

Interrogating Governance and Constitutional Issues of Local Government System in Nigeria

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Abstract

The Constitution of the Federal Republic of Nigeria 1999, as amended, contains some provisions for the creation of local government as the third tier of government whose objective is to ensure effective, measurable and efficient service delivery to the people, while bringing government closer to people at the rural communities in order to attain the transformation of lives in these communities. However, local governments in Nigeria are facing various difficulties which have brought to the fore the question of local government autonomy. The experience with many Local Government Areas is that their states starve them of the statutory grants, and in the process deny them the opportunity of rendering essential services as required. The major concern of this paper is identifying these difficulties

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and the factors responsible for them. In achieving this, the paper relies on descriptive approach. The conclusion of the paper is that problems confronting local governments in Nigeria are multifarious and the solutions for them should be adequate and practical to evolve viable and development-oriented third tier of government.

Keywords: Administration; Development; Interference; Local Government; Local Government Reform.

Introduction

There is no gainsaying the fact that the advent of the military into the political space of Nigeria has had an adverse effect on power composition of the country. Years of military rule have turned the weak federation inherited at political independence into a unitary system. Application of power structure by the military is commandist in nature and easily leads to concentration of power in the Federal government of Nigeria. What has become power-sharing in the context of Nigerian federalism would normally be a good political agenda designed to open up opportunities to disadvantaged communities and give all nationalities, religious, and cultural groups an almost equal opportunity to manage the affairs of the nation. With 774 Local Governments across the federation and with some states creating additional Local Council Development Areas, it has become imperative to immediately embark on a rigorous interrogation of administrative issues peculiar to the local government in Nigeria in order to be able to compete favourably with her counterparts in the developed part of the world.

The expediency for the creation of local government anywhere in the world stems from the need to facilitate development at the grassroots. The importance of local government is a function of its ability to generate a sense of belonging, safety and satisfaction among its populace. Whatever is the mode of government, the local government has been essentially regarded as the path to, and guarantor of, national integration, administration and development.

Prior to the 1976 reform, the local government system in the country was less autonomous with the colonial era Native Authorities being the avenue of policy implementation directly from Lagos. Towards

independence, a system of elected councils was created but after independence, the power of the system was minimal but not abolished.

Orewa and Adewumuni (2001) argued that there were adequate supervision, monitoring and due assessment of the attainment of goals of all local governments by regional governments during colonial rule. This position is a pointer to the fact that “the effectiveness of local government can be judged through the local developments it generates, social amenities it provides and to the extent that it has catered satisfactorily for the happiness and general well-being of the communities it has been established to serve” (Western State Official Document No. 4 of 1971). This was the political cum administrative foundation laid down by the founding fathers of the Nigerian nation; a legacy of superb administrative machinery that placed the highest premium on efficiency. This paper, however, is an empirical investigation on the circumstances surrounding contemporary social-political developments in Nigeria’s local government councils.

In Nigeria’s socio-political context, with diverse cultures, languages and needs, the importance of such an organisation in fostering the needed national consciousness, unity and relative uniformity as well as preservation of peculiar diversities cannot be over-emphasised. Central to the creation of local government, however, is its ability to facilitate an avenue through which government and the people intermix, relate and more quickly than any other means resolve or dissolve issues that may have heated the system. Local government has been perceived as a panacea for the diverse problems plaguing Nigeria. As important as this tier of government has been, there are some impediments that have infringed on the performance and functions the local government system in recent times. These include: political but undue interference of the higher levels of government i.e. federal and state governments, bribery, corruption, embezzlement, and gross inadequacy of well-trained and qualified personnel to mention a few. Some of these have made the Nigerian Local Government the most criticised of the three tiers of government in Nigeria.

The local government in Nigeria is the third tier of Government and it is expected to be the closest to the people. In Nigeria’s democracy it is expected to foster peace, progress and development as well as serve as the platform through which people participate in democracy. The 1999 Constitution of the Federal Republic of Nigeria recognises in Section 7 that “the system of

local government by democratically elected local government councils is under this Constitution guaranteed; and... provides for the establishment, structure, composition, finance and functions of such councils” and Section 7(4) stipulates that in any locality “the Government... shall ensure that every person who is entitled to vote or be voted... shall have the right to vote or be voted for at an election to a Local Government

Council.” Also, Section 7(3) holds that it is the “duty of a Local Government Council within the State to participate in economic planning and development of the area.” These two factors combine people’s mandate and development plan and both should normally foster effective performance in the local government area. To facilitate this, the Constitution via Section 7(6) empowers the National Assembly and the Houses of Assembly to make provisions for statutory allocation of public revenue to Local Government Councils by the government of the Federation and the governments of the states respectively. A necessary import of these is that the Nigeria Local Government is poised, at least on paper, to move the country forward by mobilising and financing resources and initiatives of the grassroots respective.

