

**LOCAL GOVERNMENT SYSTEM IN A FEDERAL STATE: COMPARATIVE STUDY
OF THE FEDERAL REPUBLIC OF NIGERIA AND THE UNITED STATES OF
AMERICA**

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DECLARATION

I hereby declare that this thesis entitled “Local Government System in a Federal State: Comparative Study of the Federal Republic of Nigeria and the United States of Nigeria” has been written by me and that it has never been submitted for the award of any Diploma or Degree to the best of my knowledge.

I declare also that all materials used in the course of this research have been acknowledged appropriately by way of references.

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APPROVAL PAGE

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DEDICATION

This work is dedicated to Jesus Christ, my Master and Lord.

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First and most profoundly I acknowledge the grace of God upon my life and for making this work a reality, thank you Jesus.

I am deeply grateful for the people in my life that made the entire process of this research easy. First, I say a big thank you to my supervisor in the person of Dr. Suleiman Nchi for his immense support, assistance and encouragement throughout this research work. I pray that God will bless and reward you richly sir. I thank Mr Adekunle Adetomi for his assistance he was a huge support system during this research work. Also I say a big thank you to Michael Balogun, my colleague and friend for his assistance. I thank Marvin my classmate for his assistance with this work, God bless you. Lastly, I thank my family members for their moral support during the period. God bless you.

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LIST OF ABBREVIATIONS

Constitution of the Federal Republic of Nigeria-----CFRN

Internally Generated Revenue----- IGR

Federal Capital Territory----- FCT

ABSTRACT

This research work is based on a comparative study of the federal republic of Nigeria and the United States of America with regards to the local government system in a federal state. The study focused on the provisions where available, as well of the practice of local government system in these jurisdictions. The choice of these two countries was informed by their similarities. This is not to say that they don't have areas of differences. It is aimed at highlighting the strengths and weaknesses from these provisions of the law. The approach that was adopted in this legal research include doctrinal, historical and the comparative approaches to legal research. The local government system is a salient feature in a federal state. The local government system in Nigeria is created expressly under section 7 of the 1999 constitution with its comprehensive functions contained in the Fourth Schedule to the constitution. The constitution of the United States of America does not however expressly provide for counties or their equivalent. (local governments in America are addressed as counties, cities or their equivalent) their creation is inferred from amendments to the constitution. Counties or their equivalent are created by state constitutions because all the states in America have their own constitutions. So there is no uniformity in the administration of the local government system in the United States of America like what obtains in the Federal Republic of Nigeria. Observations have been raised from an analysis of the two systems and recommendations have been made as well. It is hoped that these research work will assist in solving some of the identified challenges plaguing the local government system in Nigeria.

CHAPTER ONE

GENERAL INTRODUCTION

1.1 BACKGROUND OF THE STUDY

By virtue of Section 2 (1) of the Constitution¹ of the country, Nigeria is known as a Federal Republic of Nigeria. The import of the foregoing is that Nigeria is a federation and consists of three tiers of government, to wit, the federal, state and local government. Whereas the first two are substantially responsible for running the affairs of the country, the third tier, i.e. the Local Government has been subsumed into the state government in clear breach of Section 3(6) of the 1999 constitution². This has understandably generated diverse opinions on the propriety or otherwise of seemingly leaving the administration of local government system in the hands of the state government more so, as we pretend to practice federalism akin to that of the United State of America. It has therefore become imperative to conduct a comparative study of the (Nigerian and United States) systems of local government administration in order to show that our brand of local government system is not working out as expected based on the intendment of the 1999 Constitution as amended. The current state of the local government system in Nigeria leaves much to be desired. It is virtually non-existent as a democratic tier of government in an ideal federalism.

1.2 STATEMENT OF PROBLEM

The local government system in Nigeria has its own attendant problems. Whereas the local government under the Constitution as amended is ordinarily for administration of specific local

¹ Constitution of the Federal Republic of Nigeria 1999 (as amended)

² Ibid

government areas, their powers have virtually been whittled down to mere revenue collection duties by state governments. This has greatly led to manifest absence of government presence in the local government areas. The resultant effect is that the common-man is unable to enjoy the benefits of government as the distance between the local government and the two other tiers of government is sometimes elongated by issues bothering on bureaucratic incompetence, nepotism and corruption.

In other cases, most fundamentally as some will argue, the absence or lack of autonomy for the local government system has been a major tool through which state governments have been able to dominate the local governments.

Furthermore, most local governments in Nigeria have been denied the opportunity for electing their leaders as the state governments have developed the penchant of appointing friends, cronies and relatives as local government administrators or through caretaker committee so called. This aberration has alarmingly spread to almost all the 36 states of the federation. For example, Anambra State has not held local government elections in more than a decade.³

In addition, items or responsibilities that are traditionally within the scope of the local government have been taken over by the state government, thereby virtually leaving the local government powerless.

These problems have elicited the following research questions:

- 1) Is the local government system still relevant in Nigeria?

³ <<http://www.elombah.com/Index.php/reports/4173-tension-in-anambra-over-non-conduct-of-ig-poll>> assessed on the 7th November 2016

- 2) Should the Constitution be amended to grant financial autonomy to the local government?
- 3) What should be the proper functions of the local government in Nigeria
- 4) Should the Constitution be amended to clearly define the manner in which elections are to be conducted into the local government areas?
- 5) How does the Nigerian local government system differ from the American local government system?

1.3 AIM AND OBJECTIVES

The main aim of this study is to identify the problems facing the local government system in Nigeria while juxtaposing same to the local government system in America.

The objective of the study consists of the following;

- 1) To consider the relevance and viability of the local government system in Nigeria under the 1999 constitution as amended.
- 2) Identifying the possible constitutional means by which local government autonomy in Nigeria can be achieved.
- 3) Identifying the functions of the local government in Nigeria.
- 4) To analyze the implication of the state government appointing local government administrators or caretaker committees for the purpose of managing the affairs of the local government in clear contravention of the 1999 Constitution as amended.
- 5) A comparative analysis of the local government system in Nigeria with that of the American system to see how the Nigerian system can be improved.

1.4 SCOPE AND LIMITATION OF THE STUDY

1.4.1 Scope of the Study

Whereas local government in Nigeria ordinarily falls under the federal system of government which understandably makes a discussion of federalism imperative, the researcher has however chosen to restrict the scope of this work to only selected local government areas amongst the 768 local government and 6 local government councils in Nigeria on the one hand and selected counties in specific states in the United States on the other hand. In doing this, the researcher would take a look at, at least one local government area in the 6 geopolitical zones.

The research will equally focus on local government administration, autonomy, management and electioneering issues between the periods of 2007 till date.

1.4.2 Limitation of the Study

In the course of this research, the researcher has identified certain constraints that may pose a challenge to the successful completion of the research work. Chief amongst the constraints is time. The task of combining a research in law with other affairs and work related issues can be time consuming. The researcher would equally be greatly constrained by the duration fixed by the faculty board for the research (thesis) to be submitted. This would therefore understandably place a limitation on the researcher in the course of conducting this research. Another constraint that the researcher may face is the dearth of materials in the area of research, particularly as it affects the local government system in Nigeria considering the fact that as a country we are not exactly very good in keeping data and records.

Furthermore, in the course of this research, it may be expedient to visit certain local government areas in Nigeria to carry out findings that will form the thrust of the study. This would ordinarily pose a challenge to the researcher.

1.5 SIGNIFICANCE OF STUDY

This study is important in several aspects. Primarily, it would bring out the underlining problems in the Nigerian local government and equally look at the specific strengths in the American local government system that are conspicuously absent in the Nigerian local government system.

Furthermore, the study seeks to proffer solutions to the underlined problems identified in the system and hopefully it will result in a better administration of the local government system in Nigeria.

1.6 RESEARCH METHODOLOGY

In the course of this study, the researcher will employ the doctrinal method of research. Doctrinal method of research entails the use of laws, books, articles and other source materials in carrying out the research.

The researcher has chosen to employ the mentioned method of research due to the nature of the topic under consideration. This method will aptly bring out the objectives of the research work. The doctrinal methodology can be further divided into different models to wit; historical, comparative and impact and effectiveness. The historical method of research simply takes a look at the history of the subject matter under consideration. Beyond this, it examines factors that have led to the modern day problems associated with local government in Nigeria. It will equally look at the future projections and viability of the local government system in Nigeria.

The comparative analysis on the other hand will juxtapose the Nigerian local government system with that of its American counterpart. It would highlight and similarities and differences of both systems.

The impact and effectiveness model looks at how this study would affect the citizens at the grassroots level. In terms of how the local government system has impacted either positively or negatively on the citizenry and also how effective the system being a democratically recognized third tier of government has been on or to the people.

The researcher would therefore adopt the historical and comparative model for the purpose of this research. In doing this, the researcher would consult a wide range of data from different sources which will include primary data like statutes, the constitution, case laws, forms and precedence etc, and secondary data like books, journals, internet sources, newspaper, dictionaries, etc.

1.7 LITERATURE REVIEW

Like Nigeria, the United States of America practices Federalism, which means there is a division of authority and jurisdiction amongst national, state and local governments⁴.

The Constitution of the Federal Republic of Nigeria 1999 as amended, which is an improvement on the 1979 constitution, makes adequate provision on the legal framework for true federalism. The features of a federation includes a supreme written constitution, a distribution of authority between federal and state government, provision for amendment of the Constitution which would involve the participation of both levels of government, etc. also there is provision for the separation of powers between the three arms of government which are; legislature, executive and judiciary⁵. The Constitution also provides for division of powers amongst the federal, state and,

⁴ The meaning of federalism <<http://www.theusaonline.com/government/state-local-government.htm>> assessed on 8th November 2016

⁵ Nigerian Education Law Journal, (2003), vol 16, No 1, p.43 <<http://www.nigerian.education.law.journal.org>> assessed on 7th November 2016

to a lesser extent, the local government⁶. The Constitution thus provides for three tiers of government with fairly well defined functions and powers. But provisions on local government are apparently less obvious thereby given rise to confusion, conflicts and uncertainty as to the extent of the powers conferred by the constitution.

