

LOCAL GOVERNANCE SYSTEM FAILURE IN NIGERIA'S FOURTH REPUBLIC: CHALLENGES AND THE EXIGENCY OF A PARADIGM SHIFT FOR SUSTAINABILITY

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Abstract

In the public domain since the inception of the fourth republic myriads of concerns have been raised with respect to the status of local government system in Nigeria. The level of systemic decay and inefficiency is daunting and thus gives cause for concern. This prevailing scenario juxtaposes the objectives of the 1976 reforms and others. Thus over the decades, rather than project local governance in positive light of the much touted autonomy as a third tier of government, it has rather remained mere toddler in the hands of state governments; thereby robbing it of the capacity and ability to provide effective governance and development at the grassroots level. Perturbed by the above problems, this paper seeks to explore the present plight of local governance in Nigeria, which is incongruous with popular expectations and aspirations in a model federal arrangement. The paper employs qualitative approach in extracting relevant data from secondary materials. In the first instance the paper identifies several challenges confronting local governance system in Nigeria; mostly political, legal and administrative, which are largely responsible for its comatose state and which are derivatives of its seemingly mortgaged status as a tier of government. The paper proposes a paradigm shift built on urgent need to reforming existing reforms through constitutional amendment to clearly spell out the political and financial autonomy of local government system in Nigeria. This will in no small measure help to unburden the continued emasculation of local governance by over-bearing state governors and make it responsive to meeting the developmental needs of the rural populace.

Keyword

Local Governance System, Nigeria, Fourth Republic, Challenges, Paradigm Shift

Introduction

Suffice to say that the present local government system in Nigeria is an off-shot of what used to be called native authority (administration) system, which evolved from pre-colonial to colonial era and has undergone series of continuities, changes, reforms and transforms to get to where it is today. Over this period local government has been widely described as government closest to the people from the standpoint of administrative convenience, better grasp of local needs,

peculiarities and aspirations of rural people. The philosophical rationale behind the local government model as a structure of governance is to address some of the most pressing needs of the rural people which are best taken care of within their local context, hence the appellation “Local government” (Acheoah, 2018a). This paper attempts a critical expose of the challenges of local governance system in Nigeria. These challenges given their political, administrative and constitutional undertones have rendered local governance system comatose; and therefore requiring as a matter of exigency fundamental paradigm shift. The quagmire of Nigerian local governance system has its basis on these political, legal and administrative factors, which have resulted in weak institutionalization and underdevelopment of the third-tier of government in Nigeria.

Recall that prior to 1999, several reform efforts have been made by successive administrations to restructure, unify and reposition the local government as a viable governance structure at local levels. These efforts have not yielded any positive impact. However, the 1999 Constitution of the Federal Republic of Nigeria is the albatross that has rendered local governance system almost irrelevant. Although, the 1999 Nigerian Constitution envisaged a democratically-structured local government system in Nigeria with financial and administrative autonomy as stipulated in Section 7, subsection (1), however, the same constitution dialectically contradicts this section in Section 162 Subsection (5-7) whereby the fiscal and financial autonomies were deliberately taken from them and made them subservient to the dictates of the State Governments where they exist. This section legalizes the manipulation of local government funds at will to the furtherance of elitist privileges of the state executives while starving the rural people both the governance needed at grassroots level as well as the funds needed for rural development.

The above scenario necessitated the writing of this paper, to critically investigate local governance system failure in Nigeria’s fourth republic in relation to the underlying political, administrative and legal challenges towards evolving a viable local governance system in Nigeria bringing about a paradigm shift. Following this introduction the paper will further outline its objectives, state the methodology, and address relevant issues in literature to capture the outlined objectives and finally the conclusion and recommendations.

The Aim and Objectives of the Article

This paper is aimed at investigating local governance system failure in Nigeria’s fourth republic: an inquest into the major political, legal cum administrative challenges and the exigency of a paradigm shift. To this end, the paper shall pursue the following specific objectives; which are to

- (a) Review conceptual issues and evolution of local governance system
- (b) Critique the Polemics of Local Government autonomy in Nigeria’s Fourth Republic
- (c) Interrogate the major political, legal and administrative challenges facing local governance system in Nigeria’s fourth republic;
- (d) Propose measures necessary for paradigm shift towards evolving a viable local governance system in Nigeria

Methodology

This paper used exploratory design. Exploratory design fits where a situation has a deviant character. However, the goal of exploratory design is to discover ideas and insights. This study employed the exploratory design in order to provide better understanding of the failed situation in the local governance system in Nigeria. In addition to the exploratory design, this paper employed qualitative method in its data collection and analyses. Qualitative approach emphasizes meanings (words) rather than frequencies and distributions (numbers) when collecting and analyzing data. In

the main, qualitative approach seeks to understand and interpret the meaning of situations or events from the perspectives of the people involved and as understood by them (in this relying absolutely on documented evidence).