However, Local Government in Nigeria suffers a setback, perhaps for reasons of backwardness in governance generically associated with institutions in less-developed countries, where there is lack of working institutions across the various sectors that have led to the failure of the system to deliver public goods. But, most importantly, the Federal government has assumed a father-figure in the federation that made resource mobilisation a matter of serious concern in the State and the Local Governments. While the Nigerian Constitution envisages a Federal system of Government, where the thirty-six states that make up the Nigerian federation are given autonomous powers to administer their respective states, the same constitution ironically, has not placed commensurate fiscal resources at the disposal of the States and Local Governments to enable them to discharge their statutory responsibilities as envisaged by the Constitution of the Federal Republic. It is such constitutional anomalies and landmines that have rendered local government administration in the country ineffective, thereby depriving the people at the grassroots the required political and economic advantages that come from a well-balanced political structure predicated on Constitutional democracy as practised in other climes.

Several attempts have been made to document the problems of local government in Nigeria, which include among other things, poor leadership, inadequate planning, poor implementation of policies, inadequate revenue, corruption and mismanagement, lack of adequate manpower, lack of autonomy, lack of participation by the people and intergovernmental conflict. Despite these copious scholarships, the problem of governance at the local level has persisted in the political history of Nigeria.

This paper thus holistically examined the constitutional, statutory and socio-economic issues affecting this institution of governance. The major onus here is to analyse some of the critical factors through which local government operates in Nigeria. Even though there are problems with the running of local governments (just with like the other tiers of government) and this paper argued that the major reason for the backwardness of governance in Nigeria is lack of working institutions across the various sectors that has led to the failure of the system to deliver public goods, culminating in the shrinking of democratic space, the demotion of good governance, and the dearth of transparency and accountability. The paper extensively analyses the constitutional and statutory provisions for the Nigerian Local Government and examine whether or not these provisions are adequate to galvanise grassroots development.

Conceptual Framework on Local Government

Local government as a concept, like many other subject matters in the field of Social Sciences, is not easy to grapple with. As Aransi and Adeyemi (2012) pointed out, “Local Government as a concept has suffered ... as a victim of definitional pluralism.” Apart from this, there is also the multiplicity of names ascribed to Local Governments across the world. This has added more amphibolies to the crisis of definition. However, local government, municipal, county, district or divisional council or whatever other nomenclature ascribed to it can be described as a mini-government serving a particular political unit or administrative division, usually at the grassroots level in a given country. In most cases, local governments are created through clearly defined statutory and/or constitutional provisions. In Nigeria, the creation of local government is the exclusive reserve of the National

Assembly and the Houses of Assembly vide Section 8 of the 1999 Constitution.

The essence of local government creation is for the effective administration of the grassroots. This is in tandem with the opinion of Lawal (2000) when he defined Local Government as the level of government nearest to the people and the one empowered to ‘exercise control over the affairs of people in its domain.’ The United Nations Office for Public Administration (1961) defined local government in terms of political subdivision duly constituted by law and empowered to direct local affairs and seek resources for the execution of the affair of the local people. In effect, the administration of the grassroots is moved nearer the local people, who themselves become deeply involved in the day-to-day affairs of their political environment. The sage, Obafemi Awolowo argued that local government is answerable to both the people and a higher level of (democratically elected) government. He submitted that local government is a form of government involving local councils, which make, accept responsibilities for, and implement decisions, with due regards only to such control as may be exercised by the people through their regional government (Adamolekun, 2002).”

The 1976 reform explained further the concept, when it defined local government as:

Government at the local level exercised through representative Councils established by law to exercise specific powers within defined Areas. These powers should give the Councils substantial control over local affairs as well as the staff and institutional and financial powers to initiate and direct the provision of services to determine and implement projects to complement the activities of the state and Federal government in their Areas and to ensure, through devolution of functions to these Councils and the active participation of the people and their traditional institutions, that local initiative and response to local needs and conditions are maximised.

In his contribution, Aransi and Adeyemi (2012:5) quoted Whalen (1976), who summarised the socio-political and legal entity of local government as a given territory and population, and institutional and administrative purpose, a separate legal entity, a range of power and functions authorised by

delegation from appropriate central or intermediate legislative and lastly within the ambit of such delegation, autonomy, subject always to the limitation of common law such as the test of reasonableness. In Nigeria, the necessity of local governments can be divided into two: political development and socio-cultural and economic development (Agunloye, 2012). The role of the local governments in delivering the former is well captured in the Fourth Schedule of the 1999 Constitution while that of the latter, according to Agunloye (2012) were largely neglected. Thus, there is a need to strengthen the local government to foster political development in Nigeria.

Local government can be defined as a government at a local level, established by an act of parliament or statute, decree or edict, charged with administrative and executive duties on matters concerning the inhabitants of a particular district, and given the powers to make bye-laws. It can also be defined as an institution of the state created by law to provide service to local communities. It aims at accelerating the development of rural communities. In addition, local government is a basic unit of government referred to as government at rural communities bringing the government to the people of the community. Furthermore, it is a legal entity which can sue and be sued.

By their nature, local governments are the closest to the people at the grassroots. This was true in the Western Nigerian days of vibrant politics, based on the party pivots of disbanded Action Group and the National Council of Nigeria and Cameroon. Their essential services of supplying potable water, maintenance of local health institutions like dispensaries and maternity centres, cleanliness of the locality, supervised by health or sanitary inspectors; provision of health gadgets like incinerators, public latrines, supervision and control of markets and abattoirs; maintenance of local roads and courts which exist for dispensation of justice under customary laws; and the meeting of an array of many other items of local needs which these institutions were set up for; and to ensure the stability of the nation; and by the same contingency, to provide the training of local statesmen, some of whom would graduate into the State, Federal/National Service– all of which form the ultimate in the development of Nigerian political culture, democracy, upgrading of people who would graduate into national limelight to lead the country. According to Barber (1975) local government is “a system of

geographical decentralisation in which some functions and responsibilities of government are delegated to governmental units or bodies at the local level with a wide range of services within their locality.”

