

The Overbearing Role of State Over Local Government and Provisions of 1999 Constitution: Where is Local Level Autonomy in Nigeria?

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<i>Abstract</i>	<i>Journal of Policy and Development Studies (JPDS)</i>
<p><i>The provision of section 7 of 1999 Constitution by apex court judgment and extra-judicial pronouncements put local governments under the apron of state government. This control has been in the front burner of discourse in Nigerian politics since 1999 till date especially grassroots governance. The paper examines state-local relations from legal and operational view- points, illustrates how state government set aside the intent of 1999 Constitution that institute local government system properly organized, monitored supervised by state level. The paper adopted developmental theory as its framework as propounded by Lele, Zamani, Ola & Adamolekun. The data were collected through primary and secondary source; relevant data were analyzed supplemented with in- depth interview subjected to descriptive and infernal statistical analysis. Pearson Product Movement Correlation was used to analyze dependent and independent variables while t-test was employed to test the hypotheses. The paper found out that local level has failed because state government refuse has failed to perform their responsibilities in line with the tenets of the 1999 Constitution and other extant laws. There is need for an efficient and effective local government system on the premise of federal decentralized system. It has been noted that the existing legal framework require adjustment by granting local level, state assembly and state judiciary autonomy to checkmate the excess of state level. In accomplishing this</i></p>	<p><i>Vol. 15. Issue 2 (2024)</i> <i>ISSN(p) 1597-9385</i> <i>ISSN (e) 2814-1091</i> <i>Home page</i> https://www.ajol.info/index.php/jpds</p> <p>ARTICLE INFO: Keyword: <i>Local government autonomy, decentralization, Constitutional provision</i></p> <p>Article History <i>Received: 25th February, 2024</i> <i>Accepted: 27th May, 2024</i></p> <p>DOI: https://dx.doi.org/10.4314/jpds.v15i2.13</p>

will improve the interaction, cooperation and relation for a virile local government system in Nigeria.

1. Introduction

The origin and evolution of local government in Nigeria has been long episode of trial and error, attempt to reconcile participation in their own administration for efficient service delivery on basic services is futile. Local government is faced with corrosive abuse and serial legal violation in the system especially from the hands of fourth republic political class in Nigeria (Ibrahim, 2012). Local government system is classified on the relation of local to federal government within a country, in the case of Nigeria; the 1999 Constitution specified clearly the relation between local governments and other levels of government (Wolman, 2008). It is clear that local governments are under the control of state level in all ramification, section 7 (1-6) provides a system of local government by democratically elected local government councils accordingly, the government of every state shall ensure their existence under law which provide for the establishment, structure, composition, finance, and functions. Some provisions in section 7 and 8 of the 1999 constitution recognize local government as third tier of government but give state the autonomy to lord over local government. This provides that local government officials shall be democratically elected; the state level subject to this section ensures establishment of structure, composition, finance and functions of each council. The fourth schedule of the 1999 constitution provides the functions of local government to include participation in education, agricultural resources, health care and any other function assigned by state assembly (Asaju, 2010). The implication is that local government cannot exercise their assigned function unless state assembly passed a law. Contrary to provisions 7 and 8 of 1999 Constitution, state governors control local government with caretaker committees; this practice remains operational across Nigeria. The much needed service delivery has not trickled down to the grassroots in Nigeria because leadership and resources of the council are hijacked by state governors (Akpa, personal communication, July 6 2013). In explaining state interference in Nigeria local government from Anambra where council election has not been held since 1998 to Nasarawa where governor is empowered by state law to appoint caretaker committees in place of elected officials to Imo where sacked elected council local government officials are in legal tussle for their reinstatement remained the same (Obeche, 2009). In Lagos state from 2000 to 2015, state government officials have been accused of imposing their own candidates in local level election to teleguide the activities of the council. This statement has shown that local governments in Nigeria are mere stooge of state governments by adopting every measure to stop council from having elected leaders from the people instead of care-taker committees appointed by state (Davey, 1991). According to Ugwu (2001), the constitutional power to establish local government structure, composition and functions belongs to state level. There have been demands from public to free local councils from the armpit of state governments and grant them full autonomy. The federal law makers resolved that caretaker system in Nigeria local government is alien to 1999 Constitution (as amended) directed state governors in Nigeria to conduct polls and transfer

power to elected officials, “what a contradiction” (Channels News on National Assembly Sessions). Some states in Nigeria used inordinate tricks and unlawful schemes to avoid local government election in their state. The financial straits plague in Nigeria as most governors resort to council allocation in funding their wage bills and development projects. The control of council funds enables them to wield power to secure future political ambitions and maintain their political structures (Obeche, 2009).

The parallel revenue board through the states erodes revenue yielding areas of the local government; it is common to see markets, motor parks, building approvals and forest royalty collection fund. This was as a result of changing and swinging of political pendulum that oscillates between caretaker committee and elected government (Adeyemo, 2005). Most local governments exist only for payment of salaries, they depend on 10% state internally generated revenue that is delayed or not forthcoming at all and statutory allocation in most cases are deducted from sources for payment of primary school teachers. The overbearing roles of states over local government possess a threat to the autonomy of local government. Local government autonomy is misplaced in Nigeria due to the structure of federalism enshrined in the constitution. Nigerian federalism is difficult and unrealistic due to selfish interest among political class. Some argue that powers of local government in Nigeria are subject to state approval, despite demand for local government autonomy to speed up development at the grassroots across Nigeria; state governments employ dishonest tricks to ensure that the third tier remained under their apron strings largely underdeveloped. This inordinate usurpation of local council powers by state governments is a problem that requires an urgent attention for amendment in Nigeria constitution (Adoke, personal communication July 5, 2013). It is against this backdrop that the dwindling performance of local level in Nigeria as democratic grassroots institution for service delivery. This explains why national assembly in all efforts to amend 1999 Constitution focused on local government autonomy.

