

Constitutional Issues and Challenges of Local Government Administration in Nigeria: A Theoretical Discuss

Rasheed Obasekore Garuba ¹
Abdullateef Ameen* ²

¹Fountain University, Osogbo, Nigeria

²University of Ilorin, Nigeria

*Corresponding author: abdlateef4ever@gmail.com

ABSTRACT

The controversies over the operations of local government system of administration in Nigeria has become a major discuss recently. As a third tier of government, local government was introduced as a means of bringing governance closer to the people toward meeting the needs and aspirations of the people at grassroots level. However, since the entrenchment of this system of administration in the constitution, there have been series of controversies over the real position of local government under the authorities of states and the government at the centre over the establishments, control and supervisions of its activities as enshrined in the sections 7 (1) and 8 (6) of the 1999 constitution. However, this article regrets to note that the gains made in local governments' administration across Nigeria after series of reforms before the emergence of 1999 constitution have been depreciating especially with the controversial sections in the constitution. The paper delved critically into the factors that account for this oft-touted performances and discovered that contradictions in some sections of the constitutions accounted for the logjam. With theoretical approach in its analysis, the paper concluded that there is need to address the perceived contradictions in sections 7 (1) and 8 (6) of the 1999 constitution in order to reposition local government system in Nigeria towards enhancing its service delivery to the grassroots populace.

Keywords: *Constitutional Issues, Local Government, Contradictions, Challenges, Reforms*

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INTRODUCTION

The importance of local government cannot be over-emphasized in any given society because of its uniqueness in the grassroots development. Local government is a system of government involving administration of public affairs in each locality by a body of representatives of the each community which possesses some considerable amount of responsibilities and discretionary power to administer the local populace (Ozioma, 2008). For its legality, Enemu (1999) opined that local government is a political authority created by law of the state and aims at providing essential services of local nature to the area for which it has been created. This perhaps is so because it remains the level of government that is closest to the people and where a country's democratic growth, inextricably tied and can be easily tested and closely monitored.

To Taiwo (2016), the Nigeria's 1999 constitution seems to get this immutable fact right via its recognition in section 7 (1) of the constitution that "*democratically elected local government councils across Nigeria*", while section 7(3) made it a "*duty of a local government council within the state to participate in economic planning and development of the area*". The two factors combined together people's mandate and development plan that could easily foster effective performance in the locality.

In order to facilitate its financial process, the constitution via section 7(6) invests in the National Assembly and the Houses of Assembly the responsibility to ensure that revenue from statutory account accrue to local government councils by the government of the federation and the governments of the states respectively for their day-to-day administration. A necessary import of these is that the Nigeria local government is poised, at least on paper, to move the country forward through mobilization of human and material resources cum local initiatives of the local community towards national development.

However, local government in Nigeria suffers setback, perhaps for reasons of backwardness in governance generally associated with supremacy and inter-government conflict between the state and the federal governments over some contradictions on the real position of local government system of administration in the 1999 constitution between the federal and the states actors. In considering the nature of this contradiction and its major challenges to the realization of local government objectives since Nigeria returned to democratic rule in 1999, available literatures have proofed that the constitutional issues has made Nigerian local government becoming an appendage of the state actors who determine the decision-making focus of

the grassroots government against the will of the people (Igbuzor, 2009). Taiwo (2016) however opined that many factors which are endemic and demanding very serious attention of the policy makers are serving as the major impediments to the attainment of the realization of good-value of local government system of administration in Nigeria. It is on this premise that this article attempts to identify and explain the various controversial constitutional issues hindering effective service delivery of local government system of administration in Nigeria.

Conceptualizing Local Government

In a general term, local government has been described as the lowest unit of governmental administration in a federating state. It is a governmental unit involving the management of public affairs through which the people at the grassroots level possesses the constitutional power to administer their affairs without any external influence or control. According to Ola (1988), local government is a political sub-division of a country constituted by law with substantial control of local activities and constitutionally possesses power to impose taxes and exact labour for prescribed purpose of promoting governance at the local level.