The local government as the third tier of government did not attain the prominence it now enjoys until after the several reforms it had to go through. In 1979, there was a local government reforms which resulted in the recognition of the local government as the third tier of government under the 1979 Constitution. The basic intendment of the reform was to change the status of the local government by giving it a national face, the essential objective of which were uniformity and effectiveness. It is important to state that Nigeria was at the time under a Military regime; therefore State legislation on local government could not be deviated from. The 1976 Local Government Reforms paved way for the first all-important recognition and guarantee of the local government system as the third tier of government under the 1979 Constitution which was ultimately restated in the 1999⁷. The latter became imperative following certain inadequacies under the former Constitution.⁸

The researcher observes that the 1979 Constitution unlike its 1999 counterpart did not expressly provide that the state government will have power to create new local governments. This issue has been adequately addressed by the latter Constitution. The seeming improvement on the latter has not also been void of criticism from persons who feel that this is an express contradiction of

⁶ S1(1), 4, 6, 9, 162 and 84(8) CFRN 1999 as amended

⁷ <<http://www.nigerian.education.law.journal.org>> Op cit

the spirit and intent of independence intended for each tier of government obtainable under a true federalism.

Section 7 of the Constitution makes provision for the establishment, function, composition of the local government amongst other things. If the local government function as it ought to, and carry out all its functions under the Constitution, then its importance and structure will be reemphasized in the country similar to what we have in other countries that practice federalism.

It is widely believed (authors, lawyers, professionals etc) that the local government should be scrapped because their existence only appears on paper and that their effect is not felt at the very least even at the grassroots. Also, that the only time the local government is heard of seems to be at the end of the month when they go to pursue the collection of their monthly allocation from the federation account. These persons have opined that the local government serves no purpose beyond this and that is better to officially scrap them, that their continuous existence leaves room for wastage and corruption.

The researcher agrees with the stated opinion to an extent. This is because if the local government cannot serve the intended purpose behind its creation, then what is the point still having them as part of the system if they have been shown not to be fit for purpose?

Another mind boggling issue is the statutory allocation of public revenue to local government councils which is provided for by Section 162 and section 7(6) of the Constitution for both the National Assembly and the State House of assembly respectively. These sections indicate how the monies accruing to the local government from the federation account are paid to them. The manner in which these payments are made and the amount to be disbursed are dictated by the States and the National Assembly. Allocations are not made directly to the local government

councils. This is in consonance with section 7 which empowers the state to make laws on local government finance.⁹

If the local government were an independent third tier of government as acclaimed, the researcher doubts that it would not receive its allocations direct from the federation account. One then begins to wonder how a tier of government said to be autonomous cannot access funds provided solely and due to it.

Beyond the monthly statutory allocation however, the local government can attain autonomy through self-generated revenue. Unfortunately, the impression often created is that independence for the local government is only possible through greater financial independence based on the grants from the federal government.

The researcher observes that the 1999 Constitution is apparently more elaborate than the 1979 Constitution in its provisions on local government with specific reference to the number of local governments in Nigeria and the methods of creating new ones. Obviously an offshoot of the General Ibrahim Babangida's 1989 Constitution which significantly curtailed state rights in local government matters, the 1999 Constitution made it difficult for states to exercise absolute jurisdiction in changing the boundaries of local government, also mentioning them specifically in Part 1 of the first Schedule while giving the National Assembly the power to assent in the events of creation of more local governments by any states in Nigeria. It appears that the military eras created local governments and placed a clog on the wheel of the creation of more by naming these local governments in the Constitution making it absolutely difficult to create more as we now have in Nigeria. This position which gives credence to the federal control of events in the

⁹ <<http://www.theusaonline.com/government/state-local-government.htm>> assessed on 8th November 2016

various states of the federation tilts federalism in Nigeria more to the side of centralization of powers than duality or coordinate relationship¹⁰.

The Constitution of the United States of America does not expressly provide for local government. The Constitution clearly only recognizes the national government and the state government. Local governments however exist in America but they are strictly within the sole preserve of individual state governments. States in America create local governments. In their organizational structure, power, responsibilities, effectiveness and other matters vary from state to state as each state has a unique and separate constitution unlike Nigeria where there is only one for all the tiers and people of the state. A number of states in America empower their cities with various forms of Home Rule- the right to enact and enforce legislation in certain administrative areas. What the home rule does is to give the concerned states a measure of independence, self-government and freedom of action in those areas. Such that when conflicts arise between matters contained in the home rule, the councils can rely on their own rules and rightly so. In contrast, county governments, which are the main units of local government in rural areas, tend to have little or no legislative power, and control over local governments.¹¹ Instead, they serve as administrative units, performing the specific duties assigned to them under state law.

The practices of local government administration in Nigeria and America have very many similarities. Looking at their features in isolation, there are only slight differences. Also in practice and the workings of their local government one can hardly find any difference. Similar

¹⁰ Nkolika Obianyo, 'Federalism, Constitutionalism and Local Government System in Nigeria: The Need for Constitutional Amendment' in Warisu o. Alli (eds), Political Reforms Conference, Federalism & The National Question in Nigeria, (The Nigerian Political Science Association, 2005)

¹¹ <<https://www.google.com.ng/amp/local.government.in.America>> assessed on 17th February 2017

provisions adorn their Constitution and even those of other advanced democracies. It is common to find provisions for states to determine the powers of the local government.

1.8 SYNOPSIS OF CHAPTERS

This thesis consists of six chapters broken into several sub-chapters.

Chapter One

This chapter covers the general introduction with specific reference to the background of the study, statement of the problem, aim and objectives, scope and limitation of the study, significance of the study, research methodology and literature review.

Chapter Two

This covers the conceptual and theoretical framework of the study. In the course of this chapter, the researcher would attempt to define local government. The researcher would further focus on the historical development of the local government system in Nigeria, taking particular cognizance of the communal origin and the eventual colonial influence on the structure on ground at the material time. Efforts will equally be made to examine the general nature, structure and purpose of the local government system in Nigeria.

Chapter Three

This chapter borders on the constitutional framework of the local government system in Nigeria with particular consideration of the provisions laid down by the constitution for the establishment of the local government. In this chapter the researcher will analyze the function, financial autonomy and the general administration of the local government system in Nigeria. The vexed issue of local government financial autonomy would be given considerable attention in order to demonstrate its effect on the management of the local government council.

Chapter Four

The penultimate chapter is an examination of the constitutional framework of the local government system in Nigeria. In this chapter, the constitutional framework of the local government system in the United States of America will form the subject of consideration. The researcher will look at the particular provisions laid down by the constitution for the establishment of the local government system in America and their functions. In doing this, the researcher, like in the Nigerian situation, would look at the autonomy, general administration and financing of the local government in the United States of America.

Chapter Five

The chapter will examine of the constitutional framework of local government system in Nigeria and the United States of America. In the course of this chapter, the researcher would highlight certain features from both the American local government system and the Nigerian local government system and then, attempt an in-depth comparison of both systems. The merits and demerits of both systems would equally be considered. The relationship between the local government and the state government and also that between the local government and federal government will be discussed. Lastly, the general administration in both systems will be discussed.

Chapter Six

The last chapter deals with the summary of findings arrived at from the aforementioned chapters. The researcher will make observations and recommend possible solutions to identified problems. In addition, the researcher will attempt to state the contributions to knowledge this work has made and finally state the conclusion to the work.

CHAPTER TWO

CONCEPTUAL AND THEORETICAL FRAMEWORK OF THE STUDY

One major reoccurring decimal in the Nigerian federal system is the effort of the central and state government to clip the wings of the local government from flying at all, in the bid to have them completely consumed by the flaming powers of the centre and state respectively.

The confusion surrounding the nature and character of federalism in Nigeria has led to the popular notion that Nigeria is yet to come to terms with the tenets of true federalism. Currently, an old problem has arisen in a new wine skin- the problem of who has the final say in matters of local concern or local governments. Is it the federal or state government? All these problems are pointers to the anomalies in the federal structure/culture of the Nigerian state¹².

2.1 WHAT IS FEDERALISM

The term federalism has attracted a wide variety of meanings and definitions without losing its essential characteristics or content. Simply put, federalism connotes a method of power division or power sharing in a political system. Thus, K.C Wheare, a foremost classical writer on this concept wrote “by the federal principle I mean that method of dividing powers so that general and regional governments are each within a sphere, co-ordinate and independent”¹³.

The principle according to Wheare involves certain uncompromising qualities. These qualities include;

- a) The division of powers amongst levels of government;

¹² Nkolika Obianyo, ‘Federalism, Constitutionalism and Local Government System in Nigeria: The Need for Constitutional Amendment’ in Warisu o. Alli (eds), Political Reforms Conference, Federalism & The National Question in Nigeria, (The Nigerian Political Science Association, 2005) p175

¹³ ibid

- b) Written Constitutions showing this division; and
- c) Co-ordinate supremacy of the two levels of government with regards to their respective functions
- d) The powers to amend the Constitution to be exercised by both levels of government acting in cooperation.

2.1.2 Definition of Local Government

There is no consensus on the exact definition of Local Government. The concept has been defined in various ways. The lack of a generally acceptable definition does not however diminish its importance. Rather, Local Government has assumed some level of prominence over the years.

The Federal Government of Nigeria, through the 1976 Local Government Reforms, explained local government as follows: “Local Government is Government at local level through representative councils established by Law to exercise specific power within defined areas”

The United Nations office for Public Administration explained Local Government as: A political division of a nation (in a Federal or State system) which is constituted by Law and has substantial control of Local affairs including the power to impose taxes to exact labour for prescribed purposes.

The Encyclopedia Americana¹⁴ defines Local Government as “a political subdivision of national government or in the case of Federal system, a subdivision of regional Government”.

¹⁴Encyclopedia Americana International Edition (1978) vol 17 <<https://google-whatc-is-local-government-definition-of-local-government-safari>> assessed 6th November 2016

Local Government is the administration of a particular town, country or district with representatives elected by those who live there.¹⁵ It is an administrative body for a small geographic area, such as a city, town, country or state. A local government will typically only have control over their specific geographic region, and cannot pass or enforce laws that will affect a wider area.¹⁶

Local Government is a form of public administration which, in a majority of contexts, exist as the lowest tier of administration within a given State. It is a form of decentralization of power to the lowest level of government.¹⁷

The term has also been referred to as the government of the people at the grassroots. This is because it is the closest to the rural world. It is an independent and co-ordinate third tier of government which administers its area of jurisdiction. The essence of Local Government is to provide administrative convenience for upper levels of government.¹⁸

In other words, Local Government is a political and an administrative body saddled with the governance and development of a small geographic area under its purview, such as a city, town or county, as it is known in some countries. Better still, to put it simply, a Local Government is a body saddled with the responsibility of meeting the yearnings of the people at the grassroots¹⁹.

