
Local Government Autonomy and Federalism in Nigeria: a Theoretical Perspective

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Abstract

The study explores the thorny question of L.G autonomy in Nigeria, which has dominated the discourse in the polity in recent time due to its strategic importance to the inclusive and integrated development at the *grassroot*. The general perception is that the L.G system in Nigeria has failed to deliver its statutory and constitutional responsibilities because they have become appendages of the states. It is against this background that the clamour for L.G autonomy has become strident. The study also examines in details the vexed issue of Joint State Local Government Account (SJLGA) and political instability and its overall implication for autonomy of L.G. The paper identifies the manipulation of SJLGA by State Governments, the overbearing influence of State governments, political instability, imposition of candidates, and undue interference on the finance of councils, etc. As the bane of the gradual erosion of L.G autonomy, which has consequently vitiated the constitutional responsibilities of L.G, we recommend scrapping of SJLGA, allowing the people to elect their leaders, councils should focus on IGR, etc. Data for this study were driven from secondary sources.

Keywords: Autonomy, Reforms, Local government, Finance, Federalism, States.

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Background to the Study

In the literature on local government, scholars, opinion leaders, stakeholders, government officials, etc. have expressed divergent views on the vexed question of L.G autonomy in Nigeria. Therefore, corpuses of literatures have been written to underscore the imperative of either enshrining autonomy for L.G or not. Some have contended that the L.G in Nigeria is enjoying enough degree of autonomy within the ambit of the Nigerian Federalism as a subordinate unit, since there cannot be absolute autonomy for a subordinate unit, that the problems of the L.G largely has to do with the operators of the system and the political culture of Nigeria, which has rendered them rudderless in view of the prevailing circumstances.

On the other hand, there is the general perception that as presently enshrined in the 1999 constitution, there is no autonomy for L.G, which in effect has rendered it an appendage of the State Governments, that the bane of the L.G system can be attributed to the hijacking of the functions of the L.G by States apparatus through the instrument of the SJLGA, imposition of candidates and political instability masterminded by State governors. According to this school of thought, this is at variance with the aims of the 1976 L.G Reforms which was meant to grant L.G autonomy to enable it function as a third tier of government in order for it to carry out its statutory responsibilities as outlined in the 1976 Reforms of promoting grass root development and bringing the government closer to the people.

It will be recalled that L.G was granted the status of third tier of government in the 1976 nation-wide Reforms, which was obviously meant to strengthen L.G autonomy through direct participation in the affairs of the councils. According to the Reforms, this would set in motion the rapid development of the grass root and also to extricate them from the stronghold of State Governors. One of the hallmarks of the 1976 Reforms was the direct funding of L.G from the Federation Accounts to further strengthen its autonomy.

Indeed the 1976 Reforms marked a turning point in the autonomy of L.G in Nigeria. Corroborating this view point Ugwu (2001) asserted that the Reforms “form a watershed in the evolution of local government development and administration in Nigeria” thus in effect L.G autonomy. Perhaps of more fundamental to the question of L.G autonomy is financial autonomy which has been manipulated by the States to undermine the autonomy of L.G through the instrument of SJLGA as enshrined in the 1999 constitution of Nigeria.¹⁶² (6) “into which shall be paid allocation to the local government councils of the state from the Federation Account and from the Government of the state”. This Account is meant to be a mechanism to implement the notion of “fiscal federalism” at the L.G level in Nigeria.

However, our experience in Nigeria shows that rather than SJLGA serving as a means to strengthen “fiscal federalism” it has been used to effectively emasculate L.G by State governments through unconstitutional deductions and wholesale diversion of L.G funds unprecedented in the history of Nigeria since return of democracy in 1999. In most cases, State Governments through the ministry of Local Government simply release funds for

payment of salaries under the guise of paying primary school teachers and health workers, and settle the chairman, thus contributing significantly to the abysmal performance of L.G in providing good governance for the community. Therefore, it is against this backdrop that the clamour for L.G autonomy has become more strident in recent time to extricate the L.G from the political ambit of States. Presently, L.G autonomy is one of the contentious proposals before the National Assembly in the amendment of the 1999 constitution. However, most State Governments have kicked against the proposal, because of their selfish interest.

Consequently, in this paper, our aim is to investigate the overall impact of undue interference of States on L.G and its overall implication for the development of grass root. The important point to note however is that undermining the autonomy of L.G is ridden with contradictions and our focus is to direct our investigation and analysis to the discovery and understanding of these contradictions in order to solve them holistically.

