal government for the vast majority of their revenues and most of those revenues are effectively

collected from other parts of the country. The public, for its part, pays little of the cost of government programs.

- (ii) It can be a source of major tension between the producing and other regions of the country.
- (iii) Oil revenue appears to have led to an underdevelopment of alternative revenue sources because it is easier to tax oil than citizens. This has a longer-term implication for the economy.
- (iv) There is the problem of stability in public finances tied to a resource whose value swings widely and that will deplete over time. This poses short-term issues about central government=s ability to manage cyclical pressures on the economy as well as longer-term issues about the sustainable level of public services.

The global financial crisis which led to the attendant drop in the prices of commodities including crude oil in the global market coupled with the volatility of the production of oil and revenue receipt as a result of the uncertainties in the Niger Delta makes it imperative for Nigeria to improve the other sources of revenue most importantly taxation. Hence, Salami (2011: 28) asserted that ‘taxation is an effective tool in reducing Nigeria=s dependence on oil revenue and also aid from development partners’. To Salami, Nigeria’s population of about 160 million people has the tremendous tax potentials to guarantee reliable, assured and uninterrupted funds to the nation. In view of the fact that oil production will one day be extinct, the development of an efficient and robust taxation system is very paramount to Nigeria=s ability to become a rapidly developing economy.

In Nigeria, tax administration and collation of revenue are performed by various organs at the three levels of government. At the federal level, the organs are the Federal Ministry of Finance, Nigeria Customs Service, Federal Inland Revenue Service, Nigerian National Petroleum Corporation and the Department of Petroleum Resources. The Revenue Mobilization, Allocation and Fiscal Commission supervises and ensures total fund accruals into the Federation Account. The State Ministry of Finance and the Board of Internal Revenue are responsible for tax administration and collection for the respective states. The Joint Tax Board harmonises the inter-relationship between the tax authorities at the federal and state levels. For the local governments, the Finance and Supply Department and the Revenue Committee for the Local Government are responsible for tax matters.

### **5.3 The Practice of Fiscal Federalism in Nigeria, 1999 - 2011**

Tax sharing and fiscal transfers (distribution of revenue) are seen as the two principal means through which sub-national governments receive revenue from the federal government. Tax sharing usually designates a part of federal tax or taxes for allocation to the lower level governments. In some cases, these sums do not appear in the federal budget because they are treated as constituent unit revenues. Fiscal transfers on the other hand are made from the federal government's general revenues and do appear in the federal budget as an expense (Anderson, 2010:50).

The tax sharing format differs amongst the federations of the world. The German and Austrian systems are based overwhelmingly on tax sharing, with the Länder having very limited own-source revenues over which they have discretion. Nigeria is similar with the special dimension of a huge reliance on oil revenues collected in only a few states. Canada, Switzerland and the United States are at the opposite extreme, with constituent units essentially controlling their tax revenues with negligible or no tax sharing (but some fiscal transfers). In Belgium and Spain, constituent units get 35 to 45 percent of their tax revenues from tax sharing. Their other revenues are own-source and federal transfers. Australian states share all the federally levied value-added tax, but also receive other significant fiscal transfers. Both Brazil and Argentina rely heavily on tax sharing with significant revenues going into the sharing pool. However, the federal governments have favoured the development of certain non-sharable taxes (notably export and import taxes in Argentina and corporate and turnover taxes in Brazil) which has increased their fiscal latitude and centralization (Anderson, 2010:55).

Where taxes are shared, the criteria for apportionment among the constituent units vary greatly. In Nigeria, most federally levied taxes are shared with the states according to a formula that includes equality of states, population, area and fiscal capacity. For the huge oil revenues, there is also a special allocation of 13 percent to the producing states. Pakistan shares most federally levied taxes on the basis of population, despite major differences in wealth. India currently shares all federal taxes based on a formula that includes population, per capita GDP, area, tax effort and fiscal discipline. Fiscal transfers supplement tax sharing in all these cases (Anderson, 2010:55).

Tax sharing and transfers combined to Rodden and Wibbels (2002:804) and Anderson (2010:51) account for over 90 percent of constituent units finances in Nigeria,

Mexico and South Africa. It is only 20 percent in Canada, 22 percent in the United States, 28 percent in Switzerland, 31 percent in Brazil, 5 percent in Australia and 52 percent in India. It is to be noted that constituent units that have a large degree of self-financing are typically more autonomous.

With the hindsight of the comparison above, the structure of the Nigerian revenue indicated that in the period between 1999 and 2011 the bulk of the total revenue accruing to Nigeria was collected by the central government. For instance between 1999 and 2011, about 95.4 percent of the total revenue receipt of government were collected by the federal government (see Table XVIII). The remaining that is 4.1 percent and 0.5 percent were collected by the states and local governments respectively. The reason for the overwhelming federal government control cannot be divorced from the fact that it is sole collector, petroleum profit tax (regarded as the country=s major revenue source), mining rents and royalties as revenue profile and Value Added Tax (VAT) (See Table XVII).

An analysis of the federal, state and local government for the same period also indicated that the bulk of the federal government revenue that is 73.6 percent was from the federation account. The federal government generated only 5.9 percent from independent revenue (see Appendix II and Figure I). Likewise as indicated by Appendix III and Figure II, the states= internally generated revenue in the same period under reference was 13.3 percent. Like their federal counterpart, the states rely principally on statutory allocation, proceeds from excess oil revenue and grants as the major sources of their funding as they accounted for 60.2 percent, 5.9 percent and 9.5 percent respectively making a total of 75.6 percent. The trend of the local governments revenue as depicted by Appendix IV and Figure III follows the same pattern as that exhibited by both the federal and state levels. Internally generated revenue was just 4.1 percent. All the other sources of revenues with the exception of state allocation which was 0.8 percent came from the federation account and the VAT pool account which amounted to 95.1 percent.

**Table XVIII:**  
**Total Revenue Collected by the Various Tiers of Government 1999 - 2011**  
**(in Percentage)**

| Year               | Federal | State | Local Govt. | Total |
|--------------------|---------|-------|-------------|-------|
| 1999               | 96.1    | 3.5   | 0.5         | 100   |
| 2000               | 97.7    | 1.9   | 0.4         | 100   |
| 2001               | 97.0    | 2.6   | 0.4         | 100   |
| 2002               | 94.5    | 4.9   | 0.6         | 100   |
| 2003               | 94.9    | 4.4   | 0.7         | 100   |
| 2004               | 96.2    | 3.3   | 0.5         | 100   |
| 2005               | 97.4    | 2.1   | 0.4         | 100   |
| 2006               | 97.6    | 2.0   | 0.4         | 100   |
| 2007               | 94.6    | 5.1   | 0.4         | 100   |
| 2008               | 94.2    | 5.3   | 0.3         | 100   |
| 2009               | 90.9    | 8.7   | 0.5         | 100   |
| 2010               | 94.2    | 5.4   | 0.3         | 100   |
| 2011               | 94.6    | 5.2   | 0.3         | 100   |
| Average Collection | 95.4    | 4.1   | 0.5         | 100   |

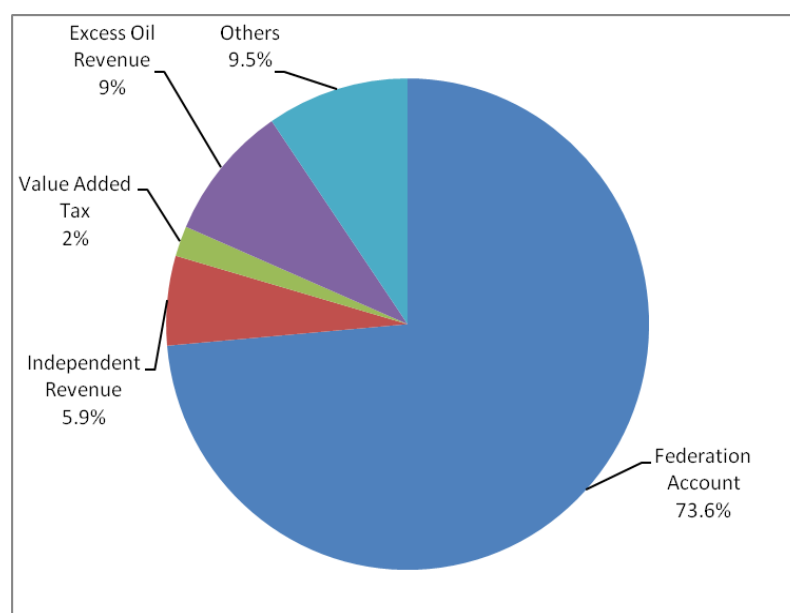
**Note:** (i) The total percentage for some years are rounded up.

**Sources:** Computed by the Researcher from Central Bank of Nigeria Annual Report and Statement of Account (1999 B 2011). Various Years.

What the data highlighted above showed is the predilection of the total dependence of all the three tiers of government on the federation account as their major source of funding. This, in effect, indicated a weak drive for internally generated revenue which will have a negative impact on the drive for economic growth and development.

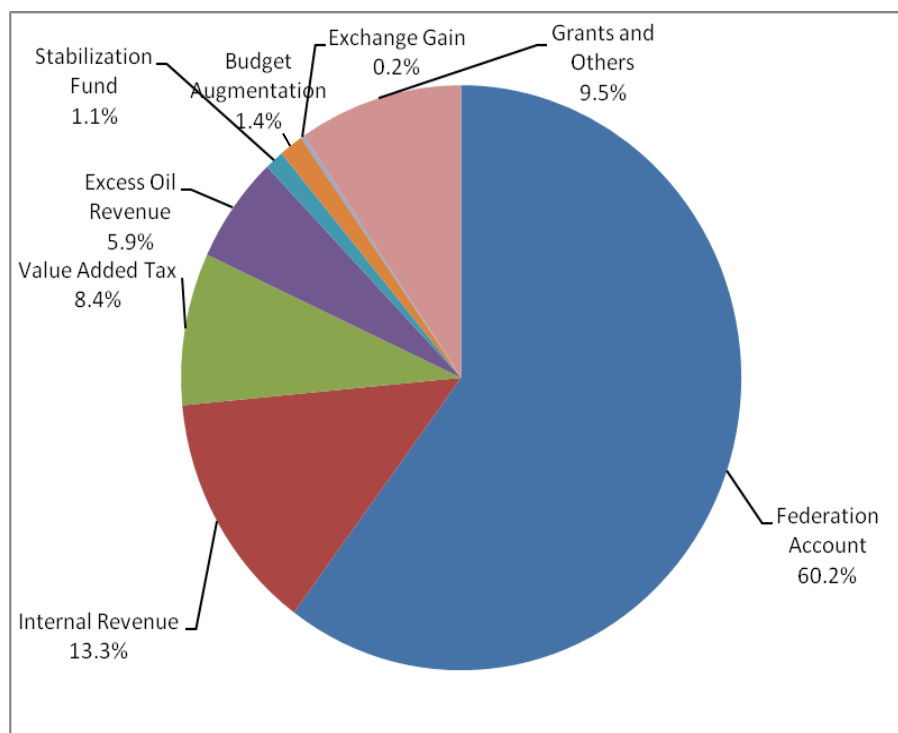
The Federal Government being the principal revenue collection agent collects and declares all federally collected revenue. The federally collected revenues are made up of two components viz: the oil and non-oil receipts and the total receipt from these two sources of revenue between 1999 and 2011 was ₦61,860.2 billion. Out of this revenue, the oil receipt was ₦49,193.3 billion or 79.5 percent while the non-oil receipt was ₦12,666.9 billion being 20.5 percent (see Table XIX). Figure IV also gives a graphical analysis of the annual composition of revenue of the Federation Account.

**Figure I:**  
**Revenue Structure of the Federal Government: 1999 - 2011**



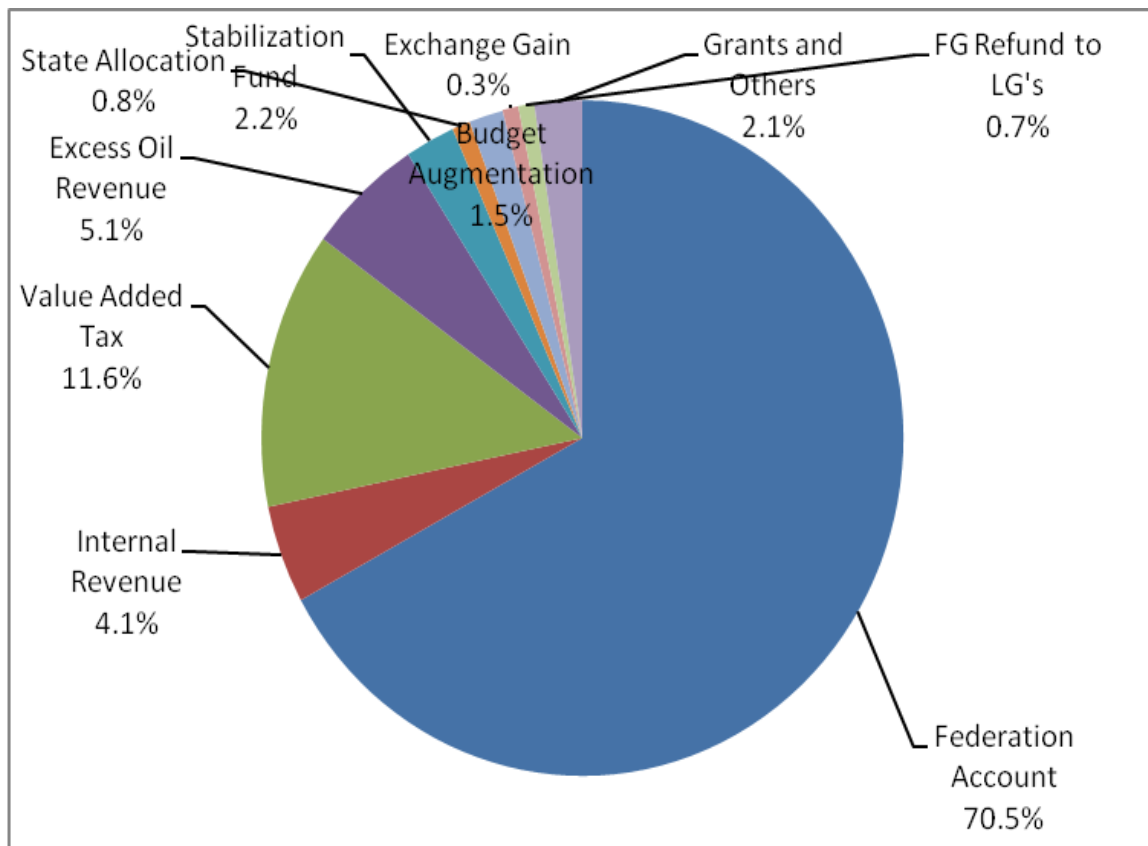
**Source:** Computed by the Researcher from Central Bank of Nigeria Annual Report and Statement of Account (1999 B 2011) Various Issues.

**Figure II:**  
**Revenue Structure of the State Government: 1999 - 2011**



**Source:** Computed by the Researcher from Central Bank of Nigeria Annual Report and Statement of Account (1999 B 2011) Various Issues.

**Figure III:  
Revenue Structure of Local Governments: 1999 B 2011.**



**Source:** Computed by the Researcher from Central Bank of Nigeria Annual Report and Statement of Account (1999 B 2011) Various Issues.

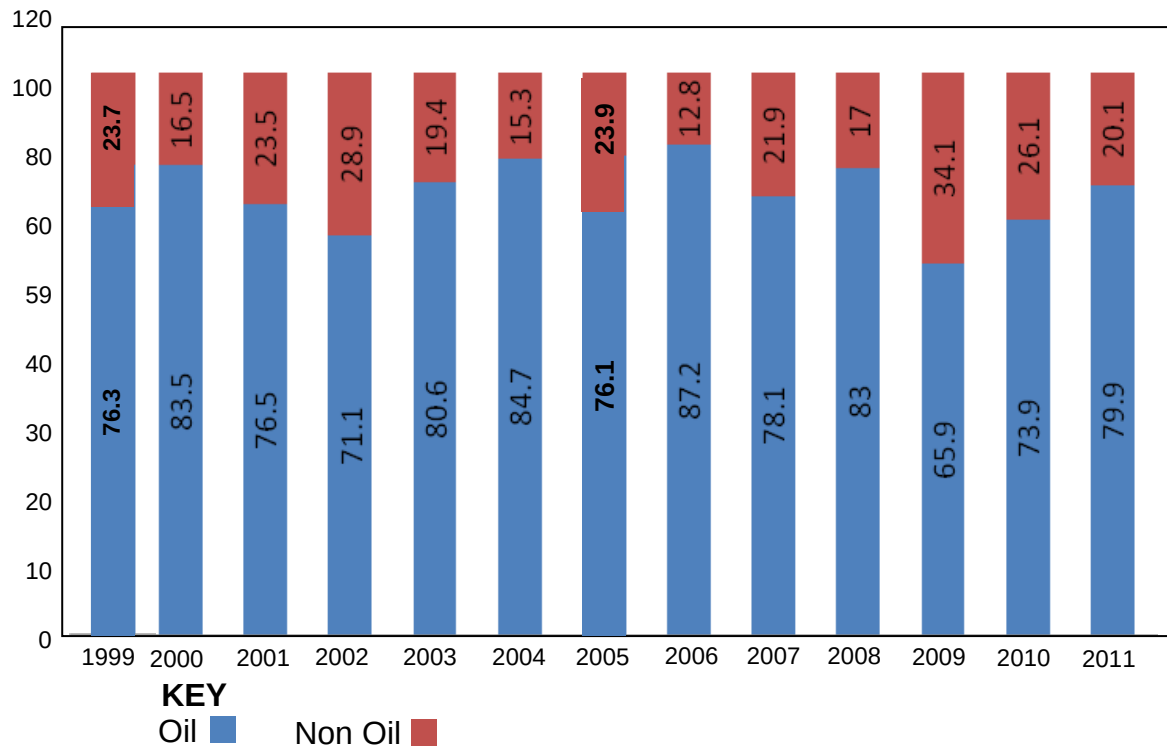
With an average percentage of 79.5 for the oil component of the total federally collected revenues, the table above has shown that Nigeria still continues to be a mono-cultural economy with the overwhelming domination of oil. This situation perhaps explains why Anderson (2007:5) in an address to the Nigerian Governor=s Forum asserted that ANigeria is the most oil dependent of all established federations, oil revenues dominate public finance, as they do much of... politics@.

**Table XIX:**  
**Composition of Revenue of the Federation Account, 1999 - 2011**

| Year | Total Federally Collected Revenue<br>× Billion | Oil Revenue<br>× Billion | %    | Non-Oil Revenue<br>× Billion | %    | Total Percentage |
|------|------------------------------------------------|--------------------------|------|------------------------------|------|------------------|
| 1999 | 949.2                                          | 724.4                    | 76.3 | 224.8                        | 23.7 | 100              |
| 2000 | 1906.2                                         | 1591.7                   | 83.5 | 314.5                        | 16.5 | 100              |
| 2001 | 2231.5                                         | 1707.6                   | 76.5 | 524.0                        | 23.5 | 100              |
| 2002 | 1731.5                                         | 1230.9                   | 71.1 | 501.0                        | 28.9 | 100              |
| 2003 | 2575.1                                         | 2074.3                   | 80.6 | 500.8                        | 19.4 | 100              |
| 2004 | 3960.9                                         | 3354.8                   | 84.7 | 606.1                        | 15.3 | 100              |
| 2005 | 5597.5                                         | 4762.4                   | 85.1 | 835.1                        | 14.9 | 100              |
| 2006 | 6061.0                                         | 5287.6                   | 87.2 | 773.4                        | 12.8 | 100              |
| 2007 | 5715.6                                         | 4463.6                   | 78.1 | 1252.6                       | 21.9 | 100              |
| 2008 | 7866.6                                         | 6530.6                   | 83.0 | 1336.0                       | 17.0 | 100              |
| 2009 | 4,844.6                                        | 3191.9                   | 65.9 | 1652.7                       | 34.1 | 100              |
| 2010 | 7,303.7                                        | 5,396.1                  | 73.9 | 1907.6                       | 26.1 | 100              |
| 2011 | 11,116.9                                       | 8,879.0                  | 79.9 | 2,257.9                      | 20.1 | 100              |

**Sources:** Computed by the Researcher from CBN Annual Report and Statement of Account (1999 B 2011) Various Issues.

**Figure IV:**  
**Composition of Revenue of the Federation Account: 1999 - 2011.**



**Source:** Computed by the Researcher from CBN Annual Report and Statement of Account (1999 B 2011) Various Issues.

An analysis of the table indicated that the oil component ranged between a high of 87.2 percent in 2006 and a low of 65.9 percent in 2009. There was also a decline in 2007. According to the Central Bank of Nigeria (CBN) (CBN 2007:61, CBN 2009:59) the decline in oil receipts identified in 2007 and 2009 was attributed to restiveness of the youths in the Niger Delta which disrupted production and export activities. With the reduction in youth restiveness in 2010 as a result of the amnesty programme of the Federal Government, there was an enhanced oil receipt which indicated an increase of 69.1 percent above the level attained in 2009.

The non-oil component of the Federation Account ranged between a high of 34.1 percent in 2009 to a low of 12.8 percent in 2006. The fluctuation in percentage contribution notwithstanding, the table indicates a progressive increase of the actual funds generated by the component from 1999 to 2011. The sustained increase of the non-oil revenue could be attributed partly to the reduction in the tariff rates which correspondingly reduced the incidence of smuggling. Another factor was the continuous improvements in the machinery for revenue collection of both the Federal Inland Revenue Service and the Nigeria Customs Service.

The CBN in order to bring the total revenue receipts within the ambit of the

Gross Domestic Product (GDP) of the country had since 2003 tried to place both the oil and non-oil receipts within its context. As a result, for 2003, the oil and non-oil receipts were 20.9 percent and 5.1 percent of the GDP respectively. For the subsequent years it was 29.4 percent and 5.3 percent for 2004, 32.5 percent and 5.8 percent in 2005, 28.3 percent and 4.1 percent for 2006, 21.4 percent and 6.0 percent for 2007, 27.4 percent and 5.6 percent for 2008, 12.9 percent and 6.7 percent for 2009, 18.3 percent and 6.5 percent for 2010 and 25.1 percent and 6.3 percent in 2011 (CBN 2007:62, CBN 2010:93, CBN 2011:121).

The Federal Government retained some of the federally collected revenue as its independent revenue. Since this is usually a small proportion (an average of 5.9 percent for the period 1999 - 2011 (Figure I), it has not generated any controversy among the levels of government. The balance of the federally collected revenue after deduction of funds into other financial subheads (see Table XX) was transferred to the Federation Account (Table XXI) for allocation among governmental levels according to the existing formula for revenue allocation. It is necessary to note that in Nigeria, the arrangement for the vertical distribution of federally collected revenue was significantly skewed in favour of the federal level. Table XXII gives a summary of the formulae that was utilized for the vertical allocation of revenue among the various levels of government between 1999 and 2011 while table XXIII is a summary of total revenue inflow to the Federation Account and the resulting vertical allocations. Also Table XXIV presents the VAT distribution format between 1999 and 2011 and the actual accruals into the Federation Account for distribution among the three tiers of government. It also presented the percentage payments into the federation account as against the total federally collected revenue.

**Table XX:**  
**Deductions from Federally Collected Revenues, 1999 - 2011 (x billion)**

| Items                     | Year         |              |              |              |              |               |               |               |               |               |               |               |               |
|---------------------------|--------------|--------------|--------------|--------------|--------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|
| Oil Revenue               | 1999         | 2000         | 2001         | 2002         | 2003         | 2004          | 2005          | 2006          | 2007          | 2008          | 2009          | 2010          | 2011          |
| JVC Cash Calls            | 185.5        | 309.6        | 392.0        | 67.1         | 420.5        | 454.9         | 532.2         | 527.8         | 550.0         | 579.1         | 809.6         | 962.9         | 1008.8        |
| NNPC Priority Project     | 24.1         | 24.3         | 38.1         | 6.5          | -            | -             | -             | -             | -             | -             | -             | -             | -             |
| External Debt Service     | 148.8        | 173.2        | 232.2        | 39.7         | -            | -             | -             | -             | -             | -             | -             | -             | -             |
| Excess Crude Proceeds     | 29.9         | 227.0        | 97.2         | 2.4          | 128.4        | 496.8         | 1057.5        | 1422.1        | 1168.5        | 1728.5        | 60.4          | 615.8         | 1226.2        |
| Excess PPT & Royalty      | -            | -            | 44.6         | 10.0         | 13.3         | 30.89.9       | 90.14         | 773.4         | 88.5          | 963.6         | 218.0         | 179.3         | 1812.2        |
| Others                    | -            | -            | -            | -            | 1.7          | 1.8           | 22.4          | 22.7          | 30.1          | -             | 86.7          | 635.7         | 816.4         |
| Sub-Total                 | 388.3        | 734.1        | 804.1        | 125.7        | 563.5        | 1263.2        | 2513.5        | 2746.0        | 1837.1        | 3261.2        | 1174.8        | 2393.7        |               |
| Non-Oil Revenue           |              |              |              |              |              |               |               |               |               |               |               |               |               |
| 4% FIRS Collection Cost   |              |              |              |              |              |               |               | 9.8           | 13.1          | 16.7          | 22.7          | 26.3          | 28.7          |
| 7% NLS Collection Cost    |              |              |              |              |              |               |               | 12.7          | 16.9          | 19.7          | 20.8          | 21.6          | 29.5          |
| Cost of Collection of VAT |              |              |              |              |              |               |               | 9.2           | 12.1          | 16.2          | 18.7          | 22.5          | 26.0          |
| Others                    |              |              |              |              |              |               |               | 0.2           | 0.1           | -             | 7.5           | 55.1          | 10.7          |
| <b>Grand Total</b>        | <b>388.3</b> | <b>734.1</b> | <b>804.1</b> | <b>125.7</b> | <b>563.5</b> | <b>1263.2</b> | <b>2513.5</b> | <b>2755.2</b> | <b>1849.1</b> | <b>3313.8</b> | <b>1244.5</b> | <b>2519.2</b> | <b>4958.5</b> |

**Sources:** Computed by the Researcher from CBN Annual Report and Statement of Account (1999 B 2011) Various Years.

Table XXI gave a graphic picture of the total federally collected revenue. The table showed that throughout the period of the study, the federal government being the custodian of the federation account transferred funds that were sometimes below 50 percent of the collected revenue into the account. For instance in 1999, the percentage of the funds remitted into the federation account was 47.0 percent. The highest amount remitted was 102.9 percent of the revenue collected in 2009 followed by 97.8 percent in 2002. For the other years, the percentage oscillated between 50.0 percent and 79.0 percent. The factor responsible for the over hundred percent remittance of revenue in 2009 was the decline in revenue receipts from oil production as a result of the restiveness in the Niger Delta. In order to solve problems that might arise as a result of dwindled

**Table XXI:**  
**Percentage Allocation to Federation Account From the Federally**  
**Collected Revenue**

| <b>Year</b>  | <b>Total Collected Revenue (Federal)<br/>x billion</b> | <b>Federation Account<br/>x billion</b> | <b>Percentage Allocation to Federation Account From the Federally Collected Revenue</b> |
|--------------|--------------------------------------------------------|-----------------------------------------|-----------------------------------------------------------------------------------------|
| 1999         | 949.2                                                  | 446.5                                   | 47.0                                                                                    |
| 2000         | 1906.1                                                 | 1051.6                                  | 55.2                                                                                    |
| 2001         | 2231.5                                                 | 1298.4                                  | 58.2                                                                                    |
| 2002         | 1731.5                                                 | 1692.9                                  | 97.8                                                                                    |
| 2003         | 2575.1                                                 | 1820.5                                  | 70.7                                                                                    |
| 2004         | 3960.9                                                 | 2516.9                                  | 63.5                                                                                    |
| 2005         | 5597.5                                                 | 2741.3                                  | 50.0                                                                                    |
| 2006         | 6061.0                                                 | 2964.3                                  | 49.90                                                                                   |
| 2007         | 5715.6                                                 | 3194.2                                  | 55.9                                                                                    |
| 2008         | 7866.6                                                 | 5568.2                                  | 70.8                                                                                    |
| 2009         | 4844.6                                                 | 4537.8                                  | 93.7                                                                                    |
| 2010         | 7303.7                                                 | 5231.1                                  | 71.6                                                                                    |
| 2011         | 11,116.9                                               | 7565.4                                  | 68.1                                                                                    |
| <b>Total</b> | <b>61,860.2</b>                                        | <b>44,015.0</b>                         | <b>71.2</b>                                                                             |

**Source:** Computed by the Researcher from CBN Annual Report and Statement of Account (1999 B 2011) Various Years.

receipts, the Federal Government had to intervene through Federation Revenue Augmentation, share of difference between Provisional Distribution and Actual Budget and NNPC Refunds to the Federation Account. The total federally collected revenue for the period was 61,860.2 billion naira and the amount of revenue remitted to the federation account for distribution among the three tiers was 44,015.0 billion naira, representing 71.2 percent of the total federally collected revenue.

Table XXII gives a picture that the Federal Government=s share of government revenue decline in favour of the lower levels of government after the initial jump from 48.5 percent to 56 percent. This contrasts sharply with reality because there were some items that were placed as first line charge which was controlled by the Federal Government. Revenue items highlighted in Table 5.9 were deducted before the balance was credited to the Federation Account for distribution. Although the items in the first line charge were nullified by the Supreme Court ruling of April 2002, the Federal Government still designed ways of capturing what was nullified through other creations like the unilateral increase of its percentage in the vertical allocation from the federation account, the continued deduction of Joint Venture Cash calls (JVC), excess crude proceeds, petroleum profit tax and royalty, collection costs introduced into non-oil revenue receipts and other non identified deductions.

**Table XXII:  
Vertical Allocation Formula in Operation Between 1999 – 2011**

|               |                       | (i) NRMAFC Report and Used 1992 - Apr. 2002 Court nullified | (ii) 1 <sup>st</sup> Executive Order. Presidency May 2002 | (iii) 2 <sup>nd</sup> Executive Order Presidency July 2002 | (iv) Modified grant from FMF March 2004 |
|---------------|-----------------------|-------------------------------------------------------------|-----------------------------------------------------------|------------------------------------------------------------|-----------------------------------------|
| Fed. Govt.    |                       | 48.5%                                                       | 56%                                                       | 54.68%                                                     | 52.68%                                  |
| State Govt.   |                       | 24.0%                                                       | 24%                                                       | 24.72%                                                     | 26.72%                                  |
| Local Govt.   |                       | 20.0%                                                       | 20%                                                       | 20.60%                                                     | 20.60%                                  |
|               | Sub-Total             | 92.5%                                                       | 100%                                                      | 100%                                                       | 100%                                    |
| Special Funds |                       |                                                             |                                                           |                                                            |                                         |
|               | FCT Dev.              | 1.0%                                                        |                                                           |                                                            |                                         |
|               | Ecology Fund          | 2.0%                                                        |                                                           |                                                            |                                         |
|               | National Reserve Fund | 1.5%                                                        |                                                           |                                                            |                                         |
|               | ASMDF & TR            | 3.0% DNR                                                    |                                                           |                                                            |                                         |
|               | Sub-Total             | 7.5%                                                        |                                                           |                                                            |                                         |
|               | <b>Grand Total</b>    | <b>100%</b>                                                 | <b>100%</b>                                               | <b>100%</b>                                                | <b>100%</b>                             |

- Note:**
- (i) Was used between 1992 - 2002 before nullification of special fund indices by the Supreme Court Verdict of April 2002.
  - (ii) First Presidential Executive Order after the Supreme Court nullification of special fund in April 2002.
  - (iii) Second Presidential Executive Order after uproar against the huge allocation to Federal Government.
  - (iii) Presently the Revenue Allocation Formula being implemented is based on the modified grant from Federal Ministry of Finance which came into effect in March 2004.

**Source:** Computed by the Researcher from CBN Annual Report and Statement of Account (1999 B 2011) Various Years.

Table XXIII presented a summary of the total revenue inflow into the Federation Account and how it was distributed among the federal, state and local governments between 1999 and 2011. An analysis of the table indicated that the federal government received a larger share of the allocation than the total of the other two tiers put together (if allocation on derivation is not included). The table also showed that allocations to the Federal Capital Territory, Ecology, Stabilization and Residual Account were discontinued in 2003. This was in response to the Supreme Court judgement of April 2002 which nullified, among others things, the existence of all these accounts.

**Table XXIII:**  
**Summary of Total Revenue Inflow to the Federation Account and the**  
**Resulting Vertical Allocations (1999 - 2011) (₦ billion)**

| Year         | F.G.            | S.G             | L.G.          | F.C.T       | Ecology     | Stabilization | Derivation    | Min. Producing Areas | Residual A/C | Total           |
|--------------|-----------------|-----------------|---------------|-------------|-------------|---------------|---------------|----------------------|--------------|-----------------|
| 1999         | 218.9           | 108.2           | 90.2          | 4.5         | 9.1         | 2.3           | 3.4           | 9.9                  | -            | 446.5           |
| 2000         | 502.3           | 248.6           | 207.1         | 10.5        | 21.0        | 5.3           | 52.2          | -                    | 4.6          | 1051.6          |
| 2001         | 530.7           | 391.3           | 245.4         | 12.8        | 25.5        | 6.4           | 78.4          | -                    | 7.9          | 1298.4          |
| 2002         | 859.0           | 398.8           | 333.9         | 1.4         | 2.7         | 7.5           | 89.2          | -                    | 0.4          | 1692.9          |
| 2003         | 917.1           | 419.8           | 346.4         | -           | -           | -             | 137.2         | -                    | -            | 1820.5          |
| 2004         | 1,225.9         | 582.2           | 448.9         | -           | -           | -             | 259.9         | -                    | -            | 2516.9          |
| 2005         | 1334.7          | 627.5           | 483.8         | -           | -           | -             | 295.3         | -                    | -            | 2741.3          |
| 2006         | 1739.9          | 976.3           | 744.9         | -           | -           | -             | 424.4         | -                    | -            | 3885.5          |
| 2007         | 1909.5          | 1091.3          | 831.1         | -           | -           | -             | 448.9         | -                    | -            | 4280.8          |
| 2008         | 2397.5          | 1649.9          | 1344.4        | -           | -           | -             | 564.7         | -                    | -            | 5956.5          |
| 2009         | 2127.5          | 1384.1          | 991.8         | -           | -           | -             | 484.0         | -                    | -            | 4987.4          |
| 2010         | 2536.5          | 1535.5          | 1150.8        | -           | -           | -             | 548.5         | -                    | -            | 5771.83         |
| 2011         | 3334.4          | 1970.5          | 1497.1        | -           | -           | -             | 763.4         | -                    | -            | 7565.4          |
| <b>Total</b> | <b>19,633.9</b> | <b>11,384.0</b> | <b>8715.8</b> | <b>29.2</b> | <b>58.3</b> | <b>21.5</b>   | <b>4149.5</b> | <b>9.9</b>           | <b>12.9</b>  | <b>44,015.0</b> |

**Source:** Computed by the Researcher from CBN Annual Report and Statement of Account (1999 B 2011) Various Years.

Therefore from 2003, there were only four allocative accounts in the Federation

Account. The Supreme Court nullification notwithstanding, the federal government appropriated unilaterally, through an executive order in May 2002, the 7.5 percent special funds that were affected thereby bringing its total share of the vertical allocation to 56 percent. It took a protest by the other stakeholders before the federal government backed down on two occasions to the present 52.68 percent, 26.72 percent and 20.60 percent for federal, state and local governments respectively (see Table XXII).

