

THE PRAXIS OF LOCAL GOVERNMENT FINANCIAL AUTONOMY IN NIGERIA.

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ABSTRACT

There is the popular misrepresented view of Nigeria as being a federal political community constituting three autonomous governmental levels commonly referred to as three tier structure of government, a notion that implies that the relationship existing among the three governmental levels are coordinate, and not sub-ordinate in line with Kenneth Wheare's postulation of federalism. This paper argues that the autonomy of the three tiers which constitute Nigerian federation is not operational, but only exist on paper. In actual fact, the local government has no place in Nigeria's federalism with respect to exercising reasonable governmental autonomy, as evidenced in the subjugation of its mandates and functions by both the federal and state governments. This trend is worsened by the lack of meaningful autonomy granted the local governments by amended 1999 Constitution, rather it subsumed them under the control and regulation of state governments. It is in this perspective that this paper investigates the praxis of local government financial autonomy in Nigeria through the application of the secondary methods of data collection. The study found the absence of financial autonomy in Nigeria's local governments in spite of different reforms carried out and judicial review of enabling laws of local government in recent times towards ensuring autonomy of the local government councils. The paper advocated some recommendations, which include the amendment of various aspects of the amended 1999 Constitution which places local government under the direct control of state government, the effective implementation of the recent proscription of Joint Account Allocation Committee (JAAC) between states and local governments by the Supreme Court of Nigeria to allow federal allocations get to the local governments directly without going through the state governments, among others.

Keywords: Constitutional provisions, local government autonomy, politicization

INTRODUCTION

Local government has been viewed as instrument of achieving nation-building, stable polity and sustainable development (Faga, 2009). The grassroot levels have been noted to be of significance to national development with the local government serving the purpose of rural development and ensuring an enhanced provision of socio-economic services to the local citizenry (Idoko & Obidimma, 2020; Odeh & Aimuan, 2018). The existence of local government is predicated on the achievement of rural development. This entails the decentralization of political power to the grassroot dwellers to enable them manage their own affairs in accordance with their peculiarities. This is to make provision for power sharing between the central government and other component governments to ensure that a fair distribution of responsibilities among the various levels of government. The existence of the Nigerian local government is replete with series of reforms with no meaningful results to show for them. The 1976 local government reform was aimed at effective decentralization of the Nigerian local government in line with international best practices. The essence of the reform is to ensure local initiatives and involvement through local representatives in every grassroots developmental initiatives (Federal Republic of Nigeria, 1976).

Authority is only allocated to the federal and state governments in the Nigerian federalism, while the local government is subsumed under the state government with powers to control and regulate the affairs of local government. Discussion is ongoing on whether the local government should be granted full autonomy from the apron string of the state government with the Supreme Court recently ruling in favour of local government financial autonomy, but with the implementation of the judgment still a matter of debate as state government insistence on control of local government becoming more political than legal.

Despite the fact that the local governments in Nigeria have been accorded due recognition by various constitutional frameworks (Olukotun, 2019), this research paper showed that politicization of the system has undermined its fiscal autonomy and overall effectiveness in service delivery, irrespective of extant legal document, such as the 1976 Local Government Guidelines designed to guarantee its autonomy and improved service delivery. This paper is divided into ten major sections to facilitate the achievement of its objectives. These are: the introduction; statement of the problem; objectives of the study; research questions; methodology; theoretical framework; local government in Nigeria and challenges of constitutional autonomy; prospects of the local government of Nigeria; conclusion; and recommendations.

Statement of the Problem

The Nigerian Constitution did not specifically spelt out any degree of autonomy for the local governments, rather it subsumed them under the influence and control of the state governments, a trend that has translated to the present challenges of the local governments with respect to effective service delivery to those at the grass root levels, mostly due to the overbearing influence of state government which had led to state government taking over the funds and sources of revenue of local governments. It is in this regard that Ibietan (2011) argues that the inability of the local governments in Nigeria to provide vital essential services to the local populace is as a result of overbearing influences of both the federal and state governments on the local governments. Eytibo and Alani (2019) observed that the fiscal autonomy of local government is instrumental to their capacity to enhance the socio-economic standard of grass root dwellers and the achievement of rural development. It should be noted from the above stated views that there has never been financial autonomy for local government system in Nigeria, and this occurrence is one of the major challenges that has bedeviled the local government system in recent times, and such trend according to Odeh and Odigie (2021) has led to corruption and breach of due process. These issues constitute what this study was designed to investigate. The local government was made the third tier of Nigeria's federalism through the enactment of the 1976 Local Government Guidelines, a move that supposedly bequeath financial autonomy on the local government. But the 1999 Constitution of Nigeria postulated a contrary position by making the local government the apron string of the state government through granting the state government control and supervisory functions over local government through the respective State Houses of Assembly, a trend that has enabled the state government to unduly take over most local government sources of revenue, the Constitution also made provision for the establishment of joint Account Allocation Committee (JAAC), and this structure has been abused by various state governments to usurp the funds of the local governments, and erode their financial autonomy.

