LOCAL GOVERNMENT AUTONOMY IN NIGERIA: MYTH OR REALITY?

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SUMMARY

Local Government is not sovereign like independent nation-state. It is a subordinate government which derives its existence and power from laws enacted by a superior government. In Nigeria, the nature and structure of transactions or inter-actions between the three tiers of government determine the degree of autonomy. This paper seriously investigates whether the Local Government as presently constituted in Nigeria generally, and in Akwa Ibom State specifically, is autonomous in the sense of being independent to order their own affairs without excessive external control, interference or support. The paper looks at its legal, constitutional, financial and personnel foundations as well as its structural and operational relationship with other tiers of government. The result of this investigation proves inconclusive but with the balance tilting in favour of local government autonomy being more of a myth than reality. The paper, therefore, suggests a new focus in which the emphasis should be on the desirability or otherwise of substantial autonomy for Local Governments in Nigeria.

INTRODUCTION

Many people think of and discuss Local Governments in Nigeria as being autonomous. This has led to shocking sensitivity of the public to whatever they consider to be interference in the affairs of the Local Governments by the State Government or more specifically by the Ministry responsible for Local Government. Unfortunately, however, a systematic study of the subject has not been undertaken.

Autonomy means the quality or state of being self-governing. In this case the right of local government to exist or capable of existing independently. The Oxford Advanced Learners Dictionary of current English (1974:52) defines “autonomy” as “right of self-government or freedom”. What is really required is not complete independence for local government but a degree of “substantial
autonomy” as evidenced by fiscal and administrative independence subject only to requirements of state law and supervision. Autonomy under a federal system, as opined by Nwabueze (1983), means that each government enjoys a separate existence and independence from the control of the other government. The emphasis is that each government must exists not as an appendage of another government but as autonomous entity in the sense of being able to exercise its own will in the conduct of its affairs free from direction of another government. Also, in his contribution, Davey (1971:45) asserts that “Local autonomy is primarily concerned with the question of responsibilities, resources and discretion conferred on the local authorities. As such, discretion and responsibility are at the core of local government”. Apart from having power to take decisions independent of external control within limits laid down by law, local governments must have power to gather sufficient financial resources, to meet their responsibilities.

CONCEPTUAL CLARIFICATIONS
The Local Government

No commonly accepted definition exists of what a local government unit is. While scholars have difficulty in defining a local government the matter is a simple one for most citizens. They know that there exists National, State and Local Governments. Thus, it follows that a local government is the government of some particular local community. However, local government is different from local administrations. According to Rondineli (1981), Local Administrations refer to all subordinate levels of government within a country which are agents of the central authority and are responsible directly to the central government. The heads of local administrations serve at the pleasure of the nation’s chief executive.

To clarify the concept of local government more, it is expedient to give a brief historical perspective of the evolution of local government system in Nigeria. It commenced with the introduction of the Native Authority System by the British Colonial Government led by Lord Lugard in 1914. According to Akpan (1982:158), due to shortage of resources, especially personnel and financial, the colonial administrators were forced to use the indigenous political institutions to administer the vast territories through Indirect Rule System. They ruled the people indirectly through their own Native Rulers. This colonial Era lasted up to 1949. Authority Ordinances were churned out as instruments of administration. The period between 1950 and 1966 witnessed the emergence of numerous and varied types of local government systems in Eastern, Western, Mid-Western and Northern Regions which could not be handled here due to paucity of space.

The 1976 Local Government Reform was very unique and of greater significance. Structurally, it introduced a single-purpose and uniformed local government system in the country. In the words of the then Chief of Staff, Supreme Headquarters, Brigadier Shehu Musa Yar’Adua, quoted by Oywewole (1980:223), the Federal Government’s objective in introducing the 1976 reform was:
… to entrust political responsibility to where it is most crucial and most beneficial that is, to the people, with the hope that the reforms would enshrine the principle of participatory democracy and of political responsibility to every Nigerians.

Corroborating this view, Ofoeze (1997:62) posited that, the significance of the reform was to “ensure the involvement and participation of the people at the Local level in actual decisions and plans to develop their areas”. In order words, elected councils for local governments through universal adult suffrage were introduced. Very importantly, a new definition of local government in Nigerian context which contained the essential criteria a local unit must possess to qualify it as “Local Government” was given in the Guidelines (1976:1) as follows:

Government at (the) local level exercised through representative council established by law to exercise specific powers within defined areas. These powers should give the council substantial control over local affairs as well as the staff and institution and financial powers to initiate and direct the provision of services and to determine and implement projects so as to complement the activities of the State and Federal Government in their areas, and to ensure, through active participation of the people and their traditional institutions that local initiatives and response to local needs are maximized.

