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Local Government System Failure in Nigeria's Fourth Republic: An Exploration of Key Constitutional Challenges and the Exigency of a Paradigm Shift

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ABSTRACT

Nigeria has a complex subnational governance system that has outsized impacts on its trajectory. The state is covered with a vibrant but frayed political quilt, consisting of three layers: the federal government in Abuja, thirty-six state governments, and 774 local government areas. Often overlooked, Nigeria's local governments are disproportionately important; if they functioned well, they would be best positioned to meet people's basic needs and to build their resilience to cope with everyday challenges. In reality, however, the local government system in Nigeria does not serve the interest of the people. Instead, it can be said that every household is its own local government; sourcing its basic needs: water, electricity, education, and healthcare however it can. Exhausted by local government system failure in which those who govern steal from the governed, the imperative of a paradigm shift becomes exigent. While local government system failure may be a global issue not unique to Nigeria, it is nevertheless crucial to be addressed as it stifles popular participation and fuels democratic backwardness, perpetuates rural development deficits, and engenders grassroots poverty. By hurting governance outcomes at the subnational level, local government system failure breeds and entrenches corruption, which is quietly and chronically suffocating the fourth republic Nigeria democratic experiment. This study is a humble but an academically expedient contribution towards evolving a viable local government system capable of serving its mandate seamlessly.

Introduction

Local government in Nigeria is fundamentally corrupt, flawed by design, and not fit for purpose. State and local elites use it to enrich themselves, build patronage networks, and manipulate political outcomes. Monumentally wasteful, Nigeria's local governments have provided barely any public goods and services despite gulping over 16.4 trillion naira (\$76 billion) of federal allocation between 2011 and 2021 (Nwosu, 2022). Nevertheless, the present local government system in Nigeria has undergone series of continuities, reforms and transforms to get to where it is today. It is to say the least an off-shot of what was called native authority (administration) system, which evolved from pre-colonial to colonial era. Over this period local government has been widely described as government closest to the people the grassroots from the standpoint 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.

Documented evidence indicates that several reform efforts have been made by successive administrations to restructure, unify and reposition the local government as a viable governance structure in Nigeria. Unfortunately, these efforts have not yielded any positive outcomes. However, the Federal Republic of Nigeria 1999 Constitution remains the albatross that has rendered local government system in the fourth republic almost irrelevant, moribund and dysfunctional. Though it may be assumed that, the 1999 Constitution envisaged a democratically-structured local government system in Nigeria with

financial and administrative autonomy as in Section7, subsection (1), however, the same constitution dialectically contradicted itself in Section 162 Subsection (5-7) whereby the fiscal and financial autonomies were deliberately taken away from local governments and made them subservient to the dictates of the State Governments where they exist. This later 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.

Suffice therefore to say that, the Nigerian experience in local government system in the fourth republic remains legally, systemically and institutionally 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 to remain subservient to the state governors where they exist to the negation of their essence and federal principles. The above no doubt provides enough cause for concern and therefore gives credence to this study and the urgency of a paradigm shift.

Statement of the Problem

It is in the public domain that since the inception of the fourth republic myriads of concerns have been raised with respect to the status of local government system in Nigeria's fourth republic. The level of systemic decay and inefficiency is daunting and thus gives cause for concern. This prevailing scenario contradicts the objectives of the 1976 reforms and others. Consequently, for over two 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 states government; thereby robbing it of the capacity and ability to provide effective governance and development at the grassroots level. This study blames the scenario on key constitutional challenges requiring urgent amendment. Perturbed by the above, this study seeks to explore the present plight of local government system in Nigeria, which is incongruous with popular expectations and aspirations in a model federal arrangement. The qualitative approach is employed in extracting relevant data from secondary

materials. In the first instance the key legal, political and administrative challenges responsible for its comatose state are exposed and proposals made for 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.