Objectives of the Study

The main objective of the study is to investigate the praxis of local government financial autonomy in Nigeria. The following are the specific objectives of the study:

- To examine the impact of the amended 1999 Constitutional provisions on the autonomy of local governments in Nigeria.
- To investigate how politicization affect the achievement of local government autonomy in Nigeria.
- To determine the relationship between the various local governments' autonomy related Supreme Court judgment and financial autonomy of local governments in Nigeria.

Research Questions

- What is the impact of the amended 1999 Constitutional provisions on the autonomy of local governments in Nigeria?
- What are the effects of Politicization on Local Government Reforms in Nigeria
- What is the relationship between the various local governments' autonomy related Supreme Court judgment and financial autonomy of local governments in Nigeria?

Methodology

This study adopted the qualitative research method which relies on secondary method of data collection, such as text books, government circulars and documents, academic journal articles, internet sources and others. The adoption of this method is based on its cost implications when compared to primary method of data collection that has a far higher cost implications among others.

Theoretical Framework

Fiscal Federalism Theory

The theory of fiscal federalism can be traced to economic scholars, such as: Samuelson (1954, 1955), Musgrave (1959) and Arrow (1970) cited in (Ewetan, 2012). Fiscal federalism theory is centered on independent decision-making powers devolved to the federating units of a federation, with regards to expenditure and revenue operations. Fiscal federalism relates to a process in which fiscal responsibilities are shared among tiers of government. The existence of fiscal decentralisation in a political system determines the capacity of local government to generate independent revenue and make expenditure decisions with regards to the provision of public goods and services within their jurisdiction, and free from extraneous interference by other governmental levels (Onwioduokit & Esu, 2018).

Nigeria's public discourse is characterized by desires for what local political actors describe as "true federalism". Embedded in this view point is the call for devolution of fiscal autonomy to local governments in the federation. The call for establishment of "true federalism" in Nigeria forms the basis for an ideal fiscal federalism in which local governments have autonomous taxing powers and each takes care of its own fiscal needs and priorities, which are not dependent on central government statutory transfers or bailouts (Onwioduokit, & Esu, 2018). In addition, to ensure efficiency, local governments should be responsible for goods and services that benefit local clients, since the desires of clients are

environmentally specific. Moreover, the local governments have been observed to have more accurate information about the needs of local inhabitants (Onwioduokit, & Esu, 2018; McLure, 2001).

The application of the fiscal federalism theory to this paper is based on the fact that the agitation for full autonomy of the Nigerian local government system is based on achievement of fiscal federalism which translate to a form of devolution of political power to subnational government often referred to as “true federalism” in Nigeria.

Indicators of Local Government Financial Autonomy

Local government financial autonomy refers to the capacity of local governments to determine the level of its financial resources and how the funds are to be contributed by residents in the jurisdiction of the local government, as well as, the nature of expenditure of such funds. (Beer-Tóth, 2009, cited in Maličká, 2021). In Europe, the adoption of European Charter of Local Self-Government in 1985, promotes the relevance of local governments, which emphasized local autonomy and views it as “the right and the ability of local authorities, within the limits of the law, to regulate and manage a substantial share of public affairs under their own responsibility and in the interests of the local population.” The Charter gave rise to increased decentralization of the public sector in most countries in Europe. Administrative decentralization is usually the bed rock of fiscal decentralization (Maličká, 2021, pp. 669-670).

The measurement of local government financial autonomy has been measured using several indicators, such as: local financial independence, fiscal decentralization, and tax revenue autonomy (Meloche, Vaillancourt, & Yilmaz, 2004, cited in Nadmid, Ankhbayar, Budjav, 2024)). The enhancement of financial autonomy is based on both local fiscal decentralization and independent decision making (Oulasvirta & Turala, 2009; Kotarba & Kolomycew, 2014). Other indicators of local government financial autonomy have been identified. These include: revenue independence, reserve revenue independence, tax revenue independence, and expenditure independence. These indicators have been observed to have positive impacts on local government financial autonomy (Psycharis, Zoi, & Iliopoulou, 2015).

