

## LOCAL GOVERNMENT AUTONOMY AND THE NIGERIAN CONSTITUTION: A PARADOX

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### Abstract

*Local Government was first and formally recognized as the third tier of government in Nigeria through the 1976 Guidelines for Local Government Reforms. As such, the 1999 Constitution of the Federal Republic of Nigeria in section 7 and section 162 provided for the political/administrative and financial autonomy of the local government respectively. Thus, the 1979, 1989 and 1999 Constitutions recognized the local government as a third tier of government, subject to the control of State governments. The abuse of these provisions in the Constitutions, especially by the State government, has brought to the fore-front the question of local government autonomy. There are agitations for more power to be given to local government in the spirit of a working federalism. The level of interference in local government administration by state governments has reduced local government to a mere appendage of state government. This explains why members of the political elite engage each other in a-tug-of-war over whose apron-string the local government should be tied to, rather than allow local governments operate autonomously. Extant studies have largely failed to probe the paradox of state governments' persistent failure to respect constitutional provisions on local government autonomy, it is the view of this paper that local government deserves and should be granted sufficient autonomy to strengthen Nigeria's federalism and the only option is a review of the Constitution. Provisions should be put in place to check the loopholes in the Nigerian constitution that give room for such abuses by the State governments. The methodology adopted here is the content analysis of existing literature on local government and administration in Nigeria.*

**Keywords:** Local Government, Autonomy, Corruption, Constitution, Development,

## Introduction

The local government being the government nearest to the populace, is one of the best agencies for generating motivations and encouraging mobilisation for self-help, as well as including the much needed wider participation of the local population in the decision making process at the local level (Ikechukwu, Eluwa & Ukah, 2012). The so-called third world is a rural world where any meaningful discussion of community development really means not only "talking of overall national development," but because "it is in community that the problems of inequitable distribution of resources or a marked lack of purchasing power and of grinding poverty in which the wretched members of society stagnate and stare one in the face with brutal clarity (Ikechukwu, et al, 2012:11). An effective local government will be better disposed than the state or federal government, not only to stem the grim reality of the rising tide of grassroots poverty but also be better positioned to evoke communal efforts and networking to manage and mobilise the support of local citizenry in participating in all the programmes that may affect them. As an agent of development, the major priorities of any local government should include reduction of poverty in the community, increasing the standard of living of the local dwellers, provision of social amenities, enhancing the participation of the local citizens in political activities that concern them, enhancing their individual human capabilities, boosting nationalism, inspiring creativity and innovation as well as educating the local people (Bello-Imam, 2007). The rest of the paper is divided into conceptual clarifications, theoretical framework, Nigerian Local Government and Challenges.

## Local Government

The performance of local governments has been receiving increasing attention in Nigeria over the past decades, from both academic and civil society sectors. All over the world and especially in Africa, local government is seen as a means of enhancing development and service delivery, improve governance and deepen democracy (Buccus, Hemson, Hicks & Piper, 2007). The National Guidelines for Reforms of Local Government (1976) in Nigeria defines Local Government as:

Government at local levels exercised through representative councils established by law to exercise specific powers within defined areas. These powers should give the council substantial, control over local affairs as well as staff and institutional and financial powers to initiate and direct the provision of services and so determine and implement projects so as to complement the activities of the state and federal. Governments in their areas and to ensure through devolution of functions in these councils and through the active participation of the people and then traditional institutions that local initiative and response to local needs and conditions are maximized (cited in Bello, 1986:12).

This explains the legality of local governments which has the backing of the fourth schedule of the 1999 constitution to enforce authority and power within its territorial boundary. It is expected to discharge duties which ensure effectiveness at the local level and this should in some ways contribute to the overall growth and development of the nation. Some of the major expectations from local governments which include:

- a) Improving the living standards of the subsistence population through mobilisation and allocation of resources to achieve desirable balance over time between the welfare and productive services available to the rural subsistence populations.
- b) Ensuring mass participation aimed at achieving both allocative rationality plus equity with redistributive efficiency.
- c) Making the process self-sustaining: this requires appropriate skills acquisition and development; capacity building; and availability/presence of functional institutions at local, state and federal levels to facilitate optimal use of available resources and the development of the rural areas (Mabogunje cited in Ibieta, 2010:32).