This definition according to the scholar describes local council as a constituted sub-government and political administration for the rural dwellers with power to raise fund for the execution of programmes that can engender all round development of the localities. Enemuo (1999) aligned with this definition by advancing further that local government being a smallest unit of governmental administration is legally empowered to raise revenue and undertake assigned functions under the constituted leadership answerable to the people. The scholar maintained that it is a governmental model involving administration of rural area with a body of representatives who possesses some considerable responsibilities and constitutional power to administer the community on behalf of the people.

In another development, local government is a political authority created by law of the state with aim of providing essential services of local nature to the area for which it is being created. It is also a means of forming the purpose of transforming local communities across the states to an enviable unit. Augustine (2009) argued that local government aim to encourage all inclusive government through popular participation in the choice of decision makers. Its process are embraced and conducted by local community in order to elect their representative who can agitate for the yearnings and aspirations of the people at grassroots level.

While recognizing the supremacy of the central government, local government is able to accept responsibility for its decisions within its locality. According to Simeon (2014), local government is a system of government with ultra vires and general competence model of administrative techniques. To the author, ultra vires model enables the grassroots authority to identify some sections of the constitution which restrict the degree of local government autonomy in the course of their constitutional duties while the general competence model stimulates local governments to render variety of services to the people at local level in order to meet the purpose of its existence.

To Ozioma (2008) local government is a sub-state unit of governance under the presidential system of administration which supposed to be significantly autonomous like the federal and the state governments but unfortunately in Nigeria, local government system of administration appears to be weak and sickly, and is treated merely as state government appendages and extensions rather than a tier of government that can effectively play its part in local administration and grassroots development.

With all the scholarly submissions above, it can be generally concluded that local government is the lowest level of government in a modern state and legally distinct as the third tier of government in the federation established to promote the interests of the people of grassroots globally. In Nigeria however, local government has been designated to be the most primary level of government which constitutes third the tier under the federal and state administrations established for sole purpose of transforming the grassroots level in the country.

Conceptualizing Constitutional Issues

Constitutional issues are important questions about the meaning of the constitution that spark significant disagreement. Such issues require the citizens to consider whether a government policy is constitutional or not. According to Zelman (2002), controversial public issues are unresolved questions of public policy that spark significant disagreement between different tiers of government or individuals, groups and associations in a federation. Such issues require proper deliberation and further legislative process in order to determine which policy is the best response to a particular problem.

Also Dale (1992) observed that discussions of both constitutional and policy issues in a democratic state are important to include in a comprehensive democracy education program. The primary question according to the scholar constitutional issue discussion focuses on whether a government policy

is constitutional or not and it raises the questions whether the government can exercise power in particular way without violating some sections in the constitution, or, in some cases, whether the government or its arms can act in a certain way because of the constitution.

It is also important to recognize that just because a government action or policy is constitutional (that is, allowed), it does not necessarily follow that it is a good idea or has to be done. For example, it is constitutional for a school district to drug test some students, but it is not required by the Constitution and there is real dispute about whether it is a good idea. Therefore, Gray and Wynell (1987) believed that constitutional issue discussion should focus on the actual text of the constitution, competing interpretations of what a particular part of the constitution means (or should mean) relative to a particular government policy and significant case precedents.

Gray and Wynell (1987) however concluded that most of the discourse in a constitutional issue need to center on about the meaning and basic understanding of the principles of the constitution while any constitutional issues promoting injustice to the citizens, group and government agencies need to be amended by the legislature or the judicial pronouncement in the court of records which can prompt judicial review of the contradicting clauses in the constitution.

Theoretical Framework

Democratic Participatory Theory

This paper is situated within the democratic participatory theory. The theory is one of the modern theories that explain justification for the existence of local government administration. To Gboyega (1987), the theory believes that local government exists for the purpose of inculcating democratic values among the citizens at the grassroots level, the values that can initiate citizens to elect their representatives and administer their localities without any external influence.