Objective of the Study

This paper examines local government system failure in Nigeria's fourth republic with respect to key constitutional challenges and the exigency of a paradigm shift. Consequently, the paper shall realize the below specifics; to

- 1. Critically examine the rationale for local government system and its failure;
- 2. Review key constitutional challenges responsible for local government system failure in Nigeria's fourth republic;
- 3. Advance sustainable options for a paradigm shift towards evolving a viable local government system in Nigeria

Methodology

The methodology of the study was based on exploratory design, which aimed at interrogating ideas and insights. This design enhanced better understanding of the comatose predicament of the local government system in Nigeria with respect to its autonomy. The study relied mainly on documented evidence. Consequently, qualitative method of data collection and analyses was adopted with emphasis on meanings (words) rather than frequencies and distributions (numbers).

Theoretical Framework

The study adopted theory of federalism as its frame of analysis. This is justifiable on the evidence that most multi-ethnic nations such as Nigeria have sometimes found decentralized political arrangements attractive. Such arrangements where they exist permit peoples who may differ greatly in their conceptions of a good public life to develop and maintain their own separate communities, within the context of a larger and more powerful political economy (Akinsanya, 2005). Consequently, ethnically more homogeneous nations such as the United States, at

the time of its founding, or Australia today, often find decentralized modes of policy formation and administration convenient as well. In such nations, geographic distances, diverse economies, regional disparities in preferences, and variations in local historical experience can make decentralized policy-making institutions more efficient and more responsive than national ones in view of the above, decentralized political institutions must somehow induce participants to believe that all others will abide by the federation's terms and to act accordingly, by complying as well. That is to say, decentralization, if it is to work, must be credible, an ideal that has proven elusive at times in some countries such as Nigeria, having experienced periods of instability.

In the theory of federalism, Wheare (1963) had underscored the centrality of legal rules defining inter-governmental relations in a federal state. Accordingly, Wheare maintained that federal principle is the method of dividing power so that general and regional governments are each within a sphere co-ordinate and independent. The federal constitution thus 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. Wheare's submission Deducing from local government in Nigeria is a sub-national unit in a federal system, an independent and co-jurally a subunit of government and not an appendage of other levels of government as it is currently perceived by the 1999 constitution and therefore is supposed to exist independently and coordinately with 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 autonomy; exercising capacity within areas of their jurisdiction, and more importantly have an independent account for accessing funds from the national pool of revenues.

Rationale for Local Government System and its Failure

Local government 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. 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 (customary courts) among iudiciary others. form Notwithstanding being first the of administrative structure in Nigeria, the Local government system is still evolving in the postcolonial experience, and the experience has been daunting. More so, Joseph (1991) opines that one of the most fundamental efforts at reforming the local government system in Nigeria both in their structure and functionality was in 1976, midwifed by the Murtala/Obasanjo regimes, when the Federal Military Government of Nigeria introduced a unified local government system, making them a one-tier system, a significant departure from the hitherto multi-tier system: divisional, county, district, and municipal councils were collapsed into one. The landmark reform also made local government the third tier of government after federal and state (Obianyo, 2015).

Currently Nigeria's third tier of government consists of 774 units—768 local government areas (LGAs) located across the thirty-six states and six area councils located in the Federal Capital Territory (FCT). The number of LGAs in a particular state depends on its geographic size and population. Kano State has the most LGAs (forty-four), while Bayelsa State has the fewest (eight). The numbers and names of Nigeria's LGAs are stipulated in the constitution. Each LGA has delineated boundaries and a designated headquarters where its main administrative building (secretariat) is located (Nwosu, 2022; FRN, 1999 Constitution (as amended). 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:

- 1. 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;
- 2. Local government serves as an edge against over-centralization of power at the Centre thereby providing administrative/governance structure for power devolution and deconcentration; and
- 3. 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.
- 4. To provide a framework for grassroots mobilization and the sustenance of popular will and initiative for development;
- 5. To provide the rural people with a platform for conducting their affairs in the context of their social, cultural and economic peculiarities;

Notwithstanding the viable rationales for local government as a tier of government, 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 subunit of government for driving rural development. Present reality shows that local government system is constrained in so many ways most of which are blamable on faulty legal frameworks. The constitution gives state legislatures (state houses of assembly) significant control over many aspects of local government, thereby limiting its autonomy (Anyaegbu, 2018). State governments

have relied on this control by amending their state's local government law every few years for selfish political reasons. In Rivers State, for example, this law was amended ten times between 1999 and 2018 (Udenta, 2020). Furthermore, each state government oversees local government elections via their State Independent Electoral Commission (SIEC), a body led by political appointees. Local polls are never held on the same dates as federal or state elections. Chairpersons, vice chairpersons, and councilors are usually anointed by the state governor as puppets to serve to serve his political interest. These in addition to lack of autonomy (financially and otherwise) are largely responsible for local government system failure in the fourth republic (Udenta, 2020).

