

Local government autonomy in Nigeria: a discourse on the constraints to its realization and the implications for national development

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Key Words

Autonomy, Constitution, Development, Interference, Local Government, State Government.

Abstract

Local Government was first and formally recognized as the third tier of government in Nigeria through the 1976 Guidelines for Local Government Reforms. The third tier status and existence of local government was further recognized and guaranteed in both the 1979, 1989 and 1999 constitutions. As a distinct tier of government, local governments are envisaged to have political/administrative and financial autonomy to enable them operate effectively as would be manifested in the substantial performance of the developmental functions that necessitated their creation. 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. Unfortunately, there are prevailing observations, by researchers and practitioners alike, that the local government autonomy is being substantially interfered in by the state governments.

It is in the circumstance of this that the study examined the letters and spirit of the relevant and specific aspects of the 1999 constitution that are supposed to guarantee the local government autonomy, discussed the various patterns of interference in the autonomy particularly by the state governments and ex-rayed the extents to which the interference militates against the service delivery capacities of the local governments and their ultimate role of contributing to national development. Further, the study made recommendations towards enhancing and guaranteeing the local government autonomy in order to reposition them for more effective performance of their developmental roles.

The basic recommendations made bordered on constitutional reforms that would expunge the provision of the State Joint Local Government Account (SJLGA) from the constitution, provide for a specific tenure of the local government councils and outright prohibition of the adoption of the Care-taker Committee system or any other arrangement as an alternative framework to a democratically elected council for administering the local governments. In carrying out the study, data and information were collected mainly through secondary sources like government publications, journals and textbooks. Consequently content analysis technique was adopted in the analysis and conclusion.

Introduction

Globally, local government has been recognized as a veritable tool or framework for administering local and grassroot areas and for enhancing overall national development (Andrews, 2012; ALGON, 2012). Hence, its establishment and existence in most countries of the world. In Nigeria, the formal introduction of local government administration started with the enactment of the Native Authority Ordinance of 1910 (Ofoeze, 2002; Ogbuene, 2011). It has since then going through various reforms aimed at strengthening its capacity to effectively operate and play significant developmental roles in national development process (Ogunna, 1996).

However, the current platform for local government administration started with the 1976 Guidelines for Local Government Reforms. The Guideline gave the present local government system its basic structure and functions as a third tier of government within the Nigerian federal government arrangement (Abada, 2007; Ade, 2012). Unlike the previous local government reforms, the 1976 reform conceptualized local government as operating within a common

institutional framework with defined functions and responsibilities in line with national development objectives (Saalah and Stanley, 2011). Indeed, before the reform, local government were merely local administration without formal recognition as tier of government (Andrews, 2012).

Very importantly too, the 1976 reform initiated, particularly, the financial and political autonomy of the local government that was further strengthened by the civil service reform of 1988. As well, the provisions of the 1999 constitution as contained in section 7(1) and section 162 (paragraphs, 3, 4, 5, 6, 7, 8) are intended to also guarantee the local government autonomy. The provisions for the autonomy, as they were, are essentially and ostensibly aimed at protecting the local government from unnecessary interference from other tiers of government and to enable it play significant roles in the national development process. However, findings from researches by scholars and observations by practitioners, overtime, point to the fact that the autonomy of the local government is becoming increasingly difficult to realize following particularly, the propensity of the state governments to interfere in the political/administrative and financial affairs of the local governments. It is in the context of this prevailing observation that the study has set out to critically examine the 1999 constitutional provisions in respect of the local government autonomy and their adequacy in guaranteeing it, to ex-ray the patterns of interference in the local government autonomy by the state governments, to analyze the implications of the interference on the capability of the local governments to operate effectively, and contribute to national development. Another key objective is to recommend measures towards strengthening the constitutional provisions for the local government autonomy in to curtail the extent of interference by the state governments so that the local governments can operate effectively and consequently contribute meaningfully to the overall national development.