The Concept of Local Government Autonomy

The term L.G autonomy is nebulous because of the confusion and different interpretations surrounding it. Thus according to Odunfa (1991), the full meaning of the term has not been fully explained. In view of the conflicting conceptual interpretations, the term "local government autonomy" has been perceived as narrowly as the ability of the councils to control its finance. However, Ogunna (1996) defined L.G autonomy as "the freedom of the local government to recruit and manage its own staff, raise and manage its own finances, make bye-laws and policies and discharge its functions as provided by law without interference from the higher government". These according to him include political, financial and administrative autonomy.

Corroborating further on the autonomy of L.G Adeyemo (2005) explained that the term "Local Government autonomy is perceived as local self government or grass roots democracy". He explained further that this grass root democracy is primarily aimed at giving the vast majority of the people the fullest opportunity to participate in determining their own destiny. But we must note that we cannot have absolute autonomy or complete local self- government, within a sovereign State, because local governments are subordinate units created by laws of the State. In its contribution to the literature on L.G autonomy, the defunct Centre for Democratic Studies refers to L.G autonomy as "the relative discretion which Local Government enjoys in regulating its own affairs" (Adeyemo,2005). That is the extent to which L.G election are free from the control of the States and Federal Government in the management of local affairs.

Also, Davey (1991) posits that "local autonomy is primarily concerned with the question of responsibilities, resources and discretion conferred on the local authorities, as such discretion and responsibilities are at the core of local government". This position assumes that L.G must possess the powers to take decisions independent of external control within the limits laid down by the law. It must therefore garner adequate resources particularly finance to meet its responsibilities, or in other words L.G autonomy is the freedom of independence in clearly defined spheres; as well as separate legal identity from levels of governments.

Adeyemo (2005) further contended that there can never be an absolute autonomy because of the interdependence of the three levels of government and this brings into focus the inter-government context of L.G autonomy. Therefore L.G autonomy encompasses the following purview:

Political Autonomy- it means the ability of L.G to elect chairmen and councilors in a free and fair election at regular intervals as stipulated by the law. It means allowing the grass root people to participate directly in the affairs of the council.

Financial Autonomy- secured sources of finance, direct allocation from the Federation Account as contained in the 1976 L.G Reforms and also guaranteed in the 1999 constitution. Besides, L.Gs were granted powers to generate revenue for their activities. In addition, the spending limit of L.G was abolished. Consequently, L.G would not seek approval from the State Government before embarking on any project. Besides, approval of annual estimates or budget was done by the L.G legislative arm instead of the State Government.

Administrative Autonomy- it has to do with appointment of staff. The management of council appoints staff up to G.L-06, while the 1976 Reforms and the 1999 constitution charged the Local Government Service Commission with the sole task for employment, posting, promotion, discipline and training of staff from G.L -07 and above.

Social Autonomy- the councils have the social autonomy of providing certain social services to the grass root, for instance primary health care, building of markets, motor parks, construction and maintenance of feeder roads, etc.

Historical Perspective of Local Government Autonomy in Nigeria

We can trace the history of L. G autonomy to the reforms of the Northern, Western and Eastern Nigeria local government laws of 1954. However these reforms were superficial and consequently had little or no impact on the autonomy of councils, because they were still generally seen as appendages of the regional governments. However, the most outstanding reforms ever carried out in Nigeria to further deepen the autonomy of L.G were the 1976 nation-wide L.G Reforms. In the forward to the guidelines for 1976 L.G Reforms, it was remarked that "the state government continued to encroach upon what would have been the exclusive preserve of local government" (Adeyemo, 2005).

Orewa and Adewumi (1992) opine that the major thrust of the Reforms" is to entrust political responsibilities to where it is most crucial and beneficial, that is to the people". The most striking features of the Reforms were; L.G were granted the power of local grass root governance, thus becoming the third tier of government in the country, direct statutory allocation from the Federation Account and empowered to exercise control over its spending. It provided for a democratically elected local government councils. To this end, L.G election was held in 1976. In addition, all the provisions of the 1976 Reforms were embodied in the 1979 constitution.

Furthermore, the Babangida administration (1985-1993) initiated some concrete measures (Reforms) aimed at asserting L.G autonomy. The highlights of the Reforms include; the scrapping of the ministry of local government in 1988, establishment of executive and legislative arms in L.G and direct disbursement of funds to L.G without passing through the State Governments. The statutory allocation of councils was also increased from 15 percent to 20 percent in 1990.

Other measures taken to reinforce the autonomy of councils were the L.G election in December 1987, approval of scheme of service for L.G employees, following the recommendation of the Oyeyipo committee Report of March 1988(Adeyemo, 2005). Also, the presidential system was introduced into L.G system in 1991, as the local government council constitutes the legislative and the executive arms which were charged with specified functions. Besides, the spending limits of the councils were abolished.

There was a general consensus among scholars, opinion leaders, stakeholders, etc that the Reforms were aimed at making the councils more autonomous in a federal state (Gboyega, 2002, Igbuzor, 2003). They further added that it was intended to transfer greater powers and resources to the councils rather than the State Governments. Through these Reforms, it was believed that a greater measure of autonomy was granted the councils at the expense of the States.

