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A POLICY BRIEF



A POLICY BRIEF ON POLICY OPTIONS FOR ADDRESSING THE FAILURE OF THE NIGER DELTA DEVELOPMENT COMMISSION (NDDC)

MacArthur
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the impact of NDDC interventions. An independent audit team that comprises members of civil society organizations, the Bureau of Public Procurement, the Economic and Financial Crimes Commission (EFCC), the Independent Corrupt Practices and other Related Offences Commission (ICPC), the Media and Professional Bodies to carry out regular and/or periodic audits of the Commission and produce an independent report. This is crucial to have an accurate, unbiased audit report on the financial activities of the Commission. The audit report should be readily made available to the public.

7. Increased Funding for the NDDC: The NDDC has been criticized for its lack of funding, which has hindered its ability to implement effective programs and projects. The Nigerian government should increase funding for the NDDC to ensure that it has the resources necessary to achieve its mandate. Specifically, The FGN should comply fully with section 14 (2c) of the NDDC Establishment Act 2000. There is a need for the review of the NDDC Act to not only compel oil-producing companies to make their budgets available to the commission to enable them to have knowledge of their budgetary provision but to ensure they make their remittances to the NDDC as and when due. This will make funds available to the NDDC for projects that will positively impact the lives of the Niger Delta people.

8. Establishment of Procurement Monitoring Desk in NDDC: As a matter of policy, there should be a Procurement Monitoring Desk in the NDDC that independently monitors compliance with procurement standards as stipulated in the extant laws. This desk should be under the supervision of the Bureau of Public Procurement (BPP). Its

personnel should include a representative of BPP; EFCC and ICPC. The Procurement Monitoring desk should make public periodic independent reports or updates on NDDC contract procurement activities.

CONCLUSION

Given the various issues and challenges that bedevil the NDDC, there is a need for a holistic approach towards repositioning the Commission for accountability and effective service delivery. In doing so, the issue of undue interference by the National Assembly and effective oversight need to be addressed. There is also the need to return the NDDC to the constitutionally recognized budget cycle that allows for sufficient time to implement the budget. Compliance with procurement laws and processes should be strictly enforced to ensure the credibility of contracts awarded. Transparency in the procurement process will promote accountability in service delivery. The commission must ensure that projects are nominated based on the actual assessment of the needs of the people. There is a need to strengthen public-public partnerships through community engagement and participation in project decision-making. Finally, the NDDC should work with the Corporate Affairs Commission to obtain and publish the names of the beneficial owners of companies to its awards contracts as a means of promoting public disclosure of the company's owners' information.

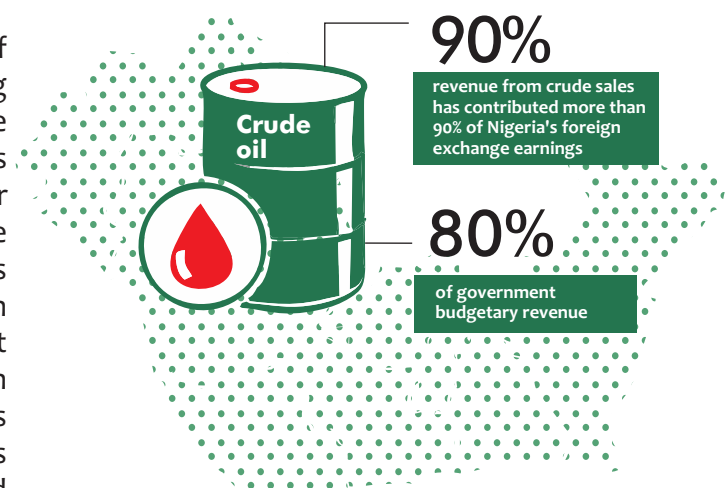
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INTRODUCTION