Though these definitions may tend to vary, yet they expose features characteristic of Local Government, among which are that;

¹⁵ What is local government? <<http://www.google.com/search?q=what+is+local+government&ie=UTF-8&oe=UTF-8&hl=en-ng&client=safari>> assessed 7th November 2016

¹⁶ Ibid

¹⁷ Ibid

¹⁸ National Open University of Nigeria, Course Guide, Comparative Local Government Administration, <<https://comparative-local-government-system-in-nigeria-safari-google>> assessed the 6th November 2016

¹⁹ Dimeji Daniel, < <http://dailypost.ng/2013/02/02/dimeji-daniels-repositioning-the-local-government-system-for-effective-grassroots-development>> assessed on 7th November 2016

- i) Local Government is government at the local level,
- ii) It has its autonomous existence and endowed with a legal status,
- iii) Specific powers are reserved for it
- iv) It can impose taxes and incur expenses
- v) It exists within a defined territory
- vi) It is seen as a distinct tier of Government
- vii) It must provide authority over a given population
- viii) It must provide avenues for the promotion of the welfare of the members of the community
- ix) It comprises elected members, such as chairman & councilors.²⁰

2.2 HISTORICAL DEVELOPMENT OF LOCAL GOVERNMENT SYSTEM IN NIGERIA

Local Government system in Nigeria is a creation of British colonial rule. Local Government as a system experienced various changes in name, structure and composition. It has evolved over the years to what we have today as a system. In other words, it is a cumulative decades of history, politics and political evolution. It is a hybrid of traditional and western systems that have journeyed from pre-colonial, through the colonial and the post independent era.²¹

The administration and development of this system in Nigeria has, historically undergone a number of epochs; Native Authority or indirect Rule system, Local Administration system, democratization of the system and the separation of traditional/emirate council from democratic

²⁰ Henry Agbeso, The Role of Local Government in Grassroot Development & the Attainment of the Millennium Development Goals {<http://ihuanedo.ning.com/m/blogpost?id=2971192%3A83577>

²¹ Nwekeaku Chalie, Local Government in Nigeria: Trends & Dynamics, (Onaivi Printing & Publishing co. Ltd, Keffi, Nasarawa State, Nigeria, 2007)

Local Government system. The last of these epochs is the most spectacular in the way it deepened and still deepens democracy at Local Government level. To date, this last epoch has had not less than eight reforms. To wit;

- The 1976 Guidelines for Local Government
- The 1979 Constitution of the Federal Republic of Nigeria
- The 1984 Dasuki Report on Nigerian Local Government system
- The 1988 Civil Service Reforms in the Local Government system
- The 1989 Constitution of the Federal Republic of Nigeria
- The 1992 Handbook on Local Government on Local Government Administration
- The 1999 Constitution of the Federal Republic of Nigeria, and
- The 2003 Review of Local Government Councils in Nigeria²².

These epochs have all contributed and documented the changing nature of Local Government System in Nigeria right from the days of Native Authority system to the present democratic one. The British Colonial authorities brought contemporary Local Government administration to Nigeria.

Before the colonial contact however, the different ethnic groups in Pre-Nigeria communities had their respective political systems. The Yoruba political administration revolved around the “town” and “Oba” (king) and his council of chiefs. The Hausa-Fulani had the “Emir” at the

²² Olasupo F.A and Fayomi I.O, Historical Epochs and Local Government Administration in Nigeria: Women and the poor, (2012) (12) GJI <http://socialscienceresearch.org/index.php/GJHSS/article/view/33/308> retrieved on the November 2016

Centre of administration while the Igbo practiced age-group administration with the elders and young people playing prominent political roles. These earlier traditional political practices were condemned by the British Colonial masters and the systems were labeled primitive.²³

Effectively the rudimentary form of Local Government administration by the British started shortly before 1900AD. The system started with the establishment of Native Authorities which was a system of indirect rule administered through the traditional rulers. It was called indirect rule because the colonial masters were ruling through traditional rulers who were more visible to the people than the Europeans.²⁴

The British colonial masters adopted indirect rule system for many reasons which obstructed direct rulership. These reasons include:

- Language Barrier
- Shortage of funds
- Shortage of British personnel to directly man all administrative posts.

Traditional rulership was already in place in the place in the Yoruba & Hausa-Fulani parts of the country where the “Obas” and Emir respectively had some degree of administrative control over their people. The system therefore recorded a degree of success in the two regions whereas it failed woefully in the Eastern Nigerian because of the lack of instituted traditional authority that

²³ Op cit National Open University of Nigeria Course Guide, Comparative Local Government Administrative, pg 65

²⁴ Ibid pg 66

could be identified in one person, implying lack of centralized authority gap, the colonial masters appointed warrant chiefs for the purpose of local administration in the area.²⁵

The people rejected the warrant chiefs as they lacked legitimacy in their traditional law and customs. More so, the warrant chiefs abused their position by engaging in corrupt practices, and they severely taxed the people and thereby instigated the women riot of 1929 against the British colonial government²⁶. The riot led to the over-hauling of the warrant chiefs problem coupled with other difficulties indirect rule faced in general, the system of indirect rule was re-organized between 1930 and 1940 leading to the establishment of chiefs-in-council and chiefs-and-council in place of sole Native Authorities.²⁷

In both cases, traditional rulers despite being uneducated made up composition of the two councils. In chief-in-council, the traditional rulers shared authority with the council, while in chief-and-council, traditional rulers assumed the chairmanship of the council. Eventually, non-traditional rulers were made members of the Native Authorities in the east and west. With the new development in these areas of the country, the Native Authorities gradually became a training ground for future political leaders.

Even though it was an innovation on the part of the colonial masters, the continued agitation from the educated elite of the region paved way for the collapse of the Native Authorities system. These anti-colonial agitators remained unrelenting in their criticism, this coupled with some other problems the system encountered ultimately led to its total breakdown. To this end,

²⁵ *ibid*

²⁶ Aba Women Riot 1929 <<http://blackpast.org/gah/aba-womans-riots-november-december-1929>> assessed 23rd November 2017

²⁷ Orewa, C.O. and Adewumi J.B. (1983) *Local Government in Nigeria, the changing scenes*, [Ethiopian Printers, Benin City 1983] <<http://www.google.search.localgovernment.in.preindependent.nigeria>> assessed 23rd November 2017

the colonial administration introduced some reforms between the years 1950 through 1955. These reforms though predate the 1976 reforms; they did not have remarkable influence on the system as much as the latter did.

The reforms brought about the Local Government Ordinance of 1950 which introduced elected councils with a three tier structure fashioned after the British pattern. The Structures were the counties, districts and local councils. It also brought an end to leadership control by the district officers over the councils.

Notwithstanding the national reforms that cut across the entire country, within the years, the several regimes that came to power introduced reforms which further impacted on the regions at different times. For instance, in the Western Region, reforms started in 1952 while in the Eastern Region, reforms did not start until around 1955 with the Local Government Law of 1955 which replaced the 1950 law. In the Northern Region, the Native Authority Law No. 4 of 1954 existed until the coup which brought the military government to power in 1966. The existing structure under the law remained the same until then. So, the 1976 Local Government Reforms established a uniform one-tier system of Local Government into the practice throughout Nigeria.

2.3 GENERAL NATURE AND STRUCTURE OF LOCAL GOVERNMENT IN NIGERIA

The Local Government has become a critical and strategic unit of administration for grassroots development and national transformation the world over. The idea of a Local Government is the realization of the fact that the central or State government is too far or distant from the people, and therefore, its policies and programmes may not be actively imparted on the people for the desired results.

Nigeria as a State has a colonial history, therefore a lot of her institutions are structured by the pattern handed down by the colonialist, and the Local Government administration was not left out. The British style of governance was imposed to replace the hitherto political arrangement referred to as traditional and primitive which had to be done away with. They ruled indirectly through the traditional rulers in the Northern and Western Regions as direct rule was not possible at the material time considering the constraints informed by factors such as language barrier, personnel and funds. Indirect rule therefore became imperative.

The traditional rulers remained prominent in the Native Authorities until the educated Nigerians agitated for reforms leading to the establishment of local councils with elected councilors and some measures of autonomy, thus paving way for modern Local Government system since the 1930s through to 1960 when Nigeria had independence.²⁸

Until 1976 there was no single structural design for Local Government in the country, that is, there was no uniform Local Government system. Following the introduction of the national Local Government Reforms however, Local Government in Nigeria virtually have a common administrative structure. The reforms established a multi-purpose single tier Local Government system thereby bringing uniformity to the system hitherto characterized by unwieldy administrative system latter the twelve existing State, before the nineteen States structure in 1976²⁹ and how the 36 States structure being patterned in the same manner.

Some of the structures put in place for a Local Government by the Nigerian Constitution include setting a lower and upper population limits to qualify locality for a Local Government Council. A Local Government Area should not have a population less than 150,000 and may not be more than 800,000 for easy accessibility to the citizens for effective performance. The

²⁸ NOUN op cit pg 71

²⁹ Ajayi Kunle, Trends in Local Government in Nigeria, (2000) in Ajayi Kunle, Theory and Practice of Local Government, (Ado-Ekiti, University of Ado-Ekiti 1990-1999) pg 52

Reforms also made provision for an elected Chairman and four supervisory councilors who constitute the executive cabinet of the locality which later having specific portfolio, for instance, supervisory councilor for Education. The Chairman and the entire councilors in the council constitute the executive and general purposes committee of the council which is responsible for the budget and financial management of the council.³⁰

Below the political appointees are the civil servants of the Local Government council including top officials such as the secretary, treasurer, works director, medical director and the other employees.

This structure that was put in place by the 1976 Reforms remained so until when the legislative arm was introduced into the Local Government by the then Military administration headed by General Ibrahim Babangida. The regime was also responsible for increasing the number of Local Government councils from 301 to 43 and again to 589 between 1976, 1989 and 1991 respectively. More councils were further created making up a total of 776 Local Government councils when we have today as per section 3(6) of the constitution.

It is important to note that within the period of 1976 till 1999 marked by Military rule, the structure of Local Government were intermittently governed by elected councils and sole administratorship or caretaker committee system.

