

## Local Government Administration Under 1999 Constitution in Nigeria

Kunle Awotokun

*Department of Local Government Studies, Obafemi Awolowo University, Ile-Ife, Nigeria  
E-mail: KunleAwotokun@Yahoo.Com*

**KEYWORDS** Local; government; councils; reforms; constitution

**ABSTRACT** The Nigerian 1976 Local Government Reform and the subsequent one that follows are geared towards making local government a bedrock for socio-economic and political development. Somehow, the 1999 constitution seems to have overridden the gains and aspirations of this tier of government with the exclusion of local government from the constitution. This phenomena has become a critical issue since the beginning of the Nigerian Fourth Republic: This paper is devoted to exposing the contradictions and how the 1999 constitution undermined peoples aspiration as well as the efficacy of grassroots governance. The paper also proffer solutions for the sustainability of Nigerian Local Government.

### INTRODUCTION

The term of Local Government Administration in Nigeria has attracted serious attention both nationally and internationally since the great reform of 1976. Incidentally it was this reform in question that opened the rural area to any meaningful development in terms of in-put that could be garnered from the federation account. Hence the intention of this paper is to start a run down of local government administration from 1976 in order to appreciate its constitutional responsibilities under the 1999 constitution. Again, this we believe will refresh our memories and provide a basis for comparing the past with the present.

### THE 1976 LOCAL GOVERNMENT REFORMS

The period 1976-1979, in which the military administration of Murtala/Obasanjo lasted, is usually regarded as a period of watershed in the annal of local government administration in Nigeria. As stated earlier, it was the first time a concerted effort would be made by the federal government to brighten the future of local government.

Local Government was not only accorded its place of pride in the socio-economic well-being of the country, it was also seen as a way of bringing government closer to the people. Consequently, a uniform system known as single tier structure was adopted throughout the country. This uniformity can be conceptualized in terms

of:

- (a) The functions of local governments;
- (b) The structure of the local governments;
- (c) The financial resources of the local governments;
- (d) The place of traditional institutions in the local governments;
- (e) Relationships with state government; and
- (f) Law enforcement.

In terms of functions, there was uniformity of function and responsibilities for all the local governments throughout the federation. These functions and responsibilities were later to be enshrined in the 1979 Constitution of Nigeria. The political and administrative structures were also uniform in all the local governments in Nigeria. Every local government council was headed by an elected chairman. The administrative wing was headed by career administrator styled secretary to the local governments. In addition all local governments were departmentalized.

In order to ensure that every local government has a successful take-off, the then federal government made available a sum of one hundred million (₦100 million) during the 1976/77 financial year to all the local governments in the federation. It must be stressed that, that was the first time a substantial amount of money would be disbursed to local government in Nigeria. According to Ola (1984: 90) this sum (₦100 million) can easily be compared with a grant of ₦1million and ₦1.5million made to each state of the then existing twelve states in the federation during the 1973/

74 and 1974/75 fiscal years respectively for distribution to their local government. Similarly in 1977/78 the ₦250 million was earmarked; in the sum of ₦300 million was appropriated while in 1980 ₦278 million was allocated.

The authors of 1976 local government reform also conceived that for the reforms to have appreciable impact at the grassroots, the local governments officers as well as political functionaries must be given free hand to operate effectively with little or no interference in their daily affairs. Hence State Ministries for Local Governments were only charged with the responsibilities to advise, assist and guide rather than controlling the local governments under their jurisdiction.

In order to foster peaceful co-existence among the inhabitants of every local government, a unit of Nigerian Police was dispatched to all the local government headquarters. In addition, Police Committees comprising members of police force, the local populace and local governments workers were set up. This forum was used to enlighten the people about the operation of police and the need for all and sundry to cooperate with them (Police) by reporting the activities of miscreants within their midst.

By the 1976 reforms, the traditional rulers were insulated from partisan politics. Hitherto, many of them had engaged in partisan politics with disastrous consequence. It was thought that such exemption would restore the much necessary respect and honours which the office is expected to engender among their subjects.

This was the situation with all the local governments in Nigeria until the country witnessed a second attempt at a constitutional government otherwise known as Nigeria's Second Republic 1979-1983.

#### **THE LOCAL GOVERNMENTS UNDER 1979 CONSTITUTION**

The introduction of constitutional democracy in 1979 had meant that the functioning of local governments in the federation would be operated along with the constitutions guiding its existence within the federal system of government.