Theoretical Framework

The legalistic theory of federalism was employed as the explanatory framework in this paper. This theory propounded by Wheare (1963) underscores the centrality of legal rules defining inter-governmental relations in a federal state. Wheare remarked that, by federal principle is meant the method of dividing power so that general and regional governments are each within a sphere coordinate and independent. The federal constitution defines the power relations between the central government and the sub-national units. It devolves and de-concentrates powers in three legislative lists: the Exclusive list in which enumerated items of central jurisdictions are codified; the Concurrent list, in which all other matters not specifically assigned to the federal government are reserved for the respective states while the items of the Residual lists are left to Local government unit. Relying on Wheare's postulations it could be understood that local government is a sub-national unit in a federal state system, an independent and co-jurally a sub-unit of government and not an appendage of other levels of government as it is currently being turned into by the 1999 constitution. Local governments are supposed to exist independently from other levels of government in a federal scheme with democratically elected officials, chosen by the rural people through popular elections to pilot their affairs, they are to operate with full fiscal and financial autonomy; exercising capacity to impose tax and levy within areas of their jurisdiction, have an independent account for accessing funds from the national pool of revenues.

Unfortunately, the Nigerian experience in local governance remains problematic, as efforts at reforming the structure has not translated beyond paper work and constitutional rhetoric. The Local government system currently in place in Nigeria is not structured to serve the rural people but inverted and structured to remain subservient to the state government where they exist to the negation of their essence and federal principles.

Conceptual Issues and Evolution of Local Governance System

Local government simply may be described as government established by an instrument or act of parliament for the purpose of bringing governance and development nearer to people at the grassroots level. Local government is assigned specific developmental functions to perform for the betterment of the rural population. Available documented evidence shows that in Nigeria the Local government system predates other levels of government both regional government (from 1946 to 1967) and the State level (from 1967 to date) and the federal level (since 1954) (Acheoah, 2018a). This implies that local government systems have always existed in pre-colonial Nigeria. According to Acheoah (2018b) these authorities performed the functions of communal order: security (through local vigilante), organized markets and collected taxes, levies, created and maintained roads linking communities, outlaid village squares for festive events (the purpose of modern day stadium).

Furthermore, local governance systems in postcolonial Nigeria were offshoots of the inchoate sole native authorities through which the British actuated indirect rule in colonial Nigeria. The colonial authority introduced multi-tier system of Local government: the County, Municipal, District and Divisional councils with different statuses and prerogatives. By this time they began to take their structural meanings. Historical evidence as affirmed by Joseph (1991) has it that local government authorities in colonial Nigeria were more autonomous than in post-colonial Nigeria. The local council in colonial era had wide range of prerogatives and functions over various matters such as: health, education, police, and judiciary (customary courts) among others. Notwithstanding being the first

form of administrative structure in Nigeria, the Local government system is still evolving in the post-colonial experience, and the experience has been daunting. Joseph (1991) further asserts that one of the most fundamental efforts at reforming the local government system in Nigeria both in their structure and functionality was in 1976, when the Federal Military Government of Nigeria introduced a unified local government system, making them a one-tier system, a significant departure from the multi-tier system that hitherto existed: Divisional, County, District, and Municipal Councils were collapsed into one. Another landmark reform made local government the third tier of government after federal and state.

In the light of the above, there is need to re-enact the justifications for local governance system in modern Nigeria. Ranny (1976) posits these justifications for incorporation of local government model into statecraft:

- To provide the rural people with a platform for conducting their affairs in the context of their social, cultural and economic peculiarities;
- To provide a framework for grassroots mobilization and the sustenance of popular will and initiative for development;
- Local government functions as a two way channel of communication between the local populace, the central authority, thereby aggregating local interests and transmitting to the center while at the same time keeping the local populace abreast with the activities, policies and programs of the central government;
- Local government serves as an edge against over-centralization of power at the Centre thereby providing administrative/governance structure for power devolution and de-concentration; and
- Local government structures are veritable socio-political laboratories for testing the viability of policy and programs proposals of the government before incorporating them into the larger menu of governmental activities.