2. Clarification of Concepts

Local Government

Local government is the system of political decentralization in which power base of decision making is not national but local, in this system functions are locally and directly executed by elected officials who have direct control over local affairs (Wunsch, 2008). This is the most critical level of government in which the momentum to sustain national development can be created. According to 1976 guidelines, local government is a legally established representative council empowered to initiate and direct the provision of basic services to determine and implement projects to complement the activities of state and federal level in their areas. The council ensures that through devolution of functions, active participation of people and traditional institutions, such that local initiatives which respond to local needs are maximized. Local level is an avenue for rural people to participate in decision making within their area on issues for national development. It is at the local level that roads, water, electricity, health, sewage, education, and other facilities are provided. Montague cited in Adeyeye (2005) views local government as local bodies freely elected to super-intend national or state government, endowed with power, discretion and responsibility without control over their decisions by higher authority. They provide services and implement projects to complement state and federal level activities in rural areas through devolution of functions and active participation to maximize the needs of rural people (Awa, 2006). Aransi (2000) sees local government as administrative units closer to people in the grassroots. They act as agents of local service delivery, community mobilization based on human and material resources, organize local initiatives in responding to

the local needs and aspirations and provide basic structures for grassroots participation in democratic process. The ability of local level is to attain the needs of rural dwellers in Nigeria is predicated on transparency and accountability of officials at the grassroots. The way to attain these positive variables from service delivery is to institutionalize the culture of accountability and transparency at the local level of Nigeria. Agba and Chukwurah (2013) describe local government as the third tier of government created to decentralize governance closer to people for service delivery and engender development. The creation of local government anywhere in the world stems from the need to facilitate developments at the grassroots. All political systems seek to attain efficient and effective service delivery as it affects day-to-day activities of people. Local government articulate and facilitate the needs of the rural dwellers through the application of needed human resources for the purpose of efficient and effective service in the localities (Ugwu, 2000). They are mandated constitutionally in Nigeria to provide social and other basic services to the people and ensure participation of citizens in governance (Nzekwe & Izueke, 2012). Local government are the prime movers of institutional development in Nigeria. Their importance on the well being of its citizenry cannot be over-emphasized. The people are intimately affected by the activities of local government daily. The idea of creating local government allows people in the grassroots to promote democratic ideals and coordinate development programme directly to rural areas. According to Ezeani (2005), local government is an agent of development through prudent management of financial resources to justify participation in the democratic process for people within and outside government circles to transform the lives of rural dwellers and promote rural development. The shortage of funds facing local government currently could be attributed to lack of creativity on part of the local level to seek alternative sources to complement revenue allocation from the federation account. Most local governments suffer from overdependence on centre assistance which was a norm during military governance. The well being of most Nigerians either in rural and urban areas are inevitably affected by the activities of local government through the provision and non provision of basic services like water, roads, health and educational services. Local government are the focal points for promoting development and cultural revival through community projects, mobilization of human and material resources for rural developments. Onah (2006) states that local government is a strategic position to integrate rural communities with efficient and effective utilization of financial resources to provide social services, participate in governance to enhance rural development. Consequently, local government operates within the lowest level of society established by law. It is a level of government closer to rural dwellers with an assigned function to satisfy the needs and aspirations of the people. Mill (1921) cited in Ajayi (2000) views local government as one institution that provides political education, a vehicle that promotes political training and leadership qualities fostered in young politicians at the local level. The need to catalyze development, boost citizens' involvement and government responsiveness compels the concept local governments (Lawal & Oladunjoye, 2010). Local government constitute an edifice that aid decentralization, national integration, competency in governance and sense of belonging at the grassroots. It is a mechanism that transmits ideas and elevates grassroots to superior level of government (Adejo, 2003; Agagu, 2004). According to Ikelegbe (2005) local government is a segment of constituent State of a nation established by law to provide service delivery and regulate public affairs within its jurisdiction for the interest of rural people by local representatives. Local government is a political sub-division in a federal state which is constituted by law to have substantial control of local affairs, including the power to impose taxes or exact labour for prescribed purposes. The 1999 Constitution of the Federal

Republic of Nigeria established local government as the lens through which higher levels of government view people at the grassroots to feel the impact of governance (FRN, 1999).

Basis of Local Government in Nigeria

The existence and functioning of local government at the grassroots level have many advantages, this primarily lies in the convenience for the range of activities and jurisdiction of work of officials is not as vast as in a district or a state. Some community effort and citizen participation in decision-making are higher and since citizens have a stake, solutions for the subjects handled are likely to be relevant and more pragmatic.

Grass-root Democracy: local government provides scope for democracy at the grassroots level, if direct democracy can still be practicable it is the only level to democratize at the state or national level for indirect or representative type. It is the only way that less privileged and clamorous voices can be heard.

Serves as a training school: local government serves not only as a training ground for the politicians to function at the state and national levels. It provides an outlet for competent and public spirited persons of the locality to render social service to the community. It is from such a group of experienced and tested persons that leaders emerge to take up responsibilities at state and national levels. Local government ensures a regular flow of talent to higher levels, it is for these reasons that local self-government is the best school of democracy that guarantee for its success.