The term federalism in its classical sense as espoused by leading scholars in the area presupposes two levels of government in a federation i.e. the federal (central) and the units i.e. state or regional governments. For instance, Wheare (1963: 2) identified a federal system as:

An association of state so organized that powers are divided between a general government, which in certain matters is independent of the governments of the associated states, and, on the other hand, state governments which in certain matters are in their turn, independent of the general government.

Peter Merkel whose definition also has been greatly influenced by his Anglo-Saxon background, conceptualized a federal state as the one:

Characterized by at least two patterns of communities, one all inclusive and the other composed of several mutually exclusive communities. The geographical nature of the community pattern and especially the location of boundaries among the sub-communities and around the whole community are crucial to a federal system (Oyovbaire, 1979: 82).

In order to maintain stability in a federal polity like Nigeria, the two definitions above seem to have taken cognizance of diversity in the day to day administration of each sphere of the level of government i.e. central and state. This is what is commonly referred to in the literature as unity in diversity, which from all intents and purposes seem contradictory and self-defeating.

In the governance of each level of government, there is a presupposition of independence (autonomy) in order for each to control its destiny. This will largely account for the call for resource control by the oil-producing states in Nigeria. According to Nwabueze (1983:1) federalism is not more than:

An arrangement whereby powers of government within a country are shared between a national, country-wide government and a number of regionalized (i.e. territorially localized) government in such a way that each exists as a government separately and independently from the others operating directly on persons and property within its territorial area, with a will of its own and its own apparatus for the conduct of its affairs, and with an authority in some matters exclusive of all the others.

Hence federalism from this perception is seen as a mutual agreement between two levels of government to share power of the state in a formal constitutional or legalistic arrangements. According to this context, some principles are implied, such as separateness and independence. This means that the autonomy of each federating unit must be respected and preserved. Autonomy in this sense presupposes that each government

must exist, not as an appendage of another government, but as an autonomous entity in the sense of being able to exercise its own will in the conduct of its affairs, free from direction by another government (Ibid.).

The autonomy of each unit of government also implies mutual trust and respect such that no unit of government can impose, confer functions or duties on the other without a mutual agreement. For instance, the Attorney Generals of Ogun State, Lagos, Oyo, Ondo and Osun State challenged the constitutional power of the federal government to pay the amount standing to the credit of the local government council in the Federation Account directly to the councils. The Apex Court (Supreme Court) in its celebrated judgment declared unanimously, that the Federal Government has no power under the 1999 Constitution to credit the councils' amount directly from the Federation Account.

The verdict in a sense buttress our assertion. It no doubt underscores the beauty of democracy and the place of the judiciary as the impeccable arbiter that ensures strict adherence to constitutional rules and procedure by public officers. It also highlights the unvarnished and uncensored reality that there must be conflicts and disagreement in public governance, but which must be resolved decently and legally through the court as prescribed by the constitution. More important, perhaps, is that the beauty of this decision has upheld financial and constitutional independence (autonomy) of the federated components.

The first noticeable problem of local government, perhaps, had to with its constitutional position in 1979 Constitution. It must be noted that the constitution in question never explicitly provided for local governments as a third tier of government. The fact that the 1979 constitution enumerated certain functions that the local governments must perform did not mean it had been constituted as a tier of government. In the absence of this legal classification, the state governments assumed that the ordinary interpretation of a federal state of which Nigeria is, would prevail in their official conduct with the center (federal government). Hence this state of affairs forced the local governments to play a subordinate role to the state governments. The problem became more compounded as local governments at the period had no separate source of funding, recruitment and deployment of staff. Indeed, the federal allocation of ten

percent (10%) of the Federation Account of the country was to reach the local governments via their respective state governments. All state government (perhaps with exception of Lagos State) diverted the money for their own use.

There was also the case of proliferations of local government at the period. The state government felt creation of local governments was within their competence; the federal government which thought otherwise never challenged them in the law court. There was no single election in local government of the period (1979-83) which the second republic lasted. Indeed the local governments of that era were politically impotent and financially insolvent such that they could not pay their salaries let alone performing their statutory functions as contained in the 1979 constitution. The 1989 constitution, which was meant to usher in the third republic was not in full operation, owing to what is popularly being referred to as annulment of June 12, 1993 election, which was meant to usher in the President of the Federal Republic of Nigeria.