In spite of these viable rationales for local government models, they are yet to be fully utilized as governance structure in Nigeria especially since the emergence of the fourth republic in order to reap the intended benefits that gave rise to their adoption as a tier or subunit of government driving rural development.

Polemics of Local Government Autonomy in Nigeria's Fourth Republic

Local government autonomy is the right of local government, as a tier of government, to exist as an independent, but coordinate partner in a federal presidential system such as Nigeria. The Federal Republic of Nigeria, 1999 Constitution in Section 7 (1) recognizes this right to autonomy of local government where it provides that; "The system of local government by democratically elected local 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." The autonomy granted to local governments in this context relates to the power of the local government to assert its political, fiscal and legal authority within the limits allowed by the constitution.

According to Adeyeye (2003) local government autonomy requires that the local government must have the power to take decisions independent of external control within the limit laid down by the law. Local government must have sufficient resources, particularly finance, to meet its responsibilities i.e. power to keep and use its revenue, determine levies and collect local taxes and rates and also raise loan, to create posts, appoint and dismiss its officers with regard to laid down procedures and conditions, to administer services free from direct interference from external superior

authority. In the context of Nigeria, local government autonomy refers to the extent to which local governments are free from the paternal control of state and federal government in the management of local affairs. On the other hand Bello-Imam (1988) is of the view that the concept of local government autonomy does not suggest absolute independence for the local authorities, since such an action will amount to dual sovereignty in a nation and therefore constitute a state within a state, which is politically undesirable.

In his submission, Yusuf (2013) states that local government autonomy implies the exercise of power of decision making, revenue generation and financial control, staff matters and administrative responsibility without encumbrances from higher authorities. He contends that any local government without autonomy could be considered a contradiction of the practice of government. Unfortunately, in Nigeria, the state government particularly is constantly involved in manifestation of paternalistic tendencies towards local governments, treating these grassroots government as: infants that have to be militarily regimented, strictly controlled, remotely teleguided and occasionally pushed here and there to get desired results from them. Okoli (2005) argued that there is nowhere in the world where local government is completely free. In Nigeria apart from using statutory allocations to control local governments, the federal and state governments give grants to local government and can also use the withdrawal of such grants as a means of controlling deviating local governments.

The polemics regarding local government autonomy is essentially not exclusively between proponents of absolutist/greater autonomy in contradistinction to the advocates of relative/adequate autonomy. Chaturvedi (2006) represents the absolutist school as he states that "In local government autonomy, the local government councils has financial and management autonomy" to decide and determine its own course of action. There is no rider whatsoever. They believe that local government must be autonomous and independent of state interference and recognized as the third tier of government both in theory and praxis. This perspective is supported by scholars such as Wheare (1963); Atakpa, Ocheni and Nwankwo (2012); and Adeyemo (2005). Wheare in Olowononi (1999) emphatically argued that all the tiers of government are coordinate in status. This implies as he maintained that if state authorities for example find that the services allocated them are too expensive for them to perform and if they call on federal government for grants and subsidy to assist them, then they are no longer coordinate with the federal government but subordinate to it. Consequently, in Wheare's contention, financial subordination of the state and local government in the Nigeria experience makes mockery of federalism no matter how careful the legal forms may be preserved.

Opposed to the absolutists are the relativists. For them the local governments in all emerging or developing countries of the world should have relative not absolute autonomy. The rationale for this is that there is in fact one territory that is being developed by all the three tiers of government, for example Nigeria and Brazil. The resources for development in the less developed countries of the world, should be relative not absolute. Resources in the less developed countries are very scarce and should therefore be cooperatively managed for optimal satisfaction of the interest of the local populace (Nyong, 1999). Furthermore, Erero (1998) remarks that it has also been gradually agreed that active competitive and cooperative intergovernmental relations in the developing countries like Nigeria for example seem healthier than Wheare's absolute separation of responsibilities and powers. This means that the atmosphere of cooperative competition denoted by adequate autonomy is healthier than the one of conflictual competition represented by absolute autonomy.

