

Towards An Enhanced Local Government Autonomy in Nigeria's Separation of Power: Lessons from Selected Constitutional Democratic Countries in the World

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Abstract: The 1976 Local Government Reforms in Nigeria birth the commencement of a landmark development in the history of local government in Nigeria. It brought with it uniformity which put an end to the decentralisation of local government before 1976. It was meant to make local government occupy its rightful position in local governance, thus it was enshrined in the 1979 constitution of the country. In spite of the constitutional provisions in the 1999 constitution for the existence and functions of local government, there have been serious debates as to the autonomy of Local Government in Nigeria. This paper therefore seeks to examine the autonomy of local governments under the Nigerian legal system with particular reference to the experience in the United States of America, India and Ghana. This paper examines the utility of the local government autonomy as a vehicle for redressing the overbearing powers of the state governments over local governments' affairs in Nigeria. The paper contends that the growing demand for an autonomous local government system will help to strengthen the powers of local governments and consolidate them in achieving their objectives. The paper employs the doctrinal method of academic enquiry. The paper suggests that some of the provisions in the 1999 Constitution of Federal Republic of Nigeria be amended and the lessons from the selected countries inculcated.

Keywords: Local Government, Autonomy, Separation of Power, Constitutional Democracy.

1. INTRODUCTION

Prior to the attainment of independence in Nigeria, there was no homogeneity in the local government administrations. Two different administrations emerged in Northern and Southern Nigeria; each of them conformed strongly to the ideological orientation of the regional political class in power [1]. In the words of a writer,

‘the federal system of government adopted after independence further confirmed these differences, when it provided that each of the then four regions was responsible for the structure, legislation and operation of its local government councils. That was why between 1967 and 1970, the names given to local governments were different in all regions or states. In the North, the local government was then called Local Authority, while it was called Local Government in the West, and in the East, it was known as District Council. During this period, the traditional rulers had overwhelming influence on these grassroot governments. This trend was in continuation until the Federal Military government in 1976 established a uniform and single-tier system of government throughout the country.’[2]

This gained acceptance as it was entrenched in the 1979 constitution, thus enhancing its legality. [3]

The question of the autonomy of local government in Nigeria has generated lots of controversies. This has led some proponents to call for the cancellation of local governments, while others contend that its administration be modified to

give a room for its effectiveness. Local Government is meant to provide a secure and peaceful background in which the individual members of the society may pursue their prosperity and happiness. [4] This is particularly so considering that the system of separation of powers is deeply entrenched in the 1999 Nigerian Constitution. [5] It is against this background that this study is being made. This paper intends to answer the following questions:

- a. Is local government truly autonomous in the scheme of separation of power in Nigeria?
- b. If no, what are the causes and the prospects of local governments achieving autonomy in Nigeria?
- c. What are the lessons local governments in Nigeria can learn from selected constitutional democratic countries in the world?

The paper is broadly divided into five sections. The first section proceeds from a conceptual framework of some key concepts which run across the paper; then a consideration of the autonomy of local government in the scheme of separation of power in Nigeria; the third section examines the local government administration in the selected countries; the fourth looks at lessons derivable from the chosen countries; while the last offers appropriate recommendations.

2. CONCEPTUAL FRAMEWORK

2.1. LOCAL GOVERNMENT:

Local Government may be seen as a segment of a constituent state or region of a nation state established by law to provide public service and regulate public affairs within its area of its jurisdiction. [6] The above presupposes that it is the closest level to the people with powers to perform functions and mandate over its finances and manpower. [7] As observed by a writer, the local government is universally found in modern politics, although it goes by various appellations. [8] Its legitimacy lies on its claim to represent the interests or wishes of the local inhabitants and to administer to their needs. Another writer saw it as a *'political authority set up by a nation or state as subordinate authority for the purpose of dispersing or decentralizing political power.* [9] Local government is created to establish democracy at grass-root level and entrusted with the duties and responsibilities in the field of rural development. [10]

2.2. AUTONOMY:

The word "autonomy" comes from the Greek roots *auto* meaning "self" and *nomos* meaning "custom or law". There are different conceptions ascribed to the local government autonomy. [11] This is why the full meaning of the term 'autonomy' has not been fully explained. [12] Local Government autonomy is the freedom to the Local Governments to exercise authority within the confines of the law or constitution. [13] Some writers noted that that there was never a time in Nigeria's post- colonial political history that local governments operated independent of both the state and federal governments, which is the fulcrum of local government autonomy. [14] The search for this kind of local government system has been a mirage. On this issue, three contending perspectives have emerged. The first group interprets local government autonomy to mean independence from the interference of state government in the activities of local government. The second, perceives local government autonomy as the non- interference of the federal government in the activities of local governments, and the third group, maintains that local government autonomy means independence from both state and federal governments interference in the activities of local councils. This is the dilemma facing local government in Nigeria today. [15] But it is obvious that we cannot have complete autonomy or complete local governments within sovereign states. It has been submitted that if local governments were completely autonomous, they would be sovereign states. [16] According to another writer, 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. [17]

