

STATE LOCAL GOVERNMENT RELATIONS AND THE AUTONOMY QUESTION: CONTEXTUALIZING THE MAIN ISSUES

Obi, Emeka Anthony³

Abstract

The core issue that dominates discuss on state-local government relations in Nigeria is that of autonomy. Over the years the non- or poor performance of the local government in terms of promoting grassroots development has been blamed on this vexed issue of lack of autonomy. The main objective of this paper is to identify the factors that impinge on the autonomy of the local government in Nigeria. The paper applies an explanatory research design, while secondary means of data collection and descriptive method of analysis were adopted. Premised on Wright's models of intergovernmental relations, the findings indicate that the core factors affecting local government autonomy are the 1999 Constitution, the issue of finance, the state governments and recruitment of local government actors. The end result of this lack of autonomy is that it defeats the essence of local government and adversely affects the development of the grassroot. It also has turned the local government into a drain pipe. Consequently, the paper recommends an amendment of the 1999 Constitution which is the main reason behind the autonomy issue in order to either make the local government an effective third tier of government or scrap them altogether, thereby allowing the states to decide on the type of local administrations they want to operate.

Keywords: Local government, Autonomy, Grassroot development and State-local government relations

Introduction

The simultaneous existence of different levels of government in a state usually necessitates some form of intergovernmental relations. This is because according to Obi and Nwankwo (2014), whenever and wherever there are more than one level of government serving essentially the same persons, some mechanisms and structures are devised/created to handle areas of joint competencies and to coordinate the activities of these different levels to avoid conflicts and unnecessary duplication of efforts. Many countries have three levels of government; central (federal), state (provincial), and local (municipal). Those that operate unitary systems mainly have two levels, namely, central and local governments. Now, since these levels of government serve essentially the same persons, there is always the need to have laid down procedures, processes, structures and mechanisms for handling their joint affairs in order to harmonize these affairs in areas where they have joint

³ Obi Emeka Anthony (PhD) is an Associate Professor of Public Administration at the Chukwuemeka Odumegwu Ojukwu University, Igbariam Campus, Anambra State of Nigeria

competencies, thereby reducing frictions and complementing their services. This is what is referred to as intergovernmental relations.

The concept of intergovernmental relations according to Denhardt and Denhardt (2009), “is often used to encompass all the complex interdependent relationships involving those at various levels of government as they seek to develop and implement public programmes” (p.84). They add that though intergovernmental relations consist of much more than money, financial questions are inevitably at the core of the process. To Cameron (2001), intergovernmental relations can be seen as an “array of structures, processes, institutions and mechanism for coping with the inevitable overlap and interdependence that is a feature of modern life” (p. 127).

Finally, Obi and Nwankwo (2014), see intergovernmental relations as involving “mechanisms devised in a state to handle areas of joint competencies and also harmonize the activities of the different levels in a way to make for smooth relationships and build the necessary synergy in government operations (p.1).

States that operate federal systems as already pointed out like Nigeria, usually have three tiers of government, and their jurisdictions are clearly outlined in the legislative lists, contained in the constitution. This is contained in the second schedule of the 1999 Constitution of Nigeria. This clearly shows areas where each of the levels has its competence to legislate upon, thereby preventing frictions and conflicts that may arise from functional overlap. The 1999 Constitution of the Federal Republic of Nigeria as amended contains three lists. These are the exclusive, concurrent and residual lists. The exclusive list contains items that the federal government has the competence to legislate upon, but with the provision that in case of a conflict between a federal law and state law, the federal law prevails. Finally, the residual list is the legislative domain of the states.

As a separate tier of government, the functions of the local government are contained in the fourth schedule of the 1999 Constitution (we shall return to this later). It is however, obvious that the ability of the local government authorities to perform their constitutional roles has been seriously impinged upon by the state governments, due to many factors. This incidentally is the major concern of this paper. In addressing this issue this paper has five sections including the introduction. The second section treats the theoretical framework which is theory of intergovernmental relations. The third section looks at the origin and evolution of local governments in Nigeria, while the fourth section evaluates the vexed issue of autonomy. The fifth and final section discusses the consequences of lack of local government autonomy in Nigeria and also offers suggestions on the way forward.

Theoretical Framework

There are quite some theories and models that seek to explain the practice of intergovernmental relations. One of the most popular of these is Dell Wrights models of intergovernmental relations which this study adopts. These models are contained in his 1988 book with the title “*Understanding Intergovernmental Relations.*” He identifies three models of intergovernmental relations namely: coordinate authority model, inclusive authority model and overlapping authority model.