Following the return to democratic administration, the country has since the 29th May 1999 being governed by provisions of the Constitution. The Constitution makes adequate provisions for the Local Government in the following terms;

‘the system of local government by democratically elected local government councils is under this Constitution guaranteed; and accordingly, the Government of every State shall subject to section 8 of this Constitution, ensure their existence under a Law

³⁰ NOUN op cit

which provides for the establishment, structure, composition, finance and functions of such councils.

These functions conferred on the Local Government include those set out in the fourth schedule to the Constitution.

Beyond the forgoing and for purpose of clarity, the structure of the Local Government at the grassroots level in a presidential system like ours include but by no means limited to the legislature and the executive, the judiciary being absent.

The Executive Arm

The Executive arm in the Local Government system consists of the Chairman, vice Chairman, Supervisors and secretary of the council. The Chairman of Local Government council is the Chief executive and accounting officer of the council. The Secretary of the council and the Supervisory councilors are appointed by the Chairman of the council³¹.

The Legislative Arm

The Legislative arm of the Local Government council is composed of the leader of the council and other councilors. The functions performed by the Legislative arm are defined by law but especially include the following;

- a) Debating, approving and amending the annual budget of the Local Government.
- b) Vetting and monitoring the implementation of projects and programmes in the annual budget of the Local Government.

³¹ <<http://socialscienceresearch.org/index.php>> assessed the 9th November 2016.

- c) Examining and debating the monthly statement of income and expenditure rendered to it by the Chairman of the Local Government.
- d) Advising, consulting and liaising with the Chairman of council.
- e) And performing such other functions that may be assigned to it from time to time by an edict or law of the State in which it is situated³².

There may be other theoretical structurization of the Local Government. These may be categorized into the following³³.

Administrative Structure

This is where the Chairman, Secretary, Supervisory Councilors and Heads of Departments are involved.

The Financial Structure

This structure caters for the Treasurer and Auditor General of the Local Government.

The Committee Structure

Under this part is where you have all the several committees, both standing and ad hoc committees. Some of these committees would include;

- a) The Financial and General Purpose Committee
- b) Education Committee
- c) Works and Housing Committee

³² ibid

³³ ibid

- d) Health and Environmental Services Committee
- e) The Police and Community relations Committee
- f) Agriculture, Rural and Social Services Committee
- g) Financial and Economic Planning Committee.

The Personnel Structure

This portion is headed by the head of personnel. The Personnel Department is responsible for the personnel of all Local Government which acts in liaison with the Local Government Services Commission, which is charged with responsibilities of staff discipline, welfare and training in the Local Government.

Due to the concomitant democratic resonance of modern Local Government system, the Political Structure of the Local Government tends to overshadow other structures and thus remains pivotally significant³⁴.

2.4 GENERAL PURPOSE OF LOCAL GOVERNMENT IN NIGERIA

The practice of local government is critical to federalism. It provides the opportunity for local groups to have autonomy in respect of local matters that are peculiar to them. It is often said that when the purpose of a thing is not known abuse is inevitable. The purpose of Local Government is to provide a system under which councils perform the functions and exercise the

³⁴ ibid

powers conferred by or under their Act and any other Act for the peace, order and good government of their municipal districts.³⁵

The importance of Local Government lies in sustaining the democracy. If democracy has to function properly as many citizens as possible should be encouraged and provided with opportunities to participate in activities which concern their governance at the grassroots. In the long run, we may discover that the progress achieved under such democratic government is more firm and solid as it would require involving everyone at that level.

As the government at the grassroots, the Local Government serves the purpose and intent of the Government at the center howbeit within its geographical competence. The Constitution of the Federal Republic of Nigeria clearly provides for the purpose which the Local Government serves. This is contained in Section 7³⁶ of the constitution.

Section 7(2) (b) identifies

- (i) The common interest of the community in the area,
- (ii) Traditional association of the community, and
- (iii) Administrative competence “as prerequisites that should be considered in creating Local Councils, while subsection 3 of the same section shall be the duty of a Local Government council within the State to participate in economic planning and development of the area referred to in subsection 2 of this section”³⁷

The following can be unarguably proffered as the major purposes of a Local Government area in Nigeria;

³⁵What+is+the+purpose+of+local+government <<https://www.google.com.ng/search?client=safari> assessed 8th November 2016

³⁶ S 7 subsection 2 & 3 of the CFRN as amended and in the Fourth Schedule thereof

³⁷ ibid

- To bring governance to the people owing to the vastness of the country, the presence of both the Federal and State Governments cannot be readily felt by the people at the grassroots. To prevent the neglect that would result therefrom, Local Governments were then created to bring government presence and activities closer to the people and to serve as an avenue via which the people can be educated in government policies.
- Also, another obvious reason for the creation of Local Government is administrative convenience. There are many functions that will be too difficult for the Federal and State Governments to perform effectively due to their distance from the people. Some of these functions are listed in the Constitution³⁸, there is no way the Federal and State Government can effectively attend to all the functions listed therein.

³⁸ Fourth Schedule to the CFRN 1999 as amended.

CHAPTER THREE
THE CONSTITUTIONAL FRAMEWORK OF A LOCAL GOVERNMENT SYSTEM
IN NIGERIA

3.1 ESTABLISHMENT OF THE LOCAL GOVERNMENT BY THE CONSTITUTION

The Constitution³⁹ provides for the establishment of a local government system. By virtue of section 2 subsection 2, section 3 subsections 1 and section 3 subsection 6 of the Constitution, the respective tiers of government within the Federal Republic of Nigeria are established. The areas covered by each State as well as the Federal Capital Territory are clearly spelt out in section 3 subsections 2 and 3.

Section 3 subsection 6 provides expressly for thirty six States and a Federal Capital Territory (by their existing names) also expressly provides for 768 existing local government areas named in the second column of part 1 to the first schedule of the Constitution thus laying to rest the earlier controversy on this subject under the 1979 Constitution.

For the establishment of the local government council by the Constitution, it is very important to herein reproduce section 7. It provides that;

- (1) The system of local government by democratically elected local government councils is under this Constitution guaranteed; and accordingly, the Government of every State shall subject to section 8 of this Constitution, ensure their existence under a Law which provides for the establishment, structure, composition, finance and functions of such councils.

³⁹ Section 7 CFRN 1999 as amended

(2) The person authorized by law to prescribe the area over which a local government council may exercise authority shall-

(a) define such area as clearly as practicable; and

(b) ensure, to the extent to which it may be reasonably justifiable, that in defining such area regards is paid to -

(i) the common interest of the community in the area,

(ii) traditional association of the community, and

(iii) administrative convenience.

(3) It shall be the duty of a local government council within the State to participate in economic planning and development of the area referred to in subsection (2) of this section and to this end an economic planning board shall be established by Law enacted by the House of Assembly of the State.

(4) The Government of a State shall ensure that every person who is entitled to vote or be voted for at an election to a House of Assembly shall have the right to vote and be voted for at an election to a local government council

(5) The functions to be conferred by Law upon local government councils shall include those set out in the Fourth Schedule to this Constitution.

(6) Subject to the provisions of this Constitution-

(a) the National Assembly shall make provisions for statutory allocation of public revenue to local government councils in the Federation; and

(b) the House of Assembly of a State shall make provisions or statutory allocation of public revenue to local government councils within the States,

3.2 FUNCTIONS AND AUTHORITY OF THE LOCAL GOVERNMENT IN NIGERIA

Local governments are constitutionally empowered with authority to perform certain responsibilities. These responsibilities are basically primary functions which upper level of governments are not expected to partake in. Besides, being primary functions, they are also limited in scope as services rendered are on a smaller scale in correspondence with the smallness of population being served and the resources at their disposal.

They are designed to stimulate local initiative and creativity, accelerate economic and social development, provide surveillance and internal security as well as promote democracy, good governance and transparent governance at the grassroots.

The Fourth Schedule of the 1999 Constitution states the functions of a local government council in the following terms;

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 homes for the destitute or infirm,
- d) licensing of bicycles, trucks (other than mechanically propelled trucks) canoes, wheel barrows and carts;
- e) establishing, maintenance and regulation of slaughter houses, slaughter slabs, markets, motor parks and public conveniences;
- f) Construction and maintenance of roads, streets, street lightings, 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 and maintenance of public conveniences; sewage and refuse disposal;
- i) registration of all births, deaths and marriages;
- j) assessing of privately owned houses or tenements for the purpose of levying such rates as may be prescribed by the House of Assembly of a State; and
- k) control and regulation of-
 - (i) outdoor 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 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.

The stated functions are those expressly mentioned, from the wordings on the last paragraph one can however infer that these functions are by no means exhaustive as the State may exercise the right to confer more on the local governments when occasion warrants.

Local governments are established to perform functions that encourage development of the area. The aforementioned functions are meant to be religiously implemented by local government authorities in Nigeria. However, over the years, critics do not see any meaningful reason why local governments should still be in existence in Nigeria. They are of the opinion that the system has outlived its usefulness and is better scrapped.

3.3 AUTONOMY OF THE LOCAL GOVERNMENT SYSTEM IN NIGERIA

There are many unresolved issues that continue to linger over the administration of local government in Nigeria. Importantly however, is the question as to the position of the autonomy or otherwise of the local government system. The hallmark of a federal system of government is a relative autonomy enjoyed by all levels of government, as all of them derive their existence, power and authority from the very same source.

The creation of the local government council is guaranteed by the constitution.⁴⁰ The same section which provides for the local government existence also ties it to the apron-string of the State government, which manipulates the council for political expedience rather than and political economic development⁴¹.

Section 162(5) of the constitution worsens the predicament of the local government when it stipulates that “the amount standing to the credit of local government councils in the Federation Account shall be allocated to the states for the benefit of their local government councils on terms and in such manner as may be prescribed by the National Assembly. This appears to be a trust arrangement where the State holds the local government in trust. It suggests that the existence of any local government depends solely on the pleasure, whims and caprices of the State.

It means that since the State government receives the monthly allocation from the federation account, it also disburses the funds to the local governments at its conditions, pleasure and convenience. This act contradicts principles of federalism, which is characteristic of independence of its units, self-development and initiative.

