



Review Article

Local Governments and Synchronous Issues Since Nigeria's Fourth Republic

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Abstract

The paper examines the contentious issues bewildering local government as a level of governance in Nigeria's federal system of government against the backdrop of classical theory and practice of federalism.

The article relies heavily on secondary data to run its analysis. Such data includes textbooks, journals, newspapers, magazines, periodicals, the Nigerian 1979 and 1999 constitutions, etc.

The findings are that there are lots of contradictions (inconsistencies) in the running of the Nigerian federal system of government. The federal government is fond of always arm-twisting state governments especially in the area of creating new local governments which has, no doubt, led to frustration, reactions and counter-reactions between the two tiers of government.

The work concludes on the note that there is the need to have a holistic review of Nigeria's 1999 Constitution, with the view to returning the country to a true federal system akin to the Nigerian constitutions of 1960 and 1963 with modifications to reflect contemporary issues. This is the path of wisdom to stem the tide of separatist agitations in Nigeria and perhaps in plural African countries.

Introduction

The Nigerian local government system has witnessed a lot of transformation, especially in the last four and half decades (starting with the 1976 local government reforms). The aggregate of these reforms have created a lacuna in the political landscape of the Nigerian federal structure. Indeed, many of these reforms have violated the principle of federalism which has led to resistance in the body politics. It is these synchronous issues that this work is designed to address, many of which are constitutional issues, while others can easily appeal to syllogisms (Nwabueze, 1983)

Be that as it may, the justification for the work of this nature can be situated within the prism of the need for a systemic review of local government system in the Nigerian federation. The need becomes imperative for two major reasons namely, the need to decongest the political system from unnecessary stress created by the 1999 Nigerian Constitution with respect to its inclusion (local government) in the afore-mentioned constitution (Awotokun, 2005). Secondly is the need for advocacy for proper role of local government in Nigeria's political space taking cognizance of the challenges of governance and sustainability of public

institutions and levels of government in the 21st century (Awotokun, 2014).

Having situated the Nigerian local government system within this parameter, it is apposite to have a working definition of the terms 'local government' or the conceptual clarification of the term in a generic sense.

Towards A Conceptual Clarification of Local Government

The word 'local' means what is highly restricted to a limited place. It is that which is provincial or narrow in outlook. On the other hand, 'local government' may denote a constituted authority that governs or makes socio-economic and political decisions for people living in a given locality or local area. The government of a local government therefore pre-supposes the existence of a bigger government. Hence local government in this sense may constitute a subdivision of a major political authority (like a nation, state or regional government). It is the totality of the body of persons and the governmental apparatus (executive and local councils) that will constitute such a local government, with the proviso that such body of persons are elected to work for a defined period of time and are periodically subjected to elective principles.

For the United Nations Office for Public Administration (1976), Federal Republic of Nigeria (1976), local government, denotes:

“A political sub-division of a nation or (in a federal system) state, which is constituted by law and has substantial control of local affairs, including the power of impose taxes or to exert labour for prescribed purpose. The governing body of such an entity is elected or otherwise locally selected.”

The weakness of the above definition is in its last phrase 'locally selected'. Government goes with elected representation as opposed to selection. It is not local government if members are selected. Other scholars like (Ozor 2003), Adamolekun (2002), Alexis de Touqueville (1969), Wihalen (1969), Mawhood (1983) have attempted to define local government. (1) sees it as “a unit of government below the central, regional or state government, established by law to exercise political authority, through a representative council within a defined area. It is modern system of government that have subjugated local government under the central and regional governments, otherwise in the classical work of Tocqueville, local government is seen as the first government ever, and that the central and regional governments take their inspirations from it. In other words, local governments are created by nature and it is the expansionist and imperialist tendencies that gave rise to central and regional governments. In the main, Tocqueville sees local government as a grassroots political structure, which may be subordinate to the higher

authority of a federal or regional (state) government but not necessarily subservient to either in its avowed constitutional responsibilities to the people. In this way, one may talk of relative independence (autonomy) of local government in the sense that absolute autonomy is anathema in contemporary world, with checks and balances from international organizations such as United Nations (UN), European Union (EU), African Union (AU) to mention but a few. Local government is also expected to evolve participatory (inclusive) democracy in governance at local level in order to mobilize all segments of the community in its desired mission. The non-inclusion of all stakeholders in the past has invariably weakened the capacity building of this (local) tier of governance (Awotokun 2013).

