

LOCAL GOVERNMENT AUTONOMY AND THE NIGERIA LEGAL SYSTEM: AN APPRAISAL

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***Abstract:** The autonomy of Local Government in Nigeria has remained a subject of controversy since the pre-colonial times. This has made Local Governments to remain a pawn in the hands of politicians ever since. As such subsequent governments in Nigeria since the colonial times have toyed with the faith of the common people at the grass roots by the way they manipulate the structure, rules and the operations of this supposed third tier of government in Nigeria. The most manipulated aspect of the local government system is the rules that have guided the conduct of local government in Nigeria. This state of affairs has not allowed local government administration to thrive in the area of providing good governance to the people at local levels. This paper therefore seeks to examine the autonomy of local governments under the Nigerian legal system. In the face of the erosion of the autonomy of local governments in Nigeria by the 1999 constitution, local government seem to be lagging behind in carrying out the duties allotted to it by the constitution, statutes and other legal precedents. A critical look has been taken at the laws and customs guiding the conduct of local governments from the pre-colonial, colonial and post-independence Nigeria with a view to discovering the malady and its curative. The researcher has made use of the secondary source of research with due reference to the travails of the local governments, the paper has suggested that some of the provisions in the 1999 constitution of Federal Republic of Nigeria should be amended to allay the fears of domination of local governments by the state governments and indeed stem the tide of political inactivity and underdevelopment at the grass roots.*

Keywords: Local Government, Autonomy, Nigeria Legal System, Equity.

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INTRODUCTION

The local government system in Nigeria is as old as the country itself. The advent of the colonial government in Nigeria introduced some aspects of the Western culture into what has existed under the local laws and customs. Therefore the introduction of the English legal system to what had been the laws and customs of Nigeria also affected the local government system to a great extent. One of the areas of local administration greatly affected by the Western culture is the regime governing the conduct of local government administration.

It would be recalled that even before the appearance of the European on the West African coast and the Islamic Jihadists in Hausa land, there had been patterns of local administration which governed the people's life in the present area called Nigeria. These pre-colonial local government systems in Nigeria existed in Hausa land, Kanem Bornu, Yoruba land, Edo land, Igbo land to mention a few. Each of these systems had rules and regulations that guided their existence and conduct.

Here however, this paper is concerned with the influence of the English type laws on the local government administration in Nigeria; and how they have fared under these laws till the present day. These laws would include the ordinances of the colonial administration in Nigeria to the modern constitutions. A look is also taken at how autonomy of local government has fared under the most recent constitutions of Nigeria.

Statement of Problem

Blazing the trail in the area of local government autonomy in Nigeria, the Constitution of the Federal Republic of Nigeria 1989, provided in its section 7 (8) (a) that subject to its provisions in section 7 (7), that the National Assembly shall make provisions for statutory allocations of public revenue to the local governments in the Federation. This provision raised the hope of Nigerians that the local governments would recover from the long stretched financial strangulation unleashed on them by both the Federal and state governments. This air of optimism was short lived. This is because the situation of the local government autonomy in Nigeria has been worsened by the subjugation of the fate of local governments to the whims and caprices of the state governors by the constitution of the Federal Republic of Nigeria 1999.

This unwholesome state of affairs has left the local government on a beggarly situation and made the delivery of services to the people at the grassroots a herculean task. Some state governors have gone to the extent of withholding democratic elections into the local governments in their states indefinitely in order to enable them receive and husband the local government allocation from the Federation accounts.

Not only has this third tier of government been rendered docile by some state governors, their functions have also been rendered moribund. The former chairman of Nigerian Governor's Forum, Chibuike Amechi of Rivers State was recently reported as saying that the third tier of government should be completely removed from the constitution. This suggestion which he made to the National Assembly Committee on Constitution Amendment concerning local government autonomy speaks volume of what damages the governors have wrecked on the local government system as he was speaking on a representative basis.

This paper therefore is aimed at chronicling the travails of local government autonomy in the Nigerian Legal History and the ways forward to enable this very important tier of government to achieve the lofty goal of bringing governance very near to the people.