Encourages participation in public affairs: local government affords opportunity to the people to participate in public affairs, democracy means government of the people, but it has become impracticable for common people to participate in public affairs at state or national level. The affairs of modern state are too complex to understand for an ordinary citizen and the affairs at national level are too far removed to be of much interest for them. The affairs of village, town or the borough are his own affairs in which he is interested. Moreover, these are too simple for an ordinary citizen. The sanitation and educational need for rural dwellers, maintenance of roads, street light, management of local markets are subjects they understand.

4. More competent to solve local problems: it is competent to deal with the problems which are common to people or national in nature like defence, foreign affairs, currency, communications and international trade. It is neither competent nor has the knowledge to deal with the local problems of the people. The local problems vary so much that no single agency can manage them. The problems of the villages are different from those of the towns. The problems of desert regions are different from those of mountainous areas. Even the needs and problems of one village or town will be different from those of the other village or town. Local government is for locally elected institutions that employ their specialist staff better placed to interpret both the conditions and the needs of local communities.

5. Local government is economical: it cost the taxpayer much less if his local affairs are managed by local government. If these affairs were to be managed by the central government that means that central government will have to keep a large bureaucracy. It will be a big administrative state, its agents or employees serve at the local level have to be paid at the central rates that very high. Local government knows that the money spent is their money raised through local sources; it will be economize to avoid wastage. The people at the rural area keep watch on the work done by the local government to hold them accountable for misuse of funds or financial lapses. The central government is not accountable to local people; the chances of misuse of funds or wastage in the affairs of local level.

6. Reduced the burden of Central Government: local government acts supplementary to the central government. No doubt historically the local government is prior to the state or national government, but with the passage of time many important functions got transferred to the central government. This result in division of functions and affairs of national importance such as defence, foreign affairs, currency and communications began to be performed by the latter, leaving affairs of local interest and importance which required local knowledge, in the hands of the former. Since local functions are performed by local government, the central government is freed from the responsibility and burden; it concentrates on affairs of national importance.

Serves as a channel of communication: local government serves as two-way channel of communication between itself and the central government, desires and aspirations of the local community are articulated and carried upward to the state government, and plans and program of the state and central governments flow in the reverse direction. In national emergency local government acts as the field post of the distant centre, transmits national decisions to far-flung corners, mobilizes the people for national tasks and keeps the centre informed about happenings in the locality.

Vital for national progress: local government is a third tier government in Nigeria as well as the closet tier of government to the people. The guidelines for 1976 Local government reform in Nigeria describes it as government at local level exercised through representative councils established by law to exercise specific powers over local areas. The role of local government is to bring government closer to people for purpose of maximum participation of rural dwellers, utilize local resources for rapid and even development of local communities.

1999 Constitutional Provisions in Nigeria

Local government did not have any definite constitutional recognition until it was enshrined in the 1979 constitution, which provide legal framework to implement 1976 reforms. The goal is to ensure that every state government should provide for establishment, structure, composition, finance and functions of local councils (Diejomoah and Ebo, 2010). The degree of autonomy local councils enjoy in decision-making and relevance is determined by state governments, and they take this advantage on the lacuna created by this constitutional framework to dictate financial and operational structures of local government. The 1979 constitution spelt the functions and responsibilities of local government. This fall in the areas where local government shares responsibility with higher levels of government, and areas of responsibility that state or federal government from time to time assign to local authorities (Oviasuyi et al, 2010). The constitution guaranteed democratically elected government councils all over the country but system of local government by democratically elected government council is under this constitution guaranteed” Chapter 1, Part 2, Section 7(1). The 1979 constitution allowed local level to receive federal allocations, Section 149 prescribed that states should provide funds for local governments in their areas (Bamidele, 2013).

The 1999 constitution takes almost the same position on local government as in 1979 constitution, with some modifications. The fourth schedule, Section 7(2) of the 1999 constitution sets out functions of local government in Nigeria, in theory not in practice, local government is a unit of government with defined powers and authority and relative autonomy. The functional areas for local government in the constitution are provision and maintenance of health services; primary, adult and vocational education, and other functions as may be conferred on it by the state assembly. Section 7(1) guarantees democratically elected governments in Nigeria on the strength of these provision that the 1999 constitution acknowledged the powers of local government councils as articulated in 1976 local government reform that these powers should

give the council substantial authority on local affairs as well as staff, institutional and financial powers to direct the provision of services, determine and implement projects to complement the activities of state and federal level (Ibeto and Chinyeaka, 2012). Section 162 (5, 6, 7, 8) provides for the funding of local councils through the federation account, paragraph 6 provides that each state shall maintain a special account to be called the state-local government joint account into which should be paid all allocations made to local government councils from the federation account and from the government of the state. This is a reversal of the reform introduced by federal government in 1988 (Abutundu, 2011). The 1999 constitution, by Khalil and Adelabu (2011) in Sec. 4 provides that government of a state shall ensure that every person is entitled to vote or be voted for in an election to local government council. The 1999 constitution empowers Revenue Mobilization Allocation and Fiscal Commission (RMAFC) to allocate revenue to three tiers of government. The constitutional basis for this allocation of revenue is set out in Section 160, sub-section (2) to (8). Any amount standing to the credit of the federation account shall be distributed among the federal, state and local government councils in each state, on such manner as may be prescribed by the National Assembly of Nigeria. The 1999 constitution states that government of every state shall, subject to Section 8 ensure their existence which provides for establishment, structure, composition, finance and functions of such council (FRN, 1999). These provisions constitute the legal framework for local level system in Nigeria and this constitutional foundation is for functional council administration.