In relating it to the topic under review, the theory justifies essentialities of the grassroots government on the basis of its being essential to a democratic value like responsiveness to the people's needs, accountability in governance and the total control of governmental structures within their localities. It is perceived as a free institution that provides political education for those who participate in the act of decision-making at the grassroots level.

Research Methodology

This paper is a conceptual analysis of existing literatures on Nigerian local government administration. The paper adopts theoretical approach in its analysis. The paper deals with content analysis, causal relationship and descriptive methods which entail a detailed description of related literatures gathered. This methodology is predicated on the nature of the subject-matter which limited itself to theoretical analysis.

Historical Over View of Nigerian Local Government System of Administration

Nigerian local government historical perspectives can be traced to the pre-independence era when political structure then was based on native administration. According to Garuba (2017), the grassroots administration in Northern Nigeria during pre-colonial era was based on oligarchy and theocratic system of administration while in Southern Nigeria, the organizational structure of local administration was totally different because of non availability of recognizable ruling class especially in the South Eastern region.

However, during colonial administration, colonial rule in Nigeria opted for indirect rule of grassroots administration with appointment of traditional rulers to indirectly administer the local government areas on behalf of colonial regime except in the Eastern region of Nigeria where the warrant chiefs were appointed to administer the local council on behalf of imperial regime (Igbuzor, 1999). Therefore, pre-independence era in Nigeria was the pupilage period for local government system in modern council's administration.

Similarly, the first republic from 1960-1966 witnessed absolute declines in the values, prestige and activities of local government administration under regional governments because of different local council ordinances promulgated during the period. To Aliyu and Kohen (1982), the council ordinances promulgated by regional governments gradually brought changes in the structure and composition of local government officials with increasing numbers of elected and appointed non-traditional rulers becoming members of local council authorities and this innovation brought little stability to the local government activities which enabled the government at grassroots level to be more responsive to the needs of the people within their localities.

However, in 1967-1971 as averred by Adegbolu (2003), the 12 states created by Gowon military regime and the post civil war experience made the various military governments at the state level introduced some changes in the

structures and compositions of local government officials in their respective state. Those changes in council's nomenclatures across the states resulted to uniformities in the structures, compositions of membership and funding of local government administration towards meeting the needs of the rural dwellers.

To Raji and Garuba (2017), those uniformities and the changes in council's nomenclatures however prompted Muritala/Obasanjo military regime to set up a committee to reform local government system of administration in 1976 with objectives of restructuring and repositioning local government towards optimal service delivery to the people and uniformities in term of structures, compositions of membership and funding throughout Nigeria. Furthermore, the reform targeted conceptualizing local government as a grassroots government operating within a defined functions and responsibilities. Unfortunately, the objectives of the reform were not properly implemented and consolidated upon by successive civilian administrations that succeeded the regime in 1979.

The Shagari's civilian administration from 1979-1983 however over politicized local government system in Nigeria with its institutionalization policy which made local government the subject of control between the federal and state governments over some designated functions. The administration unilaterally increased the number of local governments in the country in order to ensure electoral supports from the various localities who desired for the creation of separate grassroots government for their communities. This over politicization and institutionalization however persisted until the administration was sacked via military coup in 1983.

In order to depoliticize local government administration, the military regime of Gen. Buhari who succeeded Shagari's administration set up a panel led by Ibrahim Dasuki to review the system of local government administration in Nigeria. According to Ugwu (2000), the panel proposed a system where the council administration would be placed under state governments' control. The effective implementation of the report was however hindered by another military coup in 1985 which led to the removal of the Gen. Buhari from office as Head of State.

In 1989, as the country was preparing to return to civil rule, Babangida's military regime promulgated local government administrative decree where elective presidential system of local government administration was introduced. The decree was to ensure full local government autonomy from total control of higher governments by scraping the ministry of local government at the state level and the establishment of executive and legislative arms of government at the local government level. The

decree also made provision for direct statutory financial allocation to local government without passing through state authority. It is important to point out that the Babangida's local government reform promoted rancor free inter-governmental relations between the government at the centre and other components tier of governments (Ugwu, 2000).