⁴⁰ Section 7 of the CFRN 1999 as amended

⁴¹ Nwaekeaku Charlie, Op cit

The implication of the above condition is that the local government does not have freedom to operate without recourse to State Government, which is expected to give either tacit or formal approval before any self-initiative could be implemented. To embark on any project without the blessing of the State is an invitation for trouble by any local government.⁴²

The activities of both the Local Government Service Committee and the Department of Local Government in the Governor's office constitute great impediments to the autonomy of the local government. Though their activities are rationalized on the ground of standardized services and efficient operations at the local government, the fact remains that the councils are directed, or even coerced into certain actions that they ordinarily will not observe.⁴³

The State imposition of policies and programmes on local governments in whatever guise is a threat to the latter freedom. The freedom of local governments in Nigeria is rationalized thus:

- a) Variety of human needs: To avoid a system of government which tries to super-impose the wishes of a section of the country on others, and
- b) Certain services by nature are local: To deprive local governments their freedom to discuss and decide on them is to override the localness inherent in such services. For example, the citing of cemeteries and the collection and disposal of refuse. Local freedom is non-existent when local governments are deprived of initiative in the provision of such assigned local services.

⁴² *ibid*

⁴³ I.B. Bello-Imam (1976) *Local Government in Nigeria Evolving a third Tier of Government*, Hanemann Education

The 1976 local government reforms was amongst other things majorly intended to give a measure of freedom to the local government thereby enabling it initiate policies and programmes that would satisfy the basic necessities required the people at the grassroots.

The military government at the time observed thus;

Local government has over the years suffered from the continuous whittling down of their power. The State governments have continued to encroach upon what would normally have been the exclusive preserve of the local governments.⁴⁴

Despite the above observations and subsequent reforms, local governments are yet to enjoy a modicum of freedom because of the existence of some legal and extra-legal provisions which tend to whittle down their autonomy, as they are frequently teleguided by the State government.

3.4 ADMINISTRATION OF THE LOCAL GOVERNMENT SYSTEM IN NIGERIA

In Nigeria, local government is the third tier of the administrative structure following the Federal and the State government so to speak, the local government is the closest structure to the people since it has to do with the grassroots. And of course, that means, the local government is a crucial variable as far as rural area development is concerned.⁴⁵

The functions of local government aforementioned which are meant to be religiously implemented have not been. This has contributed to the arguments of people who question the administration of the local government in its entirety. They have questioned the relevance of the local government administration in Nigeria.

⁴⁴ Samuel Humes and Robert F. Ola [1994], Government and Local Development in Western Nigeria, Ethiope publishing company Ltd, Benin, p165

⁴⁵ <<http://www.google.com.ng/amp/naijaquest.com/local-government-administration-in-nigeria-problems-and-prospect/amp/?client=safari>>. assessed 24th November 2016 around 9.00am

Many Nigerians crave for change in the local government system as presently constituted in order not to only bring it in conformity with the present day realities but also to make it live up to the expectations of the people who have been yearning for grassroots development. The failure of the local government in the area of service delivery has made the citizens lose trust

in government under section 7 of the Constitution and its importance to the people at the grassroots level. This third tier may not to have justified the purpose of its creation.

The school of thought calling for the abolition of the local government system has premised their arguments on some puzzling questions to wit;

- Is local government administration relevant in Nigeria?
- Can the local government be better administered?
- Why has the government not lived up to its expectations?
- What are the causes of these seeming conspicuous weaknesses?
- What are the challenges of local government system in Nigeria?

At the helm of affairs of the local government administration is the chairman, who is both the chief executive and accounting officer of the council. He administers the local; government with the vice-chairman, the secretary and the supervisory councilors, who form the executive arm of government⁴⁶.

The chairman leads the executive team in initiating and implementing policies and programmes of the council. The executive mobilizes human and material resources of the councils within its

⁴⁶ Nwaekeaku Charlie, Op cit

constitutional powers and functions. The chairman directs the affairs of the local government as he assigns functions or responsibilities to the vice-chairman, the secretary and the supervisory councilors, and coordinates their activities for the realization of the goal of the council.⁴⁷

Accordingly, he presents the budgets to the council for consideration and approval, as well as liaises with the legislature in order to harmonize their relationship within the local government council.

The secretary to the local government is an appointee of the chairman. The latter heads the team of bureaucrats that implement government programmes and policies. This team includes the head of personnel, the head of accounts, the head of audit, amongst others; most of these personnel are state civil servants. These civil servants, who are staff of the state ministry of local government, represent the state government at the local government. They are essentially to ensure full implementation of the state government economic and development programmes at the grassroots.

The appointment, deployment, promotion and discipline of the senior staff at the local government are done by the State Local Government Service Commission. These categories of staff are therefore responsible and accountable to the state commission. The junior staff counterparts who are appointed and deployed by the local government are responsible to the council. The State Commission provides a unified service in all parts of the state, thus guaranteeing the availability of experienced and skilled manpower in the local governments.

Notwithstanding the overbearing presence of the state ministry of local government, the bulk of the council activities are implemented by the executive committee headed by the chairman. The

⁴⁷ ibid

chairman shall delegate substantial parts of his administrative and financial functions and authority to the vice-chairman, supervisors and the secretary who shall be fully involved in the key decision-making processes. There shall be further delegation of power and functions down the line in each local government departments.

The council has persons elected into the office of the leader, deputy leader and the councilors who administer legislative functions. These functions amongst other things include; approving the raising and spending of the council, in other words the budget. The local government legislative chamber is a single chamber one labeled after those of the states. The judiciary is controlled by the state because the personnel who make up the staff of the judiciary belong to the State Judicial Service Commission. The commission appoints, promotes and disciplines them. The magistrate, the clerk and other judicial staff are the major machinery that make up the local government judicial arm. In its administration the judiciary acts as a control on the activities of both the legislature and the executive arms to ensure that they observe to act and observe due process in all their programmes and policies.

The separation of these organs provides for checks and balances in the administration of the council. The councilors can call the executive team to order by refusing to approve any programme or policy that fails to conform to due process. The legislature may decide to withhold approval to the budgets forwarded by the executives. In extreme cases they may move for the impeachment of the chairman and the vice and if the motion is supported by the majority it becomes the decision of the house.

The executive can exercise control over the legislature by refusing to give its assent to bills passed. They may equally refuse to implement any ill-conceived legislation, as well as starve the legislative arm of funds; thereby making its functioning difficult.

The senior staffs of the local government council are recruited, deployed, promoted and disciplined by the State Local Government Service Commission. Their loyalty does not therefore lie with the local government as nothing they do can be punished or reacted to. This has made them disobedient to the directives of the latter with impunity. The judiciary is not also different. The state government through its ministry of justice recruits, deploys, promotes, disciplines and controls its staff in the courts within the local government. This is however a little different because it guarantees justice to all citizens of the local government council.

The law has ample provision guaranteeing separation of powers amongst the three organs of government in the local government. If the separation of powers guaranteed in principle by the Constitution is put into practice, then the rule of law will thrive at the third tier of government in Nigeria.

3.5 FINANCING THE LOCAL GOVERNMENT SYSTEM IN NIGERIA

The functions and administration given the local government by the Constitution may remain only an article of faith if there is no corresponding financial muscle to implement them.

Section 162 of the Constitution is to be read together with section 7 subsection 6 which expressly grants legislative powers to both the National Assembly and States Houses of Assembly to make laws in respect of statutory allocation of public revenue to local government councils. The section makes provisions for financial allocation from the Federation Account to the local government.

The law⁴⁸ provides that any amount standing to the credit of the federation account shall be distributed among three tiers of government. The terms and manner of distribution are to be prescribed by the National Assembly. Under subsection 5, the amount standing to the credit of local government councils in the federation account shall be allocated to the States for benefit of their local governments on such terms and in such manner as may be prescribed by the National Assembly. Thus, such allocation cannot be made directly to the local government council but through the States. This is in consonance with section 7 which empowers the state to make laws on local government finance.

Under section 162 subsection 6 of the Constitution, each state shall maintain a special account called State Joint Local Government Account into which shall be paid all allocations to the local government councils of the state from the Federation Account and from the government of the state. Under subsection 7 each state shall pay to local government councils in its area of jurisdiction such proportion of its total revenue on such terms and in such manner as may be prescribed by the National Assembly.⁴⁹

The purpose of involving the National Assembly in the distribution of public revenue to the local government appears to be in order to ensure that uniformity is secured in the distribution among all the local government council in Nigeria. By virtue of section 162 subsection 8 the exact amount accruing to the local government council of a state is distributed among them on such terms and manner as the House of Assembly dictates. So, the Constitution makes sufficient provision for local government council's finances while giving the responsibility of the disbursements to the state.

⁴⁸ Section 162(3) CFRN 1999 as amended

⁴⁹ Olushola Egbeyinka, Local Government administration in Nigeria, [2005] (3) (1) Journal of Public law and Constitutional Practice, pg 8

This is clearly at variance with the agitation by some for a direct allocation directly from the federation account. Those pursuing this agitation have premised their argument on the need for a greater measure of financial autonomy for local government system as a third tier of government in the federation. Also, some argue that some state governments unnecessarily delay the local government allocations and sometimes it is alleged that the allocation never gets to the councils at all. Meanwhile, opponents to this position argue that if allocations are given directly to the local government councils from the federation account, that this would undermine the autonomy of the states and that this would detract from the supervisory role of the states over the councils as envisaged by the Constitution.

Both arguments have proffered their reasons for each of their stands. From the relevant provisions of the Constitution discussed, it is however cleared that the local government cannot be entirely independent of state supervision or control. If the local government were given independence in terms of direct allocations to them, the state still doesn't lose anything bearing in mind that there are other areas of supervision on the councils. To enhance swift and effective performance of their functions and for the benefit of the people at the grassroots however, it would be more desirable if section 162 of the Constitution is amended to accommodate a direct federal allocation to the councils.

There are so many other sources of financing the local government resulting from the proper performance of their Constitutional functions. Unfortunately, there is this impression that independence for the local government is only possible through direct federal allocation without having to come through the states. The councils can enhance their financial autonomy through self-generated revenue from other sources. Some of these shall be herein discussed.

There are ways a local government council can generate revenue internally. In other words, it can get creative and generate revenue for itself while acting within the provisions of the law. The amount of internal revenue a council generates depends on a number of factors, namely the creativity of the council leadership, the capacity of the councils to mobilize human and material resources and the cooperative attitude or willingness of the citizenry to support council programmes amongst others. These internal sources include the following;

(1) TAXES

These are taxes imposed by the local government councils on every taxable adult. It is a form of direct taxation, usually a flat rate and payable irrespective of whether or not he enjoys any kinds of services from the government council. It's usually difficult to collect these taxes however. So, the council usually engages the services of some agencies to ensure administrative ease as it is usually cumbersome and amenable to uses and corruption especially in populated areas.

