

## The Local Government in Nigeria: Ethical, Legal Responsibilities and Risk Management

<sup>1</sup>Kabir Bello & <sup>2</sup>Ahmad Hassan Ahmad

<sup>1</sup>Department of Sociology, Bayero University Kano, P.M.B 3011, Kano State, Nigeria

<sup>2</sup>Department of Sociology, Federal University of Kashere, P.M.B 0182, Gombe State, Nigeria

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### Abstract

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Local government system exists in every country with variations in its structures and functions. Some countries operate single-tier system, where one local government exercises all the powers and performs all the functions, single-tier structural framework, where two or more local government share responsibilities for providing a range of services to the citizens in a defined area. This paper examines the ethical, legal responsibilities and risk management at the local government level in Nigeria. The paper is anchored on the System Theory of Risk Management which presupposes that communication and effective decision making are central to effective risk management process. The paper recommends that local governments in Nigeria requires greater financial autonomy as a basis for meeting up with their legal and ethical responsibilities and the management of risk associated with local government administration.

**Keywords:** *Local government level, Ethics, Legal responsibilities, Risk management*

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Corresponding Author: Kabir Bello

## **Background to the Study**

The very essence of local government existence has always been grounded on the argument that it is an integral part of the tenets of democracy and the institutionalization of the participation in the decision-making process. Thus, no political system can thrive, considered complete and democratic if it does not have a formal system of local government administration. Local government system exists in every country with variations in its structures and functions. Some countries operate single-tier system, where one local government exercises all the powers and performs all the functions and in other places, two or more local government share responsibilities for providing a range of services to the citizens in a defined area. In other words, local government administrations globally vary in size and structure and operate under different arrangements based on the system of government in different nations. Globally, the very essence of this tier of government is to strive to meet peoples' demands for goods and services in a cost effective manner particularly at the grass root.

Local government serves two basic and fundamental purposes. The very first purpose is the administrative function of supplying goods and services; while the other function is to represent and involve the majority of citizens in determining specific grass root public demands and how these demands can be met. Local government is a process that cut across and connects representation and administration at local levels within a local structure of governance. In order to understand the function and structure of local government, it is important to define local government and understand the meaning of local government and its ethical and legal responsibilities and capacity for risk management. With these in mind, the focus of this paper is on the typical structure of local government as the administrative structure of local government forms the basic framework upon which local public policy is determined and implemented in consonance with ethical and legal standards.

## **Conceptual Clarifications**

### **The Local Government**

There are two approaches to the definition of local government in literature. One approach is to regard all such national structures below the central government as a local government. The second approach is rooted in the argument that local governments are identified by certain defining features. These features usually focus on attributes such as: legal status, specified powers to perform a range of functions, a particular level of budgetary and staffing autonomy subject to specified control by the center, effective participation at the local level. As a concept however, and one of the subordinate units in federal political system arrangement, it has attracted definitions from various quarters (scholars). Impliedly, there is no unanimous agreement between these quarters on the definition of local government. The Guidelines for Local Government Reform of (1976:1) defines local government as:

Government at the local level exercise through representative council established by law to exercise specific powers within defined area. These powers should give the council

substantial control over local affairs as well as the staff and institutional and financial powers to initiate and direct the provision of services and determine activities of state and federal; government in their areas, and the ensure, through devolution of functions to these councils and through the active participation of the people and their traditional institutions, that local initiative and response to local needs and conditions are maximized.

However, the United Nations Office for Public Administration quoted in Ola and Tonwe (2009:4) defines local government as thus:

*A political subdivision of a nation or (in a federal system) state, which is constituted by law and has substantial control of local affairs, including the powers to impose taxes or to exact labour for prescribed purposes. The governing body of such as entity is elected or otherwise locally selected.*

In line with the conception above, the International Encyclopedia of Social Sciences cited in Adeyemo (2010:7) defined it as:

*A political subdivision of a Nation or Regional Government which perform functions which in nearly all cases receives its legal power from national or regional government but possesses some degree of discretion on the making of decisions and which normally has some taxing power.*

Implicit in the conceptions above is that; local government is basically a social institution and an organized social entity based on the feeling of solidarity, it is basically an economic institution with a foremost role to play in promoting the economic well-being of the people of the locality, has a specific and defined territorial jurisdiction over a particular human habitation, it is a legal institution in the sense that it is established by law of a competent and higher authority, a political process and structure for governance at the grass root level and has its local bureaucracy like other higher levels of government that coordinate the activities and the operation of day- to-day running of the system.