This definition hinges on the decentralisation of powers in which other arms of government are to take part in the administration of a country. In Nigeria, the emphasis is on the successful management and mobilisation of the people at the local level since development as an economic phenomenon relies on the empowerment of the local citizens at the grass roots. Adamolekun (1979), defines local government as an avenue for running services of all kinds which are tailored to the peculiar needs of the particular areas and which can be given attention because a local council (government) and a local administration have the knowledge and the time to concern itself with just this sort of details. This definition, like the previous one, sees local government as being concerned with the administration of local affairs by the people inhabiting the locality through their own representative body made up of elected councillors or representatives and a chairman. It must be emphasised that local government is not local or independent as such, although, individuals of a defined area have the opportunity to manage or have a say in their affairs, there exists a minimal, if not overriding control, from the state and federal governments.

The concept of local government involves a philosophical commitment to democratic participation in the governing process at the grassroots level. This implies legal and administrative decentralisation of authority, power and personnel by a higher level of government to a community with a will of its own, performing specific functions as within the wider national framework. A local government is a government at the grassroots level of administration meant for meeting the peculiar grassroots need of the people (Agagu, 1997). It is “government by the popularly elected bodies charged with administrative and executive duties in matters concerning the inhabitants of a particular district or place (Appadorai, 1975 cited by Shiyanbade, 2016).

Looking at the existence, performance and relevance of local government, Laski (1982:411) opines that, “we cannot realise the full benefit of democratic government unless we begin by the admission that all problems are not central problems, and that the result of problems not central in their incidence requires a decision at the place, and by the person, where and whom the incidence is most deeply felt.”

Local government is the tier of government closest to the people, “which is vested with certain powers to exercise control over the affairs of people in its domain” (Lawal, 2000). A local government is expected to play the role of promoting the democratic ideals of a society and coordinate development programme at the local level. It is also expected to serve as the basis of socio-economic development in the locality. Observations have shown that local government in Nigeria has not performed to expectation. Keen observers have since adduced various propositions for explaining the reasons why the system has recorded abysmal level of inefficiency and ineffectiveness vis-à-vis justification for its establishment.

Brief History of Local Government Administration in Nigeria

Regardless of nomenclature, the local government is a creation of British colonial rule in Nigeria. It has overtime experienced change in name, structure and composition. Between the 1930s and 1940s, for instance, the local government was known as chief-in-council and chief-and-council, where traditional rulers were given pride of place in the scheme of things. In the 1950s, election was introduced according to the British model in the western and eastern parts of the country with some measure of autonomy in personnel, financial and general administration (Nwabueze, 1982). It was on this premise that the rising tide of progress, growth and development experienced in the local governments in these areas were based. The pace of this development was more noticeable in the south than in the north.

During this period, heterogeneity was the hallmark of local government as there was no uniformity in the system and the level of development was also remarkably different. The introduction of 1976 reforms by the military administration of General Obasanjo brought about uniformity in the administrative structure of the system. The reforms introduced a multipurpose single-tier local government system (Ajayi, 2000).

The reforms also introduced population criterion under which a local government could be created. Consequently, a population of within 150,000 to 800,000 was considered feasible for a local government. This was done to avoid the creation of non-viable local council and for easy accessibility. There was provision for elective positions having the chairmen as executive head of local government with supervisory councillors constituting the cabinet. This was complemented by the bureaucrats and professionals,

such as Doctors, Engineers, etc., who were charged with the responsibility of implementing policies.

In 1991, major landmark reform was introduced as the system had a legislative arm. In addition, the Babangida administration increased the number of local government from 301 in 1976 to 453 in 1989 and 589 in 1991. The Abacha regime also increased the number to 774 local councils that we have today and the administrative structure also underwent some changes (Ajayi, 2000).

In summary, no public institution in Nigeria has been so subjected to frequent reforms than the local government system. Nearly every successive administration introduces one administrative change or the other. Apart from the celebrated 1976 reforms, state government officials have also introduced various manipulations. For instance, in Ekiti State, the tenure of elected local government officials was reduced to two years. While some states retained it to reflect three years. In the southwest, except for Lagos, a caretaker committee was introduced in 2003 immediately after the general elections. In a similar vein, in June 2007, some state governments dissolved their local councils and appointed a caretaker committee to steer the affairs of the council before the conduct of elections.

Modern discourse on the genesis of local government in Nigeria may be anchored on the 1976 Local Government Reform, but the onto-genesis of local government dates back to the Indirect Rule and Native Authority systems introduced by Lord Lugard and Sir Donald Cameron respectively. Local Government in Nigeria underwent epochal transmutations. And the stages of evolution of the development of Local Government in Nigeria can be categorised into the following epochs:

- i. Indirect Rule system, Native Authority system/Local Administration (1900-1950s);
- ii. Period of the introduction of the British model of Local Government (1950-1956);
- iii. The period of decline of Local Government (1960-1970s); iv. Local Government during the Military regime (1966-1975);
- v. The 1976 Local Government Reforms and Local Government in the Second Republic (1979-1987); and
- vi. Babangida Local Government Reforms (1985).