The coordinate authority model depicts one of independence between the national and state governments, in such a way that each of them has a high level of autonomy over its functions. In this model, the level of autonomy enjoyed by local authorities is only minimal. According to Benjamin (2004), for a long time, this model of IGR came closest to approximating the patterns of governance in the United States. This explains a situation where national-state contacts were relatively modest and the power of the two levels were exercised in a rather separate, independent and autonomous manner.

The overlapping authority model depicts a high level of interdependent relationships among the three levels of government. Benjamin (2004) states that this “involves three intersecting and overlapping circles”. In cases where the circles do not overlap, it is proper to infer an arena of autonomous action by the respective jurisdictions (p.63). Wright (1988), believes that the authority pattern in this model is based mainly on bargaining between the national and state governments.

The third and last model is the inclusive authority model. This is clearly a situation of hierarchical and dependent relationships among the national, state and local government authorities. More explicitly, Benjamin emphasizes that: “This pattern of concentric circles is so named because it implies no arenas of state or local autonomy outside the sphere of control by the national government. Similarly, no local autonomy exists outside the sphere of complete state control” (p. 63). Ikelegbe (2004) clearly explains this model as one in which:

Federal penetration, dominance, and subordination of other constituent governments is fairly total and comprehensive, such that the latter become so dependent and weak as to be mere appendages or even extensions. Intergovernmental relations becomes extensively centralized, integrated and unitarist as the federal balance is so heavily tilted towards the center as to make federalism even in its most pragmatic proposition scurry. In some states, authoritarian and particularly military and military-based dictatorships have so transformed federal practice that an inclusive authority model has emerged (p.131).

The coordinate authority model depicted a clear separation between national and state/local relationships and the distinct boundaries separating the levels of government. The inclusive authority model, by contrast, presented a system in which IGRs were based on essentially a hierarchical set of relationships and emphasized the predominant role of the national level.

But it is the overlapping model- that was essentially a new way of depicting intergovernmental relationships. The Venn diagram that Wright used to describe intergovernmental relationships in this model presented IGR as a set of overlaps among national, state and local units simultaneously. It also presented the relationships as one in which the autonomy and discretion in a single jurisdiction are

constrained and hence, emphasized the role of bargaining between actors in that model (p.3).

There is no doubt that the inclusive authority model is the most suitable in explaining intergovernmental relations in Nigeria most especially as it concerns the dominance of the federal government over the states and local governments and the near-total emasculation of the local government by the states.

Origin and Evolution of Local Government in Nigeria

It is clearly the over-riding need to bring government closer to the people that has made most countries adopt a system of devolution of powers and functions to local authorities. Though this devolution does not take the same shape and structure but they are generally referred to as local or municipal government. These local authorities are meant to promote development from below.

It is within the context of the above reasoning that the existence of local governments in Nigeria can be situated. Obikeze and Obi (2004) in their attempt to trace the origin and evolution of local governments in Nigeria, divided the periods into six analytical phases, namely: - the colonial, post colonial, early military era from 1967-1976, the late military era from 1976-1979, the Second Republic and the post Second Republic. We need to add a seventh, which is the current democratic dispensation.

The Colonial Period

This period marks the beginning of the modern local government system in the country. Prior to this period, traditional institutions were at liberty to practice any system of administration that suited their environment and peculiar circumstances. However, with the advent of colonialism at the turn of the century, the natural development process of the people, was “arrested”. The colonial policy of exploitation took root and the indirect rule system was introduced to help the British penetrate the vast Nigerian territory.

This colonial local government system was known as the Native Administration system or simply native authorities. The structure in this system was described by Oyediran (1988) as Characterized by a military - like chain of responsibility extending from the Governor and Lieutenant Governor down to the Resident, District officer, Chief or Emir, District Head or Chief and Town or Village Head.

This administrative system which allowed the traditional authorities to flourish under the close supervision of the Resident became the hallmark of indirect rule. It must however be pointed out that the traditional institutions were inferior to the colonial authorities for Gboyega (1989), has pointed out that the values of the colonial system did not in any way accept an equality of status between the traditional rulers and the Resident.

The local government at this period was seen purely as been instrumental. It was thus a tool for colonial exploitation of the colonies for the benefit of the metro pole. Whatever changes that were made on the traditional institutions already in

existence were done ostensibly to further the exploitative agenda of colonial rule. Ikime and Crowther (1970) have thus stated that:

The use of indigenous political institutions for the purpose of local government was contingent on certain modifications. These modifications fell into two categories: Modifications of aspects of traditional government that was repugnant to European ideas of what constituted good government, and modifications of the colonized country (p.112).