The Table XXIII also indicated a sharp increase in the funds allocated to derivation from 3.4 billion naira in 1999 to 52.2 billion naira in 2000, an increase of 1535.3 percent. The astronomical increase was as a result of the utilization of the 13 percent that was allocated to derivation with effect from 2000. Subsequently, the amount allocated to derivation had been increasing on an annual basis with the exception of 2009 when there was a drop from the previous year's allocation of 564.7 billion naira to 484.0 billion naira. It again increased to 763.4 billion naira in 2011.

The table showed that for the study period, the federal government had an allocation of 19,633.9 billion naira while the states and local governments had 11,384.0 billion naira and 8715.8 billion naira respectively. 29.2 billion naira was for the federal capital territory, 58.3 billion naira for ecology and 21.5 billion naira for stabilization. 4149.5 billion naira was for derivation while 9.9 billion naira and 12.9 billion naira was for mineral producing areas and residual accounts respectively. The total amount allocated during the period of the study was 44,015.0 billion naira.

In January 1994, the Value Added Tax (VAT) was introduced into the Nigerian fiscal system as another source of revenue vide Decree No. 102 of 1993. To Ogundele (1996: 21) VAT is the amount of value a firm contributes to a good or service by applying its own factors of production. This economic policy which was a replacement of the sales tax with a 5 percent consumption tax had, through its performance, surprised not only the federal government but also its critics which included the International Monetary Fund and the World Bank (Eminue, 2003: 155). It has, by 1999, according to the editorial comment of *The Guardian*, established itself as a second order revenue earner after oil in the country, to the extent that the newspapers christened it the most successful and the best implemented economic policy in Nigeria's fiscal history (See, *The Guardian*, April 7, 1997:6).

Although the federal government at the inception of the policy indicated its non-interest in benefitting from the proceeds of VAT with 80 percent earmarked for the states

and 20 percent for the Federal Inland Revenue Service (FIRS) as administrative cost, the success made the federal government to discover its serious mistake, hence a policy somersault which led to the various formulae that was applied to its distribution between 1994 and 1999 (see Table XXIV). The table has shown how volatile the criteria for the vertical distribution has been. Since 1999, the distribution format which was at the ratio of 15:50:35 to federal, states and local governments has been stable.

Table XXV is a summary of revenue inflow into the VAT Pool Account after the deduction of 4 percent by FIRS as collection cost.

**Table XXIV:**  
**Value Added Tax Pool Account Distribution Formula.**

| <b>Year</b> | <b>Fed. Govt.</b> | <b>State Govt.</b> | <b>Local Govt.</b> |
|-------------|-------------------|--------------------|--------------------|
| 1994        | 20%               | 80%                | -                  |
| Jan.1995    | 50%               | 25%                | 25%                |
| Apr. 1995   | 40%               | 35%                | 25%                |
| 1996        | 35%               | 40%                | 25%                |
| 1998        | 25%               | 45%                | 30%                |
| 1999        | 15%               | 50%                | 35%                |

**Note:** The last adjustment to the VAT sharing formula was in 1999.

**Source:** Computed by the Researcher from CBN Annual Report and Statement of Account (1999 B 2011) Various Years.

**Table XXV:**  
**Revenue Inflow into the VAT Pool Account, 1999 – 2011 (₦ billion)**

|              | <b>1999</b> | <b>2000</b> | <b>2001</b> | <b>2002</b> | <b>2003</b>  | <b>2004</b>  | <b>2005</b>  | <b>2006</b>  | <b>2007</b>  | <b>2008</b>  | <b>2009</b>  | <b>2010</b>  | <b>2011</b>  | <b>Total</b>  |
|--------------|-------------|-------------|-------------|-------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|---------------|
| Fed. Govt.   | 7.1         | 8.2         | 13.3        | 15.5        | 20.0         | 23.8         | 26.7         | 33.2         | 43.4         | 58.3         | 67.4         | 81.1         | 93.5         | 591.5         |
| State Govt.  | 23.8        | 30.6        | 44.9        | 52.6        | 65.9         | 96.2         | 87.4         | 110.6        | 144.4        | 198.1        | 229.3        | 270.2        | 311.8        | 1665.8        |
| Local Govt.  | 9.6         | 13.6        | 19.3        | 18.7        | 39.6         | 46.0         | 55.8         | 75.9         | 105.1        | 135.9        | 157.4        | 189.1        | 218.2        | 1084.2        |
| <b>Total</b> | <b>40.5</b> | <b>52.4</b> | <b>77.5</b> | <b>86.8</b> | <b>125.5</b> | <b>166.0</b> | <b>169.9</b> | <b>219.7</b> | <b>292.9</b> | <b>392.3</b> | <b>454.1</b> | <b>540.4</b> | <b>623.5</b> | <b>3241.5</b> |

**Note:** The 4% FIRS Collection costs have been deducted.

**Source:** Computed by the Researcher from CBN Annual Report and Statement of Account (1999 B 2011) Various Years.

In the period between 1999 and 2011 as indicated by table XXV, the total amount realised from VAT was 3241.5 billion naira. Out of this amount, the federal

government got an allocation of 591.5 billion naira, the states 1665.8 billion naira and the local governments 1084.2 billion naira. The statutory allocation to the states and local government as indicated in Table XXIII was ₦11,384.0 billion naira and 8715.8 billion naira respectively while the internally generated revenue as computed from Appendix III and Appendix IV was 2350.0 billion naira and 219.7 billion naira for states and local governments respectively. From the above, VAT revenue to state governments was 14.6 percent of the statutory allocation and 59.3 percent of internally generated revenue. Likewise for the local governments, VAT revenue was 12.4 percent of statutory allocation and 438.9 percent of the internally generated revenue. The analysis above succinctly places VAT receipts by both the states and local governments as a veritable revenue source and the Federal Government has since 2008 been attempting to increase the VAT charge from 5 percent to 10 percent. The attempt has not been successful because of the reluctance of the National Assembly in ratifying the increase.

Since its introduction in 1994 and especially during the period of this study, the VAT proceeds have been on the increase (Table XXV). In like manner, the contribution of VAT to the non-oil revenue component of the federally collected revenue has been positive. Table XXVI presents the relative contribution of VAT to total non-oil revenue for 1999 B 2011. The table showed that, for most of the years, the percentage contribution of VAT to total non-oil revenue was not below 20 percent. It was only in 2000 and 2001 with percentage contribution of 18.6 percent and 17.5 percent that was below the 20 percent mark. In the year 2008, the VAT contribution went up to 30.1 percent. This contribution of VAT is significant when it is noted that there were six other federal tax sources under the non-oil component. These other tax sources were companies income tax, customs and excise duties, education tax, independent revenue of the federal government, custom levies and national technology development fund (CBN 2010:231).

**Table XXVI:**  
**Contribution of VAT to Non-Oil Revenue, 1999 - 2011 (₦ billion)**

| Year | Non-Oil Revenue<br>₦ billion | VAT Revenue<br>₦ billion | VAT Percentage of<br>Non-Oil Revenue<br>(%) |
|------|------------------------------|--------------------------|---------------------------------------------|
| 1999 | 224.8                        | 47.2                     | 21.0                                        |
| 2000 | 314.5                        | 58.5                     | 18.6                                        |
| 2001 | 524.0                        | 91.6                     | 17.5                                        |
| 2002 | 501.0                        | 108.6                    | 21.7                                        |
| 2003 | 500.8                        | 136.4                    | 27.2                                        |
| 2004 | 606.1                        | 159.5                    | 26.3                                        |
| 2005 | 835.1                        | 178.1                    | 21.3                                        |
| 2006 | 782.2                        | 230.4                    | 29.5                                        |
| 2007 | 1264.6                       | 301.7                    | 23.9                                        |
| 2008 | 1336.0                       | 404.5                    | 30.1                                        |
| 2009 | 1652.7                       | 468.4                    | 28.3                                        |
| 2010 | 1907.6                       | 562.9                    | 29.5                                        |
| 2011 | 2237.9                       | 649.5                    | 29.0                                        |

**Note:** The 4% FIRS collection costs have not been deducted.

**Source:** Computed by the Researcher from CBN Annual Report and Statement of Account (1999 B 2011) Various Years.

The VAT distribution formula adopted for the horizontal allocation was 50 percent equality, 30 percent population and 20 percent derivation (Udoh et al 1999:441). It is important to note that in the distribution format, derivation was given some level of prominence. VAT had proven not only to be a veritable source of revenue for the three tiers of government in Nigeria but it has also enhanced the generation of revenue. It also worthy to note that it has not yet attained the optional level of performance because it has not yet captured all the VATable goods and services.

The sources of revenue to state governments included the horizontal distribution of statutory allocation from the federation account grants, share of excess crude, value added tax, stabilization, exchange gain, budget augmentation and internally generated revenue.

The same is true for local governments together with the addition of state allocation and federal government refunds. In view of the importance of statutory allocation and the need to distribute these funds among the states and local governments in the country, principles have been evolved to guide the horizontal allocation. The principles being utilized during the study period that is 1999 - 2011 could be grouped into two viz: Equity Principles and Efficiency Principles. The principles utilized under equity were population, minimum responsibility of government, derivation, social development, land mass and terrain while efficiency principle had internal revenue effort. The weights allocated to these principles for the horizontal allocation of revenue in the states and local governments are highlighted in Table XXVII.

**Table XXVII:**  
**Horizontal Revenue Allocation (Among States and Local Governments)**  
**Formula 1999 B 2011 (in %)**

| <b>Criteria</b>                                                                      | <b>%</b>    |
|--------------------------------------------------------------------------------------|-------------|
| (i) Minimum Responsibility of Government<br>(Equality of States)                     | 40%         |
| (ii) Population                                                                      | 30%         |
| (iii) Social Development Factor<br>(a) Education 4%<br>(b) Health 3%<br>(c) Water 3% | 10%         |
| (iv) Landmass and Terrain                                                            | 10%         |
| (v) Internal Revenue Effort                                                          | 10%         |
| <b>Total</b>                                                                         | <b>100%</b> |

**Source:** Ojo (2010) AThe Politics of Revenue Allocation and Resource Control in Nigeria: Implications for Federal Stability@ in *Federal Governance*. Vol. 7 No. 1. Pg. 8.

**Table XXVIII:**  
**Summary of State Governments and Federal Capital Territory Finances**  
**1999 - 2011 (x billion)**

| Year         | Current Revenue | Federation Account |             | Value Added Tax |            | Internal Revenue |             | Grants and Others |            | Stabilization |            | Share of Excess Crude |            | Exchange Gain |            | Budget Augmentation |            | Total %    |
|--------------|-----------------|--------------------|-------------|-----------------|------------|------------------|-------------|-------------------|------------|---------------|------------|-----------------------|------------|---------------|------------|---------------------|------------|------------|
|              |                 |                    | %           |                 | %          |                  | %           |                   | %          |               | %          |                       | %          |               | %          |                     |            |            |
| 1999         | 169.0           | 103.7              | 61.4        | 23.8            | 14.1       | 34.1             | 20.2        | 6.6               | 3.9        | 0.9           | 0.5        | -                     | -          | -             | -          |                     |            | 100        |
| 2000         | 359.1           | 251.6              | 70.1        | 30.6            | 8.5        | 37.8             | 10.5        | 33.3              | 9.3        | 5.8           | 1.6        | -                     | -          | -             | -          |                     |            | 100        |
| 2001         | 573.5           | 404.1              | 70.5        | 44.9            | 7.8        | 59.4             | 10.4        | 58.1              | 10.1       | 7.1           | 1.2        |                       |            |               |            |                     |            | 100        |
| 2002         | 669.8           | 388.3              | 58.0        | 52.6            | 7.9        | 89.6             | 13.4        | 129.7             | 19.4       | 9.6           | 1.4        |                       |            |               |            |                     |            | 100        |
| 2003         | 855.0           | 535.2              | 62.6        | 65.9            | 7.7        | 118.8            | 13.9        | 134.2             | 15.7       | 1.0           | 0.1        |                       |            |               |            |                     |            | 100        |
| 2004         | 1113.9          | 777.2              | 69.8        | 96.2            | 8.6        | 134.2            | 12.0        | 104.3             | 9.4        | 2.0           | 0.2        |                       |            |               |            |                     |            | 100        |
| 2005         | 1419.6          | 921.0              | 64.9        | 87.4            | 6.2        | 122.7            | 8.6         | 137.4             | 9.7        | 10.8          | 0.8        | 140.2                 | 9.9        |               |            |                     |            | 100        |
| 2006         | 1543.8          | 1016.1             | 65.8        | 110.6           | 7.2        | 125.2            | 8.1         | 125.3             | 8.1        | 11.9          | 0.8        | 154.7                 | 10.0       |               |            |                     |            | 100        |
| 2007         | 2065.4          | 1109.3             | 53.7        | 144.4           | 7.0        | 305.7            | 14.8        | 209.4             | 10.1       | 37.7          | 1.8        | 258.9                 | 12.5       |               |            |                     |            | 100        |
| 2008         | 2934.8          | 1709.2             | 58.2        | 198.1           | 6.8        | 441.1            | 15.0        | 179.0             | 6.1        | 53.4          | 1.8        | 354.1                 | 12.1       |               |            |                     |            | 100        |
| 2009         | 2590.7          | 973.8              | 37.6        | 229.3           | 8.6        | 461.2            | 17.8        | 188.0             | 7.3        | 29.7          | 1.1        | 376.8                 | 14.5       | 58.9          | 2.3        | 272.8               | 10.5       | 100        |
| 2010         | 3162.0          | 1353.7             | 49.4        | 275.6           | 10.1       | 420.5            | 15.4        | 140.4             | 5.1        | 42.5          | 1.6        | 329.0                 | 12.2       | 14.8          | 0.5        | 162.9               | 5.9        | 100        |
| 2011         | 3410.1          | 1786.3             | 52.4        | 318.0           | 93         | 509.3            | 14.9        | 88.7              | 2.6        | 11.2          | 0.3        | 167.0                 | 4.9        | 18.9          | 0.6        | 510.7               | 15.0       | 100        |
| <b>Total</b> | <b>20,866.7</b> | <b>11,329.5</b>    | <b>54.3</b> | <b>1677.4</b>   | <b>8.0</b> | <b>2857.6</b>    | <b>15.3</b> | <b>1618.2</b>     | <b>7.8</b> | <b>232.1</b>  | <b>1.1</b> | <b>1774.1</b>         | <b>8.5</b> | <b>92.6</b>   | <b>0.4</b> | <b>946.4</b>        | <b>4.5</b> | <b>100</b> |

**Note:** Percentages for some years were rounded up.

**Source:** Computed by the Researcher from CBN Annual Report and Statement of Account (1999 B 2011) Various Issues.

Table XXVIII presents a summary of state governments and federal capital territory finances between 1999 and 2011. From the table, it could be deduced that of all the sources of revenue at the disposal of state governments and the federal capital territory, statutory allocation from the federation account had been the major sources of revenue accounting for 54.3 percent that is 11,329.5 billion naira out of a total revenue receipts of 20,866.7 billion naira for the period 1999 to 2011.

For the years 2000 and 2001, it accounted for 70.1 percent and 70.5 percent of total revenue receipts respectively. In the years 1999, 2003, 2004, 2005, and 2006, it was 61.4 percent, 62.6 percent, 69.8 percent, 68.9 percent and 65.8 percent respectively. For years 2002, 2007, 2008, 2010 and 2011, it was 58.0 percent, 53.7 percent, 58.2 percent, 42.8 percent and 52.4 percent respectively. 2009 was the year in which it had the least percentage contribution to total receipts when it was 37.6 percent. The low contribution of statutory allocation to total revenue receipts in 2009 was as a result of dwindled oil receipts and improved performance of other sources like Value Added Tax, internal revenue, share of excess crude and grants and others. The contribution of statutory allocation however picked up in the following year that is 2010, when it rose to 49.4 percent of the total receipts.

The table also indicated that all other major sources of revenue like VAT, Internal Revenue and Share of Excess Crude also had their swing in terms of their relative contributions to the cumulative revenue receipts for the period of this study. For instance, the amount credited to VAT dropped from 96.2 billion naira in 2006. Other than this drop, it had been on an annual increase from 1999 to 2011. Likewise the internally generated revenue dropped to 122.7 billion naira in 2005, and from 134.2 billion naira in 2004 rose to 757.9 billion naira in 2010, from 461.2 billion naira in 2009 it dropped again to 509.3 in 2011. The same was for grants whose swing was more prominent. The revenue from the excess crude had its drop in 2010 when it went down to 322.4 billion naira from 376.8 billion naira in 2009 and 167.0 billion naira in 2011.

In addition to the statutory allocation, there were specific grants from the federal government to the states, although as it could be observed from the table and its pattern of distribution, it was the fourth major source of revenue. The total receipts for the period was 1618.2 billion naira or 7.8 percent of the total revenue.

The data from the table gave an evidence of improving receipts from internally generated revenue by the states. The revenue which was second to the statutory allocation for the period indicated a revenue generation of 3197.0 billion naira or 15.3 percent of total revenue.

The reform of the Local Government in 1976 transformed local governments into the third level of government in Nigeria. Hence, 1999 Nigerian Constitution, in recognition of this, made them as beneficiaries from the allocation of the federation account. As a result of this development, local governments in the country get statutory allocations from the two higher tiers of government, that is federal and state governments. They receive 20 percent from the federation account and are also entitled by law, to 10 percent of the revenue generated internally by the states. They also receive at present 35 percent of the total VAT receipts (which was distributed in the same proportion as that of the states that is 50 percent equality, 30 percent population and 20 percent derivation).

Appendix V presents a summary of local government finances for the period 1999 to 2011. Statutory allocation in nominal terms showed a steady increase from 1999 with 43.9 billion naira to 2008 with 722.3 billion naira and a drop in 2009 to 529.3 billion naira with a rise again in 2010 to 716.0 billion naira and finally to 940.0 billion naira in 2011. The total receipts of the local governments for the period was 8909.8 billion naira and statutory allocation from the federation account was 5606.7 billion naira which translated to 62.9 percent of the total revenue receipts of the local governments.

An analysis of the annual statutory allocation release indicated that for eight years, between 1999 and 2006, the percentage of statutory allocation to the total receipts hovered between 72.2 percent in 1999 to 82.6 percent in 2005. For the remaining five years between 2007 and 2011, the least percentage contribution to total receipt was 49.5 percent. What perhaps led to the drop in percentage contribution from 2007 onwards was the introduction of the distribution of funds from the excess crude account by the three tiers of government. This source contributed within just five years 997.8 or 11.2 percent of the total receipts. Within just five years, this source contributed 997.8 or 11.2 percent of the total receipts.

The internally generated revenue effort of the local governments was not impressive as the table shows that this source generated only 242.1 billion naira or 2.7 percent of the total receipts during the period. The VAT source continues to be a veritable source of revenue as the local governments were able to net 1085.3 billion naira or 12.2 percent from this source. In the period of this study, state allocations to local governments were just 74.1 billion naira or 0.8 percent of revenue receipts. The unimpressive performance of this source even in years before the study period was a result of the states' refusal to fulfil the provision of allocating 10 percent of internally generated revenue to local governments. The reasons for this as observed by Ekpo (1999: 245) citing Ekpo and Ndebbio (1998) were (i) some states refused to fulfill their mandate, claiming that they implemented various projects at the local government level (a type of statutory allocation in kind); (ii) states insisted that the decline in revenue from the federation account resulted in their inability to honour their statutory obligations; and (iii) others claim to be penalizing local governments that performed unsatisfactorily, based on previous state allocation. These reasons notwithstanding, it is paramount that states need to honour the obligation of releasing this statutory allocation to the local governments.

## **CHAPTER SIX**

### **DYNAMICS OF FISCAL FEDERALISM IN NIGERIA, 1999 - 2011**

#### **6.1 Preamble**

Nigerian fiscal federalism in practice could be said to be problematic and dysfunctional and this has resulted in significant economic pathologies and political contention in the federation. To Anderson (2007:9) a primary weakness of the system is its promotion of a cake-sharing syndrome as evidence in the relatively narrow focus on the appropriate formula for sharing the major revenues rather than on other issues of public and fiscal policy. Some of these issues includes the management of the volatility or swings of the petro-economy; the alleviation of the overwhelming dependence of the economy on the petroleum and gas sector and of the states in central transfers (through the development of alternative revenue sources); the promotion of genuine regional and vertical equity in access to financial resources; the coordination of major developmental policies within the federal system; and, most importantly, the development of mechanisms for ensuring transparency and probity in the management of public finances.

The study is undertaken in order to examine some of the problems that are thrown up by the problematic and dysfunctional nature of Nigeria's practice of fiscal federalism. The importance of this study is to be viewed from the perspective that the operation of a stable fiscal system that is acceptable to all parts of the country is an essential ingredient to the success or otherwise of any federal experiment. This means therefore that a defective or unaccepted fiscal system will have its negative multiplier effect on all fabrics of the Nigerian society.

Nigeria, being a multi-ethnic state should be able to ensure and guarantee equity, stability and even development. For national development to be achieved, there has to be a concerted effort to have equity in accountability, democratic governance, even development and resource allocation. It is in the light of this that this study in the first chapter set out some basic pertinent questions that are seen as challenges to the practice of fiscal federalism in Nigeria. In this chapter therefore, attempts will be made to identify and subject these challenges to in-depth analysis so that in the end, the outcome of the issues analysed will assist to a large extent in addressing our research questions.

Challenges to be discussed in this chapter are issues of centralization and decentralization of the fiscal system, management of the federation account, fiscal dependency of the states and local governments, control of natural resources and the stability of the federal system, mismanagement, corruption and indiscipline in the fiscal system, mismanagement, corruption and indiscipline in the fiscal system, efforts in resolving the crisis of fiscal federalism.

## **6.2 Issues of Centralization and Decentralization of the Fiscal System**

The fiscal operations of any economy could be analysed from two extreme forms of the public sector. On one hand, there is the existence of total centralization where the central government takes all responsibilities for all economic activities of the public sector and therefore no other tiers of government participate in the economic life of the nation. On the other extreme there exists a highly decentralized fiscal system in which the government at the centre has no economic activities. Rather, the other tiers of government perform virtually all economic functions (Ekpo, 2004:3). It is to be noted however that the two extremes are hard to come by.

A centralized system of government creates one predominant central government which creates subordinate levels of government called local authorities that may be provincial in scope or mere municipalities and townships created through decrees or statutes. All financial incomes in this system go into a common purse administered by the central government, and the basic needs of the people are centrally catered for by the central government. Erstwhile centrally planned economies like Cuba and some countries of Eastern Europe are examples of this system (Ramphal, 1979:vii).

In highlighting the rationale for centralization, Ogisi (2004:336) stated that proponents of centralization argued that decentralization can increase disparities, jeopardize stability, undermine efficiency, encourage corruption and foster disunity. Conversely to Ogisi, they also argue that centralization reduces disparities in the provision of public goods and services as well as social and political tension where there are disparities in income and resources. There was the insistence on their part that decentralization can create problems relating to distribution and macroeconomic management objectives.

Prud'Homme (1995:212) arguing further maintains that local authorities have fewer or no incentives to undertake economic stabilization policies and stressed that the instruments of macro economic policies are better handled by the central government. He stated further that arguments in favour of decentralization are concerned with

demand efficiency rather than supply efficiency. The structure practised in the unitary governments of United Kingdom, Kenya, Ghana and Togo among others offer minimal decentralization because the degree of autonomy exercised by local jurisdiction is inversely related to the degree of centralization since local jurisdictions execute only delegated functions and power. In an economy that is homogenous and where the culture of honesty, accountability and transparency has been firmly rooted, a centrally controlled government is likely to bring about economic development and confidence building in the system.

Decentralization could be explained as a political cum administrative arrangement that entails the transfer of authority (to plan, perform functions and manage public funds) from the central government to the lower level governments and agencies either geographically or structurally. Administrative decentralization exists when taxes are centrally raised and funds are allocated to decentralized entities that spend same as agents of the central government. This structure of governance refers to delegating decision making to regional, state and local governments but without corresponding autonomy for local governments. Fiscal decentralization is the act of delegating the power to perform governmental functions to sub-national government rather than concentrating such power in a central government. Some of the countries that practise decentralized fiscal system among others include Argentina, Australia, Canada, India, Nigeria, Brazil, United States of America, and Switzerland (for detailed analysis of fiscal decentralization, see the works of Ibodje 1987:25B40; Tanzi 1995:317-322; Alade 1999:145B169; Taiwo 1999:3B23, Ogisi 2004:333B347, Ejiofor, 2011, Broadway and Shah, 2011:60-123).

Fiscal decentralization according to Sharma (2005:169) has become fashionable regardless of development and civilization of societies. Nations are turning to devolution to improve the performance of their public sectors. For instance, in the United States of America, the central government has turned back significant portions of federal authority to the states for a wide range of major programmes including medicare, legal services, housing and job training. The hope is that state and local governments being closer to the people will be more responsive to the particular preferences of their constituencies and will be able to find new and better ways to provide these services.

Fiscal federalism is a set of principles that can be applied to all countries attempting fiscal decentralization. In fact, fiscal federalism is a general normative

framework for assignment of functions to the different levels of government and appropriate fiscal instruments for carrying out these functions (Oates 1999:1120). Since fiscal decentralization promotes competition among localities by encouraging each one of them to provide different public goods, there has been, even in non-federal states, a growing movement towards greater fiscal decentralization in recent years. Some analysts have attributed this to globalization and deepening democratization the world over on one hand and increasing incomes on the other (Tanzi, 1995:319). Other specific reasons for the increasing demand for decentralization are:

- (i) Central governments are increasingly finding out that it is impossible for them to meet all the competing needs of their various constituencies, and are attempting to build local capacity by delegating responsibilities downward to their regional governments.
- (ii) The central government is looking up to local and regional governments to assist them in national economic development strategies; and
- (iii) regional and local political leaders are demanding more autonomy and want the taxation powers to go along with their expenditure (Ozo-Eson 2009:4, Ejiofor, 2011).
- (iv) the basic structure of governance is being transformed in countries around the world as authority and resources migrate from central to sub-national governments (Rodden 2005:482).

Since 1954 Nigeria has been operating a federal form of government (except for a brief period in 1966 when the military administration of Aguiyi-Ironsi through Decree No. 34 transformed the country into a unitary government). It is to be noted that the nature and structure of the current system of political and fiscal federalism in Nigeria emanated from several influences viz: historical, geographical, economic, political, cultural, legal and social factors (Iyoha 2000:1 and Ekpo 2004:4). With the adoption of federalism in 1954, Nigeria had three tiers of government that is central, regional and provincial. Currently, the nomenclatures of the sub-national units have changed from regions and provinces to states and local governments. Not only that, their number has steadily increased from 3 regions and 23 provinces to the present 36 States and the Federal Capital Territory and 774 Local Governments.

At independence and up to January 15<sup>th</sup> 1966 Nigeria experienced a high degree of fiscal decentralization or what has always been referred to in the literature as A True Federalism. @ The reason for this was that both the 1960 Independence Constitution and

the 1963 Republican Constitution gave sweeping powers to the regions which invariably completely made them self-sufficient and powerful entities with fiscal provisions which ensured that they had the financial wherewithal to carry out their assigned functions. The Federal level during the period had limited powers. The move towards centralization began with the advent of military administration in January 1966 when, as a result of its centralized command structure and other factors, there was increase in the capacity of the federal military government to unilaterally alter, and in its own favour, the existing distribution of power and resources between the federal and the state governments. What could have been responsible for this centralizing trend and its implications for Nigerian federalism?

Several scholars such as Ekpo and Ndebbio (1996:6B8), Agiobenebo (1999:28B30), Suberu (2001:2), Asobie (2001:125-126), Ekpo (2004:28B29), and Phillip and Isah (2012:10B11) among others have attempted to offer explanation for the factors that could have been responsible for the shift towards centralization from decentralization in Nigeria. For instance, Suberu (2001:2) asserted that the critical sources of over-centralization in Nigeria were as a result of:

- (i) the fact that the Nigerian federation was not created by the coming together of a country which had in theory been rated (by the British colonial hegemony) as a single entity;
- (ii) the unifying impact of the 1967 B 70 civil war, which, like the civil war of the United States and elsewhere, produced a much stronger central authority with enhanced power and prestige;
- (iii) the ardent and generalized desire for rapid, stated and centrally coordinated development amidst pervasive economic scarcity;
- (iv) the overwhelming domination of the Nigerian economy by federally collected oil revenues which account for some 80 percent of public finances at all levels of government and about 90 percent of the country=s foreign exchange earnings; and
- (v) the continued intensity of distributive contention (as opposed to productive accumulation) in the Nigerian federation as the country=s constituent governments and segments struggle relentlessly for the centre=s abundant financial resources and distributive largesse.

In Asobie=s (2001:125B126) view, some propositions to explain the centralizing trends in Nigerian federalism could be developed. These propositions to him are:

- (i) the decline in the prices of Nigerian agricultural export commodities and the rise of revenue from crude oil are the major explanatory factors for the centralising

trends in Nigerian federalism.

- (ii) the relative impoverishment of peasant agricultural producers in Nigeria and the rise of growing enrichment of the comprador are linked with centralising trends in Nigerian federalism. A deconcentrated federal structure serves the interests of Nigerian peasant agricultural producers, conversely, a centralising federal structure favours the emergence and growth of the comprador.
- (iii) centralising trend in Nigerian federalism is significantly attributable to the direct intervention and continued involvement of the military in Nigerian government and politics.
- (iv) concentration of power in Nigerian federalism, in contrast with enhanced regional autonomy, facilitates primitive accumulation of capital, but is not necessarily conducive to capitalist development in Nigeria: it could, in fact slow down the pace of economic growth.
- (v) concentration of power in Nigerian federalism, in contrast with enhanced regional autonomy, promotes the creation of a parasitic, capitalist class with a national outlook and by so doing reduces the incoherence of the ruling class in Nigeria.
- (vi) concentration of power in Nigerian federalism narrows the space for popular participation in the processes of politics and governance in Nigeria; and by narrowing the democratic space, it intensifies political instability in Nigeria.

The power to amend or enact a constitution has been identified as the locus of real power in the state (Nwabueze, 1982:1). The military, upon assumption of power in 1966, amended the Nigerian constitution in a manner that fundamentally altered the federal structure of the country. This was done first by the Promulgation of Decree No. 34 of May 1966 which transformed Nigeria into a unitary state. In March 1967, Decree No. 8 that turned Nigeria into a confederal state was promulgated, and this was again reversed through Decree No. 13, the Constitution (Restoration and Repeal) decree of 1967 which reversed the country back to a federal system. The unilateral abrogation of the federal covenant and its replacement by a new constitution, sometimes non-federal in content came with the direct intervention of the military in Nigerian government and politics in 1966 (Asobie 2001:147). It is important to note that it was under the military regimes in Nigeria that the autonomy of regional/state governments in terms of the capacity to legislate on certain matters guaranteed in the constitution was falling concurrently as the spheres of both the federal and regional/state competence was

destroyed. For instance, the military administration of both Gowon and Mohammed in 1966 and 1975 respectively unilaterally conferred on the Military Government enormous powers to make laws for the peace, order, good government and any matter whatsoever for Nigeria or any part thereof. The implication of this provision was that the Federal Military Government could legislate on matters in the exclusive and concurrent and also on the residual matters that were supposed to be reserved for the states. The Military Governor of a state in contrast cannot legislate on items in the concurrent list except with the prior consent of the Federal Military Government (Ijalaye, 1979:142). To Ijalaye (1979:144) the destruction by the Federal Military Government of the principle that a written constitution is the foundation of a federal system was the acme of centralization. This act of over-centralization which amounted to the destruction of federalism was embodied in Section 4 of the Constitution (Basic Provisions) Decree 32 of 1975. The section provided that Any question as to validity of this or any other Decree or of any Edict shall be entertained by a Court of Law in Nigeria.

Not only were the political base of the states weakened by the military administration, there was the persistent weakening of their revenue bases. Asobie (2001:155) asserted that it was the changes in the pattern of accumulation that provided the economic basis for centralizing trends in Nigerian federalism. He argued that with changes of focus in the accumulation process from peasant based and regionally controlled agriculture to federally controlled mining rents and royalties, the focus of Nigerian politics also shifted from the regions to the centre. Furthermore, the strengthened financial position of the federal government served as a justification for the transferring of functions and responsibilities to the federal government from the states. The military administration of Abubakar midwifed its disengagement from politics in 1999 under this environment of over-centralization of functions and responsibilities by the federal government.

The Nigerian 1999 Constitution provided the legal basis of the civilian political dispensation that began on 29<sup>th</sup> May 1999 had all the trappings of both the 1979 and 1989 constitutions. If anything, the concentration of power at the centre heightened under the 1999 Constitution. To begin, the process of making the 1999 Constitution was more centralized than that of both the 1979 and 1989 constitutions. The draft of the 1999 Constitution was prepared by the Constitutional Debate Co-ordinating Committee under the Chairmanship of Justice Niki Tobi. The Committee which was inaugurated on 11<sup>th</sup> November, 1998 (a mere six months before the transfer of power on 29<sup>th</sup> May 1999)

arrived at the decision to retain the provisions of the 1979 Constitution of the Federal Republic of Nigeria with some amendments after receiving memoranda from Nigerians at home and abroad, oral presentations at debate centres and various conferences, seminars and workshops. The draft constitution was approved by the Provisional Ruling Council rather than the convocation of a referendum on the Constitution to be ratified by the people. The approving authority did not have representatives of state governments and bodies which would have given them a chance to contribute to the final ratification. With these facts, the Constitution of the Federal Republic of Nigeria, 1999 was not an original act of the people. It was the act of a centralized authority which was unelected and unrepresentative. Therefore the statements 'We the People...' and 'We do hereby make and give to ourselves the following Constitution' at the beginning and end of the preamble to the 1999 Constitution were misplaced.

What became obvious was that the 1999 Nigerian Constitution concentrated and accumulated so much power in the hands of the President, that a president with an authoritarian and despotic tendency will exercise these powers dictatorially as in a typical military regime (See, *The Nation*, May 16, 2008:A11). This was noticeable between 1999 and 2007 during President Obasanjo's tenure where, as a result of his disposition, there was a relentless and sustained assault on federalism. Nwabueze (2007:xxviB xxvii) asserted that

The subversion by President Obasanjo of the federal system established by the constitution consists in very significant part of a deliberate policy matched by actions to degrade the status of the states and their governors and to bolster up that of his federal government as the sole repository of the country's sovereignty. As far as President Obasanjo is concerned, the states and their governors exist only as instrumentalities of the federal government and subject to its direction, just as in the days of the Federal Military Government (FMG), invested with supreme, absolute and all encompassing power. His attitude towards the state governors as his subordinates, rather than as heads of autonomous governments is a carry-over from the days of his tenure as the head of the FMG from 1976 to 1979. It is reflected in his insistence that state governors must inform him or perhaps even obtain his permission before travelling abroad, implying a relation of subordination, the subjection of Governors and the state governments to his authority. They also now require the permission of the Economic and Financial Crimes Commission (EFCC), a Federal Government agency, before travelling abroad.