The existence and sustenance of self-government authorities are premised on financial autonomy (Satoła, Standar & Kozera, 2019, p. 322). The nature and structure of relationship among various levels of government is a determinant of the nature of local government autonomy that exists in that system. Financial autonomy of local governments is a reflection of the level or share of own local tax revenue in the total local government revenue (Maličká, 2021). This implies that the more the local government has capacity to generate its tax independently, the more autonomous it would be. The more the local government has freedom over the allocation of resources, and choice of public policies the more financial autonomy it would possess (Maličká, 2021). Several measurements have been adopted as indicators of local government financial autonomy. These include: grants that are characterized with autonomy, non-tax autonomy, tax autonomy, and fiscal dependency (Meloche, Vaillancourt, & Yilmaz (2004).

Financial autonomy of local governments has been viewed as “freedom to impose local taxation, generate revenue within its assigned sources, allocate its financial and material sources, determine and authorize its annual budget without external interference” (Okafor, 2010, p. 126). It should be noted that financial autonomy of local governments is concerned with fiscal decentralization. In a nutshell, fiscal decentralization is centered on shifting competences and responsibilities with respect to provision of public services from central government to local governments (Maličká, 2021). Generally, the indicators of local government financial autonomy as applicable in Nigeria have been highlighted as follows: local financial independence, local fiscal decentralization, tax revenue autonomy, independent decision making, freedom over the allocation of resources, revenue independence, expenditure independence, grants that are characterized with autonomy, determine and authorize its annual budget without external interference. Therefore, incorporating these into the structure of local government would facilitate local governance in Nigeria; and according to Odeh and Aimuan (2018) lead to achievement of national development.

LOCAL GOVERNMENT IN NIGERIA AND CHALLENGES OF CONSTITUTIONAL AUTONOMY

Constitutional Provisions, State and Local Government Relationships, and the Legality of Local Government Autonomy in Nigeria.

In Nigeria, the 1999 Constitution accorded the local governments’ (LG) reasonable measure of autonomy through their recognition as a separate tier of government. The large population size, heterogeneity, and diversity of the Nigerian social structure have necessitated the existence of a suitable pattern of government to accommodate such complexity. Nigeria operates a federal structure in which the LG is the third tier of government besides federal and state governments. The relationship between state and LG that are based on Nigeria’s amended 1999 Constitutional provision have been observed to be contradictory and counter-productive. For example, Section 7(1) states that: “The system of local government by democratically elected local government councils is under this constitution guaranteed, ensure their existence under a law which provides for the establishment, structure, composition fiancé and functions of such councils” (Adk, 2012; FRN, 1999). In a similar development, Sections 7 and 162 of the same Constitution “have been a shield and an escape route for many state governments to manipulate the LG, and reduce same to a mere department in the Governors’ Office (Adk, 2012). It is in this regard that the Supreme Court in *Akpan v. Umah* ruled that “Section 7(1) of the 1999 Constitution guarantees the system of local government by democratically elected councils. As a result, every state must, subject to Section 8 of the Constitution, ensure that their existence under a law that specifies the establishment, structure, composition, finance, and functions of their councils” (Nwabuoku & Esavwede, 2022).

Local governments autonomy has been observed to be undermined by state governments through taking undue advantage of the inconsistencies inherent in the Constitution with respect to devolution of political power and authority to LG. The Supreme Court of Nigeria passed a judgment on April 5, 2002, wherein it stated that the funding of primary school education in the country was the responsibility of state governments. It should be noted that after ten years of the Court’s land mark judgment precisely in 2012,

only Delta and River States complied with the judgment (Adk, 2012). It is paradoxical to note that the Nigeria's amended 1999 Constitution which spelt out a three-tier structure for the country's federalism at the same time became an albatross to the autonomy of LG (FRN, 1999). For example, Section 7(1) of Nigeria's Constitution directed the state governments to determine the formation, organization, funding, and duties of LGs. Similarly, Section 8(4) of the same Constitution further accorded the various State Houses of Assembly to determine and demarcate the boundaries of LGs in their jurisdiction (Yakubu, 2003, cited in Nwabuoku & Esavwede, 2012).

Furthermore, Section 8 of the 1999 amended Constitution of Nigeria grants the state governments the capacity to establish new LGs. In a similar vein, Section 162 of the Constitution empower both the federal and state governments control over the disbursement of federal allocations to LGs. Another contradictory dimension of the amended 1999 Constitution of Nigeria is the establishment of Customary Courts under Section 6, to function at the local level, but to implement laws enacted by the state governments rather than been saddled with the responsibilities of implementing bylaws of the LGs, just as it is with the state courts and federal courts which administer state and federal laws respectively (Yakubu, 2003, cited in Nwabuoku & Esavwede, 2012). Further observation of the discrepancies in the amended 1999 Constitution of Nigeria with respect to autonomy and effective functioning of LGs showed that Paragraph 24(6) of the Third Schedule of the Constitution usurped the functions of LGs by giving the federal government through the National Population Commission jurisdiction over registration of birth and death, functions that hitherto belonged to LGs.