In Nigeria's fourth republic, the assertion of the relativities embodies the views of the state governors who posit that within a federation; only the centre and states constitute federating units. The state governors in Nigeria are of the argument that the constitutional recognition granted local

governments in Nigeria is an aberration and abnormality. This is evident in the manner in which state governors flagrantly abuse the democratic status conferred on local governments by the constitution by dissolving at will elected local government officials and preferring to appoint caretaker committees not recognized under the laws of Nigeria. This can also be linked to the manner with which some state governors misappropriate local government allocations via their state joint local government account (Adeyemo, 2005; Acheoah, 2018). It must be asserted in this inquest that one of the worrisome issues with respect to the comatose state of Nigerian local governance system is that the Nigeria federal system in concrete terms seem to recognize states as federating units, while the local governments are sub-units under the states. But the constitution also sets out clear rules of engagement between the councils and the state government. The fundamental question that the state governors failed to address is how many of the state governors now insisting on the application of the rules of federalism they cited above are respecting the constitutionally defined rules of engagement with the local governments? The answer leaves more to be desired. No wonder then that Marhood (1997) opines a mixture of both schools because he insists that there is relative separation of central and local spheres of government on the one hand. On the other hand, he argues that the central government should only monitor the activities of local authorities without intruding into their domain.

Political, Legal and Administrative Challenges Facing Local Governance System in Nigeria's Fourth Republic

Local governance system in Nigeria has apparently lost the very essence of its creation. The overbearing powers of state governments on local governments in Nigeria have put local governance on its knees. This is premised on the following factors;

- (g) The Imposition of Undemocratic Structures (caretaker committees) to run the affairs of some local governments: This is contrary to section 7 (1) of the 1999 constitution (as amended) which provides for; “the system of local government by democratically elected local government councils”. It is under the 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”.
- (h) Emasculation or confiscation of financial autonomy of the local government by the state government: Many overbearing state governors in Nigeria have recklessly continued to usurp, muzzle, misappropriate, divert, emasculate and confiscate federal allocations due to local government councils. Thus corollary to section 7 (1) above, section 7(6a) provides that “the National Assembly shall make provisions for statutory allocation of public revenue to local government councils in the federation”. The financial autonomy of local government is extended further by section 7(6b), which states that “the House of Assembly of a state shall make provisions for statutory allocation of public revenue to local government councils within the state”. Unfortunately, section 162 (6) provides for the establishment of the state joint local government account for the purpose of payment of “all allocations to the local government councils of the state from the federation account and from the government of the state”. The essence of the establishment of State Joint Local Government Account System (SJLGAS) by the above constitutional provision was to facilitate rural development of the local communities through effective supervision of the distribution and efficient management of revenue accruing to the local council from the Federation Account. Unfortunately, this has been grossly abused by greedy and self serving state governors.

- (i) Manipulation of the local governments By the State Governments: Section 162(7) stipulates clearly that “each state shall pay to local government councils in its area of jurisdiction its total revenue on the terms prescribed by the National Assembly” Section 162(8) states that “the amount standing to the credit of local government councils of a state shall be distributed among the local government councils of that state on such terms and in such manner as may be prescribed by the House of Assembly of the state”. These sections of the 1999 constitution (as amended) of the Federal Republic of Nigeria are full of contradictions and ambiguities. It is this unresolved contradictions, confusion and ambiguities that has continued to provide reason for the state government to manipulate the local government through arbitrary dissolution, abolition and abortion of democratic governance, suspension of elections and usurping statutory allocation due to the local government from the federation account.
- (j) Illegal and sundry deductions from local government funds through state joint local government accounts by the state governments.

Quest for Paradigm Shift towards Sustainable Local Governance System in Nigeria

Despite a number of presidential or executive orders aimed at strengthening local government financial autonomy not much has changed in most states. The challenges outlined above still hold sway; it is obvious that Nigerian local governance system is yearning for a paradigm shift as a leeway to reforming the reforms in the bid to making local governments live up to its biddings. The question now is what needs to be done to salvage the current local governance system so as to make it responsive to bringing development and good governance nearer to the grassroots level. The following points are identified for immediate action;