Theoretical Framework

The paper adopted Development theory as its framework as propounded by theorist like Lele (1975), Zamani (2000), Ola (1984), Adamolekun (1983). The theories originated from developing countries in attempt to position local government as developmental agent. For example in Nigeria, part of the 1976 local government reforms in Nigeria is to ensure development at the grassroots. The theory is criticized on the basis that after many years, local areas in the development countries still remained underdeveloped. The theory is also biased because it does not concern in development of the people at the rural areas. As a result, the benefits and the purpose for establishing local government for the development of the people at the grassroots are defeated. These theories provided explanations on what local government ought to be in order to ensure the development of the local areas. However, local governments in developed countries serve the purpose of these theories because they are created by the local people themselves in order to develop their local areas. They are outcomes of concerted efforts of the people at the local level to have governments that can serve the interest of the local people. This cannot be said of developing countries especially in Nigeria where local government is created through partitioning of local areas to serve the interest of the political or military elites that created them. Using such local governments as agents of development is impossible. The inconsistencies in local government creation in Nigeria from the colonial era to the present make it difficult for the adaptation of the various theories to explain how local government is operated in Nigeria.

The 1976 Local Government Reform and other Reform in Nigeria

Local government system has passed through a circuitous path in terms of reforms and re-organizations aimed at evolving a viable system that could serve the purpose for which it is created for in Nigeria (Ogunna, 1996; Olatunji, 2009). The history of local government in Nigeria can be traced back to the traditional local administration system that existed in various parts of the country prior to the advent of British colonial administration. The fortunes of local governments in Nigeria were tied to the apron strings of pre-colonial, colonial, and post-colonial

successes or failures in Nigeria (Mill, 1994). Before the coming of the white men (Europeans), what existed were relatively autonomous villages, towns and ethnic groups, each existing on its own with minimal contacts limited for trade, social transactions and little political relationships with others (Okoli, 2000). In the West, the traditional institutions did not recognize traditional rulers as absolute rulers, in the East the institutions were more of republican-consensus. In the North, indirect rule system was accepted due to existing traditional system that regarded the emir as the sole authority (Imuetinyan, 2002). This necessitated reforms in 1930s and 1940s that culminated in the establishment of chiefs-in-council to replace sole native authority. The federal system marked another stage of local government in Nigeria with three regions; each region decides its own system, but regional system of local government collapsed in the first republic. The military intervention of 1966 brought a radical change to accommodate the hierarchy of military structure and redress the abuse in local government (Akinola, 2006; Ina, 2002). The regions and their successors took over the control of local government and carried out reforms that were appropriate to the circumstances with mixed results. The 1976 reform was a turning point in the development of local government administration in Nigeria. Ugwu (2000), states that the reform brought a watershed in local government of Nigeria, and institutionalized the structure, role, funding and streamlined state-local relations. Orewa and Adewumi (1983) state that the major thrust of 1976 reform benefited from political responsibility for efficient service, due consultation by federating units, legalized local level as third level of government, and unified framework with defined functions. Local government was funded from federation account and had control over its spending (Guideline, 1976 Reform). The second republic was turbulent for local government; this was the time the state and the federal levels contested over the control of the local level with each other. Some governors abused some provisions of the 1979 Constitution to suit their desires; they voided some aspects of the reforms (Gboyega, 2001). Between 1979 and 1983, sole administrators were appointed to render inoperative local government elections, this change the structure of local level from state to federal level (Iyoha, 1997). The Babangida regime of 1985 and 1993 abolished local government autonomy and create ministry of local government. The executive- legislative arms were established at the local level with direct statutory allocations to 20% in 1992. The Abacha regime of 1993 to 1997 revisited and revised some reforms by Babangida administration (Igbuzor, 2003).

Indices of 1999 Constitution and Local Government Autonomy in Nigeria

The reality of contemporary local government administration in Nigeria is lack of autonomy at the grassroots level affairs in which other challenges bedeviling rural development hinges. Local government election during Abudusalam regime was held on 5th December, 1998. The electoral law through which local government officials were elected (Decree No. 36 of 1998) provides a 3-year term. On May 2002, the state governors dissolved and reconstituted care-taker committee chairmen in 774 councils pending the date of election (Obikeze, 2004). The Association of Local Government of Nigeria (ALGON) proceeded to the Supreme Court for 4-year term, but the apex court ruled that the National Assembly had no powers to alter the tenure of local government officials. The election was postponed twice due to power tussle between the Independent National Electoral Commission (INEC) and the State Independent Electoral Commission (SIEC). Although the SIEC was empowered by law to conduct local government elections, the INEC had to update voters register and make it available. The election was postponed to 21st June, 2003, few days after the general elections. On 17th June, 2003, ALGON pushed for constitutional amendment which would empower state governors to conduct election for chairmen and councilors. The Nigeria Governors Forum (NGF) met President Obasanjo in a meeting, and a

technical committee was set up to review local government structure in Nigeria (Obasanjo, 2003). In 2006, the committee recommended that local government elections in development centres like Kogi, Lagos, Niger, Enugu, and Oyo are illegal in line with some provisions in the 1999 constitution. The new council generated a rift between the Federal and the State levels, especially in Lagos state, the revenue allocations that accrued to the Lagos state government during the Tinubu Administration was seized (Nwabueze, 1983). The Lagos State Government dragged the Federal Government to the Supreme Court. The apex court pronounced judgment in favour of the State and other States affected across Nigeria. The Supreme Court ordered the federal Government to pay statutory allocations accrued to the Lagos state government and other states from 1999 and 2007 since the power to manage local level is on the ambit of the state government (Otabor, 2004).