Similarly, the aforementioned Constitution in Paragraph 32(d), Part 1, and Schedule 3 stipulates that the salaries of LG political executives be determined by a federal agency, the Revenue Mobilisation Allocation and Fiscal Commission (RMAFC). This Constitutional clause was inconsiderate of the diversity of economic viability of the various LGs in the country. Another major contradiction of Nigeria's amended 1999 Constitution which has eroded autonomy of the LGs in the country is Paragraph 4, Part 11, and Schedule 3, which empower state governments to establish State Independent Electoral Commission, an electoral agency charged with the responsibilities of conducting elections at the LG levels (Yakubu, 2003, cited in Nwabuoku & Esavwede, 2022). These agencies have since been abused by state governors in various states to plant their stooges as political leaders of LGs through whom they perpetuate their manipulation and exploitation of the resources of the LGs, as well as taking over their functions to the detriment of rural development and enhancement of socio-economic standards of grass root dwellers.

Nwabuoku and Esavwede (2022) noted that the existence of full LG autonomy is based on a clear authority and responsibility where LGs would be empowered to discharge their assigned functions uninterrupted by other levels of government, such as the state and federal governments. They further argued that the achievement of full autonomy for LG would imply that they are given the capacity to independently formulate their own legislations, rules, and regulations, and also to be responsible for the formulation and implementation of their respective personnel policies in line with their peculiar circumstances. In the light of the above, it is a truism that Nigeria's amended 1999 Constitution does

not contribute to LG autonomy, rather it creates autonomy vacuum which the state governments have taken advantage of to make LGs their apron strings. The relationships between the LGs and other levels of government in Nigeria is at variance with the principles of federalism where functions are exclusively assigned to various governmental levels without any form of interruption from any other levels of government with respect to the exercise of such functions (Nwabuoku & Esavwede, 2022). There are three levels of government in Nigeria, commonly referred to as three tiers. These are the federal, state and LG with each of them assigned unique constitutional roles and responsibility. Three legislative lists exist in a federal system of government, such as those practice in Nigeria, United States of America, Canada amongst others.

These are the exclusive, concurrent and residual legislative lists. The exclusive legislative list refers to the governmental functions that are the exclusive preserve of the central or federal government. The concurrent list is the functions that are within the purview of both the federal and state governments. In other words, these are the governmental functions that both the federal and state governments can carry out. But when there is a clash of interest between the federal and state government over the performance of certain functions, the state government shall allow the federal government to take over such functions. The residual legislative list refers to those governmental functions that exclusively belong to the state government, in which the federal government cannot directly exercise any control (Nwabuoku & Esavwede, 2022). The functions of the LGs have been spelt out in the constitution of Nigeria. Also, there exist a power sharing arrangement between the state and LGs similar to that between federal and state with the residual list referring to functions that are strictly for the LG, the concurrent list are the functions that are carried out by both the state and LGs. While the current list refers to functions that are the exclusive preserve of state governments. Similarly, when there is any clash of interest between state and LGs, the state laws and actions shall have predominance over those of LGs in the spirit of federalism (Nwabuoku & Esavwede, 2022).

Political Influences of Local Government Reforms in Nigeria

The LGs in Nigeria have been subjected to series of both political and administrative reforms aimed at it repositioning. Notable among these is the LG Guidelines of 1976, and the 1988 LG Presidential Reforms. The former basically introduced uniformity in the LG system in the country, while the latter gave rise to adoption of presidential system of government into the LG system. The successes recorded by these reforms were attributed to the military command structure of the various military regimes of General Olusegun Obasanjo and General Ibrahim Babangida respectively, who enacted the various reforms. However, attempts aimed at reforming the LG in current democratic dispensation of the Fourth Republic have not been successful due to vested interest of several political stakeholders, especially, the various state governors and some State Houses of Assembly basically because of what they stand to lose from the reforms irrespective of the positive impacts of such reforms to national development. It is in this perspective that Elaigwu (1980), observed that most political elites are reluctant to devolve political power to grass root level government officials under the pretense of supervisory oversight and control. In actual fact they centralize political power not for the purpose of public interest but for their selfish

and personal interests, thereby depriving the vast majority of the grass root dwellers the developmental fortunes and meaningful livelihood they deserve.