To *The Nation* (May 19, 2008:A13) Obasanjo viewed himself in all his grandeur as the colonial governor-general of Nigeria, with state governors, a little better than his vassals. Hence on a visit to Anambra State in 2006, he parted Governor Peter Obi on the back and said 'You are my agent in Anambra State' and this statement was never challenged or corrected. Obasanjo's onslaught on federalism included (i) the removal of State Governors with the utilization of federal agencies (Bayelsa, Ekiti and Plateau), (ii) removal of State Governors using a combination of the police and political henchman (Anambra and Oyo), (iii) illegal declaration of state of emergency (iv) misuse of the EFCC and ICPC (v) interference in the financial affairs of state governments (vi) suspension of statutory allocation of Local Government funds to Bayelsa, Ekiti and Lagos State, (vii) anti-federalism financial laws such as the Monitoring of Revenue Allocation to Local Governments Act 2005 and the Fiscal Responsibility Bill. A discussion of items (v) to (vii) which had serious implications for the practise of fiscal federalism in Nigeria is pertinent (See, *The Nation*, May 19, 2008:A13).

The Federal Government ensured that the mechanism utilized for the distribution to the State Governments of the share of revenue due to them from the Federation Account was so contrived as to force the Governors and their officials to leave their various capitals and go physically, cap-in-hand to the Federal Government in Abuja and hassle for it every month, a situation which to Nwabueze (2007:xxvii) 'creates in them an understandable docility towards the Federal Government as the pay-master'.

Lagos, Ekiti and Bayelsa States among others created local government councils. The President in response wrote on 8<sup>th</sup> April 2004 to the Minister of Finance directing the suspension of statutory allocation of local governments to the states concerned. The President stated in his letter that 'The National Assembly is yet to make the necessary consequential provisions in respect of any of the newly created local government areas in the country, conducting elections into or funding any of them from the federation account will be a violation of the Constitution. Consequently, no allocation from the federation account should henceforth be released to the local government councils of the above mentioned states and any other state that may fall into that' (See, *Vanguard*, April 19, 2004:2). With this directive by the President, the Lagos State Government in response challenged the directive by instituting a suit at the Supreme Court on 19<sup>th</sup> April, 2004 vide Suit No. SC7012004 between the Attorney General of Lagos State and Attorney General of the Federation. The Supreme Court in its unanimous judgement ruled that the President's power to protect and defend the Constitution was not a justification for an act of illegality. To the Supreme Court,

nowhere in the Constitution is the President empowered to withhold or suspend the payment of allocation from the Federation Account to local government councils or to state governments on behalf of the local councils as provided by Section 162C. In spite of the unambiguous and unequivocal decision of the Court, the Federal Government refused to release the allocation to the local governments until January 2005 when the Accountant General of the Federation wrote a letter dated December 14<sup>th</sup> 2004 and two others dated January 19<sup>th</sup> 2005 directing the Director of Banking Operations of the Central Bank to release the withheld funds with preconditions.

The Monitoring of Revenue Allocation to Local Governments Act 2005 placed the Federal Government in a position to assume the supervision and control of statutory allocations to the local governments. The act empowered the federally imposed and composed State Joint Local Government Account Committee to ensure (i) prompt payment into the account by the State Government (ii) that funds are distributed in accordance with the provisions of the Constitution under any law made on that behalf by the State House of Assembly; (iii) Monitor the payment distribution to ascertain the actual amount paid to each local government, (iv) render monthly returns of its work to the Federation Account Allocation Committee which shall scrutinize them and in turn render quarterly accounts through the Federal Government's Accountant-General to the National Assembly (See, *The Nation*, May 21, 2008:A11). The Act gave the Federal Auditor General the power, at the end of each financial year to submit a report to the National Assembly on how the monies allocated to each state for the benefit of the local government councils within the state were spent. Also, the federal government was empowered by the Act to deduct from the allocation of funds due to a state, any amount equivalent to what the state failed to pay to its local government councils in the previous year.

This was another attempt by the President through the Federal Government to centralize revenue distribution. *The Nation* clearly pointed this out when it asserted that Justice Niki Tobi correctly observed in the judgement of the Supreme Court nullifying it that the Act in effect was an attempt to abolish federalism and establish Nigeria as a unitary state. To the newspaper, the Act was a clear illustration of the underlying mental attitude of the Obasanjo government that the money in the federation account is federal government money which it doles out to state and local governments out of its generosity. This, in essence, meant that the federal government was incapable of distinguishing between Federation Account, which belongs to the federal, states and local governments (and which the federal government holds in trust) and the

federal government account which belongs to the federal government (See, *The Nation*, May 21, 2008:A11).

The Fiscal Responsibility Bill which was presented to the National Assembly and passed in 2007 was another attempt in the centralization of Nigeria. The bill that was presented to the National Assembly arrogated to the Federal Government in violation of Section 4 of the 1999 Nigerian Constitution, the power to legislate for all levels of government which it defined as federal, states and local governments. The bill imposed extensive and detailed rules about budget preparation, budget content, preparation of estimates, execution of appropriation law, revenue collection, remittance etc. (See, *The Nation*, May 26, 2008:A13, Ahmed, 2010). The implication of the bill if it had been passed by the National Assembly was the enlargement of the powers of the federal government not only to make laws for its own account as specified by the constitution but also to include the accounts and audits of states and local governments. The protestation of the states and other stakeholders led to the mellowing down of Section 17 of the Act which now states that AStates and Local Governments which so desire shall be assisted by the Federal Government to manage their fiscal affairs within the medium-term framework@ (Fiscal Responsibility Act 2007).

The federal government as part of its centralizing tenets in October 2011 unilaterally decided to operate the Sovereign Wealth Fund (SWF) inspite of the opposition of state governments. The core objectives of SWF were (i) saving for the future, (ii) investment in strategic infrastructure and (iii) building of a buffer stock such as current global financial crisis which has damaged many economies across the world including developed economies (See, *The Nation*, October 19, 2011:4). To activate the fund, the federal government unilaterally deducted \$1 billion from the Excess Crude Account on 18<sup>th</sup> October 2011. Although the SWF B was an Act of the National Assembly, it violates the principles of fiscal federalism as enshrined in the 1999 Constitution because it improperly appropriates the revenue meant for state and local governments for purposes solely determined by financial technocrats engaged by the federal government.

On the legality of the SWF, Tinubu (2011:45) argued that operating it amounted to a subversion of the constitution through the increase of the power of the federal government to undermine states fiscal independence. This was because the federal government had no right to unilaterally withhold one naira of state or local government funds. To Tinubu, the SWF was the product of a Anefarious mind, seeking to enlarge

federal power by weakening the states' fiscal position. This is an act to concentrate power instead of distributing it to the states in accordance with fiscal federalism. Perhaps what could be regarded as the utmost disadvantage to the states and local governments was that the law of SWF does not allow the states and local governments any say on the amount of their fund that is placed in the SWF and they do not have any input into its operation. The states will only participate in the Governing Council which is scheduled to meet only once yearly.

The Governors in response to the federal government unilateral action on the SWF approached the Supreme Court for an injunction on 24<sup>th</sup> October, 2011 to restrain the federal government from making any withdrawal from the Excess Crude Account pending the hearing and determination of a suit they filed in 2008. In this application, the counsel to the states, Adegboyega Awomolo said the federal government had announced its intention to withdraw, disburse and utilize another \$1 billion from the credit balance. To the Governors, the federal government through executive lawlessness and impunity has continued to disrespect, disregard and ignore the pending suit. The Supreme Court is yet to deliver judgement (See, *The Nation*, October 25, 2011:1).

The continued sustenance of centralization in the present democratic dispensation could be attributable to many factors. As noted by Diamond (2001:xv) Nigeria's hyper-centralized shell of federalism has gradually driven out any sense of civic or truly national commitment leaving a shifting jumble of ethnic, regional, religious and factional alignments to contend ceaselessly for power and resources. The concentration of power in Nigeria continues to bring about the private accumulation of capital. To Asobie (2001:157) it has led to the concentration of the surplus appropriated and its easy privatization by few members of the Nigerian bourgeoisie in alliance with the metropolitan bourgeoisie. Capitalist growth has not, however accompanied increased primitive accumulation partly because the centralization of political authority has produced increased bureaucratization, stifled initiative and resulted in wasteful application of resources. In the final analysis, the centralization of power has tended to promote authoritarianism in the Nigerian political process and this is one of the factors responsible for Nigeria's backwardness.

The result of continued centralization of the Nigerian political space, was increased agitation for the restructuring of the country. Restructuring is the act of re-organizing the legal, ownership, operational or other structure for the purpose of making it more manageable or better organized for its present needs. Restructuring in this context is corporate restructuring which means constitution that will support good

governance, respect for the citizen, enquiry and equality (Folajoba, 2017:3). To Nkwede (2013:33), restructuring connotes a deliberate and planned change. Any intervention which fails to produce fundamental change in the public is not restructuring. To this end, restructuring is a systematic intervention aimed at improving the structure, operations, system and procedures to enable its transformation as a multifaceted agent of change and as a veritable instrument of social cohesion and socio-economic development. Osaghae (2019:6) refers to restructuring as “the continuous process of adjustment that federal systems undergo in the quest to make them work well and cope with changing demands”.

In Nigeria, the agitation for restructuring is borne out of some perceived levels of injustice, inequality and discontentment witnessed by the society as a result of faulty federalism. This has brought myriads of socio-political and economic problems. It is to be noted that the nation has introduced a number of policies and programmes to achieve unity. These are state creation, quota system, geo-political zoning of political offices and other appointments, federal character, unity school, national youth service corp, mamser/noa. Unfortunately, these have not achieved the desired integration. Studies have shown that massive corruption, embezzlement of public funds, poor accountability, high cost of governance and crisis of legitimacy, recurring ethnic, regional and religious clashes, abuse of the provisions of the constitution and constitutionalism among others have thwarted Nigeria’s socio-economic and political development of the post military era (Abbas, 2013:71, 2016:220, Babalola 2016:55 and Ezeji-Okoye 2009:89). In view of this, there have been agitations for restructuring with the following parameters among others: true federalism, devolution of powers, state police, resource control, and review of revenue sharing formula.

Many scholars have asserted the need for restructuring which to them is an imperative to foster unity and national integration. To Nwabueze (2017:6)

the object of restructuring for which there is a widespread clamour among Nigerians is not to break up the country to enable agitators to secede from its sovereignty and territorial integrity. Far from that, the object is, by reforming the governmental structures and attuning them to the needs and wishes of the people, to ensure that the immense diversity of the ethnic nationalities that comprised the state will continue to co-exist together in peace, prosperity and progress as citizens of one country united by common interest, common aspiration and common destiny. The clamour for restructuring must therefore be seen as a clamour for the setting up of appropriate platform or fora to negotiate suitable governmental structures for the pursuit and realization of our common

needs for development, good governance and national transformation. Restructuring is a call for Nigeria to make 'a new beginning' under a new constitution approved and adopted by the people at a referendum, a new politico-legal order that will cleanse the country of rottenness that pervades it and enable the charting of a roadmap for its destiny.

Rufai (2017:6) argument was that Nigerian federation has been dysfunctional and more unitary than federal, and not delivering public goods to the generality of the people. The state of national dissatisfaction for a variety of reasons and motives have led to strident calls from virtually all segments of the Nigerian society for political, constitutional and fiscal reform using various words and phrases such as restructuring, true federalism, devolution, resource control, regionalism, and self-determination. Hence Panter-Brick (1980:130) posited that the prices of bringing government nearer to the people would have direct access to resources thereby lessening the contentiousness of revenue allocation and the intensity of hostility among the various ethnic sub-nationalities.

Although, the northern part of the country is worse off in most development indices when compared to other parts of the country, they are hesitant about restructuring. Despite the political maturity shown by the Sultan of Sokoto by supporting restructuring when he stated that the peace of the country depends on it, majority of northern leaders are in perpetual dread of a restructured federation. Many northern elites claiming patriotism are of the view that the devolution of powers could be a prelude to balkanization. Others argued that restructuring is not what the country actually needs at the moment because of the belief that Nigeria is not yet ripe for restructuring. There is the assertion that given the mechanics of a decentralized government, powers can easily be abused. For instance, in a decentralized police system, the state government can easily manipulate the security force to work for its sole purpose to the disadvantage of opposition parties which may invariably leads to injustice. Also, there is the argument that decentralization might lead to each state having its focus which might be contrary to the national focus which might lead to multiple countries within a country (Ogih, 2017:1).

In summary, it is not in doubt that the centralizing trends of the federal system of Nigeria led to the agitations for restructuring and resource control. Despite the highlighted shortcomings, federalism is still the only suitable form of government that can take care of the heterogeneous nature of the Nigerian society. What is needed is for a continuous evolution of an acceptable system that will take care of the reasons for

agitations from various parts of the country. It is also important that all Nigerians resolve to appreciate and respect each other's feelings and desire to enable the realization of a united, and prosperous nation built on commitment, self-determination, patriotism and sacrifice.

### **6.3 Management of the Federation Account**

The 1999 Constitution of the Federal Republic of Nigeria by virtue of Section 162, Sub-Section 1 created the Federation Account. The sub-section states inter alia

The Federation shall maintain a special account to be called the Federation Account into which shall be paid all revenues collected by the Government of the federation, except the proceeds from the personal income tax of the personnel of the armed forces of the federation, the Nigeria Police Force, the Ministry or department of government charged with responsibility for Foreign Affairs and the residents of the Federal Capital Territory, Abuja.

The implication of this constitutional provision is that the Federation Account is a depository for the nationally raised revenue receipts from export of crude oil and its associated derivatives such as natural gas, domestic petroleum revenue, customs and excise duties, company tax and others. All the revenues deposited in the Federation Account are to be vertically distributed at specified intervals by the federal, state and local governments. It is to be noted that prior to the military intervention of 1966, in the operation of the Distributive Pool Account (the precursor to the Federation Account) there was evidence of a high level of revenue decentralization because regional governments were almost financially self-independent. Olowononi (1998:251) posits that A...regional governments were fiscally very powerful viz-a-vis the federal government. In fact the federal government played second fiddle to the regional government. This vertical arrangement changed with the advent of military rule, state creation and the civil war through the expansion of federal revenue sources.

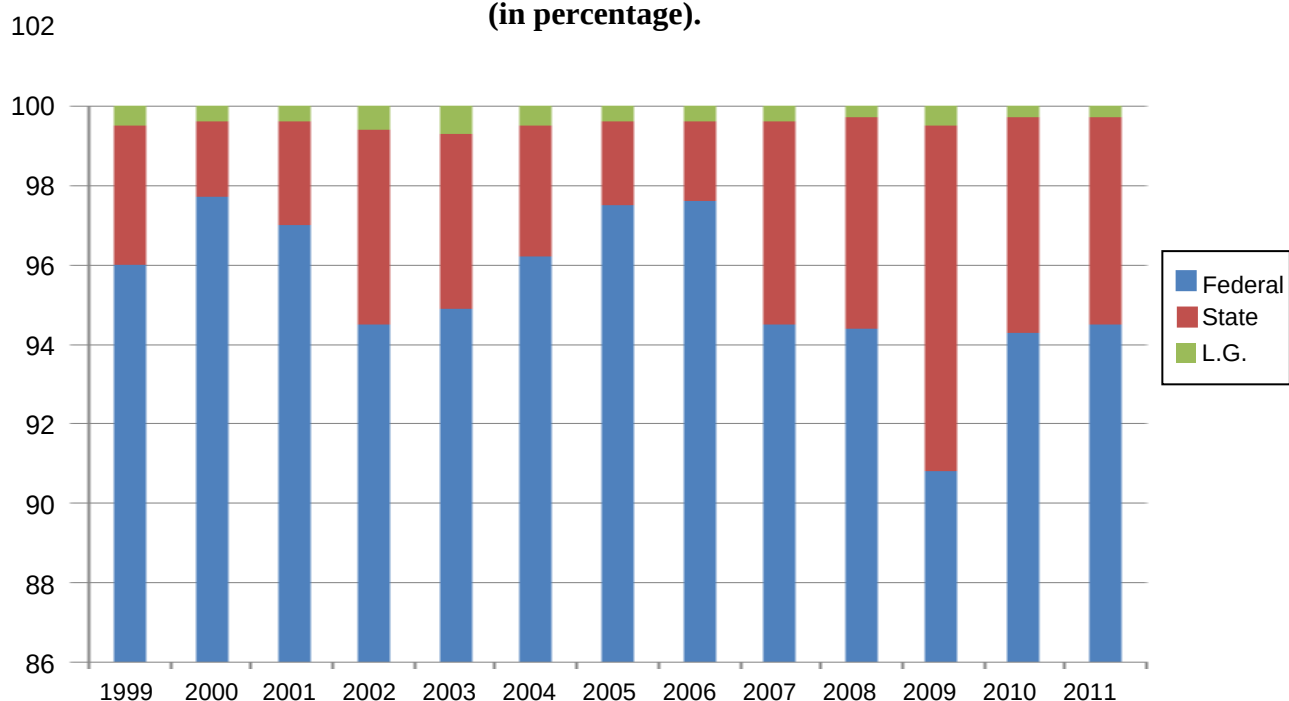
The reversal of role where the federal level had taken superior position in the sharing of revenue to the other levels was translated to the present democratic dispensation. As a result, there was the concentration of lucrative revenue sources at the federal level (see Tables XVI, XVII and XVIII). Figures V and VI which are translations of the data reflected in Table 5.4 highlight the total dominance of the federal government in revenue collection. Figure VII shows that the federal government

collected 95.4 percent of the total revenue collected by the various tiers of government between 1999 to 2011. Only 4.1 percent and 0.5 percent of the revenue (a mere pittance) were collected by the states and local government respectively.

**Figure V:**

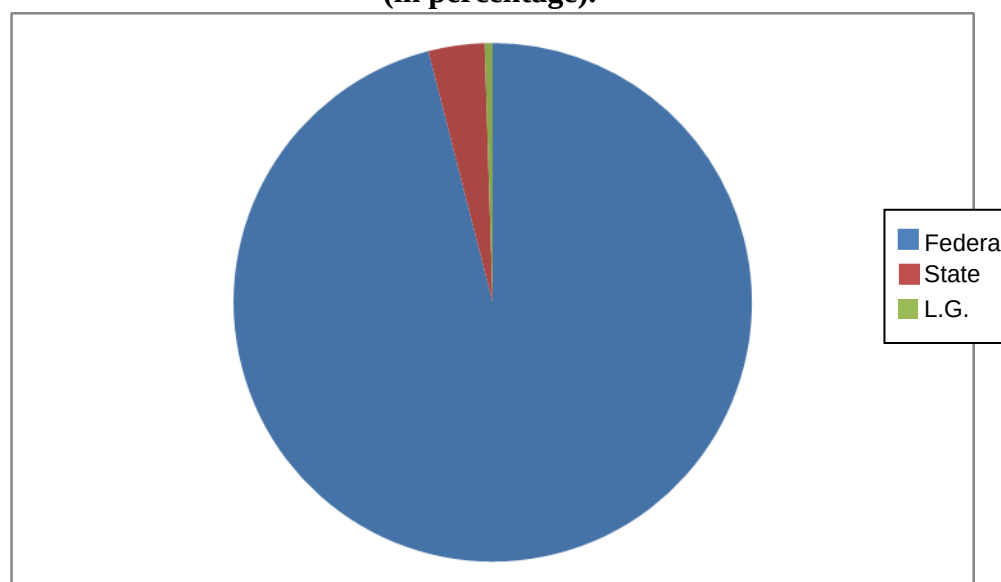
**Total Revenue Collected by the Various Tiers of Government 1999 B 2011**

**(in percentage).**



**Source:** Computed by the Researcher from CBN Annual Report and Statement of Account (1999 B 2011) Various Issues.

**Figure VI:**  
**Total Revenue Collected by the Various Tiers of Government 1999 B 2011**  
**(in percentage).**



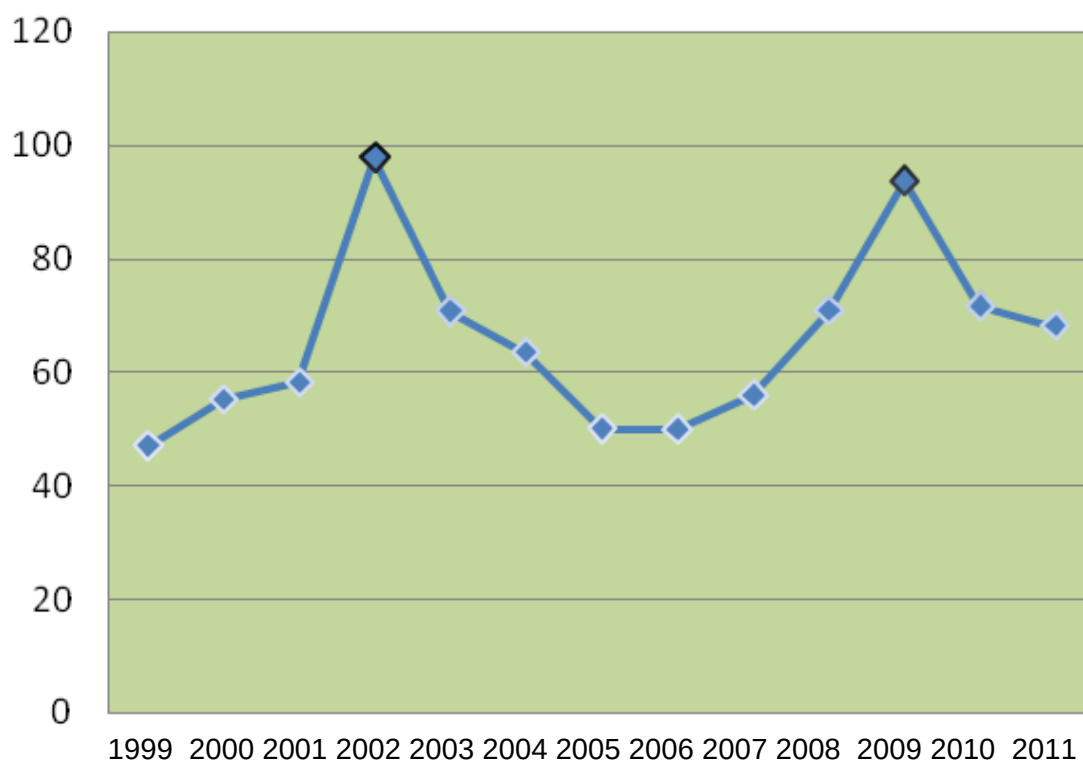
**Source:** Computed by the Researcher from CBN Annual Report and Statement of Account (1999 B 2011) Various Issues.

The concentration of lucrative taxes on the federal level according to Ekpo (2007: 103) might be due to administrative efficiency and/or fiscal independence, and this has left the other two levels of government with jurisdiction over poor yielding and minor revenue sources and has led to the non-correspondence problem in Nigeria's practice of fiscal federalism. To Jimoh (2003:9) the conclusion that could be reached is that while responsibilities for the administration and collection of major taxes would seem on the surface to approximate an optimal distribution, a closer look will reveal that the federal has clearly chosen the mix to ensure that the lion share of total Nigerian revenue is collected and retained by it.

The fiscal imbalance in both revenue generation by the tiers of government and the expenditure allocation is occasioned by the prevalence of fiscal centralism in Nigeria's fiscal federalism. Although the federal government was expected to be the administering body in the collection of these lucrative taxes on behalf of all the federating units (an agent as pointed out by the Supreme Court in the judgement in the suit between the Bendel State Government and the Federal Government in 1981), in practice, the federal government's disposition has always shown as if it has the final say on what is to be distributed and the method and parameters for the distribution of collected taxes. Unfortunately, the National Assembly being the eye and ear of the people and states in the government at the federal level has failed to act to correct this impunity and are unconcerned. They had rather decided to turn the other ear since they

are also beneficiaries of the executive lawlessness. In spite of the fact that the vertical revenue allocation formula gives the federal government preeminence in its percentage share (Table XXII), it also consistently under remits the revenue collected to the Federation Account (Table XXI) and Figure VII. This action is against the provisions of Section 162 (1) which specifically stated that All revenues collected by the Government of the Federation... except the personal income tax of personnel of some Ministries and Federal Capital Territory... shall be paid... into the Federation Account.@ Again, President Olusegun Obasanjo, in April 2002, through an executive order after the Supreme Court ruling of 5<sup>th</sup> April 2002, and hiding under the provision of Section 315 of the 1999 Constitution unilaterally altered the vertical revenue allocation formula. In the new decreed formula, the federal government appropriated the 7.5 percent earmarked as special funds in the pre-Supreme Court judgement revenue allocation formula to itself by raising the federal government share to 56 percent, leaving the states and local governments with their previous share.

**Figure VII:**  
**Percentage Allocation to Federation Account From the Federally Collected Revenue 1999 B 2011.**



**Source:** Computed by the Researcher from CBN Annual Report and Statement of Account (1999 B 2011) Various Issues.

As mentioned earlier, the federal government in regarding some revenue as its independent revenue under remit revenues that, normally, ought to be transferred to the

Federation Account. The octopoidal tendencies of the federal government according to Ekwueme (1997:1) was intensified with the promulgation of decrees strengthening its position in relation to the other tiers of government. The massive increase in revenue accruing to the federal government and the unilateral decreeing as to how it would be shared between it and the states eroded the financial autonomy of the states and enabled the federal government to go into areas exclusive to or shared concurrently with the states. The editorial comment of the *Nigerian Tribune* stated that the Value Added Tax (VAT), the Autonomous Foreign Exchange Market (AFEM) and the Petroleum Trust Fund (PTF) were public policy thrusts which underlined the federal government=s takeover of a larger chunk of the nation=s resources without respect for the revenue allocation formula (See, *Nigerian Tribune*, July 4, 1997:5). For instance, it was observed that profits made by the Central Bank of Nigeria in the course of its intervention in the AFEM was and is not being credited to the federation account. Also, proceeds from privatization and commercialization were not credited into the federation account by the federal government, but rather the federal government committed the proceeds to its own use (Olowononi, 1999:199). To him, what ought to be the independent revenue of the federal government should be confined to dividends and profits from its parastatals, debt recovery from the state governments and income tax as previously laid down.

Table 5.9 indicated the deductions that were unilaterally undertaken by the federal government from the total federally collected revenues between 1999 and 2011 before the balance were paid into the federation account. In 1999, 2000, 2001, 2002 and 2003, the deductions were ₦388.3bn, ₦734.1bn, ₦804.1bn, ₦125.7bn and ₦563.5bn respectively. For years 2004, 2005, 2006, 2007, 2008, 2009, 2010 and 2011, they were ₦1263.2bn, ₦2513.5bn, ₦2755.2bn, ₦1,849.1bn, ₦3313.8bn, ₦1244.5bn, ₦2519.26bn and ₦4958.5bn respectively. Also, table 5.12 presented a summary of total revenue inflow to the Federation Account and how it was shared among the three levels of government between 1999 and 2011. The data in the table showed that between 1999 and 2002 when the Supreme Court made some of the distributive sub-heads illegal, an allocation of ₦2.3bn, ₦5.3bn, ₦6.4bn and ₦7.5bn respectively was transferred to the stabilization fund. Again, in the same period, an allocation of ₦9.1bn, ₦21.0bn, ₦25.5bn and ₦2.67bn respectively was transferred to the Ecology Fund. Disbursement from both accounts through grants by the federal government was not done strictly in accordance with the

existing revenue allocation formula.

Also, the practice of dedicating the proceeds of crude oil lifting for priority projects= or first line charges deductions (declared illegal by the 2002 Supreme Court Judgement which included Joint Venture Capital (JVC), Nigerian National Petroleum Corporation (NNPC) priority projects, national priority projects and external debt service funds which were controlled by the federal government denied the federation account much of the revenue that accrued to it, and which could have been distributed among the levels of government. For example, as indicated in Table 5.9 between 1999 and 2002, an amount of ₦172.9bn, ₦197.5bn, ₦270.3bn and ₦46.2bn respectively were allocated to NNPC priority projects and external debt service. On external debt deductions, Ekwueme (1997:5) was of the view that since the federal government has exclusive responsibility under the constitution to legislate on and manage the public debt of the federation (item 50 on the exclusive legislative list), the government each year decides how much to set aside for external debt service and this is deducted as a first line charge. This in effect means that the states and local governments are actually bearing a proportionate share (in accordance with the revenue allocation formula) of the burden of Nigeria=s external debt servicing which may be totally unrelated to their actual share of the incurred debt. Also from Table 5.9, it could be seen that in spite of the Supreme Court Judgement, JVC cash calls were still being deducted. This could be explained within the perspective that there has to be investment before there could be returns and the JVC cash calls constituted the investment. The Federal Government also made some unexplained deductions under the heading of Others@ (Table XX). These deductions continued to increase on yearly basis and in 2011, a substantial amount of ₦816.4bn was deducted.

Although in the period of this study, there were excesses of crude oil receipts over the benchmark set by the government of the federation, this was usually ploughed back into the federation account until the creation of the Excess Crude Account (ECA) in 2004. Table XXIX presents the total inflow into the ECA between 2004 and 2011.

**Table XXIX:****Total Revenue Inflow into the Excess Crude Account Between 2004 and 2011****(₦ billion)**

| <b>Year</b>           | <b>2004</b> | <b>2005</b> | <b>2006</b> | <b>2007</b> | <b>2008</b> | <b>2009</b> | <b>2010</b> | <b>2011</b> | <b>Total</b> |
|-----------------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|--------------|
| Excess Crude Proceeds | 496.8       | 1057.5      | 1422.1      | 1168.5      | 1726.5      | 60.4        | 615.8       | 1226.2      | 7773.8       |

**Note:** The Excess Crude Account was created in 2004.

**Sources:** Computed by the Researcher from CBN Annual Report and Statement of Account (2004-2011) Various Years.

The creation of the Excess Crude Account (ECA) by the Federal Government in 2004 where all revenue from oil sales above the budgeted oil price is deposited was another way in which the Federation Account was underfunded to the detriment of the beneficiaries of the Federation Account. The ECA is another form of an oil fund with rigid rules for the operation of the resource based account on the expectation that removing the excess revenue from the budget will assist in the moderation and stabilization of expenditures and reduction of policy discretion. (Ossowski, Villafuerte and Medas, 2007:3). The creation of special dedicated accounts by the federal government was not new as the Excess Crude Account had as predecessors special purpose accounts such as Dedicated Account, Oil Windfall Account, Stabilization Account and Special Debt Account created during the military regimes. The funds for the Excess Crude Account were to be sourced from excess oil revenues which were above the oil price benchmark for the yearly budget (that is oil sales, petroleum profit tax and royalties).

The funds drawn from the ECA according to Alli (2009:9) were utilized by the Obasanjo's administration to fund special projects and debt servicing such as amount to offset Nigeria's debt to the Paris Club (US \$12.4bn), payment for two additional days for the 2006 National Population Census (US \$17.0bn) and Niger Delta Power Plants (US \$2.3bn). All these were done without the input or approval of the states and local governments. In response to the federal government unilateral action in the creation, control and operation of the ECA, some states in the federation filed a suit at the Supreme Court in 2008 asking for an affirmation that the Excess Crude Account is not legal. The states which were initially eleven but now twenty claimed that the Federal Government had unilaterally withdrawn 2.29 trillion naira from the ECA. As a result of this they demanded the refund of ₦1,963.35 billion to them. The claims of the states are as follows Bayelsa (₦300bn), Oyo (₦100bn), Niger (₦99.68bn), Edo (₦99.26bn), Benue (₦95.30bn), Abia (₦93.09bn), Ogun (₦84.07bn), Yobe (₦82.55bn), Osun (₦80.77bn),

Ekiti (₦74.31bn), Bauchi (₦28.52bn), Kaduna (₦108.3bn), Kogi (₦86.21bn), Plateau (₦86bn), Rivers (₦385.58bn), Ebonyi (₦74.73bn) and Taraba (₦84.98bn) (See, *The Nation*, November 3, 2012:1&4).

The flow of funds into the ECA was and is of major importance to the stakeholders, hence *The Nation* asserted that as at the time the suit was instituted on 5<sup>th</sup> May 2008, there was about 5.51 trillion naira in the Excess Crude Account. This made the states to accuse the federal government of not paying the excess funds from oil sales and royalties into the Federation Account in contravention of the provisions of Section 162 (1&3) of the 1999 Constitution and this amounted to an abuse of fiscal federalism. Also, to the states, the federal government has been deducting funds from the ECA without their consent (See, *The Nation*, November 3, 2012:4).

The extent of the federal government's abuse of the principles of fiscal federalism in the states' prayers at the Supreme Court are as follows:

The first is a declaration that the establishment and maintenance of the Excess Crude Account and the payment thereto of crude oil earnings and oil taxes (Petroleum Profit Tax and Royalties) in excess of the oil price benchmark set by the Government of the Federation (or the payment thereto of any crude oil earnings and the oil taxes) is illegal and unconstitutional. Secondly, the Government of the Federation is mandatorily obliged by the combined effect of Section 162(1) and (10) of the Constitution to pay sums accruing from the sale of crude oil and taxes (arising from a positive difference between market price and budget benchmark of crude oil) which it currently pays into the Excess Crude Account into the Federation Account. Thirdly, it is illegal and unconstitutional for the Government of the federation to unilaterally spend sums standing to the credit of the ECA to fund a major developmental projects (that is National Integrated Power Plants and Railway Modernization and Expansion Projects), equity contribution to the African Finance Corporation (AFC) or any projects however described.

Fourthly, an order directing the Federal Government to render account of monies illegally and unconstitutionally expended on account of the so-called a major developmental projects and a equity contribution to AFC. Fifthly, an order compelling the government of the federation to pay to the Federation Account US\$4.13 billion being monies thus far charged to the ECA in respect of the so-called a major developmental projects (that is National Integrated Power Plants (US \$3.4bn), Railway

Modernization and Expansion Project (US \$0.25billion) and Equity Contribution to the AFC (US \$0.48 billion). Sixthly, it is illegal and unconstitutional for the government of the federation to charge her debt service obligations under the Paris Club Debt Deal or any other debt repayment/service obligations against the sums standing to the credit of ECA. Seventh, an order compelling the federal government to pay to the Federation Account, the sum of US \$13 billion being monies thus far charged to the ECA in respect of debt repayment/service obligations of the government of the federation under the Paris Club Debt Deal and any other monies charged against the said account for any other debt repayment/service obligations.