At this time, the Native Authorities though very conservative in outlook due to their illiterate traditional orientation still performed some of the functions of modern local governments. Their functions were legislative, executive and judicial in nature. It is pertinent at this juncture to point out that the system was highly centralized and excluded the emerging educated elites. The exclusion of this group was a major albatross for this system. This was because it was from this group that agitations for reforms of the system emanated leading to substantial changes in the county's local government system during the colonial era.

The Post-Colonial Era

In this period, local government administration in Nigeria was mainly the domain of the various Regions. Thus, there existed far-reaching disparities in their structures, functions and composition. This also reflected on their power and influence in the three regions. For instance, in the Northern Region, the Native Authority system which existed under colonial rule was continued. This was not surprising because most of the political actors in the Region at this time were products or beneficiaries of the Native Authority system. They therefore felt very comfortable with and well disposed to the system. The influence of the Emirs was also another factor. The Aristocratic and near Feudal/Theocratic system which operated in the Region tied the Northern Peoples Congress which was in control of the political compass of the Region with the traditional institution. The local government was essentially part of this agenda, thus they made sure that the Native Authority system which granted them enormous powers, influence and prestige was retained. No doubt the Native authorities also served as a breeding ground and veritable institution for the training and recruitment of regional political actors. This in part explained the symbiotic relationship that developed between these two tiers of government.

The Eastern Region established a two tiered District and local Council system in the rural areas, and a three tiered system composed of an all purpose Municipal, Urban County and County Councils in the urban areas.. At this time, members of the various councils were mostly elected. Though these councils were supposed to be autonomous since the members were elected representatives of the people, but the party in power - National Council of Nigerian Citizens (NCNC) still exercised a strong control over the Local Government Service Board.

In the Western Region, a three-tiered structure was in operation. However, the crises which engulfed the Region after independence, and which led to the 1962 state of emergency had terrible consequences for the local governments. This was because prior to the crises, the Action Group (A.G), which was the government in power in the Region, was also the dominant force in the Councils. However, after the state of emergency, the new party in control of the Region tried to establish itself at the grass root through the local governments. The Councils were thus seen and used as avenues for planting the party's surrogates at the grassroots. Like the Eastern Region, they also tried to control the Councils through the instrumentality of the Local Government Inspectorate as well as the Local Government Service Board.

The Early Military Era 1966-1976

This was the period of great political instability in the country. No doubt all efforts were geared towards maintaining stability and combating the Biafra threat of secession. The entry of the military did witness some changes in the Councils as the local government administrations were dissolved and new care-taker Committees or administrators imposed on them. It must also be pointed out that the nature of military regimes which are usually centralized and authoritarian affected the Councils since the various regional governments made no pretense of allowing the Councils a semblance of autonomy this made Egurube (1991) to observe that:

to the extent that local government policy actors, derived their legitimacy not from the people but from state Governors during this period, the conclusion that these served more as watch dogs for their military bosses at the state level can hardly be faulted. Local government institutions were thus from all intents and purposes governed by predominantly instrumental and penetrative objectives (p.205).

However, despite the structural changes that were made during this period, nothing really remarkable happened at the local government level during the early military era.

The Late Military Era

The 1976 reforms of the local government system under the Gen. Olusegun Obasanjo regime remains a watershed in the existence, structure, composition and status of local governments in Nigeria. According to the Federal Military Government in its forward to the guidelines for the reforms "Local governments have over the years, suffered from continuous whittling down of their powers. The state governments have continued to encroach upon what would normally have been the exclusive preserves of local government".

Consequently, the reform sought to according to the then Chief of Staff Supreme Headquarters, Brigadier Shehu Yar'Adua make the local government "do precisely what the word 'government' implies i.e. governing at the grassroots local level" (Yar Adua 1976):

The objectives of the reforms were:

1. To bring about even and rapid development at local levels throughout the country.
2. To appropriate serious development activities responsive to local wishes and initiatives by developing or delegating them to local representative bodies.
3. To facilitate the exercise of democratic self-government close to the local levels of our society, and to enlarge initiative and leadership potentials.
4. To mobilise human and natural resources through the involvement of members of the public in their local development (Guidelines for Local Government Reforms 1976).

The reform resulted in the creation of 301 local government councils in Nigeria. In order to maintain a uniform standard in the size of the councils, a demographic size of 150,000 to 800,000 people was stipulated as the minimum and maximum population of any of the councils respectively.

