

STATE GOVERNORS AS IMPEDIMENT TOWARDS DEMOCRATIC COMPOSITION OF LOCAL GOVERNMENT COUNCILS IN NIGERIA

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Abstract

The Guideline to the 1976 Local Government Reform and the 1999 Constitution of the Federal Republic of Nigeria (Amendment 2011) envisaged a local government system that would ensure the participation of the people of the local communities in electing their councils through the process of democratic principle. The reason for this is consequent on the belief that democracy drives development and that the people themselves reserve the greatest opportunity to proffer solutions to matters of development through their chosen representative. However, over the years the lack of democratization of local government councils has negatively affected the ability of local governments to perform its role of galvanizing national development from below. This is majorly borne out of the disregard State Governors had for constitutional provision especially as it concerns local government administration in Nigeria. The local government has roundly been turned into a 'spoil' to be shared among party loyalists by State Governors resulting in flagrant abuse and subversion of the Constitution. For this to abate, we must re-orientate Nigerians, especially the political leadership to submit to democratic norms and for the followership to become active participants in the democratic process, such that institutions for managing democratization would perform its function without let or hindrance.

Keywords: Democracy, Constitution, Local Government, Participation and Constitutionalism.

Introduction

Entrenching fundamental existential, operational and procedural status in a body of ground laws of the state from which the State itself found its profound existence is a measure to protect, guarantee and safeguard those values and institutions that are considered central to the effective administration of the State. This is what Burke in Agbaje and Suberu (2002) described as the ability to fulfill the provision of utility, essentially measured by how well the State through its processes, procedures and institutions is able to minimize pain and maximize pleasure.

Therefore, the inclusion of local government as a separate tier of government distinct from the Federal and State governments in the 1999 Constitution by the framers of the Constitution was to ensure strict adherence to the fulfillment of the conceived purpose which this tier of government was anticipated to serve. The Guideline to the 1976 Local Government Reforms and other reports after it except for the National Conference Report support the continuous existence and separateness of local government as a tier of government even with greater autonomy especially from the control of higher levels of government.

However, moment after May 29, 1999 every attempt to ensure strict adherence to the provisions of the constitution on the democratic composition of local government across the states of the federation has continued to suffer as the State Assemblies which are constitutionally mandated to legislate on the lawfully accepted best practice on how to democratically (Section 7(1)) administer local government in the various states have found themselves as handmaidens to State Executives (Governors) in violating the basis of local government. Chief among which is to ensure that the local government enhances local participation of the people of the grassroots in determining through their own elected representatives solutions to problems of development peculiar to their locality within the resources available to them whether locally/internally generated and /or externally sourced. The continuous violation of Section 7 (1) of the 1999 Constitution is a major reason why popular participation at the local level has not provided the impetus for the required synergetic approach needed to inculcate an all-embracing responsible and responsive administration in local governments in Nigeria.

Central to this paper are issue of democracy and local choices, state-local relations, administrative freedom and participation of local people themselves in the (s)election of the political leadership of local government in Nigeria since May 29, 1999.

Bello-Imam (2004) posits that the orthodox justification of local government existence is based on the ground that it is a device for local choice accentuation. According to him, local elections are a legitimation of this choice. Arising from this idea, therefore, is the nexus upon which this level of government is grounded which is, 'variety; democracy and liberty'. Majorly, local government practice is supposed to promote local democracy which could be discerned from the resolution of divergent propositions (debates) and arguments: (constitutive and regulative) through elections or council decisions thereby reinforcing democratic values and promoting responsibility to the community. Therefore, the fundamental element of choice exercised locally also provides an avenue for self-expression of local communities (Roberts, 1997).

The conclusion that can be drawn from the foregoing is that local government, being democratically elected has a mandate of its own different from the sub-national mandate which means that effective power of decision making must rest with the locally elected representatives who, in the exercise of their power are accountable locally, hence, the importance of participation through election by the people of the locality under the purview of such local government.

Conceptual Clarification of Local Government

The concept of local government just as other similar ideas in political science have been variously defined, each emphasizing what it considered as the underlying issues which

local government was expected to serve and the structure and purpose for which it existence and establishment could be justified. Local government is an institution with a concept of administration having a direct bearing with the provision of services of local clients.... It is multi-dimensional, and is politically expressed as the governing institution presiding over a specific local sub-division of a state.