Eight, an order that it is illegal and unconstitutional for the Government of the Federation to refuse/fail/neglect to distribute sums standing to the credit of ECA, which sums by law ought to accrue to the Federation Account as mandated by Section 162(1) of the Constitution of the Federal Republic of Nigeria 1999 and be distributed as mandated by Section 162 (2), (3), (4) and (5) of the said constitution. Lastly, a declaration that Section 35 (1), (2), (3), (5), (6), and (7) of the Fiscal Responsibility Act 2007 are ultra vires and or inconsistent with Section 162 (3), (4), (5), (6) and (8) of the Constitution of the Federal Republic of Nigeria 1999 and are, to that extent invalid, unconstitutional, null and void and of no effect (See, *The Nation*, November 3, 2012:59).

Although President Umaru Yar'Adua in 2008 opted for an out-of-court settlement and opened negotiation with the states concerned, the negotiation broke down because of irreconcilable differences between the two parties, and definite hearing began at the Supreme Court on 12<sup>th</sup> January 2009. The Federal Government again re-opened negotiations with the states in 2010 and this again broke down when the two parties informed the Supreme Court on 21<sup>st</sup> May 2012 that their reconciliation talks had collapsed again and they asked for a date for definite hearing of the matter (See, *The Nation*, January 12, 2009:2 and November 3, 2012:1).

It is also worth noting that the Accountant General of the Federation (an employee of the federal government) oversees the revenue input to the federation account. Therefore his/her loyalty will be to the employer which in this case is the federal government. The collecting agencies of the revenues are federal government agencies (NNPC, DPR, FIRS and NCS) and the funds are kept in the Central Bank of

Nigeria which is being controlled by the federal government. Again, it is the federal government that usually states the amount in the account that is to be shared. This lacuna might lead to an under-declaration of the amount to be distributed by all the tiers of government in the country. The reported under remittance of ₦450 billion by the NNPC into the Federation account is a clear example (See, *The Nation* November 4, 2011:4). Another example was the federal government unilateral approval granted to NCS and FIRS to retain and utilize 7 percent and 4 percent respectively of the total revenue collected by them. This concentration of fiscal powers by the federal government perhaps explains why Anya O. Anya exclaimed that

the insidious over-centralization of governance, resources mobilization and allocation in a plural and multi-ethnic society like Nigeria has trammled local initiatives and self-governance, undermined competition in economic transactions and aborted the will for entrepreneurship and innovation. It has enhanced corruption as a way of life. (See, *Punch*, November 17, 2003:17).

#### **6.4 Fiscal Dependency of States and Local Governments**

The theoretical exposition of fiscal federalism highlighted the need for the decentralization of financing and expenditure responsibilities of federal systems. Anyanwu (1999:120) defined decentralization as 'the transfer of functions, resources and authority to peripheral levels of government' which may take one of two forms that is administrative or fiscal. To Anyanwu (1999:120) administrative decentralization exists when most taxes are raised centrally, but funds are allocated to decentralized entities that carry out their spending activities as agents of the central government and act according to the guidelines or controls imposed by the central government, for example Italy. Fiscal decentralization on the other hand exists when sub-national governments have the power granted to them by the constitution or by particular laws to raise some taxes and carry out spending activities within clearly established legal criteria (Tanzi 1995:318). Tanzi cites the fiscal federations of Nigeria, United States of America, Australia, Canada, Brazil, Switzerland, Germany and India as examples of fiscal decentralization. To Tanzi (1995:319) the main economic justification for

decentralization rests largely on allocative or efficiency grounds, hence McLure (1995:318) argues that sub-national governments must have their own sources of revenue if true decentralization is to exist. It is within this purview that the 1999 Nigerian Constitution (as amended) recognizes a three tier structure and allots fiscal functions to each tier of government. The fiscal sources of states and local governments include statutory allocations, internally generated revenue, value added tax, and grants. With these sources, the architects of Nigeria=s federalism might obviously have felt that enough efforts had been made to ensure that the three tiers of government will be adequately funded especially with the provisions for independent sources. This has not been so as available data show that the independent revenue sources have performed poorly over the years of the study period. Appendix III, Tables XXVIII and XXX graphically illustrate this assertion.

In Appendix III, out of a total states current revenue of ₦20,867.2 billion for the entire study period, the state=s were only able to generate ₦3,197.0 billion, a mere 15.3 percent as internal revenue. Also Table XXVIII depict a situation where in 1999, 2000, 2001, 2002 and 2003, the states independent revenue receipts were 20.2 percent, 10.5 percent, 10.4 percent, 13.4 percent and 13.9 percent respectively. In the year 2004, 2005, 2006, 2007 and 2008, they were 12.0 percent, 8.6 percent, 8.1 percent and 15.0 percent. For the years 2009, 2010 and 2011, they were 17.8 percent, 24.0 percent and 14.9 percent respectively giving a mean percentage of 14.9 percent for the thirteen year period of the study. In comparing the proportion of the contribution of the federal and state governments to total current revenue, it is instructive to note that on the average, the total federally collected revenue accounted for 95.4 percent of the total collection in the study period (See Table XVIII).

**Table XXX:**  
**Internal Revenue Generation as Percentage of State=s Current Revenue:**  
**Selected Years**

| States      | Percentage Allocation |       |      |      |      |      |
|-------------|-----------------------|-------|------|------|------|------|
|             | 2001                  | 2003  | 2007 | 2008 | 2010 | 2011 |
| Abia        | 14.4                  | 4.7   | 5.9  | 10.5 | 18.5 | 37.1 |
| Adamawa     | 4.7                   | 4.4   | 5.0  | 5.0  | 6.6  | 10.7 |
| Akwa-Ibom   | 3.7                   | 9.8   | 4.6  | 4.6  | 5.7  | 4.7  |
| Anambra     | 5.5                   | 14.2  | 14.8 | 13.0 | 7.6  | 6.6  |
| Bauchi      | 7.5                   | 4.7   | 3.6  | 2.9  | 2.8  | 7.0  |
| Bayelsa     | 1.4                   | 1.3   | 3.8  | 5.6  | 3.0  | 2.2  |
| Benue       | 12.4                  | 3.9   | 8.1  | 4.1  | 15.3 | 12.3 |
| Borno       | 5.3                   | 4.2   | 3.8  | 19.4 | 4.3  | 3.3  |
| Cross-River | 6.3                   | 6.8   | 14.1 | 8.5  | 15.6 | 12.2 |
| Delta       | 15.8                  | 9.5   | 11.4 | 9.5  | 8.7  | 6.6  |
| Ebonyi      | 1.5                   | 1.8   | 4.0  | 5.8  | 6.0  | 4.6  |
| Edo         | 2.5                   | 8.8   | 12.1 | 10.5 | 19.5 | 22.0 |
| Ekiti       | 2.8                   | 3.2   | 6.0  | 9.3  | 7.0  | 8.3  |
| Enugu       | 19.0                  | 9.5   | 6.9  | 7.4  | 9.9  | 7.7  |
| Gombe       | 5.0                   | 10.3  | 10.4 | 11.1 | 18.7 | 11.7 |
| Imo         | 6.8                   | 10.6  | 8.2  | 9.5  | 9.8  | 9.0  |
| Jigawa      | 9.8                   | 2.2   | N.A. | 15.6 | 4.4  | 3.5  |
| Kaduna      | 11.1                  | 22.9  | 7.7  | 15.3 | 15.4 | 15.2 |
| Kano        | 17.2                  | 6.8   | 10.3 | 11.4 | 16.1 | 14.4 |
| Katsina     | 8.4                   | 6.0   | 3.0  | 4.4  | 6.2  | 4.8  |
| Kebbi       | 2.2                   | 4.0   | 14.0 | 9.4  | 8.8  | 6.4  |
| Kogi        | 5.5                   | 11.0  | 13.4 | 14.7 | 7.3  | 24.2 |
| Kwara       | 12.1                  | 14.92 | 9.2  | 13.0 | 21.6 | 19.4 |
| Lagos       | 41.8                  | 64.3  | 51.2 | 63.8 | 60.7 | 54.9 |
| Nassarawa   | 7.8                   | 6.7   | 16   | 6.4  | 6.6  | 10.8 |
| Niger       | 0.5                   | 3.8   | 24.6 | 9.6  | 5.8  | 5.1  |
| Ogun        | 13.1                  | 16.2  | 11.5 | 27.5 | 21.1 | 28.7 |

|         |      |      |      |      |      |      |
|---------|------|------|------|------|------|------|
| Ondo    | 4.9  | 10.1 | 3.3  | 16.4 | 5.5  | 8.7  |
| Osun    | 15.0 | 14.4 | 14.8 | 22.1 | 12.7 | 19.8 |
| Oyo     | 11.5 | 17.7 | 14.0 | 20.0 | 19.1 | 17.0 |
| Plateau | 5.6  | 19.2 | 7.6  | 7.1  | 8.3  | 7.8  |
| Rivers  | 11.2 | 12.0 | 10.6 | 10.1 | 21.7 | 20.0 |
| Sokoto  | 8.0  | 8.9  | 19.4 | 46.7 | 6.3  | 5.0  |
| Taraba  | 3.0  | 3.4  | 8.4  | 2.3  | 7.0  | 4.5  |
| Yobe    | 2.6  | 3.2  | 2.4  | 2.4  | 4.5  | 4.4  |
| Zamfara | 8.8  | 10.1 | 14.5 | 7.9  | 4.1  | 17.3 |
| FCT     | 6.2  | NA   | 17.5 | NA   | 16.5 | 10.0 |

**Note:** Data is available for only the years highlighted.

**Source:** Computed by the Researcher from CBN Annual Report and Statement of Account (2004-2011) Various Years.

Table XXXI shows the state by state analysis of the percentage distribution of statutory allocation to their total revenue for the years 2001, 2003, 2007, 2008, 2010 and 2011. From the table, it is only Lagos State whose internally generated effort was more than the statutory allocation for the years under reference as the percentage statutory allocation constituted only 39.3 percent, 20.4 percent, 12.9 percent, 21.9 percent, 19.8 percent and 23.3 percent respectively with a mean average of 23 percent. On the other side of the ladder is Bayelsa State with the percentage statutory allocation contribution of 94.9 percent, 91.1 percent, 92.9 percent, 91.2 percent, 88.3 percent and 93.1 percent respectively with a mean average percentage of 91.9 percent.

The seriousness of the internal revenue situation is underscored by the fact that in the years where data was available from the CBN, that is 2001, 2003, 2007, 2008, 2010 and 2011, out of all the states, it was only Lagos State that was able to raise its internal revenue effort to 41.8 percent, 64.3 percent, 51.2 percent, 63.8 percent, 60.7 percent and 54.9 percent respectively giving a mean percentage of 55.6 percent for the six years. The lowest state in internal revenue effort was Bayelsa State which was able to raise 1.4 percent, 1.3 percent, 3.8 percent, 5.6 percent, 3.0 percent and 2.2 percent respectively for 2001, 2003, 2007, 2008, 2010 and 2011. The mean percentage for the period is 2.9 percent (See Table 6.2). Lagos State was able to beef up its internally generated revenue through a policy of fundamental re-orientation of the citizenry on the need to see payment of tax as a civic duty aimed at ensuring the provision of basic necessities for the populace, coupled with an aggressive revenue drive by the democratic government.

**Table XXXI:**  
**Percentage Distribution of Statutory Allocation to Total Revenue in**  
**Nigeria (Selected Years)**

| States      | Percentage Allocation |      |      |      |      |      |
|-------------|-----------------------|------|------|------|------|------|
|             | 2001                  | 2003 | 2007 | 2008 | 2010 | 2011 |
| Abia        | 57.9                  | 73.5 | 60.2 | 76.0 | 71.0 | 55.2 |
| Adamawa     | 75.4                  | 73.9 | 84.7 | 79.8 | 53.2 | 72.3 |
| Akwa-Ibom   | 94.1                  | 76.8 | 72.6 | 93.1 | 90.7 | 91.5 |
| Anambra     | 83.1                  | 66.9 | 64.1 | 70.1 | 53.4 | 62.2 |
| Bauchi      | 94.9                  | 91.1 | 92.9 | 91.2 | 88.3 | 93.1 |
| Bayelsa     | 78.2                  | 77.2 | 78.1 | 50.0 | 48.9 | 81.2 |
| Benue       | 80.2                  | 77.3 | 75.8 | 54.8 | 66.8 | 71.0 |
| Borno       | 69.8                  | 67.3 | 86.1 | 72.5 | 82.5 | 85.0 |
| Cross-River | 62.0                  | 71.2 | 65.2 | 69.3 | 72.1 | 77.4 |
| Delta       | 65.3                  | 78.7 | 84.8 | 87.2 | 87.2 | 89.4 |
| Ebonyi      | 69.0                  | 58.6 | 84.6 | 77.6 | 79.2 | 81.6 |
| Edo         | 86.6                  | 69.0 | 52.7 | 83.6 | 61.5 | 69.3 |
| Ekiti       | 85.7                  | 73.9 | 79.9 | 77.3 | 72.3 | 77.4 |
| Enugu       | 69.0                  | 53.6 | 81.4 | 78.9 | 76.2 | 79.5 |
| Gombe       | 64.8                  | 58.9 | 66.5 | 53.2 | 58.8 | 62.4 |
| Imo         | 60.4                  | 75.7 | 83.1 | 76.7 | 78.5 | 80.0 |
| Jigawa      | 80.8                  | 62.3 | NA   | 48.7 | 67.8 | 74.1 |
| Kaduna      | 66.2                  | 43.6 | 40.0 | 72.7 | 70.4 | 73.1 |
| Kano        | 50.6                  | 39.3 | 76.5 | 67.2 | 69.9 | 72.7 |
| Katsina     | 77.1                  | 69.8 | 59.2 | 83.9 | 78.4 | 80.7 |
| Kebbi       | 90.0                  | 75.5 | 66.6 | 75.7 | 77.6 | 81.5 |
| Kogi        | 84.7                  | 62.2 | 77.2 | 75.8 | 74.4 | 65.5 |
| Kwara       | 59.4                  | 67.9 | 79.2 | 69.3 | 58.6 | 67.7 |
| Lagos       | 39.3                  | 20.4 | 12.9 | 21.9 | 19.8 | 23.8 |
| Nassarawa   | 57.8                  | 72.4 | 85.9 | 80.1 | 79.5 | 77.6 |
| Niger       | 85.5                  | 76.9 | 67.8 | 67.4 | 73.3 | 83.5 |
| Ogun        | 48.3                  | 64.1 | 77.5 | 60.3 | 61.6 | 56.5 |
| Ondo        | 65.6                  | 49.5 | 63.8 | 60.2 | 85.8 | 87.3 |
| Osun        | 62.6                  | 72.9 | 74.6 | 68.5 | 73.2 | 68.9 |
| Oyo         | 77.7                  | 65.4 | 67.4 | 66.7 | 63.0 | 66.2 |
| Plateau     | 62.9                  | 62.2 | 81.5 | 82.5 | 75.8 | 69.4 |
| Rivers      | 82.6                  | 57.2 | 86.4 | 78.0 | 67.1 | 76.5 |
| Sokoto      | 76.3                  | 73.5 | 65.2 | 47.1 | 71.3 | 75.4 |
| Taraba      | 64.5                  | 75.1 | 81.9 | 61.0 | 70.1 | 80.5 |
| Yobe        | 64.1                  | 68.9 | 82.3 | 86.4 | 82.3 | 84.1 |
| Zamfara     | 74.2                  | 74.4 | 74.5 | 81.8 | 47.0 | 72.0 |
| FCT         | 90.6                  | NA   | 75.7 | 76.6 | 75.0 | 58.8 |

**Sources:** Computed by the Researcher from CBN Annual Report and Statement of Account (2004B2011) Various Years.

It has been expressed earlier that the take-over of important taxes that were previously controlled by the regional/state governments has led to a situation where these incursion into the state tax right has resulted in their being financially dependent on federally collected revenue. The revision of the fiscal powers of the state governments viz-a-viz federal government began with the creation of twelve states in 1967, which were increased to nineteen in 1976, twenty-one in 1987, thirty in 1991 and thirty-six in 1996. The effect was that as more states were created, there was a corresponding reduction in the tax base of these states. Olowononi (1998:234) alluded that notwithstanding the expanding federal tax base at the detriment of the states tax base, other constraints which impeded the raising of more internal revenue within the states also contributed significantly to their existing predicament. For example the federal government either took over or controlled important taxes previously controlled by the regional/state governments. For instance, the marketing boards were taken over and later abolished and their export duties which accrued to the states were abolished. The produce sales tax which was another variable source of funds to the states was abolished. Also, the personal income tax, the largest tax that the states had come under the control of the federal government since 1975. The result is that not only have the rates been made uniform all over the country, there has also been continuous reduction since 1986 to cushion the effects of economic adjustment programmes. This assertion was corroborated by Abdulkareem (2010), Adeniyi (2011) and Ndagi (2011). They asserted that states would have been able to improve on their internally generated revenue if they were given the free hand to fix the rates for the personal income tax. Although other taxes according to Amodu (2010) and Abdullahi (2011) (for example levies on transportation of timber in and out of the state) could be levied, what could be realized dependent on the developmental level of each state and the ingenuity of each state administration.

The internal revenue sources for the states were highlighted in Table XVII. The funds generated from these tax sources were low because they are minor and poor yielding since the 1999 Constitution specifies in the concurrent list, the statutory responsibilities of the states. In view of the fact that the funds generated from internal sources could not meet up with the implementation of the responsibilities specified in the concurrent list, the states had no other option than to depend on statutory allocation or external sources (federation account, value added tax, excess crude account, grants and transfers internal and external loans) for the attainment of the responsibilities placed upon them. Table XXXII depicts the financial position of state governments including the federal capital territory. With the exception of 1999 when there was a budget surplus, in the remaining years of this study, that is 2000 to 2011, there were budget deficit. The implication of this is that there is a slide into financial crisis as a result of the

precarious financial situation that the states found themselves in.

**Table XXXII:**  
**Financial Position of State Governments including the Federal Capital Territory (x billion)**

| Sources                          | 1999  | 2000  | 2001   | 2002   | 2003   | 2004   | 2005   | 2006   | 2007   | 2008   | 2009    | 2010    | 2011    |
|----------------------------------|-------|-------|--------|--------|--------|--------|--------|--------|--------|--------|---------|---------|---------|
| Current Revenue                  | 169.0 | 359.1 | 573.5  | 669.2  | 855.0  | 1113.9 | 1419.6 | 1543.8 | 2065.4 | 2934.8 | 2590.7  | 3162.5  | 3410.1  |
| Recurrent Expenditure            | 102.7 | 196.8 | 294.7  | 424.2  | 545.3  | 556.8  | 789.1  | 894.3  | 1217.4 | 1505.6 | 1426.1  | 1648.4  | 2055.8  |
| Current Surplus (+)/ Deficit (B) | 66.3  | 162.3 | 278.8  | 245.6  | 309.7  | 557.1  | 630.5  | 649.4  | 848.0  | 1429.2 | 1164.6  | 1514.1  | 1354.4  |
| Capital Expenditure              | 60.4  | 158.9 | 235.2  | 283.5  | 324.0  | 412.9  | 514.7  | 584.0  | 854.8  | 1455.9 | 1284.2  | 1522.4  | 1375.2  |
| Extra Budgetary Expenditure      | 4.8   | 4.0   | 67.0   | 16.9   | 51.8   | 155.3  | 174.7  | 108.5  | 43.9   | 60.3   | 66.7    | 985.4   | 111.0   |
| Total Expenditure                | 167.9 | 359.7 | 597.0  | 724.5  | 921.2  | 1125.1 | 1478.6 | 1586.8 | 2116.1 | 3021.6 | 2776.9  | 3266.2  | 3542.0  |
| Overall Surplus (+)/ Deficit (B) | 1.1   | (0.6) | (23.4) | (54.7) | (66.2) | (11.1) | (58.9) | (43.0) | (50.7) | (86.8) | (186.2) | (103.7) | (131.9) |

**Sources:** Computed by the Researcher from CBN Annual Report and Statement of Account (2004B2011) Various Years.

Table XXXIII illustrates the problem of horizontal imbalance among the states and the federal capital territory in 2011. While some states (Akwa Ibom, Anambra, Bayelsa, Borno, Cross River, Edo, Enugu, Katsina, Niger, Ondo, Oyo, Rivers, Sokoto, Taraba, Zamfara and FCT) had more than enough revenues to meet their expenditure responsibilities for that year, the remaining states had varying degrees of shortfalls reaching 27.9 percent in Kwara, 25.7 percent in Kebbi, 24.9 percent in Ebonyi and 22.4 percent in Adamawa.

The effect of the financial incapability of the states is that most of them are getting to near insolvency. In view of the weak status of the private sector in most states and their inability to generate economic growth and the required jobs, the states and local governments are faced with the burden of being the largest employers of labour with the resultant fiscal imbalance. Hence, the bulk of the financial resources of these states are directed to the payment of wages to workers who constitute less than four percent of the total population of the states. For instance Kano spent 127 percent, Sokoto 62 percent, Niger 56 percent, Zamfara 54 percent, Katsina 50 percent and Osun 50 percent of their gross annual revenue on civil service personnel. A recent Senate

resolution called for emergency aid to some states that are financially distressed. The resolution categorized Kano, Sokoto, Niger, Zamfara, Katsina and Osun as distressed. Ekiti, Plateau, Benue, Edo, Borno, Adamawa, Cross River, Enugu, Taraba, Ogun, Kogi, Yobe, Ebonyi, Ondo and Kaduna as being in critical conditions and Bauchi, Bayelsa, Nasarawa, Gombe, Rivers and Oyo as being unhealthy. The tolerable ones are Imo, Kwara, Lagos, Kebbi and Delta while Abia, Akwa Ibom, Anambra and Jigawa were seen as the healthy ones. (See, *Nigerian Tribune*, June 6, 2013:41).

To stay afloat, the states rushed to the banks for short-term loans, the capital market for long-term bonds and external loans. A report by the RMAFC quoting the Debt Management Office (DMO) stated that the states and Federal Capital Territory were suffocating under an external debt stock of US\$2165 billion as at 31<sup>st</sup> December, 2011 (See Table XXXIV). To offset all these debts (internal and external) many of the states had no option than to collateralised a large percentage of their monthly receipts from the central allocation to service these debts. The implication of this will affect the ability of the states in meeting their minimum basic obligations to the populace.

For the local governments, the most severe problem that they are facing were fiscal deficiency. According to Akindele and Olaopa (2002:3) and Ayandele (2010) this problem had been the effect of a number of factors, amongst which were over dependence on statutory allocations from both the federal government and state, creation of non-viable local government areas, differences in the states of local governments in terms of rural - urban dimension deliberate tax evasion by the local citizenry, and inadequate revenue and restricted fiscal jurisdiction. Although there was the expectation that their internal revenue sources will complement federal and state allocations, the financial situation of this tier of government did not differ from its states= counterparts. The independent revenue sources for the local governments are itemized in Tables XVI and XVII. The amount of funds being generated from these sources is low. For instance, the data in Appendix IV shows that in 1999, 2000, 2001, 2002 and 2003, the percentage contribution of internal revenue to the current revenue of local government is 7.7, 4.7, 3.5, 6.0 and 5.5. For the years 2004, 2005, 2006, 2007 and 2008, it is 4.8, 4.9, 3.4, 2.6 and 1.7. Years 2009, 2010 and 2011 gives a figure of 2.4, 1.9 and 1.7. This gives a mean percentage of 3.9 for the entire study period.

**Table XXXIII:****Nigerian States: Horizontal Fiscal Imbalance B 2011 (x billion)**

| <b>States</b> | <b>Total Revenue</b> | <b>Total Expenditure</b> | <b>Revenue Expenditure Ratio %</b> | <b>Shortfall</b> |
|---------------|----------------------|--------------------------|------------------------------------|------------------|
| Abia          | 84.1                 | 89.5                     | 94                                 | 6                |
| Adamawa       | 61.7                 | 79.5                     | 77.6                               | 22.4             |
| Akwa-Ibom     | 256.2                | 239.1                    | 107.2                              | (7.2)            |
| Anambra       | 72.4                 | 60.2                     | 120.3                              | (20.3)           |
| Bauchi        | 64.4                 | 79.7                     | 80.8                               | 19.2             |
| Bayelsa       | 196.9                | 184.1                    | 107                                | (7)              |
| Benue         | 67.3                 | 73.3                     | 91.8                               | 8.2              |
| Borno         | 62.7                 | 59.7                     | 105                                | (5)              |
| Cross River   | 62.5                 | 61.9                     | 101                                | (1)              |
| Delta         | 235.7                | 243.9                    | 96.6                               | 3.4              |
| Ebonyi        | 45.2                 | 60.2                     | 75.1                               | 24.9             |
| Edo           | 82.3                 | 72.4                     | 113.7                              | (13.7)           |
| Ekiti         | 48.2                 | 7.2                      | 62.4                               | 37.6             |
| Enugu         | 53.1                 | 50.3                     | 105.6                              | (5.6)            |
| Gombe         | 64.1                 | 82.0                     | 78.2                               | 21.8             |
| Imo           | 67.6                 | 91.0                     | 74.3                               | 25.7             |
| Jigawa        | 66.5                 | 72.8                     | 91.3                               | 8.7              |
| Kaduna        | 77.0                 | 82.7                     | 93.1                               | 6.9              |
| Kano          | 97.0                 | 98.8                     | 98.2                               | 1.8              |
| Katsina       | 66.4                 | 66.3                     | 100.2                              | (0.2)            |
| Kebbi         | 55.1                 | 74.2                     | 74.3                               | 25.7             |
| Kogi          | 68.2                 | 82.7                     | 82.5                               | 17.5             |
| Kwara         | 60.4                 | 83.8                     | 72.1                               | 27.9             |
| Lagos         | 267.9                | 285.1                    | 94.0                               | 6.0              |
| Nassarawa     | 49.2                 | 49.9                     | 98.6                               | 1.4              |

| States  | Total Revenue | Total Expenditure | Revenue Expenditure Ratio % | Shortfall |
|---------|---------------|-------------------|-----------------------------|-----------|
| Niger   | 62.6          | 57.2              | 109.4                       | (9.4)     |
| Ogun    | 77.4          | 88.3              | 87.7                        | 12.3      |
| Ondo    | 83.2          | 75.5              | 110.2                       | (10.2)    |
| Osun    | 60.1          | 62.0              | 96.9                        | 3.1       |
| Oyo     | 78.7          | 76.2              | 103.3                       | (3.3)     |
| Plateau | 63.1          | 73.9              | 85.4                        | 14.6      |
| Rivers  | 314.7         | 289.6             | 108.7                       | (8.7)     |
| Sokoto  | 61.7          | 59.4              | 103.9                       | (3.9)     |
| Taraba  | 55.5          | 47.2              | 117.6                       | (17.6)    |
| Yobe    | 52.2          | 57.9              | 90.2                        | 9.8       |
| Zamfara | 61.1          | 55.1              | 110.9                       | (10.9)    |
| FCT     | 103.8         | 97.2              | 106.8                       | (6.8)     |

**Source:** Computed by the Researcher from CBN Annual Report and Statement of Account (2004B2011) Various Years.

**Table XXXIV:**

**States and FCT External Debt Profile as at 31<sup>st</sup> December 2011 (in US \$ million)**

| State       | Debt Profile | State   | Debt Profile | State     | Debt Profile |
|-------------|--------------|---------|--------------|-----------|--------------|
| Abia        | 34.048       | Ekiti   | 36.201       | Nassarawa | 41.35        |
| Adamawa     | 29.45        | Enugu   | 41.66        | Niger     | 27.438       |
| Akwa Ibom   | 70.56        | Gombe   | 27.96        | Ogun      | 91.902       |
| Anambra     | 23.722       | Imo     | 52.32        | Ondo      | 60.794       |
| Bauchi      | 58.8         | Jigawa  | 29.120       | Osun      | 65.332       |
| Bayelsa     | 28.77        | Kaduna  | 175.433      | Oyo       | 93.990       |
| Benue       | 25.016       | Kano    | 63.94        | Plateau   | 26.974       |
| Borno       | 14.036       | Katsina | 78.75        | Rivers    | 36.501       |
| Cross River | 124.022      | Kebbi   | 51.644       | Sokoto    | 41.206       |
| Delta       | 17.63        | Kogi    | 36.203       | Taraba    | 21.111       |
| Ebonyi      | 42.149       | Kwara   | 48.557       | Yobe      | 31.690       |
| Edo         | 46.92        | Lagos   | 460.742      | Zamfara   | 27.186       |
|             |              |         |              | FCT       | 37.664       |

**Source:** Oderemi, K. (2013). "New States: Dead on arrival?" in *The Nation Newspaper*. Lagos, 4<sup>th</sup> July.

A major reason that could be adduced for this dismal picture is the inadequacy

of the tax-raising powers of the local governments as it relates to coverage and non-buoyancy of those taxes that fall under the jurisdiction of local governments. Again from Table XVII it could be seen that only three tax heads fall under their legal and administrative jurisdiction, and these are licence fees on television and wireless radio, property taxes and rating and market and trading license and fees. It is interesting to note that although property taxes and rating is universally considered a local tax, in reality, it is under the legal jurisdiction of the state as the 1999 constitution in item j of the Fourth Schedule provides that tenement rates or private property can be assessed by the local governments but the levying of the rates will have to be prescribed by the State House of Assembly. Therefore, in practice, to Olawoyin (2012), market and trading licence and fees is the only tax source that is being exploited by the local governments. Even the ability to assess and raise revenue on property rates and rating is highly dependent on the character of the local governments (i.e. whether cosmopolitan or rural).

The implication of the inability to raise substantial funds from their internal sources is that they are heavily dependent on external financial sources (i.e. federation account, value added tax, grants, state allocation etc). They are therefore beneficiaries from the federation account where at present, they receive 20 percent of the distributive funds. Also they are statutorily entitled to 10 percent of states internally generated revenue and 35 percent of the VAT proceeds. The predilection of the practise of fiscal federalism in Nigeria to swing towards a higher degree of decentralization of expenditure at the detriment of decentralization of revenue has led to a situation of a high divergence between the functional obligations of local governments and the sources of revenue. The effect of this on the local governments is a lack of symmetry which has led to the problems of vertical fiscal imbalance.

Table XXXV illustrates the financial position of local governments. A careful look at the Table reveals that although with the exception of year 2000 where there was budget deficit, all the other years show a budget surplus. This situation masks the real situation. An appraisal of the table indicates that the bulk of the revenue were appropriated for recurrent expenditure rather than capital expenditure. The implication of this is that this will affect the efficient allocation of resources for the provision of local public goods and services and thereby negate the aspirations of the people.

#### **Table XXXV:**

### Financial Position of Local Governments (₦ billion)

| Sources                             | 1999 | 2000   | 2001  | 2002  | 2003  | 2004  | 2005  | 2006  | 2007  | 2008    | 2009   | 2010    | 2011    |
|-------------------------------------|------|--------|-------|-------|-------|-------|-------|-------|-------|---------|--------|---------|---------|
| Current Revenue                     | 60.8 | 151.9  | 171.5 | 172.2 | 370.2 | 468.3 | 597.2 | 674.3 | 832.3 | 1,387.9 | 1069.4 | 1359.2  | 1603.8  |
| Recurrent Expenditure               | 41.6 | 93.9   | 122.7 | 124.7 | 211.6 | 295.7 | 374.5 | 398.2 | 683.6 | 1140.1  | 704.6  | 823.7   | 1,179.4 |
| Current Surplus (+)/<br>Deficit (₦) | 19.2 | 58.0   | 48.8  | 47.4  | 158.5 | 172.6 | 222.7 | 276.1 | 148.7 | 247.8   | 364.8  | 535.5   | 423.6   |
| Capital Expenditure                 | 18.8 | 60.0   | 48.7  | 45.1  | 150.1 | 165.4 | 213.5 | 267.7 | 143.8 | 247.8   | 363.0  | 533.0   | 421.8   |
| Total Expenditure                   | 60.4 | 153.9  | 171.4 | 169.8 | 361.7 | 461.1 | 588.0 | 665.8 | 827.4 | 1387.9  | 1067.6 | 1,356.7 | 1601.2  |
| Overall Surplus (+)/<br>Deficit (₦) | 0.36 | (-2.0) | 0.14  | 2.3   | 8.5   | 7.2   | 9.2   | 8.4   | 4.9   | (0.03)  | 1.8    | 2.5     | 2.6     |

**Source:** Computed by the Researcher from CBN Annual Report and Statement of Account (2004-2011) Various Years.

There is a wide gap between the need of the local government and their fiscal capacity. While there is evidence of the application of prevailing percentage for the allocation of statutory allocation and VAT, variations do exist in the pattern of state allocation of 10 percent of their internally generated revenue to local governments. The reasons for this according to Ekpo (1999:245) quoting Ekpo and Ndebbio (1998) were (i) some states refused to fulfil their mandate, claiming that they implemented various projects at the local government level (a type of statutory allocation in kind); (ii) States insisted that the decline in revenue from the federation account resulted in their inability to honour their statutory obligations; and (iii) Others claimed to be penalizing local governments that performed unsatisfactorily, based upon previous state allocations.

It is also worth noting here that instead of direct allocation of revenue from the federation account which was in operation in the twilight of the military administration, the 1999 Constitution vide Section 162(5) provided for the channeling of the local government share of the federation account through the states for the benefit of their local governments. The mechanism through which this is being implemented is the

maintenance of a special account called the State Joint Local Government Account where all monies due to local governments in a state are paid into. In the course of the transfer of the proceeds from the State Joint Local Government Account to the beneficiary local governments as attested to by Ajimoti (2010) and Bamidele (2011) problems due arise as a result of the reluctance of the state governments in remitting all the amount due to local governments to them, by hiding under various excuses.

The hijack of statutory local government funds by states has, in most cases, being the cause for the inability of local officials to execute development projects in their jurisdictions among others. This scenario usually leads to crisis of confidence between some local government chairmen and their state governments. For instance, 15 local government councils of Sokoto State took the Sokoto State Government to court on the legality of the deduction of 3 percent of the local governments statutory allocation to fund the Sokoto Emirate Council as passed by the State House of Assembly. The local governments won, and the State Government was prohibited from deducting the 3 percent (See, *Vanguard*, August 23, 1999:1).

In view of the fact that majority of Nigerians still reside in the rural areas, the local governments are the closest to them. At present, the share of its total public expenditure is too meagre to bring any meaningful transformation of the rural areas. The implication is that a majority of this level of government does not have adequate funding to perform its responsibilities. Therefore, it is not a surprise that most grassroots communities are so underdeveloped that Olaniyi (1999: 282) asserted that 40 percent of them do not have any sizeable community that can be called developed. Coupled with this problem is the inability of the local governments to attract and retain the right calibre of staff to articulate plans and execute programmes and projects in order to transform the lives of the grassroots people within the shortest period.

A major fallout of the differentials in the tax capacity is the variations that will occur in the pattern of adjustment of activities in the various states and local governments. It is certain that developmental activities will occur in wealthy areas than the poor ones. Therefore, for states and local governments to be financially healthy, their revenue sources and taxing power must match their responsibilities and functions. This will avail them the ability to generate enough funds internally.