The highlights of the reforms according to Wapmuk (2005) were:

- i. Political control of the local government departments was vested in a council, which exercised it through a small number of Councilors known as Supervisory Councilors. The number of Supervisory Councilors was not expected to exceed four.
- ii. The Supervisory Councilors were Chairmen of Committees and gave political direction to these Committees. They were not Heads of Departments as was the case with Portfolio Councilors.
- iii. Committee Chairmen were responsible for policy issues and gave directives or orders on political matters only.
- iv. Heads of local government departments reported directly to the Secretary to the Local Government for the performance of their day-to-day activities, i.e. administrative duties.
- v. The Secretary to the Local Government was the Chief Executive and Accounting officer of the local government. He was Secretary to the Local Government Council and of its Finance and General Purposes Committee.
- vi. Each local government has a Chairman who served as Chairman of the Finance and General Purposes Committee (FGPC).
- vii. Each local government or groups of local governments has a traditional or Emirate Council made up of Chiefs/Emirs and all district heads. This Council was charged with the responsibility of advising the local government council on a variety of issues and assisting in the maintenance of law and order, assessment and subsequent collection of community tax, determine religious matters where necessary, giving support for arts and culture, etc.
- viii. A Local Government Service Commission (Board) was established in each state to handle personnel matters of local government (pp. 243-244).

The Second Republic

Though the reform sought to make the local government a formidable third tier, the 1979 Constitution seem to have somewhat watered it down by still placing them under the control of the states. Thus section 7(1) of that constitution states that:

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

One can therefore say that the reform did not fully achieve its main aim. According to Egurube (1991) "the reform was more symbolic than real and the changes it introduced were more cosmetic than a decentralist logic" (p.206). The main reason for this assertion was that throughout the life of the Second Republic, elections were not held in any council in Nigeria. Thus, arguing further, the same Egurube stated that:

It is a seeming paradox that under authoritarian and military regimes, using between 1976 and 1979 as an example, attempts were made to democratize local government institutions, whereas supposedly under non-authoritarian regimes, using the Second Republic as an example, rather than build on the heritage of democratic local institutions, these are destroyed (p.206).

Commenting on this sad state of affairs, Obikeze and Obi (2004), stated that the assertion above best qualifies the ironical state of things at the local governments in the Second Republic. Though the 1979 Constitution guaranteed democratic elections for local government councils (as stated in section 7(1) quoted above) the various state governments disregarded this provision. They saw the councils as avenues for rewarding their political allies. Appointments were made to the councils on partisan patronage thereby instituting corrupt and unqualified personnel to man the affairs of local governments. The Second Republic can therefore be said to be an anti-climax in the evolution of local government in Nigeria. We can therefore say that this period did not record any remarkable achievement in this evolution process, rather it was a period, the local governments were most neglected, abused, politicized and marginalized in the scheme of things in Nigeria. As a tier of government, it was highly ineffective, unnoticed and made little or no impact on the lives of the people.

Apparently in sync with the above observations, Wapmuk (2005) asserts that beyond the issue of not conducting elections into local councils, some states encroached upon the independent revenue base of local government. In fact, a number of them withheld the federal government grants meant for the councils. He concluded by citing Enemu (1999), that "the councils were neither democratically composed, fiscally viable, nor structurally effective as envisaged by the 1976 reform" (p.144).

Post Second Republic

Being not satisfied with the state of things at the local government level, the Buhari administration that overthrew the Shagari government of the Second Republic, set up the Dasuki Panel in 1984 to look into the problems of local governments and advice the government on the appropriate steps to take. The report was submitted in 1985 to Gen Babangida who had already replaced Gen. Buhari as the country's President. The key feature of the reforms arising from Dasuki panel, was basically trying to free the local governments from the clutches of the state governments.

Thus, the federal government increased the percentage share of the federation account of local governments from 10% to 15% in 1991 and later to 20% in 1992. Also, the funds were disbursed to them directly as against the former system where it was passed through the state governments; and the ministries of local government were scrapped at both the Federal and State levels.

These measures still did not address in a very substantial way the problems of autonomy for the third tier of government as state Governors still appointed Chairmen and Secretaries of local government management committees. Consequent upon this, the Babangida government decided in May 1991 to adopt the presidential system in the local government. The main logic of this decision was that since the country practices a presidential system, it should not be restricted to the federal and state levels but should be practiced at the three tiers of government. According to Wapmuk (2005);

Since the presidential system worked relatively effectively at the federal and state levels, then there was no reason why the situation would be worse at the local government level. This must be justified because local government as the third tier of government could not be given a different policy direction (p.249).

The major features of the presidential system at the local government level were first; the Chairman became the Chief Executive of the local government and ceased to be a member of the Council. Secondly, he now had the right to appoint his/her principal officers ie Secretary and Supervisors who would constitute his/her cabinet. These appointments could be made from within or outside the Council. However, Councilors appointed as Supervisors were required to resign their membership of the Council. Thirdly, the Council now had to function purely as a legislative body with its own head known as Leader and with powers to ratify certain appointments of the Executive Chairman.