The Niger Delta region is Nigeria's hub of hydrocarbon resources. As an oil-producing region, the Niger Delta provides the lifeline for Nigeria's economic sustainability. Crude oil was first discovered in commercial quantity in the Niger Delta region near Oloibiri in Bayelsa State. Since the discovery, revenue from crude sales has contributed more than 90% of Nigeria's foreign exchange earnings and 80% of government budgetary revenue. However, the discovery of oil in the region, rather than a blessing to the people, has turned out to be an alleged “curse” that manifests in massive environmental degradation, soil and water pollution, and loss of livelihood. A situation that has created discontent and triggered one of the worst restiveness and agitations in Nigeria

The first attempt to address the restiveness and agitations in the region and also address the environmental consequences of oil exploration and exploitation led to the establishment of the Oil Mineral Producing Area Development Commission (OMPADEC) in 1992. However, OMPADEC failed due to corruption, ineffective supervisory oversight, and the near absence of performance evaluation guidelines.¹ Where this exists from the non-state actors, it is highly disregarded and does not feature as a policy option for addressing the prevalent decadence in the system. As a step further, there came the establishment of the Niger Delta Development Commission (NDDC) in the year 2000 to correct the deficiency of OMPADEC and to formulate policies and guidelines for the development and prosperity of the region.

The Commission's mandate also includes the implementation of all the measures approved for the development of the Niger Delta region by the



Federal Government and the member states of the Commission.² Specifically, the mandates of the NDDC include:

- Formulation of policies and guidelines for the development of the Niger Delta area.
- Conception, planning, and implementation, under set rules and regulations, of projects and programs for sustainable development of the Niger Delta area in the field of transportation including roads, jetties and waterways, health, employment, industrialization, agriculture and fisheries, housing and urban development, water supply, electricity, and telecommunications.
- Surveying the Niger Delta to ascertain measures necessary to promote its physical and socio-economic development.

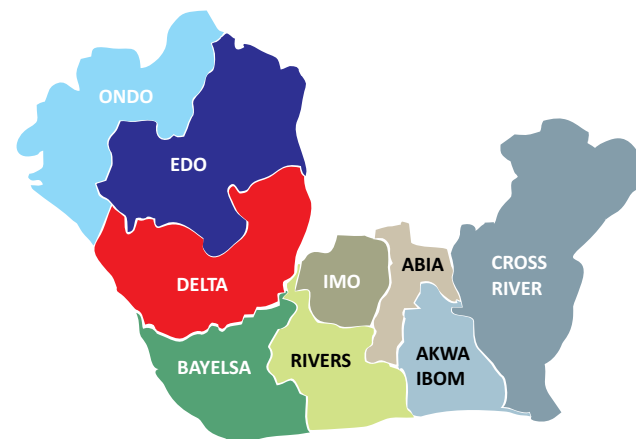
1. <https://www.vanguardngr.com/2020/09/ompadec-nddb-failed-due-to-excessive-corruptions-%E2%80%95-akpabio/>
2. http://www.commonlii.org/ng/legis/num_act/ndcea504/

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- Preparing master plans and schemes designed to promote the physical development of the Niger Delta region and the estimation of the member states of the Commission.
- Implementation of all the measures approved for the development of the Niger Delta region by the Federal Government and the states of the Commission.
- Identify factors inhibiting the development of the Niger Delta region and assist the member states in the formulation and implementation of policies to ensure sound and efficient management of the resources of the Niger Delta region.
- Assessing and reporting on any project being funded or carried out in the region by oil and gas companies and any other company, including non-governmental organizations, as well as ensuring that funds released for such projects are properly utilized.
- Tackling ecological and environmental problems that arise from the exploration of oil minerals in the Niger Delta region and advising the Federal Government and the member states on the prevention and control of oil spillages, gas flaring, and environmental pollution.
- Liaising with the various oil mineral and gas prospecting and producing companies on all matters of pollution, prevention, and control.
- Executing such other works and performing such other functions, which in the opinion of the Commission are required for the sustainable development of the Niger Delta region and its people

BACKGROUND

The nine states Niger Delta region



The Niger Delta region comprising nine states, namely Ondo, Edo, Delta, Imo, Abia, Rivers, Bayelsa, Akwa Ibom, and Cross River states, is home to over 20 million people, most of whom are engaged in subsistence farming and fishing. The Niger delta region is known as the Nigeria hub of crude and gas deposits. However, despite being known for its enormous deposit of oil and gas resources, it is epitomized by widespread poverty, environmental degradation,³ and serious infrastructural deficits as well as other basic socio-economic services. This is despite years of oil exploration and government interventions. The region remains one of the least developed regions in Nigeria, devastated by oil spills and other forms of environmental degradation.³ This has resulted in increased impoverishment as pollution and displacement continue to cause loss of livelihoods.