Objective of Study

This paper has the following objectives in focus,

- a. To find out if the legal regimes in Nigeria have taken adequate care of the local government autonomy in their law making.
- b. To examine the influence exerted on the local government administration as a third tier of government by the section 8 (1) of 1999 constitution of federal republic of Nigeria.
- c. To find out if the autonomy of the local government has been affected as a result of the implementation of the provision of section 8 (1) of the constitution of the federal republic of Nigeria, 1999.
- d. To find out if the above constitutional provision has affected the welfare of the people at the grassroots and their participation in governance.
- e. To find out if Nigerians are still able to benefit from local government.

Significance of Study

This paper would bring to the fore the long neglect of the Local Governments by the legislators in Nigeria in their duty of law making. Therefore after the due study of the findings both the law makers and the other policy makers would be able to retrace their steps and give local governments their due position as governments at the grassroots.

This paper would also stimulate the practice of democracy at the grassroots. In this sense, the local people would be enabled to participate in the development of their areas. This would give the local governments the impetus to harness the local resources available in their areas of jurisdiction for the betterment of the life of the people at the grassroots.

This paper would further direct the attention of scholars to the issues concerning local administration. Local government in Nigeria would be enabled to take their rightful position in the governance of Nigeria.

Definition of Terms

The nagging issue in the organization of modern local administration in Nigeria is the measure of autonomy that may indeed be allowed to local governments without making them feel that they are now in their own Islands. That is, how can local governments be appropriately allowed to be functionally autonomous? To be able to ascertain this measure; it is important to first and foremost clarify the meaning(s) of the word autonomy. The Longman's Dictionary of contemporary English (1995:75) defines autonomy as freedom to govern a region, country etc, without being controlled by anyone else. It also adds that it is the ability for one to make his own decisions without being influenced by any one else.

It is clear from the above definition that the local government autonomy would mean that this tier of government which is smaller than the federal or central and state or regional governments may actually not need total autonomy in the real sense of the word. The reason is that considering the geographical area, population and functions that are usually covered by local governments are equally smaller in dimension, compared to what the central government and the regional governments usually do. Similarly the manpower, financial and other resources available to the local government would be inadequate to allot a full-blown autonomy to it. Obviously because of its capacity, the local government cannot afford to maintain and manage some strategic areas of governance. It is now time to look at the definitions of local government to be able to juxtapose its meanings with the term 'autonomy'.

What is then local government? The Longman Dictionary of Contemporary English (1995:838) defines local government as the government of cities towns, etc by elected representatives of the people living in them.

Similarly the African Encyclopedia (1974:232) states that local governments are constructed to the conduct of a town council, or a provincial, or district administration. It adds that local governments usually constrain themselves to the issues that are of interest to a small part of a country. Further according to the African Encyclopedia, local governments are usually responsible for the provision of local roads, hospitals, and water supply; but have no control over affairs like national defence.

On their own side Bownman and Kearney (2002:275), state that local government is the level of government that fights crime, extinguishes fire, paves streets, collects trash, maintains parks, provides water and educates children. They further state that some local governments provide all the mentioned functions while others only provide some of them.

In the words of Laximkanth, M. (2007:526), local government is created to establish democracy at grass-root level and entrusted with the duties and responsibilities in the field of rural development. The "guideline" to the 1976 local government reforms in Nigeria defines local government as, government at (the) local level exercised through representative council established by law to exercise specific powers within defined areas. The Guidelines goes further to clarify that these powers should give the councils substantial control over local affairs as well as the staff, institutional and financial powers to initiate and direct the provision of services, and to determine and implement projects so as to complement the activities of the state and federal governments in their areas, and to ensure through active participation of the people and their traditional institutions that local initiatives and response to local needs are maximized.

Aligning with the above rendition by the Guidelines' to the 1976 local government Reforms in Nigeria, Agagu (1997:215), perceives local government as government by

popularly elected bodies charged with the administration and executive duties in matters concerning the inhabitants of a particular district or place.

From the above definitions of local government, it would be possible to estimate the measure of autonomy that a local government deserves to be able to carry out her function effectively. It is crystal clear from the definitions that local government is meant to complement the duties of the central federal and regional or state governments.

Moreover it has been clearly stated that the limited scope of local governments in terms of the geographical area, staff and other resources would not admit a full-blown autonomy to them.

