

Background review



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Summary

The need for diversification of the Nigerian economy through agroindustry has endured since the colonial times when the country was being inserted into the global economy on the basis of cash crop production. The call has begun to resonate incrementally in government circles as the country reels under the pains of economic recession, aftermath of the collapse of crude price. Among many cash crops on the radar of the 'green revolution' is oil palm production, made more attractive because of its inherent value chain and high capacity for employment creation.

While 93.7% of estate holdings and 84.6% of smallholder farmers are located in the nine states of the Niger Delta, about 27 states have conducive climatic condition for oil palm production. Overall, Cross River state is the flagship in the race for oil palm production on a large scale with the Singaporean firm PZ Wilmar blazing the trail. While the company has an ambition to set up about 50,000 hectares of oil palm plantation, its holding is currently put at 26,500 hectares while the state total is put at about 33,000 hectares ahead of other states in the Niger Delta region.

Notwithstanding the huge expansion, there is no clear policy on the part of government. So far much of the forest reserves acquired from the local people have been sold to agribusiness interests with no clear policy on compensation of the local as well as remediation measures for livelihood and environmental impact of such investments. Thus, this paper analyses government's attitude towards oil palm production in Nigeria with a particular emphasis on Cross River State. It further underlines the poverty of policy for the reason that there is no link between policy, the need for investment and the wellbeing of the forest people in the state. It calls for a comprehensive review of extant legal and institutional frameworks in favour of human security within the wider political ecology of the state.

Introduction

In an article titled, "The Last Resource Frontier", Collier (1999) qualifies Africa as the last frontier for resource discovery and notes the rising commodity-price bolstered enthusiasm for resource-extraction in the continent. Collier failed to mention in his short piece the more fundamental problem of land grab in relation to plantation agribusiness and its impact on the people. It should be noted however, that plantation agriculture is not a new phenomenon in the continent but was central to the colonial economy, especially the British who were goaded by the imperatives of its industrial revolution.

Oil palm plantations gained currency in the inter-war years in Nigeria and Belgian Congo. Indeed, despite being based on peasant production, the country was

a leader in oil palm production with potential threat from Malaysia which today leads in the industry. Between 1909 and 1913 Nigeria produced over 82,000 tonnes and about 75 percent of global output came from Nigeria and there was nothing from the contemporary global leaders in the oil palm industry (Akhaine, 1991). But by 1966-91 Nigeria was overtaken by Indonesia and Malaysia which produced 158,000 and 25,000 tonnes respectively. By 1974 Nigeria had disappeared from the global chart of major palm oil producers. Two factors accounted for this decline. One is the discovery of crude oil in 1958 and the other is the effect of the civil war (1967-70). As is well known, southern Nigeria, especially the eastern region was the hub of oil palm industry and the civil war devastated much of it.

It is important to illuminate aspects of oil palm production under the colonial economy, more so for its relevance to the central focus of this paper, and government policy on oil palm plantations in relations to the wellbeing of the local communities. Kilby (1967) notes that:

It is clear that palm oil production based on plantations has considerable advantages over an industry based on natural palmeries. In addition to higher oil yields per tree, processing in large plantation mill gives a greater extraction efficiency, a better quality oil, and owing to planned full capacity operation—lower processing costs than are obtainable under a peasant smallholder system.

The colonial officials in Nigeria were not so much inclined towards this obvious fact about plantation alternative. The policy conversation between the colonial governments in Nigeria and the colonial office in London and representatives of British capital reveals an intriguing concern for the local community despite a latent consideration for cost of governance. The view of British capital was among others the acquisition of plantation land to either be on freehold or long term lease; protection of mill-owners against rivalry; ease of acquisition of plantation area; lease for legally binding contracts with Nigerians to supply palm fruits (Meredith, 1984). The colonial administrators did embrace the suggestions above but rather sought a kind of division of labour between British capital and the native oil palm producers. In the view of Sir Hugh Clifford, the Governor of Nigeria, the European buyers will naturally buy the agro-products of the native producers and so also the handling of freighting and transformation into finished products. And this for him was 'cooperation and division of labour, not competition. The consideration for the local communities came out more vividly in the views of GH Findlay, Senior Resident in Calabar who back in 1933 warned against palm plantations:

Great care must be taken to avoid forcing anything upon the people which is likely to break the fabric of their social and economic existence. The ancient sanctions are disappearing or changing sufficiently rapidly to allow for adjustments necessary to meet modern conditions. I do not wish to force the pace (Meredith, 1984).