Inherent in above definition are certain characteristics of local government which make the concept of “local government” different from “local administration”. These hallmarks include localness, legal existence, substantial autonomy, defined territory, staffing, functions, institutional and financial powers.

Another definition of local government useful for our discussion was given by Blair (1972:12-13). This definition prescribed three general criteria which a local unit must meet to qualify as a local government.

The first criterion holds that a unit must have existence as an organized entity with essential corporate powers. Second, a unit must posses governmental character. Third, a unit must enjoy substantial autonomy as evidenced by fiscal and administrative independence subject only to requirements of state law and supervision.

(i) **The Criterion of Entity Existence**

To exist as a corporate entity a local government must embrace both area and population – that is, it must be similarly, it must be identifiable in that its corporate name distinguishes it from other existing units. To serve its citizenry, the
unit must have some form of organization and be empowered to exercise certain essential public powers. These include the rights to a distinguishing name to sue and be sued, make contracts, acquire and dispose of property and to perpetual succession subject to the possibility of deorganization by the state.

(ii) The Criterion of Government Character
As espoused by Blair (1972), there are three essential features of governmental character that identify a unit of local government. The first relates to its office holders and requires them either to be elected by the citizenry of the unit or be appointed by other officials who are popularly elected. Second, the unit must bear high degree of public responsibility and accountability. This requirement is met if it reports periodically to its citizenry or if its records are open for inspection by the public. The third characteristics implies the responsibility for performing one or more functions of a governmental nature such as provision of health, safety, welfare and other services to the citizenry.

(iii) The Criterion of Autonomy
The criterion of substantial autonomy is probably the most essential hallmark of local governments, since this implies a major independence from external control. As creatures of the state, all local governments are subject to state control in at least certain areas and in the exercise of certain powers. However, substantial autonomy exists if the unit has a reasonable degree of independence in administrative and fiscal affairs. This status of independence is achieved if the unit has an elected governing body that performs functions constitutionally assigned to it differing from those exercised by and are not minutely specified by the creating governments.

The status of fiscal independence for a unit is met by the presence of one or more of the following powers:

i. The right to determine its own budget without review or major modifications by another unit.
ii. the right to prescribe the taxes to be levied for its support.
iii. the right to fix and collect charges for services rendered.

In essence, the conceptual view of local government is basically a function of space and time factor. For example, in colonial time, native administration was primarily established for maintenance of law and order. That is why Wraith (1972) views local government as the act of decentralizing power, which may take the form of deconcentration or devolution. Deconcentration involves delegation of authority to field units of the same department and devolution on the other hand refers to a transfer of authority to local government units or special statutory bodies such as school boards for instance. In this case, local government is perceived as an administrative agency through which control and authority are extended to the people at the grassroot or periphery. With the emergence of independence,
emphasis shifted from law enforcement to provision of social services. Consequently, Whallen (1976) perceived local government as a given territory and population, an institutional structure for legislative, executive or administrative purposes, a separate legal identity and within the ambit of such delegation, autonomy including fiscal autonomy.

The definition given in the 1976 Guidelines for Local Government Reform (above) has successfully amplified the major views of the three popular schools of thought on local government. According to Ola (1984) and Ezeani (2004), these schools of thought are:

(a) Democratic Participatory School
(b) The Efficiency-Service School
(c) The Developmental School

a) Democratic Participatory School

Essentially, the democratic participatory school of thought prescribed that local government exists to bring about democracy and afford opportunities for political participation to the citizenry at the grassroot as well as to educate and socialize them politically. Its proponents include Sharpe (1970:159), who opined that the democratic value of local government relates to “the role of local government as a political educator”. For Robert Dahl (quoted in Sharpe, 1970:159), local government is an indispensable and comprehensible prerequisite agent of civilizing men in self-government. In the opinion of Sharpe (1970:163), “it is only by participating in and learning the arts of self-government at the local level that the individual had a stake in and came to appreciate the virtues of free government at the national level”.

b) The Efficiency-Services School

The Efficiency-Services School of Thought espoused that local government exists as an agent for providing services that are local in nature as the closest government to the rural dwellers. As asserted by Mackenzie (1961:14), “local government exists to provide services and it must be judged … by its success in providing services up to a standard measured by a national inspectorate”. It is the main opinion of this school that local government is a veritable instrument for efficient service delivery at the grassroots.

c) The Development School

The development school sees local government as a veritable instrument for development, national integration, national evolution and national consciousness (Ola, 1984:14). It is the contention of the proponents of development school that local governments in developing nations should be assigned functions which could help to forestall rural-urban migration with a view to reducing congestion at the centre. This could be attained through their effective involvement in the implementation of certain socio-economic prorammes and the reconstruction of certain infrastructures necessary for enhancement of improved standard of living of the rural dwellers.
In a nutshell, the emphasis of this paper is that local governments in Nigeria need substantial autonomy, especially fiscal autonomy, if the prescriptions of these three schools in the areas of political education, provision of essential services to the grassroot, mobilization of rural resources/dwellers for national development, integration, evolution and national consciousness are to be attained.