2.3. SEPARATION OF POWER:

The term separation of powers originated with Baron de Montesquieu, a French enlightenment writer. However, the actual separation of powers amongst different branches of government can be traced to ancient Greece. This is usually hinged on the idea of three separate branches: executive, judicial, and legislative. The three branches are distinct and have checks and balances on each other. In this way, no one branch can gain absolute power or abuse the power they are given. Under this model, the state is divided into branches, each with separate and independent powers and areas of responsibility so that the powers of one branch are not in conflict with the powers associated with the other branches. It can be contrasted

with the fusion of powers in a parliamentary system where the executive and legislature (and sometimes parts of the judiciary) are unified.

2.4. CONSTITUTIONAL DEMOCRACY:

This simply refers to a system of government wherein there is a supreme codified law governing the affairs of the state. [18] The authority of the majority is limited by legal and institutional means so that the rights of individuals and minorities are respected. It comes in various forms. [19] This is the form of democracy practiced in Nigeria, Ghana, Germany, Israel, Japan, the United States, and other countries.

3. THE AUTONOMY OF LOCAL GOVERNMENT IN THE SCHEME OF SEPARATION OF POWER IN NIGERIA

It is imperative to posit from the outset that the autonomy of local government in the scheme of separation of power in Nigeria is a myth. Nigeria has experimented with various models of local government administration before and after independence. Nigeria is one of the federations in the whole world where the federal government decides how, where and when a local government council must run. In most other countries, it is the state or regional government that legislates on local government. [20] As a matter of fact, it is not surprising because this is evident in the kind of federation the military instituted in Nigeria. [21] The paper under this section shall examine the legal framework of local government in Nigeria and the causes of the lack of autonomy by local governments in Nigeria.

3.1. LEGAL FRAMEWORK:

Regarding the status of Local Government, there is no ambiguity as far as the 1999 constitution of Nigeria (as amended) is concerned. The Constitution establishes the local governments. Section 7(1) states 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 8 of this constitution, ensure their existence under a law which provides for the establishment, structure, composition, finance and functions of such councils.

In the same vein, the 1999 Constitution (first schedule, Part 1) listed the states and local governments in the country to lend credence to their legitimacy. Equally, the fourth schedule itemised the functions of local government. [22]

In order to concretise the area of local government autonomy in Nigeria, the Constitution of the Federal Republic of Nigeria 1999 (as amended), provides in its section 7 (8) (a) that subject to its provisions in section 7 (7), 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 - overdue financial subjugation inflicted on them by both the Federal and state governments. [23] This was not to come to reality. This is because the situation of the local government autonomy in Nigeria has been worsened by the subjection of the fate of local governments to the whims and caprices of the state governors by the Constitution. [24] The Supreme Court has also re – instated the significance of local governments and the unconstitutionality of the federal government withholding its funds. [25]

This worrisome state of affairs has 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 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. [26] This situation did not just spring up out of the clouds. There were some factors that led to this situation.

3.2. CAUSES OF LACK OF LOCAL GOVERNMENT AUTONOMY IN NIGERIA:

It is important to start on the note that with the exception of the President Ibrahim Babangida reforms, all other reforms that have been made in the local government system over the years consistently decreased local government autonomy and increased the interferences of both federal and state governments in the activities of local government. The Babangida administration introduced direct federal allocation to local government, abolished the Ministry of local government and established executive and legislative arms in local government. The administration also increased local government statutory allocation from 15% to 20% with effect from 1992. [27] Rather than consolidate the gains made during the

Babangida administration, subsequent governments have made mess of local government autonomy and the democratic processes at the grassroot, which were earlier introduced by the Babangida administration. As a result, there has been a significant reduction in the capacity of the local government in meeting its mandatory objectives. [28]

The causes of the autonomy granted to the local governments that has faded away into the thin air are not exhaustive. The writer shall consider some major ones. The effectiveness of the local governments is to be judged by their outputs. According to Mackenzie [29] and Ola, [30] local government exists to provide services to the teeming population under its domain, and must be judged by its success in providing the service. However, the services have been hindered by a number of factors.