These issues as outlined earlier had led to so many interventions from the government to the region aimed at addressing the myriad socio-economic challenges confronting the region;

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review the Auditors General report on NDDC to determine the efficiency of the previously allocated resources before legislating on any new appropriation bill presented by NDDC.

2. **Beneficial Ownership Register for NDDC:** NDDC should maintain a public register of companies that have defaulted on contracts. The names of all company's beneficial owners should be made available in a searchable database. Nigeria's Bureau of Public Procurement should maintain a national and networked database of companies not just indicted for poor performance but that are involved in NDDC contracts. All Procurement Units at the Federal and State Ministries, Departments, and Agencies (MDAs) should update their database with information on companies after every contract payment. All submissions for BPP approval (at both the Federal and State levels) should include a printout from the database indicating the performance rating of the companies. Such an intervention will serve as a deterrent for companies to ensure they deliver.
3. **Improve Transparency and Accountability:** Transparency and accountability are issues of serious concern in the operation of the NDDC. There is therefore a need to put in place measures to ensure transparency and accountability in the commission's operations. The Budget of the Commission should be placed in the public domain and made accessible. There is a need to ensure that NDDC adheres strictly to the Zero Based Budgeting Approach and ensures that budgets are built around what is needed for a particular period. This will help prioritize projects based on the actual needs of communities/regions.

4. **Promote Community Engagement:** Community engagement in designing projects and monitoring and execution be strengthened and made mandatory while a community consultation process should be adopted by the Commission. This will promote a public-public partnership approach to community engagement involving participatory development processes to address community needs in the Niger Delta. That a Global Memorandum of Understanding (GMOU) template be adopted by the Commission, to promote a public-private partnership approach to community engagement involving participatory development processes to address community needs in the Niger Delta. This will allow for community involvement in project selection, design, implementation, and monitoring.
5. **Establish a Robust Monitoring and Evaluation System** to ensure the effective implementation of its projects and programs. This should include regular monitoring of project implementation, as well as the evaluation of project outcomes and impacts. The Federal Government should set up a multi-stakeholder partnership which would include a team of Civil Society Organisations and individuals with a track record of competence and integrity, to constantly monitor the activities of the NDDC, including close observation of the independent audit exercise and issuing of regular reports when necessary.
6. **Establish periodic audit of NDDC Programs:** To improve NDDC's effectiveness, there is a need for an independent audit mechanism. The audit should include regular financial, process, and program audits to determine

3. <https://saharareporters.com/2018/04/27/niger-delta-most-neglected-region-world-says-dickson>

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region. Many spurious consultancies, non-existent emergency infrastructural projects, and donations to imaginary non-governmental organizations worth billions of naira are surreptitiously inserted into the NDDC budget annually.

3. Delay in Annual Budget Passage: Another major setback identified by this report as contributing to the inefficiency of NDDC's operations includes perennial delay in the submission and passage of its annual budget. Since 2017 the National Assembly has consistently passed the NDDC budget almost at the end of the budget year. Sometimes the budgets are passed three months before the end of the fiscal year. In some cases, some extensions are granted to accommodate, maybe, two months of implementation. This practice has rendered the NDDC budget non-performing, with many projects hurriedly awarded without recourse to due process, leading to the abandonment of many awarded contracts.