The traditional view of local government from which emerged the locality view draws from the liberal democratic analysis of the state and politics. The postulation of Maddick (1963) in this regard is to the effect that no state's claim to the attainment of democratization can be said to be genuine when the local government was left unattended to do in the most obvious indicator of democracy which is periodic election. This view recognizes plurality and frowns against centralization thereby favouring local control, self-determination and horizontal competition among local government for the delivery of public goods and services. One major significance of this outlook according to Robert (1997) is the justification of local government existence on the basis of democracy i.e. local choice, central-local relations, service delivery or development, freedom and participation. For Hills (1961) Local government is a democratic institution expected to have the propensity to enjoy wide array of discretionary power thereby making it legally responsible and politically responsive to the needs of clients within its jurisdiction. At the geographical level, he says it is sub-state system which makes it a government of difference, reflective of the existence of geographic inequality.

At the economic sphere, though Mueller (1989) had tended to emphasize the non-market nature of the output of local government, Bello-Imam (1990a) argued that it would be counter-productive if one completely relegates the concerns about economic (property) relations and the state from the understanding of local government, therefore, local government cannot be fully understood except in relations to the centre and in the wide social and economic context where it operates.

Despite the challenge about proffering explanation or definition of local government, for the purpose of this paper the definition given by the following scholars. Shall be adopted the definitions given by Bello-Imam (2004) that local government is:

that unit of administration with defined territory and powers, as well as administrative authority with relative autonomy [where] such administrative authority could be elected

and the one given by Egonmwan (1984):

that local government: is government at a local level exercised through specific powers within defined area. It is a distinct form of public administration (which) involves the administration of public affairs in each locality by a body of representative (emphasis ours) of the local community.

Having adopted these definitions it is noteworthy to state that over the centuries, various States have designed basic approaches to make development in their various States possible. Two of the obvious administrative designs to enhance development are the idea of centralization and decentralization (Bello-Imam. 1983). For this purpose, it should be noted

that the activities of local government align more to decentralization by devolution. Decentralization by devolution is fashionable on the premise that centralization hampers active local participation of the people in administering their own affairs and could by extension, lead to despotism, dictatorship and tyranny and this is why Gboyega (1987) opined that it was not surprising that most countries of the world decentralize their administration by devolution.

Local Government and the Challenge of Democratization in Nigeria

However, despite constitutional provisions as contained in the 1999 Constitution of the Federal Republic of Nigeria and the foundation 1976 Guideline on Local Government Reforms and all other efforts to make local government viable and to bring government closer to the people, it is yet to be seen whether much dividend has accrued to the people at the local level. Instances abound of flagrant violations and brisk disregard for extant laws regarding the administration and management of local government by elected political leadership at the various States making up the Nigerian federation.

Egonmwan (1984) argued that the 1976 Reforms was a veritable tool for both Federal and State Governments in Nigeria to formulate policy that would create standardized, autonomous and viable local government system that would meet the following important purpose for its existence as identified by Bello-Imam (2004):

- i. Active participation of the citizen in the running of their own affairs.
- ii. Promote economic development from below- including infrastructural provision.
- iii. Promote political integration and nation building.
- iv. Promote local freedom of action/autonomy, and
- v. Enhance grassroots democracy.

However, events over the years have shown that the local government despite constitutional provisions aimed at realizing the objectives stated above have failed to galvanize the much expected freedom instead it has engendered centralization of power and authority, thereby leaving local government at the whims and caprices of higher levels of government in Nigeria. According to Eneanya (2010) after the 1976 Reform, Nigeria established a uniform system of local government throughout the country, which is referred to as a single tier system of local government. This means that only one local government authority provides services and is in charge of a given area. Beyond this, the councilors are popularly elected into the council, the chairman of the local government is elected by all (adult) citizens of his area and he is assisted by the Vice-chairman who is also elected alongside the Chairman. In each local government council, there is a mini cabinet of Supervisory Councilors responsible for some key departments of the council. Local government is the third-tier of a government is the third-tier of government, as it is allocated fund for its activities from the Federation account, and conclusively, traditional rulers or Chiefs are no longer members of local government councils in Nigeria and is independent of the state and Federal Government.

Section 7(1) of the 1999 constitution makes it expressly mandatory 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...ensure their

existence under a law which provides for the establishment, structure, composition, finance and function of such councils.

Though the 1999 Constitution gives the government of every State the power to make laws for the establishment, structure,...of such councils, it should not be assumed that local government councils in terms of the existence and administration are entirely at the discretion of the government of the States. The 1999 Constitution is unequivocal to the fact that no local government council can said to be truly in existence except when they are democratically constituted as envisaged in Section7(1) of the Constitution.