The fourth schedule (9) of the 1999 constitution outlines the functions and responsibilities of the local government, but was silent regarding any mechanism that guarantees the financial autonomy of local government. There was no clear-cut guideline on election timeline for elected officials and their tenure. Most decisions were at the whims and caprices of state governors who hijacked their funds in various states to dispense patronage for political allies (Decree 36 of 1998). It is not surprising that an election conducted by State Independent Electoral Commission (SIEC) was a mockery of democracy because the state electoral bodies comprised card-carrying members of the ruling party in the state (Nkwocha, 2009). Most states in Nigeria run local governments with caretaker committees and this has been declared illegal by 10 judicial verdicts (Jega, 2011). According to Musa (2011), local government has turned into a care-taker imposed by state governments. In some cases, care-taker ship is perpetuated if the outright denial of democratic local level through care-taker committees demonstrates increase in authoritarian holds on the councils by state governors, the case of where elections hold does not give cause for cheers. Each time a governor assumes office in Nigeria his first function is to dissolve and re-constitute council officials whether elected or appointed to secure grassroots support by hook or crook (Otabor, 2012). This behaviour of the state government is founded by the urge to re-contest and desperation to have local government in their firm grip. Section 7 of the 1999 constitution stipulates that state governments shall contribute to state joint local government account for development but the reverse is the case in Nigeria (Abbas, 2012; Aransi, 2000). Many argued that poor performance of local government officials in Nigeria is anchored on state and local government joint account. They always complain that allocations accrued to them from the federation account are not remitted due to state government interference (FRN, 1999). The challenge of true federalism is on course where every level will be accountable to the people. It is possible in the grassroots if only there is autonomy at the local level, the elected official will be accountable to the electorate for socio economic development. Consequently, our votes and voice matters, there cannot be good governance at the grassroots without autonomy at the local level.

3. Methodology

Hypothesis

This methodology deals with data presentation, findings and discussion collected from the primary and secondary sources were presented on hypothesis formulated to guide the paper presented in table below. The 1999 constitutional provisions which authorized state government to receive local government funds, from federation account undermined financial accountability at the grassroots in Nigeria fourth republic.

The data for testing hypothesis are presented in table below.

Table 4.8: The t-test statistics of the mean ratings of the responses of respondents on how the 1999 constitutional provisions which authorized state government to receive local government funds, from the federation account undermine financial accountability at the grassroots of Nigeria, from 2000-till Date.

SN	Item Statements	Source of Difference	Sum of Square	DF	Mean Square	F-cal	F-tab	p-value	Rmk
1	Section 7 of 1999 constitution stipulate democratically elected at the local level	B/W Grp W/T Grp Total	3.225 284.927 288.152	47 2	0.645 0.610	1.057	3.00	0.383	NS
2	The 1999 constitution makes local government mere appendage of the state.	B/W Grp W/T Grp Total	3.923 449.147 453.070	47 2	0.785 0.962	0.816	3.00	0.539	NS
3	The 1999 constitution empower state governor to control the affairs of local government.	B/W Grp W/T Grp Total	7.257 483.678 490.934	47 2	1.451 1.036	1.401	3.00	0.222	NS
4	Some provisions in the 1999 constitution recognized local government as a third tier of government.	B/W Grp W/T Grp Total	10.723 579.666 590.389	47 2	2.145 1.241	3.728	3.00	0.027	Sig.
5	There is a unified local government system in Nigeria.	B/W Grp W/T Grp Total	7.974 367.996 375.970	47 2	1.595 0.788	2.024	3.00	0.094	NS

Note: Level of Sig. = 0.05; **Sig.** = Significant at 0.05; **NS** = Not Significant.

Source: Field Survey, 2023

The in-depth data interview reveals that 1999 constitutional provisions which authorized state government to receive local government funds, from the federation account undermine financial accountability. There is no transparency and accountability as it concerns financial accountability in the local government. All we hear is that EFCC arraigned former local government boss, tomorrow the case is in court. The question remains, what is the measure put in place to checkmate financial fraud? This has been the reason why state governments cannot be probed to account for local government funds adequately; the government will make policies or laws and create windows for escape route to encourage fraud. Focus Group Discussion affirmed that 1999 constitutional provisions which authorized state governments to receive local government funds, from the federation account undermined financial accountability. There is a lot of fraud in

government, they use pen and paper to manipulate figures for their selfish interest. After defrauding the financial coffin of local government, they bag award in churches and chieftaincy titles in their communities. At the local level, they are so corrupt that there is no way they account to state government wholly money received monthly, quarterly or annually. Therefore proper financial accountability will be frustrated, it look as if 1999 constitutional provisions undermined financial accountability but corruption at the local level will not allow them.

The 1999 Constitutional Provisions

The provisions of the 1999 Constitution define the relationship between states and local governments. The main aspects in Section 7(1) of the 1999 Constitution states that the system of local government by democratically elected local councils under this Constitution, guaranteed and accordingly, the government of every state shall ensure their existence under a law which provide for the establishment, structure, composition, finance and functions of such councils. Whilst this section guaranteed the existence of democratically elected local government area, it does so effectively with the provision that the local government is a creation of the state to which they belong. The state defines the structure, composition, finance and functions of local government gives the states wide powers to control the functions of the councils.

Section 7 (6a & 6b) provide for the funding of local government councils by stating that the national assembly shall make provisions for statutory allocation of public revenue to local councils in the federation, and that the state assembly of a state shall make provisions for statutory allocation of public revenue to local councils within the state. These provisions appear contradictory and seem to reverse the previous arrangement under the military administration that guaranteed payment of resources to local government areas from the federation account. While paragraph (a) clearly provides for the allocation of funds from the federation account to local government areas, paragraph (b) provides for this payment to be determined by individual states. It is possible therefore for states to re-interpret the criteria for allocation within a state.