Performance Consideration for Local Government in Nigeria The performance of Local Government in Nigeria has not meet citizens demand in term of provision of social amenities to the populace. As the *Socio-Economic Rights and Accountability Project- SERAP* (2018) pointed out in its report, despite the strategic position of Local Government to the national development process, its full potential and contribution has not felt by the people. Aransi and Adeyemi (2012:11) quoted Ola and Tonwe (2009) thus:

...the quality and character of a Local Government are determined by a multiplicity of factors— for example, local traditions, customary deference patterns, political pressures, party influence and discipline, bureaucratic professionalism, economic resources controls and social organisation and belief.

The authors further raised some posers bordering on the performance of Local Government. First has to do with the issue of self-government. This has to do with if the people of the community have an opportunity to participate in government through meaningful elections and whether the people have access to the public officials to make their opinion known. The second issues touches on whether the local government has relative autonomy with which it can exercise adequate discretionary autonomy. To have this, there must be sufficient devolution of powers from the central government to the local government. Finally, there is the issues of whether the local government possess the appropriate will and authority that enables it to undertake activities that deeply affect the lives of the people over which it exercises authority.

Therefore, the parameter for which the performance of Local Governments in Nigeria should be judged is, most certainly, the number of resources made available to them, *vis-à-vis* the Federal and State Governments, and how judicious the resources have been put to functional use.

The 1976 Local Government Reform

Reform can be defined as the improvement or amendment of what is wrong, corrupt and unsatisfactory. In order words, the 1976 Local Government reforms was a means to form local government again from the scratch.

The Federal Military Government embarked on extensive Local Government reforms in 1976. The following are the main features of the 1976 Local Government Reforms:

- a) **Uniform System of Local Government:** There was the introduction of a uniform system of local government throughout the country.
- b) **Federal Government Involvement:** The federal government became directly involved in local government administration.
- c) **Service Board/Commission:** There was the introduction of local government service board/commission in all the states.
- d) **Statutory Functions:** The local governments were given specific statutory functions to perform.
- e) **Single-Tier:** All local governments were made all-purpose singletier local government.
- f) **Appointment:** There was the appointment of full-time chairmen and supervisory councillors.
- g) **Condition of Service:** The condition of service of local government staff was unified with that of their counterparts in state and federal civil service.
- h) **Grants:** Federal and State governments were made to give grants to local governments.
- i) **Key Committees:** Each council was mandated to have certain key committees like the Finance and General purposes committee.
- j) **Terms of Office:** The majority of local councillors were to be elected on a three-year basis.
- k) **Exclusion of Traditional Rulers:** The traditional rulers were excluded from local government councils.
- l) **Traditional/Emirate Council:** The reform brought in the establishment of traditional/emirate councils.

Local Government was accorded full recognition as a separate tier of government in 1976 by the Federal Government of Nigeria Local Government Reform. This reform had a far-reaching effect in that the Local Government system attracted highly credible personalities like Alhaji Shehu Shagari (who

later became President of the Federal Republic of Nigeria 1979 – 1983) as Chairman of Sokoto Urban Development Authority, and Late Chief Simon Adebo as Chairman of Abeokuta Local Government. The reform implies that Local Government is a separate tier of government. The Reform aims to:

- a) Make appropriate services and development activities responsive to local wishes and initiatives by devolving or delegating them to local representative bodies;
- b) Facilitate the exercise of democratic self-government close to the local levels of society and to encourage initiative and leadership potential;
- c) Mobilise human and material resources through the involvement of members of the public in their local development;
- d) Provide a two-way channel of communication between local communities and government (both state and federal);

The 1976 Local Government Reforms entrusted political responsibility to the people at the grassroots level. It also sought the social and economic development, and the effective delivery, of service to the respective local population scattered all over the country (Orewa and Oduwumi, 2001).

There have been subsequent local government reforms after the 1976 Local Government reform. These are:

- a) The 1976 Guidelines for Local Government Reforms;
- b) The 1979 Constitution of the Federal Republic of Nigeria;
- c) The 1984 Dasuki Report of the Nigerian Local Government;
- d) The 1992 Handbook on Local Government Administration;
- e) The 1989 Constitution of the Federal Republic of Nigeria;
- f) The 1992 Handbook in Local Government Administration;
- g) The 1999 Constitution of the Federal Republic of Nigeria.

These reforms did not deviate in substance and essence from 1976 Local Government Reforms, but rather derived from them.