Methodology or Techniques of Investigation

The nature of this paper has allowed the researcher to make use of available literature, the Nigerian Constitutions of 1999, 1989 and local government ordinances during the colonial days. The researcher also made use of the books of pre-colonial, colonial and post-dependence local government in Nigeria. References were also made to the news media dealing with local governments in Nigeria. As a keen observer of local government administration in Nigeria, the researcher also drew from his wealth of knowledge on this subject matter. Also other books relevant to the discourse were copiously used to enable the researcher to achieve the purpose of the inquiry.

The information gathered from the above sources was subsequently analytically x-rayed to enable the ultimate findings and conclusions, and recommendations. The sources of these data would therefore be said to be mainly based on the secondary aspects with some observational notations.

LOCAL GOVERNMENT AUTONOMY AND THE NIGERIA LEGAL SYSTEM

By Nigerian legal system is meant (1) customs (2) local government ordinances (3) Special charters to particular local governments, (4) General codes regulating all localities, (5) constitutional provision, (6) general legislation or statutes and (7) case laws applying in the Nigerian jurisdiction, during pre-colonial, colonial and post-independence

The attempt here is to relate these laws and regulations to the autonomy of the local government system over a period of time vis a vis the current demand for full autonomy to the present local government system in Nigeria.

- (a) **Pre-colonial:** During the pre-colonial era, the local government systems in Igbo land, Yoruba land, Hausa land and the Kanem Bornu Empire were guided by the existing customs and traditions of the respective tribes. In Igbo land the local government system was based on autonomous village democracies. This was a situation where each family autonomously conducted their affairs under the headship of the eldest male members with the age grade members of each

village acting as the police and the oracles as the final arbiters in serious cases. Autonomy here means that the family and kindred units had the authority to take decisions on the affairs concerning them without interference from any other quarters.

In the case of Yoruba land, the local government system during the pre-colonial period was headed by the Oba who was in charge of the affairs of the people through the chiefs and other officials. The Oba however had the final say in so many other affairs concerning the people. The issue of the autonomy here was relevant in the sense that the Oba was not controlled by any body above him; and for his people, they had to obey the Oba's commands most of the time. Here while the Oba would be said to have autonomy, the people did not have choice but to obey Oba's commands.

The case in Hausa land was not too different from what obtained in Yoruba land. This was because the Hausa had a figure head that could be described as king who through other subordinate officers took decisions on the affairs of the people who obeyed the commands. The lowest authority in Hausa local government was the village head who had direct contact with the people according to Hausa customs and traditions.

The Kanem Bornu Empire similarly conducted her local administration through the Headship of the Mai who delegated authorities to the princes from royal families called the Maina and other officials who then related directly to the people. As in the case of Yoruba land, the Mai had enormous powers over the affairs of the people just like the Oba. The autonomy of the administration was paramount under the Mai. However, according to the custom, the people had to take orders from the Mai and his lieutenants. This was because in the affairs concerning life and death of the Kanem Bornu people, the Mai was the final arbiter.

- (b) **Colonial Period:** By 1900 when Lord Lugard became the Governor – General of the northern region, the Isi land system of government had taken the stage in Hausa Land and other large areas of Northern Nigerian. Having found this administrative system amenable to his needs he adopted it and called it the indirect rule system. Under this system he administered the people through the Emirs who were powerful Muslim Chief. Under this the emirs were called Native Authorities and their Administration was called Native Administration. The autonomy of the Emirs was curtailed by the English officials called the residents who were appointed by Lugard to oversee the actions of the former. However, the Islamic customs and traditions held sway in the areas of tax collection, and judicial adjudication in these areas. The autonomy of the Emirs

during this time was limited by the fact that the resident supervised their activities.

The non-Muslim areas of the North however were completely dominated by the Residents and District officers in their local administration. Here the autonomy of the natives was completely eroded by the hegemony of the Whiteman.

However, in the southern part of Nigeria and non-Islamic areas of the North, the indirect rule system did not thrive. The laws that ruled local administration were the native laws and customs and the colonial influence was peripheral in these areas until about 1914. The Natives in these areas before 1914 had some measurable autonomy in their affairs.

After the Amalgamation of the northern and southern protectorates of Nigeria in 1914, there came into effect the 1914 Native Authority ordinance which made provisions for the powers and duties of the Authorities.