Besides, Hinds (1997) made the point that the attitude of the colonial government towards oil palm plantations was informed by a concern for the displacement of the local communities in the thickly populated eastern swathe of the country. It is against

this background that we now examine contemporary development in the oil palm industry.

Contemporary development in the oil palm industry

British colonial administration's disposition towards the development of oil palm plantations was socially mediated. The threat from the 'East', namely, Indonesia and Malaysia both leaders in the oil palm industry today was always acknowledged (Meredith, 1984) while the potential of that industry for the development of the local economy was similarly acknowledged. Nigerian post-colonial governments did not reckon with this reality. As already noted above the discovery of crude in commercial quantity and the consequent Dutch disease that petro-dollars bred undermined any conscious inclination towards the potential of the oil palm industry.

Cycles of tragedy often caught up with those who learnt nothing from previous occurrences. In the midst of debt overhang and the international financial organisations mediated solutions often in the form of adjustment policies, the mantra of privatisation became the other of the day and many of the state-owned enterprises and companies were sold to private investors (Akhaine, 2015). Our focus here is not the audit of the privatised firms in terms of performance, the point is that in the context of dwindling oil receipt due to global decline in the price of crude, Nigeria's main foreign exchange earner, the need for alternative revenue generating outlets has become attractive. Nigeria's central authorities talk on agriculture as the focus of its economic diversification and the state governments are also taking a cue. About two years ago, the Central Bank of Nigeria sermonised about the desire to resuscitate the oil palm industry:

Indeed with an estimated 3m hectares of land under cultivation, abundance of suitable arable land, over 4m direct jobs currently there is no gainsaying that potentials for job creation of this key industry cannot be overemphasised...Well harnessed, the oil palm can again become a very significant sector of the national economy providing the wealth for economic development and the much needed jobs for Nigeria's teeming population (Emefiele, 2015).

Both Abia and Anambra state governments have expressed optimism about the prospect of the oil palm industry in boosting employment opportunities and an independent economic base for their states. Specifically, Abia state targets the development of 7.5

million seedlings within three years, precisely 2016-2019. It also envisions 10, 000 hectares of oil palm across the state based on its policy of zero-tolerance for land waste. On its part, Anambra state is poised to encourage private investors into the oil palm industry. For demonstration effect, it is disposed to granting large hectares of land to Chicason Group, producer of life vegetable Oil and allied products, which targets 135,000 tons of palm oil (Onuchuwu, 2015). There abound studies to support the poverty alleviation potential of the oil palm industry. Adebo et al. (2015) have underscored in a study the poverty alleviating effect of oil palm production, especially among small holders in Ekiti State, Nigeria. That Plantation estates hold more employment opportunities is no gainsaying. Etim (2015) sees the job creation window in his celebration of the Cross River oil palm sector:

For generations now, economies across the globe have taken to oil palm plantations as a method to eradicate poverty with the economies of Malaysia and Indonesia standing testimony to it... Due to the immense commercial value of palm plantations, many African states are also adopting the formula of the South-East Asian states to eradicate poverty and Cross River State is set to be one of these.

In the midst of this infective optimism, no mention is made about its potential impact on indigenous communities and their ecosystem. Okwuagwu (2013) in an interview with Vanguard newspaper points only to the healthy impact of oil palm plantations on the environment. According to her, "oil palm plantation stabilises the environment, where [we] are talking of development. Ozone depletion, the oil palm is one single plant that cleans the environment". Is there specific state policy guiding this zeitgeist in the oil palm industry? Or are there any ongoing conversations on the possible impact of oil plantations on indigenous communities, parallel to that expressed by the colonial administration in Nigeria? We seek an answer in subsequent sections of this paper.