The state governments and their allies in the State Houses of Assemblies are the major challenges to effective reforms in the Local Governments of Nigeria. This is due to the manner in which they explore the weaknesses of the 1999 Constitution with respect to the affairs of local government for their selfish ends. They care less whether the present structure of the local government is still making meaningful impacts to rural development. But their concern is what they stand to gain in the present dispensation of local government administration. Former president Olusegun Obasanjo who later became a civilian President in Nigeria's Fourth Republic which commenced in May 1999 attempted to carry out a further reform of the Local Government through the constitution of a committee chaired by Etsu Nupe. The recommendations of the Committee were centered on granting LGs full autonomy to enable them effectively discharged their assigned constitutional responsibilities. Thereafter, the federal government issued a white paper on the laudable recommendations of the committee amidst concurrent support by the National Assembly. The reports of the committee were eventually aborted due to the lack of unilateral support by State Houses of Assembly whose input would be needed in constitutional amendment that would eventually grant full autonomy to the LG. All these were attributed to the influence of the state governors over their respective state legislature who ensured that LGs do not progress to the status of achieving full autonomy so as to remain the apron string of the state government and to be continuously exploited by the state governors for their selfish interests.

The Trends in Local-State-Federal Governments Relationships: Implications to Local Government Financial Management

The introduction of command structure by past military regimes into the Nigerian federalism has contributed to the erosion of local government autonomy (Anayochukwu & Ani, 2021). The military Regime of General Ibrahim Babangida unilaterally embarked on rural developmental programmes at the grass root level using federal structures and institutions rather than the local government that was hitherto established for that purpose. For example, the federal government established the Directorate of Food, Roads, and Rural Infrastructure (DFRRI) in 1987 to solve the problems of infrastructural and food deficit in rural areas. The neglect of the local government in the achievement of that goal inadvertently undermined the autonomy of the local government as a third tier of government constitutionally mandated to administer development to rural areas. These overlapping governmental roles aimed at rural development eventually gravitated into role conflict between the officials of the two agencies thereby leading to lack of cooperation between the two agencies since both agencies have unique role in rural development. This trend amongst others eventually culminated in the failure of the programme despite the huge sunk cost invested by the federal government (Anayochukwu & Ani, 2021). In addition, there have been the predominance of LG by the state government which has undermined the effectiveness of local service delivery. For example, Sections 7(6a), 162(7), 162(8), 169(6) of the amended 1999 Constitution of Nigeria states that the statutory allocation to the LG shall be paid into a joint account between state and LG.

This clause therefore, implies that the LG shall receive their statutory revenue allocation through the state government rather than having direct access to them without passing through the state government. This Constitutional Provision has been grossly abused by state governors across the country who cashed in on the contradictory clause to deprive the LG of their rightful revenue for development. The above Sections of the Constitution also empower the state houses of assembly to make laws to determine the creation of local governments, their scope of operation, and approval of their annual appropriations amongst others. The above stated Constitutional Provisions clearly indicate that there is no local government autonomy in Nigeria's federalism (Adk, 2012). The inability of LGs in Nigeria to effectively discharge their constitutional responsibilities has been attributed to appropriation of their funds by the state government through the joint allocation between state and LG where the federal allocations to the LGs are diverted for other purposes other than rural development by state governors, a trend that has worsened the underdevelopment of rural areas in Nigeria.

It has been observed that only between 23-25 percent of federal allocations to LG actually gets to the local governments with the others been expropriated by the state governments (Adk, 2012), mostly for corrupt enrichment of themselves and their cronies. Another major constraint on local government finances are the state governments' structures and institutions designed to control, regulate and supervise local government funds and expenditures. For example, the annual appropriations of the local government must be approved by the state government through the state house of assembly before it can become operational. In addition, the state houses of assemblies have also been empowered to assigned functions to LGs as the case may be. This privilege granted state government over the determination of LG functions have been grossly abused by state governments through taking over viable sources of revenue of the LGs, thereby leaving the LG impoverish as a result of deficit in their internally generated revenue. Also, some state bureaucratic officials have been empowered to oversee financial administration of LGs. For example, the Auditor-General for LG is an official of the state government who is charged with oversight of financial administration of LGs (Nwabuoku & Esavwede, 2022).