It made provisions on how finance would be controlled and under the powers of the Regional Government over the Native Authorities. Among other provisions, this ordinance allowed the Native Authorities to make Bye-laws on certain subjects. It also provided for Alkali courts in Muslim areas and English type courts in non-Muslim areas. There were also provisions on how taxes should be collected by the Native authority.

It is clear that the 1914 Native Authority Ordinance did not give any sweeping autonomy to the local governments. Its provision had given the overall control of the affairs of local government to the colonial government. It would be recalled that this was why there were protests against some category of taxes which culminated in the 1929 Aba riots by women of the Eastern region of Nigeria.

- (c) **Post Independence Period:** At Independence in 1960 the three regions (and later the four regions by 1963) operated different systems of local government administration suitable to each of them. However, the military take-over in 1966 saw the country as a unified entity in most aspect of governance including local government administration.

The 1976 local government reforms by Murtala/Obasanjo administration finally consummated the unification of local government administration in Nigeria. In the 'Guidelines' to the reforms, the system of local government was to be uniform and, the democratic'. Under the 'Guidelines' the autonomy of local government was moved to the next level as the local government also

made 'the third tier' of government in Nigeria, after the central and state governments.

The regulations under the 'Guidelines' empowered local governments to take over so many important functions which are contained in the primary and secondary lists respectively. However, the autonomy of the local government was total in the items contained in primary list while they could not perform functions in the secondary list without the permission of state or central governments.

On the autonomy granted to the local governments under the 1976 reforms, Njoku D. (2006:29) notes that before 1976, the federal and state governments had overwhelming influence in local matters, since the state governments ran local governments through the ministry of local governments.

Similarly the then chief of staff supreme headquarters under Obasanjo administration, Brigadier Shehu Yar'adua in his forward to the Guidelines to the Local Government Reforms of 1976 states that the defects of the previous local government system were too well known, maintaining that local governments had over the years suffered as a result of continuous reduction of their powers by the state governments who continued to encroach upon what would normally have been the exclusive preserve of local governments.

The 1979 constitution went ahead to affirm the content of 1976 local reforms by entrenching it in its section 7 and schedule 4.

Under section 7 of 1979 constitution of Federal Republic of Nigeria, the autonomy of the local governments covers the following areas:

- a. The consideration and the making of recommendations to a states commission on economic planning or any similar body on:
 - i. The economic development of the state particularly in so far as the areas of authority of the council and of the state are affected;
 - ii. Proposals made by the said commission or body;
- b. Collection of rates, radio and television licences;
- c. Establishment, maintenance and regulation of slaughter houses, slaughter slabs, markets, motor parks and public conveniences;
- d. Establishment and maintenance of cemeteries, burial grounds and homes for the destitute and infirm, licencing of bicycles, trucks (other than mechanically propelled trucks), canoes, wheel barrows and carts;

- e. Construction and maintenance of roads, streets, street lighting, drains and other public high ways, parks, gardens, open spaces, or such public facilities as may be prescribed from time to time by the House of Assembly of a state.
- f. Naming of roads and streets and numbering of houses;
- g. Provision and maintenance of public conveniences, sewage and refuse disposal.
- h. Registrations of births, deaths and marriages;
- i. Assessment of privately owned houses or tenements for the purpose of levying such rates as may be prescribed by the House of Assembly of a state; and
- j. Control and regulate;
 - i. Outdoor advertising and boarding;
 - ii. Movement and keeping pets of all descriptions;
 - iii. Shops and kiosks;
 - iv. Restaurant, bakeries and other places for sale of food to the public.

The above items are described as being in the primary list of the local government functions under the reforms.

The secondary list reads as follows:

The functions of a local government council shall include participation of such council in the government of a state in respects of the following matters:

- a. The provision and maintenance of primary, adult and vocational education;
- b. The development of agriculture, and natural resource, other than the exploitation of minerals;
- c. The provision and maintenance of health services, and such other functions as may be conferred on a local government council by the House of Assembly of the state.

The 1989 constitution of the Federal Republic of Nigeria in addition to the replication of the above provisions by the 1979 constitution in its section 7 (7) provided in 7 (8) (a) that subject to the provisions; the National Assembly shall make provision for the statutory allocation of public revenue to local governments in the federation.