### **Local Government Autonomy**

In view of the importance of local government as the bedrock of democracy, 148 local government areas were created in 1989 and 140 in 1991 and now totalling 774 in the effort to bring governance nearer to the grassroot. Local government is a political authority set up by a nation or state as a subordinate authority for the purpose of dispersing or decentralising political power; the objective which is to make appropriate services and development activities responsive to local wishes by delegating them to local representatives. The 1976, 1979, 1989 and 1999 local government reforms sought to make local government the bedrock of national politics, in a much more relevant perspective to the present day government arrangement local government is perceived as grassroots democracy, even though the system in practice in various countries may have a lot of divergences, one distinctive feature that makes a lot of difference, is the level of autonomy. But if it is an extension of Central or State government, the local populace would not participate actively in the conduct of the affairs of the local government as that Federal or State would be in charge for its employment and policies, it is as absolutely necessary to pinpoint out that in as much as there are distinctions among Nation-States, so also are there diversities within these Nation-States at various time periods. Therefore any meaningful study of local government systems should take the issue of autonomy very seriously. The bottom-line is to identify the circumstances and dynamics that shape the colorations of the system at any given situation.

The topical issue of local government (LG) autonomy in Nigeria in relation to the development of the localities, the *raison d'être* of LGs, has been examined as well as some dominant autonomy issues. These include representative LGs, the size of LGs, revenue, and personnel. It has discovered that inadequate handling of virtually all the above issues has posed some challenges for LGs' developmental efforts in the localities. Inadequate autonomy has been found to be the independent variable in the challenges. Other challenges include inadequate finances, weak intergovernmental relations, fledgling democracy and grand corruption. These must be adequately tackled for LGs to make more positive impact in the localities. Some pertinent recommendations are as follows. The advent of local government administration in Nigeria took off in an unpopular manner when it was vested in the hands of traditional authorities during the colonial era. Post-Independence era was followed with the importance of bringing the local government system to the limelight.

Over the years, efforts have been geared towards democratizing the local government and make it more responsive to developmental needs but proved abortive. The Dillon rule which was derived from written decision of Judge John F. Dillon of Iowa in 1868 and is the cornerstone of American municipal law maintains that a political subdivision of a state is connected to the state as a child is connected to a parent. Dillon's Rule is used in interpreting state law when there is a question of whether or not a local government has a certain power. Dillon's Rule narrowly defines the power of

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local governments. Local government is an unavoidable tier of government in Nigeria's federal structure as stipulated in section 7(1) and 7(6a) of the 1999 Constitution.-National Assembly Stance. The Senate recently passed a bill for an act to further alter the provision of the 1999 Constitution of the Federal Republic of Nigeria and for other matters connected therewith, 2013. The committee proposed a total of 31 clauses affecting 26 sections and second schedule of the 1999 constitution.

From the 31 clauses set out, 13 were passed while 10 did not scale through. Among the ones not passed is the alteration of section 162 of the constitution to provide for direct payment to the local government from the federation account. In the Senate, the debate on the local government autonomy witnessed glowing support and people were optimistic about granting autonomy to the local government.

Autonomy and Local Democracy becomes possible if Nigeria's developments discourse, which is now being wholly influenced by internal and external forces looks inwards, to reflect local needs and aspirations and if the Federal Government, Local and International Non Governmental Organization and Donors, who have the inclination to establish counter structures at the grassroots, are attuned to the need for local leadership growth, capital accumulation, entrepreneurship and increased participation of people in grassroots governance. The capacity of autonomy to serve as a pillar of local government that are accountable to the electorate and capable of promoting public goods and services equally entails a balance in macro and micro institutions of governance. The Paradox of Local Government Autonomy is One contemporary paradox of Nigerian politics is that the disempowerment of the local government erosion of its stability, autonomy and embeddedness did not provide for empowerment of the civil society or contribute to the overall development goal set in the Nigerian constitution.

Nigeria's case is cumbersome as it is heavily dependent on the National Assembly and its State Counterparts for its development and is facing pressure exerted by Nigerian Union of Local Government Employee (NULGE) and concerned citizens for faster decision. Unmediated by constitutional norms and an absence of a buffer to salvage the poor and powerless has produced growing inequality, social polarization and political instability. Granting full autonomy to the grassroots helps ensure the participation of the less empowered population in the planning, execution and monitoring of social and economic development.