One of the most fundamental factors is the intervention over the local governments' financial operations by the higher tiers of government. This is militating against the effectiveness of local government system in Nigeria. There have been various forms of protests by Nigerians against the interventions. [31] It is known that these tiers of government actually fund the local government system in Nigeria, but regrettably, they often turn round to collect a chunk of the allocations stipulated for the provision of rural needs. [32] In addition, it is worrisome to note that the federal government intervenes indirectly. [33] For instance, there are some federal agencies located in all the local government headquarters' premises. [34] They are being directed to collect funds from their host councils for their up - keep and finance the conduct of state and national programmes. [35]

Similarly, the allocation that comes from the federation account to the local governments is also controlled by the state Governor, even though the money does not pass through the office of the Governor. As a puppet, the Council Chairmen are expected to willingly sign off a percentage of their allocation to the state Governor. Any chairman who refuses to abide by this concession has the state House of Assembly to contend with. The case of Diamen Okon, the former Chairman of Akpabuyo Local Government Area in Cross River State versus Donald Duke, the former Governor of the State is a good example. [36] This comes in various forms. [37]

Also, there exists ample evidence of statutory policies introduced by successive governments over the years to curb local government autonomy in spite of the fact that the Constitution officially recognizes local government as the third tier of government. These measures make it impossible for local government to operate independent of both federal and state governments. The policies are the institution of Ministry of Local Government, Local Government Service Commission, Caretaker Committee and appointment of a Sole Administrator to oversee the activities of local government. Others include Office of the Special Adviser to the President on local government matters, Office of the Special Adviser to the Governor on local government matters, the Senate and House of Representative Committees on local government matters, the State Houses of Assembly Committee on local government matters. [38]

Besides all of the above, other factors are the various incidences of corruption, [39] attitudinal and behavioural dispositions, mismanagement of government resources, [40] weak tax regulatory system, [41] lack of continuity and lack of free and fair election into local government councils. [42] One surprising observation by the writer is that most of these factors are either directly or inversely linked to the fundamental factor – the incessant and unwarranted intervention by the federal and state governments in the affairs of the local governments. This is why the writer contends that the autonomy granted to the local governments is a myth and not functional or real in its true sense. The above factors have the general effect of limiting the effectiveness of local governments in performing their roles and obligations at the grassroot level. The paper now examines the lessons from selected constitutional democratic countries in the world.

4. LESSONS FROM SELECTED CONSTITUTIONAL DEMOCRATIC COUNTRIES

4.1. THE UNITED STATES:

The federal entity created by the USA Constitution is the dominant feature of the American governmental system. But the system itself is composed of thousands of smaller units of building blocks that together make up the whole. There are 50 state governments plus the government of the Washington District of Columbia. Further down the ladder are local governments with smaller units that govern counties, municipalities, towns and villages. The country also has five populated and numerous unpopulated territories in the Pacific and the Caribbean. At 3.8 million square miles (9.842 million km²) and with over 320 million people, the United States is the world's fourth-largest country by total area and third most populous. [43] It is one of the world's most ethnically diverse and multicultural nations, the product of large-scale immigration from many countries. [44]

Local government in the USA is generally structured in accordance with the laws of the various individual states. Typically, each state has at least two separate tiers: - counties and municipalities. In turn, there are several different types of municipal government generally reflecting the needs of different levels of population densities; although the types and nature of these municipal entities varies from state to state.

The Tenth Amendment to the United States Constitution makes local government a matter of state rather than federal law, with special cases for territories and the District of Columbia. As a result, the states have adopted a wide variety of systems of local government. The categories of local government established in this Census of Governments are convenient basis for understanding local government in the United States. The categories are County Governments, [45] Town or Township Governments, Municipal Governments [46] and Special - Purpose Local Governments like school districts and special purpose districts. [47]

Each state constitution provides for the establishment of local governmental entities. In all states, these local entities include counties and cities, but most states also provide for other types of local government, including wards, school districts, conservation districts, townships, and transportation authorities. These special types of local government have regulatory, administrative, or taxing authority as defined in the state constitution or in state law. [48]

In relation to financial allocation, there are negotiations among representatives of different states within the United States Congress over allocation of grant-in-aid programs while representatives of state administrations act as lobbyists. Other sources of funds to the local governments are real estate and personal property tax, commercial property tax, Sales tax (where allowed by the state), fines for traffic, parking, and other minor offenses, income tax or business gross receipts tax (where allowed by the state) and Miscellaneous permits, licenses, and fees. [49]

4.2. INDIA:

The word Local Government finds mention in the Government of India Act, 1935. [50] The Union of India is a developing country that contains a highly diverse society. The Union has been held together for over half a century with what began as a highly centralized quasi - federation under the constitution of 1950, but which has since then been progressively decentralizing. Today the federation comprises 28 States, 6 Union Territories and one National Capital Territory with a total population of over one billion people. The local government is referred to as the *Panchayati Raj System*. It is the 73rd Constitutional Amendment 1992 that provided the present shape to the Panchayati Raj System. [51] Now, the Panchayati Raj Institutions in most of the States have been set up at three levels - village, intermediate and district levels. But in smaller States having less population, there are only two tiers - the village level and the district level.