It is this provision in the 1989 constitution that freed local governments from the financial strangulation by both the state and federal government. It is true that the constitution itself was short lived as a result of the incessant military coup d'états in Nigeria then, but the words 'statutory allocation' made it mandatory under the law that the financial autonomy of the local government was in sight. It would be recalled that before then the local governments depended on the slim resources that accrued from taxes and fees and meager grants from the State, Federal and international organizations. The

implication of this provision was that hitherto the local government became entitled to a share of the Federation Account like Federal and State governments. This therefore became a turning point in history of local government autonomy in Nigeria. This is because the statutory allocation of public revenue to the local government was expected to lead to the betterment of the standard of the living for the people living in the local government, as projects favourable to them would be conjectured and executed with the improved financial resources.

Subsequently the 1999 Constitution in its section 7 similarly allotted the same functions to local governments in Nigeria as contained in section 7 of 1979 Constitution and section 7 (7) of 1989 Constitution. Also, 1999 Constitution also reiterated in its section 8 (6) the financial autonomy of the local governments by restating the content in the 1989 constitution that the National and State Assemblies should make provision for the statutory allocation of public revenue to local councils.

However the 1999 Constitution in what looks like making the local governments subjects of the State Governments and therefore subservient to the latter's whims and caprices, provides in its section 8 (1) inter alia that the government of every state shall subject to section 9 of the constitution ensure the existence of the local governments under a law which provides for the establishment, structure, composition, finance and functions of such councils. It would be very enlightening to explain that the section 9 of the 1999 Constitution referred above provides for the election of a chairman for each local government and the requirements such a chairman must possess. Such things as that he must be a Nigeria citizen, 35 years of age; with senior secondary school certificate etc; are what are contained in section 9. Does this provision have any consequence for the autonomy of local governments in Nigeria?

THE 1999 CONSTITUTION AND AUTONOMY OF LOCAL GOVERNMENT IN NIGERIA

The 1999 Constitution in its section 8 (1) as already stated above provides that:

The system of local government by democratically elected local government councils is under this constitution guaranteed; and accordingly, the government of every state, shall subject to section 9 of this constitution, ensure their existence under a law which provides for the establishment, structure, composition finance, and functions of such local councils.

The implications of this provision on the autonomy of the local governments is both sweeping and encompassing to state the obvious. To start with, the laws that would guide the conduct of local governments are to be made by the state governments, through their state houses of assembly. Apart from the items contained in section 9 of the constitution as earlier pointed. Given the situation in Nigeria where multiparty system is in operation, it means that the political party in power could exclude other political parties from

partaking in the local government administration. This could be achieved by voting against any laws on local government as they are dominating the legislature. Similarly the governor who is a member of the ruling party could also use subtle means to withhold assent to the Bills of local governments if passed by the legislature.

It is of judicial notice, that because of this constitutional provision in Nigeria, that so many state governments have avoided the election into local government councils. The implication of not holding local government elections in Nigeria today is that many state governments have been used to collection of the local governments share of Federation Account. They have therefore become reluctant to conduct the elections because such moneys that could accrue straight to local governments are taken by the state governments.

The case of Anambra State of Nigeria is evident of this anomaly where local government election has not held for almost a decade as at the time of writing this paper. The result is that politicians who are from other parties than the party in power have even gone to court to seek the interpretation of this portion of the constitution, after years of fruitless appeals to the respective state electoral commissions to conduct the election into the local government councils.

Another implication of this provision is that the 'autonomy clause' under section 8 (6) is nugatory in the face of section 8 (1) which made the local government subject to the state governments. This is because in the absence of democratically elected local government officials, the local government allocation of the Federation Account is indirectly under the management of the state governments.

By rendering the establishment, structure, composition, finance and functions of the local government to the state government's care; a situation worse than what obtained in Nigeria before the 1976 local government reforms came into operation is indeed an aberration and retrogression. It would be stated that this section negated the autonomy of the local governments almost in its entirety and made this tier of government in Nigeria a ghost of her former self. Apparently referring to the pitiable situation of the local governments in Nigeria, the Daily Sun Newspapers of July 11th 2012 reports while submitting the report of their findings to the President, Dr. Goodluck Jonathan on the 10th of July 2012, the Presidential Committee on the review of outstanding constitutional issues led by Justice Alfa Belgore made a case for an independent, incorruptible, and stabilized local government system that could be administered by democratically elected officials. This recommendation is most apt and resounding in the face of the repeated proliferation of caretaker committees by the incumbent governors who have been subtly avoiding the elections into local government offices.