Conceptualization of the key terms

Local Government: Generally, local government is a form of public administration which, in a majority of contexts, exists as the lowest tier of administration within a country. In a federal system like Nigeria, local government usually occupy the third tier government. Specifically, local government is a unit of government below the central, regional or state levels established by law to exercise political authority through a representative council within a defined geographical area (Olisa, et al 1990). Local government is also conceived as a system of local administration instituted to maintain law and order, provide limited range of social amenities and encourage co-operation and participation of inhabitants towards improvement of their conditions of living (Emezi, 1981).

Implicit in the foregoing definitions of local government are certain salient or central features that have been well articulated in the works of Mawhood (1983), Ezeani (2012) Anikezie (2010), Maddick (1963), Stoker, (1990) and others. These features include the facts that a local government:

- Operates at the local or grassroot level.
- Operates within a defined geographical area.
- Has a relative autonomy or independence.
- Has a range of constitutionally delineated function to perform.
- Has its council composed of elected representatives.

As provided in the Nigerian federal constitution of 1999, there are 768 local government areas within the 36 states and 6 area councils in the Federal Capital Territory, Abuja. These sums

up to 774 local government areas in the country (See the constitution of the Federal Republic of Nigeria 1999, – First Schedule, Section 3, part 1)

Autonomy: Autonomy in a federal system of government entails that each government tier enjoys a separate existence and independence from the control of other governments tiers (Nwabueze, 1983). In this sense, local government autonomy implies that a local government should exist as an independent entity in the sense of being able to exercise its own will in the conduct of its affairs from direction of another government. It also implies that the local governments possess the power to take decision within the limits of the law that established it without being dictated to or influenced by external authorities like the state or the federal government.

In the specific case of Nigeria, local government autonomy entails that the local governments as federating units should not exist as an appendage of either the state or federal government (Abada, 2007). This means that local government autonomy is realized in a situation where it is not constitutionally bound to accept dictation or directive from another government tier (Adeyemo, 2005).

It is necessary to note that the two important aspects of the local government autonomy are the political/administrative/autonomy and the financial autonomy. These aspects of the autonomy are envisaged to guarantee effective running of the local government and to enhance its ability to perform assigned constitutional functions. It is also important to state that there are other various issues in the political/administrative and financial autonomy like the freedom to recruit and manage their own staff, the freedom to generate revenue within their assigned sources and to determine and authorize their annual budgets. The focus of our discourse here will, however, specifically border only on the autonomy as it concerns the freedom of the local government to have direct access and full control of the statutory allocation from the federation account and its freedom to organize and determine its political and electoral affairs.

The development objectives for the creation of local governments in Nigeria.

A review of the plethora of literature on local government yields a long list of reasons for establishing and strengthening the local government system.

Specifically, in Nigeria the functions assigned to the local government councils is indicative of the development objectives for their creation. For instance, in the Fourth schedule, section 7, paragraph 2 of the 1999 Constitution, the functions of local government council include:

- The provision and maintenance of primary, adult and vocational education.
- The development of agriculture and natural resources other than the exploitation of minerals.
- The provision and maintenance of health services.

Such other functions as may be conferred on a local government council by the House of Assembly of the state.

Generally too, scholars over the years have identified and articulated some other basic developmental objectives for the institution of local government councils. These developmental objectives as have been identified by scholars such as Adeyemo (2005), Saalah and Stanley (2011), Tony (2011) and Ezeani (2012) include the following;

Provision of infrastructures responsive to local wishes: Local governments are usually actively involved in the provision of primary health care services, educational services, maintenance of roads, streets, parks and markets, provision of agricultural services, provision of security services, provision of electricity etc.

Facilitating the exercise of democratic self government close to the grassroots and encouraging the development of leadership potentials: Indeed, the local governments are well placed to mobilize the people politically through political education and political actions. Providing a two way communication between the local communities and government of both the state and the federal tiers: The local governments actually do this through their transmission of the decision of governments at higher levels to the local people and sending the feed back to policies of the local people to the higher tiers of government.

Assisting the federal or state government to carry out their policies or functions: The local governments do this especially in those areas which require local knowledge and participation for their successful execution.