4. Violation of Procurement Laws and Standards: Closely linked to the delay of the passage of NDDC's budget is also the non-adherence to procurement laws and poor procurement practices by the successive interim management of the Commission. The delay in the passage of budgets gives little or no room for proper procurement steps to be carried out before projects are awarded; a situation that has led to the award of several "Emergency Contracts" worth over N1 trillion without due process. The Senate Adhoc Committee investigative Report of NDDC identifies non-compliance with procurement laws as a major driver of corruption in NDDC.

5. Lack of Coordination: The NDDC has been criticized for its lack of coordination with state governments in the region, other government agencies, and stakeholders,

which has hindered its ability to effectively implement its mandate. The lack of coordination has led to the duplication of projects, and misplaced priorities in terms of project nomination in the budget. This explains why most projects are either abandoned or poorly executed. It also accounts for the poor implementation of the Niger Delta Development Master Plan.

6. Unstable Governance and Management Framework: The unstable nature of the governance and management structure of the commission has had devastating outcomes on its effectiveness. It is also one of the drivers of corruption within its system. The appointment of interim administrators in total disregard of the letters and spirit of the NDDC Act 2001 is counterproductive and the erosion of the accountability mechanisms necessary for probity in the Commission. In addition, appointing politicians to the Board of the Commission is the major enabler of cronyism and outright corruption. It also contributes to the non-cooperation of member states governed by opposition.

POLICY RECOMMENDATIONS

1. Strengthen Legislative Oversight Function: The National Assembly should carry out its constitutional roles of legislative oversight on the Commission and its budgeting system (including early passage of budget) to ensure effective utilization of public resources, without interfering with implementation, especially the award of contracts. As a matter of policy the national assembly should obtain and

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developing social infrastructure and contributing to addressing the petroleum industry-related environmental challenges in the region, the Nigerian federal government in 2000 established the Niger Delta Development Commission (NDDC). However, over two decades after, the NDDC has not only failed to fulfill its mandate of transforming the Niger Delta region through its interventions despite the over N15 trillion received since its establishment but has also been embroiled in several corruption scandals.⁴ Years of intervention by the NDDC have yielded few results or intangible development as yearly budgets have failed to impact the realities in the Niger Delta.

As stated earlier, The NDDC was created to address these issues and promote sustainable development in the region. It is responsible for planning, coordinating, and implementing development projects in the areas of infrastructure, human capital development, and environmental protection. The commission's primary focus is on addressing poverty, unemployment, and environmental degradation. To achieve this, the NDDC is supposed to implement a variety of programs and projects, including infrastructure development, education, training; community development; etc. Despite the quantum of projects supposedly implemented by NDDC, the Niger Delta region still grapples with a massive infrastructural gap, including poor road networks, inadequate electricity infrastructure, health, and education infrastructure deficits, and non-existent public water systems.⁵ The overwhelming majority of residents lack access to potable drinking water in the face of massive oil spills and pollution. These challenges have continued to impact negatively on the lives of the people of the region.⁶

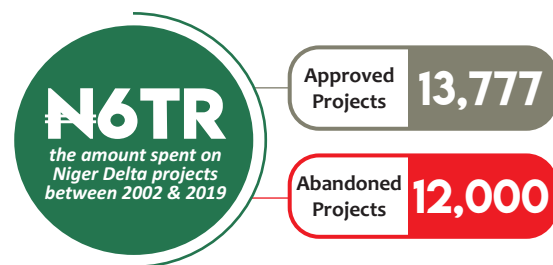
While corruption within the NDDC is identified as the main contributing factor to its poor performance, our investigations show

inadequate oversight and complacency of institutions such as the Ministry of Niger Delta Affairs that have direct supervisory authority, and the National Assembly which has oversight responsibilities on the Commission.⁷ Rather than provide an effective check on the NDDC, the supervising and oversight institutions are complicit in the corruption plaguing the federal agency.⁸

CORRUPTION IN NDDC

Corruption permeates the everyday life of the Commission since its inception. Rather than championing the course of development, The NDDC has become a cesspool of corruption where development funds are grossly mismanaged, or used for political patronage and settlement of political godfathers. Since its inception, the Commission has received about \$ 40 billion (N15trillion) for various projects in the region yet failed to achieve the fundamental objective of bringing about transformation as enshrined in the regional development master plan.⁹ Between 2000 and 2019 the commission executed some 13,777 projects out of which 12,000 projects were abandoned and over N6 trillion spent on these projects was wasted.¹⁰ The Commission has routinely been embroiled in many high-profile corruption scandals ranging from contract award rackets to contract inflation, project abandonment, and vague and, in many cases, non-existent projects. Findings from our 2021 project monitoring exercise revealed cases of poorly executed projects, in many cases, non-existing projects for which financial commitments have been made as stated in the Commission budget.