THEORETICAL EXPLANATION

To explain the state of affairs prevalent in the area of local Government of Autonomy in Nigeria currently, one needs to make an apt choice of theories. In order to be able to do this due recognition shall be given to the fact that the subject matter in discourse, local government autonomy is an area of great interest to the generality of the people of Nigeria as everybody in Nigeria lives within a local government area. As such what affects the local governments, invariably affects all persons living in Nigeria.

Based on the above premise, the researcher has decided to use a double barreled approach towards explaining the theoretical frames that would apply to the present circumstances surrounding the autonomy of local governments in Nigeria. In the first instance, the body of rules known as Equity would be used to explain the present situation of local government autonomy in Nigeria.

Secondly, the researcher shall juxtapose these equitable maxims with the Machiavellian ideas on governance as enunciated in his book, the Prince written in 1513.

Equity: Primarily, equity means fairness and natural justice. Roger Bird (1983:134) sees equity as a fresh body of rules by the side of original law, founded on distinct principles, and claiming to supersede the law in virtue of a superior sanctity inherent in those principles. This body of rules were formulated and administered by the court of Chancery in England to supplement the rules and procedure of the common law. By the Judicature Act of 1873, the court of Chancery was amalgamated with the common law courts to form the Supreme Court. Rules of Equity are administered in all divisions of the court, and where there is any conflict between rules of law and equity, equity is to prevail, according to the Judicature Act of 1925, sections 36 to 44.

In the present circumstance, where in Nigeria, the governors clearly stand in the way, working against the achievement of local government autonomy with the excuse that the constitution of 1999 of Federal Republic of Nigeria has enabled them in its section 8 (1) to oversee the establishment of the structure, composition, finance, and functions of such local councils.

The way and manner the above provision of the constitution has been manipulated by some governors to their advantage has negated the local government autonomy as envisaged by the 1989 constitution in its sections 7 (7) and 7 (8) (a) to the effect that the National Assembly shall make provisions for the statutory allocation of public revenue to the local governments in the Federation. This act of the governors has amounted to the contravention of the maxim of Equity which states that, Equity will not permit a statute to be a cloak for fraud. It would be stating the obvious today that the reason why most governors have used the provision in section 8 (1) of the 1999 constitution of Federal Republic of Nigeria as a cloak to receive and utilize the local government share of the Federation account. This is clearly permitting a statute to be a cloak for fraud".

Machiavellian principles: In his book *The Prince*, published in 1513, Machiavelli dwells on causes of the rise and decline of states and the means by which statesmen can make them permanent. His subject matter of interest here are monarchies and absolute governments. The book also deals mainly with indifference to the use of immoral means for political purposes and the belief that government depends largely on force and craft. His idea here assumes politics to be an end to itself. Writing on the mechanics of government, Machiavelli concentrated on political and military measures divorcing these almost wholly from religious, moral and social considerations. To him, the purpose of politics is to preserve and increase political power itself and the standard of measure is success in these endeavours. In the Machiavellian postulations, whether a policy is cruel, or faithless or lawless does not matter.

While still writing this paper, the former chairman of Nigerian Governors Forum, Chibuike Amechi of Rivers State was widely quoted in the Nigerian Communication Media as suggesting to the National Assembly Committee on the amendment of the 1999 Constitution of Federal Republic of Nigeria, that the local governments should be completely expunged as a tier of government from our constitution. This is a complete replication of the Machiavellian order as this demand if implemented would constitute great display of indifference to morality and good conscience. It would be restating the reality that Amechi's wishes which is representative of the governors he leads, is to preserve and increase political power for the governors of the state in compliance with the ideals of Machiavelli, without due considerations for the welfare of the people at the grassroots whose rights and privileges would be trampled upon.

FINDINGS

The autonomy of local governments under the Nigerian legal system was given great hope by the 1976 local government reforms. This is because it is this reform that made local government a third tier of government and that they were to be managed by officers who are democratically elected. In addition the local governments witnessed another uplifting status in the area of autonomy when the 1989 constitution entrenched the local government autonomy in the area of finance by making local government to directly share from the federation account.