Most unfortunately the lofty idea behind granting the local governments autonomy via the introduction of presidentialism, was a gross failure as their performance was extremely woeful. In fact, it looked as if the autonomy granted them, was a licence to loot the treasury. All over the country, with very few exceptions, it was tales of maladministration rooted in fraud and outright stealing

Despite the fact that the main reason for the increase in the local governments share of the federation account from 15% to 20% in 1992 was to accommodate the

burden of funding primary education, most of the local governments within this period owed primary school teachers' arrears of salaries.

The key features of the reforms of the Babangida administration were:

- a. State ministries of local governments were abolished and state governments were directed to terminate their joint services with local governments. Thus; it was believed that this would end the frictions in the states.
- b. Taking into consonance the discrepancy in the size of local government areas in the country as well as logistic and ethnic barriers involved and in order to accelerate rural development efforts and forestall the controversy over the number of local government areas, the federal government increased the number of local governments in the country to 453 in 1988, and to 500 in 1991.
- c. For the enormous task of grassroots development, the federal government reviewed the grants allocated to local governments from ten percent to fifteen percent in 1989, and to twenty percent in 1992.
- d. The release of National Scheme of Service for local government employees in 1988 afforded the local governments the chance to promote their staff up to grade level fifteen. This created opportunities for the employment of professionals such as Engineers, Architects, Legal Officers, Health Officials etc.
- e. The power given to elected local government chairmen to appoint their own government secretaries had made them real chief executives in their domains, while the creation of local government legislative assemblies made the separation of powers and responsibilities complete as to make local government a distinct third tier of government in the country.
- f. The remitting to states of local government grants was stopped. Local governments started getting their grants directly from the federal government. This helped a great deal in ending the financial strangulation which many local governments suffered from the state governments.
- g. The scraping of local government service commissions in January 1992, made the local government autonomous with regards to issues of discipline, promotions and even development. The channel through which the state government controlled and influenced local governments was thus terminated (Minna, 1993, p.49).

Minna (1993) has argued that though local government reforms under Babangida administration made some significant landmarks, there were however some short comings in the reforms. First the staff of local governments were not prepared for reforms as there were no induction courses to familiarize them with the new system. Secondly, most local governments lacked the financial base to sustain the autonomy as many of them could not generate more than 5-10% of their needed funds from local revenue sources, making them to depend so much on the direct subvention from the federal government for their financial survival.

The Present Republic

In the present Republic, the issue of local government autonomy has remained as problematic as ever. This arose from mainly two key factors. The first has to do with the Basic Constitutional and Transitional Provisions Decree 36 of 1998, through which the first set of local government officials in this Republic came into office. The second has to do with section 7(1) of the 1999 Constitution (we shall return to this later).

Decree 36 of 1998 under which the local government officials were elected in 1999, specified a three-year tenure for them. However, the umbrella association of local government chairmen, known as Association of Local Governments of Nigeria (ALGON) felt that since the tenure of elected office holders at both the federal and state levels is four years, that theirs too should be the same. They succeeded in lobbying the National Assembly which extended their tenure to four years via the Electoral Act 2001. Unfortunately for them, the state Governors felt differently and challenged the extension at the Supreme Court. The Apex Court ruled on the matter on the 28th of March 2002. In the judgment it said:

No law by the National Assembly can validly increase or alter the tenure of elected officers of local government; the National Assembly has no power, except in relation to the federal capital territory to make any law or division of councils for election purposes, qualification of candidates and date of elections among others; the National Assembly has no power to make laws to qualify or disqualify candidates for election under the 1999 Constitution. The National Assembly can only make laws on registration of voters and procedure regulating election of a local government council; it is the House of Assembly that has power to make laws on elections for the posts of Chairman, Vice Chairman or Councilors of local governments; section 15-73, 110-122 excluding section 16, 26-73, 115, 97, 117 and 118-) 1-8) of the Electoral Act 2001, are inconsistent with provisions of the 1999 Constitution and are accordingly null and void and inoperative (cited in Obi 2010,p.45).

Immediately after the judgment, the various state governments wasted no time in dissolving the councils. Consequent upon the ruling, which made it clear that it was the State Houses of Assembly that have powers over council elections, the various states set in motion mechanisms on how to conduct elections. The elections are now conducted at the behest of the states and they are held at different periods throughout the country while the various states also fix the tenure of the elected officials. It is quite instructive to note that while the judgment was meant to interpret the 1999 constitution, its unintended consequence has been a real emasculation of the local governments. Presently, the various State Governors and Houses of Assembly now see the local government as an open field where they flex their muscles at will.