Indeed, Whalen (1969) delineates local government in terms of supposed limited space, demography, restriction, political structure of executive and legislative institutions. It also emphasizes its autonomy howbeit subject to common law of the country. Mawhood (1983) on the other hand espouses a paradigm of local representative democracy with power to allocate resources to its members with a clearly articulated (prescribed by law) functions for it. In other words, it must have a legal existence and be allowed to function as such.

“Government at (the) local level exercised through representative council 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 and to determine and implement projects so as to complement the activities of the State and Federal Government in their areas, and to ensure, through active participation of the people and their traditional institutions, that local initiatives and response to local needs are maximized.”

As a corollary of the afore-mentioned analysis of the definition of local government, the Federal Military Government (1976) captures the essence of local government in its definition.

Indeed, the above definition has encapsulated the very essence of local government such as its needs for localness, its inclusion in the constitution, or legal existence, relative or substantial autonomy, limit of its boundary, population, etc. It is on these parameters that this work will be anchored. In order to appreciate and crystallize the contemporary issues, there is the need to provide a building block to the 1976 local government reforms, starting from the rationale of the reform in question.

According to the blueprint of the reform (ibid 1976), it has the following goals and objectives to:

1. Make appropriate service and development activities responsive to local wishes and initiatives by devolving or delegating them to local representative bodies;
2. Facilitate the exercise of democratic self-government chose to the local levels of our society, and to encourage initiative and leadership potential.
3. Mobilize human and material resources through the involvement of members of the public in their local development; and
4. Provide a two-way channel of communication between local communities and government (both state and federal).

The afore-mentioned rationales are meant to have translated into what can be termed the dividends (gratuities) and flaws of the reforms over a space of forty-four years (1976-2020). In other words, the work will attempt a systemic interrogation of the relevance of Local Government in the face of daunting socio-economic doldrums (Eboh & Diejomoah) in contemporary Nigerian state.

The Dividends of the Reform

The reform was greeted with fanfare at its inception. This in itself is a gain as people all over the country were determined to make it work. This should take cognizance of the fact that local government thereto had witnessed continuous whittling down of their powers and responsibilities (Yar'Adua 1976) by successive regional and state governments prior to this reform. In order to ensure the success of the reforms, local governments in the country were encouraged to hire qualified manpower with disbursement of a whopping sum of N100 million; N250 million, N300 million and N278 million in 1976/77; 77/78, 1978/79; 1979/80 financial years respectively. At the departure of the military government in 1979, a ten percent (10%) of the revenue allocation was conceded to local government via the 1979 Nigerian Constitution. Indeed, by 1979 and 1999 presidential system of government, local government had become a prominent feature of the two constitutions. For instance, the 1999 Constitution (as amended) provides *inter alia*: sec. 7(1).

