

Local Government Administration in Nigeria: The Search for Relevance.

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Abstract: The paper attempted to uncover the lapses inherent in the constitutional foundation as well as in the reforms of local government administration in Nigeria that have succeeded in making local government an irrelevant federating unit of the Nigerian government. Using theoretical analytical method, the paper found that local government system in Nigeria has been an unfortunate orphan under the State and Federal government. This occurs as a result of certain loopholes created in the constitution which enable the political actors at the other two levels of government to systematically and consciously twist and manipulate the constitution for their selfish ends to the detriments of the local government system in Nigeria. Hence, the paper submits that, the constitutional provisions for the existence and survival of local government in Nigeria are suspects. Towards securing them from being susceptible to all kinds of manipulation and consequently development at the local level, the paper recommends inter-alia that: local government be given the status of a federating unit in the constitution where all its powers and functions are clearly stated; the section that created state local joint account be entirely deleted and also that a chapter be provided in the constitution to restore the autonomy of local government that will guarantee its status as a third tier of government.

Key words: Local • Government • Administration • Nigeria • Relevance

INTRODUCTION

Nigeria is a federal set up made up of three tiers of government. At the apex of the structure is the central or the federal government. In the middle of the ladder is the state government and at the lowest rung of the ladder is the local government system. Local governments are created with the ultimate goal of bringing government closer to the people at the grassroots. In order words, the idea of local government administration in Nigeria was conceived in order to accelerate development and as well create the opportunity for the people at the local level to participate and hold those in power accountable for the roles they play in the government[1].

However, a true third tier has not taking-off in the governance structure of the Nigeria State despite the importance of the local government in a Multi-tiered Federal arrangement like Nigeria. Of course, several studies have been conducted to establish the challenges bedeviling a lofty and veritable idea like local government administration in Nigeria. Emerging findings blamed the

failure of the local governance in Nigeria on issues such as poor funding, lack of human capital, corruption, lack of infrastructural facilities and lots more. These, no doubt, are factors affecting a proper existence of local governance in Nigeria. In the interim, little or no attentions have been given to the lapses in the constitutional groundwork and the series of reforms that have given birth to the concept of local government administration in Nigeria. The position of this paper therefore is that local governments in Nigeria have been rendered irrelevant and made orphans due to the systematic and conscious manipulation of the constitution by the political office holders to suit their selfish interest. The paper therefore concentrates on the theoretical analysis of the constitutional foundation and local government reforms Nigeria and their implications on the essence of local governance in Nigeria[2].

Statement of the Problem: Nigeria is a multi-tiered federal arrangement. Local government is the third tier structure in the federal configuration in Nigeria. Since the idea of

this tier of government was conceived, it is apparent that it is the worst hit by inconsistency and maladministration. Several debates have gone in to make local government a relevant unit of government in Nigeria, but a credible solution to her protracted and precarious situations is yet to be arrived at. It is been difficult obtain solutions to her problems because the search lights to unveil the issues thwarting its virile existence have not been concretely contextualized within the main problematic areas which are the constitutional and reform lapses. The inability to trace the root causes to the dreadful lapses in the constitutional fabrics and the reforms enhances the problems of local government to persist in Nigeria. It is on this ground that the paper is an incursion into the constitutional and reform weaknesses that have derailed a smooth journey of local government administration in Nigeria[3].

Theoretical Framework: Several theories could be used to explain the pathetic situations of local government administration in Nigeria. However, for the purpose of this study, Principal-Agent theory would be used to anchor this paper. The focus of Principal-Agency theory is directed at a relationship in which one party (the principal) delegates work to another (the agent) who performs the work on his behalf. The domain of agency theory is that the principal and the agents would always have conflicting goals. But the principal would always devise mechanisms that limit the self-serving capacities and behaviour of the agent so that interests of the principal are attained, resulting in an unfair exchange. Agency theory reminds us that most of organizational existence is based on the self-centred-interest of the principal. Narrowing the theory to this study, the states and the federal government are regarded as principals to local government system in Nigeria which is in the status of an agent. The sphere of local government system in Nigeria has not been given any serious importance in the constitution as it was entirely tied to whims and caprices of the state and federal government in the scheme of things. It therefore means that the federal-state-local relations in the constitution are not co-equal. Impliedly, the relationship is that of a principal and an agent. Couching this using the right term, one can say that local government affiliation with other levels is asymmetrical. Local government exercises such power as permitted by the other spheres of the government, especially the state government. This has actually limited and deprived local government powers to affect the local populace positively[4].