The case of Cross River State

It should be noted that virtually all the states of the Niger Delta are native to the oil palm and have been central to oil palm production in the country since the colonial times. The pre-eminence of Cross River State in the resurgence of oil palm industry can be explained by two factors, namely, climate and government's vision. Santosh Pillai, the Managing Director, West Africa, PZ Wilmar Limited elaborates on the climatic factor: "Oil palm can grow anywhere but does well in only select belts of the equator—five degrees north

and five degrees south—that is where oil palm grows very well. Cross River and Rivers State come under that oil belt" (Vanguard, 2015). Government's attitude is driven by the need to boost revenue generation through a conducive investment climate. Specifically, in 2010, Senator Liyel Imoke administration in Cross River State sought to attract Foreign Direct Investment (FDI) in the oil palm sector and Wilmar blazed the trail. The company enjoys a reputation of being the largest oil palm plantation developer and palm oil producer in the world. Its partnership with PZ Cussons upped the stake. The company bought over the 5,500-hectare, defunct Cross River government owned Calaro Oil Palm Estate, Kwa Falls Oil Palm Plantation sitting on 12,805-hectares then owned by Obasanjo Farms, the 5,450-hectare Ibiae Oil Palm Estate and the 8,000 hectare estate in Biase.

According to some government sources, PZ Wilmar would inject over \$450 million into the plantation project in Cross River State (Draft Policy on Agriculture). Pillai in an interview with the Vanguard newspaper (2015) stresses his company vision for Cross River State and Nigeria:

We, therefore, set out on a journey to set up 50,000 hectares of oil palm plantation in Cross River State. If you visit Cross River State today, we have already acquired 26,500 hectares of land and we are growing the oil palm at Calaro Oil Palm Estate; Ibiae Oil Palm Estate and an estate in Biase.

Subject to availability of land the company's intention is to develop 50,000 hectares of oil palm and more in sync with their goal "to grow oil palm in this country because Nigeria has competitive as well as comparative advantage to grow oil palm and to be a global leader also." This would be complemented by crude palm oil mill in Cross River State and a refinery in Lagos where the company would "refine it, refractionate it and package it into world-class brands – Mamador and Devon Kings" and avail Nigerians consumers with world-class quality edible oil. Currently, it is developing over 26,500 hectares of land of palm estate.

On its part, Cross River State government is not rest content with merely opening the doors for investors. It would continue to play the role of supporting farmers in the state with basic inputs like fertilisers, improved seeds and agriculture extension services. Watchers of the development in the state sums its potential as follows:

The potential for oil palm development in Cross River State is the development of at least

1,000,000 hectares of palm estate, with an annual production of 5,000,000 tons oil palm production, annual income of N500 Billion and job creation statistics in the region of 250,000 at the first instance (Etim, 2015).

The business facade dominates the discourse on oil palm industry in Cross River State. What about the human aspect? Prospects of job creation is not enough to take care of the human dimension of oil palm production. The state in whatever form owes it a primary duty to protect the lives of its citizens, in this case, the indigenous people whose age long habitat would be affected by expansion of oil palm plantations. Lurking in the background is the impression that natural forest are not being affected by the plantations, and rather, that old plantations are being replanted. For example, In Ibiae Estate, under the Cross River State Agricultural and Rural Empowerment Scheme (CARES), a poverty alleviation program, approximately 1,100 hectares were allocated in 2009 to small-scale commercial farmers for 25 years to plant oil palm. Each farmer received 10-20 hectares of land. The Ministry of Agriculture claimed that only 32 farmers had developed 470 hectares with oil palm at the time the estate was privatized to Wilmar. It further said that farmers under CARES were informed not to invest further on the land allocated to them due to its privatisation (crossriverwatch online, November 16, 2012).

However, it is important to note that communities and the civil society organisations like the Environmental Rights Action/Friends of The Earth Nigeria (ERA/FoEN) and NGO Coalition for Environment (NGOCE) who have so far expressed alarm intervened over the activities of Wilmar—its expansion into community lands in dissonance with extant rules and international best practices.

