

Local Government Autonomy And Overlapping Mandates Of State Institutions In Nigeria: A Critical Analysis

Nwobashi, Humphrey Nwefuru

Department of Political Science

Ebonyi State University, Abakaliki

Abstract

This paper examined local government autonomy and the overlapping mandates of state institutions charged with the responsibility of local government administration in Nigeria. The broad objective of the paper is to establish if there is a positive relationship between these state institutions and lack of autonomy of local government system in Nigeria. The work adopted qualitative research methodology, using content analysis. The quest for local government autonomy in Nigeria has raged on since 1950s and has attracted enough attention of scholars, local government practitioners and Nigerian constitution, hence the availability of enough data in qualitative form to critically review and analyze the work. The paper found out that the traditional approach of legal and constitutional means to grant local government autonomy has always hit the rock. It recommended that the only viable option is for the National Assembly to amend the constitution to reduce the over concentrated powers at the federal level and allow states more powers that will make the local government less attractive to states. Empowerment of the local people is a necessity to enable them to participate effectively in political affairs of the country.

Key words: Local government, autonomy, mandate, institution, overlapping.

Introduction

Local government system exists in every country of the world. Its essential features, nomenclatures and practices have varied from country to country. Its features are distinctly defined in elements such as constitutional status, historical structure, level of autonomy etc. There exist variations in the essential features of local government across the countries, and sometimes within the same country (Ezeani, 2006: 253). The existence of different forms of local government from one country to another and sometimes even within the same, has provoked many studies on Nigerian local government system; yet the nature and extent of autonomy being exercised by Nigerian local government authorities has remained a constant challenge to practitioners and academics.

The quest for local government autonomy started from 1950s when the local government councils of Western and Eastern regions started experimenting democracy (Abada, 2007: 244).

The elected councils sought for and were granted some degree of autonomy in financial and personnel matters

(Orewa and Adewum, 1983: XIII). As from the 1950s, local government became a regional affair with each region later state, designing its own administrative structure. Most of the local governments were 'ad-hoc' because the system in each region had one operational difficulty or the other. Local governments within this period were region specification in character with different administrative approaches to the problems (Bello-Imam, 1996: 24). The status of local government in Nigeria has changed drastically since 1950s when the federal system came into operation. At the onset of the federal system, its multinational character affected the local government system in two ways: First, each of the three regions into which the country was divided had its separate system of local government, which reflected the regional elites' perception of the best way the local government could be operated. Second, each region, with its rich cultural configurations of the people, shaped the local government system in order to achieve administrative convenience (Gboyega, 2003: 55). The tiered structure enabled the regional governments to achieve synergy between the administrative organization and authority devolved to the units of local government and the differential levels of the development of traditional political systems in different localities. The regional systems of local government continued to prevail with various refinements in each region until the collapse of the first Republic in 1966.

This first military incursion onto the Nigerian politics produced severe repercussions for the local government, as it became one of the institutional victims of the military regimes that changed everything in the polity. In spite of the mutilations occasioned in the system; the over centralization of power at the centre saw the local government only meeting the hierarchical military command structure needs. The local government had to be restructured several times through reforms in an attempt to redress the abuses that the system had been subjected to, by regions or states and to meet the aspirations of the people for greater political participation and empowerment in local governance.

The reform of 1976 by the federal military government of Obasanjo, unified the local government in the federation and recognized it a single tier throughout the federation. It is expedient to understand that since 1976 reform, Nigerian local government has been accused by Nigerians, local government practitioners and scholars of non-performance. Many have tried to trace the causes of the disappointing nature of the third tier. Some arrived at lack of funding (Bello-Imam, 1996:121; Mohammed, 2010:11); some looked at it from the perspective of corruption and mismanagement (Onwe, 2004:16-17; Ezeani, 2006: 267; Onah, 1995:110; Ikejiani-Clark, 1995:138-151; Dalhatu, 2012:34-41); some argued in the direction of lack of visionary leadership among the local government operators (Kohen, 1988:18; Enemu, 1999:324); while some argued about the excessive control of the local governments by states (Abada, 2007:256; Okoli, 2002:81; Awotukun, 1996:229; Obi, 2010:5). Lamenting on the abysmal performance, Obasanjo (2003: 19) broke his silence thus:

The expectation was that the third -tier of government would act as a catalyst and aid rapid and sustained development at the grassroots level, [But] what we have witnessed is

the abysmal failure of the local government system. It is on record that at no time in the history of the country has there been the current level of funding accruing to the local governments from the federation Account, Yet the hope for rapid and sustained development has been a mirage as successive Councils have grossly under -performed in almost all areas of their mandate.