Constitutional Terrain of Local Government Administration in Nigeria: Historically, local government councils did not have proper constitutional recognition before 1976 local government reforms. It was after the reform that the idea of local government was entrenched in the 1979 constitution. In the 1979 constitution, the main tenets of the 1976 reforms were incorporated. The central idea of the constitution was that the government of every state shall ensure under a law which provides for establishment, structure, composition, finance and functions of such council (Diejomoah and Ebo, 2010).¹ The implication of the foregoing to the existence of the local government is that the degree of autonomy to decision making and implementation, strength and relevance of the local government are at the mercy of the respective state governments. The state governments in Nigeria always hid under this umbrella carved for them by the constitution to condition the financial and structural strength of the local government in order to continually perpetrate unfair exchange[5].

The 1979 constitution spelt out functions and responsibilities of the local government. The first category of the functions is made up of issues which local governments have full responsibility. The second category is made up of functions which local government shares with higher levels of government and the third category of functions are those that the state or federal government can from time to time assign to local authority (Oviasuyi et al, 2010).² The constitution did not only endorsed the functions assigned to local governments. It went ahead in its forth schedule and guaranteed democratically elected government councils all over the country as stated in its section 7(1) thus: “the system of local government by democratically elected government council is under this constitution guaranteed...” It also made provision for the inclusion of local government in the distribution of Federation Allocation while at the same time prescribing that state should also provide funds for local governments in their areas as enshrined in section 149 of the constitution (Bamidele, 2003).

The position of the 1999 constitution almost has identical provisions just like the 1979 constitution, except with little modifications. The 1999 constitution in its forth schedule, section 7, subsection 2 enumerated the functions of Local Government in Nigeria. This provision in theory makes the local government a unit of administration with defined powers and authority imbued with relative autonomy. The functional areas included in the constitution are provision and maintenance of health services, agricultural and national resources development;

provision and maintenance of primary, adult and vocational education and other functions as may be conferred on it by the state house of assembly. Section 7(1) of the 1999 Constitution also guarantees democratically elected governments in Nigeria[6]. It is in relation to the foregoing, that the 1999 Constitution defined local government as:

Government at local level, exercised through representative council, established by law to exercise specific powers within defined areas. These powers should give the council substantial authority over local affairs as well as the staff and institutional and financial powers to initiate and direct the provision of services and to determine and implement project so as to complement the activities of the state and federal government. (Ibeto and Chinyeaka, (n.d).⁴

Section 162 (5, 6, 7, 8) also provides for the funding of the local councils through federation account. Paragraph 6 specifically provides that “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. This was of course, a reversal of the reform carried out by the Federal Government in 1988 (Abutudu, 2011).⁵ The 1999 constitution, section (4) as noted by Khalil and Adelabu (2011)⁶ also provided that “the government of a state shall ensure that every person who is entitled to vote or be voted for at an election to the House of Assembly shall have the right to vote or be voted for at an election to local government council.” As regards funding, the 1999 constitution also empowers the Revenue and Mobilization Allocation and Fiscal Commission (RMAFC) to allocate revenue to the three tiers of government. The constitutional basis for the allocation of revenue among the three levels of government is laid down under section 160, subsection (2) to (8). By implication, any amount standing to the credit of the Federation Account shall be distributed among the Federal, state and local government councils in each state, on such term and on such manner as may be prescribed by the National Assembly of Nigeria.

In addition to foregoing, the 1999 constitution states that “the government of every state shall subject to section 8 of the constitution ensure their existence under a law which provides for the establishment, structure, composition, finance and functions of such council (FRNC, 1999).⁷ The above among others constitute the

constitutional foundation for local government administration in Nigeria. Detail analysis of this is done under the section for findings and discussion[7].

An Overview of Local Government Reforms in Nigeria:

The present local government system in Nigeria started with the 1976 local government reforms. This reform aimed at restructuring the local government administration in conformity with modern society and to make local system in Nigeria among the best in the African region. Some of the good intentions of the reform for the Nigerian local governments include; the desire to extend the principle of federation to its logical conclusion, by bringing government closer to the grassroots level; uniformity of local government administration in all the local government councils of the federation of Nigeria among others (Olanipekun, 1988).⁸ The reform represented a fundamental change in the development of local government in Nigeria. This is because, a single-tier structure of local government was for the first time attained in Nigeria. The financial system was also restructured. It was the reform that instituted statutory allocations of revenues from the federation account with fixed proportions of both federation account and each state’s revenue given to the local government. The reform according to Ekpo and Ndebbio (1998)⁹ also delineated revenue sources to avoid the usual encroachment on local government sources of revenue by states. It also stated that the internal revenue sources of local governments would include rates, which include property rates, education rates and street lighting; taxes such as community, flat rate and poll tax; fines and fees, which include court fines and fees, motor park fees, forest fees, public advertisement fees, market fees, or regulated premises fees, registration of birth etc. and miscellaneous sources. For the reforms to have appreciable impact at the grassroots, the local government officers as well as political functionaries were given free hand to operate effectively with little or no interference in their daily affairs. Hence, state ministries for local governments were only charged with the responsibilities to advise, assist and guide rather than controlling the local governments under their jurisdiction. The traditional rulers were also insulated from partisan politics under the 1976 reforms[8].