### **Ethical Responsibilities in Local Government**

Ethics is very critical in leadership in any social setting. Ethics refers to values and principles that guide right and wrong behavior. Leadership demands ethics because of the responsibilities it attached to it. As noted by Bowman (2008), ethics is the key to the flourishing of democracy and its administration. Menzel (2007) noted that “ethics are values and principles that guide right and wrong behavior”. Ethics provide people with a framework or guideline for doing the right thing, making good decisions, and avoiding wrong behavior and wrong decisions.

Those in leadership positions in a local government and, in fact, in all forms of government, need to be guided by ethical standards in discharging their responsibilities as they pilot the affairs of their organizations or societies. To a greater extent, they play a part in determining the moral quality of their followers. Basically, ethical leadership plays a pivotal and critical role in any group, organization, and society at large.

Policy makers in Nigeria have over the years, invested much concern on how to reform, reorganize and reposition local government system in Nigeria to achieve the much needed developmental transformation at the local level, but unethical practices culminating in large scale corruption, which the World Bank defines as the use of public office for private profit, and mismanagement of resources has really plagued this concern and equally a constraint in the wheel of progress. In this vein, Akinlorin (2010) noted that workers in Local Governments in Nigeria exhibit painful negative work ethics that manifest in lateness to work, abandonment of duty, insubordination, truancy, disloyalty, indiscipline, absenteeism and non-commitment towards the achievements of the objectives of local governments. He further argued that there is flagrant abuse of time and property while workers indulge in long periods of unproductive conversations, loitering, rumour peddling and malingering.

Local government councils should endeavour to conduct their activities with high standards, integrity, openness and accountability to enable council officials emulate. This derives from the popular notion that *"councils which are likely to put people first stand to propagate high moral standards in the conduct of their activities"*. To this extent therefore, ethical responsibilities of council functionaries and employees should incorporate the following;

- a) Local government leadership must promote and support principles of ethics by setting examples for other council officers to emulate.
- b) Council Chairmen and councilors must always uphold the law and order at all times, act within the trust placed on them.
- c) Council officials must ensure that whenever there is conflict between public and private interests, only public interest should prevail.
- d) One should always put his/her conducts in a way that integrity is not at any point questioned.
- e) Employees and council officials should try as much as possible to document all gifts, hospitality and a favour received as members of the council, but be close with discernment not to accept gifts meant to reasonably influence their sense of judgment.
- f) Ensure that in the course of carrying out public business, like awarding contracts/making public appointments or recommending individuals or group for rewards and benefit, there is the need to make decisions on ground of merit not on selfish and parochial considerations. This is in line with the principle of due process as emphasized in the Transparency International Initiative (1999).

These ethical responsibilities apply to anyone including councilors and all council employees saddled with a responsibility. They allow local governments to focus on their desired outcomes and determine the exact processes to achieve these outcomes in a way that suits their particular and unique situations, as long as the processes are rational, justifiable and transparent. Thus, Local governments make decisions about policies, processes and procedures to suit their size, location and administrative circumstances.

### **Legal Responsibilities in Local Governments**

Many scholars have defined local government differently as stated earlier. This is as a result of varied perspectives on the actual responsibility of local government which differ from one environment to another. However, local government can be defined as government at the local level exercised through representative councils established by law to exercise specific powers within defined areas (Igbuzor, 2009). Thus, as one of the three tiers of government in Nigeria, Local government can be described as the lower level of government in a modern state structure that is legally distinct with powers to raise its own revenue and to undertake delegated responsibilities as provided for by the constitution. It is the lowest level through which representative government can be practiced.