He asserted further that:

Most of the state Governors with their Houses of Assembly, augmented the tragedy, and agreed with small minded self-centred political actors in the atomization and continued fragmentation of local government councils including impractical division of towns and cities into unworkable mini – local governments (Asiegbu, 2009: 24).

Therefore the main aim of this study is to undertake a critical analysis of how the various state institutions charged with the responsibility of local government administration and their overlapping mandates constrain the realization of local government autonomy in Nigeria.

2. Conceptualizing Local Government

The meaning of local government is shrouded with controversy. The concept of local government has been defined by various scholars from different perspectives and orientations. This has made every attempt to conceptualize local government a difficult one.

Wraith (1984) defines local government as “the act of decentralizing power, which may take the form of deconcentration or devolution. It is difficult to understand local government in this form, in view of the fact that mere deconcentration of power refers to the field agents of organizations. It depicts a system that is a channel through which development, control and authority get to the local people. Emezi (1984), on the other hand, perceives local government as a system of local administration under local communities that are organized to maintain law and order, provide some limited range of local amenities and encourage cooperation and participation of inhabitants towards the improvement of their conditions

of living. This definition equates local government with local administration which is wrong. In another light. Whallen (in Obikeze and Nwaodu, 2010: 56) sees local government as a given territory and population, an institutional structure for legislative, executive or administrative purpose, a separate legal identity, a range of powers and functions authorized by delegation from the appropriate centre or intermediate legislative and within the ambit of such delegation, autonomy including fiscal autonomy. As germane as this definition appears, it still places local government as a derivative of the central or intermediate legislative enactment instead of deriving it powers from the constitution. Olisa *et al.* (1990: 93) define a local government as “a unit below the central, regional or state level established by law to exercise political authority, through a representative council within a defined area”. This definition of local government explains local government’s position in the hierarchy and its relationship with other superior levels of government.

The review of related literature on the definitions of local government clearly shows that these definitions can be grouped under two broad approaches (Ezeani, 2006: 253). The first approach regards all sub-national structures below the central government as local government, while the second approach identifies it by defining characteristics. The first approach is faulted on the ground that a sub-national structure might be regional, state or provincial governments in which none qualifies to be a local government. This approach also fails to distinguish between devolution and deconcentration. The second approach is problematic also because local governments have variations or differences in their essential features. All the same efforts have been made to articulate certain distinguishing features of local government (Ezeani, cited in Ezani, 2006:255). They features include; localness, a legal existence, substantial autonomy, a defined territory, a given population, specific process, specific functions, composed of elected representatives of the local people and divided into local departments, divisions or units. Sequel to these features, section 7 of the constitution of the Federal Republic of Nigeria (CFRN) has a more celebrated definition of local government which states that; “a local government is a political and administrative

entity that is empowered by law to administer a specific locality”.

3. Conceptualizing Local Government Autonomy

The quest for local government autonomy has always been done without due attention to the meaning of autonomy and to what degree of autonomy that should be granted to local government. This has made the concept of autonomy to attract different perceptions and explanations. This implicates the term “autonomy” as a major source of confusion. Both scholars’ and government officers, who use the concept, take it for granted that people understand it. In this regard, Odunfa (cited by Abada, 2007: 251) states that; “government reforms that are intended to preserve or extend local government autonomy end short of their objectives because the full meaning of the term “autonomy” has not been fully explained”. Nwabueze (1983) defines the autonomy under a federal system to mean that each government enjoys separate existence, independent from the control of the other governments. This means that each level of government must not exist as an appendage of another government but as autonomous entity in the sense of being in a position to exercise its powers and functions freely from another government. Local government, being a subordinate government derives its power from law enacted by a superior government (Adeyemo and Awotokun, 1999). In the same view, Njoku (cited in Obikizie and Nwaodu, 2010: 58-59) explains that autonomy has to do with ability to manage ones’ affairs without undue interference. For Njoku, (n/d), the autonomy that is supposed to be granted to local government does not mean lack of accountability or total freedom to determine and implement laws but refers to limited discretionary power to make and execute bye-laws within its geographical jurisdiction. According to him, autonomy at local levels has to do with the degree of discretionary powers assigned to it by a superior instrument of government. This superior instrument is the constitution of the land. In the words of Nwabueze (1983):

It is an autonomy, which requires not the legal and physical existence of an apparatus of government like a legislative assembly, governors, court etc. but that each government

must exist as an autonomous entity in the conduct of its affairs from direction of another government His contention is that autonomy would only be meaningful in a situation where by each level is not – constitutionally permitted to accept dictations or directives from another.