However, the reverse was the case on the laudable achievement recorded by Babangida's military regime. The conflict free inter-governmental relations witnessed during the regime were however abated when Nigerian returned to democratic rule in 1999 because of some ambiguities in some sections of the 1999 constitution over who possesses power to establish and supervise the activities of local government administration between the government at the centre and the component states.

Thomas (2009) was of the opinion that the conflict that dominated state-local government relations was as a result of some sections in the 1999 constitution that failed to properly define the role of the state governments and its legislative council and the National Assembly which is seriously hindering the stage of development at the grassroots level. Since then to date, there is no any concrete step taken by the government to review contentious issues hampering the activities of local government administration in Nigeria.

Local Government's Functions in Nigeria

The fourth schedule of the 1999 constitution outlines the following functions as the constitutional responsibilities of local government system in Nigeria.

- **Planning and Monitoring the Government Activities:** The local government system in Nigeria was established across all the 36 states and the federal capital territory, Abuja towards setting overall directions for effective governance at local level through long-term planning and monitoring the implementations of various government policies and its reactions at the grassroots level . The good examples of this according to Thomas (2009) include their participation in joint economic planning with the state governments in order to engender development at local council level.
- **For Effective Service Delivery:** To Adegbolu (2003), the effective service delivery is an important ingredient to the administration of public affairs. Therefore, the Nigeria's 1999 constitution recognizes the existence of local government for effective service delivery at the grassroots level through prompt provision of basic and essential needs to the people.
- **Lawmaking & Enforcement Functions:** The 1999 constitution under section 7 (4) recognizes the existence of democratic local government

administration in Nigeria. However, local government was empowered to make bye- laws through their respective legislative councils and those laws are not to be competing with the laws making by higher legislative bodies and they are also constitutionally empowered to enforce any bye-laws made within their localities (Raji and Garuba, 2017).

- **Policy Developmental Responsibility:** Local council's mandate also includes the prompt engagement in economic planning for the sustainable development of their localities with the state government towards meeting the needs and aspirations of their people at grassroots level (Igbuzor, 2009).
- **Policy Advocacy and Advancement:** In the case of policy advocacy and advancement, the grassroots government is responsible for the higher governments' policies advocacy and advancement on behalf of their respective council in order to know the acceptability or otherwise of the policies initiated by the higher authorities (Ozioma, 2008).

Constitutional Issues Hindering Optimal Performances of Nigerian Local Government System of Administration

There are many contradictions in some sections of 1999 constitution that is promoting inter-governmental conflicts between the states and government at the centre over the establishment, funding and supervisions of local government administration in Nigeria. The 1999 constitution despite of its amendment by the National Assembly does not still clearly prescribe any contending paradigm while those contentious areas serve as impediments towards optimal performances of the grassroots administration in Nigeria. Those constitutional issues include:

- **Provision on the Establishment and Composition of Local Governments:** The section 7(1) of the 1999 constitution implied that "the government of every state is constitutionally empowered to make law that will provides for the establishment, structure, composition, finance and functions of local government in their respective states" subject to section 8, (6) that required the state governments to approach the National Assembly for further legislation in order to make local governments created by them officially listed in the constitution. By the former clause, i.e section 7(1), a state is empowered to make laws to regulate within the state in all ramifications with local government inclusive. However, provision of section 8 (6) has become a subject of contradiction hindering the state governments to create more local governments despite geometric rate of population growth in their respective states that is making the existing local governments to be incapacitated to cater for the needs of the people at the grassroots level (Igbuzor, 2009).