In Nigeria, the local government is the third-tier of government and that placed it in a position of nearness to the people at the grassroots or local communities. Its closeness to the local populace enables it to perform special functions and services, which bother on the interests and aspirations of the local communities.

The responsibilities of local government are numerous. However, the Fourth Schedule of the 1999 Constitution made elaborate provisions for the responsibilities of local government. These responsibilities cut across all states of the federation. However, the environment of every local government council will to a large extent determine the nature and extent of the responsibilities of the local government. For instance, the functions of urban local governments will significantly differ from that of rural local governments in respect of the degree of involvement and nature of the roles to be performed. In spite of this, all local governments throughout the federation shall perform these responsibilities as provided in Section 7(1) of the 1999 constitution of the Federal Republic of Nigeria as amended. These responsibilities according to Eneanya (2012) are both mandatory and participatory;

### **Mandatory Local Government (Responsibilities) Functions**

- a) Collection of rates (including tenement rates) radio, television and non-mechanically propelled vehicle licenses (bicycles and trucks);
- b) Establishment and maintenance of cemeteries, burial grounds, homes for destitute and infirm, market, motor-parks, public conveniences, roads, drawn and recreation facilities (including play-grounds and parks);
- c) Construction and maintenance of roads, streets lighting, drains and other public highways, parks, gardens, open spaces or such facilities as may be prescribed from time to time by the State House of Assembly;
- d) Assessment of privately owned house or tenements for the purpose of levying such rates as may be prescribed by the house of Assembly of State;
- e) Naming of roads and streets and numbering of houses;
- f) Licensing, regulation and control of the sale of liquor.
- g) Control and regulation of outdoor advertising and hoardings, pots, shops, kiosks, restaurants and laundries;
- h) Registration of all births, deaths and marriages.

### **Participatory Local Government (Responsibilities) Functions**

Constitutionally, the local government is empowered to participate in the following responsibilities;

- a) State economic planning and development;
- b) Provision and maintenance of primary education services, adult and vocational education;
- c) Development of agriculture and natural resources (other than the exploitation of minerals).
- d) Provision and maintenance of health services.
- e) Other functions as may be conferred on a local government council by the House of Assembly of the State.

### **Risk Management at the Local Government Level**

Government at all levels is generally large and highly bureaucratic, making difficult any incentive towards risk management (Dobrea & Ene, 2006). The magnitude and variety of risks government face in its daily activity is enormous and the very concern of the authorities is to assure the public that no current or potential risk threatens public value. More often, local governments have to deal with many risks which practically, they are just not well equipped to handle or willing to do so (Braig, Gebre, & Sellgren, 2011).

Risk is an inherent issue in all human endeavours. Wherever there is a collection of individuals, risk forms an integral part of that entity whether in business undertakings, farming, hunting, and seeming less attractive operations in self-employed endeavours, etc. Specifically, risk is associated with our lives. It is the more reason why people and organizations, for instance, insure against grave and injurious happenings which may negatively impact their existence or in extreme cases, results in incapacitation or infirmity. Although, different people and organization have different views regarding the perception of risk, the fundamental consideration is the implication of risk for the corporate existence of organizations because of their impact on the economy as a whole. Hence, the local government as an important tier of government cannot be exempted from the more general context of this concern.

### **Conceptual Issues in Risk and Risk Management**

Risk has been viewed in a number of ways, which are almost never a reflection of reality, but are relevant mechanisms for abstraction and creating common grounds (Habegger, 2008). Additionally, we might distinguish between the meaning of the concept in technical and non-technical contexts. Therefore, in technical contexts, the concept of 'risk' could have specific meanings which are widely used across disciplines, ranging from 'the cause of, the probability of, or an unwanted event which may or may not occur' to a decision that has been made under the condition of known probabilities.