Environmental Rights Action/Friends of The Earth Nigeria (ERA/FoEN) and NGO Coalition for Environment (NGOCE) in their sensitisation of the communities on ways to protect their land have also drawn attention to the oppressive process of land acquisition by Wilmar on indigenous communities with no due recourse to them. Some of the communities which include Betem/Ehom, Akpet and Idoma communities, Biase local government area and Mbarakom/Uwet/Njagachang and Mfamosing/Aningeje and Akamkpa local government areas claimed that lands were taken from them through their chiefs and elders who were compromised to sell their lands at a cheap rate. The groups also adverted to unfair labour practices at Wilmar plantations where workers earn less than N10, 000, a rate far below

the national minimum wage of N18, 000. Within this context the communities rallied by ERA/FoEN called on the State Government to set in motion the review of the Memorandum of Understanding (MOU) it allegedly signed with Wilmar on behalf of the communities and ensure that all impacted communities and civil society groups are part of the process in ways that are transparent and inclusive.

Equally, in 2012, a group of civil society organisations (CSOs) and non-governmental organizations (NGOs) in Cross River State accused Wilmar of undermining appropriate Roundtable on Sustainable Palm Oil (RSPO) procedures in its activities in Ibiae Palm Plantations. The CSOs include the Rainforest Resource and Development Center (RRDC), NGO Coalition for Environment (NGOCE), Ekuri Initiative, Citizens Network Nigeria, Biakwan Light Gender Empowerment Network, Citizens for Environmental Safety, Executive Director, Action for Rural Development, Uclenta Development Initiative, Environmental Development Initiative, Stir Network, Young People's Initiative, Association for Alternative Development (AAD), Nigerian Organization for Solidarity and Development (NOSAD) and Women and Children Initiatives. The points at issue were a breach of five essential protocols of the RSPO namely, absence of an agreement with landlord communities, unlawful acquisition of land leased to CARES farmers, failure to properly account for migrant communities within the estate, non-commitment to transparency, non-compliance with applicable municipal laws and regulations. The point was made that under the 'Fundamental Terms for Privatization of Ibiae Estate' (May, 2012), clause 4(4), Wilmar was required to "assist landlord communities in the provision of such facilities as shall be mutually agreed by the investor and the landlord communities".

Government, people and the environment

Here, we look at both federal government policy and Cross River State policy on oil palm plantations.

Federal policies

The Presidential Initiative for Vegetable Oil Development (VODEP) was introduced in 2002 under Olusegun Obasanjo administration and has relevance for oil palm industry. The policy had the following goals: replanting of plantations, rehabilitation of existing plantings, new plantings, massive production of seedlings, production and procurement of breeder/foundation seeds, huge outputs of fresh fruit bunches

(FFB), and capacity building for Small farmers and processors, Institutes etc. (Initiative for Public Policy Analysis, 2015: 11). Policy mortality in Nigeria is legendary. The Goodluck Jonathan administration came up with its own idea on how to transform the oil palm production in the country, hence the Agriculture Transformation Agenda (ATA).

In what appears a transformation of VODEP, ATA was initiated by the Goodluck Jonathan administration, including the 'Oil Palm Transformation Value Chain Action Plan' that sought to focus specifically on oil palm development in the country covering 24 States where oil palm is grown, namely, Abia, Akwa Ibom, Cross-river, Rivers, Bayelsa, Imo, Anambra, Ebonyi, Enugu, Delta, Edo, Ondo, Ogun, Osun, Oyo, Ekiti, Benue, Kwara, Kogi, Nasarawa, Plateau, Taraba, Adamawa and Kaduna (Southern Kaduna). With a time span of four years, 2012-2015, it aimed "at bridging the gap in national vegetable oil production, estimated at 350,000 mt through the establishment of a total of 240,000 hectares by smallholder farmers and estates, and enhancement of yield" (Daily Times, 2015). Other objectives captured by Momoh (2015) include "increase the yield and productivity of both the unorganised and organised plantings; arouse greater interest and concern for engagement in competitive market activities within the oil palm value chain; and create employment especially for youth and reduce poverty in affected States." While ATA also sought to enlist investment Support from local, private and multinationals in the oil palm industry, there is however an obvious lacuna, i.e. no clear governance framework.

State policies on oil palm production and the environment

The Cross River State Draft Policy on Agriculture has in its final section 'institutional framework for policy implementation' which embraces the Role of Ministry of Agriculture and Natural Resources engrossed as:

- Providing an enabling environment to support sustainable agricultural practices for increase food yield.
- Delivering services that support sufficiency in food production and guaranteeing food security.
- Constantly collaborating with the Federal Department of Agriculture, Donor Agencies and other relevant stakeholders to implement the National Policy on Agriculture.
- Collaborating with ADP and other stakeholders in the provision of appropriate extension services on modern farming practices under the Unified Extension Services System.