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

1. The fourth schedule of the constitution in question confers certain functions on the local governments in the federation as follows:

- a. The consideration and the making of recommendations to a state commission on economic planning or any similar body on:
 - i. The economic development of the state, particularly in so far as the areas of authority of the council and of the state are affected; and
 - ii. Proposals made by the said commission or body;
 - b. collection of rates, radio and television licenses;
 - c. establishment and maintenance of cemeteries, burial grounds and home for the destitute or infirm;
 - d. licensing of bicycles, trucks (other than mechanically propelled trucks, canoes, wheel barrows and certificates;)
 - e. establishment, maintenance and regulation of slaughter houses, slaughter slabs, markets, motor parks and public conveniences;
 - f. construction and maintenance of road, streets, street lighting, drains and other public high ways, 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. naming of roads and streets and numbering of houses;
 - h. provision and maintenance of public conveniences, sewage and refuse disposal;
 - i. registration of all births, deaths and marriages;
 - j. assessment of privately owned houses or tenements for the purpose of levying such rates as may be prescribed by the House of Assembly of a state; and
 - k. control and regulation of:
 - i. Outdoor advertising and boarding;
 - ii. Movement and keeping of pets of all description;
 - iii. Shops and kiosks;
 - iv. Restaurants, bakeries and other places of sale of food to the public;
 - v. Laundries; and
 - vi. Licensing, regulation and control of the sale of liquor.
2. The functions of a local government council shall include participation of such council in the government of a state with respect to the following matters;
 - a. the provision and maintenance of primary, adult and vocational education;
 - b. the development of agriculture and natural resources, other than the exploitation of minerals;
 - c. the provision and maintenance of health services; and

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

The formation of the above functions is such that the first part of the functions is exclusive to local governments while the second functions are the ones which the constitution expects state government to perform with its local governments; otherwise known as concurrent functions.

Having discussed some of the supposedly gains or dividends of the reform, it is pertinent to note that there are some fissiparous issues that have been generated in the contemporary Nigerian political landscape over the inclusion of local government in the 1979 and 1999 Constitutions as amended. People begin to question whether it is propitious to have a federal of constitution (such as Nigeria's) recognizing local governments. Another pertinent question is whether the local governments are third tier of government in the Nigerian federation. These and other questions are what this work has classified as synchronous issues not necessarily as an academic venture (exercise) but as a need to contribute to the ongoing discourse on how best to position local government in the Nigerian political landscape.

The Synchronous Issues

The most pugnacious issue relating to local government is the position of a federal government constitution vis-à-vis its purported inclusion of local government, either as a tier of government or in the share of the federation account. It is instructive to note that apart from Nigeria, there is hardly any federal constitution that recognizes local government for inclusion. The Nigerian 1999 Constitution has been roundly vilified on this account. In order to appreciate the issue at stake, there is the need to conceptualize the term 'federalism' which, for instance, Nwabueze (1983) defines as:

"An arrangement whereby powers of government within a country are shared between a national, countrywide government and a number of regionalized (i.e. territorially localized) governments in such a way that each exists as a government separately and independently from the others operation directly on persons and property within its territorial area, with a will of its own and its own apparatus for the conduct of its affairs, and with an authority in some matters exclusive of all the others."

Indeed, K.C. Wheare (1963) the leading authority on federalism had clearly enunciated the principle of federalism, which other scholars have built upon over the years. It is also important to state that the Nigerian Independence Constitution of 1960, and the Nigerian Republican Constitution of 1963 were inherently fashioned

on the principles of federalism. The two afore-mentioned constitutions shared power between the federal (centre) and the then three and (later) four existing regions namely Eastern, Mid-West, Northern and Western Regions: Each of the regions had its own constitution with powers shared with the federal government. As (Osuntokun; 2020) infers, the ultimate power resided in the regions while enumerated powers on aviation, currency, defence, immigration and customs, foreign affairs, railways, interstate highways, sea ports and airports, electric power generation and distribution, communication and telegraphs lay with the federal government. Each region had its own police (with the exception of Eastern region), local government, higher institutions. It must be noted also that police and higher education were on concurrent list.

The antagonists of the current inclusion of local governments in the constitution had variously cited the provisions of 1960 and 1963 Constitutions to strengthen their resolve to have the local government expunged from the Nigerian Constitution of 1999. It is largely perceived not only as an unnecessary burden on the Constitutional provisions but a clear contradiction of the very principle and spirit of federalism. Hence the advocacy for a pre-1966 political structure of Nigeria's first republic. Indeed whether wrongly or rightly, aspersion has been cast on the 1999 Constitution, as being Abacha's Constitution, written solely by his (Abacha's) aides.

