

LOCAL GOVERNMENT AUTONOMY AS AN IMPERATIVE FOR TRUE FEDERALISM IN NIGERIA

SAMUEL OGWU O.

DEPARTMENT OF PUBLIC ADMINISTRATION,
FEDERAL POLYTECHNIC IDAH, KOGI STATE, NIGERIA

Email: Ogwusams@gmail.com

ABSTRACT

Local governments are subordinate governments usually referred to as the third tier of government. In a federation, the component units are expected to exercise some degree of autonomy. Such autonomy implies the various levels and types of area dispersion of powers provided through a constitutional framework. In Nigeria, local government derives its existence and power from laws enacted by the other two superior tiers, that is, the federal and state governments. There are agitations for more power to be given to local government in the spirit of true federalism. The level of interference in local government administration by state governments has reduced local government to mere appendage of state government. It is the view of this paper that, local government deserves and should be granted sufficient autonomy to strengthen Nigeria federalism.

Key Words: *Local; Government; Autonomy; Federalism; Power.*

Introduction

Nigeria is a federation. In a federal system of government, political power is shared between the central or federal government and the constituent units that compose the federal union. The component units of the federation should be autonomous at least, to a significant degree. There is a lot of hue and cry because of the lack of autonomy of local government in Nigeria. This has formed a basis for serious agitations for constitutional amendments to grant autonomy to the local governments. The argument is that, the notion of true federalism is predicated upon the autonomy of all the component units within a federating state.

The aim of this paper, therefore, is to strengthen the discourse for local government autonomy which will put the country on the pedestal of a true federation away from the present charade and political rhetoric.

Local Government

Local Government is usually the tier of government that is closest to the people and vested with certain powers to exercise control over the affairs of people within its domain.

Some forms of Local Government exist in most nations of the world except that the system differs from one nation to another. In some countries, local government exist as deconcentrated units

while in others, they are seen as devolution. Such characterization is based on the amount of power they exercise over their human, financial and material resources. Local Government as de-concentration can be described according to Maddick (1993) as, “a subunit of government controlled by a local council which is authorized by the central government to pass ordinance having a local application, levy local taxes and exact labour within limits specified by the central government, vary centrally decided policy in applying it locally.” Further, as a devolution Maddick(1993) describe Local Government as, “the legal conferring of powers to discharge specified or residual functions upon formally constituted authorities.”

Taking these two definitions in context, it is evident that Local Governments in a deconcentration are at the whims and caprices of the Central Government while those in devolution are more powerful because of the measure of powers they enjoy and the way they are constituted. The more power devolved to the Local Government from the Centre, the more autonomy it will enjoy. But when power is deconcentrated in the Local Government, they become mere appendages of the Central Government.

Again, deconcentration and devolution are the two sides of decentralization. Local Government from this perspective is seen as, “the breaking down of a country into smaller units or localities for the purpose of administration in which the inhabitants of the different units or localities concerned play a direct and full part through their elected representatives, who exercise power or undertake functions under the general authority of the national government (Akpan cited in Adeyemo, 2005).

There is a pre-supposition in the above definition that the people have direct and indirect participation in their local affairs through periodic elections where their representatives are elected. This is a far cry from the present realities in Nigeria. Elections in the Local Government are conducted at the convenience of State Governors. Elected local councils are dissolved at will. Caretaker committees are usually constituted to run the affairs of the Local Government.

Be that as it may, a summation of the definitions above points to the fact that, local government involves the conception of a territorial non- sovereign community, possessing the legal right and the necessary organization to regulate its own affairs. Local governments are not sovereign unlike independent nation- state. Local government per se is a subordinate government which derive its existence and power from law enacted by a superior government (Awotokun and Adeyemo, 1999).

Federalism

Federalism is a type of political system in which the powers of government are shared between self- governing units and the central or national government. The extent of power to each of these components is stipulated by the constitution. Awa (1976) defines federalism as the distribution of power between the inclusive government and the federating units. Finer (1970) on his part view a federal state as one in which parts of the authority and power is vested in the local areas while another part is vested in a central institution deliberately constituted by an association of the local areas.

A definition that is of critical essence to this paper is provided by Garner cited in Mazi-Mbah (2008) who defines federal governments as that form of government in which sovereignty or

political power is divided between the central and the local government so that each of them within its own sphere is independent of others.

It is obvious from the above definitions that federalism brings governments together. These governments are to exercise some measures of sovereignty, independence or autonomy. The question then is, can this be a true reflection of Nigeria federalism?

The Concept of Autonomy

The concept of autonomy has its roots in the liberal conception of democracy, that is, government by the people at the grassroots. According to this conception, power belongs to the people (popular sovereignty) and those who exercise power do so on behalf of the people (consent of the governed). The nexus between the operationalization of the concept of “popular sovereignty” and the realization of the “consent of the governed” is found in the concept of autonomy or what Maass (1959) calls, “the area or division of power” (Langrod, 1953; Okoli, 1995). Local government autonomy is thus perceived as grassroots democracy or local self government.

According to Nwabueze (1983), autonomy means that each government enjoys a separate existence and independence from the control of the other governments. This means that autonomy would only be meaningful if there are no constitutional requirements for each level of government to accept dictation or directive from another.

On his part, Davey (1991) 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. The notion of local autonomy here as opined by Adeyemo (2005) is that, local government must possess the power to take decisions independent of external control within the limits of the law. It must garner efficient resources, especially, finance to meet its responsibilities. In other words, local autonomy provides the freedom or independence in clearly defined issue or areas as well as separate legal identity from other levels of government.

