An Assessment of Revenue Rights and Fiscal Jurisdictions of Local Governments in Nigeria‘s Federation

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Keywords: Federation; Local Government; Revenue rights; Fiscal Jurisdiction; Nigeria.

1. Introduction

The concept of local government connotes government at the grassroots level. Local government is the most critical and essential level because it is the closest and deals directly with the citizens. It is a formal organisation set up by law and has a degree of autonomy to perform certain constitutionally sanctioned functions. Usually, local governments are created to deliver public developmental goods and services at the grassroots. To ensure bottom-up development and participatory governance, especially in federations, powers are devolved to the local government to allow citizen engagement in making and implementing policies that have a direct bearing on their lives. Furthermore, it is regarded as a platform for sustainable democratization, a framework for mobilizing resources for economic development, and a genuine tool for reconciliation, social integration, and well-being in post-conflict settings. Additionally, it serves as a means to promote a culture of good governance – politically, economically, civically, and administratively (Omotoso & Oladeji, 2016).

Historically, local governments in Nigeria have faced a lot of problems, ranging from lack of autonomy, the overbearing attitudes of both the state and central governments, and financial limitations, among others. For instance, the native authority set up by the British Colonial administration could not function without incessant interruption from the central colonial authority. The establishment of regionalism in 1945 and the quasi-federal system in 1951 set the pace for a federal structure in the country; there was the existence of local authorities whose functions (rights) were not clearly defined until 1976. It was the 1976 local government reforms that set the pace for the establishment of an independent third tier of government in Nigeria.

Indeed, finance is essential for any organization to perform its functions and responsibilities. The survival and sustainability of local government largely depend on its financial resources. (Bello-Imam, 2007). According to the 1979 constitution, the sources of revenue for local government can be categorized as internal and external. Internal sources include poll tax, community tax, property tax, user fees, benefits tax, and others. External sources consist of fiscal transfers from the central government and loans. Although these requirements are transferred into the 1999 Constitution, as amended, in reality, the state and central governments have exhibited a nonchalant attitude towards fiscal transfers to the local government. Furthermore, many of the internal revenue-generating sources for local governments have been usurped by the central and state governments. As a result, local governments are left with numerous responsibilities but few means to generate revenue and effectively carry out those responsibilities.

It is against the foregoing background that the paper examines the contentious issues in Nigeria's federalism, especially the revenue rights and fiscal jurisdictions of the local governments in the country. Thus, the paper seeks to answer the following research questions: What are the constitutionally sanctioned revenue rights and fiscal jurisdictions of the local governments in Nigeria's federation? What are the challenges confronting the revenue rights of local governments in Nigeria? What can be done to protect the revenue rights and fiscal autonomy of local governments in Nigeria? To provide answers to the questions, the paper conducted desk research by collecting data from published articles, reports, and administrative records relating to Nigerian fiscal federalism, especially local government revenues rights and fiscal jurisdictions.

2. Conceptual Clarifications

2.1. Local Government

Local government is a set of institutions, mechanisms, and processes through which grassroots citizens and groups express their interests and needs, resolve their differences, and exercise their rights and obligations at the local level (Omotoso & Oladeji, 2016). Abubakar (1993) argues that local government is consensually regarded as a government/administrative unit closer to the people at the grassroots level. It is a segment of a constituent state or region of a nation-state, established by law to provide public services and regulate public affairs within its area of jurisdiction (Abutudu 2011). As the lowest level of government and the closest to the people, the local government is constitutionally empowered to function and control its finances and personnel (Omotoso & Oladeji 2016). As a grassroots government, its responsibilities lie with the local people in whose interests the local government is created and functioned.

Oyediran (2003) has distinguished between local government and local administration. He posits that “whenever a body of people claim to represent the local people and this body is not chosen by the local people what you have is local administration”. He argues further that “there can be local administration without local government...” Thus, he defines local government as:

> Government in which popular participation both in the choice of decision-makers and in the decision-making process is conducted by local bodies, which, while recognising the supremacy of other levels of government, are able and willing to accept responsibility for their decisions (Oyediran 2003).