Against this background was the federal military government's reform of local government of 1976 which many perceived as landmark achievements of military rule in Nigeria. The Constitution Drafting Committee (1976) had subsequently inserted local government in the 1979 Constitution if only (in their words) to prevent the state governments from "cavalierly and whimsically tinkering with local government organs". Hence this group of individuals see the provision of local government in the constitution a socio-political dividend bequeathed by military interloper in Nigerian political space.

The afore-mentioned analysis of local government within Nigeria's 1999 Constitution, no doubt, clearly presents the ambivalent position of local government in the federal structure of governance. This issue will invariably raise the question of the status of local government as an institution. Has the constitution in question conferred a tier of government to it? Is the local government autonomous from the federal and state governments? These and other questions are what this work intends to address shortly.

The Issue of Autonomy of Local Government

The issue of local government autonomy, may first and foremost be tackled from conception clarification. What then is autonomy? According to *Merriam-Webster Dictionary* (2013), autonomy depicts the state of existing or acting separately from others, while the *Advanced*

Learners' Dictionary of Current English (2018) defines it as right of self-government, freedom. In a sense, autonomy may denote the ability of a constituted human organization to have an unfettered access to self-governing, such that it can regulate its internal activities without intervention from a supposedly superior or higher authorities or bodies. For Nwabueze (1982), autonomy presupposes that:

"Each government enjoys a separate existence and independence from the control of the other governments. It is an autonomy which requires not just the legal and physical existence of an apparatus of government like a legislative assembly, governor, courts, etc, but that each government must exist not as an appendage of another government, but as autonomous entity in the sense of being able to exercise its own will in the conduct of its affairs free from direction of another government."

Hence, autonomy is when each tier of government is not constitutionally bound to direct or dictate to other tiers. It is such that no tier of government can arrogate to itself a superior status or power to control, and make the other accountable to it in official conduct of statecraft.

The centre for Democratic Studies (1990) tersely defines local government autonomy as 'relative discretion which local governments enjoy in regulating their own affairs; Hence, it can mean the extent to which local governments are free to conduct their local affairs without external intervention from state or federal governments. Indeed, in the classical concept of federalism, federal intervention in local government or local affairs is unknown and therefore strange. This is not the case in Nigeria.

The Nigerian Experience

The federal government's involvement or rather intervention in local government has been a child of expediency. This can be viewed from two perspectives namely: One, the military intermittent interregnum in Nigerian government and politics had irretrievably violated the foundation of true (classical) federalism as espoused by the founding fathers of the Nigerian state. The military in governments is no doubt, antipodal to a decentralized system of governance as cherished by principles of federalism. Since the military is traditionally organized by a highly regimented command structure with hierarchical official relationship, there is no way the centre and the states can relate as co-ordinate in inter-governmental matters.

"The system of local government by democratically elected local government councils is under this constitution guaranteed; and accordingly, the Government of every state shall, subject to section 8 of this constitution, ensure their existence under a Law which provides for the establishment, structure,

composition, finance and functions of such councils."

Secondly, the military regime in 1976, launched a nationwide local government reforms in tandem with its national outlook. Many military apologists saw the local government reform as the most important legacy of the military government of Nigeria. Hence, concerted efforts were made to consolidate the gains of the reform and to prevent the state governments from 'cavalierly and whimsically tinkering with local government organs. This effort witnessed the insertion of local government in the Nigerian Constitutions of 1979 and 1999. Section 7 (1) of the constitutions in question states:

From the above provision, local government is putatively a function of state government. It is only the state government that has the constitutional power to establish (create) and define the structure and functions of local governments. Indeed, local governments become an agency of the state government; hence local government is not an independent third tier in the Nigerian federal structure.