4. <https://www.premiumtimesng.com/news/headlines/411254-exclusive-top-nddc-officials-arrested-for-alleged-fraud.html?tztc=1>
5. <https://ptcij.org/wp-content/uploads/2015/10/Beneficial-Ownership-Analysis-NDDC.pdf>
6. https://www.youtube.com/watch?v=toE0f3WP_gA
7. <https://saction.org/books/Pond-of-Crocodiles5.pdf>
8. <https://saction.org/books/Pond-of-Crocodiles5.pdf>
9. <https://www.thisdaylive.com/index.php/2020/07/19/nddc-a-disturbing-cesspool-of-corruption/>
10. <https://www.vanguardngr.com/2021/09/nddc-buhari-receives-forensic-audit-report-says-n6trn-approved-in-18yrs/>



The National Assembly set up an Adhoc Committee to probe the intervention agency's activities between October 2019 and May 2020 and concluded that there was a misappropriation of over N81.5 billion within the 8 months under investigation.¹¹ Similarly in 2020, the Office of the Auditor General Released a Report on the activities and programs of NDDC from 2013-2018 revealing some 44 cases of corruption and financial misappropriation amounting to several billions of naira.¹² Until now, the federal government is yet to take on the Forensic Audit Report, the National Assembly Adhoc Committee on the Investigation of the Alleged Financial Recklessness in the NDDC, and the Auditor General Report on the Activities and Programs of NDDC from 2013-2018.

Where is the Forensic Audit Report?

President Muhammadu Buhari ordered a forensic audit of the NDDC in 2020, but 2 years after the submission of the report, the details remain hidden and this has continued to trigger a lot of expectations and anxiety from the public who are demanding the full report to be made public. Although as a fallout of the Forensic Audit, in November 2022, the NDDC released names of 1,301 contractors who failed to mobilize to sites after being paid.¹³ In a statement signed by the Director, of Corporate Affairs, these contractors were directed to refund all monies paid to them

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concerning the undone contracts. However, no further update has been provided regarding the level of compliance with the directive.

However, the big questions remain: Where is the Forensic Audit Report? Why have the details of the report remained hidden? Despite the renewed commitment by Mr. President to fight corruption, why have the Economic and Financial Crimes Commission (EFCC), and the Independent Corrupt Practices and Other related offenses Commission (ICPC) not gone after corrupt NDDC officials, corrupt contractors including members of the past interim managements who have been fingered in a series of corruption cases?

The NDDC and Beneficial Ownership Disclosure

The Niger Delta Development Commission (NDDC) was established as a corporate entity under the Corporate Affairs Commission (CAC) with the right to sue and be sued [1]. This implies that the NDDC is subject to the legal ownership requirements of corporations in Nigeria and the Beneficial Ownership Disclosure initiative as enshrined in the Companies and Allied Matters Act 2020.