In summary, local governments, as a third tier of government in Nigeria, is expected to promote the democratic ideals of the society and co-ordinate other socio-economic development programs at the local level in line with the overall national development plan (Onah and Amujiri, 2011; ALGON, 2012). Indeed, the reconstitution of Nigeria into 301, 449, 589 and 774 local government areas in 1984, 1989, 1991 and 1996 respectively was ostensibly meant to bring government closer to people, to speed up grassroot development and enhance national development (Ezeani, 2012; Adeyemo, 2005).

An overview of the 1999 constitutional provisions meant to guarantee the autonomy of the local governments in Nigeria

The 1999 constitution provided for the autonomy of the local governments on two basic aspects as follows:

Provision for the Political/Administration Autonomy of the Local Governments: In other to enhance the political/administrative autonomy of the local governments, the constitution provided for a democratically elected government council. Specifically section 7 (1) of the 1999 constitution guarantees this as it provides thus;

The system of local government by democratically elected local government councils is under this constitution guaranteed and accordingly, the government of every state shall subject to section 8 of this constitution, ensure their existence under a law which provides for the establishment, structure, composition, finance and functions of such councils.

In order to effect the constitution of the local government council through the conduct of a democratic election, the constitution in section 177 (1) (b) further provides for the establishment of State Independent Electoral Commission (SIEC). The SIEC conducts the chairmanship and the councillorship elections for the local government areas in the states. Each state has a SIEC that conducts local government elections based upon law for that purpose enacted by the state House of Assembly pursuant to section 7(1) of the constitution. Further, section 198 of the constitution provides that the appointment of the chairman and members of SIEC reside on the Governor of the state but subject to ratification by the House of Assembly.

The political autonomy of the local government as the above provisions sought to guarantee is equated to grassroot democracy aimed at bringing governance closer to the rural and grassroot populace and giving the vast majority of the people in a local government area the fullest opportunity to participate in determining their own destiny within the limits of the law that established it.

Provision for the Financial Autonomy of the local government: Section 162 of the 1999 constitution provides for the financial autonomy of the local governments as it stipulates, specifically, in paragraph 3 thus;

Any amount standing to the credit of the Federation Account shall be distributed among the federal and state governments and the local governments on such terms and in such manner as may be prescribed by the National Assembly.

The constitution, however, further provides in paragraph 5 thus;

The amount standing to the credit of local government councils in the federation account shall also be allocated to the states for the benefit of their local government councils on such terms and in such manners as may be prescribed by the National Assembly.

Further and for the purpose of remitting the statutory allocation to the local government councils, the constitution in paragraph 6 provides thus;

Each state shall maintain a special account to be called "State Joint Local Government Account" into which shall be paid all allocations to the local government councils of the state from the Federation Account and from the government of the State.

Section 162(8) further provides that the amount standing to the credit of local government councils of the state shall be distributed among the local government councils of that state on such terms and in such manners as may be prescribed by the House of Assembly of the state.

These provisions, however, notwithstanding, state governments in various ways and degrees interfere in the autonomy of the local governments.

Patterns of state government interference in the local government autonomy

Interference in the local government financial autonomy: The financial autonomy of the local governments is being severely interfered in by the state governments principally through the instrumentality of the State Joint Local Government Account. Andrews, (2012) and Ogban (2011) observe that state governments use the State Joint Local Government Account (SJLGA) mechanism to make local government appendages of the state.

Odo (2003), Okolie and Eze (2001), Oguntuase (2012) and ALGON (1999), observe too that the state governments have turned the State Joint Local Government Account into an instrument to manipulate and control the local governments. For instance, in Enugu state under the regime of Governor Chimaroke Nnamani, between 1999 and 2007, the control of the State Joint Local Government Account by the state government was so total that local governments in the state were only "dashed" peanuts from their statutory allocations. There were equally cases of over deduction in respect of certain expenses made by the state on behalf of the local governments. Such was the case in Enugu state then that the local governments sometimes barely had enough to pay salaries of the staff.