Local Government System under the 1999 Constitution

From 1976 local government system has witnessed several changes and some of these have affected the effectiveness of local government as a vehicle for promoting and sustaining grass root development. However, the 1999 Constitution in Section 7(1) reaffirmed that the system of local government by democratically elected Local Government Councils is under the Constitution guaranteed and that every State shall ensure their existence. The 1999 Constitution of the Federal Republic of Nigeria in the Fourth Schedule stated that the functions of a local government council shall be as follows:

- a) the consideration and the making of recommendations to a State Commission on economic planning or any similar body on the economic development of the state particularly in so far as the area of authority of the council and the state are affected, and proposals made by the said commission or body;
- b) collection of rates, radio and televisions licenses;
- c) establishment and maintenance of cemeteries, burial grounds and homes for destitute and infirm;
- d) licensing of bicycles, trucks (other than mechanically propelled trucks) canoes, wheel barrows and carts;
- e) establishment, maintenance and regulation of slaughter houses, slaughter slabs, markets, motor parks and public conveniences,
- f) construction and maintenance of roads, streets, street lighting, 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;
- g) the naming of roads and streets and numbering of houses;
- h) provision and maintenance of public conveniences, sewage and refuse disposal;
- i) registration of births, death and marriages; and
- j) assessment of privately owned houses or tenements levy and such rates as may be prescribed by the House of Assembly of a state.

The schedule further stated that the functions of a local government council shall include the following matters:

- i. the provision and maintenance of primary, adult and vocational education;
- ii. the development of agriculture and natural resources, other than the exploitation of minerals;
- iii. the provision and maintenance of health services; and iv. such other functions as may be conferred on a local government council by the House of Assembly of a state.

In summary, the local governments are expected to offer a wide range of services, collect revenue from the transactional services, and formulate economic plans and development schemes for their area of operation.

However, The Local Government represents the third tier in the ladder of the administrative structure in Nigeria. Section 3(6) of the 1999 Constitution, provided for 768 Local Government Areas in the 36 federating states of Nigeria as contained in the second column of Part I of the First Schedule to the Constitution and six Area Councils in the Federal Capital Territory (FCT) as shown in Part II of the same Schedule. Thus, there are 774 Local Government Areas (LGAs) in the country divided across the 36 states of the federation and the FCT. The system of government is fashioned along that of the American presidential system of government consisting of the legislature and the executive, while the judiciary is absent.

The Executive Arm in the Local Government

The executive arm of government is the policy-making body of the Local Government. Theoretically speaking, it ought to be an arm of Local Government responsible for the execution of the bye-laws and the adoptive laws. However, the body appears more answerable to the House of Assembly than to the Local Government legislative body comprising of the Councillors. Composition of the arm consists of the Chairman, ViceChairman, Supervisors and Secretary to the Council. The Chairman of the Local Government Council presides over the meeting of the executive body and doubles up as the Chief Executive, the Chief Accounting Officer, and the Chief Security Officer of the Local Government area. The Secretary to the Council and

the Supervisors are appointed by the Chairman of Council. Though Section 7(1) of 1999 Constitution stated unequivocally that the Chairman and other members of the executive are to be normally elected, but can, under special circumstances, also be appointed due perhaps to the latter part of the section which allows the Government of every State, subject to section 8 of the Constitution to ensure the existence of Local Government under a Law which provides for the establishment, structure, composition, finance and functions of such Councils. The Chairman supervises the activities of the Local Government and presides over all meetings of the Council.

The Legislature in the Local Government

The term “legislature” has been given different names across nations of the world. It is referred to as “Parliament in Britain, “National Assembly (the central legislature) in Nigeria, “Congress” in United States etc (Abonyi, 2006; Heywood, 2007; Lafenwa, 2009). As noted by Lafenwa (2009), however, there is no serious contention about its definition. The legislature is seen as occupying a key position in the machinery of government (Heywood, 2007) and as the people’s branch with the singular purpose of articulating and expressing the collective will of the people (Bernick & Bernick, 2008; Okoosi-Simbine, 2010). As an organ of government, it is the forum for the representation of the electorate (Taiwo & Fajingbesi, 2004).

Shiyanbade, Ganiyu and Olajide (2016) conceptualizes the term legislature from a functional perspective. He defines the legislature as the branch of government made up of elected representatives or a constitutionally constituted assembly (body) of people whose duties among other things are to make laws, control executive activities and safeguard the interest of the people. The Legislature comprises the Leader of the House, Deputy Leader, Chief Whip, Majority Leader, Minority Leader (where applicable), and other Councillors. The House of Assembly of a State is saddled with the responsibility to define the functions to be performed by the legislative arm through an enabling law. These laws vary from one state to the other. But generically speaking, they consist of:

- i. Making bye-laws for the smooth-running of the Council;
- ii. Debating, approving and amending the annual budget of the Local Government;

- iii. Oversight function in the form of vetting the award and monitoring the implementation of projects and programmes in the annual budget of the Local Government;
- iv. Ensuring due process of law and compliance with appropriation law;
- v. Examining and debating the monthly statement of income and expenditure rendered to it by the Chairman of the Local Government;
- vi. Advising, consulting and liaising with the Chairman of Council; and vii. Performing such other functions that may be assigned to it from time to time by an edict or law of the state in which it is situated.