- **Addressing the Constitutional and Legal Ambiguities Regarding the Autonomy of Local Governments:** Amendment of section 7 of the 1999 constitution will remove the contradictions and confusion regarding the issue of local government autonomy. It is under these ambiguities that state governments hide to manipulate the local government system by aborting democratic governance, suspending elections and imposing a caretaker administration; as well as usurping the statutory functions and revenue yielding sources of local government. A new provision needs to be made in the Nigeria constitution to replace the above section in order to restore the autonomy of local government and guarantee its status as the third tier of government in Nigeria with functional powers to exercise all executive, legislative and administrative functions. This new provision being canvassed for in the constitution will provide for issues such as: tenure of office; public service of local government etc.
- **Need to Clearly and Constitutionally Recognize Local government as a Federating Unit:** Amendment of the general provisions of chapter 1, part 1, and sub-section 2 for the inclusion of local government as one of the federating units of the Nigerian federation with its establishment, composition, powers, functions and tenure all spelt out is a sine qua non for enhancing the integrity and efficiency of local governance in Nigeria. This will put a stop to the humiliating status local government has been subjected to over the years by the state governments. The 1999 constitution of Nigeria (as amended) by its provisions in section 7 and 8 recognizes the local government as a third tier of government and also guarantees it, but gives the state government the power to strangle the local government both politically and financially. The implication of these provisions is that local government cannot exercise the functions in schedule 4 of the constitution until the State House of Assembly has passed a law. This amounts to granting of Local Governments autonomy with one hand and robbing it with another, which

has had far reaching consequences on the ability of local governments to carry out their responsibilities to the rural populace.

- **Scrapping of State Independent Electoral Commission and Empowering INEC to Conduct Local Government Election on Uniform Basis:** In order to bring local governments at par with federal and state governments; local council elections should be organized and conducted by Independent National Election Commission (INEC). Consequently, section 197 (1) (a) and part 2 of the third schedule of the 1999 constitution need to be amended in order to abolish State Independent Electoral Commissions, on the grounds that state governors so far have exhibited immaturity and recklessness in allowing independence for the so called State Independent Electoral Commissions. It needs to be stressed here that presently, state governors appoint caretaker committees made up of friends and cronies to run the affairs of local government contrary to section 7 and 8 of the 1999 constitution which guarantee a system of local government with democratically elected officials in the country. This practice of running the affairs of local governments through appointed committees who are stooges of state governors has remained operational in more than 28 of the 36 states of the federation and has also been largely blamed for the massive looting and misappropriation of local government funds by the governors in the country.
- **Restoring the Constitutional Recognition of the Local Government Service Commission:** Amendment of section 124 is concerned with the creation of federal and state civil service commissions. The 1979 and 1989 constitutions did better by providing for the local government service commission which guaranteed and stabilized the public services of the local government system. The omissions of this provision in the 1999 constitution has made the local government civil servants inferior to their federal and state counterparts with all forms of discriminatory practices within and outside the services. A constitutional amendment to this effect is required in these respects for the inclusion of the local government civil service commission in the Nigeria constitution. It is worthy of note that section 169 of 1999 constitution recognizes the federal civil service while section 170 deals with the establishment of a federal civil service commission. Section 206 gives legal effect to the existence of state civil service while section 207 establishes state civil service commission, but, the local government service commission was not mentioned and the local government service commission not included in the constitution. Personnel administration is one area in which local government autonomy in Nigeria seems weakest. It is one area that is not covered by any constitutional or legal provisions, but administrative provision. This perhaps accounts for why the state governments through their local government service commissions (LGSCs), all over the country, claim monopoly of personnel matters in local government administration. This will save the commission from the current spate of dissolution and muzzling by the state governments.
- **Establishment of the Office of Auditor General for Local Government:** The office of auditor general for local government requires to be established through the amendment of section 124. This office should be constitutionally guaranteed and protected to be able to function effectively. The auditor general for local government should possess qualification and cognate experience comparable to those of the Federal and State auditors general. The auditor general for local government and all supporting staff shall be drawn entirely from the local government service. The office should be allocated 1% of revenue accruing to the local governments in the state for the purpose of maintenance and efficient service delivery.

Conclusion

Cognizant of the issues, challenges and measures proffered in this paper, it is apt to draw the following conclusions; in order to evolve a viable and development oriented local governance system in Nigeria's fourth republic state governments should be deprived of the constitutional powers to unilaterally dissolve elected council officials, divert council revenues and/or illegally deduct funds meant for local councils. There is need to implement a 3-tier governance model that is properly backed with unambiguous laws to ensure non-interference but cooperation and collaboration between the various levels.

More so, it will yield better result to explore the earlier practiced regional system, with a little modification in its structure and operations, and make it relevant to the current developmental realities. It will also be needful to frame local government actions in terms of the public choice theory to stimulate more experimentation, true competition, innovation and better citizens' participation and inclusion. In addition to the above, the conditions of service for local councils employees needs to be made more attractive and at par with those at the state level so that councils can attract top professionals and not be seen as mere administrative out-posts of the state civil service.

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