The provision has also protected the local government from unnecessary manipulation by state governments. For Nwabueze (2002), the restriction implied directive on how the power is to be exercised. Hence, a state is bound to conduct the affairs of councils. The State House of Assembly too must, as a matter of constitutional requirement, enact Local Government Law of its state.

Listing of Local Governments in the 1999 Constitution

The federal constitution of 1999 in the First Schedule Part I, listed the states and Local Government Areas (LGAs). The LGAs are seven hundred and seventy-four (774) in number. This number appears rigid and it is suggestive of a military mentality in a democratic era. It also smacks of unitarism as opposed to federalism. This is, perhaps, one of the major contentions in the 1999 Constitution. The country has not been able to add to the 774 LGAs in the last two decades that ushered in, the fourth republic. This rigidity is informed by the provision of section 7(6):

"Subject to the provision of this constitution.

The National Assembly shall make provision for statutory of public revenue to local government council in the federation.

Sec. 162 (3) under Public Revenue further states that: Any amount standing to the credit of the Federation Account shall be distributed among the Federal and State Governments and the Local Government Councils (LGCs) in each state in such terms and in such manner as may be prescribed by the National Assembly."

It is the above provision that made the process of additional LGAs a herculean task. The population of many of these LGAs had risen astronomically over the years, a good example is Alimosho LGA of Lagos State whose population is higher than some federating states in Nigeria. It is not only politically absurd but it is repugnant of principles of local governments creation. If the population of a local government is too large then it has lost its localism. This scenario has fractured the Nigerian political structure at the grassroots. What is the response of state governments to the rising increase in the population of local governments across the country?

The State Response

Lagos State Government under the leadership of the then Governor, Ahmed Tinubu, spearheaded the idea of creating additional local governments in Lagos State. He created additional thirty-seven (37) to the existing twenty (20) which was recognized by the 1999 Constitution, but not without resistance from the Olusegun Obasanjo led federal government, who swiftly stopped Lagos State Government from accessing the share of Lagos State LGs from the monthly federation accounts. It is instructive to note that their allocation was not re-imbursed until the era of President Umar Yar'Adua; others who followed Lagos suit had to revert to the old order, as they could not sustain their LGs without the monthly revenue from the center.

What many states are doing currently is to create Local Council Development Areas (LCDAs). The LCDAs are usually created to complement the existing LGAs, as a way of meeting the yearnings of the people at the grassroots. Other plausible reasons are that the population is progressively increasing and the available infrastructure (facilities and amenities) in the LGAs are overstretched. LCDAs are also seen as bye products of community engagement with the Executive arm at the state level, hence an implementation of people's demands. In the long run, it may engender enhanced representation at all levels of governance.

Indeed, the current political configuration, with respect to the position of local government vis-à-vis state and federal government is that of confusion, uncertainty and outright dependency especially on the part of state and majority rural dwellers that yearn for additional local governments. It is from this parlous position that the work will make its conclusions as a way of recommendation.

Conclusions and Recommendations

In order to inject sanity in the body politic of the country, there is need for convocation of a national assembly, to discuss the basis of the continued existence of all different segments of the Nigerian state. Hence, the present advocacy for a reversion to the pre-January 1966 federal structure which has been variously acclaimed as the era of true

federalism must be taken seriously but not without a systemic review of conglomeration of the existing political structure.

The federal government must, as a matter of political expediency, see local government as a residual matter, which therefore lies within the province of the state governments. Hence, the federal government through appropriate legislative review has to delist (expunge) the seven hundred and seventy-four (774) local governments and their headquarters as listed in the first schedule of the 1999 Constitution. It must be stated that since the listing of the LGs and their headquarters, no additional local movement has been created over a period of two decades. This act is retrogressive and repugnant of dynamism which local government is expected to respond to in the 21st Century socio-economic and political arrangement of governance.

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