Critics of Nwabueze's position opine that it is too legalistic and that it does not observe social limitations of social concepts, autonomy inclusive. Adeyemo (2005) on the other hand maintains that autonomy is perceived as local self – government or grass-roots democracy. It is aimed at giving the majority of the people the fullest opportunity to participate in determining their own destiny. This stems from the fact that there cannot be a complete government with absolute autonomy and still remains an integral part of a sovereign state. The Defunct Centre for Democratic Studies opined that local government autonomy refers to the relative discretion which local governments enjoy in regulating their own affairs (Obi, 2010: 59). Local government autonomy should be seen in a federal system of government as partnership. This type of partnership represents the Trinity of God as professed by the Roman Catholic faithful in which Christ said "The father, the son and the Holy Ghost are one. None does anything against the other. In this same vein, it should also be seen as a successful marriage between a husband and wife in which each spouse is in concrete partnership with the other. Local government autonomy should mean a relationship between a successful, father with successful adult son and the adult son, now a father to his own successful adult son. The three, father, son and grandson in their relationship must be mutually beneficial to each other, in order to become a dynasty, respected, and feared by other families. In this regard, the autonomy exists for self regulating mechanism exercised in a mutual advantage to all. The superior governments can only have oversight functions because superior governments cannot function effectively without the roles of the local governments and local governments cannot be effective too without the supports and advices of the superior governments. In this way, the view of Davey (1991) resembles the position of the researcher:

The local government must possess the power to take decisions independent of external control within the limits laid down by the law. It must garner efficient resources particularly of finance to meet their responsibility.

Put differently, local autonomy is the freedom, independence as well as separable legal identity from other level of government.

Given the needed interdependence of the three levels of government in a federal system, it becomes a fruitless pursuit as there is scarcely anywhere in the world, local government autonomy exists in absolute sense. Even if the much desired constitutional autonomy is achieved, such will be like the fundamental human rights enshrined in the constitution, which have always been flagrantly abused by government authorities. This is because the federal, state and local governments rule over the same population and geography. It calls for definition of the boundaries as well as areas of relations and oversight by superior governments for guidance and direction, considering the existence of more experts in the other superior governments.

4. A Critical Appraisal of The 1979 And 1999 Constitutions And Local Government Autonomy In Nigeria

From 1950s to 1976, the regions had strong grip of the control of local governments for varying self – serving political reasons. As observed in the introductory section, the federal military government in 1976 reforms, granted the power of grassroots, making it the third tier of government in the country. The autonomous status as granted in the reform was accidental because of the manner in which it was enshrined in the constitution of the Federal Republic of Nigeria of 1979. Section seven sub section one reads:

The system of democratically elected local councils is under this constitution guaranteed and accordingly, the government of every state shall ensure their existence under a law, which provides for the establishment, structure, composition, finances and junctions of such councils (Section 7(1) 1979 Constitution).

In subjecting the above provision to analysis, the second segment is too weak because stating that its existence is guaranteed in non-measurable term is just jettisoning the real essence of autonomy. The second segment of that section of the constitution undermines more the autonomy of local government by giving the state government to determine its existence under a state law. The state governments at their inception in 1979, grabbed this opportunity and grossly abused the local governments in their domains.

The abuses were so severe to the extent that, from 1979 when the civilian state governments were sworn – in, to 1983, there were no elections at the local level of each state. The state government ignored the constitutional guarantee in which it was specifically for a system of government by elected government councils and therefore the representative question is the more primary value of all the issues highlighted regarding the relationship between local government and democracy during the second Republic. Therefore no democratically constituted councils existed in the states, instead the civilian governors appointed caretaker committees that were not self-sustained. The military regimes between 1983 and 1999 attempted to revive local governments by, embarking on several reforms, and creating more local governments: 148, in 1989, 140 in 1991 and 1995, in 1996, bringing the total number of local governments in the federation to 774 (Obikeze and Nwaodu, 2010:62). These local governments now exist as a drain pipe as their positive impacts are not felt by the masses.