#### **THE 1999 CONSTITUTION AND LOCAL GOVERNMENT ADMINISTRATION**

Like the previous constitutions, i.e. 1979, and 1989, the 1999 constitution is purely military in term of its conception. It was not a people's inspired constitution and that was one point which its detractors nursed against it. It can be safely said that the said constitution contained the seed of its own destruction.

Be that as it may, in terms of its (1999 Constitution) relation to the Local Government Administration in Nigeria, one can say that the constitution preserve the tripartite system of government at the grassroots level. The executive, the legislature and the judiciary. The executive is vested in the chairman, vice-chairman, supervisor or supervisory councilors, and the whole machinery of local government bureaucracy. The legislative functions are meant to be performed by the councilors, who represent the wards which make up the Local Government Area. The judiciary on the other hand is streamlined with the federal and state and local government can avail itself of the judicial process available to it.

There is one important thing to note from the onset, that is local government as a political institution has come to stay in the political landscape of Nigeria. This is because the 1999

constitution has recognized its existence. The constitution state *inter alia*

The system of local government by democratically elected government councils is under this constitution guaranteed, and accordingly, the government of every state shall, subject to the Section 8 of this constitution, ensure their existence under a law which provides for the establishment, structure, composition, finance and functions of such councils (Federal Republic of Nigeria Constitution 1999).

The import of this federation is obligatory under the constitution. Apart from this, there must be periodic elections into the councils of these local governments as is the case with the federal and states' political institutions. This becomes imperative as local governments are seen as training grounds for higher level of political responsibilities in the federation.

The 1999 constitution for certain functions to be performed by every local government in the federation. This is contained in the Fourth Schedule of the constitution as follows:

1. The main functions of a local government council are as follows:
  - (a) The consideration and the making of recommendations to a State Commission on Economic Planning or any similar body on:
    - (i) the economic development of the state, particularly in so far as the areas of authority of the council and of the state are affected; and
    - (ii) proposals made by the said commission or body;
  - (b) Collection of rates, radio and television licenses;
  - (c) Establishment and maintenance of cemeteries, burial grounds and home for the destitute or infirm;
  - (d) Licensing of bicycles, trucks (other than mechanically propelled trucks), canoes, wheel barrows and carts;
  - (e) Establishment, maintenance and regulation of slaughter houses, slaughter slabs, markets, motor parks and public conveniences;
  - (f) Construction of maintenance of roads, streets, street lighting, drains and other public highways, parks, gardens, open spaces, or such public facilities as may be prescribed from time to time by the House of Assembly of a state;
  - (g) Naming of roads and streets and numbering of houses;

- (h) Provision of maintenance of public conveniences, sewage and refuse disposal;
- (i) Registration of all births, deaths and marriages;
- (j) Assessment of privately owned houses or tenements for the purpose of levying such rates as may be prescribed by the House of Assembly of a States; and
- (k) Control and regulation of:
  - (i) out-door advertising and hoarding;
  - (ii) movement and keeping of pets of all description;
  - (iii) shops and kiosks;
  - (iv) restaurants, bakeries and other places for sale of food to the public;
  - (v) laundries; and
  - (vi) licensing, regulation and control of the sale of liquor.
2. The functions of a local government council shall include participation of such council in the government of a state as respects the following matters:
  - (a) The provision and maintenance of primary, adult and vocational education;
  - (b) The development of agriculture and natural resources, other than the exploitation of minerals;
  - (c) The provision and maintenance of health services; and
  - (d) Such other functions as may be conferred on a local government council by the House of Assembly of the state (Ibid.).

In the main, two broad set of functions are assigned to local governments namely the first part concerns the ones which are exclusively within the preview of the local governments, while the second set has to do with those the local governments are expected to perform concurrently with the state governments as partners in progress.

#### **OPERATIONAL MODALITIES OF COUNCILS**

It is important to remark that the way the manners of operation of Local Government Councils across Nigeria in the current political dispensation vary from state to state. This to a large extent is determined by the Local Government Law enacted by each State of Assembly. While some states tend to favour the fusion of executive and legislature arms, other prefer the separation of powers as espoused by presidential

democracy. Those who opted for the Westminster model have anchored their argument on paucity of financial resources and the need to preserve the available funds for the betterment of the people at grassroots. The proponents of the presidential system have argued the need to sustain presidential system at local level in order to be in consonance with state and federal governments. This argument to all intents and purposes sound plausible as local government is regarded as the training grounds for the political class.