Limitations of Local Government Autonomy

Not minding our individual positions on the question of Local Government autonomy, it is generally agreed that there cannot be absolute autonomy for councils as they are subordinate bodies created by laws of the State. However certain constitutional provisions have been identified as impediments to the realisation of the noble objectives of L.G autonomy in Nigeria.

We note that the provision relating to L.G in the 1999 constitution is hazy. The 1999 constitution in sections 7 and 8 recognizes the L.G as a third tier of government, but gives the States the authority to lord over the councils. Sections 7 and 8 provide that there shall be "the system of local government by democratically elected councils (which) is by this constitution guaranteed and accordingly, governments 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" According to Asaju (2010) the implication of these provisions is that L.G cannot exercise the functions assigned to it in schedule 4 of the constitution until the State House of Assembly has passed a law.

Furthermore, section 7 (10) of the 1989 constitution, as well as section (110) Decree No. 15 of 1989 specifically provide as follows; "subject to the provision of chapter viii of this constitution, the House of Assembly of a state shall enact a law providing for the structure, composition, revenue and expenditure and other financial matters, staff, and other relevant matters for the local government"

In addition, Decree No. 23 of 1991, section 4 has provided that: "the executive powers of local government shall be exercised by the chairman of the local government subject to the provision of any Edict or law of the State within which the local government is situated". Also section 34 of the Local Government (Basic constitutional and Transitional Provisions) (decree No. 15 of 1989) empowers the president to "if he is satisfied that the affairs of a local government are not being managed in the best interest of the community or in a way to strengthen the unity of the people of Nigeria or for any good cause".

A -remove the chairman, vice-chairman of the local government council from office or B-dissolve the local government council and appoint an administrator to manage the affairs of the council until an election is held. We should also note that, section 4 (5) (3)(b) of the 1989 constitution asserted that the council's chairman...executive powers shall be so exercised as not to impede or prejudice the exercise of the executive powers of the federation or state in which the council concerned is situated or to endanger the asset or investment of the government of the federation or of the State government in the local government area.

The federal government still exercises both constitutional and statutory responsibilities in relation to local government administration in Nigeria by.

- A. Establishing the code of conduct bureau for all public officers, including local government functionaries to declare their assets.
- B. making provisions for statutory allocation of public revenue to the governments of the federation.
- C. Exercising through the National Assembly unfettered powers to make laws for the federation or any part therefore including any local government area.

The State Governments are also constitutionally charged to relate with the councils:

- A. Enacting a law to create councils
- B. Administering the allegiance and the oath of office on the newly elected chairman, through the governor of the State.
Allocating 10 percent of the State's internally generated revenue to the councils.
- C. Establishing the office of the Auditor General for the local government for the purpose of auditing the account of the councils.
- E. Establishing the Local Government Service Commission (LGSCs).

Perhaps of all the constitutional provisions that have limited the autonomy of councils and as a result has constrained development of councils is the State Joint Local Government Account (SJLGA) which has bastardized autonomy of L.G and has a telling effect on the autonomy and the general development of the councils, and which has in the long run crumpled the developmental strides of councils. SJLGA is a special account maintained by each State Government "into which shall be paid

allocations to the local councils of the State from the Federation Account and from the Government of the State" (section 162 (6), 1999 constitution of Nigeria). The constitution made provisions for statutory funding of councils, 20 percent of Federation Account is

paid to them on a monthly basis; while 10 percent of each State's internally generated revenue should also be paid to the councils in the State. However, the current problem facing councils is that State Governments all over the country have hijacked and diverted SJLGA and made it part of State's funds and dole out whatever amount they deemed fit in the name of deductions. Evidence shows that most of the State Governors use SJLGA to hold L.G hostage and make them appendages of the States. Contributing on this development Okafor (2010) asserted that in practice the operation of SJLGA has denied councils their financial autonomy. We note that State is not intended to be a beneficiary of SJLGA, rather, is it a trustee of the Account. Borno State is a typical case in point. According to Dlakwa(2004,) between march 2002 and march 2003, a total of N13388.1 was due to the councils , out of this amount the State deducted N6440.7 (48.4 %).

One other instrument State Governments have used to subvert the autonomy of councils is Local Government Service Commission (LGSCs), which claims monopoly of personnel matters in council's administration. It is a situation which the end users of personnel have no input in their administration. It is at variance with ethos of modern personnel administration process in which the end users have no say (Imhaniahimi and Ikeanyibe, 2009).

Challenges of Local Government Autonomy

Some problems have been identified as posing as impediments to the autonomy of councils and which have prevented the councils from performing their constitutional and statutory roles. These are constitutional provisions, political instability, imposition of candidates, financial/ fiscal problems, etc.