Issues in the Formation of Government at the Local Government Level

The unilateral appointment of care taker chairmen in local governments by state governments has been frowned at by National Union of Local Government Employees (NULGE) because it has no constitutional basis (Adk, 2012). The formation of government at the local government level has been entrusted to state government created State Independent Electoral Commission empowered by Section 197(1) (a), and Part 11 of the Third Schedule of the amended 1999 Constitution of Nigeria. this arrangement has been abused by state governors who appoints their loyalists as officials of these electoral agencies to undermine the credibility of local government elections to ensure the emergence of their preferred candidates as leaders of local governments who eventually front for them in plundering and expropriating the funds of local governments to satisfy their corrupt intent thereby leaving the local governments impoverished and underdeveloped. A trend that has plunged the grass root dwellers into absolute poverty and low level of human capital development. This present trend of formation of government at the local government level entrusted to the state electoral commission is peculiar to the 1999 constitution as the defunct 1979 Constitution of Nigeria is at variance with the present position of

the 1999 Constitution with respect to the conduct of local government elections. The 1979 Constitution empowered the national electoral commission to conduct local government elections as against creating a separate local government electoral body by state governments (Adk, 2012).

An attempt was made by the Federal Government to mediate in the undue interference of state governments in local government election matters through judicial intervention. The case turns out to be against the position of the federal government and to the favour of the state government. A case worth mentioning is that of Attorney-General of Abia State versus Attorney General of the Federation wherein the Supreme Court ruled that the National Assembly has no mandate and jurisdiction to enact legislations with respect to elections of leaders of local governments, such as positions of chairmen, vice chairmen, and councilors of local governments in the country. This judicial pronouncement further consolidated the overbearing influence of state governments over local government especially with respect to formation of government at the local government. A trend that has become more pathetic in recent times (Nwabuoku & Esavwede, 2022).

Implications of Supreme Court Actions on Local Government Autonomy in Nigeria

Earlier judicial pronouncement on local government autonomy justified the constitutional provision that made the local government an appendage of the state government, and such has given the state the opportunity to deprive local governments of their rightful financial resources through the joint account between state and local government. The above structure rather than enhancing development and progress of the local governments, has impoverished the local governments to the extent of not been able to discharge its constitutional mandates. For example, “In Attorney General of Ogun State v. Attorney General of the Federation, the Supreme Court of Nigeria upheld the contention that the Federal Government has no power to pay the amount standing to the credit of the Local Government councils in the Federation account directly to the Councils. Such manner of payment according to the Supreme Court is illegal and unconstitutional” (Amah, 2018).

Constitutional rights of the state government to control and supervise the local governments have been reinforced by several apex court judicial pronouncement, notable among these was the case of “Attorney General of Lagos State v. Attorney General of the Federation, where the Supreme Court of Nigeria ruled that the right and entitlement of a State Government to withhold the local government federal allocation payable to it pursuant to section 162(5) of the Constitution is indisputable (Amah, 2018). The above issue indicates that the federal government is interested in the autonomy of local governments but this move is been frustrated by state governments due to what they benefit from the appropriation of local government funds and taking over of their viable sources of revenues through the aforementioned contradictory clauses inherent in the 1999 Constitution.

An Alternative view of the Supreme Court of Nigeria on Autonomy of Local Government

It has become a common occurrence for state governors to appoint care taker committees in local government rather than conducting elections to ensure emergence of political leadership at the grass root level. In the process of appointing the care takers for local government council administration, the governors usually would appoint from among their lieutenants who would further facilitate their hold

on local governments to continue plundering the resources that would have been deployed to developmental programmes. It is in this regard that the Guardian newspaper of Monday, July 15, 2024, reported that twenty-one state governments in Nigeria have adopted care taker committees in overseeing the affairs of the local government rather than ensuring a duly constituted democratic governance that is a product of credible elections to govern these areas. The state governors have persisted in such contraption called care taker committees despite the Supreme Court declaration of care taker committee as illegal. In view of the several judicial pronouncements that appears to be counter-productive to the autonomy of local governments, the former President Muhammadu Buhari issued an executive Order to abrogate the joint account between the state and local government through the creation of the National Financial Intelligence Unit (NFIU) on June 1, 2019.

The agency is to monitor the financial management of local governments to ensure that their financial activities adhere strictly to principles of accountability and transparency. The executive order ensures that federal funds due to local governments would no longer be given them through the state government but would be sent directly to the various local government councils. The NFIU is to monitor the financial transaction of LGs on a regular basis to prevent corruption and other related unethical practices, as well as acts of financial misappropriation. It is in this regard that the policy restricted the daily cash withdrawal from any local government account to a maximum of N500, 000 per day. In view of the above, penalties were spelt out for non-compliance to the policy by local government officials and banks.