Those who opposed to local government autonomy do have good reasons too. They argue that the local government is not technically a third tier of government. It is merely a politico-administrative province of the state governments. It is the responsibility of each state government. Ideally, a state government should decide the form and the system of local government best suited to its political and administrative needs. The generals created a constitutional problem since 1979 when they decided to define states, by the composition of their local government areas. This has been used to argue, incorrectly, that states are not empowered by the constitution to create local governments because doing so would require a constitutional amendment. They argue that a newly created local government area is perfected only when the schedule is amended and it is listed therein among the local governments in the state that created it.

**Theoretical Framework**

Federalism represents a principle for the organization of decision-making in an association of groups of people within a nation state. The peculiarity of this association is that such groups are endowed with a special function in central decision making. Furthermore, the group possesses a relative autonomy that is constitutionally recognized. Thus, a Federal system of government recognizes and respects the co-existence of concurrent, governments with well-defined autonomy. Therefore, unlike Unitary States, the national government does not play any dominating role in its relationship with the other units of governance (Macmahon, 1982) Federalism therefore, emphasizes the sharing of power in political system with each level of government exercising its power within constitutionally approved limit. It is commonly accepted today that an important characteristic of American Federalism (widely regarded as the model of modern Orthodox federalism) is the relative autonomy of the state to govern them; but this autonomy itself, governed by Constitutional limitations. Thus, a Federal system in the American sense of the world, allow for the constituents to articulate their dependent political will and at the same time participate in an ordered and permanent way in the formation of the central entity's will. In essence, the major distinctive characteristics of federalism are none centralization (cited in Lukman, 2008).

Ostrom (1994) argues that the American federal system of government is characterized only by command and control but it is noted for providing multiple structures " that have reference to diverse methods of problem solving". The methods in question permit people within the society to achieve peaceful conflict resolutions. Even though, people have diverse interest, they pursue 'interdependent communities interest'. He argues from American experience that the federal style is such that people govern through the institutions which they put in place and not that any 'government' governs. To Ostrom, this should be a reflection- of a true democratic society and a society that practice federal system of government. With reference to Nigeria, we confirm that the structures reflecting alternative are being put in place from time to time to serve the interest of people, these institutions are expected to co-operate with each other. Federalism is essentially a mechanism for managing conflict in a multi-culture state between two types of national self - determination which guarantee security for all in the nation state on the one hand and self-determination of the component groups to retain their identities on the other hand. Also, a technique for managing conflict among heterogeneous group in a state through a system of constitutional division of power which provide for 'Shared rule' while also allowing for 'self-rule' at the sub-national level. He further stated that federalism assures the delineation of powers between tiers of government that thus provide for 'shared rule' among the important units of the federation and also make provision for autonomy and 'self-rule' at the sub-national level as groups seek to protect their local identities. Elaigwu, et al. (2005) looks at the pre-colonial antecedent of federalism in Nigeria and investigates the pattern of social and political organization of selected ethnic groups and the nature of inter-group relations that took place between them during this period with the view of making known those social forces which propelled us towards the adoption of a federal form of government. Also, went further into the root of Nigerian federalism by looking into the colonial period up till Nigeria's experience as a federation since its independence in 1960. The exploration of the dynamics of federalism and inter- governmental relations and the machinery for inter-governmental relations as well as the problems of federalism in most countries. Williams Livingston (cited in Eghosa, 1994) looks beyond the narrow confines of legal formulations to the general systemic view and saw.

### **Nigerian Local Government and Challenges**

In comparison, the local government system in Nigeria, just like Nigerian states is a colonial creation, it has undergone a lot of vicissitudes and reforms, the most popular of which has been the 1976 Reforms, which in turn the framework of operation today. Before 1976, it has been a situation of confusion, traditionalism, and in some cases, neglect. Despite all the short comings, local government is and will continue to be the basic unit of local governance and essential instrument for grass root transformation. The native authorities, later local authorities and now local governments in Nigeria have never been allowed to play their proper roles as institutions and agents for change, progress, and development of the rural areas, because of the myopic interest of the political elites whenever reform propose which reduce autonomy on local government and capacity to perform. In the Eastern part of the country, the culture of native authority looks alien but when the Governor McPherson Constitution provides for basis of regional self-government and the formation of political parties, the East became the first to fire salvo the modern system of local government. However, the West Reform of 1952 also introduce modern local government when it adopted the British system of divisional district and the local council and just like the East excessive political interference and a low level of financial capacity made very little meaning of local government in the West and their capacity.