As Panchayati Raj System is meant for rural area, similarly there are institutions of urban local government. There are three types of urban local bodies – (a) *Municipal Corporations* for the big cities, (b) *Municipal Councils* for all other cities with smaller population and (c) *Nagar Panchayati* for transitional areas (semi urban areas). [52] But a significant difference between Panchayati Raj Institutions and the urban local bodies is that while the former are closely linked with one another, the latter are independent. In one State, there may be all the three types of urban local bodies. But they are not linked with one another. [53]

There is a constitutionally mandated independent Finance Commissions that makes recommendations for total state share of shared central taxes and for unconditional grants to states, and for distribution of both among states, even though the ultimate decision lies with the Union government. [54] Recommendations have in practice usually been implemented. These transfers are supplemented by substantial conditional grants allocated on the recommendation of the Planning Commission. [55] The main source of income of Panchayat is the Grants given by the State government. Besides, it also levies taxes, levies and receives a fixed percentage of land revenue. [56] It has however been contended that the Panchayats have very little fiscal autonomy. The locally raised revenues are very negligible. The fund flow from higher level governments is very low and lack any devolution design or principles. [57] The transfers are made at the convenience and mercy of such federal governments. [58] It is however noted that the major taxing powers are assigned to the Union government, but there is a constitutional provision for the sharing of the proceeds of these. [59]

4.3. GHANA:

In Ghana, the history of decentralization can be traced back in the post-independence era with ‘de – concentration’ as the main feature as the successive governments. From President Nkrumah onwards, both civilian and military, sought to strengthen their control through the presence of central government ministries and officials at local level. [60] Ghana had

a highly centralized government structure pre-1981 Revolution, in which local people and communities were little involved in decision making. [61] However, times were changing and within the last three decades, this authoritarian state was found to be in disagreement with the values related to democracy, including equality, participation, and individuality. [62] Accordingly, since the contemporary period of the Fourth Republic, overseen by the 1992 Constitution, there has been a step towards more democratic decentralization.

Ghana's current programme of decentralization was initiated in 1988 when the Rawlings government introduced the Local Government, through which the number of local authorities, then 65, was reviewed and reorganized into 110 district assemblies. The stated aim of the local government reform was to transfer functions, powers, means and competences from the central government to the local government, and to establish a forum at the local level where a team of development agents, representatives of the people and other agencies could discuss the development problems of the district and/or area and their underlying causative factors. [63] Recently, to promote the decentralization efforts, Ministry of Local Government and Rural Development has developed and is implementing a National Decentralization Action Plan, which was endorsed by the cabinet in February 2004.

Local Government finance provisions are defined in the Ghanaian Constitution. [64] The Metropolitan Municipal and District Assemblies (MMDAs) in Ghana are financed from three main sources. [65] Besides, local governments do not have the capacity to be financially independent to be able to finance the decentralized services through their own resources. The local administrative machineries keep on getting funding from the central government and for that matter, their national agencies. It is stated that the intergovernmental transfers from the central government usually accounts for more than two thirds of local revenues. [66] Thus, in almost all circumstances, actors at the local level are, to a great extent, reliant on central transfers for income creating what a scholar called 'operational autonomy'. [67] Though, there have been queries as to the inadequacy of the collaborative efforts of local governments in Ghana. [68]

5. LESSONS FOR NIGERIA

The following are the lessons Nigeria can deduce from the system of local government in other constitutionally democratic countries as espoused above:

a. Firstly, there is a need for each local government in Nigeria to have an ideological basis that guides all policies and decisions. It is this ideology that also shapes the productivity and attitudinal behavior of local government workers. For example, in the United States of America, the degree of autonomy granted local authorities is derived from ideals and values such as liberty, equality, democracy, individualism, unity and diversity. Such ideals are at the very core of their national identity and shape the nature and character of state politics. As argued, these perennial principles shape the vision which Americans have upon the world; are important parts of the American psyche; and have greatly influenced the way public policies and laws are made in the United States of America. [69] These principles shape federal-state-local relations in the United States. Thus, the kind of powers and functions the federal or state government devolves to the local unit is remarkably influenced by the concept of liberty.