Furthermore, Robson (1949) argues that the local government is a territorial non-sovereign community possessing the legal rights and necessary organisation to regulate its affairs. In other words, the local government is a political subdivision of a state constituted by law with substantial control of local affairs, including the power to impose taxes and require labour for prescribed purposes. Therefore, local governments are defined entities within specific territories, possessing discretionary power, functions, responsibilities, and, most importantly, inherent autonomy. Local governments are established with the expectation that their administrative and political leaders will influence and control the decision-making process at the grassroots level without interference from higher levels of government. In practice, however, as demonstrated by the Nigerian case, local governments have become mere agents of the federal and state governments.

Any federal state that seeks bottom-up development and values participatory democracy as the guiding principle of its governance must ensure the devolution of power through local government. Aborisade (2006) notes that local government represents veritable foci of socio-economic development and democratic consolidation because it provides the medium through which the government extends its policies and implements such policies and programmes across the federation. Furthermore, the local government facilitates integrative participation in politics; since elections are held in local government areas, these serve as testing grounds for local administrators who may become national leaders in the near future.

2.2. The Concept of Fiscal Federalism

In any federal system, finance is a key aspect of the relationship between the central government and the subunits. In most federal systems, there are usually three levels of government: federal, state and local. Equity in resource sharing among the three levels of government has become a fundamental problem in the federal system. While the Constitution typically outlines the functions of each level of government and the areas in which they can operate, there remains a persistent risk that the rights of lower tiers of government, especially fiscal rights, may be violated. Fiscal federalism involves how the resources of a given state are equitably allocated and how the power and functions of each tier of government are shared.

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In the Nigerian context, fiscal federalism involves the allocation of expenditure and taxation powers shared among the federal, state, and local governments. Akindele and Olaopa (2002) hold that fiscal federalism was deeply rooted in the federal, state, and local governments. It involves the financial relationship among the three tiers of government. It is the process through which the Nigerian federal government shares the resources of the nation through the transfer of funds such as grants to the state and local governments. In Nigeria's political experience, local government has benefited little from this system of resource sharing. Consequently, this unfair system has undermined the capacity of local government to act effectively as an independent third tier of government constitutionally vested with certain rights and responsibilities (Suberu, 2004).

3. Theoretical Framework

This study is anchored on the Decentralization Theory. The theory of decentralisation effectively explains the transfer of authority and responsibility for public functions from the central government to subordinate levels, making it particularly suitable for this paper (Goode and Halt, 1952). Thus, Nigeria operates political as well as fiscal federalism. Many developed and developing economies operating under a federal system tend to decentralise certain aspects of their public finance.

The philosophy of decentralization asserts that local governments should have authority over their own development and lives (Nyerere, 1972). Decentralization means that sub-national governments or entities assume functions previously managed by the federal government, allowing them to manage their own financial resources more effectively than they could under a centralized system (Olowu, 1995).

4. The Evolution of Local Government in Nigeria

Before the colonial era, local administrations existed with defined political institutions in various traditional societies. This prompted the British colonial government to introduce the policy of indirect rule (Bello Imam, 2007: 26). The indirect rule system became the form of local administration in the indigenous societies during the colonial era. Native authority, native treasury, and native courts were also established to formally represent the local administrative structure. Notwithstanding, because it was controlled directly by the British Colonial administration, the colonial local administration was not recognized as an independent entity. During the colonial era, the colonial administration lacked legislative powers; the British resident directly supervised the traditional ruler, who was in direct contact with the people. Subsequently, the Richard constitution of 1946 through its introduction of regionalism enhanced the local authorities and laid the foundation for the local government reforms of 1976. In the 1950s, under the Macpherson Constitution, Nigeria began practising a quasi-federal system of government, which involved dividing the country into various regions. This regional division resulted in the establishment of local governments, with each region adopting its own distinct local government system.

In an attempt to ensure that there was a stable and uniform system of local government across Nigeria, the federal government embarked on reforms that eliminated the old system of local government and institutionalized a more stable system for local government growth and development in the country in 1976. The resultant reform involved the establishment of a uniform structure of local government vested with certain powers and functions. Before the reform, the regional or state governments had the power to pass legislation that ensured the establishment, composition, structure, and finance of the local governments in their domains. This system was abolished in 1979 and local government became a distinct tier of government. Currently, local governments in Nigeria have derived their powers from the 199 Constitution and not from the state houses of assemblies.