The Taxes and Levies (Approved list for collection) Decree No. 21 of 1988 Law of Federation of Nigeria provide, inter alia, for a specific area of influence in which the Local Government legislative arm has the power to legislate upon. Part III of the Schedule of the Law empowers the Local Governments to legislate on the following lists:

- 1. Shops and kiosks rates;
- 2. Tenement rates;
- 3. On and off liquor licence fee;
- 4. Slaughter slab fees;
- 5. Marriage, birth and death registration fees;
- 6. The naming of street registration fee (excluding any street in state capitals);
- 7. Right of occupancy fees on lands in a rural area (excluding those collectable by Federal and State Governments);
- 8. Markets taxes and levies excluding any market where State finance is involved;
- 9. Motor park fees;
- 10. Domestic animal licence;
- 11. Bicycle, truck, canoe, wheelbarrow and cart fees;
- 12. Cattle tax;
- 13. Merriment and road closure fees;
- 14. Radio/television (other than radio/TV transmitter) licences;

15. Vehicle radio licence (to be imposed by the Local Government in which the car is registered);
16. Wrong parking charges;
17. Public convenience, sewage and refuse disposal fees;
18. Customary burial ground;
19. Religious places establishment permits; and
20. Signboard/advertisement permit.

The Judiciary in the Local Government

As reiterated earlier, the judiciary is not represented as a separate branch of government at the Local Government level in Nigeria. Only the Federal and the State can establish superior courts of record. However, there are inferior courts of law existing at the local level whose creation and activities are regulated by the State House of Assembly. Such courts are usually categorised under the judicature of the State. Examples include the Magistrate Courts manned by a learned persons with both criminal and civil jurisdictions, while traditional courts are manned by traditional rulers to adjudicate on trivial matters of family disputes, inheritances, and interpersonal crisis arising within the Local Government Council. In all, the courts, which are being referred to here are any adjudicatory body not established under Section 6 of the 1999 Constitution for the Federation and the States nor specified in subsection (5) (a) to (i) of the same section. Thus, it is, perhaps, apt to state that any court not belonging to the following from Section 6(5) of the Constitution as follows: (a) the Supreme Court of Nigeria; (b) the Court of Appeal; (c) the Federal High Court; (d) the High Court of the Federal Capital Territory, Abuja; (e) a High Court of a State (f) the Sharia Court of Appeal of the Federal Capital Territory, Abuja; (g) a Sharia Court of Appeal of a State; (h) the Customary Court of Appeal of the Federal Capital Territory, Abuja; and (i) a Customary Court of Appeal of a State; Since subsection (j) and (k) were listed in the Constitution but not included as part of the superior courts of record, the reference in subsection (j) as ‘such other courts as may be authorised by law to exercise jurisdiction on matters with respect to which the National Assembly may make laws’ and that of subsection (k) about ‘such other court as may be authorised by law to exercise jurisdiction at first instance or on appeal on matters with respect

to which a House of Assembly may make laws,' could to all intent and purpose be taken to refer to inferior court under the third tier of government.

Enhancing Efficient and Effective Service Delivery at the Local Government

Agugu (2004) opined that, the need for improvement and sustained cooperation, in improving local government administrative responses necessitate the creation of local councils. As the nearest unit of government to the grassroots, local governments have been empowered to effectively administer social services to the populace. Thus, the following measures would enhance effective service delivery at the local councils:

- A. Constitutional Reforms to Ensure Total Autonomy of Local Government:** Reforms are expected to expand the financial and expenditure self-rule of local governments as well as limit interference and control of state governments (Eboh & Diejomaoh, 2010) . The role of state governors in deciding the modus operandi within local government administration create new pathways chance to configure proper strategies, projects and ventures to specific territories; protect social legacy and networks; and harness to grassroots, benefits self-sufficiency in this regard would in turn foster local levels. Also, representatives or neighborhood government officials must be selected by the populace and not superimposed by either the ruling party or political godfathers. Stipulated time lines for election and tenure of offices would be well specified (Ibok, 2014).
- B. Curtailing Corrupt Practice in Local Government Administration:** To stem corruption and embezzlement, all financial transaction of the council must be audited and publicized annually. There should be monitoring and regular evaluation by designed units to ensure efficiency in local government administration (Ibok, 2014). Civil society organizations should monitor the performance of local government officials and report erring officials to anti-graft agencies. Anti-graft agencies like the Independent Corrupt Practices Commission (ICPC) and the Economic and Financial Crimes Commission (EFFCC) must intensify efforts at tackling corruption in the local government system. Again, both the federal and state

governments should assist through the introduction of fraud detecting mechanisms as well as ensuring a free and fair electoral process that elects the people's choice (Chukwuemeka, *et. al.*, 2014).

- C. Effective Statutory Allocation to the Local Governments:** Local government must have constitutional backing in generating its revenue and expenditure roles. The revenue/expenditure relationship between the Federal and other levels of government must be revised to reflect equality, fairness and justice (Ekpo, 2008). Moreso, local governments should have direct and unrestrained access to statutory allocations from the Federation Account as well as their share of the internally generated revenue. In addition, state government should be advised to release their (10%) internally generated revenue to the local council to avoid overdependence on statutory allocation and onward review of statutory allocation from its present 30 percent benchmark from the federation account is highly recommended (Abutudu, 2011; Chukwuemeka, *et. al.*, 2014; Ibok, 2014). Conversely, internal revenue generation sources should be expanded through investment in profitable ventures without local councils. Rural dwellers should be properly educated on their civic responsibilities to support local governments financially (Adeyemi, 2013; Thobias & Eleuter, 2015).
- D. Capacity Building–Institutional and Human Resources:** Regular training and capacity building for local councils should be encouraged to inculcate modern trends in governance. This must include both the political and administrative cadre of council officials (Abutudu, 2011). Institutional and system that produce the required human capacity should be reviewed in lines with the principles of good governance - transparency, accountability, honesty, equity, justice, strong leadership, prudent management of public funds, to benefit the masses (Agba, Akwara, & Idu, 2013). The first is institutional reformations in different organs, divisions, units and operational issues. It equally includes preparation and introduction in arrangement improvement, observing and assessment, open investment, open administration conveyance, social preparation and government joint effort with the private area. The second is HRM – including recruitment, training, workshops etc. to improve their insight,

aptitudes and abilities in workplace ought to be moved up to draw in higher quality very much roused staff.