(2) PROPERTY TENEMENT RATES

Tenement rates are those levied on houses and other non-residential properties within the council. These are easier to collect compared to the taxes and they yield very high returns. They are a viable source of income to the local councils in the United States, where it was said to have yielded 25 percent of the total local government revenue of 315,322 billion dollars.⁵⁰

(3) Local governments generate revenue from administrative charges on licenses, permits, fines forfeitures, special assessments, among others. This is a good source of revenue if only proper

⁵⁰ Vincent Ostrom 7 ors (1988) Local Government in the United States, San Francisco, IC Press, cited in Bello-Iman, p 53

machinery for accountability is put in place. Lack of records keeping and proper accountability among council workers are great setbacks for revenue generation from administrative charges.⁵¹

(4) COMMERCIAL REVENUE

These are funds generated from public spaces situated within the local government councils. These would include revenue generated from school fees, health centres, transport services, rents from estates and other business concerns. All the monies generated from these business concerns are used to supplement the costs of providing them. These revenues are usually little compared to the amount invested into the ventures.

Beyond these internal sources of revenue generation, local governments can get resources through borrowing from financial institutions. Funds could also be generated from the capital government bonds, usually for specific projects. Funds could equally be generated through counterpart funding with international agencies, such as UNDP, UNICEF, UNESCO, amongst others.

Counterpart funding is hardly utilized by the councils, either because of ignorance of the executives or their reluctance to observe the rigorous due process of accessing these funds. Consequently, millions of dollars' worth of counterpart funds are lost and repatriated abroad every year in Nigeria.

The above sources of funds to local governments in Nigeria are just in theory, but in practice most of them depend largely on monthly allocation from the federation account just like the state and the federal governments. Even the allocation is hardly expended judiciously, as a large

⁵¹ Nwaekeaku Charlie, Op cit

percentage of it goes into personal pockets of the council executives and their political godfathers who usually hijack a chunk of the money meant for public service.

The state grants hardly come, as the state rather short change the councils on their allocation from the federation account through the control of the “State Joint Local Government Account”. Since the state is the sole signatory to the account, it controls and disburses the statutory allocation as it deems fit.

It is also popularly believed that the massive fraudulent practices experienced in the various local governments in the last few years sent wrong signals to the public and thus affected all facets of the revenue generation efforts of the councils. Thus we observe more of tax evasion and avoidances as a result. On account of these, local governments resorted more to debt financing in their efforts to meet obligations. The borrowings that were supposed to be project-tied were used more for recurrent obligations such as, payment of salaries, than what they were meant for. The absence of effective machinery for the mobilization of revenue on a continuous basis incapacitated the revenue collection ability of the local governments.⁵²

⁵² *ibid*

CHAPTER FOUR

THE CONSTITUTIONAL FRAMEWORK OF A LOCAL GOVERNMENT SYSTEM IN THE UNITED STATES OF AMERICA

4:1 INTRODUCTION

Local government in the United States refers to governmental jurisdictions below the level of the State. Most states have at least two tiers of local government; counties and municipalities. In some states, counties are divided into townships. There are several types of jurisdictions at the municipal level, including the city, town, borough, and village. The types and nature of these municipal entities vary from state to state.

4:1:2 Definition and Meaning of Terms

Municipal government:

Generally corresponding to an area rather than one of a set of areas into which a county is divided. City governments are chartered by states, and their charters detail the objectives and powers of the municipal government. But in many respects municipal or city government function independently from state.

Types of municipal governments vary from one state to another. However, almost all have some kind of central council, elected by the voters, and an executive officer, assisted by various department heads, to manage the city's affairs. In few states, both counties and municipal governments exist side by side.

There are three general types of municipal government: the mayor council, the commission, and the council manager. These are the pure forms; many cities have developed a combination of two or three of them

Mayor Council:

This is the oldest form of city government in the United States. A mayor council city government consists of an elected mayor and a number of council members. The mayor appoints heads of city departments and other officials. He or she has the power of veto over ordinances, the laws of the city and frequently is responsible for preparing the city's budget. The council passes city ordinances, sets the tax rate on property, and allocates money among the various city departments. In some states the mayor may given a larger policy making role, and responsibility for day-to-day operations is delegated to him.

The Commission:

The commission form of city government, also known as the Galveston Plan. This combines both the legislative and executive functions in one group of officials, usually five or seven number, elected city-wide. Each commissioner supervises the work of one or more city departments. One is named chairperson of the body and is often called the mayor. Commissioners are responsible for taxation, appropriations, ordinances, and other general functions.

Council/City Manager:

The council manager is a response to the increasing population and growing number of cities, which require management expertise not often possessed by elected public officials. This form of

government was established to entrust most of the executive powers, including law enforcement and provision of services, to a highly trained and experienced professional city manager. Under this system an elected council of usually five to nine members makes the city ordinances and sets policy, but hires a paid administrator, also called a city manager, to carry out the policies. The manager draws up the city budget and supervises most of the departments. Usually, there is no set term; the manager serves as long as the council is satisfied with his or her work. Though, the city manager is recognized as the political head of the municipality, but is a member of the legislative body and does not have the power to veto legislative actions.

County government:

The county is a subdivision of the state. County governments are organized local governments, authorized in state constitutions and statutes and established to provide general management in a region. 48 out of 50 states are divided into counties (while Parishes in Louisiana, and boroughs Alaska). In areas lacking a municipal or township government, the county government is generally responsible for providing all services.

The county is a subdivision of the state, usually but not necessarily containing two or more townships and several villages. New York City is so large that it is divided into five separate counties. While Arlington County & Virginia, are governed by a unitary county administration. In most counties one city or town is designated as county seat, where the government offices are located and where the important meetings held. In small counties, boards are chosen by the county as a whole; in the larger ones, supervisors represent separate districts or townships.

Sub County general purpose governments:

In most Midwestern and Northeastern states, counties are further subdivided into townships or towns. Municipal and township governments are distinguished primarily by the historical circumstances surrounding their formation.

Township governments:

Township governments are organized local governments, to provide general government for a defined area, generally corresponding to one divided area of a county. Township will consist of Mayor and 3 to 5 elected committee members. The committee members will act as the legislative body. The officials are all local residents of this township, elected by the township citizenry, and always available to talk with their constituency. The Township Committee may delegate, by ordinance, all or a portion of executive responsibilities to an appointed administrator.

School districts:

School districts are organized local entities providing public elementary, secondary, and higher education which, under state law, have sufficient administrative and fiscal autonomy to qualify as separate governments. An elected or appointed board of members looks after the district functions.

Special district

Special districts are all organized local entities. A special district may serve areas of multiple states as compare to other type of governments who can serve only in some specific area to

qualify as a separate government. Special districts are widely popular, to perform special functions like fire protection district, flood control district, transportation district⁵³.

4:2 ESTABLISHMENT OF THE LOCAL GOVERNMENT BY THE CONSTITUTION

In the United States, a county is a political and geographic subdivision of a state, usually assigned some level of governmental authority. The term “county” is used in 48 of the 50 states in the United States. The exceptions are Louisiana and Alaska, where the functionally equivalent subdivisions are called, respectively, parishes and boroughs. Numerous consolidated city-counties exist throughout the United States in which a geographic area is under one unified jurisdiction with the governmental powers of both entities⁵⁴.

Counties were among the earliest units of local government established in the thirteen colonies that would become the United States. Virginia created the first county in order to ease the administrative workload in Jamestown. The House of Burgesses divided the county first into “four incorporations” in 1617 and finally into 8 shires (or counties) in 1634: James City, Henrico, Charles City, Charles River, Warrosquyoake, Accomac, Elizabeth City, and Warwick River. America’s oldest intact county court records can be found at Eastville, Virginia, in Northampton (originally Accomac) county, dating back to 1632. Maryland established its first county, St Mary’s in 1637, and Massachusetts followed in 1643. Pennsylvania and New York delegated significant power and responsibility from state government to county governments and

⁵³ <<http://www.cssforum.com.pk/cc-optional-subjects/group-vi/constitutional-law/american-local-government-structure>> assessed the 7th February 2017

⁵⁴ <https://Local_Government_in_the_US/google=qrx+4527> assessed 24th November 2016

thereby established a pattern for most of the United States although counties remained relatively weak in New England⁵⁵.

When independence came, the framers of the Constitution did not provide for the local government. Rather, they left the matter to the states. Subsequently, early state Constitutions generally conceptualized county government as an arm of the state. “In the twentieth century, the role of local governments strengthened and counties began providing more services, acquiring home rule and county commissions to pass local ordinances pertaining to their unincorporated areas⁵⁶.

In some states, these powers are partly or mostly devolved to the counties, smaller divisions usually called townships, though in New York and New England they are called “towns (not to be confused with actual towns, which is what most of the world calls small incorporated cities or unincorporated but centralized communities with a business district). The county may or may not be able to override its townships on certain matters, depending on the state Constitution. The newest county in the United States is the city and county of Broomfield, Colorado, established in 2001 as a consolidated city-county. The newest county equivalents are the Alaskan boroughs of Skagway established in 2007, Wrangell established in 2008, and Petersburg established in 2013.⁵⁷

The United States federal government uses the term “county equivalent” to describe non-county administrative or statistical areas that are comparable to counties. Louisiana parishes; the organized boroughs of Alaska; the District of Columbia; and the independent cities of the states of Virginia, Maryland, Missouri, and Nevada are equivalent to counties for administrative

⁵⁵ <[https://en.m.wikipedia.org/wiki/county_\(United_States\)](https://en.m.wikipedia.org/wiki/county_(United_States))> assessed on 24th November 2016

⁵⁶ *ibid*

⁵⁷ *ibid*

purposes. Alaska's unorganized borough is divided into II census areas that are statistically equivalent to counties. As of 2013, the United States had 3007 counties and 137 county equivalents for a total 3144 counties and county equivalent⁵⁸.

The number of counties per state ranges from the 3 counties of Delaware to the 254 counties of Texas. Counties still have significant government functions in all states except Rhode Island and Connecticut where county governments have been abolished. The Commonwealth of Massachusetts has removed most government functions from eight of its fourteen counties.

The county with the largest population, Los Angeles County (10,170,292), and the county with the largest land area (San Bernardino County) borders each other in South California.