Despite the reform and constitutional changes, the interactions between the federal, state, and local governments have been characterized by conflict and competition. The central and state governments have taken over functions meant for the third tier of government. At present, local government autonomy, independence, and sovereignty have become a controversial issue in intergovernmental relations in the country. Thus, having examined the historical evolution of local government from the colonial era till date, it is pertinent to discuss some of the major challenges confronting local governments in Nigeria.

5. Problems of Local Government in Nigeria

5.1. Financial Problem

The federal structure of Nigeria restricts local governments' ability to generate and utilize revenue sustainably (Adeyemo, 2005). One of the recurring obstacles in the country's third-tier system is the declining revenue generation, as indicated by annual deficits and a lack of sufficient funds for meaningful growth and viable project development. Local governments are the nearest government to the people at the grassroots in Nigeria; they are strategically located to play a pivotal role in national development. The relationships among the nation's federal, state, and local government units, particularly regarding revenue sharing, have consistently remained significant issues in the nation’s political landscape. The encroachment of local finance by the state government has negatively affected the performance of local government in terms of its constitutional responsibilities. For instance, the setting up of state and local government joint account committees, local government service commission, ministry of local government and chieftaincy affairs, and other allied agencies at the state level have made local government financial autonomy a mirage in Nigeria (Wada & Aminu, 2014).

Indeed, the foregoing has brought up some questions about the financial rights and standings of local governments in Nigeria. How can a local government in a country ensure growth and development at the grassroots when it is financially handicapped? How can a local government perform when its revenue (from external and internal sources) is not adequate to undertake its constitutional functions? To be sure, there are just a few local governments in Nigeria that can survive without financial allocation from the central government. Unfortunately, the sections of the Nigerian constitution, which fall under the exclusive power of the various local governments to generate revenue internally, are in reality usurped by the central government. Consequently, most local governments in Nigeria depend solely on external allocations from the federation account, which is a constitutional right too. However, the external allocations in most cases are not sufficient to solve the needs of the 774 local government areas in the country. In some cases, the meagre allocations to local governments from the federation account are usually intercepted by the state governments through the state and local government joint account.

5.2. Lack of Local Autonomy

Autonomy simply implies independence and freedom. Local autonomy, therefore, means that since the local government is identified as an independent third tier of government in the country, its capacity to perform efficiently depends on the level of freedom it enjoys. Local governments in Nigeria are not effective and efficient because some of their vital functions are encroached upon by the central and state governments. The constant interference of the higher tiers of government on the powers and functions of the local government makes the attainment of an autonomous local government an illusion and unachievable in Nigeria. From the colonial administration till date, local governments in the country have not experienced full autonomy.

Local governments should be allowed to undertake actions and accept responsibility for their actions if they are to perform effectively the constitutionally assigned functions. The state House of Assembly should not overstep its authority over local governments. However, the central government retains the authority to monitor the activities of lower tiers of government (local government) and ensure compliance with standards and best practices in governance at the local levels across the country. Indeed, the central government should strictly and meticulously enforce compliance with governance standards at the local level. However, it should not neglect the functional competence of the lower tier of government (Bello Imam, 2007).

Ordinarily, local government is supposed to be the third tier of government. As a third-tier government, all local governments are meant to operate independently. Some state governors, who do not support this independence, have done everything in their power to weaken the councils so they can use their federal allocations as they wish. One instrument that gave the governors the power to control the councils is the state/local government joint accounts. Once this umbilical cord is broken, the councils can be in a position to develop their areas (Onuigbo, 2005).