Challenges Confronting Local Government in Nigeria

The challenges faced by Nigerian Local Government are multifaceted. Among these is the challenge of institutional failure that is well represented in the Nigerian governance crisis. There is also the issue of political instrumentalisation. Likewise, there is the issue of other socio-economic problems of the Nigeria state that automatically trickled down from the top. In more concrete terms, the challenges confronting the local government in Nigeria are discussed below.

Institutional Challenges

In a speech delivered on the floor of Ghana's House of Representative on July 11, 2009, during his official visit to Africa, President Barack Obama of USA argued that Africa needs 'strong institutions' not 'strong men'. In Nigeria, The political atmosphere is dominated by 'big men' rather than 'big institutions', as identified by President Barrack Obama of the US. This equally applies to the local politics where the warlord politics, patrimonialism, father-figure of occupants of positions that are characteristics of politics in high places are well replicated, if not aggravated, at the local level. This fundamental nature is reflected in the administrative process of the Local Government in which the people occupying the elective and appointive positions are heavily patronised for personal gains by individuals rather than for effective service delivery.

The Crisis of Sustainability

Most Local Governments in Nigeria were created for political reasons without taking into consideration the factors such as fund and their sustainability that could guarantee the readiness of the government to meet the obligations spelt out in Fourth Schedule of the Constitution. Besides, there is a case of lop-sided sustainability. Some Local Governments are vastly buoyant while some operate at the lowest ebb. The result is that it led to a dearth of development, lack of continuity of government policies, inability to survive despite Federal government, and problems of over-dependence on Federal and State governments.

Emphasis on Dual-Process rather than Due Process:

Contingent on the above is the process that must be followed to prevent Local Governments being created at will. This frivolity appeared to have been anticipated in the Constitution by the insertions of cumbersome clauses that could prevent the State Governments who are Constitutionally empowered to create Councils. As observed elsewhere (Apata, 2011) fundamental questions abound on these clauses, which allow one level of government to create an entity and the other to approve without leading to bickering in intergovernmental relations, as witnessed between Lagos State and Federal governments. According to Apata (2011) the issue revolves around two simple questions.

- i. Firstly, whether the non-passage of a Consequential Amendment Act by the National Assembly can preclude a state from operating additional Local Governments, notwithstanding proper creation of the same by such state?
- ii. Secondly, whether full compliance with the new LGA creation procedure, under Section 8(3) of the 1999 Constitution, is insufficient to entitle a state to commence lawful operation of additional LGAs because of the provisos under Sections 8(5) and 8(6) of same Constitution. The National Assembly's involvement in any new LGA creation process is very marginal.

But beyond Apata (2011), the fundamental crisis could arise in the process in which the decisions of the people are subjected to the dual process. Thus, the Constitutional inclusion of the National Assembly in the creation process ought never to have been construed as imbuing the National Assembly with any iota of discretionary powers to approve or disapprove of a decision already lawfully made by the people concerned. The National Assembly has a Constitutional duty to give full effect to the decision already taken by such concerned people without delay. This argument is supported by the wordings of Section 8 subsections (5) and (6) of the 1999 Constitution (as amended). Section 8 (5) of the Constitution provides that: An Act of the National Assembly passed following this section shall make consequential provisions concerning the names and headquarters of state or Local Government Areas as provided in Section 3 and Parts I and II of the First

Schedule to this Constitution. Section 8 (6) goes further to provide that, “For the purpose of enabling the National Assembly to exercise the power conferred upon it by subsection (5) of this Section, each House of Assembly shall, after the creation of more Local Government Areas pursuant to subsection (3) of this Section, make adequate returns to each House of the National Assembly

Lack of Political Continuity

Lack of continuity is not peculiar to the Local Government politics but rather a general crisis in Nigerian governance. Yet, without programme continuity that can lead to policy maturity, governance would seem like comets that appears and vanishes and the illumination it provided equally vanishing as though none was provided. By political continuity, we refer to the continued dispensation of policy framework up to a reasonable period when all the policy targets and advantaged would have been fully utilised. In Nigeria, the frequent change in government disrupts the flow and maturity of policies. Most of the changes have been due to military incursions and over-heated political space. The Local Government cannot be spared whenever the bubble burst. Such Local Governments can not see the light of the day once there is a change of government. Emmanuel (2012) asserted that lack of continuity in government policies and programmes, especially in their implementation, greatly hamper the progress of developmental, not only in the Local Government but also in the activities of the entire country.