## **6.5 Control of Natural Resources and the Stability of the Federal System**

Federal systems all over the world grapple with the problem of the proper management of the natural resources within their territory. The reason for this, to Ojo (2011:87), is that there is a big challenge as federal countries are known to face asymmetric relationship in terms of natural endowment. Ojo noted further that, federal states in virtually all regions and climes of the world are not equally endowed by nature. Revenues from natural resources vary from dominant to negligible in many federations and there are many ways in which it could be collected. In those federations where they are significant, the important issue is usually the control and the distribution of the revenue between the government at the centre, producing and non-producing areas and the revenues could either be highly decentralized or centralized. The issue of natural resource revenue sharing has been a major attribute of federations all over the world and Anderson (2010), Ayoade (2011) and Onimode (2000) provided a detailed comparative analysis of natural resource revenue sharing in some of these federations. This comparative analysis will draw extensively from their exposition.

To Anderson (2010:42) natural resources are very different from those from other sources because they can be so variable among federations as well as among constituent units within the federations. Ojo (2011:86B87) highlights the centrality of oil and virtually all other natural resources to the survival of any state that is endowed with it. What is common about all these resources is that their extraction costs are usually a small fraction of their market value, hence what is known as a >resource rent= (that is the extra margin of value beyond nominal returns) is available for the resource owner or governments to extract and distribute. For federations such as Nigeria, Russia and Venezuela, revenues from the oil resources are dominant or are the largest sources of public receipts. They are also very important in Australia, Brazil, Canada, Malaysia and Mexico, and very critical in emerging federations of Iraq and Sudan. Although they are not of major significance in federations such as Argentina, India, and the United States, the revenues from this natural resource nonetheless are important for some constituent units (Anderson, 2010:42; Ayoade, 2011:22).

In terms of control of the resources, the practice among the federations vary. Those federations with old constitutions like Canada, Australia and the United States give control of natural resources and revenues predominantly to the constituent units although the United States controls extensive petroleum rich Afederal lands@ within some states. Those federations with modern constitutions like Russia and Nigeria give

exclusive control or greater control to the federal government (Anderson 2010:44, Ajadi 2010, Ayoade, 2011:22, Onimode 2000:159). Offshore resources are almost always federally owned because they lie outside the boundaries of the constituent units. There is no sharing of offshore revenues with constituent units as is the case in the United States and India but in a few federations like Nigeria and Australia, there are some sharing arrangements with constituent units. Brazil even has such arrangements with local municipalities. Although the federal government in Canada has retained formal ownership, it has ceded all these resource revenues to the contiguous provinces (Anderson, 2010:44).

As the analysis has shown so far, either the federal government or the constituent unit can own resources, although ownership does not necessarily confer control or the greatest access to revenues. In Canada, Australia and the United States, constituent units got the major revenue from resources they own. For instance in Australia, the Commonwealth collects crude oil excise and royalties on offshore which is beyond three nautical miles after low-tide water. The states collect oil revenue on oil found between low tide water and three nautical miles and such proceeds are shared between the states and commonwealth governments. The states collect and retain revenue from onshore oil (Ayoade, 2011:22). In Argentina, India and Malaysia, the federal government usually gets the larger share of revenues from resources owned by the constituent units. Where the resources are owned by the federal government as in Brazil, Russia, Nigeria, and for federal lands in the United States, they may provide a share of resource revenues to the constituent units where the resource is produced. Some federations as well like Canada provide all or a significant share (as in Brazil and Nigeria) of revenues derived from federally owned offshore petroleum resources to the constituent units and in the case of Brazil, to municipalities that are contiguous with the producing zones (Anderson 2010:56B57).

In the final analysis, allocation of resource revenues can create major fiscal disparities among constituent units in federations. Federations such as Mexico and Venezuela address this by essentially giving no share of resource revenues to the constituent units where they are produced. Russia gives a small capped share and Nigeria gives an uncapped 13 percent of federal petroleum revenues to the producing states. So, the producing states have much greater fiscal capacity than non-producing

states. In Canada, the combination of provincial ownership of onshore resources and the federal transfer of offshore resources revenue to provinces means that the major resource producing provinces have a significant fiscal advantage with this class of revenue (Anderson, 2010:57). The sharing of natural resource revenues has been seen to be a major source of tension in many federations. In fiscal federalism, to Anderson (2010:56) there are two opposing principles, that is >equity= and >derivation=. To him, equity calls for broad sharing, derivation for a special (or even exclusive) part to the producing region. Derivation may be tied to constituent unit ownership of resources as in Canada but can be applied even where the federal government owns the resources as in Nigeria.

In Nigeria, several indicies as have been stated earlier in this work have been utilized since the Phillipson Revenue Commission of 1946 to allocate revenues among the various tiers of government both vertically and horizontally. Such indicies utilized to date included derivation population, fiscal autonomy, national interest, balanced development, equality of states, social development and absorptive capacity. The various indicies have each been subjected to criticisms from critics which included political scientists, economists and fiscal federalists among others. The major thrust of the debate had been about what principles to use and the weight to be attached to them. The derivation principle out of all the other principles of allocation has unequivocally attracted the most significant protestation.

The derivation principle was a dominant principle in the horizontal allocation of revenue between the 1940s and 1960s when agriculture was the major export earner. The argument for its application by the power blocs then that is Western and Northern Regions was that it was equitable for the areas where the bulk of the revenue is being realised to get an extra share above what the other areas received. When it was utilized extensively, empirical enquiries by Teriba (1966:361-382), Philips (1971:387-408, 1975:1-28) and Omorogiuwa (1980:1-30) indicated that the derivation principle significantly influenced the revenues allocated to the regions/states. This principle was de-emphasized in the 1970s when oil become the major source of revenue. To Ojo (2010:33) Aderivation in revenue allocation has been consciously and systematically obliterated by successive regimes resulting in drastic reduction of the derivation principle from 100 percent in 1953 to 50 percent in 1960, 45 percent in 1970, 20 percent

in 1975, 2 percent in 1982, 3 percent in 1992 to 13 percent in 1999". With the dominance of oil as the mainstay of the nation's economy from the 1970s, some fiscal federalists were of the view that the unbridled application of the derivation principle will aggravate state and regional inequalities. For instance, the principle of derivation was roundly condemned by both the Dina Commission and Aboyade Commission. The Dina Commission (1969:63) while asserting that the adoption of the concept by previous allocation committees was inimical to national development stated that

In the history of Nigeria's revenue allocation, it is probably true to say that no principle has evoked more rivalry and bitterness than that of derivation... Previous Revenue Allocation Commissions did little more than to test the political wind of their period and bow to it in designing their formula. In the context in which they worked, this was perhaps inevitable. But the derivation principle had been in the forefront of the allocation formula all along; and the political wind has been set by the changing position of regional pressure groups according to the fortunes of their fiscal base. In the short run, the result was the exasperation of inter-regional conflicts. In the long-run, the consequence is the lost opportunity to develop a cohesive fiscal system for national, political, economic and social development.

The de-emphasis of derivation as a major principle of allocation in the 1970s and beyond created a paradox in Nigeria's fiscal relations. This paradox was perhaps captured by Akinyemi (2001:6) when he asserted that:

It is an act of self-deception for anyone to argue that there is nothing wrong with the revenue formula. We have had basically two systems of revenue allocation in Nigeria. The first system which we practiced during the First Republic allowed the North to keep the proceeds from its groundnut and cotton, the West to keep the proceeds from its cocoa, and the East to keep the proceeds from coal and oil produce. Then we changed the system so that the federal government got its hands on the proceeds from onshore and offshore crude petroleum proceeds, and yet we didn't expect the minorities in the oil producing areas to perceive that it is an injustice done to them. I have even heard some people turning history in its head by arguing that the country was developed on the proceeds of groundnut, cocoa and oil palm. Perhaps (one could be correct) if you are arguing that the whole is the sum of its

parts. But the oil producing minorities have a point that the rules of the revenue allocation game were changed to disfavour them.

The move to change the rule of the revenue allocation game began with the discovery of crude oil in some parts of the Eastern Region of Nigeria, and the potential it had for economic growth. This altered the thinking about the place of minerals in the revenue allocation formulae. Up till the discovery of crude oil in 1958, royalties from minerals fully belonged to the region of origin. It is to be noted that the discovery of oil coincided with the need to review the existing Commission's accepted recommendation on revenue allocation as a fall out of the 1957/58 Constitutional Conference. This led to the appointment of the Raisman Commission.

A proposal of the Commission, and perhaps the most significant on the application of the derivation principle was the recommendation that the then practice of returning mining rents and royalties to the regions of origin should be discontinued. Rather, it recommended that such revenues were now to be distributed through the newly created DPA with the region of origin getting 50 percent, federal government 20 percent and all the other regions 30 percent. Crude oil as at this time was a new discovery and revenue from it at the time, that is, 1958/59 was estimated at only 65,000 pounds, to the Commission. It has great potentials and this was attested to by the Raisman Report (1958:31-32) when it stated that

The allocation of the proceeds of mining royalties has presented us with a most perplexing problem. Although the revenues from columbite royalties rose rapidly at the time of the American stockpiling in 1953-55, royalties on tin, columbite and coal normally yield a fairly constant annual sum. If these were the only minerals concerned, there might be no difficulty in our recommending the continuation of the present system. The problem is oil. Test production of oil has already started in the Eastern Region and exploration is being undertaken in both the North and the West. While the yield from oil royalties is at present comparatively small, ... we cannot ignore the possibility that the figure may rise very markedly within the next few years... There is therefore a double obstacle in our recommending the simple continuation of the existing method of allocating mineral royalties. First, it would involve us, in our revenue assessment for the next few years, in crediting the Eastern Region with a source of income which is at once so uncertain to build upon, and too sizeable to ignore. Secondly, it would rob our recommendations of any confident claim to stability for

the future since oil development might take place in any of the regions on a scale, which would quite upset the balance of national development, which is part of our task to promote... Our considered conclusion therefore is that the time for change is now, while there is still uncertainty as to which of the regions may be the lucky beneficiary or which may benefit the most.

The above assertion of the Raisman=s Commission serves as the beginning of the gradual de-emphasis of derivation as a principle of revenue allocation in the Nigeria fiscal system as shown in Table XXXVI for other indices such as continuity, minimum responsibility, population, equality of states, balanced development, landmass and terrain and social development factors.

**Table XXXVI:**

**Derivation Formula 1960 B 2011**

| Years            | Producing State (%)         | Federal Government (%) | Distributive Pool (%)*     |
|------------------|-----------------------------|------------------------|----------------------------|
| 1960 B 67        | 50                          | 20                     | 30                         |
| 1967 B 69        | 50                          |                        | 50                         |
| 1969 B 71        | 45                          |                        | 55                         |
| 1971 B 75        | 45 minus offshore proceeds  |                        | 55 plus off-shore proceeds |
| 1975 B 79        | 20 minus off-shore proceeds |                        | 80 plus off-shore proceeds |
| 1979 B 81        | B                           |                        | 100                        |
| 1982 B 92        | 12                          |                        | 98 2                       |
| 1992 B 99        | 3                           |                        | 97                         |
| 1999 B till date | 13                          |                        | 87                         |

**Note:** \*Beginning from 1967, the Federal Government shares from the Distributive Pool.

**Sources:** Kalu, I.K. (2011). "Fiscal Federalism in Nigeria: Practices and Issues".

Available at [www.policy.hu/document/2011/kalu...](http://www.policy.hu/document/2011/kalu...) Visited on 17th May, 2012.

Innocent, E.O. and Onwigbo, R.A. (2015) "State Governors and Revenue Allocation Formula in Nigeria: A Case of the Fourth Republic" in International Journal of Accounting Research.

In consideration of Table XXXVI above, there have been arguments by some authors that the shift in the continued utilization of the derivation formula towards a more centralized system of distribution which is to the disadvantage of the minority oil producing areas is a continuation of the domination of the minority by the majority (Olarinoye 2004:21-34, Ovwasa 2008, Omotosho 2010:246-253, Ojo 2010:33, Watts 2010:52-53, Ikeji 2011:121-136, Egbegbulem 2011:25-27, Ayoade 2011:22-23, Bassey

and Akpan 2012:222-232). Bassey and Akpan (2012:225B226) observed that for the oil producing states of the Niger Delta, the development of hegemonic rentier federal system has unleashed a systematic process of structural abnegation as the power elite at the centre reinforce and legitimize the allocative system through majority controlled fiscal commissions (especially Aboyade, Okigbo and Danjuma Commissions) which permanently relegated the principle of derivation. Ojo (2010:33) captures succinctly this systematic process of structural abnegation of the power elite with assertion that Nigeria=s mineral resources account for over 80 percent of Gross Domestic Product (GDP), 95 percent of national budget and 90 percent of foreign exchange earnings. Out of this figure, 65 percent of GDP, 15 percent of national budget and 70 percent of foreign earnings are cumulatively derived from the Niger Delta alone. This process of transformation was effected through the progressive reduction of the principle of derivation and the strengthening of the principle of the Distributive Pool Account.

To many critics from the oil producing area, a strongly held view was that the historical blow dealt upon the principle of derivation was the product of the political game play and the overwhelming propensity of the majority to play down on the preferences of the minority, hence as Orubu (1999:187) contended, the people have no effective politic-kinetic framework to address the issue of unfair distribution of revenue, as each dominant group in the country struggles to maximize its own benefits from the >God given= petroleum resources.

The prevailing situation continued despite the return to democratic rule in 1999. Section 44 Subsection 3 of the 1999 Nigeria Constitution (as amended) echoed the previous basic laws and statutes through the affirmation of the Federal Government=s proprietorship and control of all minerals, mineral oil and natural gas in, under or upon any Nigerian land, territorial waters and exclusive economic zone. To sub-section 3, such minerals, mineral oils and natural gas are vested in the Government of the Federation and shall be managed in such manner as may be prescribed by the National Assembly. The implication of this constitutional provision was the granting to the Federal Government powers in all matters relating to the regulation and management of the petroleum industry, and such powers include incorporation and regulation of corporate bodies, export duties, taxation of incomes, profits, mines and minerals (these include geological survey, oil mining, oil fields and natural gas) and capital gains.

To Iledare and Suberu (2010:6), the federal government ownership of Nigeria=s mineral wealth was further reinforced by several statutory laws and regulations, most of which were initially enacted under military rule, but have automatically assumed the status of Acts of the National Assembly under Section 315 of the 1999 Nigerian Constitution. To them, the most important of these decrees or acts include the Petroleum Act (which was first promulgated in 1969), Petroleum Profits Act (1959), Nigeria Liquefied Natural Gas (LNG) Act (1990, 1993), Land Use Act (1976), Oil Pipelines Act (1978), and the Oil in Navigable Waters Act (1979).

The Nigerian federation has, historically, since the colonial era, included arrangements for the compensation of oil bearing areas through the payments of centrally collected mineral revenues to these areas on a derivation or unit of origin basis, in spite of the constitutional vesting of ownership of both the onshore and offshore mineral resources in the federal government. Although both the 1960 (Section 134, Sub-section 6) and 1963 Constitutions of the First Republic explicitly made both onshore and offshore petroleum resources subject to the derivation rule, the 1999 Constitution was silent on the issue. Oil conflict has become the characteristics of conflicts in nations that are endowed with the resource. Those conflicts also referred to as resource-based conflict, are a fundamental source of instability in many oil-rich states, particularly with emerging economies such as Nigeria (Nwankwo, 2017:132). Hence the increased tempo of the demand by the crude oil producing areas for a fair share from the oil revenue. With the return to civil rule in 1999, there was a vigorous push for resource control and the abrogation of the onshore-offshore dichotomy in the application of the derivation principle to oil money. The oil producing states to Egwaikhede (2004:15) generally argued that the insistence on the onshore-offshore dichotomy amounted to politics of hatred. To the oil producing states, they reasoned that there was double standard in the application of the derivation principle since it was applied to the fullest degree possible in respect of agricultural export crops between the late 1940s and mid 1960s. Ayoade (2011:21) raises some pertinent questions. To him, the question that is being asked is whether a constituent section of the federation should continue to get less than it gives to the federation? Why national sacrifice must be unequal? Why must one section of the country pay more for national interest? Whether the situation would have been the same if Kaduna or Ibadan or Enugu are the oil producing areas?

The demand for resource control was reinvigorated at the meeting held by the Seventeen Southern Governors in 2000 who were of the view that the three principles of national interest, derivation and need must be explored in the allocation of revenue to the states. Several advocates for resource control have adduced various reasons that the adoption of resource control will lead to probity in the distribution of resources and true federalism. To Azaike (2003:163) Awhile resource control is a basic economic theory grounded in the fact that land, labour, capital and entrepreneurship are factors of production within the context of federation, it implies that the federating units within the federation have a right to primarily control the natural resources within their borders, and make an agreed contribution towards the maintenance of common services at the centre=. Okumagba (2002:162) in his exposition on resource control views it as Athe desire of every state in the federation of Nigeria to control and manage the natural resources located therein ... we do not want to seize the oil, but to participate. By no stretch of imagination thereof can the concept of resource control be equated with crude oil only. It surpasses same in a million fold. @

To Okumagba (2002:162), resource control transcends the narrow confines of crude oil to include other minerals and agricultural products such as coal, tin, hides, limestone, skin, groundnut, cocoa, rubber, cotton, palm oil and other solid minerals. This invariably implies that any state with any of these resources will be empowered to control and manage same upon payment of taxes to the federal government. To him, resource control will stimulate healthy competition among the states and eventually lead to even development of the country. This is because new barriers will be broken, more resources will be discovered and managed for the benefit of the Nigerian federation.

As succinct as the arguments of the advocates of resource control who are mostly the elite from the South B South geopolitical zone of the country, the opponents of resource control especially President Olusegun Obasanjo and the northern elite have consistently been against the agitation on the premise that any attempt to allow states to control their own resources will be a recipe for disintegration. Obasanjo described

the fight for resource control by governors of states in the South B South zone as a war against God Almighty. According to the President... that natural resources were carefully located in the Niger Delta region by God is not an accident... it is the design of God. And anyone fighting against that is fighting against God... let the resources be for everybody. If we don=t put ourselves

together to work together, we cannot fight poverty. In unity we fight poverty... We should do nothing to cause another civil war in this country... If Biafra had won the Nigeria Biafra war, I would not have been alive by now. Those of us who fought the civil war should have this in mind. If the Biafrans had won the Nigerian civil war, the Niger Delta States of Bayelsa, Rivers, Akwa Ibom, Cross River, Delta and Edo would not have existed, adding that resources found in Niger Delta region were divine provisions that belong to all Nigerians. President Obasanjo reiterated that many Nigerians from the Northern and Western parts who lost their lives during the Nigerian civil war made sacrifice because of resources in the area. (See, *Saturday Tribune*, March 17, 2001:1&5).

Arguing in a similar vein, Yakassi justified that other Nigerians deserve to share from the resources derivable from the Niger Delta area because when the defunct Biafra Republic was declared over the area in 1967 by Odumegwu Ojukwu, the entire people of Nigeria sacrificed to liberate them (See, *Guardian*, July 10, 2007:5). Haruna quoting Homkwap was of the view that oil belongs to all Nigerians and not just from the areas where they are produced. When Nigeria had war on its hands which was partly triggered by the question of oil, it was not the oil producing areas that fought the war, but all Nigerians, and surely blood is thicker than oil (See, *The Nation*, August 29, 2012:54). Dangaladima's argument took a separate track when he asserted that the demands of the oil producing areas were unrealistic because the people of oil bearing states only migrated to settle in their present abode and that they met the land and everything there and therefore, cannot claim the resources to be their own (See, *Punch*, April 6, 2001:30).

An issue that has been a major plank in the agitation for resource control by the oil bearing areas has been the argument that when agriculture was the main export commodity, the utilization of derivation was a major principle of distribution. To Aluko in an interview in the *News Magazine* it was wrong for the oil producing states to keep comparing oil with agricultural produce. He asserted that I don't think the people of the oil producing areas appreciate that they have no input in the exploitation of oil. They just sit down and want this money... Unlike cocoa, the whole country's money is used to exploit petroleum. It is not the money of the indigenes of the oil producing areas. It is just like manna from heaven (See, *News Magazine*, October 9, 2000:2). This view is

similar to Davies (2008) who asserted that comparing agricultural products with oil is nebulous. The reason, to him, was that agricultural products unlike oil was not a natural endowment. The farmers in the agricultural producing areas had to act on the land through ploughing and harrowing, planting of the seeds and nurturing before they could eventually harvest for sale.

In response to the Southern Governors demand for what they perceive as *true federalism*, the Northern Governors presented a counter position on the issue of resource control in a communique issued at the end of one of their meetings in Kaduna where they rejected the Atrue federalism@ stance of the Southern Governors, insisting that the actualization of such a demand would have accompanying grave implications for the country (See, *This Day*, February 16, 2001:1).

In view of the likely effect of the agitation for and against resource control on the continued stability of the federal system and in response to the demands by the Niger Delta States for the application of the derivation rule to offshore oil and gas revenues, the Federal Government through Suit No. SC28/2001 Attorney General of the Federation versus Attorney - Generals of the Thirty Six States approached the Supreme Court for a determination on the issues. The main issue was the resolution of the dispute between the Federal Government and the littoral states in respect of the application of the provision for the distribution of revenue accruing from natural resources on the basis of derivation in the 1999 Constitution of Nigeria. The Federal Government=s contention was that the Southern (or seaward) boundary of each of these states is the low-water mark of the land surface of such state or the seaward limit of inland waters within the state as the case so required. Hence, the Federal Government maintained that the natural resources located within the continental shelf of Nigeria are not derivable from any state of the federation. The eight littoral states of Lagos, Ogun, Ondo, Rivers, Bayelsa, Delta, Cross River and Akwa Ibom did not agree with the Federal Government's contentions. Each claimed that its territory extended beyond the low water mark onto the territorial waters and even unto the continental shelf and the exclusive economic zone. Therefore the natural resources derived from both the onshore and offshore are derivable from their territory, hence they are entitled to the not less than 13 percent allocation provided by the 1999 Constitution.

In a unanimous decision of the Supreme Court delivered on 5<sup>th</sup> April, 2002, the Court validated the Federal Government=s position that the derivation principle should

apply to only the onshore resources and not the offshore resources. Ogundare (JSC) who read the lead judgement adjudged that the

Plaintiff's case succeeds and I hereby determine and declare that the seaward boundary of a littoral state within the Federal Republic of Nigeria for the purpose of calculating the amount of revenue accruing to the Federation Account directly from any natural resource derived from that state pursuant to Section 162 (2) of the Constitution of the Federal Republic of Nigeria 1999, is the low-water mark of the land surface thereof or (if the case so requires as in the case of Cross River State with an archipelago of islands) the seaward limits of inland waters within the state.

The Supreme Court also passed judgement on several other issues of fiscal federalism. For concreteness, some aspects of the judgement are presented in Appendix IX.

The judgement affected the littoral states in varying degrees. Akwa Ibom State was the greatest casualty of the judgement because the bulk of the oil from the state is from offshore. Other states of Bayelsa, Cross River, Delta, Ondo and Rivers also lost. The effect of this judgement was the strident agitation in the oil producing areas against the court ruling as leaders and organizations threatened fire and brimstone, if the judgement was allowed to stand. For instance, Sagay in an article dismissed the judgement as 'somewhat specious and disingenuous' (See, *Sunday Vanguard*, April 28, 2002:7). The Niger Delta Youth Congress (NDYC) in an advert virtually threatened to go to war over the judgement. To the NDYC, 'The ruling posits that the only way for the people of the Niger Delta to regain their territorial integrity and enjoy the benefits of their God-given natural resources is to renegotiate their membership or otherwise in a Nigerian federation which has its laws and constitution skewed in favour of an unnecessarily large, powerful and domineering central government (See, *Saturday Punch*, April 20, 2002:28). Also the Ijaw National Congress in an advert said it rejected the ruling and regarded it as 'a declaration of war against the defenceless people of Niger Delta' (See, *Vanguard*, April 29, 2002:16).

The probable effect the Supreme Court verdict had on the overheating of the polity led the Federal Government to focus on solving the problem politically and this

led to the enactment by the National Assembly on the Allocation of Revenue (Abolition of Dichotomy in the Application of the Principle of Derivation) Act of 2004 which effectively abolished the onshore/offshore dichotomy which the Supreme Court judgement had affirmed in 2002. It is worth noting that the National Assembly overrode a presidential veto because the executive bill presented had limited the application of derivation to offshore oil revenue to 24 nautical miles (45 kilometres) seaward. The National Assembly extended it to 200 nautical miles. This Act again provoked another round of litigation as it was challenged by 22 non-oil producing states (all the 19 Northern States and Ekiti, Osun and Oyo States in the South West) at the Supreme Court in the Attorney - General of Adamawa State and 22 others versus the Attorney-General of the Federation and 8 others. The Supreme Court in its ruling unanimously dismissed the case of the 22 states in December 2005. This ruling by the Supreme Court, to Suberu (2008: 475) appeared to contradict its initial verdict on the derivation principle by endorsing that the Abolition Act was consistent with the extensive revenue sharing powers of the National Assembly.

This study's contention is that the tension generated over control of oil resources and the application of derivation principle on this resource might not have being, if the Federal Government had pursued a sustained policy of developing and exploiting other natural resources of the country. In Africa, Nigeria happens to be one of the countries that is blessed with a multiplicity of natural resources. Some of these resources range from oil and gas, barites, kaolin, iron-ore, gypsum and marble (See Appendix VI).

The Federal Ministry of Solid Minerals (2013) gave a profile of solid mineral deposit in Nigeria as follows:

**Oil/Gas** – The proven oil reserves in Nigeria are 23 billion barrel, the gas reserves are 160 trillion cubic meters.

**Talc** – Over 40 million tonnes deposits of talc have been identified in Niger, Osun, Kogi, Ogun and Kaduna. The Raw Materials Research and Development Council (RMRDC)'s 3000 tonnes per annum catalytic plant in Niger State is the only plant in Nigeria. The talc industry represents one of the most versatile sectors of the industrial minerals in the world. The exploitation of the vast deposits would therefore satisfy local demand and that of export.

**Gypsum** – Gypsum is an important input for the production of cement. It is, also used for the production of plaster of paris (POP) and classroom chalks. About one billion tonnes of gypsum are spread over many states in Nigeria.

**Iron-Ore** – There are over 3 billion metric tonnes of iron ore deposits found in Kogi, Enugu and Niger States as well as FCT.

**Lead/Zinc** – An estimated 10 million tonnes of lead/zinc veins are spread over eight states of Nigeria.

**Bentonite/Baryte** - Over 7.5 million tonnes of baryte have been identified in Taraba and Bauchi States. Large Bentonite reserves of 700 million tonnes are available in many states of the federation.

**Gold** - There are proven reserves of both alluvial and primary gold in the schists belt of Nigeria located in the South-Western part of the country.

**Bitumen** - Bitumen deposits in Nigeria is proven to be 42 billion tonnes, almost twice the amount of existing reserves of crude petroleum.

**Coal** – Nigerian coal is one of the most bituminous in the world owing to its low sulphur and ash content and therefore most environmental friendly. There are nearly 3 billion tonnes of indicated reserves in 17 identified coal fields and over 600 million tonnes in proven reserves.

**Kaolin** - An estimated reserve of 3 billion tonnes of good kaolinitic clay has been

identified in many localities in Nigeria.

The profile of solid minerals highlighted above indicated the tremendous opportunities that are available for investments in this sector of the Nigerian economy. Unfortunately, the exploitation of these natural resources is very low when compared to the extent of the deposits that is found in the country. A probable reason for this might be the underdeveloped nature of the domestic mining industry, a fallout of which led Nigeria to import minerals that it could produce domestically such as iron-ore and salt. The effect of this on the Nigerian economy was that the sector only contributed 0.3% to the Gross Domestic Product in 1999 while in 2011, it was 0.35%. This when compared with oil which contributed 8.55% and 9.1% in 1999 and 2011 respectively was very low (NBS, 2013).

The advantages derivable from the country's development and exploitation of solid minerals are many. Some of these are firstly, it will enhance the economy of the state where the mineral is exploited and also increase the inflow of revenue to that state's administration. Secondly, it will transform the country from a mono-cultural economy that is highly dependent on oil and gas to a multi-cultural economy with a diversified revenue base. Thirdly, with increase revenue to the various levels of government, especially the state and local governments level through the application of derivation principle, this might reduce the tension within the fiscal system, and the possibility of a sustained fiscal stability in the operating of fiscal federalism in Nigeria.

## **6.6 Mismanagement, Corruption and Indiscipline in the Fiscal System**

Nigeria is the largest producer of oil in Africa and the tenth largest producer of crude oil in the world and this invariably makes the economy to be heavily dependent on oil. Oil makes up 95 percent of export products and in terms of government revenue receipts. It accounted for between 65.9 percent and 87.2 percent between 1999 and 2011 of total government receipts (See Table XIX). With its large reserves of human and natural resources, Nigeria has the potential to build a prosperous economy, reduce poverty significantly and provide health, education and infrastructural facilities which is needed by the people. The paradox in Nigeria is that the stupendous resources gained from oil have not been reflected in the rate and level of development in Nigeria. Rather,

it has become a major source of concern that such resources might, when the economic indices are taken into consideration, be classified as having been wasted. Cumulative earnings from the export of oil between 1999 and 2011 has been put at ₦49,194.3bn (Gross) and ₦26,525.4bn (Net) (CBN Annual Reports 1999 B 2011). Therefore, it is ironic that Nigeria which was one of the richest 50 countries in early 1970s has retrogressed to becoming one of the 25 poorest countries at the threshold of the twenty first century. It is also quite baffling that a country that is most often classified as the sixth largest exporter of oil is, at the same time, host to the third largest number of poor people after China and India (Onyeukwu, 2007:5).

Nigeria performs very poorly in all development indices. The average annual percentage growth of Gross Domestic Product (GDP) in Nigeria between 1999 and 2010 was 2.4. This is indeed very poor to Ojo and Adebayo (2012:20B21) when compared with other African countries who attained independence in 1960 with Nigeria. These other countries' performance are better (see Table XXXVII). For instance, when compared with Ghana which averaged 4.3 and Egypt with 4.6, Nigeria is also among the 20 countries in the world according to Igbuzor (2006:7) with the widest gap between rich and poor. To Igbuzor (2006:7), the Gini index measures the extent to which the distribution of income (or in some cases consumption expenditure) among individuals or households within an economy deviates from a perfectly equal distribution. A Gini index of zero represents perfect equality while an index of 100 points to a perfect inequality. Nigeria has one of the highest Gini indexes in the world with 50.6. This compares poorly with other countries such as India (37.8), Jamaica (37.9), Mauritania (37.3) and Rwanda (28.9). With this, statistics shows that the incidence of poverty and per-capital income has continually been falling. For instance, Stightz (2006: 13) asserted that Asome 30 years ago, Indonesia and Nigeria had comparable per capita incomes, and both were heavily dependent on oil revenues. Today, Indonesia=s per capital income is four times that of Nigeria. Nigeria=s per capita income has actually fallen, from US\$305.75 in 1973 to US \$254 in 2002.®

The effect of the assertion above is that while other nations like Indonesia, Malaysia, South Korea and Singapore that were on the same pedestal of development in

the 1960's have utilized their natural endowments and resources to pull out of the league of poor nations and experience marked industrialization with improved quality of life for their populace, Nigeria with similar resources, potentials and endowments has not only failed but retrogressed (Ojo and Adebayo, 2012:21). Table XXXVIII highlights graphically that despite the fact that Nigeria, Malaysia and Indonesia are all oil producing states, Nigeria=s GDP per capita is the lowest, despite Indonesia having a higher population. Ojo and Adebayo (2012:22) citing Soludo (2005:10) asserted that inspite of Nigeria having the sixth largest gas reserves in the world, eight largest oil producer (with abundant, but largely untapped natural resources B gold, limestone, bitumen among others) and with 60 percent of its arable land lying fallow, with millions of its citizens in diaspora which included an estimated 100,000 medical doctors and scientists, it has been unable to ensure sustained good political governance and its economy is in crisis. The question then is why? The answer and reason for this dismal picture is that Nigeria has been facing a lot of challenges, the most pressing of which include corruption and the poor management of the oil sector and this invariably has reflected in the management, corruption and indiscipline in the fiscal system.

One of the ways in which the mismanagement has led to a continuous reduction in the revenue available to the federation account has been the continuous flaring of gas which is associated with oil production. The estimated proven gas reserve in Nigeria at present is 187 trillion cubic metres with an additional unproven gas reserve of 600 trillion cubic metres which makes Nigeria a major gas producing country (See, *The Nation*, September 24, 2012:2). Over the years since 1957 when oil was discovered in Nigeria and especially during the study period (See Appendix VII) a substantial amount of gas running into billions of United States dollars has been flared by the oil exploration companies.

The gravity of the inaction of the government and the revenue loss to Nigeria could be discerned from Gowon=s (2012:3) exposition that between 1999 when the commercial exportation of liquified natural gas began and 2011 about US \$51 billion dollars was delivered with US \$9 billion dividend going to Nigeria. To Gowon, doing a simple Aarithmetic showed that Nigeria would have earned US \$130 billion over the 35

years of inactivity since 1957". To underscore the importance of this revenue source, an estimated US \$2 billion dollars was lost by Nigeria to gas flaring in 2011 (Yishau 2012:3). This figure is plausible as the BBC News Africa of 25<sup>th</sup> October 2012 reported that US \$129 billion was lost in the last ten years in an apparent priceBfixing scam in resolving the sale of natural gas.

The Nigeria Extractive Industries Transparency Initiative (NEITI) (which was inaugurated in 2004) exposition on the mismanagement of the country=s resources is very illuminating. In its 2006 B 2008 Oil and Gas Industry Audit Report, NEITI reported that, The Nigerian National Petroleum Corporation (NNPC) owed the federation for domestic crude the sum of ₦842.7 billion as at 31<sup>st</sup> December 2008. This debt includes ₦254.7 billion which is within the 90 days credit period to NNPC. Second, the NNPC deducted the subsidy claims of ₦816.55 billion directly from the domestic crude proceeds before remitting the balance to the Federation Account without authorization. Third, the NNPC received US\$3.789 billion dividends from the Nigerian Liquidified Natural Gas Company for 2006 B 2008 but it did not confirm payments made to the Federation Account. Fourth, audit recalculations of royalty for the years 2006 B 2008 estimate an underpayment of US \$2.33 billion arising from subjective interpretation of volume, pricing and American Petroleum Institute (API) grading variable. Fifth, under assessment of US \$690 million in Petroleum Profit Tax (PPT) due to pricing mechanism used (Realizable Price instead of Official Selling Price). Sixth, due to discrepancies between annual PPT returns and Annual Financial Statements, there has been an under assessment of US \$424.6 million in the determination of PPT value. Seventh, Operating Expenses (OPEX) indicate a possible under assessment of US \$364.9 million (NEITI 2009: 4).