### **Corruption**

Corruption, according to Harsh (1993), is a practical problem involving the outright theft, embezzlement of funds or other appropriation of state property, nepotism, and granting of favours to personal acquaintances. One of the fundamental problems of contemporary Nigeria is corruption which has thrived, progressed, and flourished unabated in the country. Corruption has been institutionalised to the point of accepting it as part of the system. Although, corruption is universal; it is found all over the world, but the degree of its manifestation varies form system to system (Adeyemi, 2012:190). Corruption is the greatest bane of local government administration in Nigeria. At the grassroots level, corruption has been canonically accommodated, entertained, and celebrated within the system. In the local government setting, corruption is normally labeled and euphemistically referred to as "Egunje" (a slogan implying "illegal offer" in Nigeria). Regrettably, democracy, which is assumed to be the antidote to corruption, has not lived to expectations in practice in Nigeria. Consequently, the level of apathy, cynicism, and poverty is high among the community dwellers "in spite of the establishment of the Independent Corrupt Practices and other related offences Commission (ICPC), corruption still thrives in our society" (Lawal & Abegunde, 2010). They argue that the lack of funds is no more a constraint on local government performance, but mismanagement and misappropriation of the funds accruable to it. Nowadays, men and women who have been (s)elected to undertake leadership position at the grassroots level in Nigeria primarily seek means to enrich themselves as quickly as they can and ultimately run the budgets of their various localities aground without any visible developmental projects to show for it. Developmental projects, if any, are in place alter being thoroughly inflated (Lawal, 2001).

Most local government chairmen see their position as opportunity to enrich themselves. The following examples are quite revealing. In 2001, the chairman of Kachia LGA in Kaduna state awarded a contract of N2.5 million for the rehabilitation and completion of women's centre and no work was done. The chairman of Sanga local government in Kaduna spent N6,495,605.70 as extra budgetary spending. Pie awarded a contract of N3,171,375.00 for rehabilitation of his office which N906.044.00 would have been enough for (Aluko, 2006). In Kwara State, the Chairman of Ilorin

South Local Government Area claimed to have built two staff residential apartments at Fufu, the councils headquarter at an inflated price of N20 million. The chairman also claimed to have paid N19 million to a contractor for the Gaa-Akanbi and Niger roads which had been rehabilitated by the state government in the previous year. It was also reported that the chairman owned twelve personal cars, far above what his legitimate earnings can afford (Aluko, 2006).

### **State Government**

The imperfections in the provisions of the 1999 constitution have made almost every State Government see Local Governments as their sub-entities and therefore subjected them to various manipulations by the Executive Governors. In 2009, the Chairman of the Economic and Financial Crime Commission (EFCC), Mrs. Farida Waziri, disclosed that: The level of social infrastructural development in the rural areas does not match the huge amount of money available to local government administrators nationwide. The 774 local government councils in the country received a whopping amount of N3.3 trillion from the federation account between June 1999 and June 2007, without anything to show for it (cited in Akanni & Fatile, n.d). The diversion of local government funds by the state governors have been a major problem that stunted-developmental growth in most local areas across the country. For instance, in Ondo State, under the late Governor Olusegun Agagu, there was an unholy alliance between the state government and the local councils in the state, where the former constituted Joint Action Committee, tagged "JAC". Federal allocations to local government councils were first deposited into a particular adhoc account before calling for the committee's meeting. This in a way created avenues for the slate government to divert local government funds and release paltry sums instalmentally. As a matter of fact, LG allocations became slush funds for state governors' personal activities. Practices like these are replete in this fourth republic, and this circumscribed the ability of LGCs' to deliver services efficiently at the grassroots (Olaniyonu, 2007). Akanni and Fatile (n.d) corroborated that state governors see the allocation from the federation account to Local Government Areas as their personal fund and use it to finance their political activities. Some Governors found it easy stealing from LGAs. Between 1999 and 2003, only Chief Adebisi Akande of Osun State was reported not to have tampered with the local government funds (Lawal & Abegunde, 2010). A particular Governor from a North Central state who was not reelected actually took as much as N2billion from the LGAs within four years. Also, a former LGA chairman in a South-West state narrated an instance in which his state governor had given them a few million Naira each as running cost and he challenged the Governor that the money being shared was the constitutional entitlement of the LGAs which the chairman should use for development purposes. The governor told him to keep quiet as he (the chairman) "cannot tell me how to use my money" (Oyelude, 2010).