The local government experienced another reform in 1988. The Federal military government in 1988 introduced the civil service reforms in the local government. The reform centered on professionalisation of the local government service, creation of mandatory departments (personnel, finance and supply etc), provision of the

offices of supervisory councilors, secretary to the local government, treasurer, Auditor-General for local government and clearly defined the functions of local government service commission. All these provision were targeted at instituting responsible local governance in the Nigerian state. But some of provisions and above all, their implementation bastardized the entire arrangement as could be seen in the next section below[9].

RESULTS AND DISCUSSION

Having run through the above, one may wish to ask, what do the above exposition suggest about the state of local government in the contemporary Nigeria? Local government is an importance level of government because it has the ability of creating the sense of belonging in the people at the grassroots. It is responsible for local affairs and meant for meeting peculiar local needs of the people. Laski (1982)¹⁰ corroborated the above assertion when he postulates that “we cannot realize the full benefit of democracy unless we begin by admitting that all problems are not central problems {with central solutions} and that all results of problems not central in their incidence requires decision of the populace and by the person, where and when the incidence is most deeply felt.” Interestingly, the constitutional provisions and the various reforms carried out in Nigeria have attempted to capture the essence of local government. Yet some aspects of the constitution in relation to local government left much to be desired. In most instances also, some of the good substances of the constitutions and the reforms carried out to reposition local government in Nigeria have been systematically and consciously downgraded to the detriment of a virile local government administration. Incidentally, autonomy of local government as a third tier in Nigeria has been eroded in some many ramifications[10].

From the institutional framework of the local government administration, the 1999 constitution article 7, empowers the state government to enact legislation with regard to “the establishment, structure, composition and functions” of democratically elected local government councils. The fourth schedule also assigned some critical functions to be performed by the local government. In practice, state governments have flagrantly violated this. States have taken over most of the local government functions to justify the spending of the Council’s funds in the Joint Revenue Account. For example, “Lagos state government constructed parks in various parts of the state with money deducted from the state and local

government Joint Revenue Account. While in Ondo, the state government constructed a modern motor park in Akure, the state Capital” (The Source, 2013)¹¹. This is a contradiction to the 1999 constitution. Going by the 1999 Constitutional provisions, these ought to have been executed by the Local government where the projects were sited. But these responsibilities appear to have been taken over by the respective state governments mentioned above[11].

The 1999 constitution like the 1979 constitution gives the states enormous powers to handle issues of organization and structure of local government. This provision appeared very confusing and complex. This led to a prolong disputes between the federal government of Nigeria and Lagos State government over the creation of local government. Consequently, the local government suffered constitutional tussle and power conflict between the Federal and state governments over “who controls what and how” in local government system, resulting to democratic decay in local government administration in Nigeria. This issue has negatively affected the principle of local government administration in Nigeria[12].

Again, the constitution of the Federal Republic of Nigeria, section 106 provided that the minimum qualification for election into the office of the chairman and the councilors shall be post primary school certificate. What this implies in principle is that local government system should be considered a dumping ground for semi-literate persons. This is because an average political office holder in the local government cannot be an astute bureaucrat or technocrat who is well groomed in a particular discipline. Apart from the low caliber of the people who are recruited as political office holders by the state governments, the states also go into the determination of tenure of political actors of local government councils. Substantiating this assertion, Wilson (2013)¹² mentioned that on “several occasions, the states of Edo, Imo, Ondo and Rivers terminated the tenure of the democratically elected councils and replace them with members of ruling political party in the state, as caretaker committees. In most cases, the state government decided not to conduct elections into the councils, as in the case of Anambra State for over six years.” This is inimical to the operation and development of local government system in Nigeria[13].