Constitutional Provisions: we note the overbearing role exercise by States constitutes a tremendous threat to the autonomy of councils. States issue contradictory rules, instruction, supervisory powers passed down to the councils, some of which are clearly outside the constitutional jurisdictions of councils. Another constitutional problem that has dented the autonomy of councils is in the realm of personnel. This is the constitutional provision of LGSCs. Councils are allowed to exercise their discretion and undertake competitive personnel administration. The manifestation of this scenario is depreciation of autonomy, because in reality, council staff could show more loyalty to the LGSCs than the councils.

Also, the constitutional provision on SJGLA has been manipulated by States to siphon councils' funds, under the pretext of deductions to meet statutory claims. This has clearly impacted negatively on the autonomy of councils.

Political Instability- this can be seen from the inability of States to conduct election into councils. It is on record that since the return of democracy in 1999, some States have not organized council's elections. For instance Anambra State has not conducted elections into councils since 1999. Therefore, sole Administrators or caretaker committees are appointed to run the councils and these are not accountable to the people, but to the governors. This is abuse of the constitutional provision, which guarantees elections into

the council by the people, therefore ceding control of councils to the States, and eroding the autonomy of councils.

Another area we should focus our attention to is the persistence suspension or dissolution of councils by State Governors. Governors take pride in suspending elected chairmen and councilors who fall out of favour with them. Recent case in point is the indefinite suspension of the entire executive and legislative arms of Obio/ Apkor L.G.A by Rivers Governor through the State House of Assembly. This scenario has continued to undermine local government autonomy.

Imposition of Candidates- Imposition of candidates by States has become a common feature in councils' election across the country. In election to councils, it's the State governor or party hierarchy that determines the candidates, usually the party in power wins all the positions, and this of course is facilitated through the State Independent Electoral Commission. Hardly does any opposition party win any seat. Council's elections are generally seen as an avenue to provide job for the "boys", therefore no special qualification is needed to contest for the election, as long as the candidate is loyal or connected to the governor or one of the Godfathers. Therefore illiterates, thugs, people of questionable characters are nominated by the ruling party, because the only qualification required is provided they can do the bidding of the governor or the Godfather, not the ability to perform. In most cases, elections are facade, no election is even conducted, and State Independent Electoral Commission only announces the result, with the candidates of the ruling party always the winners. Imposition of candidates is the rule of the game in L.G election. Therefore, Councils have been reduced to dumping ground for their boys. This has further bastardized the autonomy of councils.

Financial/Fiscal problems- States have continued to encroach on councils' revenue sources; it is a common sight in most States to see States competing with councils to collect revenue in motor parks, markets, etc which is constitutionally the exclusive preserve of councils. Also the inability of councils to generate adequate revenue to meet their constitutional responsibilities is a serious threat to the autonomy of councils. Therefore most councils depend entirely on the monthly allocation from the Federation Account, which clearly is not enough in view of the illegal deductions and diversions made by States. This no doubt erodes the autonomy of councils. Similarly, State Governments have consistently refused to remit the mandatory 10 percent internally generated revenue (IGR) to the councils as spelt out in the 1999 constitution.

We should also bring into focus the issue of imposition of additional financial responsibilities on councils by higher authorities. Councils have been compelled to spend their scarce resources on National Orientation Agency, National Electoral Commission, National Population Commission, Security agencies, Poverty Alleviation Programme, Vaccination Programme, etc which are clearly outside the purview of councils. These constitute further financial burden on councils.

Conclusion

The clamor for L.G autonomy should be related to financial and political autonomy; the ability of councils to control their finance and the people of the people to freely choose their leaders and to participate in the affairs of the councils. However, we must note that L.G autonomy is not absolute. From the above analysis, the autonomy granted in the 1999 constitution has been effectively hijacked by the State governors, therefore reducing the councils to the appendages of the State and vitiating their constitutional responsibilities. It is obvious that the States have capitalized on the constitutional provisions to usurp and subvert the autonomy of councils.

Recommendations

Based on our exposition on L.G autonomy, we therefore recommend the followings: The States should stop encroaching on revenue yielding sources of the councils. Also, States should remit the constitutional provision of 10 percent of their IGR to the councils. Besides, Councils should endeavour to widen their revenue base by paying more attention to IGR sources.

Similarly, in the current proposal to the amendment of the 1999 constitution, the National Assembly should accept the proposal on L.G autonomy and scrap the SJLGA and funds should be directly disbursed to the councils. In addition, the people should be allowed to freely elect their leaders into the executive and legislative arms and further outlaw Caretaker Committee or Sole Administrator Ship and state should ensure that election are conducted at regular intervals into councils.

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