There is the basic fact within the federal structure in Nigeria that the Federal, State and Local levels of government have legislative responsibility for various services and functions. For instance, the Federal Exclusive legislative powers are listed in Part 1 of the Second Schedule of the 1999 Constitution while Part II of the same Schedule contains Concurrent Legislative List and the Fourth Schedule of the same constitution outlines the function and responsibilities of local government. In federal practice, it is argued that whatever functions specifically allocated to any level of government in the federation must be seen to be executed by that level of government. What this simply means is that local governments are supposedly autonomous...as enunciated in the Constitution, (Bello-Imam, 1990).

The reality in Nigeria is however radically different, as all the acclaimed commitment to local government as a distinct tier of government as only shown the debilitation that the local government has suffered which have pointed it much more as an agent rather than a tier of government. Gboyega (1987) espoused that State Government on a number of occasions before 1987 have removed Chairmen of local governments and even dissolved elected local government councils and appointed Administrators or Caretaker Committees in their place. The resultant effect of this development is that local communities for which the appointment or nomination is made for by higher level Government officials are variably denied the basic right of either electing or choosing their leaders according to the Constitution. Besides, the loyalty of the appointed official would be bound to the appointing Higher Government functionary and not the beneficiary local communities (Bello-Imam, 2004). The fact is that, when leaders become centrally imposed, the way official Caretaker Committees are appointed in Nigeria, accountability is jeopardized as support for and identification with the local government and its activities become difficult to achieve. The consequence is that participatory democracy at the grassroots becomes elusive.

This situation has not abated as Omar (2012) opined that the lack of understanding or deliberate mischief on the part of Governors of the provisions of the 1999 Constitution has seen State Governors capitalize on Section 7(1) to dissolve local councils...and appoint Caretaker Committees. According to him, often these committees are staffed with cronies and party sympathizers. Diamond (2009) succinctly spoke of democracy as “illiberal” in most many new democracies around the world, when he submitted that:

*What many (or most) citizen actually experience
is a mix of distressed governance: abusive police
forces, domineering local oligarchies, incompetent
and indifferent state bureaucracies, corrupt
and inaccessible judiciaries, and venal, ruling
elites contemptuous of the rule of law and
accountable to no one but themselves.*

Quoting Diamond (2009) further;

As a result, people-especially in the bottom strata of society, which in many new democracies comprise the majority are citizens only in name. There are few meaningful channels of participation and voice open to them... there are... local governments, but they do not represent or respond to broad constituents. There is constitution but not constitutionalism i.e. a commitment to the principles and restraints in that hallowed charter. There is democracy in a formal sense, but people are not still politically free. As a result there is widespread public skepticism, even cynicism and disillusionment towards democracy.

Since the return to constitutional governance in Nigeria in 1999, Governors have continued to use the local government council as machinery for rewarding party stooges, who have supported them at one time or the other to come to power. This practice has rendered local government ineffectual in carrying out its constitutionally assigned mandate of triggering development from below. This was essentially a carryover of the 1979-1983 situation as espoused by Gboyega (1987) when he submitted that:

The Second Republic of Nigeria far from making improvement to the system of electing political leadership for local government it inherited from the military regime it rather exploited, compounded and dramatized the shortcomings and loopholes in the system. It was observed that there was discordance between the politicians and soldiers on the values that local government was to serve hence the express show of non-commitment whatsoever on the part of politician... despite [this] the military leadership had taken step to secure through constitutional safeguards, the essence of the 1976 Local Government Reform [yet] the constitution was nonetheless blatantly and flagrantly abused and subverted by the politicians.

For instance, despite the provision of the 1979 Constitution that expressly stipulated that: the system of local government by democratically elected government council is guaranteed, and accordingly the Government of every State shall secure their existence under a law....; it was observed that local government council between 1979 and 1983 never enjoyed the implementation of this provision. Bello-Imam (2004) contended that, since the maiden and last election into these local government councils in 1976, no other election has been held and was in view until the military struck in 1983. Gboyega (1987) on his part averred that local government were entirely undemocratically represented as the civilian government that assumed office on 1st October, 1979 in the various state moved to dissolve

existing elected local government councils within weeks of their assumption of power. He reiterated that throughout the Second Republic no single State was able to reconstitute local government councils that were democratically elected, which saw the Governors appointing party faithfuls, loyalists and cronies into Management Committees that were selected to replace the dissolved elected councils.