Section 162 establishes the federation account, subsection (5) of this states that the amount standing to the credit of local government councils in the federation account shall be allocated to the state for the benefit of their councils on such terms and in such manner as may be prescribed by the National Assembly. This implies that the revenue sharing formula for allocations to the local governments from the federation account, as is the case of the other tiers of government in the federation, should be determined by the National Assembly on the recommendation of the Revenue Mobilization Allocation and Fiscal Commission (RMAFC). Unlike the other tiers of government, federal-states-local governments' share of the federation account instead of being paid directly to them is paid to the state governments for subsequently distribution to the local governments. This justifies the creation of the state joint local government accounts as stated in Sub-section (6) of Section 162, which serves as the receptacle for the revenues allocated to the local governments. The joint account may have been conceived by the drafters of the Constitution as a means to ensuring better management of the finances of the local governments as well as the fiscal management and planning in the states, particularly to fulfill the objective of Section 7(3) of the Constitution. The account was to serve as a pool where state governments contribute 10% of their revenues to the local councils as provided in sub-section (7) of Section 162. Since these accounts are established under the control of the state governments, local government loses a degree of autonomy and control over their financial management. This arrangement has been vulnerable to abuse by state governments and this have a significant impact on the ability of local government areas to manage their own resources, especially where

adequate provisions, institutions and planning environment are not in place for actualization of Section 7(3) of the Constitution.

Sub-section (8) of Section 162 however states that the amount standing to the credit of local governments of a state shall be distributed among the local government councils of that state on such terms and in such manner as may be prescribed by the state House of Assembly. This means that the state Assembly of each state shall pass a law on the horizontal revenue sharing formula for the local governments in the state, thus justifying the pooling of local governments allocations in the joint account. There is no need for another revenue sharing formula at the state-level for local governments after the allocations have been made at the national level.

The 1976 local government reforms gave great hopes for the future of local governments, in line with that reform, the military regime of 1988 introduced presidential system of government at the local level gave room for elected councilors to constitute legislative arm of local government. The administration introduced direct disbursement of statutory allocations to local governments as one of the outcomes of the Alhaji Ibrahim Dasuki Commission of inquiry 1986. Since the inception of 1999 Constitution, the operation of state-local councils joint account as created by provisions of Sections 162 (6 & 8) of the constitution, the powers and independence of local government have been compromised as they are subjugated and subsumed in the hands of state governments, and some state governors use the resources that belong to local level for purposes that may not be directly related to those the resources were meant for.

State Control of Local Government Funds

The instrument of state control over local government revenues is joint state- local governments account allocation committee under commissioner for local government or officer appointed by state governor. Though Constitutional creation, was rightly intended to achieve some measure of coordinated fiscal planning, discipline and efficiency at the local level by giving state governments a supervisory role over local government federation revenue particularly to fulfill the objective of Section 7(3) of the Constitution which states that the duty of local council within a state to participate in socio-economic planning and development of the area in sub section (2) of this section and to this end shall be established by a law enacted by the state assembly. In order to give them legitimacy to control revenues accruing to local governments, states are required to make laws that regulate the operation of Joint Allocation and Accounts Committee (JAAC). Some states enacted laws that gave them power to make spurious deductions from Joint Allocation and Accounts Committee (JAAC) at the detriment of local governments. In these states, the local governments, after various deductions at the Joint Allocation and Accounts Committee are left with monies for operational costs and payment of staff salaries. Some of these deductions include for the payment of primary school teachers' salaries, 1% training fund deduction given to the local government service commission, deduction of varying degrees for traditional rulers, deductions for state-local government joint projects which in most cases are not under the control of local governments, and other sundry deductions for state political events. Besides controls of Joint Allocation and Accounts Committee (JAAC), some state government exercise control over local government fund through various state government Ministries Department and Agencies (MDAs) like ministry of local government, local government steering committee (LGSC), ministry of health and education.

States have limits to the amounts that the local councils can approve without recourse to the state governor for concurrence. These limits are contained in local government administration law of the state. Any amount above such a limit must be referred to the state governor, his deputy or commissioner in charge of local governments as the case may be for approval.

The state government interference in local governments' revenue generating jurisdiction is another way state government controls the local government funds. Some state governments have taken over completely from local governments' revenue generating sources that are to be viable. Some state governments claim to enter into some sharing formula arrangements with the local governments for monies collected from those sources that were supposed to be under the local governments' jurisdiction like motor parks, markets, property tax, waste disposal, forestry, agricultural produce and tax. These revenue sharing formula arrangements collapse after the commencement; state government take over the entire monies collected through these source.

Management and Account of Local Government Funds by States-Local Governments

The financial memorandum (FM) for local government spells out guidelines for local government financial management and controls; and entrusts the duty on everyone holding office in local government. Local government executive committee is responsible for the management and control of local government finances, the legislative council plays the role of oversight function to the local government financial management systems to ensure compliance and adherence to rules and regulations guiding the management of finances. The routine financial management and accounting functions of local governments are to be carried out by the finance department of the council often headed by the treasurer or director of finance as the case may be. The finance department is charged with the responsibility to take care and custody of local government finances. The treasurer is chief finance adviser to local government, the head of personnel management or its equivalent and the signatories to the councils accounts, while finance and general purposes committee (F&G) headed by chief executive of the council is the approving authority. The chairman of council is the accounting officer of local governments. Besides, state government agencies have varying roles in the management of local government finance. These agencies include the ministry of local government, state accountant general and auditor general for local governments, the state local government Joint account and allocation committee (JAAC), the office of the deputy governor and state assembly. This role of council financial management sometimes brings conflicts; and to ensure probity and accountability in managing the financial affairs of the local governments, the finance management documents every necessary financial control that is required to ensure proper management of local government financial transactions. A review of financial management shows that adequate measures do exist for accountability and control so far as they are intended makes provisions for:

- The financial duties of each of the key offices and office holders within LG;
- The process for budget preparation, inclusive of budget timetable;
- The budget classification system;
- Examples of forms to use in the preparation of budget estimates;
- Procedures for authorized virement of appropriated funds of budget heads;
- Procedures for the care and custody of local government funds example treasury operations, procedures for utilizing and safeguarding treasury cash.
- Procedures for collection of local government revenues;
- Procedures for dealing with loss of funds for dealing with counter-feit;
- Procedures for expenditure control;

- Tendering procedures;
- The management of accounts; and
- Internal audit procedures.

It makes some other far-reaching provisions on external audit as well as audit alarm committee. These various organs are meant to ensure that the necessary checks and balances in the local government, especially, in its financial management system are kept.

It has been noted that the historical antecedent of local government how it evolved from the native authority to the stage of being a third tier of government. Through various legal enactments from the 1976 reforms, Ibrahim Dasuki report, 1979 Constitution, the 1988 civil service reforms as applicable to local government among others, governance at grassroot has become mature to such level that time was when agitation for to scrap local government almost assumed a national acceptance. However, it is disheartening to note that the hitherto autonomy and pride of place enjoyed has been rubbished by the combined Sections 7 and 8 of the 1999 Constitution and other state government enacted laws pursuant to the two sections above. By this provision, Sections 7 & 8 of the Constitution, the state governments are thus given the license to determine the fate of local government as it pleases them. No wonder, the structure and operation of local level since 1999 seemed bastardized everywhere. In addition, the 1999 Constitution which was to be an improvement on the various enactments glossed over some important items on local government, which include but not limited to the establishment of office of local government chairman, qualification, removal from office, creation of local government, tenure of office, election of councillors, local government service commission and a host of others

4. Conclusion and Suggestions

The failure of local governments in socio-economic development was expressed by former President Obasanjo in 2003 that it is on record that at no time in history of Nigeria had there been the level of funding accrued to local level from federation account, yet the hope for rapid development had been a mirage as successive councils grossly under-performed in their assigned responsibilities. Constitutional provisions which authorize the state government to receive local government funds, from federation account impeded service delivery at the grassroots, and excessive empowerment of state to oversee local level affairs. This constitutional provisions undermine financial accountability at the grassroots in Nigeria, and if amended will enhance transparency and accountability. Based on the findings the paper recommends as follows:

There is need to include local government in provision of chapter (1) part 1, sub-section (2) as one of the federating units of Nigerian federation with its establishment, composition, powers, functions and tenure all spelt out. This will put a halt to the humiliating status local government has been subjected to over the years.

Section (7) of the 1999 constitution is full of contradictions and confusion, it is under this ambiguity that state level hides to manipulate council system by aborting democratic governance and impose caretaker administration to usurp statutory functions of local level and plunder its resources. Local government should be provided for their autonomy and guarantee its status as third tier of government with power to exercise all executive, legislative and administrative functions.

Amendment of section 162 of the 1999 constitution will scrap state-local government joint account and stop state governments from tampering with local government funds of statutory allocation from federation account gets to the local level due to illegal and sundry deductions.

All lawful methods to stop this fraud as pronounced by apex court and other courts of competent jurisdiction have been frustrated by state level. This will guarantee direct remittance of local government funds with necessary checks guard against mismanagement of public funds. This will go a long way to broaden revenue generation capacity of local level and forbid higher levels of governments from encroaching on the statutory role of local level as listed in the fourth schedule of the 1999 Constitution.

Expunging state independence electoral commission in section 197 (1) (a) and part II of the 3rd schedule is a factor. The state independent electoral commission withholds, delay and frustrate elections into local government through all manners of gimmicks both legal and political. The repeal from 1999 Constitution will transfer responsibility of grassroots elections to federal election management body (INEC) as obtained in 1979 Constitution in the electoral process to checkmate 'win all' syndrome by ruling party at the state.

The omission of local government service commission in the 1999 Constitution make them inferior among their federal and state counterparts with all forms of discriminatory practices. This commission needs constitutional recognition as quasi-judicial bodies to enjoy its funding from federation account and draws its entire staff from service. This will save the commission from the current spate of dissolution and muzzling by state government.

References

- Abutundu, M. (2011). *The challenges and opportunities for improving the local government system in Nigeria*. Paper presented at the Third Biennial National Conference on Community Development in Nigeria, Grand Hotel, Asaba, November, 20–24.
- Adamolekun, L. (1983). *Public administration: A Nigerian and comparative perspective*. Lagos: Longman.
- Adejo, O. (2003). "Local government and 1999 constitution" in Kwanashie, M. (ed.) *politics and political power relation in Nigeria*. Zaria: Dat and Partners.
- Adeyeye, M. O. (2005). *Governing the Localities: Lessons Learnt*. Being an Inaugural Lecture Delivered at Oduduwa Hall, Obafemi Awolowo Ile-Ife on 22nd March.
- Adeyemo, D.O (2011). Local government autonomy in Nigeria: a historical perspective *Journal of Social Sciences, Vol. 10 (2)*, 48-59.
- Agagu, A. (2004). "Continuity and change in local government administration and the politics of under-development" in Ola, R. (eds.) *development agenda of Nigeria State*. Ibadan: Fiag publishers.
- Agba, M. and Chukwurah, D. (2013). An assessment of service delivery mechanism in the grassroots (2003-2010) *Mediterranean Journal of Social Sciences, 4(2)*, 621-635.