A similar situation existed in Bornu State between March, 2002 and March, 2003, where half of the total of N13.3 billion that was available to the local governments in the state was improperly deducted at source by the state governments. Dlakwa, (2010) cited in Okafor, (2010). Abada (2007: 258) in respect of state governments interference in the local government financial autonomy generally observes thus; Local governments between 1999 - 2007 witnessed a lot of financial misappropriation and fraud being perpetrated by various state governments that actually eroded the autonomy of local governments.

Indeed, the interference in the local government autonomy by the state governments has become so pervasive that in 2010, 31 out of the 36 states governors tampered with local government funds through the instrumentality of the State Joint Local Government Account.(Ukiwo, 2010).

The interference in the local government financial autonomy by the state governments is made easily possible as a result of the subordination of the local governments to the states through the provision in section 162, paragraph 6 for the establishment and operation of State Joint Local Government Account. Indeed, the provision of the State Joint Local Government

Account does not allow for direct funding of local government from the Federation account which would have formed a realistic basis for the realization of the local government financial autonomy. Infact, as Anikeze (2012) observes, the operation of State Joint Local Government Account ties the councils to the apron strings of the state governments.

It, is however, necessary to observe that the pervasive practice by state governments to interfere in the statutory allocations to the local government is antithetical to the spirit of the constitution in the creation of the State Joint Local Government Account. Indeed, the state governments are only expected to act as trustee of the account and to ensure reasonable oversight of the statutory allocations of the local governments. The undue control and appropriation of the local government fund in the State Joint Local Government Account, therefore, contradicts the spirit of the constitution for its provision.

Very worrisome is that the interference in the local government statutory allocations by the state governments reasonably accounts for the inability of the local governments to initiate and execute development programs or projects (Onah, 2004; Azelama, 2008; Ezeani, 2012). This is understandable in view of the fact that almost the 774 local government in Nigeria rely on the federation account for between 90 - 95 percent for their financial expenditures every year (Halidu and Bello, 2012). Indeed, the financial crisis being suffered by local governments in Nigeria is attributable, in a reasonable measure, to the erosion of their financial autonomy through frequent interference by state governments on their finances. Andrews (2012) in this respect notes that in the context of diversion and siphoning of council fund by the state governments, the local government leaderships that even desire to initiate and implement development projects programs are hampered by inadequacy of fund. Even though some scholars argue, contrarily, however, that the major cause of the financial crisis in the local government system is the pervasive corruption particularly at the leadership level that results in huge financial misappropriation, it is just better that the local governments get fully what is allocated to them so that one can then judge them on the basis of what they actually do with the funds.

Interference in the local government political/administrative autonomy: The political/administrative autonomy which section 7 (1) of the 1999 constitution seeks to confer on the local governments are equally being undermined in several ways by the state governments. One of these ways is the use of Care-taker Committee system for administering local government areas. In this case some state governors refuse to conduct elections for the constitution of the local government council and instead appoint Care-taker Committees to run them. For example, Anambra state government under Governor Peter Obi did not conducted local government election throughout his tenure in office. The Governor rather preferred to use care-taker committee to run the local government. In Bayelsa state, under Governor Timpre Silva, local government election was not held for three years (Abutudu, 2011). In Edo, Kogi and Delta states, Care-taker Committee system was equally used as some points in time to administer local governments (Abutudu, 2011; Idris, 2013). Indeed, the practice of adopting Care-taker Committee is tending to become an accepted norm instead of an aberration to democratic practice. This is because as at June, 2011, over 2/3 of the 774 local government councils in Nigeria are being run by non-elected Care-taker Committee appointed by state governors (Ezeani, 2012).

In some cases, the state governors even terminate the tenure of elected councils or suspend them before the expiration of their mandate for reasons that, most often, border on petty politics (Idris, 2013). In such cases, Care-taker Committees are appointed to replace them. This is presently the case in Imo State where the Governor, Rochas Okorocha dissolved the local

government councils and replaced them with appointed Care-taker Committees. This practice is, in fact, undemocratic and unproductive as it is used, in most cases, by state governors to selfishly direct and control the operations of the local governments.