b. Secondly, there is also a need for a more positive/symbiotic collaborative efforts and interventions between the local governments and other tiers of government in Nigeria. This is because there is no political system that the local units operate completely independent of the central or regional/state government. In an intergovernmental context, there is variety of ways in which federal and state governments might contribute to the fiscal sustainability of the local government. [70] For example, in the United States of America, the federal and state governments do interfere in the activities of the local councils through grant – in - aid and other intervention programmes to ensure that they meet their obligations to the citizens as a tier of government. [71] In this regard, the interference is a positive one; therefore it does not generate any negative controversies. [72]

c. Similarly, the local governments in Nigeria should intensify efforts in sourcing for internally generated revenues. In Ghana, internally generated fund (IGF) from the Metropolitan Municipal and District Assemblies (MMDAs) include property rates, basic rates, taxes, fees and fines and licenses and rents. Financial assistance can also be sought from donor agencies including non-governmental agencies and voluntary private organizations like it is done in Ghana to the District Assemblies there.

d. Besides, the higher tiers should also be committed to the local governments financially. In Ghana, Central government transfers to MMDAs take several forms like general and specific grants; and the District Assembly Common Fund

(DACF). This situation has given the local governments a form of operational autonomy. The same is applicable in India where the main source of income of Panchayat is the Grants given by the State government.

e. Furthermore, the government of Nigeria should properly monitor the various commissions in charge of transferring allocations to the local governments. These commissions should also review the allocation formular periodically. In India, there is an independent Finance Commissions that make recommendations for total state share of shared central taxes and for unconditional grants to states. Similarly, Article 280 of the Indian Constitution empowers the President to constitute a Finance Commission (FC) at the central level once in five years. The FC is to make recommendations on the distribution between the Union and the states of the net proceeds of taxes, allocation between the states; and the principles which should govern the grants-in-aid of the revenues of the states out of the Consolidated Fund of India. Also, Article 243(I) of 73rd Amendment Act provides for the constitution of a FC by the states once in five years to look into the resources of both state and local governments.

6. RECOMMENDATIONS

Flowing from the analysis above, the following are recommended as solutions to ensuring a functional autonomy to local governments in the scheme of separation of powers in Nigeria:

a. The importance of organizing credible elections in the local governments cannot be overemphasized. This is because voting the right persons instead of selection into public offices, will no doubt minimize the illegal removal of local government funds through payment of homage and loyalty to godfathers, who public officers believe have played major roles in winning their seats.

b. The local government chief executives are specifically enjoined to strive to complete all uncompleted capital projects inherited by them before starting new ones. Since state governments have some constitutional control over local governments, it is not out of place if they (state governments) should mandate all chief executives to complete all on-going capital projects inherited by them before embarking on new ones. Most importantly, all revenue yielding ones, which will further enhance the revenue base of the local governments, should be completed without delay.

c. There is a need while amending the relevant portions of the constitution to couch it in such a way 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 able 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.

d. Similarly, there should be an amendment to section 9 of the 1999 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.

e. The revenue allocation to the Local Government should be increased from the present 20% to 35% to ensure grassroots development. There is also a need to imbibe positive attitudinal change and shun corruption.

7. CONCLUSION

The paper has examined the autonomy of local government in the scheme of separation of power in Nigeria. It also examined the lessons derivable from local government administration in selected countries. The paper has contended that the growing demand for an autonomous local government system will help to strengthen the powers of local governments and consolidate them in achieving their objectives. It is hoped that the recommendations proffered herein will be implemented; relevant provisions in the 1999 Constitution of Federal Republic of Nigeria amended; and the lessons from other countries espoused above inculcated.