- **Non-Elected Local Government Officials and the Appointment of Caretaker Committees:** The recent practice where the section 7(1) of the 1999 constitution is being abused by some governments at the state level has become a recurring factor hindering effective public service delivery at the local governments' level in Nigeria. This is because, some governments at the state level deliberately violated section 7 (1) which makes case for democratically elected local government across Nigeria. In order to consolidate on their illegality, some state governments do influence their Houses of Assembly to pass resolutions for the appointment of caretaker committees to oversee the affairs of the local government administrations without being democratically elected by the people which Ozioma (2008) believed to have cumulative effects on the strength of local government to impact positively on the needs of the people..
- **State/ Local Governments Joint Account System:** The provision for state/local governments joint accounting system in section 162 (6) of 1999 constitution has hindered the smooth running of local governments in Nigeria. The domineering attitude of the state authorities over the funds accrued from the federation account to the joint accounts meant for sharing between local and the government of each state of the federation enabled the state authorities to make some illegal deductions from the fund purposively meant for local governments' activities in their respective states. Agbani and Ugwoke (2014) believed that most state governors in Nigeria are being presently prosecuted not because of mismanaging the state government resources but because of the fraud and embezzlement of local government funds which they are major determinants in its sharing to beneficial local governments in their respective state.
- **Tenureship and Succession Crisis:** This is another major factor hindering effective local government performance in Nigeria. For instance, decree 36 of 1998 which ushered the conduct of local government election during military regime provided for 3 year tenureship for local government elected officials across Nigeria. Unfortunately, the elected official inaugurations were delayed for over six months before their eventual sworn-in in May 1999 together with other elected political office holders at states and the federal levels. This delay in the inaugurations prompted political office holders at local government level to agitate for tenure extension in order to be at par with their colleagues at higher levels. They eventually got their tenure extended through proclamation of National Assembly against section 7 (1) that empowered the State Houses of Assembly to do so. To Sunday (2014), this resulted to controversy and power struggle between the National Assembly and the Nigerian Governors' Forum. The matter was later resolved in favour of the Governors' Forum by the Supreme Court judgment in suit No. SC/236/2002 that no legislation of

the apex legislature can extend the tenure of political office holders at the local government level without legislations from the State Houses of Assembly of each of the state in Nigeria (Sunday, 2014).

- **Local Governments Autonomy:** The long time expectation of the people at the grassroots level to see full autonomy being granted to local governments in Nigeria has not come to reality over the years. The autonomy of course will enable them take major decisions that are peculiar to their localities. However, the provision for other regulatory bodies like Local Government Service Commission (LGSC), and the Auditor-General of Local Government (AGLG) to employ, deploy, promote and discipline senior local government staff posed major challenges to local governments' ability to control its key staff. The AGLG which was created to ensure effective post expenditure audit for local government account has the problem of weakness in terms of number of qualified staff and resources of doing the job. While the reports of AGLG always goes to the State House of Assembly for adoption, the people at local government level have little opportunity to check the financial performance of their local governments as and when due. This principle negates the principle of the communal governance at the grassroots level (Ozioma, 2008).

CONCLUSION AND RECOMMENDATIONS

This paper has discussed the nature of Nigerian local government system and constitutional issues hindering its effective performance across Nigeria. In its finding, the article observed that there are some ambiguities in some sections of 1999 constitution that do not clearly define the role of National Assembly under section 8 (6) of the constitution on pursuant to sub-section (3) that ensure that the State House of Assembly to make adequate returns to each House of the National Assembly in order to alter any provision of the constitution subject to section 9 (1) in enlisting those newly created local governments in to the constitution.

However, the un wiliness of the National Assembly to carry out this important task despites geometric rise in population of the people yearning for the new local government and the constitutional provision under section 7 (1) that empowered the state government to embark on such creation and legislates on its existence in their respective state have not successfully come to reality because of the controversial clause in sections 8 (6) and 9 (1) in the constitution that require concurrency of the National Assembly before such local government can be fully recognized by law. This ambiguity as observed by Ozioma (2008) has led to more controversies and contradictions among the major actors in the local government administration, thereby reducing the spate of good governance at local government level in Nigeria.

In order to put an end to this major constitutional issue and reposition Nigerian local government system to the best standard of the grassroots administration, the paper recommends a comprehensive amendment to the 1999 constitution in order to address those ambiguities that deal with the issue of state/local governments' joint accounts, local government autonomy, appointment of caretaker committees to administer local government councils and other related issues derailing effective governance at the grassroots level in Nigeria.

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