A resultant effect of the Care-taker Committee arrangement has been the existence of tensions which significantly constitute a serious threat to the operation of the local governments and, indeed, their ability to implement their constitutionally assigned developmental roles or functions (Ezeani, 2012). Again, for the fact that in Care-taker Committee system, the committee can be “fired” if it proves “disloyal” or “inefficient” in the estimation of the state government that appointed it, the stewardship by such committees are usually more to the state governor that appointed them with the activities of the local government becoming less development oriented (Okolie and Eze, 2006). Generally, the outright refusal to allow democratically elected local government councils to manage the local government affairs constitutes an interference in the local government autonomy as envisaged by the constitution and has very far reaching implications for democratic development and practice at the grassroot level.

Another dimension of the interference in the political autonomy of the local governments by the state governments is the pervasive and flagrant manipulation of the local government elections, in cases where a state government allows for the conduct of local government election. The manipulation is usually done through the instrumentality of the state appointed and controlled electoral body [State Independent Electoral Commission, (SIEC)] Through such manipulations, state governors impose candidate on the people and in which case the councilors and chairmen who emerge from elections do not reflect the preferences of the people who they are meant to govern. The extent of the manipulation is usually such overwhelming that the results of elections conducted by SIEC across the country always and invariably produce 100 percent victory for the ruling party in the state (Abutudu, 2011). This, for instance, was the case in Enugu state under Governor Chimaroke Nnamani between 1999 and 2007 where the ruling party in the state, the Peoples Democratic Party, (PDP), won in all the local government council elections through active connivance with the Enugu State Independent Electoral Commission (ENSIEC). The implication as it was in Enugu state then was that the local governments operated as mere appendages or agencies of the state and consequently, were not “safe” to even embark on any development program or activity suited to their local areas without the consultation and consent of the state governor who “appointed” them.

The situation has, however, significantly improved under the present government of Sulivan Chime in the state. A major factor that induces the state governments to interfere in the political/administrative autonomy of the local government is the inadequate/unfavourable constitutional provision for the political/administrative autonomy of the local government. Basically, the 1999 constitution (as provided in section 7(1)) does not adequately and in a clearly defined manners provide for the political autonomy of the local governments as it essentially conferred the power of control and constitution of the local government councils in the country to the state governors and the state Houses of Assembly. Further, the constitution contains no explicit provision for the tenure of local government councils as it provided for in the case of the president, state governors, national and state legislatures. The implication of this is that the state government is at a wide discretion to determine the tenure of elected councils and when to conduct another election to replace an outgone council. In the exercise of this discretion, some states grant local government councils a 3 - year tenure, the majority operate a 2 - year tenure, some 2½ year tenure and others even less than 2-year tenure (Ezeani, 2012).

Further, the constitutional provision for the state government to appoint and fund the SIEC that conducts local government elections makes it easy for the state government to control

the activities of the electoral body and ultimately the results of elections. This is understandable as axiomatically, he who pays the piper dictates the tune. In this circumstance, the state government that is supposed to be an unbiased umpire in the conduct of local government elections not only becomes an active participant but decides the eventual outcomes or results of elections.

In the context of pervasive control of the political and electoral process in the local government councils, the core objective of the local governments serving as an avenue for deepening democracy and decentralizing power through greater citizen participation in electoral process and for leadership training for higher political positions cannot be realized (Andrews, 2012). Arguably proper democratic practice at the local government level will be difficult to realize if state governments decide whether elections would be held or not and when and how it will be held. No doubt, the proper practice of democracy would be maximized when the people at the grassroots are empowered to elect their own representatives and to initiate and implement development programs without undue interference by any other higher unit. In summary, we posit that constitutional inadequacies and lapses, as much as the greed and undemocratic tendencies and inclinations of the state governments constitutes the key constraints to the realization of the local government autonomy in Nigeria.