REFERENCES

- [1] Yahaya, A.D., 'Local Government Reforms: The Military Initiatives' cited in P.E Peter (Ed), *Nigeria Since Independence: The First '25 Years*, (Ibadan: Heinemann Educational Book Nigeria, 1989), p. 5.
- [2] Okoli, F.C., *An Introduction to the Theory and Practice of Local Government*, (Nsukka: Topmost Printing Press, 1989).
- [3] Ovaga, O., 'Effectiveness of Local Government System in Nigeria', (Journal of Library Studies, 2014).
- [4] Egonmwan, J. A., *Principles and Practice of Local Government in Nigeria*, (Benin City: SMO Aka and Brothers Press, 1984), pp: 46 – 47; Ezeani, O. E., *Local Government Administration in Nigeria*, (Enugu: Zik-Chuks Printing Press, 2004), p. 253; Orewa, G. O. et al, *Local Government in Nigeria*", 1983 cited in Ogbonnia, C. A., *Local Government Administration and Rural Development in Nigeria: A New Approach*, (Nigeria: Kelu Press Nigeria, 2004), p. 22.
- [5] See Ss. 4 – 6.
- [6] Ikelegbe, A.O., 'The Local Government System and Grassroots. Development in Nigeria: Issues, Problems and Challenges' cited in Onokerhoraye, A. G. et al, *Perspectives on Development: A Book in Honour of Pius Oghenerakohwo* (Benin City: Centre for Population and Environmental Development, 2004), pp: 37-63.
- [7] Akindiyo O., 'Imperative of Local Government and the Autonomy Question in Nigeria: Experience Since 1999 Till Date', (International Journal of Asian Social Science, 2015, 5(3), pp. 113-125.
- [8] King, M.C., *Localism and Nation Building*, (Ibadan: Spectrum Books, 1988) p. 3.
- [9] Agi, S. P., 'Local Government as a Third Tier of Government', in (ed), *Local Government Administration and Grassroot Democracy in Nigeria*, (Calabar: University of Calabar Press, 2002); see also Federal Republic of Nigeria, *Guidelines for Local Government Reform*, (Kaduna, Government Printer, 1976), p. 74.
- [10] Laximanth, M. *Public Administration*, (New Delhi, Tata McGraw Hill Publishing Company Limited, 2005), p. 526.
- [11] Adeyemo, D.O., 'Federalism and the Logic of Local Government Autonomy in Nigeria', (Nigerian Journal of Local Government Studies, Ile-Ife, 2006).
- [12] Odunfa, M.A., *Local Government Autonomy and Intergovernmental Relation in Nigeria* (a thesis submitted in partial fulfilment of the requirements for the special Advanced Course in Local Government Studies, Ile-Ife: Obafemi Awolowo University, June 1991).
- [13] Samuel C. A. et al, 'Local Government Autonomy: A Veritable Tool for Redressing Usurpation of Powers of Local Governments by the State Governments in Nigeria', (Public Policy and Administration Research, Vol.3, No.10, 2013).
- [14] Akpan, F. et al, 'The Politics of Local Government Autonomy in Nigeria Reloaded', (European Scientific Journal, 9(35): 2013), pp. 193-205.
- [15] Ibid
- [16] Adeyemo, D.O., 'Local Autonomy in Nigeria: A Historical Perspective', (Journal of Social Sciences, 10(2): 2005), pp. 77-87.
- [17] Francis N. M., 'Local Government Autonomy and the Nigeria Legal System: An Appraisal', (Journal of Social Sciences and Public Policy, Vol. 6, No 1, 2014), pp. 9 – 69.
- [18] This is like Nigeria where the Constitution is supreme. See s. 1 of the 1999 Constitution (as amended).
- [19] It can be unitary, parliamentary, presidential or federal in nature.
- [20] Ige B., 'Man-made Avoidable Local Government Troubles', (The Sunday Tribune. Ibadan, 1996).
- [21] Nnoli, K., 'The Struggle for Democracy in Nigeria', (Enugu, Pan African Centre for Research on Peace and Conflict Resolution, 2011).