The 1976 local government reform formed the basis of the sections concerning the local governments in 1979 constitution and was wholesomely made part of the sub-section of the 1999 constitution with all the grave dangers it posed in the practice of local governments in the second Republic. The framers of 1999 constitution who were supervised by the military and whose efforts had been to revive the local governments ignored this mistake. Indeed, section 7(1) of the 1999 constitution repeated verbatim thus:

The system of local government by democratically elected councils is under this constitution guaranteed and accordingly, the government of every state shall subject to

section of this constitution ensure their existence under a law which provides for the establishment, structure, composition and finances of each council.

This provision made the local government the creature of the state government and legally removed the autonomous status of local governments. There exist other items in section 8(3) that empowered states to create new local governments. This section states thus: A bill for a law of a House Assembly for the purpose of

creating a new local government area shall only be passed if:

(a) A request supported by at least two thirds majority members representing the area demanding the creation of the new local government area in each of the following namely:

(i) The House of Assembly in respect of the area and (ii) The local government councils in respect of the area, is received by the

House of Assembly;

(b) A proposal for the creation of the local government area is thereafter approved in a referendum by at least two thirds majority of the people of the area where the demand for the local government originated;

(c) The result of the referendum is then approved by a simple majority of the members in each local government councils in the state;

(d) The result of the referendum is approved by a resolution passed by two-thirds of majority of members of the State House of Assembly.

The status of local government autonomy is truncated more when one examines section 8(4), on the issue of boundary of any existing local government. It states thus: A bill for a local government shall be passed by a House of Assembly, if;

a) A request for the boundary adjustment is supported by two -thirds majority of members representing the area demanding and the area affected by the boundary adjustment in each of the following, namely; (i) The House of Assembly in respect of the area, and (ii) The local government council in respect of the area, is received by the House of Assembly, and

(iii) A proposal for the boundary adjustment is approved by a simple majority of members of the House of Assembly in respect of the area concerned.

This mistake is as grievous as allowing Nigerian parents to raise as many children as they can with a promise that the Nigerian state will cater for all of them. How can a state be allowed by

the constitution to create local governments by its own volition when both the states and local governments still depend substantially on the federal allocation.

It is argued that the amount of powers which the 1999 constitution vests on the states has generated the debate initiated by the National Assembly following outcry from the public that the inefficiencies in the performance of local government is positively related to the lack of autonomy of the local government system. Can this effort being dissipated by the National Assembly work in view of the fact that at the long run it requires concurrence from two-thirds majority of members of all the State Houses of Assembly? Having repeated the mistake, is it not better approached from the empowerment of the rural people by decongesting powers at the federal level so that states will have enough powers that will make them not to turn to the local government for augmentation. It is on this backdrop that this paper examines the states' institutional mechanisms that parade a reasonable number of the political actors as constituting impediment to achieving local government autonomy through constitutional amendment.

5. Local Government Autonomy And Overlapping Mandates Of State Institutions In Nigeria Analyzed

This section examines the various state institutions charged with the responsibility of local government administration and how their overlapping mandates constrain local government autonomy in Nigeria. These state institutions are hereunder examined as follows:

(a) Government House

The Government House is composed of state actors such as the Governor, the Deputy Governor, the Wife of the Governor, the Secretary to the State Government, the Chief of Staff, the Principal Secretary to the Governor, Special and Personal Assistants to the Governor. The Governor and these officials wield enormous powers on the local government that their pronouncements are strictly obeyed. The Governor has the powers to dissolve, dismiss and institute inquiry into the general administration of any local government. These state officers who serve as "gate keepers" in the government rely on the opportunity affordable by the powers of the governors and act in a variety of ways that constrain the realization of local government autonomy in Nigeria.

(b) Ministry of Local Government

Each state created the Ministry of Local

Government. This, in effect, equates the local government as a sectoral division of the state which a commissioner supervises. The commissioner initiates the policies of the local government. He ensures that the policies of the local governments are directed and dictated within the caprices and whims of the state government set objectives. The ministry apart from initiating local government policies, also:

- Sees to the implementation of the policies and programmes of the local governments;

- Approves the annual budget estimates of each local government;
- Supervises the performance of the local government council officials;
- Reports to the Governor and the State Executive Council on the performance of the local governments;
- Directs the extent of relationships that should exist among the elected officials of the local government councils.