ANALYTICAL REVIEW

The analytical review of the prevalent interactive relationship between the present local governments in Nigeria and other two tiers of government based on above framework is essential. The three main criteria which a local unit must meet to qualify as local governments, as earlier enumerated, were: first, the unit must have existence as an organized entity with essential/corporate powers. Second, a unit must possess governmental character. Third, a unit must enjoy substantial autonomy as evidenced by fiscal and administrative independence subject only to requirements of state law and supervision. The findings shall justify whether the touted autonomy of local governments in Nigeria is a myth or reality.

There is no doubt that the Guidelines issued by the Federal Military Government for Local Government Reform in 1976 contained strong reference to the local governments in the country as “Third Tier” of Government, but it should be emphasized that guidelines are guidelines and not laws. Neither the Nigerian constitution nor the Laws establishing Local Governments in Nigeria used the word “autonomy” in guaranteeing the existence of Local Governments or in their actual creation. The Local Governments have not also been described by the constitution as a Third Tier, rather, Section 7, sub-section 1 of the 1999 constitution states inter alia:

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.

Based on this revelation, it means that false impression has been created in the minds of the citizenry that the 1999 constitution has provided for local government autonomy. What the Federal and State laws provided for is corporate status, making it possible for local government to sue and be sued, if the need arises. Lack of autonomy has given the state governments the boldness to dissolve elected councils (let alone unelected councils) at the slightest provocation through motions passed by the states House of Assembly without any headache. No State Government has ever been treated in this manner, except where “State of Emergency” is declared by the Federal Government during serious security threat.
In Nigeria, it is true that some local governments are units which possess governmental character because the councils have been constituted with elected councillors and chairmen. A good example is Akwa Ibom State government which often strives to conduct local government elections without much delays. Conversely, there are numerous state governments which have deliberately delayed local government elections thus running their local government councils with appointed political officials in order to enhance political maneuvers. These councils are nothing but mere agents of the central governments. In these local governments, the officials are not responsible (accountable) to the electorate. Even in Akwa Ibom State where the councillors and chairmen were elected by the people, accountability is not to the electorate because the “recall system” has not ever been invoked against erring elected officials. Rather, the local government councils are answerable to state ministry of Local Governments or House of Assembly for fear of being dissolved. Under this situation local government autonomy is a myth.

In Akwa Ibom State, substantial autonomy in personnel management and other administrative matters were given to local governments to appoint and discipline junior staff (on salary grade level 01-06) through their Junior staff management committees. But lately in 2008 the State Local Government Service Commission introduced centralized control of both Junior and Senior staff as well as what is known as “centralized payroll system” whereby salaries for all local government staff were being handled centrally by the commission at state headquarters. But due to serious agitation by the emergent elected local government councils, these power were returned to local governments in the third quarter of 2012. Despite this, administrative autonomy in local government is still undermined by the state government as no local government has power to administratively recruit any junior staff and even execute projects that cost more than N500,000 without obtaining approval from the state government agencies like the Ministry of Local Government or Local Government Service Commission.

Concerning substantial financial autonomy, investigation has revealed that this is equally a myth. It is true that the funding of local governments in Nigeria is a tripartite arrangement between the Federal, State and Local Governments. The Local Governments are entitled to 20% of Federal Grants, 10% of State internally generated revenue and many sources of internally generated revenues for them to exploit. But the effectiveness and viability of these sources of internal revenue are questionable and even the 10% from state revenues are not forthcoming In Section 7 sub-section 6(a) and (b) of the 1999 constitution of ‘Nigeria, the following provisions were made to ensure financial vibrancy of local governments:

Subject to the provisions of this constitution:

(a) the National Assembly shall make provisions for statutory allocation of public revenue to local government councils in the federation.
(b) the House of Assembly of a State shall make provisions for statutory allocation of public revenue to local government councils within the state (see 1999 Federal Constitution, p. A876).