- [22] See items 1 (a) to (k) and 2 thereof.
- [23] Adeyemo, D.O. (2005) “Local Government Autonomy in Nigeria: A Historical Perspective”, see fn. 18; Imhalahimi, J.E. et al, ‘A Review of Nigerian Government’s Regulatory Efforts to enhance Local Government Autonomy’, (Journal of Political Economy, Vol 3, Nos 1& 2, 2009), pp. 1-31.
- [24] Francis N. M., ‘Local Government Autonomy and the Nigeria Legal System: An Appraisal’, see fn. 17.
- [25] AG LAGOS V. AG FED (2004) 18 NWLR (Pt. 904) 1
- [26] Ibid
- [27] Felix A., ‘The Politics of Local Government Autonomy in Nigeria Reloaded’, (European Scientific Journal, December edition, Vol.9, No.35, 2013).
- [28] Ibid
- [29] Mackenzie, W.J., *Theories of Local Governments*, (London, 1954), p. 14.
- [30] Ola, R.O, ‘Some Thoughts on the Role of Local Government in Developing Countries (Nigeria)’, in Adamolekun et al, (ed), *Local Government in West Africa Since Independence*, (Lagos: University of Lagos Press, 1988), p. 62.
- [31] Olamilekan L., ‘ALGON Boss Explains LGS’ Poor Performance’, (The Punch, Friday, September 15, 2006). He noted that the control of the revenue accruing to local governments by both federal and state governments was not indicative of a genuine desire to strengthen the local governments or meet the high expectations of the people.
- [32] This is evident in one of the directives by former Governor Oserheimen Osubor of Edo State, that all councils should pay one million naira each to the state government account . This directive was irresistibly carried out without any official paper issued to the payees, acknowledging the receipt of such money. Otabor F., ‘War Against corruption in Edo Councils’, (The Nation, Monday March 1, vol.5, No.1319, 2010).
- [33] Kunle, O., ‘Inter-Governmental Relations in Nigeria: Local Government and the 1999 Constitution’ in *Public Administration and Development*, XII, vii, 2004.
- [34] Mark, D., Local Government Crisis: Federal vs. States Government, the Truth of the Matter. *The News Magazine*, 22nd February, 2010.
- [35] The last census and the most recent general elections in Nigeria are cases where certain logistics for the exercises were provided by the councils from the same allocations given by the same federal government. See Ovaga, O. H., ‘An Assessment of the Militating Factors against Effective Local Government System in Nigeria’, (Journal of Liberal Studies, Vol. 15, No 1, 2012).
- [36] Okon was kicked out of office by the state House of Assembly ingeniously for refusing to comply with the state Governor’s instruction over local government allocation from the federation account. Other examples abound across the country.
- [37] A recent survey by authors on the financial subversion of local governments by state Governors shows that in Cross River state, as a rule, the allocation from the federation account is controlled by the state Governor such that in a local government where the monthly allocation is 80 million naira, the Chairman of the local government is given 4 million naira by the state Governor and is required to spend out of pocket, and submit receipt for refund. These measures contribute significantly to the non-performance of local government and the erosion of local government autonomy. See Felix A., ‘The Politics of Local Government Autonomy in Nigeria Reloaded’, see fn. 28.
- [38] Aliyu M. K. et al., ‘The State Governors and the Administration of Local Governments in Nigeria: Implications for Good Governance’, (International Journal of Advanced Legal Studies and Governance, Vol. 4, No. 1, April. 2013), pp. 75 – 82.
- [39] Olasupo F. A., ‘Due Process Corruption in the Public Service in Nigeria: Local Government as a Case Study’, in (eds) *Public Administration in Nigeria*, (USA Catawba Publishing Company); also Lawal T. et al, ‘Local Government, Corruption and Democracy in Nigeria’, (Journal of Sustainable Development, Vol. 12, No. 5, 2010).

- [40] Agba M. S. et al, 'Local Government and Social Service Delivery in Nigeria: A Content Analysis', (Academic Journal of Inter - Disciplinary Studies, Vol. 2, 2013).
- [41] Adeyemi O. O., 'Corruption and Local Government Administration in Nigeria: A Discourse of Core Issues', (European Journal of Sustainable Development, 2012).
- [42] Bashir A. et al, 'Challenges of Democratisation at the Grassroots in Nigeria: Case Study of Taraba State', (Journal of Research on Humanities and Social Sciences, Vol. 27, 2012).
- [43] Allen J. M. et al, 'Alabama Constitutional Reform', (Alabama Law Review, 2001), pp. 7 -8.
- [44] Adrian C. R. et al, *State and Local Politics*, (Lyceum Books/Nelson Hall Publishers, Chicago, 1991), p. 83.
- [45] Counties are the basic territorial division within a state and range in size from under 100 square kilometers to over 200,000 square kilometers. Counties are run by popularly elected officials. There is typically a board of supervisors or a county commission which sets policy and often exercises executive functions as well. See Jason L. S. et al, *How the United States Is Governed*, (BP America Incorporation, 2004), p. 25.
- [46] Municipalities are incorporated cities, towns, or villages within or independent of a county having their own governing and taxing authority. Municipal government responsibilities include public safety, maintenance of city streets, parks and recreation, wastewater treatment, trash removal, zoning and building code enforcement, fire and rescue services, animal control, public transportation, and other essential services.
- [47] Special district governments operate independently of other local governments and are usually established to serve a specific purpose within a specific geographic region. Their activities are commonly funded by a special sales tax or property tax collected within their area of jurisdiction, or by fees charged to users of their services.
- [48] Ibid
- [49] Whalen, H., *Ideology, Democracy and function of Local Self Government* in Feldman I. et al (eds) *Politics and Government of Urban Canada*, (Toronto: Methuen, 1970), p.312.
- [50] See Section 134 (4).
- [51] The Supreme Court of India has further in this context laid down the distinctive attributes and characteristics of Local Authority in *Union of India v. RC Jain* AIR 1981 SC 951
- [52] This was pursuant to the 74th Constitutional Amendment Act 1992.
- [53] Sharma M. P., *Local Self-Government in India* (1965), p. 2.
- [54] Bohra, O. P., 'Financial Resources of Panchayats in India' in Conference on Emerging Trends in State-Local Fiscal Relations in India, (Organised by National Institute of Rural Development, Hyderabad, December 18-19, 1996).
- [55] The Report of seminar on "The Pattern of Rural Government" (Published by Indian Institute of Public Administration, New Delhi, (1958), pp. 80-94.
- [56] Venkata K. R., "Local Government in India", Bombay (1969), p. 1.
- [57] Resource Mobilisation of Local Governments in India: A Central Finance Commission Approach'. In M R Biju (ed), *Financial Management of Panchayati Raj System*, (New Delhi: Kanishka, 2008).
- [58] Devendra M. B., 'Fiscal Empowerment of Panchayats in India: Real or Rhetoric?', (The Institute for Social and Economic Change, Bangalore, 2009).
- [59] Alok, V. N., 'Devolution of Resources to Local Governments: Role of the XIII Finance Commission'. In Conference on Issues Before the 13th Finance Commission: Empowering the Panchayati Raj Institutions, (Organised by Institute of Rural Management, Anand, December 22-23, 2008).
- [60] Nkrumah, S.A., "Decentralization for Good Governance and Development: The Ghanaian. Experience", *Regional Development Dialogue*, 21(1), 2000), pp. 53-67.