The 2003 Local Government Reforms

President Obasanjo in June 2003 informed the nation that the Council of State has decided on a reform of the local government system in Nigeria. According to him the reason for the reforms has to do with "three disturbing trends" among others, which have been identified with the recent inception of democratic dispensation in the country. They are:

- i. The non-performance or gross under-performance of the local governments;
- ii. The high cost of government and near-prohibitive cost of electioneering campaigns to individual political contestants in Nigeria and;
- iii. Atomization and continual fragmentation of local government councils including impractical division of towns and cities into unworkable mini-local governments.

Based on the above, the Council decided to set up a Technical Committee. The Technical Committee of experts on local government affairs drawn from all the geo-political zones had as their terms of reference to;

- i. Examine the problems of inefficiency and high cost of government with a view to reducing cost and wastage at the three tiers of government;
- ii. Review the performance of local governments within the last four years and consider the desirability or other-wise of retaining the local government as the third tier of government in that regard consider, among other options the adoption of a modified version of the pre-1976 local government system of government;
- iii. examine the high cost of electioneering campaign in the country and consider among other options, the desirability of whether political parties rather than individual office seekers should canvass for votes in elections and consider any other matter, which in the opinion of the technical committee are germane to the goal of efficient structure of government in Nigeria.

The Technical Committee which had Alhaji Sanda Ndayako, the Etsu Nupe as its first Chairman before his death submitted its report on November 23, 2003. Incidentally, nothing more has been heard about the report till today.

The Autonomy Question

According to Obi (2010), the interference of the other tiers of government (especially the state governments) in the affairs of local governments in Nigeria in indeed disturbing. In the first instance, we must emphasize that local government autonomy as envisaged in this paper does not mean absolute independence, rather it implies what Obikeze and Nwodu (2010), relying on the view of the defunct Center for Democratic Studies sees as the relative discretion which local government enjoy in regulating their own affairs. Their view is premised on the argument that since the federal, state and local governments rule over the same population, and if they must achieve their individual and collective objectives, there must be definition of the boundaries of operation of each as well as areas of relations.

Thus, our emphasis on autonomy has to do with the local governments being given enough latitude and elbow room to perform their constitutional duties and been able to use local initiatives to solve local problems, without undue interference from the other tiers of government. In this regard the factors that are impinging on local government autonomy are; the 1999 Constitution, finance, the state government, and recruitment of local governments actors.

The 1999 Constitution

It may not be an overstatement to say that the 1999 Constitution is the main constraining element on local government autonomy as this paper would show. In the first instance, section 7(1) of the Constitution states that:

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 and functions of such councils.

The implication of the above section 7(1) of the Constitution according to Obi (2010), is that:

The various state governments are fully in control of the local government. The questions that are raised here are whether it is appropriate to subject elected officials to the control of other elected officials? Who are they answerable to? Is it the electorate or the other superior elected officials that also enjoy a different mandate? (p.51).

There is no gain saying the fact that for any elected public office holder to be effective he showed be made accountable to his electors, and not to somebody else. In any case, the doctrine of unity of command emphasizes the need for any worker to be answerable to only one boss and not two bosses. With what we have now, the state governments have relied on provisions of this section to manipulate the local councils the way they deem fit.

Finance

The main area where the 1999 Constitution impinged most on the autonomy of local governments is on finance. According to section 7(6):

Subject to the provision of this Constitution:

- a. The National Assembly shall make provisions for statutory allocation of public revenue to local government councils in the federation; and
- b. The House of Assembly of a state shall make provisions for statutory allocation of public revenue to local government councils within the state.

Section 162 (5) further provide that:

The amount standing to the credit of local government councils in the 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.

The major bone of contention with section 162 is. Subsection 6 which prescribes a State Joint Local Government Account. This section which gives the state governments control of local government federal allocations has been grossly abused by virtually all state governments, as they dip their hands into the statutory allocation of the local government. This is why there are arguments for direct allocation to the local government. Thus, according to Oshio (2003):

such argument was based on the for greater measure of financial autonomy for local government councils especially with the enhanced recognition of the local government as a third tier of government under the constitution. Secondly, proponents also blame some state governments for unnecessary delay in releasing this allocation to the local government councils and in some cases, it was alleged that the total allocation never reached the councils (p.9).

Though subsection 7 mandate states to pay local government a proportion of their total revenue, this has been mainly observed in the breach. Instead of giving the local government a part of the state's revenue, the states are busy taking a part of what rightly belongs to the local governments.

Thus, despite the fact that the constitution clearly in the fourth schedule listed the functions of local governments, most states have appropriated those functions in order to take over the revenue emanating from such sources. For example, establishment, maintenance and regulation of slaughter houses, slaughter states, markets, motor parks and public conveniences and k(i) out-door advertising and hoarding. These areas are supposed to be veritable sources of revenue for local governments but most state governments have conveniently taken them over irrespective of fact that the constitution is very clear on which tier of government should be in charge of them.