Poor Funding:

Despite the multiplicity of funding sources available to the Nigerian Local Governments, they remain poorly funded and lack the financial capacity to fulfil the laudable functions stipulated in the Fourth Schedule of the 1999 Constitution. Four major sources of funding can be immediately identified for the Nigerian Local Government:

- i. Constitutional provisions via Section 7(6)(a) of the 1999 Constitution leading to Statutory allocations of public revenue from the Federation Account;
- ii. Constitutional provisions via Section 7(6)(b) of the 1999 Constitution leading to the statutory allocation of public revenue to local government councils within the State;

- iii. Statutory allocations of public revenue from revenue accruals to State Government via The Taxes and Levies (Approved list for collection) Decree No. 21 of 1988 Law of Federation of Nigeria, which provides, *inter alia*, for a specific area of influence in which the Local Government legislative arm has the power to legislate upon; and
- iv. Funding from auxiliary sources like proceeds from business enterprises, borrowings from domestic and international sources, goodwill from well-meaning individuals, donations from individuals, communities, governments, concessions, donations from nongovernmental organisations (NGOs), community-based organizations and other sources.

Centralised Personnel Practice

Given the departmentalisation of the personnel system in the Local Government, the level of specialisation has increased and so is the competence of the staff. This coupled with the extension of good remuneration obtainable at the state to the Local Government; the grassroots has attracted qualified staffers who are competent enough to drive the needed development initiative abundant at the localities. However, there is general lack of discipline among the staff that has led, among others, to low capacity utilisation and the inability to translate abundant local resources and initiatives to development due to the over-centralisation of staff control by the State Government through the Local Government Service Commission (LGSC) whose watchful eyes and coordinating ability cannot possibly see through the happenings in all the Local Government of a state. Lackadaisical attitude to work, truancy, malignant, and ethical indiscipline, among other vices are rampant among the staff of Local Governments because of non-payment of worker's salaries and over deduction of both state and local government staff by the state government.

Corruption

In Nigeria, accountability and control measures specifically designed to guard against abuse and misuse of bureaucratic power have substantially failed to provide the necessary ethical environment in the post-independence period due to deliberate frustration by civil servants and the government

hence resulting in unethical conducts and unbridled corruption in the public space. Thus, corruption has become a cankerworm afflicting almost every sectors of the economy in Nigeria and has led to the collapsed of many institutions, good policies and programmes. Access to government offices has become a given opportunity to loot government treasury rather than call to service. By necessary extension, the Local Government has not been immune from the malaise, leading to underdevelopment. Nasir (2012) stated that:

In the year 2011, the 774 Local Governments and the Area Councils in Nigeria received almost N1 trillion from the Federation Account, which is equivalent to the entire annual budget of Burkina Faso, Rwanda, Burundi and Togo combined. These transformations were to enable them to carry out their functions... nothing to show for this huge transfer of cash to the LGAs

Thus, existing literature has established the obvious that an important reason for poor performances at the grassroots is that the accountability framework within which the Nigerian Local Governments work gives little or no incentive for proper service delivery and efficient resources utilisation that could translate to a meaningful development as desired by the people and Constitutions of the Federal Republic of Nigeria.

Constitutional Ambivalence

The 1999 Constitution appears to maintain a silence on the status of the Local Government as a tier of government that is capable of differing interpretations. There are clear indications from the letters of the Constitution that the Constitution does not intend to create a separate tier of government, as reflected in various sections of the Constitution. For instance, the administration and fiscal regulations of the governments of the grassroots are placed under the State Government while there is no separate legislative list maintained for Local Government under the Part I of the Second Schedule to the 1999 Constitution. Also, Section 318 of the Constitution specifically defined the 'Civil Service of the Federation' and the 'Civil Service of a state', while such definition of Local Government Civil Service was not provided. Meanwhile, the same Section 318, while defining 'government'

recognised Local Government in a manner construable of a separate entity outside the Federal and State Governments. It stated that “government” includes the Government of the Federation, or any State, or of a Local Government Council. With regards the analysis of this definition and the provisions in Section 7 that guaranteed democratically elected government at the local level, an interpretation cannot be misplaced that, perhaps, the Constitution intends a third tier of government at the grassroots.

Conclusion and Recommendations

This paper has discussed the evolution of local government administration from native authority to the stage of being the third-tier of government in Nigeria. Generally, local government administration in Nigeria has all it takes to provide the needed developmental apparatus as it affects persons living in rural areas and the local communities in particular. It is pertinent to state at this juncture, that both the federal and state governments should shed their direct involvement and fiscal relationship in favour of the local government. Rather the two tiers of government should only allocate funds for the use of local government and leave the latter to run its programmes with minimal over-sight function. The issue of Joint State Local Government Account should be abrogated. All the control measures and mechanisms put in place by both the States and States Houses of Assembly should be reduced to allow the local government authorities in Nigeria to focus on concrete developmental programmes devoid of incessant interruption. If Nigeria must continue as one indivisible sovereign nation-state with a federal structure, it must promote good democratic governances at all levels of government (not excluding local government). All levels of government must be accountable, responsible and responsive to the communities’ needs, to all its citizens with a deep-rooted respect for due process as well as the rule of law. It is only after this that local government as a distinct third tier of government in Nigeria’s federal arrangement can function as it ought.

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