In order to achieve these, a pool of staff of the state are vested with responsibility of executing the above stated functions in the ministry in which case, they act in many ways that can undermine the actualization of local government autonomy in Nigeria.

(c) State House of Assembly

The state House of Assembly is charged with the powers of making a law for the existence, structure, composition and finances of the local government. It is equally charged with the powers to create new local government areas and to approve the boundary adjustment of a local government. In line with these powers, Houses of Assembly of many states have created new local government areas with various names like Development Centres that exist in Ebonyi state. In order to exert control on the local governments, Houses of Assembly through committees like Public Accounts, Public Petitions and Local Government exercise oversight functions on the local government. There is hardly any local government in Nigeria you can get bye-laws made by Honourable Councillors: these councilors exist nominally, only receiving salaries.

(d) Local Government Service Commission

Local Government Service Commission is empowered to recruit, appraise, promote, post and discipline all staff of grade seven and above. In fact, the Chairman is not the accounting officer of the local government as he/she is not a signatory to the local government accounts. The Director or Head of Personnel Management and Treasurer of the local government are the chief accounting officers and they are the signatories of the local government accounts. The Local Government Service Commissioners are appointees of State government who are assigned the duty of promoting, posting and supervising the activities of the management staff and other senior cadres of the local governments. With these degrees of control, state governments hold the elected functionaries of the local government to ransom (Nwambe, 2009).

(e) Auditor General for Local Government

The Auditor General for Local Government is charged with the responsibility of auditing the local government accounts on regular basis. He/she has the power to sanction and **surcharge** any officer as provided in the Financial Memoranda (39.1). He/she is responsible for informing the

Public Accounts Committee on local government council and the governor in writing where a local government accounting officer failed to respond within the stipulated time to query directed to him/her. This exemplifies the overwhelming influences of the state on the finances of the local governments.

(f)The Joint State/Local Government Allocation Committee

The constitution of 1999 is very clear in section 162(58) that ten percentage of the internally generated revenue of each state be allocated and distributed to the local government through the instrument of Joint Account, but the reverse is the case, the funds of the focal government are pooled together and distributed according to the whims and caprices of the states (Udeuhele, 2009).

(g)Universal Basic Education Board

In all the states of the federation and FCT, there exists Universal Basic Education Board that is charged with the responsibility of running the affairs of primary school and junior secondary in the country. A substantial sum of the local government fund is deducted at the state headquarters at times running up to half of the funds for the management and payment of teachers' salaries and for the running costs of these primary and junior secondary schools in the country- Managing and supervising these schools from the state headquarters have removed the council officials from the ownership, management and council of these schools.

6. Conclusion

This paper has examined the quest for local autonomy that is traceable to 1950s when Nigeria became a federal system of government. The autonomy was conceptualized and analysed. The paper did a critical appraisal of the 1979 the 1979 and 1999 constitutions of Nigeria in order to understand how the related constitutional provisions constituted a part in undermining the autonomy of local governments.

The study analyzed the relationships of the various state institutional mechanisms involved in local administration in order to ascertain how the political actors that are in -charge of these institutions will constitute a cog in the wheel of progress in the efforts of the National Assembly members to favourably amend relevant sections that will grant autonomy to the local government system of the country. The findings show that the failure to amend powers available to the federal government to give more powers to the states will continue to allow the erosion of the autonomy of the local governments.

Recommendations

This paper recommends as follows:

- a. The National Assembly should as a matter of urgency embark on decongesting the enormous powers that the federal government wields so as to grant states sufficient powers that will make local government funds too meager and less tempting to states.
- b. The democratic space must be more open to give the rural people more powers and make them more active participants in the democratization process, thereby making local government more participative.
- c. There should be more emphasis on production politics than distribution politics in which states and local governments should be encouraged to specialize on the production and investment by their people on areas where they have comparative advantages, d The diversification of the economy should be made a priority of the state policy to avoid over-dependence on oil which has made federal government to dominate states and states to dominate local governments.
- e. There should be conscious effort to empower the local people. A set of well informed and empowered local government Chairmen and Councillors will not allow the funds meant for their people to be hijacked by the state governments.
- f. The institutions charged with local government- administration should be streamlined to avoid overlapping mandates-
- g. The number of state institutions involved in the local administration is outrageously too many which unnecessarily exert influence on the local governments. A body in which all these institutions serve as departments will make more meaningful control and management that will give local governments' relative autonomy and allow for efficient performance of local government.

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