For Harrington (1999), the term risk has a variety of meaning in everyday life. At its most general level, risk is used to describe any situation where there is uncertainty about what outcome will occur. Life is obviously very risky, even the short-term future is often highly

uncertain. In entities associated with financial management, and investment management, risk is often used in a more specific sense to indicate possible variability in outcomes around some expected value. In a similar conception as above, Kaye (2001) sees risk from the perspective of an event. For Kaye, risk can be seen from the viewpoint of whether an incident is likely to occur. It is also necessary to consider how often such an incident could happen and how damaging the incident would be if and when it occurred.

Inherent in the conceptions above is that risk as uncertain as loss which poses a problem to individuals in nearly every aspect of life. All human beings and organizations, regardless of their status, must face risk and develop ways to handle it. For instance, if in organization such as the local government, a loss is certain to occur, the management may then plan to mitigate it in advance and treat as a definite cost to the functionality of the organization. Nevertheless, in the event of uncertainty about the occurrence of a loss, risk would come into play since uncertainty breeds calamity and consequential burden on the organization and its survival.

### **Causes of Risk in Organization**

All forms of risk do not just occur in the operations of any organization or government agencies. The occurrence of any risk is normally precipitated by some factors. Basically, risk takes place because of some factors which are associated with the nature of the operations, behavior of the workers, types of facilities in use in the organization and above all, the upheavals of the external environment. There are some causes which can precipitate risk to take place. Such causes are inherent in the human nature, environmental conditions, and mechanical operations. Such causes of risk are identified below;

#### **Inadequate Flow of Funding**

This arises when the management in the case of large entities such as the local government does not monitor closely the expenses and accounting records of its operations. The result is that the flow of funds for progressive projects will be jeopardized. The internal problem such as lack of planning ahead for contingencies can also precipitates funding deficiency. Therefore, it is advisable that local government administrators should have adequate period of operating expenses kept away in savings with which to keep its funding needs afloat especially on projects that can add value to the life of the local population.

#### **Labour Unrest**

Labour problem can precipitate risk in the operations of an entity such as the local government. In the event of labour, unrest which can emanate from disagreement between the management and labour, operations will suffer and therefore this will incur abnormal damages. The labour unrest can take the form of strike, stoppage, work to rule, and picketing, among others. For instance, in some Nigerian states employees at the local government level have either embarked or threatened strike action. The consequences of such labour unrest include loss of revenue among others. In Nigeria, the labour unrest has always been led by the Nigeria Labour Congress (NLC) on issues concerning fuel price

increase, national minimum wage, etc. The consequences include loss of valuable man hours, decrease in economic output, disruptions in socio-economic operations, etc. More recently, employees at the local government level have decided to speak with a common voice and stand for a change through its umbrella body National Union of Local Government Employees (NULGE) especially with the rising call for local government autonomy.

### **Weak Internal Controls**

When corporate entities do not have sound policies, the result is weak internal controls. This is because in the absence of such policies, there would be no meaningful checks and balances in the operations of the entities, and the result will be loss of revenue, frauds, embezzlement, and other related problems all of which are without a doubt prevalent at the local government level.

### **Weak Corporate Governance**

The absence of good governance in the operations of an entity or organization is indicative of the fact the best practices of corporate governance issues are not being observed by the management, the chief executive officers of such organization. Therefore, in such situation, the normal operational protocol will be breached in the management of the funds of the organization which in most cases usually results in fraudulent practices, embezzlements, bad debts and financial distress, etc.

### **Poor Planning**

Poor planning can lead to what is called one-dimensional thinking which can lead to the risk of sinking the operations of an organization. For instance, lack of creative ways towards providing sources of reducing problems and sufferings associated with the local population are without a doubt a function of poor planning.

### **Theoretical Framework**

#### **System Theory of Risk Management**

The system theory's approach to risk in the tradition of Luhmann (1993) is mainly advocated by Zinn (2004). The general assumption in the context of this approach is how the ability of society to evolve could be improved and how the ability to solve problems could be increased. The original answer is by means of functional differentiation in societal sub-areas or subsystems like economy, justice, science etc. System theory conceptualizes societies as existing in communication. Therefore, risks management is a way in which societies communicate about themselves. This is a function of modernization processes which change the way societies describe their future, not in terms of decision-making.