Local Government Autonomy as an Imperative for True Federalism

The quest or agitation for local government autonomy has been a recurring decimal in the evolution of the Nigerian federation. The process of democratizing local government administration started as far back as 1954. The three regional governments enacted the Northern, Western and Eastern Nigeria Local Government laws of 1954 respectively. Despite this attempt to introduce participatory local government administration, the regions still exercised tremendous control of local governments for different political reasons.

This scenario continued until the 1976 local government reforms which brought some measure of autonomy to the local government by making it the third tier of government in Nigeria in charge of grassroots governance. The preamble to the Guidelines for 1976 Local Government Reforms stated that, “the State government has continued to encroach upon what would have been the exclusive preserve of local government”. This is an obvious acceptance of the fact. The situation has not changed rather the level of encroachment is assuming unprecedented and unacceptable dimensions.

The 1979 Constitution provided the legal framework to strengthen the philosophy of the government. Section 7(1) stated that: “the system of local government councils is under this constitution guaranteed. However, section 7(2a and b) provided that: “the government of every state shall ensure their existence under a law which provides for the establishment, structure, composition, finance and functions of such councils”. The 1989 and 1999 constitutions retained these provisions.

It should be noted at this juncture that these constitutions were midwived by military regimes in their quest to strengthen local autonomy. But, it is obvious that civilian administrations between 1979 – 1983 and 1999 – till date have seriously bastardized this noble intention.

The level of meddlesomeness or unnecessary interferences in the affairs of local government by State Governors is a constitutional derivative. Many of these Governors hide under the constitutional provision that makes local government a creation of the state government to perpetrate undemocratic atrocities like removal of elected Local Government Chairmen, dissolution of elected councils, appointment of sole administrators or caretaker committees, etc.

Another provision that justify the control of local government by the state governments relates to the creation of new local government areas and boundary adjustments as contained in section 8(3) (4) of the 1999 constitution which state thus:

- 3 A bill for a Law of a House of Assembly for the purpose of creating a new local government area shall only be passed if
 - a) a request supported by at least two-thirds majority of members (representing the area demanding the creation of the new local government area in each of the following namely:
 - i) the House of Assembly in respect of the area, and
 - ii) the local government councils in respect of the area, is received by the House of Assembly;
 - b) a proposal for the creation of the local government area is thereafter approved in a referendum by at least two – thirds majority of the people of the local government where the demand for the proposed local government area originated.
 - c) the result of the referendum is then approved by a simple majority of the members in each local government council in a majority of all the local government councils in the state; and
 - d) the result of the referendum is approved by a resolution passed by two-thirds majority of members of the House of Assembly.
- 4 A bill for a Law of a House of Assembly for the purpose of boundary adjustment of any existing local government area shall only be passed if;
 - a) a request for the boundary adjustment is supported by two-thirds majority of members (representing the area demanding and the area affected by the boundary adjustment) in each of the following, namely;
 - i) the House of Assembly in respect of the area, and
 - ii) the local government council in respect of the area, is received by the House of Assembly; and
 - b) a proposal for the boundary adjustment is approved by a simple majority of members of the House of Assembly in respect of the area concerned.

The practice of true federalism, therefore, requires that the federal government should stop exercising the following responsibilities over the local government:

- a) Creating new local governments through the normal process of constitutional amendment.
- b) Making provisions for statutory allocation of public revenue to the governments of the federation.
- c) Establishment of the code of conduct bureau for all public officers, including local government functionaries to declare their assets.
- d) Establishment of National Electoral Commission for the purpose of organizing democratic elections at all levels, including local government elections.

The state governments on the other hand should stop:

- a) Administering the oath of allegiance and the oath of office on newly elected chairman through the governor of the state.
- b) Enacting an edict to create for any local government area within the state up to seven development areas.
- c) Allocating 10% of the state's internally generated revenue to the local governments within the state.
- d) Establishing a joint planning board through a law enacted by the State House of Assembly to require each local government within a particular state to participate in economic planning and development of the local government area.
- e) Establishment of the office of the Auditor – General for local governments for the purpose of auditing the accounts of the local government within a state.
- f) Offering advice, guidance and supervision through the office of the Deputy Governor of the state.

Conclusion and Recommendations

The general practice in all federations is to subordinate local governments to state governments. However, given the nature of our political culture, political integration and tolerance, such a course of action emasculates local governments especially those controlled by an opposing political party to the one controlling the state government (Okoli, 1995). Local governments should, therefore, be granted autonomy in the spirit of true federalism to go beyond political rhetoric. This will help to remedy one of the formidable problems of Nigerian federalism.

The Nigerian constitution should be amended with sufficient provisions to guarantee local government autonomy. All the provisions that subjugate the local government to the whims and caprices of state governments should also be expunged. Adequate provisions should be made to remove the inadequacies of the local government system and to empower it in the area of finance and personnel.

In the meantime, whatever the degree of autonomy vested on the local government in the amended 1999 constitution and other local government laws of the State, the political actors should be more diligent in exercising such autonomy or power (Adeyemo, 2005).

Local government autonomy should be all encompassing to impact on all the critical aspects of administration of local communities. According to Omoruyi (1992), local communities can only be meaningfully autonomous when popular structures, organizations and supportive values have been created to sustain, propagate and perpetuate fair representation, constant dialogue, openness of policy making, public accountability and collective self-defense. Existing structures and associations and new ones need to be identified and established as the focus of grassroots democracy. Governmental powers should be shared by such grassroots bodies in order to give meaning to the principle of local self-autonomy, participatory democracy and true federalism.

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