However, despite the laudable nature of the policy towards mitigating the under-development of the grass root level, the Nigerian Governor' Forum, an umbrella body of all the state governors in Nigeria opposed the aforementioned policy, that eventually frustrated the NFIU with respect to direct funding of local governments and upholding high standard of accountability. A further attempt was made by the Federal Government of Nigeria to restore the autonomy of local governments. It is in this regard that the former Attorney-General of the Federation Lateef Fagbemi (SAN), seek the interpretation of the Supreme Court filed in a lawsuit (SC/CV.343/2024) with respect to the constitutionality of constitution of care taker committee set-up by state governors at the local government.

In that regard, the Supreme Court ruled that the constitution of care takers committee by governors at the local government is unconstitutional as the constitution only recognizes a democratically constituted local government councils, that any other unilaterally constituted governmental arrangement is null and void (Emmanuel, 2024). The above stated lawsuit also directed that funds met for the local government be sent directly to them without going through the state governments. This directive is aimed at ensuring the state governors are no longer in charge of local government funds through the joint account between state and local government. Furthermore, the Federal Government sought Court injunction to bar state governments from having access to the funds of local governments, and no local government shall be entitled to any federal funds without a democratically constituted LG. Despite the Supreme Court declaration of the control and appropriation of local government funds by state government as unconstitutional, the state government persisted in agitation and resistance to the above stated judicial position so as to make room for the status quo which has led to the impoverishment of local councils

nationwide. Similarly, the autonomy of the 774 local governments in Nigeria was further upheld through a unanimous judgment delivered by the Supreme Court of Nigeria.

The judgment was delivered on July 11, 2024, by a panel of 7 Judges whose decision affirmed the autonomy of LGs, thereby severing LGs from the apron strings of the state governments. Justice Emmanuel Agim in his led judgment directed that the allocation of LGs be sent directly to them from the Accountant-General of the Federation. The ruling declared sending local government funds to state governments for onwards disbursement to the LGs in their jurisdiction unconstitutional. The Court ruled that the Federal Government exercise the discretionary power to either release the LG allocations directly to the local governments or through the state governments, and gave instruction that the amount standing to the credit of LG councils must be paid by the Federal Government directly to the LG councils and not by any other person or body. The Court, therefore, granted an order of injunction restraining the defendants (state government) from collecting funds belonging to the local government councils when no democratically elected local government councils are in place. This order categorically state that no state government should be paid monies standing to the credit of the local government councils, and further directed for immediate enforcement and compliance with the ruling (Emmanuel, 2024).

Recently, the incumbent president of Nigeria, Bola Ahmed Tinubu also, challenged the state governments' usurpation of financial autonomy of LG through a lawsuit in the Supreme Court, Wherein the Court ruled against the state governments as not having the locus standi to interfere in the federal allocations to the councils, and the Court therefore proscribed the joint account between states and local governments. So, the contents of the judgment explicitly implies that hence forth allocation of the LGs should be sent directly to the various LG councils in the country without going through the state governments. But, as at the time of writing this paper, the state governments have refused to permit their LG councils to open a bank account with the Central Bank of Nigeria for remittance of their federal allocations to them directly. This has further truncated the effort towards granting the LG autonomy. Despite the progressive judicial pronouncement which was supposed to facilitate growth and development in the nation's grass root levels, the governors still continued to usurp the functions and resources of the local government due to the control of LG by several state government parastatals, such as State Independent Electoral Commission, an agency adopted by state governors to carryout elections at the local levels to be able to influence the leadership structure of LGs by ensuring the emergence of their protégée' and client as leaders of local government in the country.

The Supreme Court position on LG autonomy was widely applauded by Nigerians, and was viewed as eventual freedom for LGs from state government predominance. Nevertheless, it does not signify the total victory for LG from overbearing influences of the state governments. Another major constraint of LG autonomy is the problem of personnel, which was stated earlier in this paper. The recruitment process in the LGs has been subjected to the approval of the state governments through the Local Government Service Commission (LGSC), a process that has been so politicized by the negative influence of state governments' officials, who would impose the wrong candidates into the LG system. This scenario has subsequently degenerated into the existence of inadequate and inexperienced

personnel at the LG level; a trend that has adversely affected the effective and efficient service delivery of the LG (Orewa & Adewumi, 1983). State interference in LG affairs has been generally identified as the overall contributing factor to lack of LG autonomy in Nigeria (Anayochukwu & Ani, 2021).