- Ajayi, K. (2000). "Democracy and electoral politics in Nigeria" in Kolawale, L. (ed.) *issues in Nigeria government and politics*. Ibadan: Dakaal publishers.
- Akinola, B. (2006). Problems and prospects of local government administration in Nigeria during 21st century. *Social Science and Law Journal for Policy Review and Development Strategies*. Vol. 3, (3), 95-103
- Akpan, F. (2013). The Politics of Local Government Autonomy in Nigeria. *European Scientific Journal*, 9(35): 193-205
- Asaju, K. (2010). Local government autonomy in Nigeria: politics and challenges of 1999 constitution. *International Journal of Advanced Legal Studies and Governance* 1 (1), 98-113.
- Awa, E. (2006). *The theory of local government in the substance of local government administration in Nigeria: theory and practice*. Lagos: Asbot.
- Bamidele, G. (2013) *The role of local government in federal systems*. Available <https://www.newsdiaryonline.com>. .
- Davey, K. (1991). Local autonomy and independent revenue. *Journal of Public Administration*, 49:45.
- Diejomaoh, I. and Eboh, E. (2010) Local governments in Nigeria: Relevance and effectiveness in poverty reduction and economic development. *Journal of Economics and Sustainable Development*, 1 (1), 12–28.
- Ezeani, E. (2005). *Fundamentals of public administration*. Enugu: Zik-Chuks publishers
- Federal Republic of Nigeria (1976) Guidelines for Local Government Reforms, Kaduna: Government Printer.
- Federal Republic of Nigeria (1999). *Constitution of the federal republic of Nigeria*. Lagos: Federal Government Press.
- Gboyega, A. (2001). Local autonomy: Nigerian local government system in historical perspective. International conference on new directions of federalism in Africa, Abuja.
- Ibeto, I. and Chinyeaka, J. (2012) Issues and challenges in local government project monitoring and evaluation in Nigeria: The way forward. *European Scientific Journal*, 8 (18), 180–185.
- Ina, K. (2002). "The evolution of local government in Nigeria" in Okoro, C (eds.) *local government administration and grassroots democracy in Nigeria*. Calabar: Institute of public administration.

- Igbuzor, O. (2005). Local government reform and constitutional review in Nigeria. retrieved from <http://www.dawodu.com/otivel.htm>
- Ikelegbe, A. (2005). *Local government system and grassroots development in Nigeria: problems and challenges* Benin-City: centre for development.
- Imuetinyan, F. (2002). *Issues in Nigerian government and administration*. Benin City: Denvic publishing company.
- Iyoha, F. (1997). Corruption and crime in Nigeria: the impact on development. *Contemporary Issues*, 59-67.
- Jega, A. (2011). Report of proceedings on the national workshop on study of democratization at the grassroots in Nigeria (1999-2010). held at electoral Institute conference room, Asaba, 1st March.
- Khalil, S. and Adelabu, S. (2011) Modeling local government system in Nigeria. *Kuwait Chapter of Arabian Journal of Business and Management Review*, 1 (1).
- Lawal, T. and Oladunjoye, A. (2010). Local government corruption and democracy in Nigeria. *Journal of Sustainable Development in Africa*, Vol. 12 (5), 227-235.
- Mill, J. (1994). *Considerations on representative government*. New York: Routlege.
- Musa, A. (2011). The challenges for improving local government system in Nigeria. The 3rd biennial conference of community development in Nigeria. Asaba, November 20-24.
- Nkwocha, J. (2009). Non conduct of local government elections in Anambra state. Thisday, August 13, 11-13.
- Nzekwe, I and Izueke, E. (2012). Management of local government finance in Nigeria: challenges and prospects. *Society for Academic Excellence*. Vol. 5 (6), 11-12.
- Obasanjo, O. (2003). An address by the technical committee on the review of local government in Abuja. retrieved from <http://www.nigeriafirst.org/html>.
- Obeche, O. (2009). Local government administration: the overbearing powers of state governments. *Economy Magazine*, February, 20, 9-10
- Obikeze, A. (2004). *Public administration in Nigeria: a development approach*. Onitsha: book point publications.
- Ogunna, A. (1996). *A Handbook on Local Government in Nigeria*. Owerri: Versatile
- Okwueze, F.O (2006). *The history and dynamics of local government in Nigeria in Nigeria*. Nsukka: University of Nigeria press limited.

- Olatunji, O. (2009). A Review of Revenue Generation in Ekiti State, Nigeria Local Government. International Business management year.
- Ola, R. (1984). Local government theory and practice: three decades of Nigerian local government. Ibadan: Fiag Nigeria publishers.
- Orewa, G. and Adewumi, J. (1992). *Local government in Nigeria: the changing scene*. Benin City: Ethiope publishing co.
- Otabor, F. (2004). War against corruption in local government councils. *Nation*, Vol.1 (5), Tuesday, March 14, 13-19
- Oviasuyi, W. and Idada, I. (2010). Constraints of local government administration in Nigeria. *Journal of Social Sciences*, Vol. 24 (2), 81 – 86.
- Ugwu, S. (2001). *Issues in local government and urban administration in Nigeria*. Enugu: Echrisi and co.
- Wolman, H. (2008). Comparing Local Government Systems across Countries: Conceptual and Methodological Challenges to Building a Field of Comparative Local Government Studies. *Environmental and Planning C: Government and Policy*, 26, 87-103.