Apart from the damages done to the local government in the area of structures and functions, the financial autonomy was also eroded. The 1976 local government reforms which was basically adopted and incorporated into the 1979 constitution created that

avenue that local government became a recipient of direct funding from the federation account. This implies that the local government became a statutorily established part of the national fiscal regime, with a definite percentage of funds in the revenue allocation formula. This provision was breached. According to Oyediran (2001),¹³ when allocation are passed through the state government, they were not actually directed to local governments. They were instead, credited to the coffers of local governments at the state level and used by the state government to reimburse themselves for expenditure made on behalf of local governments. Abutudu (2011) stated that the Babangida regime sought to come to grips with this problem. Commencing from 1988, the federal government removed the state government from its intermediary role in the transmission of funds from the Federation Account to local government. Precisely, until the year 2000, allocations from the federation accounts were picked up directly by local governments from the Federal Pay Offices (FPO's) in their respective states. This was reversed by the 1999 Constitution through the Introduction of State Joint Local Government Account (SJLGA) mechanism[14]. The constitutional basis for allocation of revenue among the three tiers of the government was laid down under section 160 sub-section (2) to (8). Specifically, the section maintained that, "the amount standing to the credit of local government councils in Federation Account shall be allocated to the states for the benefit of their local government councils on such terms and in such manner as may be prescribed by the National Assembly; and that each state should maintain a special account to be called State Joint Local Government Account into which shall be paid all allocations to local government councils of the state from Federation Account and from the government of the state[15]."

This implies that federal allocation would reach the local government via their respective state government. With the introduction of the infamous States and Local Government Joint Accounts, allocations are now tempered with, or even outrightly misapplied. In the last 12 years of democratic rule, many state governors, past and present have been accused of misappropriating local government funds with the aid of the Joint State and Local Account. Instances from some states in Nigeria were cited by newsonline.com as follows:

"27 local governments in Borno State as at 2010 threatened to embark on massive industrial action to protest the alleged indiscriminate deductions from their

monthly allocations. Each local government was made to part with 20 percent of their allocations." Nasarawa State Government under Alhaji Abdullahi Adamu, in collaboration with Alhaji Aliyu Bala Usman, the Commissioner for Local Governments and Chieftaincy Affairs, according to newsonline.com also:

Allegedly abused the joint account system with reckless abandon by illegally withdrawing over 5 billion in 36 months from the state local government joint account belonging to the 16 local governments in the state. An act which is contrary to section 7 (6) (A), 162 (5), (6) (7) and (8) of the 1999 constitution and the local government laws of Nasarawa state and the joint account laws. This offence, which is contrary and punishable under section 104 of the criminal code act, landed the former governor in the EFCC net. (newsonline.com, 2010).¹⁴

Some members of State Houses of Assembly were also alleged to be "settled" by their respective local governments at the end of every month. Since it is the responsibility of States Houses of Assembly to make laws for local governments, some state parliaments exploit this privilege for various forms of financial rewards. In a related development, Akaeze, (2012) recalled the experience of Ogun State. Tunde Oladunjoye, a former chairman of Ijebu East local government area, Ogun State, accused the former governor, Gbenga Daniel of diverting local government funds. The case was reported thus:

In November 2009, "the total allocation for the 20 LGs in Ogun State was N1.7 billion. But Daniel gave us N700 million, which was less than half of what was due to us." Before then, Oladunjoye and some of his colleagues had written to Daniel "to deduct only what is statutory from our allocation and specifically the exact amount of money due to the teaching and non-teaching staff of the Local Government Education Authority, LGEA." According to Oladunjoye, nothing came out of that. "For example, my bill for LGEA was about N28 million monthly, but the governor was deducting N39 million. That is N11 million in excess. With N11 million, I will build three or two bed-room community health centres every month. I was angry. Why should state government pay primary school teachers on our behalf? Was the federal government paying secondary school teachers on behalf of the state government?" (Akaeze, 2012).¹⁵

The above turned out to be one of the allegations for which Daniel was charged to court by the EFCC. Of course, the 1999 Constitution demands that the local government and state government operate a joint account through which the federal government would remit their monthly allocations to them. It should not be a complex task splitting the sums. But some state governors like the case cited above often choose not to release the exact local government funds once the monies are received from the federation account.

The cases as in the above suggest that joint account is obviously a conduit pipe for draining funds meant for the third tier. Also, it is a major factor militating against meaningful development of the grassroots. Due to the constitutional barriers placed by the SJLGA mechanisms, they cannot do much. Even when little is given to them, post-budget control still imposes further restrictions on what local governments can do. Apart from the dubious activities of the state political officials and budget control lacuna, what remains after all these goes down to local governments where principal officials connive to siphon the funds using all manners of strategies. Newsonline.com also provided substantial evidence to the effect that the hydra-headed cankerworm has trickled down to the local government itself. It reported that: Three sub-committees were also set up by the Benue State House of Assembly in 2010 to probe the expenditure of the excess crude funds received by local governments in the state. Consequently,

12 council Chairmen were suspended in the state for alleged fraud. They were asked to refund a total of 150 million naira. The Chairmen that went on suspension were that of; Logo, Ado, Obi, Apa, Ohimini, Oturpko and Ogbadibo local government. Others were Guma, Gwer West, Ukum, Kwande and Ushongo. (newsonline.com, 2010).