Another twist was added when Gboyega (1987) argued that the act of constitutional subversion was not limited to undemocratic composition of council of local government but also included:

Creation of new local government councils leading to unreasonable proliferation of the number of local government councils so that by November, 1982, only two states (Rivers and Lagos) stalked to the number of councils inherited from military which was ten each while others brush aside all necessary procedures stipulated by the Constitution for creating new local government area with reckless abandon thereby culminating in the astronomical increase in number of local government councils from 301 to 703, all in an attempt to provide more political portfolios for party loyalist, faithful and cronies in an extended political patronage system.

Bello-Imam (2004) in his own account argued that during the Second Republic, precisely in 1983, when the military took over, the number of local government has risen to as much as 1,000 local government units by different State Governments.

Today, the situation remains the same as Rafsanjani (2014) submitted that some of the reason responsible for the sorry state of affairs of local government in Nigeria was that local government has been made appendage to the State and largely made unaccountable to the people by Governors who appointed Caretaker Committee to administer the local governments against clear provisions of the 1999 Constitutions, querying how many States have conducted proper local government council election since 1999. Waziri (2014) was of the opinion that local governments have become removed from the lives of the people to a point where some chief executives of local government no longer reside in the domain where they were selected to administer.... Basically because Nigerians at this level of governance are often deprived of the basic right of choosing their leaders as many State Governors appear more comfortable having permanent Caretaker Committees to run local government than given the people the opportunity to express their constitutionally guaranteed right.

A further violation of the provision of Section 7 (1) albeit in subtle fashion is the fact that even where local government election were held, they were mostly charades, stage managed by ruling parties to ensure that only candidates of their choice emerged victorious and returned 'elected' with unbelievable margins. Again relying on Rafsanjani (2014), in Lagos State for instance, the Action Congress (AC) later metamorphosed into the Action Congress of Nigeria (ACN) swept all the Chairmanship and Councillorship positions in the elections that was conducted in the state's 20 local government councils and 37 local council

development areas (LCDA) in 2007 and 2011. In Oyo State, the then ruling People Democratic Party (PDP) won the 33 chairmanship seats in the elections conducted by Oyo State Independent Electoral Commission (OYSIEC) on December 15, 2007, since then no other local government election has taken place in the state.

Furthermore, he asserted that in Enugu State, the ruling PDP won 15 out of 17 council Chairmanship seats and 245 of the 254 Councillorship seats leaving the All Nigeria People's Party (ANPP) with nine seats in 2007 local government election. In 2014, the local government council elections conducted in Kano saw the ruling All Progressive Congress (APC) swept 98 percent of seats, the same was true in crisis-ridden Yobe State where the APC won all the Chairmanship and Councillorship seats. Similarly, in Katsina, the PDP won all the 34 Chairmanship and 361 Councillorship seats despite been the very first time since 2008 that local government elections were held in Katsina yet majority of the opposition parties in the State boycotted the polls.

Conclusion and Recommendations

From the foregoing, it could be discerned that it has become the rule rather than the exception for opposition parties in most of the states to boycott local government elections or go to court to challenge the outcome of such election. This is a clear indicator of the undemocratic process of constituting local government councils in Nigeria, an express violation of Section 7(1) of the 1999 Constitution (amendment 2011) and a negation of the envisaged purpose of local government by which the framers of the 1976 Local Government Reforms had in mind.

The pattern without equivocation has been for State Governors to violate the provisions of the constitution on the democratic composition of local government mainly for political expedience. The State Assemblies saddled with direct responsibility for making laws for the democratic existence of the local governments have failed to check the constitutional provisions. This is true to the extent that hardly has any Governor been served with impeachment notice for unlawfully and unconstitutionally dissolving elected local government councils and appointing in their stead Caretaker Committees.

To stem this tide of aversion for constitutional provisions and lack of respect for democratic process, Diamond (2009) was of the thought that:

- i. If the people want change in leaders and policies and are able to organize effectively within the rules, they can get the change they desire,
- ii. If there is vibrant institutional checks on the powers of elected officials, by an independent legislature, court system and other autonomous agencies, then respect for laws would become possible,
- iii. If an independent judiciary that would neutrally and consistently apply the law and protect individual and group rights exist, then effort at constitutional adherence would flourish,
- iv. If there is substantial individual freedom of belief, opinion, discussion, speech, publication, broadcast, assembly, demonstration, petition and the internet, then democratic compliance could be engendered and
- v. If there is the creation of ... new [politics] which requires the generation of new set of norm arising from the change of heart of both the leaders and the led, then the adherence to rules and observation of constitution at all levels of governance could be achieved.

These suggestions to be frank is the way to go in order to inculcate democratic discipline in the polity and free various institutions and structures of the State from the

stagnation that has bedeviled the efforts at democratic operations of local government in Nigeria.

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