### **THE PROPOSED NEW CONSTITUTION 2003 AND LOCAL GOVERNMENT COUNCILS**

The 1999 Constitution, as said earlier has been fundamentally flawed since the inception of the fourth republic on May 29, 1999. This was what probably informed the National Assembly in setting up a Committee with the view to amending the grey areas.

The Committee of the National Assembly resolved that all the 774 Local Councils recognized by the Constitution should be scrapped. In order words local government with not be recognized constitutionally as autonomous third tier of government. By this act, local government will revert to pre-1976 status, where they were mere appendages of state governments. Local Governments are to be funded and operated in line with the whims and caprices of their respective states. Hence, by implication they would no longer be funded from the federation account.

By the proposed constitution all the local governments in the federation would be governed by laws passed by state assemblies and as asserted to by respective governors. In order words the laws to regulate the tenure of local government councils will vary from state to state.

All said, there has been serious opposition to this state of affairs with regards to local governments. For instance, the National Union of Local Government Employees (NULGE) has opposed the idea of scrapping local governments from the constitution. An amendment to the constitution should attract the generality of the whole country through National Conference where Nigerians should have inputs into the proposed amendments (The Comet, 2003: 7).

It seems as if the whole exercise looks as a witch-hunting of local governments. The state governors have never hidden their disdain for a

well-structured local governments since the inception of the fourth republic. Indeed, many of them see a federally – structured local government system as a parallel government to that of the state.

It is our considered opinion that the Speakers of House of Assemblies who worked in tandem with the National Assembly to phase out local governments from the constitution have no power to do so under the constitution. Scrapping local governments amounts to changing the present structure of the country; no legitimate organ of governments has been so elected to carry out such responsibility.

One of the argument to justify the scrapping of the Local Government in the constitution by Senate was the tendency by state governments to create more councils. For instance, senate spokesman Senator Jonathan Zwingina said *inter alia*:

... the decision (to scrap local government) was informed by the alarming rate at which state governors, were multiplying councils, allegedly to satisfy their political interests if we eventually pass this constitution, then all requests for creation of local governments lying before the National Assembly will be killed such requests will now go back to the states (The Comet 2003: 1).

The above argument can easily be punctured, in the sense that after the preliminary creation of regional and local government councils by colonial masters, the subsequent handling of states and councils creation were dictated more by subjective political expediency than the welfare, progress and interests of the people. With the exception of the then Mid-West region which was created through the connivance of the Northern People's Congress and the National Council of the Nigerian Citizens to cripple the Action Group in the Western Region, all states and local governments were the creation of the military from the civil war era of General Yakubu to Abacha era. It must be stressed that the civilian regimes in Nigeria have not been credited with ability to create but to liquidate.

The import of our argument is that the proliferation of local governments as advanced by the political class is untenable as states too were proliferated on no known criteria in the past. Hence senate has no moral justification for condemning additional local governments.

### CONCLUSION

The 1999 Constitution, has not really conceded much to the local governments as a third tier in the federation. For instance, there is no provision for Local Government Service Commission (LGSC) in the said constitution. Given the importance of Local Government Service Commission to the overall success of Local Government Administration in Nigeria, one can venture to suggest that the omission portend the total lack of commitment to this tier of government by the political class.

Local Governments is the most popular among the three tier structure in the Federal Republic of Nigeria. Any restructuring of this tier of government must as a necessity be done in concert with the generality of the people.

The present claim of proliferations of local governments is highly untenable. Indeed every autonomous community in Nigeria should consti-

tute a level of governance. This we believe will facilitate rapid development of Nigeria and bring the so-called dividends of democracy nearer to the people.

### REFERENCES

- Federal Republic of Nigeria. 1976. *Guidelines on 1976 Local Government Reforms*. Kaduna: Government Printer.
- Federal Republic of Nigeria. 1979. *Constitution of Nigeria*. Lagos: Ministry of Information.
- Federal Republic of Nigeria. 1999. *Constitution of the Federal Republic of Nigeria*. Lagos: Government Press.
- Nwabueze, B. O. 1983. *Federalism in Nigeria under Presidential Constitution*. London: Sweet & Maxwell.
- Ola R F 1984. *Local Administration in Nigeria*. London: Kegan Paul International.
- Oyovbaire, S. E. 1979. "The Theory of Federalism: A Critical Appraisal". *Nigerian Journal of Political Science*, 1: 78 – 91.
- The Comet. 2003. Lagos p. 7.
- The Comet. 2003. Lagos p. 1