Recommendations

As our foregoing expositions indicate, the local government autonomy is largely being interfered in and this has militated significantly against the capability of the local governments to operate effectively and contribute to national development. In order, therefore, to strengthen and guarantee the autonomy of the local governments, we make the following recommendations anchored essentially on constitutional reforms and state government leadership attitudinal change:

Recommended constitutional reforms:

In order to guarantee and sustain the political/administrative/autonomy of the local governments and forstall state government interference, there is the need to reform the relevant constitutional provisions to provide specifically for:

- Democratic election as the sole legal bases of constituting the local government councils.
- The prohibition of any attempt by the state governments to adopt any other alternative arrangement like the Care-taker Committee for administering the local government.
- Elections into local government councils to be conducted by the Independent National Electoral Commission (INEC) and not by State Independent Electoral Commission (SIEC).
- The local governments as the third tier of government to derive their full existence direct from the constitution of the Federal Republic of Nigeria like the Federal and state governments being the first and third tier of government respectively.
- The stipulation and specification of the executive powers of the local government chairmen in the constitution just like the ones for the executive governors and the executive president for the state and the federal government respectively.
- The harmonizing and stipulation of the tenure of the local government political office holders to be in line with the four-year tenure as it presently obtains in the states and federal tiers of government.

Then, in order to guarantee the financial autonomy of the local governments, there is the need to amend the relevant aspects of the 1999 constitution to provide specifically for the removal of the state government from its intermediary role in the transmission of funds from the

Federation Account to the local governments. In essence, the provision for the State Joint Local Government Account should be expunged in the constitution with the local governments made to receive their allocations directly from the Federation account.

Recommended leadership attitudinal change

Indeed, in developed and democratic climes with honest leaders, the 1999 constitutional provisions in relations to the autonomy of the local governments could be adequate to guarantee their autonomy. This could be so because the state or any other higher government leadership would not be inclined to explore the loopholes in the constitution to interfere in the affairs of the local government. The otherwise is the case in Nigeria because of the unbridled desire and propensity by Nigerian political leaders to always manipulate situations to their selfish political and financial advantage. Given this propensity, it is very likely that even if the constitution is reformed as recommended, the leadership of the state governments may still discover other avenues to interfere in the autonomy of the local government. It is in this circumstance that we recommend, with greater emphasis, a change from selfish values of the state political leadership to values of selflessness, discipline, honesty and obedience to law and constitutional provisions particularly in respect of the local government autonomy. Indeed, the state governments need to place more emphasis on how to encourage synergy between them and the local governments in streamlining their development strategies and programs in order to enhance greater development rather than on seeing local governments as their subordinates and appendages that must be fully controlled and consequently seeking and discovering illegal avenues to control, manipulate and interfere in their affairs and activities.

It appears, indeed, that it is the wish of the state governments that the local governments remain as appendages to them that explains the passion and intensity with which the state governors are poised to work against the reinforcement of the autonomy of the local government in the proposed constitutional amendment. The Governor of Rivers state, Rotimi Amaechi who is the chairman of Nigerian Governors Forum (NGF) expressed the deep aversion by the Governors to the local government autonomy in his declaration that the governors would resist any attempt by the National Assembly to grant autonomy to local governments. This aversion is curious in two ways. One the states collectively, as a tier of government, cherish and guard its own autonomy and even aspire for more. Two the states have not shown in any dear way how the autonomy of the local governments threatens their own authority or autonomy. One then wonders why they should work against the same autonomy for local governments. In fairness, indeed, the state governments should allow for the enhanced autonomy of the local government tier as what is sauce for the goose is equally sauce for the gander.

Conclusion

The local government as a third tier of government in Nigeria and as enshrined in the constitution is ostensibly meant to serve as are institutional framework for effective service delivery to the grassroots and for the over all national development. However, to effectively perform the developmental functions, they need to have substantial level of both political/administrative and financial autonomy. The 1999 constitution made provisions to enhance or guarantee such autonomy. Unfortunately, however, the provisions for the autonomy as were provided in the constitution have been found inadequate in scope and specificity and the autonomy is, consequently, being substantially and in several ways interfered in by the state governments. The interference has systematically eroded the capacity of the local governments to operate effectively and to execute their constitutionally assigned development functions. Repositioning the local governments to perform the developmental functions through an

enhanced autonomy requires putting in place the recommended constitutional reforms and evolving the recommended necessary state government leadership attitude of selflessness, honesty and obedience to law.

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