Interrogating the Constitutionality of Local Government Autonomy in Nigeria's Fourth Republic

Succinctly speaking, 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 system such as Nigeria. The 1999 Constitution of the Federal Republic of Nigeria, 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 guaranteed; and accordingly, 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. Commenting on the above, Adeyeye (2003) opines that

Local government autonomy requires that the local government must have the power to take decisions independent of external control within the limits 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.

With recourse to 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. As an addendum, Bello-Imam (1988) maintains that 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.

Yusuf (2013) vividly submits 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. Yusuf further contends that any local government without autonomy could be considered a contradiction of the practice of government. It is unfortunately, however that in Nigeria, this contradiction is pronounced as the state government particularly is constantly involved in overbearing usurpation of local autonomy and manifestation government paternalistic tendencies towards local government authority, treating these grassroots government as: infants that have to be militarily regimented, strictly controlled, remotely teleguided and occasionally pushed here and there under the pretense of getting desired results from them, whereas in reality such actions are suffocating to the constitutional autonomy of local government system. Though in hid point of view Okoli (2005) is of the view that there is nowhere in the world where local government is completely free; suffice to say that in Nigeria the case is rather worrisome. Thus 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.

Regarding local government autonomy, there are essentially two proponents; those of absolutist/greater autonomy and 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 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 government subordinate federal but Consequently, relying on Wheare's perspective, 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.

For the relativists the local governments in all emerging or developing countries of the world should have relative not absolute autonomy. The rationale is that there is in fact one territory that is being developed by all the three tiers of government. The resources for development in the less developed countries of the world are very scarce and should therefore be cooperatively managed for optimal satisfaction of the interest of the local populace (Nyong, 1999). In his submission Erero (1998) remarked 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 fourth republic Nigeria, the assertion of the relativists subsumes 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 governors recklessly abuse the democratic status conferred on local governments by the constitution. This can also be linked to the manner with which some state misappropriate local governors government allocations via their state joint local government account (Adeyemo, 2005; Acheoah, 2018). It must be asserted that one of the worrisome issues with respect to the failure of local government system in Nigeria is that the Nigeria federal system in concrete terms seems to recognize states as federating units, while the local governments are sub-units under the states. Taking the above into consideration, 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 and on the other hand, that the central government should only monitor the activities of local authorities without intruding into their domain.

Key Constitutional Deficits and Challenges to Local Government System in Nigeria's Fourth Republic

The prevalent failure of local government system in Nigeria is blamable on a number of key constitutional inadequacies to be highlighted herein under. Firstly, the imposition of undemocratic structures (caretaker committees) by some state governors to run the affairs of local governments: this has become the norm in some states and therefore a serious challenge as it contradicts 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".

A second constitutional deficit threatening local government system in Nigeria's fourth republic is the flagrant usurpation and emasculation of financial autonomy of local governments by the state governors. There are many self-serving and overbearing state governors today in Nigeria who have recklessly continued to interfere, hoodwink, muzzle, misappropriate, divert and confiscate federal allocations due to local government councils in contravention to the provisions of the constitution.

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 System (SJLGAS) the Account by 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. It is disheartening that, this has been grossly abused by greedy and kleptomaniac state governors. The above culminates to the prevailing illegal and sundry deductions from local government funds through state joint local government account by the insatiable state governors. This and other challenges have indeed reduced local government system to a mere department of the state governments rather than the third tier of government envisaged by the 1999 constitution (as amended). The concern raised by the above scenario necessitates the urgency of a paradigm shift intended towards salvaging local government system in Nigeria.