Thus, the local government requires a systematic, logical and systematic method of establishing the context, identifying, analysing, evaluating, treating, monitoring and communicating risks associated with any activity, function or process in a way that will enable it to minimize losses and increase opportunities. This entails in the local



government and its Chief Executives having a clear understanding of the key risks facing the Council, meeting the Council's strategic objectives, encouraging proactive management of strategies to identify and manage risks, promoting a positive risk management culture integrated across the local government structure to ensure a continuous improvement, establishing an effective method for decision making and planning, cost savings that are achieved for Council through the presence of an efficient control environment, and the community having increased confidence in the local government operations.

### **Antecedents of Risk Management in Nigerian Local Governments**

The Federal Government of Nigeria created local governments as the third tier government with the aim of bringing government closer to the people at the grass root level to enhance development and promote participatory democracy (FGN, 1999). The functions of the local government are clearly split out in the constitution which includes, Promotion of freedom for decision making, local autonomy, participatory democracy, political integration, and above all, provision of effective service delivery at the grass root level. According to Adebisi (2012), the success and the effectiveness of local government very much depend on the financial resources available to the individual local authorities, and the manner in which these resources are utilized. However, it is noted that in spite of the fact that the 1976 local government reforms granted greater autonomy, powers and functions to local governments, their performance is below expectation. The above statement is in consonant with the state of affairs in the local government system in Nigeria as a result of the following problems;

- a) The main problem of the local government is lack of application of risk management principles to identify, evaluate, control and monitor risks that could impede the achievement of their goals and objectives. Risk management is still at rudimentary stage in Nigeria (Moghalu, 2012).
- b) Closely related to above, is also the problem of overbearing influence of the States and State houses of assembly on LG administration in Nigeria particularly the Joint State local government account.
- c) Another critical problem inhibiting the performance of local government as in all levels and institutions of government in Nigeria which is predominately widespread, undiluted and unambiguous in the local governments (Lawal, 2000).



The management of risk involves a process which means that it goes through some logical steps. The process, according to Kpodo (1989), requires for identification of the threats of operational risk, analysis of such threats, and above all, risk mitigation and tracking of appropriate policy for efficient management of the identified threats, contingency planning, and risk communication among others. Hence, the process of risk management involves considerations such as the following;

- a) Identification
- b) Evaluation
- c) Measurement and Treatment
- d) Administration of Risk Management Process, an
- e) Monitoring and Reviewing of the Process

### **Conclusion and Recommendations**

There has been widespread belief that although the LGAs are assigned primary responsibility for the delivery of basic public services, they are not equipped with adequate revenue resources to fulfill their expenditure obligations because the bulk of government revenue is retained by the federal government and those channeled to the states are not adequately devolved to the local governments. In line with this, it is quiet submissive that local governments in Nigeria requires greater financial autonomy as a basis for meeting up with their legal and ethical responsibilities and the management of risk associated with local government administration. The following recommendations will however aid the course of the local government's ability to deliver public goods in the bid to meet up with their ethical and legal responsibilities and risk management by extension.

- a) Where the standards and responsibilities mentioned above are adhered to, it is the expectation of the public that officials at all levels of government especially the local government will utilize public resources for the wellbeing of the citizenry. This finds expression in the fact that citizens expect efficient and effective delivery of healthcare services, education systems, and crime prevention systems from their government.
- b) People's confidence and trust in the government increases when their public leaders make policies and take actions that promote the interests and well-being of the entire community.
- c) The local government must be adequately enabled to meet up with its ethical responsibilities based on certain codes of conduct else such society cannot record or achieve progress and development. The local Government in Nigeria is not exempted from the more general context of this particular concern. Ethics implies the idea of trust. The functionality of any society is dependent upon trust, commitment and respect for the rule of law.
- d) Risk management is a herculean task to be performed by organizations if they want to achieve their governance goals and objectives. Thus, local government councils should have a clear vision on what risk entails to them and try to device a tolerance mechanism in other to contain the risk and take relevant measures when needed.

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