While local governments were celebrating the above provisions, another law which deprived them of their financial autonomy emerged through introduction of the “State Joint Local Government Accounts Allocation Committee. The Revenue Allocation Act of 1981 which established above committee states as follows:

There is hereby established for each state in the Federation a body to be known as the state Joint Local Government Account Allocation Committee which shall comprise the following members, that is to say:-

(a) The commissioner charged with the responsibility for Local Government in the State to be the chairman thereof;
(b) The chairman of each local government council in the state;
(c) Two person to be appointed by the governor of the state.
(d) Two representatives of the Accountant General of the federation; and
(e) The Accountant-General of the State.

The Permanent Secretary of the State Ministry charged with responsibility for Local Government or such officer as may be designated by the said Commissioner shall be the secretary to the committee. (See Revenue Allocation Act of 1981, Official Gazette No. 8 of 18/2/1982, Vol. 69)

From the foregoing provisions, it implies apparently that the Act’s intention was not to give financial autonomy to the Local Governments but to provide the representatives of local governments a forum to participate in the disbursement of the statutory allocation granted to them. This Joint Account Committee has now become an avenue for state governments to impose on local government ad-hoc duties and projects which they did not budget for and funds for such projects are often deducted at source without any right to oppose such decision.

Another strategy of whittling down the local government fiscal autonomy is that which the Akwa Ibom State House of Assembly; the Budget Unit in the State Ministry of Economic Development and the Ministry of Local Government were all empowered to screen and approve local government budgets, even after the local government legislatures have screened and passed the Budgets into laws. What appears very clear is that, in law, the Local Governments depend heavily on the
State and Federal Governments for financial support. It is difficult to see how they can assert autonomy in a situation where they know they are financially dependent, the constitutional guarantee not withstanding. Also, the status of fiscal independence for a unit of local government is met when the local government has the right to determine its own budget without review or major modification by another unit, but under the present oversight function by the state, the autonomy has become a myth.

FINDINGS

This paper has made the following findings after a thorough investigation of the operational, structural and functional relations between the local government and other tiers of government in Nigeria:

(1) The guideline for the 1976 Local Government Reform has described the present local government system in Nigeria as the “Third Tier” of government, but the 1999 Federal Constitution has not.

(2) The Constitution has only guaranteed that local government council members be democratically elected and also it authorized all state governments to ensure their existence under a law and provide for their structure, composition, finance and functions.

(3) There is no prescribed constitutional level of autonomy given to them, thus local governments are vulnerable to state control mechanisms and excessively dependent on the other two tiers of government for financial, technical, administrative and other supports.

(4) In Akwa Ibom state, the local governments must obtain approval from the State Ministry of Local Government and Chieftaincy Affairs before they execute any project worth more than N500,000. Also, before any staff is recruited approval must be obtained from the State Local Government Service Commission.

(5) Local Government Budgets must be screened and recommended by the State Ministry of Economic Development to State House of Assembly for approval, thus making a mockery of the approvals given by the Local Government Legislatures.

(6) The degree of fiscal and administrative dependence is so high that it is merely a myth to talk of local government autonomy or think that our Local Governments are anything more than mere extensions of State Ministry of Local Government.

RECOMMENDATIONS

(1) A high degree of autonomy (substantial autonomy) should be enshrined in Nigerian Constitution for Local Governments thereby recognizing them as the Third Tier of government in Nigeria.

(2) Their creation should be handled by National Assembly on the recommendations of the State Governments.
(3) Their names should be enshrined in the Constitution of the Federal Republic of Nigeria.

(4) Their share of national revenue should be increased from the present 20% to 50%, while the State and Federal Governments should receive 30% and 20% respectively. The reason is that more development efforts should now be focus on rural transformation to forestall rural-urban migration.

(5) The Federal allocation meant for local government should be remitted to them directly.

(6) The State Local Government Joint Account Committee should be abolished in all states. This will check the undue misappropriation of local government funds by state government through imposition of joint-projects which are of less priority to some local governments.

(7) More viable sources of revenue like collection of Property Tax, Motor Cycle licenses and Development Levy should be added to the existing list.

(8) The State Government should allow local governments to decide on projects of their priority, approve their Annual Budgets and execute them without necessarily passing through rigorous steps of approvals by State Governments. This does not rule out the state control measures through inspection and raising of alarm where necessary as well as prosecution of corrupt political officials.

(9) The Local Governments, Just like States and Federal Governments, should be responsible and accountable to the electorate who voted them to office and be disciplined by the people through democratic process known as the “Recall System”.

CONCLUSION

Local Government autonomy in Nigeria will continue to remain a myth instead of a reality as long as the prevalent high degree of dependence on other two levels of government for financial, technical, professional staff and administrative supports persists. Constitutional and New Local Government Reforms, if approved and handled by the National Assembly without sentiments, shall bring to an end the continuous search for a more vibrant and development-oriented Local Government System in the country.
REFERENCES