Recruitment of Local Government Actors

The 1999 constitution clearly explains how political actors at the local government levels would be recruited. For the avoidance of doubt, section 7 (i) states that:

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 provide for the establishment, structure, composition, finance and functions of such councils.

Further, subsection (4) provides that: "The government of a state shall ensure that every person who is entitled to vote or be voted for at an election to a House of Assembly shall have the right to vote or be voted for at an election to a local government council." Despite these clear stipulations, so many states in Nigeria run their local government councils with appointed and not elected councils, in clear violation of the constitution.

This brings us to issue of local government elections in Nigeria. In most states where local government elections have been held, they have been turned into coronation ceremonies where the Governors coronate their anointed cronies. They have "awarded" everything to themselves, so to say. This has put the local government in a great dilemma because it is either the Councils are run by unelected officials or where elections are held, the Governors force their candidates on the people through sham elections. With this situation, head or tail, the political actors at the local level are handpicked by state Governors.

Removal of Elected Local Government Chairmen

Though the constitution did not expressly grant the states explicit powers to dissolve local government Council or remove elected chairmen, some of them have been removed in the past on the reason of been guilty of financial impropriety. The main effect of this, is that state Governors hide under this to harass elected local government Chairmen. For the Chairmen themselves, the fear of the Governors has remained the beginning of caution.

Conclusion: Consequences and Recommendations

Over the years the issue of local government autonomy in Nigeria has attracted much attention to the extent that in the present Republic, attempts have been made by the National Assembly to introduce constitutional amendments geared at granting more autonomy to the local government without success. Majority of the states have frustrated this move through the instrumentality of their state Assemblies. There are indeed some consequences for this lack of autonomy. In the first place this lack of autonomy defeats the main essence of the 1976 local government reforms that sought to make the local government an effective third tier of government. According to Brigadier Shehu Yar'Adua in his address to the Committee on Local Government Reforms in 1976 that:

The federal military government was essentially motivated by the necessity to stabilize and rationalize government at the local level. This must of necessity entail the decentralization of some significant functions to the state government to local levels in order to harness local resources for rapid development. The federal military government has therefore, decided to recognize local governments as the third tier of governmental activity in the nation. Local government should do precisely what the word government implies i.e. governing at the grassroots or local level.

There is no doubt that what we have now in most parts of the country does not approximate to the above objectives of the 1976 reforms. In the same vein, denying local governments autonomy defeats the essence of local government. The 1976 local government reform defined local governments as:

Government at the local level exercised through representative council established by law to exercise specific powers within defines area. These powers should give the councils substantial control over local affaires as well as the staff and institutional and financial powers to initiate and direct the provision of services and to determine and implement projects so as the complement the activities of the state and federal government in their areas, and to ensure through active participation of the people and traditional institutions that local initiatives and response to local needs are maximized.

In an analysis of the definition, Obi (2010) argues that:

In the first place, it emphasized the fact the Councils are representative in nature, meaning that the officials of the Councils should be elected. Secondly, the Councils are established by law. The implication of this is that they owe their existence to the constitution and not to any other level of government. They form therefore a separate level or tier of government. Thirdly, the powers which the Councils have are to be exercised within defined areas and over local affairs. Fourthly, the Councils are to have substantial powers over the issue of their staff and finances. Fifthly, being a different tier of government, they should have the power to determine and also implement projects in their areas, however, these projects should complement the activities of both the state and federal government (p26).

When we look at the above analysis in the light of un-elected Councils, the anomaly becomes very clear. In the first point, appointed councils or 'elected' councils which are enthroned by the Governors through sham elections are not truly representative. Secondly, though the Councils are established by law, but they are subordinated to another tier of government and can therefore not be rightly seen as a separate tier of government. Thirdly though their powers are derived from the constitution; these powers have been substantially whittled down through encroachment by the state governments. Fourthly, their power over the issue of staff and finances, have been greatly eroded through the instrumentality of both the Local Government Service Commission and the Local Government State Joint Account. On the point of being able to determine and implement projects, this has been greatly hampered by their financial incapacitation and operation of appointed as opposed to elected Councils. Finally, since the Councils do not represent the people, they lack the capacity to and are even not interested in harmonizing the ideas of both the people and traditional institutions to solve local problems. Rather, they are more interested in

listening to and obeying the commands of the state chief executives who brought them to power. A simple case of he who pays the piper, dictating the tune.

Lack of autonomy has adversely affected development at the grassroots which is the essence of decentralization of power which the local government represents. Maddick (1963) has argued strongly that local governments exist in order to promote development from below. According to him:

To achieve social change and general economic growth requires a spreading of effort so that local communities and individuals can participated to bring under ideal conditions, energy enthusiasm and most important of all local initiative to the working out of local development activities. Local authorities provide the opportunity for local people to participate in local decisions and local schemes within the general national policies and to act above all as local centres of initiative and activity conducive to development (p. 44).