- Collaborating with other stakeholders to appraise and adopt productivity enhancing methods and modern technologies in Agriculture.
- Providing back stopping to farmers' organisations and investors.
- Promoting infusion of nutrient dense crops into the farming system, adequate diet and healthy life style.
- Promoting and providing conducive environment for enforcement and grades and standards of quality of produce for export and local markets.
- Promoting value addition to Agricultural Produce and supporting product development along commodity value chain for market expansion.
- Promoting agrobusiness among youths and vulnerable groups.

Others include the Cross River Agricultural & Rural Empowerment Scheme (CARES); Role of the Private Sector and Civil Society Organisations; Role of Development Partners; Role of other Ministries, Departments and Agencies (MDAs); Role of Local Government Councils in the State; Role of Farmer Organization; Role of Academic and Research Institutions and the Role of Financial Institutions. Again, like the federal policies on agriculture and especially oil palm production, there is no inclusion of any legal framework for the management of social economic relation in the production process. The draft document gleefully accommodates the information of the presence of Wilmar in the oil palm production as well as Danso Agro Allied Products Limited in the oil palm industry. This is complemented by its strategy in the sector, namely:

- Collaborate with relevant stake-holders to sensitize and build capacity of farmers on good agricultural practices (GAP) for increase yield (12-20MT/ha).
- Create an enabling environment for private operators, farmer's organization and NGOs supplying input to farmers.
- Remove obstacles which hamper smallholder farmer's access to credit facilities.
- Encourage the establishment of farmers-owned and controlled cooperative plantations;
- Collaborate with FMARD and CADP for establishment of oil palm nurseries for distribution to farmers along with agrochemicals at subsidized rates (Ibid).

Proximate legal/institutional frameworks

In the absence of clear policy on environment and human security issues in the agricultural policies of both

the central authorities and state government in relations to oil palm production, this section of this paper seeks solace in proximate and relevant legal and institutional frameworks that address the environmental and human security concerns. We shall restrict ourselves to the Land Use Act, Environmental Impact Assessment Act and the Cross River State Forestry Act and examine their utility in addressing the aforementioned concerns.

The Environmental Impact Assessment Act (1992)

This vests control of all land in the state. The law places upper limits on landholdings by citizens at 0.5 ha of undeveloped urban land, 500 ha of non-urban land and 5,000 ha of grazing land (Initiative for Public Policy Analysis, 2015). Under the Act, state governors have power over the issuance of Certificates of Occupancy. The Act embodies two types of occupancy. One is the "Statutory occupancy rights enjoyed by individuals or entities for both urban and non-urban land". And Two, the "Customary occupancy rights, which may be granted in non-urban areas for terms of 50 years, which are renewable. Despite this extant Act, land is still largely controlled through community-based customary laws in their variations across the country. Nonetheless, the Land Use Act undermines the aforementioned customary norms. As noted by Initiative for Public Policy Analysis (2015) the Land Use Act has been broadly criticised for its ability to override customary tenure in place at the state and community level and the inability of customary landholders to challenge the Land Use Act. The Act therefore offers people very little protection against formal title holders. This is exacerbated by the levels of bureaucracy and expense required to register land under the Land Use Act.

There is the view that it is de-empowering for acquisition of land for oil palm plantations: "Accordingly, the Land Use Act acts as an impediment in the growth path of palm oil plantation. It restricts acquisition of large areas of land in the palm oil belt of the country". Given the investment of much power in the state executive to control land, it is subject to manipulation and often in favour of private capital. Little wonder, the helplessness of communities in oil palm estates in Cross River. Does the Environmental Impact Assessment Act have any remedy for impacted communities?

Despite its lofty provisions, Initiative for Public Policy Analysis notes its restricted application:

There has been a high level of approvals for projects submitting an EIA. EIAs from the

agricultural sector have been low in number. Between 1995 and 2003, for example, just two were submitted. While it is possible – and highly likely – that this is a function of the small number of large-scale agricultural projects in Nigeria, it also indicates that there is limited oversight of agricultural activities in the country.