In a similar situation, the chairmen of Ibaji and Ogori Magongo local government councils in Kogi State were suspended over what was described as non performance and misappropriation of resources. According to the source:

Statutory allocation of 75 million naira received by the local government in December 2008 was neither used for payment of salaries or implementation of any meaningful project. Similarly, neither was a loan of 200 million naira or the excess crude fund of 380 million naira said to have been received by the

local government was judiciously used. Instead, councilors were reported to have been sponsored to Jerusalem on pilgrimage and allowances of over 1 million naira each was made available to them, despite the traveling allowance of 500,000 received by each of them. (newsonline.com, 2010).

The consequence of the above financial strangulation of local government system in Nigeria is an emasculating deprivation of basic amenities and a dangerous disconnection and disenchantment of the people with the third tiers of government; while the officials of the states celebrate their ill-gotten wealth.

Last but not the least is the influence of the local government service commission which though was not provided for in the 1999 constitution, but has place local government in slavery position. The state governments use the commissions to regulate local government policies and sometimes frustrate local government. Policies including deploying the incompetent caliber of staff to a particular local government, results to poor implementation of democratic policies (Wilson, 2013)¹⁶. Wilson cited the case of Delta State to buttress his position as follows:

That LGSC took over political control of the councils where the Heads of Personnel Management (HPMs) were mandated by the LGSC through the Delta State House of Assembly to run the affairs of the councils from May 2011 – November, 2012, following the expiration of the tenure of the elected councils in the state in 2011.

The implication is that democracy in local governance is crucified on the alter of the LGSC and state house of Assembly. This results to democratic deprivation of the local people in the state.

CONCLUSION

From the above findings and the discussions done, it appears so unfortunate that local governments in Nigeria have been made orphans by errors committed in some sections of the constitution and by extension the deliberate attitudes of the political office holders manipulating the constitutional provisions in relation to local government to achieve selfish ends. The idea of local government as a sub-division of a nation, constituted by law, with substantial powers to control local affairs has been totally violated in Nigeria. Local

government as an idea in search of relevance, or an orphan in search of adoption by benevolent, compassionate and generous parents, the 1999 constitution needs serious amendments in some areas. As such, the following recommendations are considered germane.

- There should be the inclusion of Local Government in the general provision chapter 1 part 1, sub-section 2 as one of the Federating Units of the Nigerian Federation with its establishment, Composition, powers, functions and tenure all spelt out. This will put a stop to the humiliating status Local Government has been subjected to over the years.
- Section 162 that creates the state joint local government account should be out rightly removed. This can stop State Governments from tampering with Local Government funds to the extent that only insignificant amount of the statutory allocation from federation account eventually gets to the Local Government due to illegal and sundry deductions (ADK, 2012).¹⁷
- A chapter on Local Government should be provided in the Constitution to restore the autonomy of Local Government and guarantee its status as the third tier of government in Nigeria with power to exercise all Executive, Legislative and Administrative functions. This chapter will deal with issues such as: Tenure of office; Public Service of Local Government etc. This can be achieved effectively if the ambiguous section 7 where State Governments hide to manipulate the Local Government system by aborting democratic governance, suspending elections and imposing a regime of caretaker administration; usurping the statutory functions of local government and plunder its resources is removed.
- Again, just like a saying goes “that he who pays the piper dictates the tone”, the revenue generating capacity of the local government should be broadened so that over reliance on allocation from federal and state government is curtailed. Relevant provision should also be captured in the constitution to avoid encroachment in those areas by the state and federal governments.
- Finally, Local Government Service Commission which guaranteed and stabilised the public service of the Local Government system should be recognised by the 1999 constitution. The omission of this in the 1999 Constitution has made the local government service inferior to their Federal and state counterparts

with all forms of discriminatory practices within and outside the service. A constitutional amendment is required in this respect for the inclusion of the Local Government Service Commission in the Nigerian Constitution. In order to untie it from the apron string of federal and state government, it shall be made to enjoy its funding directly from the Federation Account and draws its entire staff from the Local Government service.

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