In a seeming corroboration of the above, Olowu (1988) states that:

Development from below which gives priority to rural development, a more effective use of land and labour a search for endogenously derived technology and collective action in solving many of the problems confronting African agriculture is advocated. In these alternative models, effective local institutions represent a key aspect of development strategy (p.17).

There is no doubt that the local government system in Nigeria today, represents a waste of time and resources as the system has not engendered the much-needed development. As presently constituted, the local governments serve mainly as drain pipes for siphoning public funds into the pockets of government officials. Based on this therefore, we conclude our discourse by arguing that Nigerians have just two options on the issue of local governments. The first option is to make the local governments a true third tier of government by granting them substantial autonomy to become effective grass root government through constitutional reforms. The second option is to scrap the local governments and allow states to decide on the type of local administration they want. This would mean that local governments would no longer get a share of the Federation Account. Instead of giving them allocations which state governments misappropriate without accounting for, the funds could be used for other important developmental projects which the recipients must account for. We must learn as a nation to stop deceiving ourselves. The deceit which local governments have been turned into should be stopped in the interest of a greater majority of Nigerians.

References

- Benjamin, S.A. (2004) Federal-state and state- state relations in Nigeria: A case study of Lagos state. In Egwaikide, F.O., Aiyede, E.R., Benjamin S.A., Haruna, D D, Ikelegbe A. (eds). *Intergovernmental relations in Nigeria*. Ibadan: PEFS.

- Cameron, D. (2004). Intergovernmental relations in Canada, In J.P. Meekison (ed.). *Intergovernmental relations in federal countries: A series of essays on the practice of federal governance*. Canada: Forum of federations.
- Crowder, M. & Ikime O. (1970). *West African under colonial rule*, London: Hutchison & Co.
- Egurube, J. O. (1991). The evolution of local government in Nigeria: A systematic perspective. In C.G.O. Nzeribe (ed) *current Issues in public and local government*. Enugu: Fourth Dimension Publishers.
- Federal republic of Nigeria 1999. The constitution of the Federal Republic of Nigeria Lagos Government Printer
- Federal Republic of Nigeria. Guideline for local government reforms 1976. Kaduna: Government Printer.
- Federal Republic of Nigeria. The constitution of the Federal Republic of Nigeria 1979. Apapa Daily Times Publication.
- Federal Republic of Nigeria. The constitution of the Federal Republic of Nigeria 1999. Lagos: Government Printer.
- Gboyega, A. (1987). *Political values and local government in Nigeria*. Lagos Malthouse press
- Ikelegbe, A. (2004). Intergovernmental relations, governance and development in Nigeria. In Egwaikide, F.O., Aiyede, E.R., Benjamin S.A., Haruna, D D, Ikelegbe A. (eds). *Intergovernmental relations in Nigeria*. Ibadan: PEFS.
- Nwatu, D. N. (1995). Local government in Nigeria: An introduction. Enugu Agatha Service Publishers ltd.
- Obi, E.A. (2010). Issues in local government administration. In E.A. Obi (ed). *Comparative local government: An ecological approach*. Onitsha: Bookpoint Ltd.
- Obi, E.A. (2010). Local government administration In Nigeria. In E.A. Obi (ed). *Comparative local government: An ecological approach*. Onitsha: Bookpoint Ltd.
- Obi, E. & Nwankwo, R.N. (eds) (2014). *Dynamics of intergovernmental relations: A Nigerian and comparative perspective*. Onitsha: Bookpoint Educational Ltd.
- Obikeze, O.S.A. & Nwaodu N.(2010). The 1999 constitution and local government autonomy in Nigeria: A critical appraisal. In E.A. Obi (ed). *Comparative local government: An ecological approach*. Onitsha: Bookpoint Ltd.
- Obikeze, S. O. & Obi, E.A. (2004). *Public administration in Nigeria: A development approach*. Onitsha: Bookpoint educational ltd.
- Olowu, D. (1988). *African local government as instruments of economic and social development*. Hague: Netherlands: International Union of local authorities.
- Oyediran, O. (1988). *Essays on local government and administration in Nigeria*. Lagos: Government Press.
- Wapmuk, L.S. (2005). Local government in Nigeria. In A.T. Gana & Y.B.C. Omelle (eds) *Democratic rebirth in Nigeria vol1 1999-2003*. Abuja: AFRIGOV.
- Wright, D.S. (1995). *Understanding intergovernmental relations*. North Scituate: Duxbury press.