Cross River State Forestry Commission Law No. 3 (2010)

Of interest are Functions of the Commission and the General Powers of the Commission (Sections 6-7).

6. Notwithstanding anything to the contrary in any other Law of the State, the functions of the Commission shall be, to:

- (a) regulate the activities of Ministries, Parastatals, Local Government, Departments, Organisations, statutory bodies as they relate to forest and forest resources and wildlife conservation issues in the State;
- (b) undertake biotechnology and other forms of research that will enhance the development of scientifically sound forestry policies and programmes in line with current conservation, socio-economic and technology options;
- (c) establish links with relevant national and international regulatory policy-making and funding bodies for the benefit of bio-diversity conservation and sustainable forestry in the State;
- (d) ensure sound wild life and forest management within Cross River State;
- (e) ensure strict compliance with international conventions and treaties on natural resources management;
- (f) develop eco-tourism and generate revenue therefrom;
- (g) promote research and development; and
- (h) perform such other functions which are incidental to conservation and sustainable management of the State's forest resources and revenue generation.

General Powers of the Commission

7. (1) The Commission shall, subject to the provisions of this Law, have power to do such things as are considered necessary and expedient in the carrying into effect of its functions.

7. (2) The Commission shall, notwithstanding anything to the contrary in any other Law of the State have power to

- (a) formulate policies and evolve strategies for the promotion and effective implementation of sustainable forestry development and conservation;

- (b) subject to the provisions of this Law, make, alter, and revoke rules and regulations of the Commission;
- (c) by regulation, review forestry tariffs from time to time; and
- (d) mediate on any dispute that may arise between the Commission and any person, community or organization.

There is evident obsession with biodiversity conservation and sustainable forestry in the provisions of the law, but not so much with human security despite defined responsibilities with stakeholders.

Conclusions and ways forward

In this paper, we have attempted to capture the trajectory of the renewed quest for plantation agriculture, especially oil palm plantations by both the federal and state governments in Nigeria. The colonial experience in the oil palm trade and its impressive concern for the interest of the natives and their environment is provided as useful background in the interrogation of the social essence of the oil palm business in 21st century Nigeria. We juxtaposed federal policies with state policy. Cross River state has been focused upon for its prime location in the oil palm business. We analysed a handful of legal cum institutional instruments underpinning the seeming nostalgic drive for leadership in the global oil palm industry.

Basic conclusions therefore can be drawn. One, the quest for alternative source of revenue central to the drive for oil palm plantation in the country. This is comprehensible given the travails of the crude business and gloomy forecast about its future and nagging quest for diversification of the country's economy. There are no clear governance guidelines for players in the oil palm sector beyond a pre-occupation with augmentation of production to generate more resources and emerge a global leader in the industry. This is clear from the analysis of the content of VODEP and ATA at the federal level and the Cross River State Draft Policy on Agriculture. There is obvious lack of

continuity in policy given the speed of transition in policy, for example from VODEP to ATA at the federal level. There is no recourse to extant policies with great potentials for any meaningful reconciliation. At the state level, the Cross River State government is inclined to sacrifice its well-crafted poverty alleviation programme, CARES, on the altar of multinational capital who are in a scramble for the oil palm belt of the state. Such legal instruments on land and environment, namely, the Land Use Act, EIA and the Forestry law though relevant to the oil palm industry in terms of land acquisition and forest conservation, are currently at variance with the agribusiness. This explains the dispute between PZ Wilmar, the oil palm giant and the local communities involving claims and counter claims about adherence to best practices in oil palm production.

- To transform the status quo and bridge lacunae in the policy nexus between government and the impacted communities in the quest for commercial production of oil palm the following steps would be invaluable:
- Mainstreaming of the Environment Assessment Act in MoU between government and investors in the oil palm plantation.
- Deliberate engrossment of human security clauses in MoU.
- Monitoring mechanisms to ensure compliance with the rule of law in the agribusiness.
- Advocacy engagement with institutions of government, especially those in the policy circuit to appreciate the centrality of the people in the policy process since development is about the people.

Importantly, the Cross River State Draft Policy on Agriculture should be revised to include governance guidelines in relation to communities and their environment. Above all, further research involving fieldwork to understand the policy environment and chart a way out of the pro-market fixation of policymakers is desirable.

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