Another incidence of usurpation of the LG autonomy is the situation where most state governments make laws that permit the House of Assembly to give final approval to the impeachment of any local government chairman or the vice chairman (Idoko & Obidimma, 2020). In other words, the councilors' impeachment of a LG political executive, such as the chairman or his vice, if not given approval by the state House of Assembly becomes null and void. For example, Section 14 of the LG Law of Ebonyi State of Nigeria, enacted in 2009, states that after two-third of a legislative council of a LG in the state has finalized a resolution to impeach the LG chairman or the vice chairman, such resolution will therefore, be communicated to "the clerk of Ebonyi State House of Assembly who will now present it to the House. The House of Assembly shall after due debate on the resolution decide to ratify the resolution by a two-thirds majority of its members present and voting, then the chairman or vice chairman shall stand removed from office. Where the House does not ratify the resolution, no further proceedings shall be taken in respect of the matter" (Idoko & Obidimma, 2020). These and other contradictions bothering on local government autonomy has made the realization of LG autonomy a cumbersome task.

The Prospects of Local Government Of Nigeria

A Former Nigerian President, Ibrahim Badamosi Babangida observed that: "Growth points must emerge from local government areas and provide the much-needed push to activate and energize productive activities in rural Nigeria and to reverse the phenomenon of rural-urban drift" (Anayochukwu & Ani, 2021, p. 3). Several functions have been assigned to the local government to ensure the achievement of rural development in Nigeria. These include: (i) Collection of rates, radio and television licenses; (ii) Establishment and maintenance of cemeteries; (iii) Burial grounds and homes for the destitute or infirm; (iv) Licensing of bicycles, trucks (other than mechanically propelled truck), canoes, wheel barrows and carts; (v) Establishment, maintenance and regulation of slaughter houses, slaughter slabs, markets, motor parks and public conveniences; (vi) Construction and maintenance of roads, streets, street lightings, drains and other public highways, parks, gardens, open spaces, or such public facilities as may be prescribed from time to time by the House of Assembly of a state; (vii) Naming of roads and streets and numbering of houses; (viii) Provision and maintenance of public conveniences, sewages and refuse disposal; (ix) Registration of all births, deaths and marriages; (x) Assessment of privately owned houses or tenements for the purpose of levying such rates as may be prescribed by the House of Assembly of a state; and (xi) Control and regulation of: (a) out-door or advertising and hoarding, (b) movement and keeping of pests of all description, (c) shops and kiosks, (d) restaurants, bakeries and other places for sale of food to the public, (e) laundries, and (f) licensing, regulation and control of the sale of liquor (Idoko & Obidimma, 2020, p. 85). The above listed functions of local government indicate the indispensability of local government to rural development in Nigeria. Therefore, it is of vital necessity to urgently secure its autonomy and strengthen its delivery capacity to be able to contribute tremendously towards the achievement rural sustainable development.

Conclusion

Local government has been viewed as instrument of achieving nation-building, stable polity and sustainable development. The grassroots levels have been noted to be of significance to national development with the local government serving the purpose of rural development and ensuring an enhanced provision of socio-economic services to the local citizenry. The Nigerian Constitution did not specifically spelt out any degree of autonomy for the local governments, rather it subsumed them under the influence and control of the state governments, a trend that has translated to the present challenges of the LGs with respect to effective service delivery to those at the grass root levels, mostly due to the overbearing influence of state governments which had led to state governments taking over the funds and viable sources of revenue of LGs. It was observed in this paper that Nigeria's amended 1999 Constitution does not contribute to local government autonomy, rather it creates autonomy vacuum which the state governments have taken advantage of to make LGs their apron strings. The relationships between the LGs and other levels of government in Nigeria is at variance with the principles of federalism where functions are exclusively assigned to various governmental levels without any form of interruption from any other levels of government with respect to the exercise of such functions. So, it becomes contradictory for Nigeria's Constitution to declare local government a third tier of government without devolving adequate power and authority to effectively discharge its constitutional mandates.

Recommendations

Several recommendations were advanced in this paper to assist in restoration of local government autonomy and the achievement of their effective service delivery.

- The various aspects of the amended 1999 Constitution that places local government under the direct control of state government should be reviewed to ensure full autonomy for local government.
- The recent proscription of Joint Account Allocation Committee (JAAC) between states and local governments by the Supreme Court of Nigeria should effectively be implemented. So that, federal allocations get to the local governments directly without going through the state governments. This becomes necessary due to the current abuse of such rights by state government.
- The various Local Governments in the country should be granted administrative autonomy to enable them employ their own staff without any intervention of the state government in their recruitment processes.
- There should be increased funding of local government from the federation account to reduce their dependence on state and federal governments for financial assistance.
- The local governments should be encouraged to conduct their elections in a free and credible manner so as to deepen grassroots democracy through the active political participation of the local populace.

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