### **Manpower**

Observation by some scholars shows that one of the major problems confronting the operations of Nigerian local governments is shortage of qualified manpower. Akeredolu-Ale (in Bello-Imam, 2007) observed that in Kano and Jigawa states, the local governments lacked development planners, senior administrative officers, engineers and technicians, medical staff and health auxiliaries (nurses, mid-wives, trained dispensary attendants, secretarial and clerical staff and typists). He also observed that this trend rather than being peculiar to Kano state could be generalised. There is no comprehensive and accurate data on the manpower situation in local government councils throughout the country and this in itself is a source of concern (Bello-Imam, 2007).

### Autonomy

Central-local relations in Nigeria have frequently been contentious, especially in relation to the contradiction between democratisation at the grassroots and the enduring practice of central control over local autonomy. The intricate nature of this complex inter-relationship between the national and subnational (federal and state) governments is revealed in lack of fiscal autonomy occasioned by inadequate financial buoyancy at the lower tiers of government, erosion of clearly stipulated roles and functions, occasional central imposition of functions without commensurate funds to match and sometimes untidy administrative structures of the local government councils. The provisions of the 1976 Reform were entrenched in the 1979 Constitution which was operational in Nigeria's Second Republic. However, the 1976 Reforms invariably gave the federal Government a more domineering role. As Gboyega (in Asaju, 2010) rightly observed "the consequences of Federal intervention and imposition of a common system of local government have been mixed from a benign role that clearly retained State dominance of local government policy-making, the federal role has gradually widened to the point where the Federal Government can initiate local government Policy reform".

The Second Republic was a turbulent period in the history of local government administration. It witnessed attempts at experimenting with the provisions of the 1976 Local Government Reforms as contained in the 1979 Constitution. It was a fierce period in which the States and the Federal Government contested the control of Local Government. Attempts by the State to re-establish their primacy in local government policy-making not only created conflict with the Federal Government, but also weakened the power of the local government (Asaju, 2010:8). The States, especially, abused some provisions of the 1979 Constitution to suit their selfish desires. State governments neglected or voided aspects of the 1976 LG Reforms that they were displeased with and distorted those that were merely inconvenient. For instance, throughout the Second Republic (1979-1983), no election was held into the Local Government Councils, only Sole Administrators were appointed (Asaju, 2010). This was at variance with the 1976 Reforms and 1979 Constitution, especially (Section 7) which provides for a democratically elected Local Government Council throughout the federation. Such behaviour painted the States as villains and provoked demands for greater federal role in local government policy-making (Gboyega, 2001). The re-emergence of the military into the political scene brought about a shift of local government control from the State to the Federal government. The Babangida administration (1985-1993) initiated some reforms aimed at ensuring local government autonomy. Some of the reforms included the abolition of the Ministry of Local Government, establishment of executive and legislative arms in Local Councils, and direct allocation to local governments without passing through the State government. The statutory allocation of the local government was also increased from 15 percent to 20 percent in 1992 (Asaju, 2010). There is an agreement among scholars that the reforms of this period were aimed at a radical transformation of the status of local government in a federal system (Gboyega, 2001). Thus, the Federal government scheme of decentralisation was deliberately and consciously focused on transferring greater powers and resources to local governments rather than to state governments. Through the reforms of this period, it could be said that a greater measure of devolution was made at the expense of the state. This however, provoked negative reactions from the states and suspicion about federal government's motives in promoting the reforms. The Abacha Administration (1993-1998) however, revised some of the reforms (Asaju, 2010).