However, these high hopes of the local government in these areas of autonomy were suddenly dashed by the 1999 Constitution when it provided in its section 8 (1) that local governments would now depend on the state governments for laws that would guide its conduct, establishment and structure. This situation tends to have returned local government to the days when they were run by the ministry of local governments of the states. This situation also seems to have completely dampened and in some states killed the zeal with which local administration had metamorphosed and advanced over the years. In some states local government elections have not held for almost one decade and the politicians who belong to parties other than the one in power have been restive and some

of them have already gone to the court for the interpretation of this constitutional provision.

It has therefore caused a lot of disaffection in the society especially amongst the affected politicians. What is then the way forward?

RECOMMENDATION

According to Njoku D. (2006:5) autonomy has to do with the ability to manage one's own affairs without undue interference. He, however, quickly added that this does not mean a lack of accountability or total freedom to determine and implement its laws. To this end the aim of this paper is not to recommend a situation whereby the local governments would completely be in an island of their own without the control of superior governments like the central and state governments. Rather it is the aim of this endeavour to advocate for the measure of autonomy that would enable them to operate within the limits of the law of the land and be able to provide the dividends of democracy for the grass root populace.

This situation would be achieved through the appropriate constitutional amendment by the national assembly to enable the local governments achieve the tasks set for them by the constitution of Federal Republic of Nigeria. The drafting of the clauses should be made in such a way that the incumbent state governors would be unable to manipulate the provisions to their advantage as is obtainable in the present dispensation.

There is need while amending the relevant portions of the constitution to couch it in such away that should there be any need for a governor to set up a caretaker committee where there is a vacuum as result of the necessity of an act of God; that such committees should last for a very short period and would not be bale to have multiple subsequent appointments. In order words, the provision should be able to avoid repeated appointments of committees at the end of the tenure of the incumbent. There should be provision, limiting the length of time a caretaker committee should last, before a democratically conducted election is held.

Similarly, there should be an amendment of section 9 of the constitution, where it recommends that the educational requirements of the chairman to a local government should be senior secondary school certificate. It is suggested here, that this provision should after the amendment read a first degree from a university or a Higher National Diploma from a Polytechnic. This is because given the present state of erosion of educational standard and the enormous responsibility that would confront the chairman of a local government, the present requirement would be grossly inadequate.

A provision for checks and balances should also be put in our constitution to help check corruption which had been the bane of local government administration since after the 1976 local government reforms and the entrenchment of the autonomy of local

government in the area of finance by the 1989 and 1999 constitutions, without these checks and balances the local government chairman may become laws unto themselves, carting way public funds in the way they like.

It is important that the local government administration should be adequately stabilized as recommended by Justice Belgore committee on outstanding constitutional issues. This would be achieved, if the tenure of a local government council and its chairman is expressly provided for in our constitution. The present situation where this subject is left to the whims and caprices of the state governments is to say the least unsatisfactory.

To be able to achieve sanity in the area of local government administration, the constitution should provide that an indicted chairman of local government should be prosecuted and tried during his tenure of office in a court of competent jurisdiction. There should be no case of Immunity to any local government official when he is still in office. This would help to keep the politicians who want to contest for election into the local government seats on their toes as regarding their duties when they get elected.

The legislature should also through their law making, further empower the anti-graft organization like the Economic and Financial Crime Commission (EFCC) and the Independent Corrupt Practices Commission (ICPC) to enable them do their work without much difficulty. Additionally the recruitment and selection of the staff of such anti-graft agencies should be carefully done with due regard to good intelligence survey. This would allow the organization to attract the right staff that would yield desired results.

CONCLUSION

It is the conviction in this paper that the Nigerian Nation would be better for it if the recommended Amendments of the 1999 constitution is duly affected by the National Assembly. There cannot be a better time to effect this changes in our constitution than now that the National Assembly is set to amend various aspects of the constitution.

The people living at the grassroots would heave a sigh of relieve if the autonomy of the local governments are restored to them. The participation of the local people in their own governance, the harnessing of the local resources and the resultant betterment of the life of the people living in these local governments would be better assured if their autonomy is restored. Moreover if the autonomy of these local governments are restored, democracy would similarly thrive at this level of government.

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