**Table XXXVII:****Performance of the Class of 1960 in Selected Human Development Indicators**

| No. | Country                     | National Poverty Line | Life Expectancy | Child Mortality | Maternal Mortality (100,000 live birth) | Access to Drinking Water | Adult Literacy | GDP per capita (pps US\$) |
|-----|-----------------------------|-----------------------|-----------------|-----------------|-----------------------------------------|--------------------------|----------------|---------------------------|
| 1.  | Nigeria                     | 54.4                  | 46.8            | 193.1           | 1100                                    | 48                       | 69.1           | 1,128                     |
| 2.  | Benin                       | 36.8                  | 56.2            | 130             | 840                                     | 67                       | 39.7           | 1,141                     |
| 3.  | Ivory Coast (Cote d'ivoire) | 36.7                  | 71.0            | 32.8            | 210                                     | 80                       | 83             | 1,648                     |
| 4.  | Chad                        | 64                    | 50.6            | 178.4           | 1500                                    | 42                       | 25.7           | 1,427                     |
| 5.  | Madagascar                  | 67.5                  | 59.0            | 93.1            | 510                                     | 46                       | 70.7           | 923                       |
| 6.  | Central African Republic    | 67.2                  | 44.4            | 148.2           | 980                                     | 75                       | 48.6           | 1,224                     |
| 7.  | Mali                        | 47.5                  | 53.8            | 187.7           | 970                                     | 50                       | 22.9           | 1,033                     |
| 8.  | Niger                       | 70                    | 56.4            | 205.3           | 1800                                    | 46                       | 29.8           | 781                       |
| 9.  | Senegal                     | 53.9                  | 62.8            | 101.4           | 980                                     | 76                       | 42             | 1,792                     |
| 10. | Burkina Faso                | 36.2                  | 49.1            | 189.8           | 1100                                    | 79                       | 59.3           | 1,213                     |
| 11. | Mauritania                  | 46.3                  | 63.7            | 97.2            | 820                                     | 53                       | 55.2           | 2,234                     |
| 12. | Togo                        | 61.7                  | 58.3            | 107.5           | 510                                     | 52                       | 53.2           | 1,506                     |

**Source:** Ojo and Adebayo (2012) Living Without the State: A Rear View Mirror of Nigeria=s 50 Years of Independence in *Africa Social Science Review*. Vol. 5 No. 1. Pg. 22.

**Table XXXVIII:****Nigeria=s Status Relative to Selected Asian Developing Countries**

| Country   | System and form of Government | Oil Producing | Ethno-linguistic Groups                  | GDP per capital (PPUS\$) | Human Development Status | Population  | GDP             |
|-----------|-------------------------------|---------------|------------------------------------------|--------------------------|--------------------------|-------------|-----------------|
| Nigeria   | Federal/ P residential        | Yes           | 250 (three official indigenous language) | 1,128                    | Low (none GB20 member)   | 154 Million | \$207 Billion   |
| Malaysia  | Federation/ Parliamentary     | Yes           | 34                                       | 10,882                   | High (none GB20 member)  | 28 Million  | \$397 Billion   |
| Indonesia | Unitary/ Presidential         | Yes           | 250                                      | 3,843                    | Middle (GB20 member)     | 220 Million | \$511.7 Billion |

**Source:** Ojo and Adebayo (2012) "Living Without the State: A Rear View Mirror of Nigeria=s 50 Years of Independence" in *African Social Science Review*. Vol. 5. No. 1. Pg. 22.

Furthermore, NEITI in its 10 years Report (1999 B 2008) released in 2009 added that the actual amount of oil produced in Nigeria is not known since oil is measured at terminals and not at well heads of flow stations. Around 10 percent of oil is estimated to be lost or stolen between these points resulting in lost revenue for the government. The report also stated that Information Management and the Information Technology systems in government are not sophisticated enough to deal with financial information flows from the sector, and government agencies suffer from a general lack of skills and capacity particularly compared with international oil companies (NEITI, 2009:10 B11). NEITI also computed  $\times 1.3$  trillion as the revenue loss due to under-assessment and underpayment by companies, covered in its gas and oil sector audit between 1999 B 2010 (See, The Nation, November 30, 2012:11).

NEITI=s report covering 2009B2011 is replete with the methods by which the agencies of government and private organisations work hand in hand to financially bleed the country. To the report, one of the ways through which the economy is bled is the non-remittance or under remittance of the revenue from oil sales to the government. The report asserted that it is a crime being committed by all the relevant government agencies saddled with the protection of the collective interest of the country. These agencies often choose to look the other way after they have tacitly colluded with private pockets to fleece the country. From oil theft to pipeline vandalism, the economy of the country is being dealt debilitating blows as huge sums of money that could have been transferred into enhancing the economy end up in the pockets of unscrupulous elements. For instance in the three year period, the total loss to oil theft and sabotage was 136 million barrels of crude oil with an estimated cost of \$10.9 million. Also, \$894 million was lost by the country to pipeline vandalism (NEITI:2011).

NEITI=s report also states that during the period (2009B2011), there was an observed discrepancy of  $\times 175.9$  billion in the claims paid from the Federation Account and that made by the PPPRA. The report states that an over-recovery of  $\times 4.423$  billion from some oil marketers which was paid to the PPPRA is yet to be remitted to the Federation Account as at June 2013. In similar circumstances, the NNPC and two other companies are yet to refund  $\times 3.715$  billion being over-recovery for 2009B2011. The NNPC in spite of its prime of place in the oil industry does not have an agreed pricing methodology between it and other companies for the determination of fiscal values for royalty, and PPT computations. The NNPC also continued to transact business with JVC=s on memorandum of understanding that have been declared dead since January 2009 and this resulted in a revenue loss of \$1.7 billion (NEITI:2011).

The issue of corruption that goes with oil production has been acknowledged as a global problem. The type of corruption referred to here is official or political corruption and it differs from everyday corruption like advance fee fraud, extortions by security agents at

various check points and others. Political corruption relates to the misuse of public office for private gain and this tallies with Daly (2012:1) assertion that “corruption is behaviour which deviates from formal duties of a public role because of private-regarding (personal close family, private clique) pecuniary or status gains; or violates rules against the exercise of certain private-regarding influence”. The scale of corruption in Africa has been seen to be in a class of itself, particularly in Nigeria which is black Africa=s largest oil producer. The country has gained an unprecedented attention globally as an endemically corrupt state. Ojo and Adebayo (2012:24) states that the 2008 report of the African Peer Review Mechanism Panel led by Kenya=s former Ambassador to France, Bethuel Kiplagat classified corruption in Nigeria into three categories of petty corruption, grand corruption and outright looting. In similar vein, the Corruption Perceptions Index (CPI) report released annually by Transparency International between 1999 to 2011 shows that Nigeria is a corrupt country (See Appendix VII). On its rating scale of 0 B 10 where 0 means that a country is perceived as highly corrupt and 10 means that a country is perceived to be very clean, the Table shows that Nigeria scored 1.6 in 1999, 1.2 in 2000, 1.0 in 2001, 1.6 in 2002, 1.4 in 2003, 1.6 in 2004, 1.9 in 2005, 2.2 in 2006, 2.2 in 2007, 2.7 in 2008, 2.5 in 2009, 2.4 in 2010 and 2.4 in 2011.

Corruption therefore has been the basic problem of Nigeria=s development eroding the impact of the revenue returns from oil production because it has proven irresistible to the country=s corrupt elements. Jerome, Ajibolosoo and Busari (2005:19) stated that anecdotal evidence on oil related corruption in Nigeria can be found in media sources and proceedings of various tribunals set up to investigate cases of financial impropriety on the part of government officials. The incidence of crude oil theft in Nigeria according to the *Boston Globe* was estimated to be over 100,000 barrels per day, and as at 2011 (See, *Boston Globe*, Dceceember 17, 2004:2). Daly (2012:1) reported that and this was corroborated by the International Energy Agency that the theft of crude oil topped US \$7 billion per year. To the Ribadu Panel, the theft of crude oil was 150,000 barrels per day (See, *The Nation*, November 3, 2012:58). On refined petroleum products, *The Nation* of 1<sup>st</sup> April 2013 reports an annual loss of ×105 billion (See, *The Nation*, April 1, 2013:1).

In 2004, there was the revaluation that the TSKJ consortium made up of Technip of

France, Snamprogetti of Italy, Kellogg, Brown and Root LCC of United States (a subsidiary of Halliburton operating in Nigeria) and JGC of Japan allegedly paid US \$180 million as bribes to Nigerian government officials in the early 1990s. This payment is for the award of contract for the construction of the US \$12 billion Nigeria Liquefied Natural Gas (LNG) project on Bonny Island (Okwonjo-Iweala, 2007:6). President Olusegun Obasanjo in 2004 directed the Economic and Financial Crimes Commission to investigate the allegations. The inquiry revealed that the TSKJ consortium engaged the services of Tristar Investment, a consultancy company, to assist in securing the LNG contract. Jeffery Tesler who was connected to Tristar Investment was arrested by the Metropolitan Police in London in March 2009 and repatriated to the United States. Both Tesler and Wojciech Chodan were earlier on 17<sup>th</sup> February 2009 indicted by the US District Court in Texas as the agents of Tristar Investment that helped to transfer millions of dollars to the various foreign bank accounts of Nigerian officials. (*This Day, May 6, 2009:3*). The court ruled that Tesler and Chodan are to forfeit more than US \$130 million as specified by the indictment. Kellogg Brown and Root LCC was also ordered to pay US \$402 million as fine for violating the Foreign Corrupt Practices Act and four other counts (*This Day, May 6, 2009:9*). The companies' shady deals were not even known to the Nigerian public where the crime was committed, but were exposed from the companies' reports to the United States Securities and Exchange Commission (Alade, 2010:91).

The payment of subsidy claims on imported petroleum products was another conduit pipe through which trillions of naira that was supposed to be paid into the Federation Account was paid to party cronies in phantom subsidy claims and payout. Evidence abounds from the reports of probes especially the Ad-Hoc Committee on Subsidy Regime of the House of Representatives on subsidy regime headed by Farouk Lawan, Petroleum Revenue Special Taskforce headed by Nuhu Ribadu and the Presidential Committee on Verification and Reconciliation of Subsidy Payments headed by Aigboje Aig B Imoukhuede. The Lawan report which covered 2009 B 2011 and which was adopted by the House of Representatives found out that within the period of the review, the operation of the subsidy regime A... were fraught with endemic corruption and entrenched inefficiency@ since A much of the amount claimed to have been paid as subsidy was actually not for consumed petrol@ (House of Representatives, 1.2012:5).

**Table XXXIX:**  
**Transparency International - Nigeria's Corruption Perception**  
**Index Ranking 1999 B 2011.**

| Year | Rank | Total Number of Countries Surveyed | Score |
|------|------|------------------------------------|-------|
| 1999 | 98   | 99                                 | 1.6   |
| 2000 | 90   | 90                                 | 1.2   |
| 2001 | 90   | 91                                 | 1.0   |
| 2002 | 101  | 102                                | 1.6   |
| 2003 | 132  | 133                                | 1.4   |
| 2004 | 144  | 145                                | 1.6   |
| 2005 | 152  | 158                                | 1.9   |
| 2006 | 142  | 163                                | 2.2   |
| 2007 | 147  | 179                                | 2.2   |
| 2008 | 121  | 180                                | 2.7   |
| 2009 | 130  | 180                                | 2.5   |
| 2010 | 134  | 178                                | 2.4   |
| 2011 | 143  | 183                                | 2.4   |

**Source:** Computed from: <http://www.transparencyinternational.org/cpi/results> (1999B2011). Visited on 19<sup>th</sup> October, 2012.

The Lawan Committee found out that contrary to the official figure of ₦1.3 trillion, the Accountant-General of the Federation put forward a figure of ₦1.6 trillion, the CBN ₦1.7 trillion, while they the Committee established a subsidy payment of ₦2,587,087 trillion as at 31<sup>st</sup> December 2011 which was 900 percent more than the ₦245 billion appropriated for payment of fuel subsidy (House of Representatives 1/2012:5). The Committee was able to establish the payment of ₦1,067,040,456,171.31 for products not supplied or funds paid and not accounted for and recommends a refund from the various agencies and companies that were found liable to the Federation Account. It was its belief that if the Petroleum Support Fund (RSF) scheme was properly managed, this sum would have been available to the three tiers of government for budget enhancement (House of Representatives 1/2012:12). The Committee further recommended some transactions for investigation to determine their level of culpability and possible recoveries.

These are (a) the payment of ₦999 million to unknown entities 128 times to the tune of ₦127.872 billion on December 31<sup>st</sup> 2009 by the Office of the Accountant General of the Federation (OAGF); (b) some companies collected foreign exchange to the tune of US \$402.610 billion whose utilization was questionable. (c) 72 companies failed to turn up before the Committee and an amount of ₦230,184,605,691.00 be recovered from them; and (d) the Refund of over-recoveries of ₦2.766 billion and ₦5.27 billion which were not accounted for by the OAGF (House of Representatives 1/2012: 12 B 13). From the totality of the recommended recoveries, the amount identified by the Committee as overpayment of subsidy claims and which amounted to a drain on the Federation Account was about ₦1.433 trillion and the US \$402.610 billion that was utilized by some companies under questionable circumstances.

In its assessment of the oil industry, the Ribadu Panel found out A...that the nation must have been fleeced up to US \$5 billion by oil firms and other stakeholders@ (See, *The Nation*, November 3, 2012:58). The reason for this to the panel was that regrettably Nigeria does not have account of its sales in the upstream sector of the petroleum industry. The crisis that erupted as a result of continuous depletion of the funds available to the Federation Account through uncontrolled deductions to fund the subsidy regime led to the appointment of the Aig-Imoukhuede=s Committee, forensic experts, examiners and auditors from the Price Water House Coopers and the CBN to verify subsidy claims by oil marketers. The fallout of this verification was the confirmation by Okonjo-Iweala who is the Minister of Finance that 50 oil firms fraudulently collected ₦232 billion from the Federal Government as subsidy claims in 2011 (See, *The Nation*, December 4, 2012:1).

Notwithstanding the gross mismanagement and corruption in the fiscal system, there were also evidence of indiscipline. For instance, the Lawan Panel confirmed that the NNPC was found not to be accountable to anybody or authority. A relevant example here was that the NNPC in 2011 processed payment of ₦310.4 billion as 2009 B 2011 arrears of subsidy on kerosine, contrary to a Presidential directive which removed subsidy on kerosine in 2009. The Corporation also processed for itself, direct deduction of subsidy payment from amounts it received from other operations such as Joint Venture before paying the balance to the Federation Account thereby depleting the shares of states and local governments from the distributive pool (House of Representatives 1/2012: 6). To the Lawan Committee, the NNPC in 2011 alone made a direct deduction of ₦847.942 billion without provision for such deduction in the Appropriation Act.

It is worth noting that while the NNPC feasted on the Federation Account to bloat

the subsidy payable, some marketers were claiming subsidy on products not supplied. This was made possible by the apparent indisciplined manner in which the PPPRA laid the foundation by allocating products on quarterly basis to the oil marketers which the PPPRA knew were not in conformity with its own guidelines. Not only that there were evidence that the PPPRA paid ₦15.8 billion to itself in 2009 and ₦157 billion in 2010. To the Lawan Committee, when confronted, the OAGF was unable to submit details of the bulk payments arrogated to the PPPRA and the account from which the bulk sums were disbursed to the supposed beneficiaries (House of Representatives, 1/2012: 7). It was curious also that the AGF that served during the period of 2009 was found to have made payments of equal instalments of ₦999 million for a record 128 times within 24 hours on the 12<sup>th</sup> and 13<sup>th</sup> January 2009 totaling ₦127.872 billion to beneficiaries that was not disclosed by the OAGF (House of Representatives 1/2012:7). The deduction to be made with the situation highlighted above was that these payments were authorized and coloured by directives from the upper echelon of the federal administration.

The monumental crisis of financial transparency and accountability that afflicts Nigeria according to Iledare and Suberu (2010: 16) has combined with extremely violent and fraudulent character of the country's electoral processes to reduce political governance in the country into a form of criminal activity that effectively abrogates the rights of Nigerians to enjoy basic socio-economic welfare and hold their leaders. In spite of the various measures put in place since 1999 such as the Fiscal Responsibility Act, Public Procurement Act, NEITI, Excess Crude Oil Account and establishment of agencies like ICPC, and EFCC to promote fiscal accountability and efficiency, massive political and economic corruption still persists.

It is assumed that democratic governments have an expanded support base of the electorates, hence are supposed to improve governance and accountability through the provision of public goods to the populace rather than redistributing it among the elite (Collier, 2006: 6 -7). In Nigeria, the reverse seems to be the case as twelve years of democratic rule (1999-2011) gave the political office holders the opportunity to redistribute the huge oil revenue accruing to the country among themselves in the study period. The bastardization of the electoral process through unconventional technique of vote buying, ballot fraud and intimidation of voters have made politicians no longer to be accountable to the Nigerian people. Hence, "democratization, which essentially means the re-establishment of multipartism; corruption and electoral clientelism are more prevalent than ever demonstrated" in Nigeria's case (Blundo, Oliver de Sardan, Arifari and Alou 2006:55).

## **6.7 Efforts at Resolving the Crisis of Fiscal Federalism**

The Constitutional framework for resolving the issues relating to the formulation and adoption of revenue allocation templates was provided by the 1999 Constitution of the Federal Republic of Nigeria (as amended) through its provision in Section 153, Sub-section 1(n) for the establishment of the Revenue Mobilization, Allocation and Fiscal Commission (RMAFC). The powers of this Commission among others as specified in the Third Schedule, Part 1, Section 32, Sub-section (a) are to monitor the accruals to and disbursement of revenue from the federation account. The Commission in sub-section (b) is to

review, from time to time, the revenue allocation formulae and principles in operation to ensure conformity with changing realities provided that any revenue formula which has been accepted by an Act of the National Assembly shall remain in force for a period of not less than five years from the date of the commencement of the Act.

With this constitutional provision and having it in mind that the existing revenue formula as at May 29, 1999 was the one being utilized since 1992, the civilian administration set in motion the process for the preparation and adoption of a new revenue allocation formula through the appointment of the Chairman and Members of the RMAFC. In the performance of its function, the RMAFC was not unmindful of the obvious and indispensable factor that revenue allocation invariably appears to be more political in character than being technical. The reason for this to Tukur (2005:3) was that the necessary parameters, principles and indices for the formulation of the revenue formula could be gathered, but in its utilization, political dimensions might interplay to create distortions in the final outcome. It is noted here that in the last few years, Nigeria's federalism has emphasized more on compromise in the socio-economic and political interests than the technical approach in revenue allocation formula formulation (Iliyasu, 2011:2).

The RMAFC after getting input from all stakeholders and acting in accordance with the provisions of Section 162(2) and Paragraph 32(b), Part 1 of the Third Schedule of the 1999 Nigerian Constitution (as amended) made the underlisted attempts at the evolution of a more desirable revenue allocation formula. In August 2001 the New Revenue Allocation formula was submitted to the President where there was a recommendation of 41.3 percent, 31 percent and 16 percent for the federal, state and local governments respectively with 11.7 percent reserved for special funds. This was dispatched to the National Assembly for ratification by the President (See, *Punch*, October 6, 2004:1).

The Supreme Court Judgement of 5<sup>th</sup> April 2002 on the seaward boundary of the

Littoral States led to a fundamental restructuring of the federation account through the nullification of the special funds previously controlled by the federal government and the unconstitutionality of deductions under the first line charges. The judgement also made the recommended formula by the RMAFC not to be in tune with the present realities, hence the Report of the New Revenue Formula was withdrawn for review in order for it to conform with the relevant constitutional provisions and the Supreme Court Judgement.

On 19<sup>th</sup> December 2002, the RMAFC re-submitted to the President, the reviewed copy of the New Revenue Allocation Formula, and three sets of the report were sent to both Houses of the National Assembly for their information. This formed the basis of the executive bill which was presented to the National Assembly in January 2003. In the bill, the breakdown of the allocation formula among the three levels of government where 46.63 percent, 33 percent and 20.37 percent for the federal, state and local governments respectively were recommended (See, *Punch*, October 6, 2004:1).

Prelude to the April 2003 general elections, the National Assembly began the process of passing the new revenue allocation formula into law. In fact, the House of Representatives successfully passed the Bill. After the elections and the inauguration of the New National Assembly, the Assembly made it clear that all outstanding matters requiring legislation that had not been passed even after going through the second reading by the immediate past National Assembly had lapsed. Thus, the new revenue allocation formula was caught in this trap and the need to resubmit the Bill through the executive became imperative (Iliyasu, 2011:4). The National Assembly in view of the importance of the revenue allocation bill, through a letter dated 12<sup>th</sup> August, 2003 informed the RMAFC that there was no need to resubmit the Revenue Bill through the executive arm. During a courtesy visit to the Senate President on 14<sup>th</sup> August, 2003 by the RMAFC, the procedures for the re-submission of outstanding Bills to the National Assembly were raised. The Senate President explained that the National Assembly would continue debate on the Revenue Bill once it was reconfirmed by the RMAFC (Tukur, 2005:4).

The Commission through a letter dated 18<sup>th</sup> August 2003 to the President reconfirmed its position on the revenue allocation formular. On 25<sup>th</sup> September, 2003, the RMAFC wrote to the Clerk of the National Assembly to confirm if the then House of Representatives would re-open debate on the Revenue Allocation Bill or just await reconciliation meeting with the Senate after it passes the Bill. In a dramatic twist, the President wrote to the National Assembly and copied the RMAFC that there were many

versions of the bill in circulation. In the letter referenced PRES/134 dated 3<sup>rd</sup> November 2003, the President stated inter-alia

Reports have reached me, which I have since verified from the Chairman of Revenue Mobilization, Allocation and Fiscal Commission, that more than one version of the Revenue Allocation Bill is in circulation. It has been ascertained that it is virtually impossible to tell the difference between the versions in circulation. May I therefore kindly request you to formally return the authentic Bill under consideration to me so that I can duly identify the correct Bill. (See, Punch, October 6, 2004:2).

The RMAFC in response to the President's letter responded through a memo dated 10<sup>th</sup> November 2003 confirming that the Commission was in possession of five versions of the Revenue Allocation Bill, but the RMAFC said that although there may be more than one version of the Revenue Allocation Bill in circulation, there is only one authentic version of the Report of the Revised Revenue Allocation Formula. In view of this, the RMAFC met with the Senate Ad-hoc Committee on Revenue Allocation formula in 10<sup>th</sup> November 2003 and presented the revised report and a copy of the draft bill. Furthermore, the Commission on the 15<sup>th</sup> December 2003 attended a multi-agency meeting at the Council Chambers to discuss the position of the Revenue Allocation Formula. Also at the meeting were the President, representatives of some of the Governors and the leadership of the National Assembly. An Emergency Plenary Session of RMAFC was held thereafter. Sequel to the outcome of the emergency plenary session, the President had formally returned the revenue allocation formula to the RMAFC vide a letter dated 17<sup>th</sup> December 2003 with the request that some responsibilities of the Federal Government like Energy, Internal Security, Pension of the Police and Armed Forces etc. were not adequately taken care of in the 2002 Revenue Allocation Report (Iliyasu 2011:7 - 8). To Mohammed (2011) the President cleverly withdrew the bill on the pretext that there was more than one version of the bill before the National Assembly even after the denial of the allegation by the National Assembly when he realised that the wave of opinion in the assembly was in favour of reducing the federal government's share. He asserted that if the President was not being economical with the truth, why did he request that the RMAFC should consider the increase of the federal government's share rather than returning the authenticated bill.

The Commission in response to the President's request held an emergency plenary session on 7<sup>th</sup> January 2004. In order to ensure fairness, equity and justice, the RMAFC's

decision was that the other two beneficiaries of the Federation Account need be consulted. The Commission therefore undertook a nationwide consultation exercise in states and local governments to gather inputs and data on the concerns raised by the President on the weight attached to some responsibilities of the Federal Government. In the process of the collation of the field data and views of the states and local governments, the Governors on 12<sup>th</sup> February 2004 visited the Commission to protest any further review of the revenue allocation formula and also withdrew all the submissions made to the Commission by their members. Despite the Governors move, the Commission at an emergency plenary session held on the 19<sup>th</sup> February 2004 came to the conclusion that the Revenue Allocation Formula should be reviewed. Nothing was done about the review until the House of Representatives attempted to resuscitate the need for the adoption of a new revenue allocation formula through the inauguration of a Special Committee on Revenue Allocation Formula which held public hearing in the six geo-political zones of the country between 28<sup>th</sup> and 31<sup>st</sup> August, 2006. Nothing fruitful came out of the exercise. Again, on 5<sup>th</sup> July 2007, the Speaker of the House of Representatives informed the Commission to send a reminder to the National Assembly to re-open debate and consideration of the Revenue Allocation Bill. This exercise also did not yield any positive result. Finally Late President Umaru Yar=adua in June 2008 resubmitted the Revenue Allocation Bill to the National Assembly for consideration and since then nothing much has been heard about the Revenue Allocation Bill (Iliyasu, 2011:8).

To this study, the struggle for an acceptable formula for the allocation of resources does not only relate to the perceived vertical imbalance between the federal government and the other levels. There is evidence that on the horizontal level, states and local governments try to outsmart one another for more revenue. Since 1999, states and local governments have been utilizing the period to indices review to attempt to gain undue advantage over others by providing outrageous figures in their various submissions to the RMAFC. For instance, Alli (2013: 2) citing a memo from the RMAFC states that in one of the suspicious data, the RMAFC discovered that Kogi State has more internally generated revenue (IGR) than Lagos State. From the data computed, Kogi State had the highest IGR effort of 438.89 percent, followed by Cross River and Nasarawa States with 331.43 and 326.72 percent respectively. Lagos State has the lowest IGR effort of 3.83 percent. This was the lowest amongst all the states. Also in terms of hospital beds, Bayelsa State with 27,437 beds has more beds than public health care facilities in Delta and Lagos States which had 20,905 and 20,900 respectively. On secondary school enrolment, Kano State submitted the highest figure of

2,016,288 students followed by Katsina and Bauchi States with 1,463,943 and 1,384,177 students while Rivers State has the lowest figure of 135,332 students. The local governments are not left out in the scheming for favourable revenue allocation returns. In the case of the IGR, Kunchi Local Government of Kano State submitted the highest IGR effort of 688 percent followed by Gwer West Local Government and Markurdi Local Government both of Benue State with 609 and 554 percent respectively. The lowest were the negative IGR effort submitted by Ewekoro and Abeokuta North Local Governments of Ogun State with -525 and -33 percent respectively. The implication of the negative IGR effort is that if allowed by the RMAFC, their allocation from other factors would be deducted for their negative IGR effort. On primary school enrolment, Bauchi Local Government of Bauchi State gave a figure of 286,450 being the highest followed by Onicha Local Government of Ebonyi State with 220,685. The lowest data came from Lagos State where both Lagos Mainland and Lagos Island Local Governments gave a figure of 3298 and 2087 respectively (See, *The Nation*, April 6, 2013:6).

To counteract these outrageous submissions, the RMAFC is considering two alternatives. The first is to adopt a maximum IGR effort that can be allowed for both states and local governments so that those that recorded high percentage effort could be brought down to ensure that they fall within the acceptable limit while those states and local governments that have negative or low IGR effort be allowed a minimum percentage IGR effort. This is to ensure that such states or local governments are not worse off in the latest review process. The second alternative is to take the average of the IGR effort of the 2006 indices and that of the verified data in 2012 as presented. It is to be noted that the RMAFC conducted indices verification in 1999, 2003 and 2006. The indices that are being currently utilized for revenue sharing are the 2006 indices.

It is the considered opinion of this study that from the analysis above, the RMAFC had submitted and severally resubmitted the proposals for a new Revenue Allocation Formula as provided under section 162(2) of the 1999 Nigerian Constitution but some of the major stakeholders have not shown keen interest in its passage throughout the study period. In assessing the effort of the civilian administration in the resolution of the impasse on revenue allocation, it could be noted that since the beginning of the study period i.e. 1999 to 2011 which marks the end of the study period, the issue of the national revenue sharing formula has been mired in high-level intrigue arising mainly from the federal government's preference for a fiscally dominant centre at the expense of the economic viability of the other

tiers of government. It need be appreciated that past and present revenue allocation systems have contributed to the continuous uneasy intergovernmental relationship in the Nigerian federal structure. They have done little to mitigate the latent rivalry, mutual distrust and suspicion amongst the various socio-political entities within the country. There is no let up in the controversy over agitation for a new formula for the sharing of revenue that accrues to the federation. The State Governors that have been at the forefront of the protest against the federal government=s major share from the federation account under the present revenue arrangement have been mounting pressure on the National Assembly to consider a new revenue formula that will increase their share and thereby empower them to finance developmental projects in their states. For instance the Governors under the aegis of the Governors Forum set up a Committee headed by Governor Babartunde Raji Fashola of Lagos State which proposed a sharing formula of Federal Government 35 percent, States 42 percent and Local Governments 23 percent. Not only that, the six Houses of Assembly in the South-South are demanding for an upward review of the derivation formula from 13 percent to 50 percent. In order not to be left out of the agitation, the Northern States that are endowed with solid minerals are insisting that they ought to benefit from the 13 percent derivation (See, *The Nation*, April 6, 2013:6).

It is important to note that all efforts made so far in restructuring the revenue allocation formula in favour of the other tiers of government have remained futile since 1999 as a result of the federal government=s preference for the unitary fiscal arrangement inherited from the military which gave a major percentage allocation of the funds from the federation account to the federal government. It is pertinent to note that the resolve of the government at the federal level to obstruct any effort to reduce the centre=s bloated share and free more funds for grassroots development is reflected in the stage-managed delay and confusion over a new revenue allocation formula. Therefore, to this study, the stunted grassroots development and the remoteness of the government from the people could be traced to a bloated centre that is attractive to opportunistic politicians.

## **CHAPTER SEVEN**

### **SUMMARY, RESEARCH FINDINGS, RECOMMENDATIONS AND CONCLUSION**

#### **7.1 Summary**

The objective of this study is to identify the practices of fiscal federalism and how this has affected Nigerian federalism. More specifically, it has looked at the practice of fiscal federalism between 1999 and 2011. In this wise the study examined the following: the constitutional provision for fiscal federalism under the 1999 constitution (as amended); the distribution of fiscal powers and responsibilities amongst the various levels of government; the assignment of taxing powers; structure and distribution of revenue; the problems associated with inter-governmental fiscal relations and the effect and impact of oil in the Nigeria=s revenue allocation system. It also looked at the efforts towards evolving a formula that will take into consideration the varied interests of the various segments of the country; the inherent lack of transparency, mismanagement and corruption in the fiscal system; the manipulation of the fiscal system by the elite as a means of economic advancement and the non-diversification of the fiscal base.

The study observed that prior to May 29<sup>th</sup> 1999, several revenue allocation principles and formulae were adopted, faulted and discarded because such principles reflected the views of the elite, individuals and groups within the revenue commissions which invariably contributed to the dislocations within the Nigerian society. This led to the establishment of a permanent revenue commission by the 1999 constitution (as amended) to review, from time to time, the parameters, formulae and principles that will be applied to the practice of fiscal federalism.

The study notes that the vertical and horizontal distribution of revenue are issues that are seen as the focal points of inter-governmental relations in Nigeria, and in fact veritable sources of crises within the Nigerian federation. There is also the problem of vertical financial imbalance i.e. the non-correspondence problem which makes the lower tiers of government to continually seek and beg for federal assistance. This perhaps explains the discordant tones from the lower tiers of government.

The civilian administrations since 1999 especially at the federal level as observed from this study have not been predisposed towards resolving the impasse in revenue

allocation. There is the anomaly of the federal government's preference for the unitary fiscal arrangement that was transferred to it by the military. This explains the brazen delay to pass the new revenue formula and the often unilateral change of the vertical formula by the federal government. This, in effect, has made the centre to be attractive to opportunistic politicians since it has always been possible to blunt the political pressures from the lower tiers of government and affected ethnic nationalities for a revenue sharing arrangement that will be beneficial to all.

The financial disorderliness that has characterized that inter-tier fiscal operations and allocations is highlighted. This is manifested in the continuous illegal deductions from and underpayment of revenue to the federation account that is largely manipulated by the federal government. Also, the states are involved in a barefaced display of irregularities in the operations and management of the State Joint Local Government Account.

The study identified the high level of corruption, mismanagement and lack of transparency in the operation of the fiscal system, most especially by the agents, agencies and cronies of the federal government. At the state and local government levels, the situation is the same as the officials at this level exhibited total disregard to transparency. The effect is that funds that could have been channeled to the provision of basic social needs of the people are being diverted into private pockets.

There is still the persistent mono-cultural character of the fiscal system with its continuous dependence on oil. This is in spite of the fact that Nigeria is an immensely mineral rich country with every state liberally endowed. The inability to tap all these resources is as a result of a lack of concerted effort by the leadership to harness them, since oil revenues are available. The nature of the country's political economy therefore is predicated on a system where the federal government controls all the jurisdictional powers over the oil resources. This is in contrast to countries like the United States of America where oil producing states enjoy certain jurisdictional powers on oil that is located in their area because this commodity is not a crucial national resource.

## **7.2 Research Findings**

This study revealed the following findings:

- (i) It is noted that there has been the problem of non-correspondence in Nigeria's fiscal federalism. This has resulted in imbalance between the assigned constitutional functions and the taxes to carry out such functions. To the study, it could be said that Nigeria operates an administrative decentralization rather than fiscal decentralization as a majority of the buoyant taxes are under the federal government's administration. Fiscal centralism which became more pronounced under the military regimes has led to a situation where states were denied their legitimate resources such as revenue generated from direct tax and indirect tax

like Value Added Tax. It is to be noted that issues of relative fiscal autonomy and the independence of states, and local government in a federal system goes together with the corollary issue of the correspondence of the functions of government and the revenue sources available.

(ii) There is conflict over the Federation Account and this revolve round the underpayment of federally collected revenues into the account as well as the Adeductions@ that the federal government through federal laws unilaterally tagged Afirst line charge@ and were deducted from the account before the distribution among the three levels of government. Some of these deductions included the so-called memorandum items such as Priority Projects, External Debt Service, NNPC Joint Venture Cash Calls, Excess Petroleum Profit, Tax and Royalties and Excess Crude Proceeds. Other deductions that were classified under special funds included allocation for statutory revenue stabilization, ecological fund and fund for the development of the Federal Capital Territory. The computed underpayments to the federation account are ₦388.3bn, ₦734.1bn, ₦804.1bn, ₦125.7bn and ₦563.5bn in the years 1999, 2000, 2001, 2002 and 2003 respectively. For years 2004, 2005, 2006, 2007, 2008, 2009, 2010 and 2011, they are ₦1263.2bn, ₦2513.5bn, ₦2755.2bn, ₦1,849.1bn, ₦3313.8bn, ₦1244.5bn, ₦2519.2 and ₦4958.5bn respectively. Also from the federation account between 1999 and 2002, an amount of ₦172.9bn, ₦197.5bn, ₦270.3bn and ₦46.2bn were allocated to NNPC priority projects and external debt service. Although during the study period, the Supreme Court in its unanimous ruling of 5<sup>th</sup> April 2003 invalidated all these deductions, the Federal Government has continued to divert funds meant for the federation account to itself through its executive order after the supreme court ruling transferring the invalidated deductions to the federal government. An example here is the federal government=s unexplained deductions under the headings of Aothers@. These deductions continued to increase on yearly basis and in 2011, a substantial amount of ₦816.4bn was deducted.