The reasons for the creation of local government anywhere in the world stems from the need to facilitate development at the grassroots. The importance of local government is a function of its ability to generate sense of belongingness, safety and satisfaction among its populace. All forms of



political systems have so far ensured the attainment of these goals. Such strategy for ensuring national administrative development and political efficacy is found in the concept and practice of local government. Whatever is the mode of government, local government has been essentially regarded as the path to, and guarantor of, national integration, administration and development.

In Nigeria's socio-political context, with multiplicity of culture, diversity of languages and differentiated needs and means, the importance of such an organization in fostering the needed national consciousness, unity and relative uniformity as well as preservation of peculiar diversities is very vital.

Central to the creation of local government, however, is its ability to facilitate an avenue through which government and the people intermix, relate and more quickly than any other means' resolve or dissolve issues that may have heated the system. Local government has been perceived as a panacea for the diverse problems of the diverse people with diverse culture. As important as this tier of government has been, there seems to be some impediments that have been infringing on its performance and functions-in recent times. These impediments range from political but undue interference of the higher levels of government (Federal and State government), bribery and corruption to embezzlement and gross inadequacy of well-trained and qualified personnel.

The grassroots/rural area constitute good number of human population and as such deserve a (dash of) democracy from the government, and what better way other than the local council. No public institution in Nigeria has been so subjected to frequent reforms than local government. Every successive administration introduced one administrative change or the other. The introduction of the 1976 reforms by military administration of General Obasanjo brought about uniformity in the administrative system. The reforms introduced a multi-purpose single-tier local government system. The reforms also introduced population criterion under which a local government was created. Consequently, a population of between 150,000 and 800,000 was considered feasible for a local government.

The 1999 Constitution provided for a democratically elected Local Government Council in section 7 of the Constitution. If the third-tier of government is to achieve the objective which it was established for and washed-off the plethora of problems that has besieged the entire system through the years. There is high degree of external influence and intrusion in local government affairs by the higher levels of government. Situation where the state government unconstitutionally dissolves the entire elected council's officers without proper investigations on spurious allegations is not good for the future of local government administration in the country. Such external influence subverts democratic process and undermines constitutional authority at the grassroots level.

### **Conclusions and Recommendations**

The central argument of this paper is that local government as the tier of government nearest to the people should play developmental roles, commencing from the communities. The paper interrogated local government administration in Nigeria, especially the fourth republic through the efficiency services theory which sees local government as an efficient agent for providing services that are local in character. Based essentially on secondary data, the analysis revealed that the performance of LGCs leaves more to be desired and that Nigerians are experiencing a raw deal with the governing elite at the third tier with possible generalisation to other tiers of governance as reflected in infrastructural deficits, sundry acts of mismanagement befuddled by avarice, corruption and kleptomania.

The position of this paper is that a "theory to practice" policy approach underscored by the tenets of the Efficiency Services theory in which LGCs as an institution sees itself as an efficient agent of providing services to the local populace is pivotal to Nigeria's aspiration for development. Partly through this, can community development become precursor and pedestal for national growth and development. To corroborate, local government can become proactive engines of wealth creation; poverty reduction; improved standard of living; social services delivery; socioeconomic and political mobilisation and human capital accumulation through effective education' functions. Premised on the foregoing, this paper recommends the following:

- There is a realistic need for synergy and collaborative approach to community development. A bottom-top strategy that harnesses local needs, wishes and aspirations will galvanise efforts for maximum impact.
- Appropriate political and constitutional reforms that can enhance the autonomy of local governments is seriously canvassed. All portions of the constitution suggesting superintending roles of state governments on local governments, and specifically parts of section 162 of the 1999 constitution of the Federal Republic of Nigeria that ties LGCs allocation to state governments should be expunged.
- LGCs should invigorate their extractive functions in order to boost internally generated revenues to enable them support community development initiatives and activities effectively.
- The educative functions of local governments can be strengthened through improved information dissemination, management and enlightenment for participation in community development by the LGCs.
- The appropriate agencies responsible for mobilisation, civic reorientation and election (National Orientation Agency and INEC) should continually improve citizen awareness; ensure credible and transparent process that can produce accountable and good leaders.
- The institutions and mechanisms saddled with ensuring rectitude and accountability in public governance should be re-invigorated. This has the tendency to reduce resource mismanagement, plunder and outright conversion of public funds to private advantage”

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