Many rural areas and even some suburban areas of many states have no municipal government below the county level. In other places consolidated city-county jurisdictions exist, in which city and county functions and managed by a single municipal government. In some New England states, towns are the primary unit of local government and counties have no governmental function but exist in a purely perfunctory capacity. (For example, for census data)

In addition to general purpose, local governments there may be local or regional special-purpose local governments, such as school districts and districts for fire protection, sanitary sewer service, public transportation, public libraries, or water resource management. Such special purpose districts often encompass areas in multiple municipalities. As of 2012, using the Census Bureau's definition, there were 89,055 local government units in the United States.⁵⁹

⁵⁸ <https://Local_Government_in_the_US/google=qr+4527> assessed 24th November 2016

⁵⁹ <<http://www.establishment-of-local-government-in-the-US-safar-ugwq-654-web>> assessed 25th November 2016

Local administrative system has become part of the enduring character of America's government and policies. It is a necessity created for administrative convenience since it has not been part of the considerations and decisions of the founding fathers. Since its establishment, the upper levels of government are relieved of saddling themselves with all problems emanating from the political system and the people. Therefore, the need for administrative decentralization for better performance and efficiency is at the root of creation of counties, municipalities and their equivalents in the United States⁶⁰.

Despite the fact that the local unit was not contemplated by the framers of the American Constitution, certain factors made it an attractive option. Among these factors is the need to satisfy the growing people which increasingly has made governance complex as more and more citizens were demanding for jobs, housing, public transportation amongst other things/demands. The emergence of the American local government coincided with the birth of American federal government under the United States Constitution of 1789. Even though American city government already existed in the British colonial era in the United States, early era local governments were not recognized and did not provide municipal utilities or other services.⁶¹

New counties were created at different times in response to increase in population which as a consequence led to new demands of public services. With a population of well over 200 million people, demands will come in varying capacity on the central and state governments especially as it relates to housing, water supply, public transportation, school, environmental control and management.⁶²

4.3 FUNCTIONS AND AUTHORITY OF THE LOCAL GOVERNMENT IN THE UNITED STATES OF AMERICA

⁶⁰ National Open University of Nigeria, Comparative Local Government Administration, Course Guide <<https://comparative-local-government-system-in-nigeria-safari-google-hng>> assessed on the 16th November 2016

⁶¹ <<http://www.oxfordbibliographies.com/view/document>> Retrieved on the 25th November 2016

⁶² NOUN ibid

Besides the federal and state government, there are numerous local governing units with different nature and character. The units of local administration include counties, cities, towns, boroughs, villages and special districts with different administrative and leadership structure.

The functions and authority of local government units in the United States do not follow a uniform pattern. Different states have provisions for functions and authorities for counties or their equivalent in each of their state Constitutions. These units are dynamic as they are structured in diverse patterns, this accounts for why their functions and authority are not uniform.

Four specific differences distinguish the functions of local subsystem from the state and federal governments in America, and from subsystems in other countries. These differences include:⁶³

1) THE SCOPE OF THEIR AUTHORITY AND ACTIVITY

The means the activities with which the systems are principally concerned and which their decisions govern and direct vary. The proper concern of government in America was for a long time held to be providing a necessary “bundle of service” for organized community life including law enforcement, education, and certain public utilities which for some reasons private enterprises cannot provide.

2) THE PARTICIPANTS WHO SEEK TO INFLUENCE THAT AUTHORITY AND DIRECT THAT ACTIVITY

The local unit has its specified elective offices to be filled-mayors, aldermen, commissioners, coroners, etc. The character of local decision encourages new groups, organizations, and

⁶³ Redford, Politics and Government in the United States, New York, Harcourt, Brace & Wood Inc (1965)

individuals to become active in politics, sheriffs associations and groups of local merchants, etc which result in a different cast of character.

3) THE SPECIAL OBJECTIVES WHICH THESE PARTICIPANTS HAVE

Local politics has less favour than what obtains at the national level. Local administrators are more particularistic with political groups focusing more on the work of special agencies or advocating specialized pieces of legislation, instead of being concerned with advancing a general and comprehensive platform. Much attention is to honesty, competence and efficiency.

4) THE ROLES WHICH THE PARTICIPATION ASSUME

The “rule” under which the political game is played and the “instrument” used to settle conflicts and achieve compromise.

Generally, however there are functions common to almost all the local governments in America.

One can therefore safely say those consist of their functions. These functions are as follows;⁶⁴

- a. Provision of water supply
- b. Fire protection
- c. Smog control
- d. Public transportation
- e. Provision of housing

⁶⁴ NOUN op cit

- f. Soil and water conservation activities
- g. Maintenance of law and order and domestic security
- h. Providing services in special field such as airport services
- i. Economic development constructions
- j. Assisting in carrying out state and federal projects/programmes
- k. Traffic control
- l. Provision of recreational facilities such as parks, gardens, etc
- m. Environmental control and management.

Local units in America play prominent role in the development at the grassroots. They have become centers for practicing democracy as most of their political office holders or representatives are duly elected after elections are conducted in that capacity. Local governments in the United States have been able to assume some degree of competence, efficiency and accountability in performing or carrying out their functions.

4.4 AUTONOMY OF THE LOCAL GOVERNMENT IN THE UNITED STATES OF AMERICA

The United States Advisory Commission on Intergovernmental Relations report offered the following definition of the scope of local autonomy.

Local autonomy consists of degrees of discretionary authority separately established for cities and counties in four basic areas;

1. Structure-determining their form of government and internal organization;
2. Function-choosing the functions they perform;
3. Fiscal-raising revenue, borrowing, and spending; and
4. Personnel fixing the numbers, types, and employment conditions of their employees.

The Advisory Commission on Intergovernmental Relations defined the meaning of local government as encompassing the power of local governments to initiate policy as well as their immunity from state legislation. The distinction between initiative and immunity has been recognized and applied by the Louisiana Supreme Court in the case of city of New Orleans V Board of Commissioners of the Orleans Levee District. In this decision, the court defined initiative as “a local governments ability to initiate legislation and regulations in the absence of express state legislative authorization. Alternatively, immunity involves the power of localities to act without fear of the supervisory authority of the state government. Accordingly, initiative and immunity serves as complementary theories in the arena of local government autonomy.”⁶⁵

On the issue of local government autonomy in the United States, there are two schools thought. Following the Advisory Commission on Intergovernmental Relation’s findings, which recognized two concepts of local government, this has contended for ascendancy in the American federal system. They are the home rule and the creation of states.⁶⁶ The home rule concept of granting greater discretionary authority to local governments has been gaining grounds on the creatures of the state concept of strict limits on local discretionary authority. Most states have adopted a system of developed powers of local governments within which they can act freely.

⁶⁵ Michael Libonati, <<http://digitalcommons.law.lsu.edu/cgi/viewcontent.cgi?article=594&context=lalrev>> assessed 28th November 2016

⁶⁶ ibid

The most common form of home rule grants initiative to local governments. Local governments however are not immune from constitutional and/or statutory limits on these grants of initiative. State restrictions do not present local government immunity in strongly positive terms, allowing the courts to rule in favour of the state more often than not.⁶⁷

The home rule is jeopardized if the state legislature is free to impose unfunded mandates on local governments. Sometimes, these states mandates are the result of federal mandates. States have not always relaxed the restrictions on the fiscal autonomy of local governments or provided them with additional resources to cope with the mandates. This double burden places financial pressure on local governments and reduces their ability to make choices about local priorities effectively reducing local autonomy⁶⁸.

As home rule has become a common feature of state Constitutions and general state law, the relationship between the states and their local government has become more complicated. Increasingly, state courts are serving as arbiters of state-local relations. Courts have begun to recognize local governments as judicial persons able to sue their parent's state governments. In addition, courts have played a major role in defining the constitutional framework of inter-local cooperation.⁶⁹

There is no single best model of constitutional language that states can apply to clarify the extent and limits of local government autonomy. Different state courts can and often do interpret identical constitutional language differently. A state's civic culture, legislative traditions and judicial temperament all affect such interpretations. Local governments in some states prefer a statutory rather than constitutional approach to the definition of local government autonomy.⁷⁰

⁶⁷ Michael Libonati, Local Government Autonomy, Vol 62, La. L. Review (2001)
<<http://digitalcommons.law.lsu.edu/lalrev/vol62/issi/10>> assessed on 27th November 2016

⁶⁸ *ibid*

⁶⁹ <<http://www.library.unt.edu/gpo/aur/reports/policy/a-127.pdf>> assessed on the 27th November 2016

⁷⁰ *ibid*

The Commission made the following recommendation as a benchmark for appraising the local article in the Constitution of the several states:

“the commission finds that the provisions for local home rule and discretionary authority in many states are being eroded by increases in regulatory and statutory control of local government functioning through enactment of federal and state mandates and preemption of local decision making. The state courts have increasingly asserted their power to adjudicate state-local relations, supplying their own solutions in the absence of clear constitutional and/or statutory direction. Thus, ambiguity in state-local relations places substantial political decision making authority on the heads of the judiciary”⁷¹

The Commission’s findings on the relationship of the states and local government autonomy are as follows:

Home rule for municipal and county governments is now available in most states. By state Constitutional and/or general provisions, 48 states grant home rule authority to municipalities and 37 states grant such powers to counties.⁷²

As it appears from the findings and subsequent recommendation of the Advisory Commission on Intergovernmental Relations (ACIR) the autonomy of the local government in the United States is more often than not always determined by the interpretation of the courts when the circumstances warrant.

These findings and recommendation therefore represent the strengths and limitations of the analytic approach to law making and adjudication. The limit of the powers of each unit of

⁷¹ Michael Libonati <<http://digitalcommons.law.lsu.edu/cgi/viewcontent.cgi?article>> Op cit

⁷² ibid

government is not clearly stated in the state Constitutions and this is responsible for the inconsistency in the determination of the autonomy of the local government in the United States. This is why the last resort is often the courts to determine the intentions of draftsmen of the instruments from where claims arose each time there is a dispute as to where the authority creating a dispute generated.

4.5 ADMINISTRATION OF THE LOCAL GOVERNMENT SYSTEM IN THE UNITED STATES OF AMERICA

Local government units in America occupy the next layer of government after the federal and state government. The United States local government system administration is a unique one. This is so because there is no single uniform, national structure. Each states determines the scope of its own local administration, there is therefore no national structure imposed by law for the administration of the local government.