(iii) The practice of federalism in Nigeria has been subjected to continual tinkering since independence. This study reveals that in the period between 1960 and 1966, the system of government practiced was deemed by many academics and commentators to be preferable to Nigerians since there was substantial devolution of functions and resources to the regions. This practice was seriously eroded with the military incursion into Nigerian politics in January 1966. The over centralization of power and public policies by the military has seriously weakened or bastardized Nigerian federalism. Many aspects of this concentration of powers were transferred through the 1999 constitution to the present fourth republic. A

good example here is the enormous powers granted to the federal level in the exclusive legislative list.

One of the several ways in which the federal government has been manifesting this concentration of power is the unilateral decision to operate the Sovereign Wealth Fund (SWF) in October 2011 in spite of the opposition by state governments. The SWF core objectives are (i) saving for the future, (ii) investment in strategic infrastructure and (iii) building a buffer stock such as current global financial crisis which has damaged many economies across the world including developed economies. To activate the fund, the federal government unilaterally deducted US\$1 billion from the Excess Crude Account on 18<sup>th</sup> October 2011. It is the contention of this study that the SWF violates the principles of fiscal federalism as set out in Section 162 (1&3) of the 1999 constitution (as amended) because it improperly appropriates the revenue meant for state and local governments for purposes solely determined by financial technocrats engaged by the federal government, more so without constitutional amendment or legislative backing and was still without the full consent of other levels of government.

(iv) The power concentration in Nigeria continues to bring about private accumulation of capital. It has led to the concentration of the surplus appropriation and its easy privatization by few members of the Nigerian bourgeoisie in alliance with the metropolitan bourgeoisie. Capitalist growth has not however accompanied increased primitive accumulation partly because the centralization of political authority has produced increased bureaucratization, stifled initiative and resulted in wasteful application of resources. The centralization of power has also tended to promote authoritarianism in the Nigerian political process which no doubt is antithetical to the spirit and letters of federalism.

(v) Constitutionalism is an important ingredient of federalism because it is the sinew of liberal democracy and *sine-qua-non* of civil legitimacy. It is in this light that the constitution of any federal state is the grundnorm and as such should reflect the interests, aspiration and purpose of the federating units. It is noted that the 1999 Constitution which midwifed the democratic dispensation of the fourth republic was a creation of the military with little or no civil input from the various nationalities hence its numerous defects. Attempts by the legislature under the Yar=adua=s administration at redressing the anomaly have not been comprehensive enough to resolve the observed deficiencies.

(vi) The study also found out that with the over concentration of fiscal powers and resources through the federal government=s collection and control of the bulk of the

resources from the vertical allocation of revenue, there is limited revenue available for development at the grassroots level with a corresponding bloated centre. This is so because since the creation of states in 1967 and subsequent state creations by other military administrations, states and local governments have been excessively dependent on the Federation Account for their survival. The effect of this is that federating units are not free to pursue their own developmental goals as they are usually affected by the unpredictable fluctuations in their shares from the Federation Account.

(vii) The study found out that the operation of the Federation Account lacks transparency as the Federal Government through agencies such as the NNPC, DPR, PPPRC, Customs and FIRS continually under-remit revenues meant for the Federation Account. The effect of this is that federal government effectively shortchanges the other tiers of governments by surreptitiously reducing the pool of funds available for the intergovernmental distribution, while at the same time create additional source of revenue for the centre. For instance, the Nigeria Extractive Industries Transparency Initiative 2006 – 2008 Oil and Gas Industry Audit Report indicated that the NNPC owed the Federation Account for domestic crude the sum of ₦842.7 billion as at 31<sup>st</sup> December 2008. Secondly, the NNPC deducted subsidy claims of ₦816.55 billion directly from the domestic crude proceeds before remitting the balance to the Federation Account without authorization. Thirdly, the NNPC received US\$3.789 billion dividends from the Nigerian Natural Gas Company for 2006 – 2008 but it did not confirm that payments were made to the Federation Account. Fourthly, audit recalculations of royalty for the years 2006 – 2008 estimated an underpayment of US\$2.33 billion arising from subjective interpretation of volume, pricing and American Petroleum Institute (API) grading variable. In NEITI's 2009-2011 Audit Report, ₦4.423 billion reported as over recovery by the PPPRC from some marketers was not paid into the Federation Account. Similarly, ₦3.715 billion are yet to be refunded by the NNPC and two other companies as over recovery for 2009-2011.

(viii) There is evidence of non-adherence to the revenue allocation principles and formula. The various revenue allocation commissions in Nigeria considered how funds are to be allocated among the levels of government and also among the states and local governments. It is noted that the principle recommended by these commissions and accepted by the various governments for both vertical and horizontal fiscal transfer are not usually followed. For instance, the accepted principle of horizontal fiscal transfer among states which include the principles of equality, population, even development, internally generated revenue, land

mass and terrain and social development factor were not usually complied with. The reality on the ground is that none of the states got the estimated revenue allocation as its actual revenue allocation. The budgetary resources were either over-allocated or under-allocated to the states. For instance between 1999 and February 2003, there was an overpayment of ₦14 billion to the five crude oil producing states of Abia, Delta, Rivers, Ondo and Edo. The breakdown of the overpayment shows that Delta, Ondo, Rivers and Abia got ₦5.4 billion, ₦3.3 billion, ₦4.98 billion and ₦274 million respectively as over payment from the derivation fund while Edo and Delta were jointly over paid by ₦39.1 million. It is also a fact that within a 5 percent deviation margin, not more than 33 percent of the states received allocation close to their estimated allocation figures. This is too haphazard for a stable federal fiscal arrangement.

(ix) The study notes that there is inequality in national revenue distribution among the states, and this is evident in the wide disparities in the per capita allocation between the oil producing and non-oil producing states. For instance, total revenue per capita allocated to oil producing states on the average was ₦35,955.00 in 2008. In comparison, the per capita allocation to non-oil producing states was ₦10,249.00. A state like Rivers which accounts for 36.9 percent of oil production and 3.7 percent of the population of the federation received 14.9 percent of total allocation to the 36 states in 2008 with a per capital allocation of ₦64,213. Bayelsa, with about 2 percent of the population received 6.8 percent of revenue transfers in 2008, with a per capita allocation of ₦89,282. In comparison, each of the 27 non-oil producing states in Nigeria garnered, on average, less than two percent of the transfers in 2008 even though they collectively accounted for 77.7 percent of the population. The effect of this is that regional inequality in per capita statutory finances and indeed in broader socio-economic circumstances in Nigeria is likely to be among the worst when all federal states are taken into consideration. Though there is no federal system which has attained equal development, but it is more critical where revenue allocation is much more injurious to even and spatial development in a multi-ethnic federation like Nigeria.

(x) The transformation of Nigeria from a diversified agro-based economy that it was up to the first republic into a mono resource oil based economy in the 1970s was still pre-eminent in the study period. In spite of the billions of naira earned from the exportation of oil and natural gas, the industry has not been able to generate the multiplier indices necessary to transform the economy and facilitate sustained national growth and economic development. Rather what has resulted from the oil and gas dominated economy was the affliction of the *Dutch Disease* phenomenon which is a major characteristic of natural resource dominated

economies. In addition, the oil economy has made the federation to be operated more like a unitary state rather than federal from a fiscal perspective. With the expanded access to revenue from oil, the financial dependency of the states and local governments has increased (some states and local governments derive up to 90 percent of their finances from the federation account). This has accentuated the disparities in central revenue transfers to sub-national units and led to the underdevelopment of both the alternative sources of revenue of the lower levels (partly because the fiscal effort criterion in the allocation formula is not worth much) and of effective budget formulation, accounting, recording and reporting systems (owing to easy availability of shared revenues). As things stand, the poor quality of public financial management at the sub-national level, where approximately half of national public spending takes place, represents a huge macro-economic challenge in Nigeria.

(xi) The issue of the proper application of the concept of derivation has remained a festering sore on Nigeria's fiscal federalism. This is so because the people from the oil producing areas are especially dissatisfied with the present weight attached to the principle in the revenue allocation system. It had been earlier stated in this study that it was a dominant principle in the horizontal allocation accounting for about 50 percent between the 1940s and 1960s when agricultural produce was the major export earner, its application was de-emphasized in the 1970s when oil took over as the major export earner when it accounted for 2 percent between 1981 and 1989, 1 percent between 1990 and June 1992, 3 percent between 1992 and 1999 and 13 percent from June 1999 of the vertical allocation.

(xii) The mono-cultural nature of the economy notwithstanding, Nigeria is an immensely mineral rich country with every state liberally endowed. The problem is the inability or unwillingness of the leadership to harness these resources for the development of the country and this explains the over dependence on oil revenues. For instance, during the study period the federal government announced the discovery of Bitumen in Ogun, Ondo and Edo States (the bitumen belt stretches from just East of Ijebu Ode Ogun State to the banks of the tributaries of the Siluko River at Ofosu Village in Edo State, an approximate distance of 110km) with a reserve estimated at about 42 billion metric tons (twice Nigeria's crude oil reserves). The potential revenue yield from this resource has been estimated to equal if not more revenues than oil production. In spite of this, up till the end of the study period, the federal government effort towards exploiting this revenue source has been lukewarm and has not yielded fruit.

(xiii) The study found out that the operation of the fiscal system lacks transparency, hence it was characterized by mismanagement, corruption and indiscipline. The view of this study

is that the under declaration of revenue returns for the Federation Account by the federal collecting agencies has deleterious effects on its operation. For instance how could the office of the Accountant General of the federation issue cheques for ₦999 million for 124 times within 24 hours without the beneficiaries being known, and heaven did not fall. In the same vein, the predilection of the NNPC in behaving as if it is a law unto itself has the support of high government officials. At the state and local government levels, the situation is the same. For instance in the Niger Delta States, the conflict there cannot be dissociated from the grand political corruption that has been the bane of Nigerian federalism in general and the revenue distribution system in particular. Evidence abound that the billions of naira received by the core Niger Delta States from derivation based revenue along with the regular allocation that all the states and local governments get from the Federation Account have either been squandered or embezzled by the state governors and other officials of government. These stolen funds have been utilized to manipulate the electoral process and maintain themselves or their clients in power while basic education and health facilities as elsewhere in the federation remain in a terrible state of decay. The reason why many of the northern governors are demanding for more allocation is because the fight over oil money by the Nigerian elite is simply because it is cheap money which the leaders think they do not account for, hence their priorities are notoriously mixed up.

(xiv) States and local governments have not fully tapped the potentials of income from independent revenue sources such as personal income tax (state controlled) and property tax (local government controlled). With the exception of the people in wage employment who are taxed through the Pay As You Earn (PAYE) system, the bulk of the self-employed professionals and non-professionals pay little or nothing as income tax. There are many loopholes for the under assessment of those that even bother to pay. Local Governments have also not being able to optimally utilize the benefits of income from property tax.

The effect of the lukewarm approach of the two tiers to generating independent revenue is the low percentage contribution of this source to the total revenue of the states and local governments. It has been shown in this study that with the exception of Lagos State whose percentage contribution of internally generated revenue to the overall revenue in 2001, 2003, 2007, 2008, 2010 and 2011 was 41.8 percent, 64.3 percent, 51.2 percent, 63.8 percent, 60.7 percent and 54.9 percent respectively, the performance of the other states has not been encouraging. The situation was the same for local governments. For instance in 2004, Lagos State which had the highest internally generated revenue was only able to

collect 12.6 percent of the overall revenue. With this dismal performance, the two tiers had no option than to depend heavily on federally collected revenue which is unable to adequately cater for the performance of their statutory functions.

(xv) The local governments were and are still helpless against the continuous onslaught on their financial resources by the state governments. The study notes that this situation was as a result of the creation of Joint State/Local Government Account Distribution Committee by the 1999 Constitution. The anomaly in this situation is that while states as a level of government collect their statutory allocation directly from the federation account, for local governments, their allocation came and still comes to the Joint State/Local Government Account for distribution to the local governments. This gives the State Governments the opportunity to tinker with the laid down principles of distribution which in most cases is in the interests of the local government. Also, the constitutional provision mandating the state government to transfer 10 percent of their internally generated revenue to the local governments has always been observed in the negative since evidence from the study indicated that a majority of the states chose not to be guided by this constitutional provision. The irony of the situation is that although the local governments are recognized by the constitution as the third tier of government, in reality in fiscal perspectives, the same constitution made them to be appendages of state governments. Also, states that have been crying of marginalization as it relates to distribution of revenue by the federal government were and are also culpable in their relations with the local governments.

(xvi) Despite the constitutional provision for the review from time to time of the revenue allocation formulae and principles in operation in order to ensure conformity with changing realities, the democratic government of the day especially at the federal level is reluctant to tinker with the present allocation formulae and principles (a carry-over from the military era) which gave a large proportion of the revenue to the federal government. Controversy and agitations by the lower tiers of government and various shades of public opinion have not stopped the federal government=s preference for a fiscally dominant centre at the detriment of the economic viability of the other tiers. The main consequence from this study is that the elite at the federal level still favours the consolidation of power at the centre with the attendant dependence of the other tiers of government on the federal benevolence. Not only that, the overbloated functions of the federal government has also made it a financial risk for it to let go of the large chunk of revenue.

(xvii) Oil has attained the status of being the fiscal basis of the Nigerian state. As a result of this, it has served as the basis for the struggle over control, access and distribution by the various factions of the elite ruling class. The federal government being the very vortex of power became the ultimate prize in politics, and the shifting of all attention to the contest for access to power at the centre because of the capacity to authoritatively allocate resources. The effect was that a lot of energy was and is being dissipated on the destabilizing struggle for federal power with the politization of a revenue sharing system that is dependent on a single commodity economy whose fortunes were and are externally determined. The present democratic administration seems not be unmindful of the fact that the increase in the struggle for access to, and control over federal power was a result of the tightening of the grip of federal power over the entire process. This same situation is playing itself out at the state level. To this study, the oil - state nexus is at the heart of the dialectics of fiscal federalism in Nigeria. Oil has spawned more contradictions within the process of fiscal federalism, and the major areas of such contradictions are between the federal government and the other tiers; federal government and the oil-producing states; the oil-producing states and the non-oil producing states; federal government and the oil minorities and the oil minorities and oil multinationals.

### **7.3 Conclusion**

This study has shown that the structure and practice of fiscal federalism has had a great impact on the practice and direction of federalism in Nigerian. Though it could be said that it was federalism that created the need for fiscal federalism, the structure of federalism in Nigeria has been radically altered by the system of revenue allocation. It has been shown that because of the lopsided nature of Nigerian federalism, virtually all the levels of government are dependent on the statutory allocation from the Federation Account to the extent that the federal structure had almost been transformed into a unitary structure.

It has also been noted by the study that the vertical distribution of revenue which tilts in favour of the federal government led to the attendant struggle among the various ethnic nationalities in the country for relevance in the polity. This is because the presence of oil in Nigeria has led to the evolution of a tribe of rent seekers whose only contribution to development is the creation of distortion in the dynamics of fiscal federalism of the country. This gives a clear indication that Nigeria's present state of underdevelopment is no doubt a

result of the resource curse. Coupled with this was that the crisis of financial transparency and accountability that afflicts Nigeria has contributed to the persistence of corruption despite the various measures such as the establishment of ICPC, EFCC, NEITI, Fiscal Responsibility Act etc. implemented since 1999 towards the promotion of fiscal efficiency.

It is the position of this study that Nigerians are better being together, as this will hasten the realization of development goals than being fragmented. Therefore, it is necessary and efficient to transfer a part of the revenue resources being generated in one part of the country to another especially from the areas with surplus funds to the areas with deficit funds to engender optimum resource utilization and balanced development. It is also imperative for the federal government to fast track the enhancement of revenue sources through the development and exploitation of the natural resources that abounds in various parts of the country.

Nigeria, being a multi-ethnic state should be able to ensure and guarantee equity, stability and even development. For national development to be realized, effort has to be made to have equity in accountability, democratic governance, even development and resource allocation. Therefore, this study asserts that the nation's dynamics of fiscal federalism should be such that is characterized by openness and be able to promote the developmental objectives of the country.

#### **7.4 Recommendations**

This study recommends as follows:

- (i) The Second Schedule (Parts I and II) and Fourth Schedule are to be amended to transfer more functions to the State Government.
- (ii) To free more funds to the sub-national governments, tax administration need to be decentralized to enable these governments control some buoyant taxes.
- (iii) The current horizontal VAT distribution format of 50 percent equality, 30 percent population and 20 percent derivation is to be replaced by 30 percent equality, 20 percent population and 50 percent derivation to take care of the negative effects of production.
- (iv) On vertical distribution, 35 percent federal, 40 percent states and 25 percent local governments should be adopted to take care of the intended functional devolution.
- (v) Section 162 (2) of the 1999 Constitution should be amended to remove the constitutional ambiguity which places RMAFC as only an adviser to the President on issues relating to a new revenue allocation formula.
- (vi) To ensure independence of the RMAFC, Section 153(n) and Third Schedule (Part I,

N) need to be amended to remove the body as an executive body of the federal government. Rather it should be a Federal/State/Local Government Joint Commission which is responsible directly to the National Assembly.

- (vii) There should be strict adherence to the accepted allocation principles and formula for both vertical and horizontal distribution.
- (viii) The amendment of Section 162 (6) of the 1999 Constitution to phase out State Joint Local Government Account and return to the Pre May 1999 allocative system where the statutory allocation to local governments were paid directly to them. The assessment of statutory funds directly from the Federation Account will give them the needed fiscal autonomy.
- (ix) There should be efforts at diversifying the revenue sources through the encouragement of the development of other mineral resources.

### **7.5 Contribution to Knowledge**

The thesis raises the question about assignment of functions, taxes, and the distribution of resources, and the prospect of development in Nigeria. Hence its contribution to the empirical literature by providing empirical evidences that fiscal federalism is good for growth but bastardized in its application in Nigeria. This is because there have been an ongoing debate for decades about the optimal distributive principle that could be adopted in Nigerian federalism.

One of the significant academic contribution of this dissertation is the investigation of the dynamics between the political system and the practice of fiscal federalism to see if there are specific alternatives within the internal politics in the form of political and economic reforms that would ensure the realization of an enhanced socio-economic development within the available resource base. The theories also provides cogent information on how to address and resolve the problem of vertical and horizontal imbalance which is an indication of limited fiscal decentralization in Nigeria.

### **7.6 Areas for Further Research**

One area of further research which was partly stated in this study relates to the quality and character of the political leadership at all the levels of government. A major challenge of fiscal federalism highlighted in this work is the issue of mismanagement and corruption surrounding not only on how the revenue were distributed but also how they were utilized. To enhance the institutions of governance for the benefit of the citizens, the political class in some natural resource dependent countries that were on the same level with Nigeria in the 1960's like Malaysia, (see table XXXVII) have been able to deploy the natural

resources of their countries to raise the human development index in their countries in recent years.

The research will seek to bring to the fore the structure, organization, behaviour and character of the political leaders in these countries (Malaysia, Indonesia etc.) that made it possible in effecting major significant changes in the socio-economic situations of their countries. How they have been able to resolve the major challenges to governance to harness their nation's resources to transform their countries. This research might go a long way in recommending the path of action for Nigerian political elite to address and resolve their deficiencies in governance.

One other area of further research relates to the continued reluctance of the governments at the federal and state levels in developing other mineral resources in which the country is blessed to diversify the revenue sources. It is a known fact that Nigeria is blessed with a multiplicity of mineral resources (gold, bitumen, copper, uranium, iron-ore etc.) whose development will raise the revenue available to the various tiers of government. Rather than promote diversification, states are fond of going to Abuja every month to receive their monthly assignment from the federation account. The effort this has is that Nigeria's annual budget is predicated on the volatility of the price of a barrel of oil on the international market. The catastrophic consequences are that these always have a defective impact on the socio-economic development of the country.

The research on the need to encourage diversification of revenue on various mineral sources is further made very imperative in view of the deadlines that are being set by developed countries on the stoppage of production and sale of petrol and diesel powered new vehicles. For instance, these countries have set these deadlines – Britain 2040, France 2040, India 2030, Norway 2025, Netherlands 2025, and Germany 2030 (Gray 2017:1). The following countries are studying when to ban the sale - Spain, Portugal, Korea, China, Austria, Denmark, Ireland and some states in the United States (Gray, 2017:1). The implication of this development is that within the next two or three decades, crude oil may no longer be a highly marketable commodity.



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Abdulkareem, A.I. Former Accountant General, Kwara State.

Abdullahi, N.S. Former Commissioner of Finance, Niger State.

Adeniyi, A.S. Former Commissioner of Finance, Osun State.

Ahmed, M. Former Senator Represented Kwara North.

Ajadi, M.S. Former Senator Represented Kwara South.

Ajimoti, R.A. Former Chairman, Oyun Local Government, Kwara State.

Amodu, I.S. Former Commissioner of Finance, Kwara State.

Ayandele, B.S. Former Chairman Ogbomosho South Local Government, Oyo State.

Bamidele, H.O. Former Chairman, Aiyexdire Local Government, Osun State.

Ejiofor, N.B. Former Directorm, Research and Statistics, Revenue Mobilisation, Allocation and Fiscal Commission.

Mohammed, S.Y. Former Federal Commissioner, RMAFC.

Ndagi, M.A. Former Accountant General, Niger State.

Olawoyin, O. Former Chairman, Offa Local Government, Kwara State.

Opaleke, S.O. Former Member, House of Representative Represented Ifelodun/Offa/Oyun Kwara State.

Sarouk, F. Former Member, House of Representative Represented Ilorin/Asa, Kwara State.

### **Discussion**

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Ovwasa, O.L. (2008) Then Senior Lecturer, Department of Political Science, University of Ilorin (now Professor of Political Science, Federal University Lokoja).

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## APPENDIX I

### Revenue Sharing Formula, 1980 B 82

| Formular for Sharing The Federation Account                                      | Okigbo Commission Recommendations | Federal Government=s White Paper on Okigbo Report (Allocation of Revenue Bill 1980) | System Adopted By House of Representatives | System Approved By Senate | Revenue Allocation Act, Signed 2 February 1981 and Nullified by Supreme Court 2 October 1981 | Revised Revenue Allocation Act, Signed 22 January 1982 |
|----------------------------------------------------------------------------------|-----------------------------------|-------------------------------------------------------------------------------------|--------------------------------------------|---------------------------|----------------------------------------------------------------------------------------------|--------------------------------------------------------|
|                                                                                  | %                                 | %                                                                                   | %                                          | %                         | %                                                                                            | %                                                      |
| (i) Federal                                                                      | 55                                | 55                                                                                  | 50 <sup>b</sup>                            | 58.5 <sup>d</sup>         | 58.5 <sup>d</sup>                                                                            | 55                                                     |
| (ii) State                                                                       | 30                                | 30                                                                                  | 40 <sup>c</sup>                            | 51.5 <sup>e</sup>         | 31.5 <sup>e</sup>                                                                            | 35 <sup>f</sup>                                        |
| (iii) Local Government                                                           | 10                                | 8                                                                                   | 10                                         | 10                        | 10                                                                                           | 10                                                     |
| (iv) Special Fund                                                                | 7                                 | 7 <sup>a</sup>                                                                      | B                                          | B                         | B                                                                                            | B                                                      |
| Total                                                                            | 100                               | 100                                                                                 | 100                                        | 100                       | 100                                                                                          | 100                                                    |
| Formula for Dividing State Shares Including Allocations Due to Local Governments |                                   |                                                                                     |                                            |                           |                                                                                              |                                                        |
|                                                                                  | %                                 | %                                                                                   | %                                          | %                         | %                                                                                            | %                                                      |
| (i) Minimum Responsibility of Government                                         | 40                                | 40                                                                                  | 45                                         | 50                        | 50                                                                                           | 40                                                     |
| (ii) Population                                                                  | 40                                | 40                                                                                  | 50                                         | 40                        | 40                                                                                           | 40                                                     |
| (iii) Social Development Factor                                                  | 15                                | 15                                                                                  | B                                          | B                         | B                                                                                            | 15                                                     |
| (iv) Internal Revenue Effort                                                     | 5                                 | 5                                                                                   | 5                                          | B                         | B                                                                                            | 5                                                      |
| (v) Land Mass                                                                    | B                                 | B                                                                                   | B                                          | 100                       | 10                                                                                           | B                                                      |
| Total                                                                            | 100                               | 100                                                                                 | 100                                        | 100                       | 100                                                                                          | 100                                                    |

- Notes:** (a) 5.5 per cent to go to mineral producing areas.  
 (b) 2.5 per cent to be used for the development of the federal capital territory (FCT)  
 (c) 3.5 per cent to be allocated exclusively for the benefit of mineral producing areas.  
 (d) 2.5 per cent to be used for the development of FCT and 1 per cent to be used for the amelioration of ecological problems.  
 (e) 5 per cent to be deducted exclusively for the benefit of mineral producing areas.  
 (f) 3.5 per cent to go to the mineral producing areas and 1.5 per cent to be paid into a fund administered by the Federal Government for the amelioration of ecological problems. The balance of 30 per cent to be shared among all the states including Abuja.

**Source:** Suberu, R.T. (1999). Federalism and Political Instability. A Doctroal Thesis Submitted to the Department of Political Science, University of Ibadan. Pg. 229.

**APPENDIX II:**  
**Revenue Structure of the Federal Government 1999 - 2011 (₦ billion)**

| Year                | 1999         |            | 2000         |            | 2001         |            | 2002         |            | 2003          |            | 2004          |            | 2005          |            | 2006          |            | 2007          |            | 2008          |            | 2009          |            | 2010          |            | 2011          |            |
|---------------------|--------------|------------|--------------|------------|--------------|------------|--------------|------------|---------------|------------|---------------|------------|---------------|------------|---------------|------------|---------------|------------|---------------|------------|---------------|------------|---------------|------------|---------------|------------|
| SOURCE OF REVENUE   |              | %          |              | %          |              | %          |              | %          |               | %          |               | %          |               | %          |               | %          |               | %          |               | %          |               | %          |               | %          |               | %          |
| Federation Account  | 218.9        | 78.8       | 502.3        | 88.6       | 530.7        | 71.4       | 660.6        | 79.7       | 917.1         | 87.2       | 1225.9        | 92.1       | 1334.7        | 75.9       | 1486.5        | 76.7       | 1500.9        | 64.3       | 1847.0        | 57.8       | 1353.6        | 51.2       | 1830.9        | 59.3       | 2359.0        | 67.7       |
| Independent Revenue | 11.5         | 4.1        | 38.1         | 6.7        | 44.4         | 6.0        | 68.1         | 8.2        | 54.2          | 5.2        | 58.9          | 4.4        | 212.1         | 12.1       | 33.3          | 1.7        | 268.7         | 11.5       | 114.0         | 3.6        | 73.2          | 2.8        | 153.6         | 5.0        | 182.5         | 5.2        |
| Value Added Tax     | 7.1          | 2.6        | 8.3          | 1.5        | 13.4         | 1.8        | 15.5         | 1.9        | 20.0          | 1.9        | 23.8          | 1.9        | 26.7          | 1.5        | 33.2          | 1.7        | 43.4          | 1.9        | 58.3          | 1.8        | 67.4          | 2.6        | 81.1          | 2.6        | 87.3          | 2.5        |
| Excess Oil Revenue  | -            | -          | -            | -          | -            | -          | -            | -          | 53.3          | 5.1        | 23.0          | 1.7        | 184.8         | 10.5       | 320.8         | 16.6       | 299.1         | 12.8       | 492.2         | 15.4       | 815.4         | 30.9       | 464.1         | 15.0       | 202.3         | 5.8        |
| Others              | 41.1         | 14.8       | 18.1         | 3.2        | 154.8        | 20.8       | 82.5         | 10.0       | 6.7           | 0.6        | -             | -          | -             | -          | 63.3          | 3.3        | 221.6         | 9.5        | 682.0         | 21.4       | 333.3         | 12.6       | 559.5         | 18.1       | 655.3         | 18.8       |
| <b>Total</b>        | <b>277.7</b> | <b>100</b> | <b>566.8</b> | <b>100</b> | <b>743.3</b> | <b>100</b> | <b>828.7</b> | <b>100</b> | <b>1051.2</b> | <b>100</b> | <b>1331.6</b> | <b>100</b> | <b>1758.3</b> | <b>100</b> | <b>1937.2</b> | <b>100</b> | <b>2333.7</b> | <b>100</b> | <b>3193.4</b> | <b>100</b> | <b>2643.0</b> | <b>100</b> | <b>3089.2</b> | <b>100</b> | <b>3486.5</b> | <b>100</b> |

**Note:** The total percentage for some years are rounded up.

**Source:** Computed by the Researcher from the Central Bank of Nigeria Annual Report and Statement of Accounts (1999 - 2011) Various Issues.

### APPENDIX III

#### Revenue Structure of the State Governments 1999 - 2011 (x billion)

| Year                | 1999         |            | 2000         |            | 2001         |            | 2002         |            | 2003         |            | 2004          |            | 2005          |            | 2006          |            | 2007          |            | 2008          |            | 2009          |            | 2010          |            | 2011          |            |
|---------------------|--------------|------------|--------------|------------|--------------|------------|--------------|------------|--------------|------------|---------------|------------|---------------|------------|---------------|------------|---------------|------------|---------------|------------|---------------|------------|---------------|------------|---------------|------------|
| SOURCE OF REVENUE   |              | %          |              | %          |              | %          |              | %          |              | %          |               | %          |               | %          |               | %          |               | %          |               | %          |               | %          |               | %          |               | %          |
| Federation Account  | 103.7        | 61.4       | 251.6        | 70.1       | 404.1        | 70.5       | 388.3        | 58.0       | 535.2        | 62.8       | 777.2         | 69.8       | 921.0         | 64.9       | 1016.1        | 65.8       | 1109.3        | 53.7       | 1709.2        | 58.2       | 973.8         | 37.6       | 1353.7        | 49.4       | 1219.3        | 47.3       |
| Internal Revenue    | 34.1         | 20.2       | 37.8         | 10.5       | 10.4         | 10.4       | 89.6         | 13.3       | 118.6        | 13.9       | 134.2         | 12.0       | 122.7         | 8.6        | 125.2         | 8.1        | 305.7         | 14.8       | 441.1         | 15.0       | 461.2         | 17.8       | 420.5         | 15.4       | 509.3         | 19.7       |
| Value Added Tax     | 23.7         | 14.0       | 30.6         | 8.5        | 44.9         | 7.8        | 52.6         | 7.9        | 65.9         | 7.7        | 96.2          | 8.6        | 87.5          | 6.2        | 110.6         | 7.2        | 144.4         | 7.0        | 198.1         | 6.8        | 229.3         | 8.9        | 275.6         | 10.1       | 311.8         | 12.1       |
| Excess Oil Revenue  | -            | -          | -            | -          | -            | -          | -            | -          | -            | -          | -             | -          | 140.2         | 9.9        | 154.7         | 10.0       | 258.90        | 12.5       | 354.1         | 12.1       | 376.8         | 14.5       | 329.0         | 12.0       | 104.6         | 4.1        |
| Stabilization Fund  | 0.9          | 0.5        | 5.8          | 1.6        | 7.1          | 1.2        | 9.6          | 1.4        | 1.0          | 0.1        | 2.0           | 0.2        | 10.8          | 0.8        | 11.9          | 0.8        | 37.7          | 1.8        | 53.4          | 1.8        | 29.7          | 1.1        | 42.5          | 1.6        | 11.2          | 0.4        |
| Budget Augmentation | -            | -          | -            | -          | -            | -          | -            | -          | -            | -          | -             | -          | -             | -          | -             | -          | -             | -          | -             | -          | 272.8         | 10.5       | 162.9         | 5.9        | 319.9         | 12.4       |
| Exchange Gain       | -            | -          | -            | -          | -            | -          | -            | -          | -            | -          | -             | -          | -             | -          | -             | -          | -             | -          | -             | -          | 58.9          | 2.3        | 14.8          | 0.5        | -             | -          |
| Grants and Others   | 6.6          | 3.9        | 33.3         | 9.3        | 58.1         | 10.1       | 129.7        | 19.4       | 134.2        | 15.7       | 104.3         | 9.4        | 137.4         | 9.7        | 125.3         | 8.1        | 209.4         | 10.1       | 179.0         | 6.1        | 188.0         | 7.3        | 140.4         | 5.1        | 103.7         | 4.0        |
| <b>Total</b>        | <b>169.0</b> | <b>100</b> | <b>359.1</b> | <b>100</b> | <b>573.5</b> | <b>100</b> | <b>669.8</b> | <b>100</b> | <b>855.0</b> | <b>100</b> | <b>1113.9</b> | <b>100</b> | <b>1419.6</b> | <b>100</b> | <b>1543.8</b> | <b>100</b> | <b>2065.4</b> | <b>100</b> | <b>2934.8</b> | <b>100</b> | <b>2590.7</b> | <b>100</b> | <b>2739.4</b> | <b>100</b> | <b>2579.8</b> | <b>100</b> |

**Note:** The total percentage for some years are rounded up.

**Source:** Computed by the Researcher from the Central Bank of Nigeria Annual Report and Statement of Accounts (1999 - 2011) Various Issues.