5.3. Lack of Democracy and Adequate Manpower or Personnel

Local governments in Nigeria are envisioned as pivotal pillars of participatory democracy and governance. They provide citizens with valuable opportunities to engage actively in the processes of policy-making and implementation. By encouraging citizen engagement, these local institutions aim to foster greater transparency and accountability, ensuring that the voices of the people resonate in the decisions that affect their lives. This participatory approach not only empowers individuals but also strengthens the overall fabric of democratic governance at the grassroots level. However, some governors have taken advantage of constitutional lapses to undermine local democratic governance by avoiding local government elections and appointing non-elected caretaker committees to the councils. This undemocratic practice disenfranchised the citizens at the grassroots and made the leadership subservient to the state governors instead of the electorates. This creates political apathy in the minds of the citizenry and denies them their civic rights. The governors are exploiting this platform for political gain, hindering local autonomy.

Furthermore, local governments in the country face overstaffing issues, as they have little to no control over staffing. This situation increases the wage bill and leads to redundancy. The political elites in the state are utilising this situation to hire their followers and thugs, who typically would not qualify for employment in state service. The consequences of this practice include a diversion of resources towards paying salaries rather than providing services to the communities in the area. For the governors, it's a way to alleviate the pressure they face (Doho et al., 2018). Thus, most local governments in Nigeria lack adequate manpower to deliver their functions effectively.

6. Fiscal Relations in the Federal States

In the global context, the fiscal relationships within federal systems differ from one country to another. In his opinion, Bello-Imam (2009) asserts that the share of resources varies from country to country, and this is shaped by the historical antecedents and operations of its federal system. However, that is not to say that fiscal relations do not exist in the unitary government system. For instance, in Britain, 44.2% of the revenue of local authorities in England and Wales comes from federal grants, while 20.9% comes from user fees and benefit charges, sales and interest receipts, and the remaining 34.9% comes from rates (Ogbuisi, 2007). From this analysis, although a reasonable percentage of the revenue of most local authorities in Britain comes from the central government, it is interesting to note that a huge percentage of about 55.8% of the local government revenues are derived internally. Thus, local authorities have some autonomy to effectively utilise resources within their jurisdiction.

Similarly, in the United States, the local authorities enjoy financial transfer of about 37.2% while 29.2% of their revenues come from property tax and user fees, and benefit charges account for about 33.6%. It means that, in the United States, 62.8% of local government revenue comes from internal sources (Bello-Imam, 2007). It also implies that there is a degree of financial freedom for the government at the grassroots. In contrast, the share of resources in the Nigerian case is quite different. The local governments in Nigeria face significant financial challenges. Unlike in the United States and Britain, where local authorities have the freedom to generate their own revenues, the situation in Nigeria is different. The federal and state governments often take control of a significant portion of the resources that are intended for local administration, as well as the authority for local governments to raise their own funds. As a result, local governments become highly dependent on allocations from federal and state sources, which are often insufficient to meet the needs of the 774 local government areas in the country (Arowolo, 2011).

7. Fiscal Transfer and Revenue Allocation in Nigeria

Fiscal transfers to local governments are direct financial allocations from central or state governments to grassroots levels. It is crucial to note that financial transfers have significantly shaped centralized government fiscal relations around the world. In some countries, these financial transfers are referred to as intergovernmental transfers, however, in Nigeria, it is called grants or statutory allocations. The transfer of funds from the central government to local administrations is premised on certain considerations. The most important of the considerations concerns the relative reluctance of the federal government to vacate certain revenue fields for the local governments. The federal government is so reluctant even when such revenue fields are within the jurisdiction of a local government. However, Bello-Imam (2007) states that the reasons for fiscal transfer include:

I. to compensate local governments with low fiscal capacity, especially those with relatively inferior potential for raising their own direct revenue.
II. to assist local governments in coping with emergencies.
III. to control local expenditure to ensure compliance with national policies and standards; and
IV. to finance either wholly or partly the cost of services or development programmes which are for national development.

By 1976 local government reforms, the revenue allocation from the federal and state governments to local governments in Nigeria took various forms ranging from grant-in-aid to percentage and block grants. During this period, the state governments exhibited a nonchalant attitude towards fiscal transfers to local governments. After a series of investigations, the Udoji-led committee in 1976 came up with a solution to address the issue of local government financing. The committee introduced a mandatory statutory allocation to the third tier of government. This decision was further strengthened by the 1979 constitution, which gave power to the National Assembly to determine how the allocations to local governments should be made. The resolution was supported by the Revenue Allocation Act of 1981, which mandated that both federal and state governments allocate 10% of their revenues to local governments (Akpan, 2011).