- [61] Pieterse E., From Divided to Integrated City? Critical Overview of the Emerging Metropolitan Governance System in Cape Town, see fn. 64.
- [62] Vigoda, E., 'From Responsiveness to Collaboration: Governance, Citizens, and the Next Generation of Public Administration', (Public Administration Review, 62(5), 2002), pp. 527-540.
- [63] Pieterse E., From Divided to Integrated City? Critical Overview of the Emerging Metropolitan Governance System in Cape Town, see fn. 64.
- [64] See Articles 245 and 252 of the 1992 Constitution and Section 34, Part VII and Part VIII of Act 462.
- [65] These are Internally generated fund (IGF) from the Metropolitan Municipal and District Assemblies (MMDAs) including property rates, basic rates, taxes, fees and fines and licenses and rents; Central government transfers to MMDAs, which also takes several forms; general and specific grants; and the District Assembly Common Fund (DACF); Financial assistance from donor agency including non-governmental agencies and voluntary private organizations to the District Assemblies. See Asante, F.A. et al, *Decentralisation and Poverty Reduction in: The Economy of Ghana: Analytical Perspectives on Stability, Growth and Poverty*, (New York, James Currey, 2008); Boateng M., 'Rethinking Fiscal Decentralization Policies in Developing Economies: A Case Study of Ghana', (A thesis submitted in partial fulfillment of the requirements for the degree of Master of Arts Faculty of Social Sciences, Brock University St. Catharines, Ontario, 2014).
- [66] Crawford G., 'Democratic Decentralization in Ghana: Issues and Prospects', (POLIS Working Paper No. 9, February, 2004).
- [67] Oyugi, W.O., 'Decentralization for Good Governance and Development', (Regional Development Dialogue, 21(1), 2000), pp. 3-22.
- [68] Nicodemus O. O. et al, 'Ghana's System of Local Government Administration As a Barrier to Collaborative Public Management', (Journal of Contemporary Management, Academic Research Centre of Canada, 2014).
- [69] Rogoveanu, R., *An Introductory Survey of American Government, Constitution and Politics*, (Romania: Institutul European, 2013).
- [70] Gamkhar, S. et al, 'The State of American Federalism 2011-2012: A Fend for Yourself and Activist Form of Bottom-Up Federalism', (Publius: The Journal of Federalism, U.S.A., Oxford University, 2012).
- [71] Rivlin, A. M., 'Rethinking Federalism for More Effective Governance', (Publius: The Journal of Federalism, USA: Oxford University Press, 2012).
- [72] This is similar to the situation in Tanzania wherein intended links between the local government and the residents of the given area are the Vitongojis in the rural areas and the urban Mtaa committees, which are designed to mobilise citizen participation in local development. Priorities for local service delivery and development projects are brought to the Mtaa committees for discussion before being forwarded to the Ward Development Committee (WDC). In the rural system proposals reach the WDC via the village council. See The Local Government System in Tanzania available at http://www.clgf.org.uk/index_profiles.htm accessed on 10/07/2015.

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