The failure of the NDDC has been linked to the gross mismanagement of funds and contract-related corruption.¹⁴ In the last ten years, over 100 investigative reports have linked poor implementation of projects and in some cases non-implementation of projects to contract-related corruption in the NDDC.¹⁵ Several other independent scorecards and audit reports attribute poorly implemented projects to poor contract management practices in the Commission.¹⁶ This is supported by massive contract racketeering and jobbing. This further goes to show the complacency of successive management of the Commission in awarding contracts to faceless organizations and individuals

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through the corrupt process called the “Emergency Contracts” award. The level of project completion or abandonment in Nigeria is linked to the relationship between contractors and public officials awarding the contracts.¹⁷

In 2017, the NDDC awarded a total of 201 emergency contracts valued at N100.39Bn; in 2018, a total of 1,057 emergency contracts valued at N162.68Bn was awarded; and in just seven months of 2019, it awarded a total of 1,921 emergency contracts valued at N1.07trn. A total of over N1.3 trillion was given out in emergency contracts in less than three years.¹⁸ This resulted in 12,000 of the 13,777 contracts that NDDC has implemented being abandoned.¹⁹ There is little or no information on the beneficial owners of the defaulting companies of NDDC Contract. This lack of information about ownership of contracted companies makes it difficult for CSOs and other accountability agents to carry out probity in the commission. This also hinders the work of anti-graft agencies responsible for prosecuting offenders.

While the NDDC in November 2022 published on its website a list of some 1,301 contracts it terminated due to non-implementation, the list does not include the names of the beneficial owners of these companies.²⁰ The database lacks sufficient information on NDDC and the contracts it awards. The lack of adequate information about project location as well as ownership of contracted companies hampered the depth of the scrutiny and investigation by accountability agents, as well as possible sanctions on the part of anti-corruption agencies. The information cannot also be found on the online database of the Bureau of Public Procurement (BPP), the NOCOPO at the time of this brief due to poor adherence to procurement procedures and standards.

Key Challenges/Issues with NDDC

- Poor Oversight and Supervision of the Commission:** Fundamental to the efficiency of NDDC are the oversight and supervision roles initially domiciled in the Presidency and the National Assembly. By the NDDC Act 2000, the President is directly responsible for the oversight of the operations of the Commission. For many years, the function has been relegated and the Commission exposed to a lot of internal and external meddling. This became worse when the Ministry of Niger Delta Affairs was given supervisory powers over NDDC in 2016. For instance, from 2019 to 2022, the Commission was without a substantive board that would have been responsible for the effective management of its operations. The use of interim management from 2019 till late 2022 was a clear violation of the provision of the Act. While we are glad that for the first time in three years, NDDC now has a substantive board, there is a need to ensure that the Commission does not relapse into the past illegality.
- Fiscal and Budget Secrecy:** The opaqueness of fiscal processes is one of the major causes of the failure of NDDC to deliver on its mandate. Several trillions of naira budgeted to advance the development agenda have ended up in private pockets due to the secrecy of operations and budgeting. For many years, the NDDC has kept away from the public its budget document, and with its management largely elusive, its entire operation is shrouded in secrecy. Projects are built into the yearly budget without the citizens' knowledge or input – although they remain beneficiaries of such interventions. This has contributed to the poor execution or non-execution of many projects in the

11. <https://placng.org/i/wp-content/uploads/2020/07/Senate-Report-on-the-Investigation-of-the-Alleged-Financial-Recklessness-in-the-Niger-Delta-Development-Commission-NDDC.pdf>

12. <https://www.oaugf.ng/docman/11-nddc-report-of-2013-to-2018>

13. <https://www.nddc.gov.ng/projects.aspx>

14. <https://saction.org/pond-of-crocodiles-citizens-report-on-the-budgets-and-projects-of-the-niger-delta-development-commission-nddc/>

15. <https://ptcij.org/wp-content/uploads/2015/10/Beneficial-Ownership-Analysis-NDDC.pdf>

16. <https://www.premiumtimesng.com/news/headlines/414914-scorecardakpabios-first-year-as-niger-delta-affairs-minister-blighted-by-corruption-scandals.html>

17. <https://ptcij.org/wp-content/uploads/2015/10/Beneficial-Ownership-Analysis-NDDC.pdf>

18. <https://businessday.ng/uncategorized/article/how-nddc-awarded-over-n1trn-contracts-in-7-months-against-n400bn-budget-in-2019/>

19. <https://businessday.ng/news/article/why-12000-nddc-projects-were-abandoned/>

20. <https://www.nddc.gov.ng/newsdetails.aspx?nid=150>