Despite the reforms, fiscal transfer in Nigeria remains the most controversial and highly politicised issue. Although different strategies have been adopted to ensure that there is a smooth relationship between the central and local governments, the strategies have been futile and the problem of resource sharing lingered. Fundamentally characterising the central-local government fiscal relations is the lots of central (federal) executive interference in the revenue allocation formulae. The federal government's interference has significantly hindered local governments financially. Yet, local governments in Nigeria are given numerous functions and responsibilities by the constitution.

8. The Internal Sources of Local Government Revenue

The financial challenges facing local governments in Nigeria are unfortunately not limited to their external revenue sources, such as fiscal transfers; they also involve problems with internal revenue generation. It is, therefore, important to analyse the factors hindering the effectiveness of internal revenue sources in local government in Nigeria. There is a rapid decline in the internal sources of local government revenue and a conversely relative increase in the local government functions. In this case, the functional requirements of local governments in Nigeria are not commensurate with their revenue status, especially the condition of their internally generated revenue. Apart from this, the rapid decline in revenue allocation to local governments has been further hampered by the exploitation of resources for private interests rather than grassroots governance. Indeed, most state governments in the country usurp the vital sources of revenue of local governments, thus hijacking functions in the jurisdictions of the lower tier of government (Olson-Eson, 2005).

In most cases, the state governments ensure that the local governments do not exercise their powers of taxation on property. The internal sources of local government, which include poll tax or community tax, property tax, tenement taxes, user fees and benefit charges, are not sustainable for the local governments to undertake their enormous functions and responsibilities in their administrative area. An analysis of the various internal sources of revenue generation will help to understand how deeply the setbacks to local government finance and fiscal jurisdictions have been influenced in Nigeria.

8.1. Poll Tax or Community Tax

This is a type of tax paid by all eligible citizens in society, regardless of whether they enjoy government services (Bello-Imam, 2007). In Nigeria, every working adult citizen is under the pay-as-you-earn (PAYE) tax regime. However, the PAYE tax system is fraught with limitations: most local governments do not have constant and trusted means to enforce the collection of tax dues. Another problem associated with the tax system is that the government does not allow the tax rate to rise in line with the increase in income. For instance, from inception and up till date, the income level of Nigerian individuals has risen tremendously but the poll tax rate has remained the same.

8.2. Property or Tenement Tax

If well exploited by local governments in Nigeria, the property tax is an important source of local government revenue. Property taxes can provide significant financial benefits for local governments. For example, local governments in Nigeria, particularly those near industrial areas like Lagos and Port Harcourt, can significantly benefit from property tax revenue. One of the challenges regarding property tax in Nigeria is its lack of popularity. Additionally, higher levels of government, specifically the federal and state governments, are often hesitant to support local governments in effectively utilising this revenue source (Ewetan, 2011).

8.3. The Problems of Intergovernmental Fiscal Relations in Nigeria

Further consideration of the financial predicaments of local governments in Nigeria and the mode of resource allocation in the federation, even with historical exegesis, will help to establish the true financial position of local governments in this country.

It is a well-known fact that the share of resources in the Nigerian Federation is characterised by the federal government's dominance at the expense of other tiers of government, especially the local government.

Ogbuisi (2007) highlights significant issues related to fiscal relations in Nigeria, particularly the challenge of revenue allocation formulas. The issue of revenue allocation formulas has emerged multiple times throughout Nigeria's history. Past efforts to curb this problem involved past administrations setting up commissions to devise stable and acceptable revenue allocation formulae for the country. Indeed, the first commission was established during the colonial era. The Philips Commission of 1946 recommended two basic principles for the revenue allocation formulae – derivation and development. Before Nigeria attained independence, there were three commissions, which arrived at different recommendations. To be sure, the Hick-Philips Commission of 1951 recommended the principle of need, the Chick Commission of 1953 recommended the principle of fiscal autonomy, the Raisman Commission of 1958, the Binns Commission of 1964, the Dina interim committees of 1968, the Aboyade Technical Committee of 1978, the Okigbo Committee of 1980, the Revenue Mobilization, Allocation and Fiscal Commission of 1989, and various military decrees (revisions), particularly 1970, 1971, 1992, etc. It is worthy of note that all the commissions/committees mentioned were ad-hoc in nature except for the Revenue Mobilization Allocation and Fiscal Commission (RMAFC) which was established as a legal and permanent entity to deal with fiscal matters on a more regular basis as the need arise (Lukpata, 2013).