**APPENDIX IV:**  
**Revenue Structure of the Local Governments 1999 - 2011 (₦ billion)**

| Year                | 1999        |            | 2000         |            | 2001         |            | 2002         |            | 2003         |            | 2004         |            | 2005         |            | 2006         |            | 2007         |            | 2008          |            | 2009          |            | 2010          |            | 2011          |            |
|---------------------|-------------|------------|--------------|------------|--------------|------------|--------------|------------|--------------|------------|--------------|------------|--------------|------------|--------------|------------|--------------|------------|---------------|------------|---------------|------------|---------------|------------|---------------|------------|
| SOURCE OF REVENUE   |             | %          |              | %          |              | %          |              | %          |              | %          |              | %          |              | %          |              | %          |              | %          |               | %          |               | %          |               | %          |               | %          |
| Federation Account  | 43.9        | 72.2       | 118.5        | 78.0       | 128.5        | 74.9       | 128.9        | 74.9       | 291.4        | 78.7       | 375.7        | 80.2       | 493.0        | 82.6       | 550.8        | 81.7       | 568.3        | 68.3       | 727.3         | 52.4       | 529.3         | 49.5       | 716.0         | 52.7       | 940.0         | 58.6       |
| Internal Revenue    | 4.7         | 7.7        | 7.1          | 4.7        | 6.0          | 3.5        | 10.4         | 6.0        | 20.2         | 5.5        | 22.4         | 4.8        | 29.0         | 4.9        | 23.2         | 3.4        | 21.3         | 2.6        | 23.1          | 1.7        | 26.1          | 2.4        | 26.2          | 1.9        | 27.3          | 1.7        |
| Value Added Tax     | 9.6         | 15.8       | 13.9         | 9.2        | 20.1         | 11.7       | 18.7         | 10.9       | 39.6         | 10.7       | 46.0         | 9.8        | 55.8         | 9.3        | 75.9         | 11.3       | 105.1        | 12.7       | 135.9         | 9.8        | 157.4         | 14.7       | 189.1         | 13.9       | 218.2         | 13.6       |
| Excess Oil Revenue  | -           | -          | -            | -          | -            | -          | -            | -          | -            | -          | -            | -          | -            | -          | -            | -          | 127.1        | 15.3       | 486.1         | 35.3       | 145.0         | 13.6       | 158.9         | 11.7       | 80.6          | 5.0        |
| Stabilization Fund  | 1.1         | 1.8        | 5.4          | 3.6        | 12.9         | 7.5        | 9.9          | 5.8        | 4.6          | 1.2        | 6.1          | 1.3        | 6.0          | 1.0        | 6.1          | 0.9        | 3.7          | 0.4        | 4.4           | 0.3        | 11.4          | 1.1        | 12.6          | 0.9        | 21.3          | 1.3        |
| State Allocation    | 0.4         | 0.7        | 1.9          | 1.3        | 1.5          | 0.9        | 1.7          | 1.0        | 2.1          | 0.5        | 3.6          | 0.8        | 3.2          | 0.5        | 3.4          | 0.5        | 3.0          | 0.4        | 6.8           | 0.5        | 19.7          | 1.8        | 12.7          | 0.9        | 14.0          | 0.9        |
| Budget Augmentation | -           | -          | -            | -          | -            | -          | -            | -          | -            | -          | -            | -          | -            | -          | -            | -          | -            | -          | -             | -          | 131.7         | 12.3       | 78.7          | 5.5        | 246.6         | 15.4       |
| Exchange Gain       | -           | -          | -            | -          | -            | -          | -            | -          | -            | -          | -            | -          | -            | -          | -            | -          | -            | -          | -             | -          | 28.4          | 2.7        | 7.1           | 0.5        | -             | -          |
| FG Refund to LG=s   | -           | -          | -            | -          | -            | -          | -            | -          | -            | -          | -            | -          | -            | -          | -            | -          | -            | -          | -             | -          | -             | -          | 121.6         | 8.9        | -             | -          |
| Grants and Others   | 1.2         | 2.0        | 4.9          | 3.2        | 2.3          | 1.3        | 2.5          | 1.5        | 12.2         | 3.3        | 14.5         | 3.1        | 15.1         | 2.5        | 14.8         | 2.2        | 3.8          | 0.5        | 0.3           | 0.02       | 20.3          | 1.9        | 36.3          | 2.7        | 55.6          | 3.5        |
| <b>Total</b>        | <b>60.8</b> | <b>100</b> | <b>151.9</b> | <b>100</b> | <b>171.5</b> | <b>100</b> | <b>172.1</b> | <b>100</b> | <b>370.2</b> | <b>100</b> | <b>468.3</b> | <b>100</b> | <b>597.2</b> | <b>100</b> | <b>674.2</b> | <b>100</b> | <b>832.3</b> | <b>100</b> | <b>1379.0</b> | <b>100</b> | <b>1069.4</b> | <b>100</b> | <b>1359.2</b> | <b>100</b> | <b>1603.8</b> | <b>100</b> |

**Note:** The total percentage for some years are rounded up.

**Source:** Computed by the Researcher from the Central Bank of Nigeria Annual Report and Statement of Accounts (1999 - 2011) Various Issues.

## APPENDIX V

### Summary of Local Governments Finances 1999 B2011 (x billion)

| Year         | Current Revenue | Federation Account |             | Value Added Tax |             | Internal Revenue |            | Grants and Others |            | Stabilization |            | State Allocation |            | Share of Excess Crude |             | Budget Augmentation |            | Exchange Gain |            | Fed. Govt. Refunds |            | Total      |
|--------------|-----------------|--------------------|-------------|-----------------|-------------|------------------|------------|-------------------|------------|---------------|------------|------------------|------------|-----------------------|-------------|---------------------|------------|---------------|------------|--------------------|------------|------------|
|              |                 |                    | %           |                 | %           |                  | %          |                   | %          |               | %          |                  | %          |                       | %           |                     |            |               | %          |                    | %          | %          |
| 1999         | 60.8            | 43.9               | 72.2        | 9.6             | 15.8        | 4.7              | 7.7        | 1.2               | 2.0        | 1.0           | 1.8        | 0.4              | 0.7        | B                     | B           | B                   | --         | --            | --         | --                 | --         | 100        |
| 2000         | 151.9           | 118.6              | 78.1        | 13.9            | 9.2         | 7.2              | 4.7        | 4.9               | 3.2        | 5.4           | 3.5        | 1.9              | 1.3        | B                     | B           | B                   | --         | --            | --         | --                 | --         | 100        |
| 2001         | 171.5           | 128.5              | 74.9        | 20.1            | 11.7        | 6.0              | 3.5        | 2.3               | 1.3        | 13.0          | 7.6        | 1.6              | 0.9        | B                     | B           | B                   | --         | --            | --         | --                 | --         | 100        |
| 2002         | 172.2           | 128.9              | 74.6        | 18.7            | 10.9        | 10.4             | 6.0        | 2.5               | 1.5        | 9.9           | 5.7        | 1.7              | 1.0        | B                     | B           | B                   | --         | --            | --         | --                 | --         | 100        |
| 2003         | 370.2           | 291.4              | 78.7        | 39.6            | 10.7        | 20.2             | 5.5        | 12.2              | 3.3        | 4.6           | 1.2        | 2.1              | 0.6        | B                     | B           | B                   | --         | --            | --         | --                 | --         | 100        |
| 2004         | 468.3           | 375.7              | 80.2        | 46.0            | 9.8         | 22.4             | 4.8        | 14.5              | 3.1        | 6.1           | 1.3        | 3.6              | 0.8        | B                     | B           | B                   | --         | --            | --         | --                 | --         | 100        |
| 2005         | 597.2           | 493.0              | 82.6        | 55.8            | 9.3         | 24.0             | 4.12       | 15.1              | 2.5        | 6.0           | 1.0        | 3.2              | 0.5        | B                     | B           | B                   | --         | --            | --         | --                 | --         | 100        |
| 2006         | 674.2           | 550.8              | 81.7        | 75.9            | 11.3        | 23.2             | 3.4        | 14.8              | 2.2        | 6.1           | 0.9        | 3.4              | 0.5        | B                     | B           | B                   | --         | --            | --         | --                 | --         | 100        |
| 2007         | 832.3           | 568.3              | 68.2        | 105.1           | 12.6        | 21.3             | 2.6        | 3.8               | 0.5        | 3.7           | 0.4        | 3.0              | 0.4        | 127.1                 | 15.3        | B                   | --         | --            | --         | --                 | --         | 100        |
| 2008         | 1378.9          | 722.3              | 52.4        | 135.9           | 9.8         | 23.1             | 1.7        | 0.3               | 0.02       | 4.4           | 0.3        | 6.8              | 0.5        | 486.1                 | 35.3        | B                   | --         | --            | --         | --                 | --         | 100        |
| 2009         | 1069.3          | 529.3              | 49.5        | 157.4           | 14.7        | 26.1             | 2.4        | 20.3              | 1.9        | 11.4          | 1.1        | 19.7             | 1.8        | 145.0                 | 13.6        | 131.7               | 12.3       | 28.4          | 2.7        | --                 | --         | 100        |
| 2010         | 1359.2          | 716.0              | 52.7        | 189.1           | 13.9        | 26.2             | 1.9        | 36.3              | 2.7        | 12.6          | 0.9        | 12.7             | 0.9        | 158.9                 | 11.7        | 78.7                | 5.5        | 7.1           | 0.5        | 121.6              | 8.9        | 100        |
| 2011         | 1603.8          | 940.0              | 58.6        | 218.2           | 13.6        | 27.3             | 1.7        | 44.1              | 2.7        | 21.3          | 1.3        | 14.0             | 0.9        | 80.7                  | 5.0         | 246.6               | 15.4       | B             | B          | 11.5               | 0.7        | 100        |
| <b>TOTAL</b> | <b>8909.8</b>   | <b>5606.7</b>      | <b>62.9</b> | <b>1085.3</b>   | <b>12.2</b> | <b>242.1</b>     | <b>2.7</b> | <b>172.3</b>      | <b>1.9</b> | <b>105.5</b>  | <b>1.2</b> | <b>74.1</b>      | <b>0.8</b> | <b>997.8</b>          | <b>11.2</b> | <b>457.0</b>        | <b>5.1</b> | <b>35.5</b>   | <b>0.4</b> | <b>133.1</b>       | <b>1.5</b> | <b>100</b> |

**Note:** Percentage for some years were rounded up.

**Source:** Computed by the Researcher from CBN Annual Report and Statement of Account (1999 B 2011) Various Issues.

**APPENDIX VI:**  
**Nigerian States and their Natural Resources**

| S/N. | State       | Natural Resources                                                                               |
|------|-------------|-------------------------------------------------------------------------------------------------|
| 1.   | Abia        | Gold, Lead Zinc, Limestone, Oil/Gas & Salt                                                      |
| 2.   | Abuja       | Cassterite, Clay, Marble, Tantalite, Gold, Dolomite                                             |
| 3.   | Adamawa     | Bentonite, Gypsum, Kaolin                                                                       |
| 4.   | Akwa Ibom   | Clay, Lead, Zinc, Uranium, Lignite, Oil/Gas, Salt                                               |
| 5.   | Anambra     | Clay, Glass-Sand, Gypsum, Lignite, Limestone, Oil/Gas, Iron-ore                                 |
| 6.   | Bauchi      | Gold, Cassterite, Wolfram, Coal, Limestone, Iron-Ore, Columbite                                 |
| 7.   | Bayelsa     | Clay, Gypsum, Lead/Zinc, Maganese, Oil/Gas, Uranium                                             |
| 8.   | Benue       | Iron-ore, Barite, Salt, Clay, Coal, Gemstone, Lead/Zinc, Limestone                              |
| 9.   | Borno       | Bentonite, Clay, Diato, Carbon, Kaolin, Limestone                                               |
| 10.  | Cross River | Barite, Lead/Zinc, Lignite, Oil/Gas, Salt, Uranium                                              |
| 11.  | Delta       | Clay, Glass-Sand, Gypsum, Lignite, Marble, Oil/Gas                                              |
| 12.  | Ebonyi      | Gold, Lead, Salt, Zinc                                                                          |
| 13.  | Edo         | Bitumen, Clay, Dolomite, Gold, Gypsum, Marble, Iron-ore, Oil/Gas                                |
| 14.  | Ekiti       | Fedspar, Granite, Kaolin, Tatum                                                                 |
| 15.  | Enugu       | Coal, Lead/Zinc, Limestone                                                                      |
| 16.  | Gombe       | Gemstone, Gypasum,                                                                              |
| 17.  | Imo         | Gypsum, Lead/Zinc, Marcasite, Oil/Gas, Limestone                                                |
| 18.  | Jigawa      | Butyles                                                                                         |
| 19.  | Kaduna      | Amethyst, Agna Marin, Gemstone, Gold, Graphite, Rock Crystal Ruby, Tentiline, Topaz, Tourmaline |
| 20.  | Kano        | Cassiterite, Copper, Zinc, Pyrochinre, Gemstone, Tantalite                                      |
| 21.  | Katsina     | Kaolin, Marble, Salt                                                                            |
| 22.  | Kebbi       | Gold                                                                                            |
| 23.  | Kogi        | Dolomite, Feldspar, Kasolin, Marble, Talc, Coal, Iron-Ore                                       |
| 24.  | Kwara       | Cassiterite, Columbite, Marble, Mica, Tantalite, Iron-Ore                                       |
| 25.  | Lagos       | Bitumen, Clay, Glass, Oil/Gas                                                                   |

|     |           |                                                                                                                         |
|-----|-----------|-------------------------------------------------------------------------------------------------------------------------|
| 26. | Nassarawa | Amethyst, Cassiterite, Coal, Dolomite, Limestone, Mica, Salt, Marble, Turmaline Quartz, Zinc, Iron-Ore, Talc, Tantalite |
| 27. | Niger     | Gold, Zinc, Lead, Talc                                                                                                  |
| 28. | Ogun      | Bitumen, Clay, Feldspar, Limestone, Phosphate                                                                           |
| 29. | Ondo      | Bitumen, Clay, Coal, Dimension-stones, Feldspar, Glass-sand, Granite, Gypsum, Kaolin, Oil/Gas                           |
| 30. | Osun      | Columbite, Gold, Granite, Tourmaline                                                                                    |
| 31. | Oyo       | Aqua Marine, Cassiterite, Gemstone, Gold, Kaolin, Tantalite, Talc, Marble                                               |
| 32. | Plateau   | Barite, Bauxite, Clay, Coal, Iron-Ore, Kaolin, Salt, Tantalite, Bentonite, Wolfram, Tin, Columbite                      |
| 33. | Rivers    | Clay, Glass-Sand, Oil/Gas, Marble                                                                                       |
| 34. | Sokoto    | Clay, Flakes, Gold, Laterite, Limestone, Salt, Kaolin                                                                   |
| 35. | Taraba    | Lead/Zinc, Kaolin                                                                                                       |
| 36. | Yobe      | Soda Ash, Tintomite                                                                                                     |
| 37. | Zamfara   | Coal, Gold                                                                                                              |

**Source:** Federal Ministry of Solid Minerals (2013) “Natural Resources of Nigeria”. Available on <https://nigerianfinder.com...natural...resou...> Visited on 21<sup>st</sup> November, 2013.

**Appendix VII:**  
**Gas Production and Utilization: 1999 B 2011 (*mscf*)**

| Year | Gas Produced  | Gas Used As Fuel | Gas Sold to Third Parties | Gas Re-Injected | Fuel Gas To EPCL | Gas for LPG/NGL as Feedstock to EPCL | Gas for LNG | Gas to NGC  | Gas Lift    | Total Gas Utilized | Gas Flared  | % Flared |
|------|---------------|------------------|---------------------------|-----------------|------------------|--------------------------------------|-------------|-------------|-------------|--------------------|-------------|----------|
| 1999 | 1,328,358,849 | 0                | 0                         | 0               | 0                | 0                                    | 0           | 0           | 0           | 536,105,884        | 792,247,965 | 59.64    |
| 2000 | 1,620,735,427 | 0                | 0                         | 0               | 0                | 0                                    | 0           | 0           | 0           | 744,529,237        | 876,206,190 | 54.06    |
| 2001 | 1,822,922,111 | 0                | 0                         | 0               | 0                | 0                                    | 0           | 0           | 0           | 902,016,440        | 920,905,671 | 50.52    |
| 2002 | 1,651,591,488 | 71,885,558       | 101,619,643               | 270,402,167     | 9,159,870        | 47,721,060                           | 290,045,550 | 89,794,378  | 17,151,356  | 897,789,582        | 753,801,906 | 45.64    |
| 2003 | 1,828,541,855 | 66,234,516       | 85,871,813                | 187,246,149     | 9,037,946        | 36,046,246                           | 463,380,371 | 116,320,144 | 19,425,784  | 983,562,969        | 844,978,886 | 46.21    |
| 2004 | 2,082,283,189 | 71,534,048       | 239,513,290               | 332,806,436     | 9,979,511        | 47,100,859                           | 410,167,378 | 72,758,426  | 11,883,045  | 1,195,742,993      | 886,540,196 | 42.58    |
| 2005 | 2,093,628,859 | 84,137,982       | 526,288,967               | 397,744,644     | 10,339,647       | 46,337,150                           | 187,287,551 | 0           | 30,177,141  | 1,282,313,082      | 811,315,777 | 38.75    |
| 2006 | 2,182,432,084 | 76,797,392       | 629,596,866               | 333,687,178     | 7,926,235        | 44,410,804                           | 240,915,583 | 0           | 45,436,202  | 1,378,770,261      | 803,661,823 | 36.82    |
| 2007 | 2,415,649,041 | 76,524,011       | 760,747,361               | 354,610,374     | 9,417,626        | 34,980,978                           | 368,626,236 | 0           | 51,053,728  | 1,655,960,315      | 759,688,726 | 31.45    |
| 2008 | 2,287,547,344 | 83,730,016       | 708,159,550               | 391,075,575     | 7,640,304        | 23,582,179                           | 331,569,374 | 63,831,255  | 58,560,235  | 1,668,148,489      | 619,398,854 | 27.08    |
| 2009 | 1,837,278,307 | 80,573,880       | 440,941,863               | 409,848,718     | 8,086,525        | 42,401,451                           | 269,095,956 | 21,021,894  | 55,956,116  | 1,327,926,402      | 509,351,905 | 27.72    |
| 2010 | 2,392,838,898 | 72,233,897       | 857,225,685               | 21,182,685      | 493,309,826      | 5,204,476                            | 25,866,822  | 167,190,149 | 169,057,005 | 1,811,270,545      | 581,568,354 | 24.30    |
| 2011 | 2,400,402,880 | 104,541,241      | 786,837,515               | 101,560,670     | 348,331,140      | 9,434,734                            | 38,607,389  | 313,087,278 | 28,970,059  | 1,781,370,022      | 619,032,858 | 25.79    |

**Source:** Computed by the Researcher from the Nigerian National Petroleum Corporation Annual Statistical Bulletin 1999 B 2011. Various Issues.

## APPENDIX VIII

### Allocation of Revenue (Federation Account, ETC.) Act

#### ARRANGEMENT OF SECTIONS

##### SECTION

- (1) Distribution of the Federation Accounts, etc.
- (2) Formula for distribution between the Federal and State Governments.
- (3) Formula for distribution between Local Government Councils.
- (4) Proportion of revenue to be paid by each State to Joint Local Government Account.
- (5) Allocations under special funds.
- (6) Establishment of Federation Account Allocation Committee and functions.
- (7) Establishment of Joint Local Government Account Allocation Committee for each State and functions.
- (8) Limit on power of State Governments for borrowing money.
- (9) Report by Accountants-General in the Federation.
- (10) Interpretation.
- (11) Short title.

**An Act to prescribe the basis for distribution of revenue accruing to the Federation Account between the Federal and State Governments and the Local Government Councils in the States; the formula for distribution amongst the States *inter se*; the proportion of the total revenue of each State to be contributed to the State Joint Local Government Account; and for other purposes connected therewith.**

[1982 No. 1.]

[Commencement]

[22<sup>nd</sup> January, 1982]

#### **1. Distribution of the Federation Accounts, etc.**

The amount standing to the credit of the Federation Account, less the sum equivalent to 13 per cent of the revenue accruing to the Federation Account directly from any natural resources as a first line charge for distribution to the beneficiaries of the derivation funds in accordance with the Constitution shall, be distributed among the Federal and State Governments and the Local Government Councils in following basis, that is to say:

- (a) the Federal Government 56.00 per cent;
- (b) the State Governments 24.00 per cent;
- (c) the Local Governments Councils 20.00 per cent.

[18992 No. 106 S.I.9 of 2002.]

## 2. **Formula for distribution between the Federal and State Governments**

- (1) The 56.00 per cent specified in section 1 (a) of this Act shall be allocated to the Federal Governments and utilised as follows:

- (a) Federal Government 48.50 per cent;
- (b) General Ecological Problems 2.00 per cent;
- (c) Federal Capital Territory 1.00 per cent;
- (d) Development of Natural Resources 3.00 per cent.

[1992 No. 106. S.I. 9 of 2002]

- (2) The 24.00 per cent standing to the credit of all the States in the Federation Account as specified in section 1(b) of this Act shall be distributed among the States of the Federation using the factors specified in this Act.

[S. 1. 9 of 2002.]

- (3) For the purpose of subsection:

- (a) Land mass of a State or local government shall be the proportional areal size (PAS) of the State or the local government to the total areal size of Nigeria, and shall be obtained as follows:

- (i) for each State B

$$(PAS) = \frac{\text{Areal size of State} \times 100}{\text{Total areal size of Nigeria}}$$

- (ii) for each Local Government B

$$(PAS) = \frac{\text{Areal size of Local Government Area} \times 100}{\text{Total areal size of Nigeria}}$$

- (b) The allocation due to terrain is made on the basis of the proportional areal size of the three identified major terrain types present in the State or Local Government area respectively, which are:
  - (i) wetlands/waterbodies;
  - (ii) plains; and

- (iii) highlands;
- (c)
  - (i) education as a parameter for allocation to Social Development Factor (SDF) shall be measured in terms of primary school enrolment which attracts 60 per cent of the allocation to education while the remaining 40 per cent is made using secondary/commercial school enrolment is made in direct proportion while the remaining 50 per cent is made in inverse proportion. School enrolment refers to public funded schools only;
  - (ii) health as a parameter for allocation to social development factor shall be measured in terms of the number of State/Local Government hospital beds there are and 50 percent of the allocation to health shall be made in direct proportion to the number of the State hospital beds, while the remaining 50 per cent shall be made in inverse proportion;
  - (iii) water as a parameter for allocation to social development factor shall be represented by mean annual rainfall in the State headquarters and territorial spread of State: 50 per cent of the allocation to water shall be made in direct proportion to the State=s territorial spread, while the remaining 50 per cent shall be made in inverse proportion to the mean annual rainfall in each state headquarters, using the most current live year figures, the same year for all the States.

[1992 No. 106]

- (4) For the avoidance of doubt, a sum equivalent to the difference between the amount standing to the credit of the Federation Account in anyone year, less the aggregate of the sums specified in section 1 of this Act shall revert to the Federation Account to be allocated and distributed in accordance with the provisions of this Act.

### 3. Formula for distribution between Local Government Councils

Subject to the provisions of this Act, the amount standing to the credit of local government councils in the Federation Account shall be distributed among the States of the Federation for the benefit of their local government councils using the same factors specified in this Act.

### 4. Proportion of revenue to be paid by each State to State Joint Local Government

## **Account**

(1) In addition to the allocation made from the Federation Account under section 1 of this Act to Local Government Councils, there shall be paid by each State in the Federation to the State Joint Local Government Account (as specified in subsection (5) of section 162 of the Constitution of the Federal Republic of Nigeria) in each quarter of the financial year, a sum representing 10 per cent of the internally-generated revenue for that quarter of the State concerned.

[Cap. C23.]

(2) The 10 per cent of each State's internally-generated revenue payable to the Local Government Councils in the State, under the provision of subsection (1) of this section, shall be distributed among the Local Governments in that State on such terms and in such manner as the State House of Assembly may prescribe.

[1992 No. 106.]

## **5. Allocations under Special Funds**

(1) An amount equivalent to 1 per cent of the Federation Account shall be allocated to the Federal Capital Territory.

(2) An amount equivalent to 3 per cent of the Federation Account derived from mineral revenue shall be paid into a fund to be administered by the Niger Delta Development Commission established by the Niger Delta Development Commission (Establishment, etc.) Act for the development of the mineral producing areas, in accordance with such directives as may be issued in that behalf, from time to time by the National Assembly, and the fund shall be distributed among the areas on the basis of need, subject to section 7 of the Niger Delta Development Commission (Establishment, etc.) Act.

[Cap. N86.]

(3) For the purposes of subsection (2) of this section, and for the avoidance of any doubt, the distinction hitherto made between on-shore and off-shore oil mineral revenue for the purpose of revenue sharing and the administration of the Fund for the development of the oil mineral producing areas, is hereby abolished.

(4) An amount equivalent to 2 per cent of the Federation Account shall be paid into a fund to be administered by an Agency to be set up for that purpose for the amelioration of general ecological problems in any part of Nigeria, in accordance with directives as may be issued from time to time by the National Assembly.

(5) An amount equivalent to 0.5 per cent of the Federation Account shall be allocated and paid into a fund to be designated AStabilisation Fund@, which shall be administered by the Minister for Finance; the residue arising out of using mineral revenue, instead of the Federation Account as the base for allocation to the Fund for the development of the mineral producing areas shall be added to this Fund.

(6) An amount equivalent to 1 per cent of the Federation Account derived from mineral revenue shall be shared among the mineral producing States based on the amount of mineral produced from each State and in the application of this provision, the dichotomy of on-shore and off-shore oil production and mineral oil and non-mineral oil revenue is hereby abolished.

(7) For the purpose of this Act, and for the avoidance of any doubt, where any State of the Federation suffers absolute decline in its revenue arising from factors outside its control, as a result of the implementation of this Act, the Stabilisation Fund shall be used to initially augment the allocation to that State, in accordance with acceptable threshold, to be worked out by the National Revenue Mobilisation Allocation, and Fiscal Commission, at which recourse can be had to the Fund and for how long.

[1992 No. 106.]

## **6. Establishment of Federation Account Allocation Committee and Functions**

(1) There is hereby established for the Federation, a body to be known as the Federation Account Allocation Committee which shall comprise the following members, that is to say:

- (a) the Federal Minister of Finance to be chairman thereof;
- (b) the Commissioner for Finance of each State in the Federation;
- (c) two persons to be appointed by the President; and
- (d) the Accountant-General of the Federation.

(2) The Permanent Secretary of the Federal Ministry of Finance or such officer as may be designated by the said Minister shall be the Secretary to the Committee.

(3) The functions of the Committee shall be:

- (a) to ensure that allocations made to the States from the Federation Account are promptly and fully paid into the treasury of each state on the basis and terms prescribed this Act; and

- (b) to report annually to the National Assembly in respect of the functions specified in the above paragraph.

## **7. Establishment of Joint Local Government Account Allocation Committee for each State and Functions**

There is hereby established for each State in the Federation, a body to be known as the State Joint Local Government Account Allocation Committee which shall comprise the following members, that is to say:

- (a) the Commissioner charged with the responsibility for Local Government in the State to be the chairman thereof;
  - (b) the Chairman of each Local Government Council in the State;
  - (c) two persons to be appointed by the Governor of the State;
  - (d) two representatives of the Accountant-General of the Federation; and
  - (e) the Accountant-General of the State.
- (2) The Permanent Secretary of the State Ministry charged with responsibility for local government or such officer as may be designated by the said Commissioner shall be the Secretary to the Committee.
- (3) The functions of the Committee shall be to ensure that allocations made to the Local Government Councils in the State from the Federation Account and from the State concerned are promptly paid into the State Joint Local Government Account and distributed to Local Government Councils in accordance with the provisions of any law made in that behalf by the House of Assembly of the State.

## **8. Limit on power of State Governments for borrowing money**

The power of State Governments for borrowing money shall not extend to money, funds or revenue allocated to Local Government Councils under this Act.

## **9. Report by Accountants-General in the Federation**

- (1) Not later than ninety days following the end of each financial year, the Accountant-General of the Federation shall report to each House of the National Assembly on the payments made to each State correctly made under this Act.
- (2) Not later than ninety days following the end of each financial year, the Accountant-

General of each State shall report to the House of Assembly of the State and each House of the National Assembly on the payments made to each Local Government Council in the State and stating whether or not the payments made were correctly made under this Act and under the relevant Law of the State governing such payments.

## **10. Interpretation**

In this Act, unless the context otherwise requires

**the Constitution** means the Constitution of the Federal Republic of Nigeria 1999;

**the Federation Account** means the Federation Account established under section 162 (1) of the Constitution.

## **11. Short title**

This Act may be cited as the Allocation of Revenue (Federation Account, etc.) Act.

### **SUBSIDIARY LEGISLATION**

*No Subsidiary Legislation*

**Source:** Revenue Mobilization and Fiscal Commission.

## APPENDIX IX

### Nigeria B Judgement of the Supreme Court on Resource Control Issue Judgement and Probable Effect

| Issue                                                                                                                                                                                                                                                                                                                       | Judgement                                                                                                                                                                                                                                                                                                                                      | Probable Effect                                                                                                                                                                                                                                                               |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Revenues collected from natural resources in Nigeria=s territorial waters, continental shelf and exclusive economic zone belong to the littoral states. Therefore, derivation principle must be applied.                                                                                                                    | The Supreme Court ruled that the littoral states could not lay claim to the revenue collected from natural resources in Nigeria=s territorial waters, continental shelf and exclusive economic zone. This means that the revenue from this source should be paid into the Federation Account and derivation cannot be applied to such revenue. | Derivation cannot apply to oil revenue from offshore. Oil-producing states that have been benefitting from this have lost. More revenue will now be available in the Federation Account for vertical sharing. Favourable to non-oil producing states.                         |
| Claims in respect of natural resources. That natural gas is a resource and the revenue collected there from should be paid into the Federation Account and derivation is applicable (contained in s. 162(2) of the 1999 Constitution. This has to do with the interpretation of natural resources in the 1999 Constitution. | That natural gas is a resource. As a result, the revenue collected from it qualifies for the application of derivation for the benefit of any state from which it is obtained. However, wharves and seaports were not considered as natural resources.                                                                                         | The application of derivation principle to natural gas will increase the revenue of the states producing gas. The Federation Account will fall by an amount equivalent to the derivation revenue from natural gas. This is unfavourable to non-oil producing states.          |
| First line charge created by the federal government on the sums in the Federation Account for the payment of external debt, NNPC priority projects, national priority projects and others.                                                                                                                                  | This practice of the federal government is unconstitutional. On any debt, for example, the Supreme Court made reference to s. 314 of the 1999 Constitution. It is for each government, federal or state, to pay its debt (interest charges and capital repayment).                                                                             | This makes more money available in the Federation Account for vertical sharing among the federal, states and local governments. The federal government is expected to lose some revenue as a result, while states and local governments will record substantial revenue gain. |
| Deductions from the revenue allocated to the local governments from the Federation Account in respect of primary education by the federal government.                                                                                                                                                                       | The Supreme Court noted that the functions of a local government are spelt out clearly and in the Fourth Schedule of the 1999 Constitution. Primary education is the                                                                                                                                                                           | The local governments are to receive the full amount allocated to them. Perhaps, this may bring to an end the problem of Azero allocation@. This will reduce the                                                                                                              |

|                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                            |
|-------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                                                                                           | responsibility of the state governments. The local governments only participate. It is not appropriate for the federal government to make deductions without the authorisation of the state governments.                                                                                                                                                                                                                                                                | revenue under the control of the federal government.                                                                                                                                                       |
| This allocation of 1.0 percent of the revenue in the Federation Account to the Federal Capital Territory (FCT).                           | <p>The relevant provisions of the 1999 Constitution of the Federal Republic of Nigeria do not support this. The beneficiaries of the Federation Account are the federal, state, and local governments.</p> <p>In addition to this, 7.5 percent is set aside as Special Fund. The FCT is not a state and the Area Councils of the FCT are not local governments. Therefore, the revenue in the Federation Account cannot be shared to the FCT and its Area Councils.</p> | The 1.0 percent of the FCT is still part of the Special Funds controlled by the federal government.                                                                                                        |
| The use of 13 percent as the minimum figure for calculating the derivation principle in respect of the revenue in the Federation Account. | <p>The Supreme Court declared that the use of 13 percent has no legal basis in the 1999 Constitution. The Constitution provides for a minimum of 13 percent and this use of this minimum figure is not prescribed by the federal lawmakers and approved by the President. Accordingly, the minimum 13 percent derivation that is in use is based on the rule of thumb and it is discretionary.</p>                                                                      | Federal lawmakers should prescribe the percentage figure to use. A percentage greater than 13 percent will reduce the revenue in the Federation Account to be shared among the three levels of government. |
| Transparency and accountability in the operation of the Federation Account by the federal government, the trustee.                        | Whenever the beneficiaries of the Federation Account ask the federal government to give account, it must do so.                                                                                                                                                                                                                                                                                                                                                         | This judgement reinforces probity accountability in the conduct of public affairs, in particular, emphasized by the present civilian administration.                                                       |

|                                                                                                                                            |                                                                                                                                                          |                                                                                                                                                                                                                              |
|--------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                                                                                            |                                                                                                                                                          | Consequently, this is expected to reduce suspicion and lessen inter-governmental fiscal conflict.                                                                                                                            |
| Non-payment of the shares of the Delta State government in respect of the revenues collected from capital gains taxation and stamp duties. | This practice is unconstitutional. The state affected should be paid its legitimate shares of the proceeds from capital gains taxation and stamp duties. | The revenue centralisation of the federal government is expected to wane by this decision. This is likely to pave the way for other states to resist any attempt to violate the fiscal rights enshrined in the Constitution. |

**Source:** Egwaikhide, F.O. (2004). Intergovernmental Fiscal Relations in Nigeria in Egwaikhide, F.O. et al (ed) Intergovernmental Relations in Nigeria.

## **APPENDIX X**

### **Semi-Structured Questions**

- (1) In what ways are you involved in the practice of fiscal federalism in Nigeria?
- (2) Why has the National Assembly find it difficult to bring about a new revenue allocation formula despite several attempts?
- (3) As a Senator/Representative/Federal Commissioner (RMAFC)/Finance Commissioner/Accountant General/Director (RMAFC), what has been your role in ensuring an acceptable distribution of revenue?
- (4) What efforts have the RMAFC made to draft a new revenue allocation formula?
- (5) What are the factors inhibiting the ability of the RMAFC in the performance of its functions?
- (6) What had been the roles of the major stakeholders i.e. federal, state and local governments in ensuring the realization of the objectives of the RMAFC?
- (7) In what ways have the activities of either the federal or states or local governments positively or negatively affected the functioning of the RMAFC?
- (8) Has there been any attempt by the National Assembly/RMAFC to effect a transformation of the economy from a mono-cultural (oil based) to a multi-cultural one?
- (9) In what ways have the National Assembly/RMAFC handled the issues relating to derivation and resource control?
- (10) What are your views on the present distribution of powers in the 1999 Constitution?
- (11) Why do we not adopt the revenue system akin to that of the first republic?
- (12) Are the present principles utilized in the horizontal distribution adequate?
- (13) What are the contending issues affecting inter-governmental fiscal relations in Nigeria?
- (14) Do you subscribe to adequate fiscal autonomy and independence for states and local governments?
- (15) Is there transparency in the operation of the federation account?
- (16) What has been the effect of centralization on the practice of fiscal federalism in Nigeria?
- (17) What are the functions of Federation Account Allocation Committee (FAAC)?
- (18) Are states involved in the technicalities of distribution?
- (19) How does FAAC know the amount to be distributed?
- (20) Is the FAAC aware of the gross earnings and the deductions before the net is distributed?
- (21) Is the current revenue allocation formula adequate for the distribution of revenue?
- (22) Has the Committee of Finance Commissioners any role in the distribution chain?

- (23) Has there been instances where the states rejected the amount placed for distribution? If Yes, why?
- (24) Are there any other sources of revenue available to the states?
- (25) To what extent has these independent revenue complement the allocation from the federation account?
- (26) What are the problems associated with the states near total dependence on federal allocation?
- (27) Why has the states not been able to fully tap the resources from the independent generated revenue?
- (28) What is the function of the State Joint Local Government Account Allocation Committee?
- (29) Do the local governments get the exact revenue allocated by FAAC? If not, why is this so?
- (30) Do you think the State Joint Local Government Account Allocation Committee is relevant in the distribution chain? If Yes, what is the relevance?
- (31) Has there been any instance where the local governments complain of being short-charged?
- (32) Has the state been distributing the constitutionally sanctioned 10 percent of the states IGR to the local governments?