Urgency of a Paradigm Shift towards Viable Local Government System in Nigeria

The failure of the local government system has persisted seemingly defying presidential or executive orders towards strengthening its financial autonomy. Obviously, Nigerian local government system yearns for a paradigm shift as panacea to enthroning an effective and development oriented system that lives up to its constitutional mandates. Pursuant to the above, there is need for immediate action to addressing the constitutional inconsistencies regarding the autonomy of local governments. Amendment of section 7 of the 1999 constitution to expunge the contradictions and confusion regarding the issue of local government autonomy is imperative. It is under these ambiguities

that state governments hide to manipulate the local government system by aborting democratically elected councils, suspending elections and imposing a caretaker committee administration on local councils, a situation which in itself is grossly illegal and therefore in every material particular unconstitutional in the fourth republic. It is also under this same section that state governors take cover in usurping the statutory functions and revenue yielding sources of local government. It is therefore imperative that a new provision 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 third tier of government in Nigeria with functional powers to exercise all executive, legislative and administrative functions like other tiers of government. This new provision in the estimation of this study shall provide for and clearly stipulate the tenure of office and public service of local government.

More so, to make local government system viable there is urgent need to clearly and constitutionally recognize it as a federating unit rather than an appendage of the state, as currently implied by the 1999 constitution (as amended). To achieve this, the study proposes an amendment to 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 as a sine qua non for enhancing the integrity and efficiency of local government in Nigeria. This will put a stop to the humiliating status local government has been subjected to 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 the same constitution goes on to give the state government power to politically and financially strangulate the local government. 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 its responsibilities to the rural populace efficiently and autonomously.

There is also need to restoring the constitutional recognition of the local government service commission to making local government system more viable in the fourth republic. This calls for amendment of section 124 of the constitution, which is concerned with the creation of federal and state civil service commissions. Whereas the 1979 and 1989 constitutions provided for local government service commission which guaranteed and stabilized the public services of the local government system, there is a colossal omission of this provision in the 1999 constitution (as amended) and this has made the local government civil servants mere casual workers so to say, compared to their federal and state counterparts with all forms of discriminatory practices within and outside the services. It is glaringly clear that personnel administration is an area in which local government autonomy in Nigeria seems weakest because it 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.

Germane to the already established points in fostering viable local government system is the need to establish office of auditor general for local government: it is thus proposed that office of auditor general for local government be established through the amendment of section 124 of the 1999 constitution (as amended). 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 well funded for the purpose of maintenance and efficient service delivery.

Recommendations

Sequel to the above, the following recommendations are apt:

- 1. It will yield better result if consideration will be given to reverting to the earlier practiced regional system, with little modifications in its structure and operations, and making it relevant to the current developmental realities.
- 2. The National Assembly should as a matter of necessity and urgency initiate amendment process to the relevant sections of the constitution as proposed in this study to ensure and guarantee a seamless and viable local government system in Nigeria.
- 3. 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 of government.

Conclusion

Looking beyond the constitutional issues raised, however, the real reason state governors explore constitutional ambiguities to hijack local government system is that they want to maximize the political and financial gains they derive from exerting personal control over local government structures. When run by loyal lieutenants, these structures become potent mobilization, patronage distribution, and election rigging mechanisms capable of propelling governors, senators, and even presidents to power. As political especially help governorship networks, they candidates win elections, since candidates must win both a majority and at least 25 percent of the vote in two-thirds of their state's LGAs. The networks also indirectly help presidential candidates, who rely heavily on state-level allies to deliver them votes en masse. This explains why local government has become, a center for party politics where top-down interference is the norm.

Cognizant of these issues and challenges, it is apt to conclude thus; in order to evolve a viable, people and grassroots development oriented local government system in Nigeria's fourth republic, state governors should be deprived of the constitutional powers to unilaterally dissolve elected council officials, divert council funds and/or illegally deduct money meant for local councils. It will also be needful to frame

local government actions in terms of the public choice approach 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 government. There is no doubt that with the required constitutional amendment effected local government system failure will be reduced to the barest minimum.

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