Furthermore, before Nigeria's independence, there were three modes of revenue allocation. The three modes of revenue allocation included (i) derivation (ii) equity (iii) population. After independence, constant military interventions in the polity which led to political instability in the system brought a series of other reforms, involving other committees such as the Dina Committee of 1968 and the Aboyade Committee of 1977. In 1977, a committee led by Dr. Pius Okigbo made several recommendations, and a revenue-sharing formula was adopted. The formula for distributing government revenue, according to the committee, is stated as follows:

Federal Government: 55%

State Governments: 30%

Local Governments: 8%

Special Funds: 7%

The current revenue-sharing formula gives the federal government 52.68%, the states 26.72%, and the local governments 20.60% (The Vanguard, 2021). The basic question then is: how can 20.60% of the nation's resources effectively solve the problems of and finance the 774 local government councils in the country? As noted earlier, the local government is the closest level of government to the people and should be a central focus in transforming a state and ensuring its economic development. But, with so little support from the federal and state governments, it is hardly possible that any transformation agenda and plan towards economic development will be realised in the country where local governments are mere establishments. Indeed, local governments cannot undertake all the functions stated in section 7 (i) of the 1999 constitution with peanut allocation granted to them by the federal government. Consequently, the main issue facing local governments in Nigeria is not just their struggle to generate funds internally, but also the inconsistency and insufficiency of revenue allocation provided by the federal government (Suberu, 2004).

8.4. Fiscal Control and the Abrogation of Local Autonomy by Higher Tiers of Governments in Nigeria

In Nigeria, fiscal control has become a problematic issue in intergovernmental fiscal relations. In this respect, the higher tiers of government have excessive control over the finances of the local governments. Indeed, most state governments tend to control the funds of local governments. Ogbuisi (2007) argues that the problem of the constant state control of local government funding has a constitutional basis. According to the 1999 constitution of the Federal Republic of Nigeria, Section 162 (5), "… any amount of standing credit of the local government councils in such terms and in such manners as may be the prescription by the state house of assembly…" This implies that the Nigerian local governments have no power on their own to determine how their affairs are run.

Okolie and Eze (2004) cited in Ogbuisi (2007) further observed that the funds, which the state governments were supposed to share among local governments, were in reality directed to state projects. Corroborating this position, Uwonedi (2002 cited in Ogbuisi, 2007) also held that the independent attitude of the state governments towards exploiting the funds of local governments became obvious when the federal government decided to allocate directly to the various local governments for the purpose of paying teachers in the state employment. It is constitutional for the federal government to allocate finance directly to local governments. The point being made here is that the state decision was not just because of its unconstitutionality, it was due to the pecuniary gain of the state governments to continue their exploitation of local government (Oghuisi, 2007).

9. Concluding Remarks

This paper examined the twin issues of revenue rights and fiscal jurisdictions of the local governments in Nigeria. The paper found that the centralised nature of fiscal intergovernmental relations gave the higher-level governments (the federal and state) undue advantage in revenue-generating power and sharing at the expense of the local governments. This not only weakened the local autonomy but also the revenue rights and fiscal jurisdictions of the local governments. To overcome this problem, the paper recommends a complete overhaul or review of the function of each level of government. Such a review should take cognizance of the respective capabilities of each level of government to perform the service assigned to it effectively. In this regard, functions that are grassroots-based like primary education, primary health care, and agricultural production should be wholly assigned to the local governments. In light of the proposed realignment of functions, there will be a need to give local governments a larger share of the federation account, e.g., 35% to 40%. Furthermore, the infringement of revenue rights of local government particularly by the states should be curtailed forthwith. Consequently, the recent Supreme Court judgement on the local government's financial autonomy must be enforced.

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