The administration of the local government structure vary widely even than state governments. The states are by law the key units, endowed with all governmental powers not vested specifically in the national government in the Constitution, or reserved to the people. The other jurisdictions are subdivisions or creation of the state.

These subdivisions by states include counties, cities, boroughs, villages, special districts and public authorities. The counties which usually include less densely populated areas than cities are often administered by elected board of commissioners or supervisors, and there are a number of other elective offices such as sheriff, county, prosecutor or district attorney, and county coroners.

Cities are local units which cater for city settlements with about 50,000 people or more population. They have a mayor and a city council, usually elected independently from each other.⁷³ In America, cities operate under counties. Some of them may be coterminous with counties while in others a county could contain more than one. The administration of city government is different from rural municipalities because of their complexity. In coping with this, cities have come out with a range of types of executives, ranging from the mayoral system to the manager system.⁷⁴

Urban municipalities are counties and they in turn consist of cities, boroughs, villages and incorporations. They perform both social and economic functions especially in big areas like airports, harbours and housing. These units are set up or incorporated by government using different criteria. The democratic structure of the city executive promotes participation efficiency and accountability. As already mentioned, the types of executives in cities are mayoral council system, the commissioner system and the council or city manager system.

The power of the electorate and the subsequent consciousness of the accountability which is required from the officials into the local government units cannot be overemphasized. It is important to note that the unit that city governments operate administration but the response to this has been adoption of an executive that can respond to the needs of the municipality as efficiently as possible without compromising democracy, accountability and efficient services. The theories of local government are based on these and compromises are drawn from these variables.

⁷³ Freeman G. Redford, *Politics and Government in the United States*, [Harcourt, Brace & Wood Inc, New York 1965]

⁷⁴ NOUN Op cit

The complexities of the administration of the local government in the United States are informed also by the enormity of the duties they perform for the citizenry. The relative strength of mayor and council varies enormously. In some cities especially in the West, departments of city government may be headed by commissions, whose members called commissioners are appointed by the mayor and ratified by the council but who may have a good deal of independence from both.

These commissions deal with special fields such as airports services. Almost half of the middle sized cities have adopted a council-manager form of government, in which the elected council hires a professional city manager to run the city government subject to general policy direction by the council. The smallest units of American governments and local administration are towns, townships, and villages.

Cutting across various units of local government are the special districts, set up to deal with problems or services that reach across boundaries and they need a tax base broader than a single government unit.

In most cases, they provide a single governmental service. In some cases the boards running these special districts are directly elected as it is true of most school boards. In some others, where the problems are particularly complex as with rapid transit or smog control, the members are usually appointed by the elected leaders of the communities participating in the special district.⁷⁵

4.6 FINANCING LOCAL GOVERNMENT IN THE UNITED STATES OF AMERICA

⁷⁵ Freeman op cit

Finance is very important to every organization formal or informal. The identified functions of the local government cannot be adequately achieved in the absence of financial resources.

The potential importance of local government finance is based on two main pillars. The core rationale is that local governments are well positioned to improve how public resources are used and citizens' needs are satisfied. The second justification is the role that local governments could potentially play in dealing with several significant contemporary global challenges that broadly, although differentially, affect virtually all countries.⁷⁶

A lot of capital is required to be able to perform these functions efficiently. Consequently therefore, local governments are empowered to generate revenue from some sources. These sources are as follows:

- i) Intergovernmental revenue: this is revenue from federal and state governments accruable to local governments. This is also referred to as intergovernmental finance. State and federal government are made mandatory to pay certain percentage of their own revenues to local governments.
- ii) Revenue from other sources otherwise called internally generated revenue (IGR) these sources included:
 - a) General revenue
 - b) Taxes

Taxes are important to federal, state and local governments. They are the primary source of revenue for the corresponding level of government and fund the activities of the governmental

⁷⁶ Local government finance: The challenges of the 21st century [<http://www.cities-localgovernments.org/gold/upload>>assessed 23rd November 2016

entity. For example, on a local level, taxes fund the provision of common services, such as police or fire department, and maintenance of common areas, such as public parks. On a state level, taxes are used to fund government activities such as the provision of warfare and transfer payments to redistribute income.⁷⁷

Examples of a local tax: property taxes are imposed by most local governments and many special purpose authorities based on the fair market value of property. Property tax is generally imposed only on real estate, though some jurisdictions tax some forms of business property. Property tax rules and rates vary widely.⁷⁸

Taxes include those collected on various items like:

- 1) Property tax: The local governments depend largely on property tax. As much as 70% of local government tax revenue comes from property tax, while the 30% balance is spread across other tax sources.
- 2) Individual income tax: Income derivable from the tax charges on employed adults. This is usually assessed on proportional basis and collected on pay as you earn basis.
- 3) Corporate income tax: These are taxes in company profits.
- 4) Sales and gross receipts by sales companies, super-markets, restaurants and others.
- 5) Motor vehicle and other operators licenses
- 6) Miscellaneous general revenue charges

⁷⁷ <<https://www.boundless.com/economics/textbooks/boundless-economics-textbook/taxes-and-public-finance-16/taxation-in-the-united-state-87/financings-state-and-local-government>> assessed 25th November 2016

⁷⁸ ibid

- 7) Utility revenues
- 8) Liquor revenue
- 9) Insurance trust revenue

Many local governments find the property tax to be an overly lean source of revenue. Reason being that owners of tangible except real personal property such as furniture, automobile, office equipment & all other tangible property except real estate generally escape the tax through failure by local officials to assess their property.

The same is true of holders of intangible property such as stocks, bonds and other securities where the tax is a general property tax, that is the same rate on all types of property as it is most generally is the result is that the tax yield is largely limited to what can be imposed on real property and on business inventories.⁷⁹

Besides, there is resistance against increasing tax rate from those who these types of property, that is real estate interest, home owners, and business enterprises with real property and large inventories.⁸⁰

The financial problems of local governments are further aggravated by limitations from the constitution, statutes and charters on the annual tax that can be leveled. Tax levies can only be reviewed upward. If the relevant provisions of the law are amended.

⁷⁹ NOUN opcit

⁸⁰ Redford Op cit

CHAPTER FIVE

THE PRACTICE OF LOCAL GOVERNMENT IN NIGERIA AND THE UNITED STATES OF AMERICA: A COMPARISON

5.1 CONSTITUTIONAL FRAMEWORK

The Nigerian Constitution expressly provides for the establishment of the local government system.⁸¹ The same Constitution makes provision for all the 36 states in Nigeria and also the Federal Capital Territory (FCT). In Nigeria, there is only one Constitution which adequately caters for all the tiers of government to wit; - federal, state and local government respectively⁸². The local government system is under the Nigerian Constitution guaranteed⁸³ and every state government has a duty to ensure its existence subject to provisions stated therein.⁸⁴

The practice in the United States of America is different from what obtains in Nigeria. State governments in America have individual Constitutions; no single constitution governs all the states and federal government. The Constitutions of the various states differ in some details, but they generally follow a pattern similar to that of the federal Constitution, including a statement of the rights of the people and a plan for organizing the government. However, state Constitutions are generally more detailed. Each state Constitution provides for the establishment of local government entities.

⁸¹ S 3(6) of the CFRN 1999 as amended

⁸² 2 (2), S3 (1) and S3(6)

⁸³ S 8 CFRN

⁸⁴ CFRN op cit

Under the Tenth Amendment to the United States Constitution, all governmental powers not granted to the federal government of the United States nor prohibited by it to the states are reserved to the states respectively, or the people.⁸⁵

Within the local government system in the United States of America there are further subdivisions which leave a local government with at least two tiers of government. This is at variance with what obtains under the Nigerian administration where there is a uniform one tier system all over the country.

Constitutional provisions are easily accessible for local government system in Nigeria, because they are all contained in a single document, the same is not so for provisions on local government in the United States of America. The reason for this as earlier mentioned is because all states have their own constitutions. Beyond this, their state laws are derived from several sources including constitutional, statutory, regulatory, case law, and local ordinances. The general law of each state forms the general statutory law.

For a state like Massachusetts, for example, the Constitution is the foremost source of state law. The legislation is enacted by the general court, published in the Acts and Resolves of Massachusetts, and codified in the General laws of Massachusetts. State Agency Regulations (sometimes called administrative law) are published in the code of Massachusetts Regulations. Their legal system is based on common law, which is interpreted by case law through the decisions of the Massachusetts Appeal court, and the appellate divisions of the Massachusetts district court and the Boston Municipal court departments which are published in the Massachusetts appellate division reports, respectively. Cities and towns may also promulgate bye laws and local ordinances⁸⁶.

⁸⁵ <https://en.m.wikipedia.org/wiki/state_government> assessed 22nd January 2017

⁸⁶ https://en.m.wikipedia.org/wiki/laws_of_massachusetts> assessed 22nd January 2017

The Nigerian Constitution clearly spells out the functions of a local government, these covers areas where they are constitutionally empowered with jurisdiction. All local governments in Nigeria have the same functions which are designed to stimulate local initiative and creativity while accelerating economic and social development, promoting democracy, good governance and transparent governance at the grassroots amongst other things.

The functions of counties or their equivalent in the United States of America as well as their creation is contained in their state Constitutions. There is no single document which contains the functions of local government in the United States of America, there are only duties which they all seem to perform or carry out. These duties are generally regarded as the functions of local government in America.

TABULAR REPRESENTATION OF THE CONSTITUTIONAL FRAMEWORK OF THE FEDERAL REPUBLIC OF NIGERIA AND THE UNITED STATES OF AMERICA

S/N	FEATURE	FEDERAL REPUBLIC OF NIGERIA	UNITED STATES OF AMERICA
i	Local government creation	Specifically created by the Constitution under Section 7.	Created by individual State Constitutions.
ii	Selection of political heads/leaders	Through democratic elections	Through democratic elections

iii	National Elective influence on local government councils	Approval of statutory monthly allocation of revenue from the federation account to all the local governments. State government keeps allocation in trust for local government.	They have internally generated funds from taxes, levies etc., there is hardly any interface with the federal government, and there are negligible references to the state government. They enjoy independence with their finances.
iv	Local government account Audit	Their local government accounts are audited through the auditor-general of state.	There state governments look into this.
v	Relations with the Judiciary	<p>i) Cases involving local government administration may extend through to the Supreme Court.</p> <p>ii) The judiciary is the umpire for all the three levels of government across the federation.</p>	<p>i) Cases involving local government administration do not extend beyond the state supreme courts.</p> <p>ii) State judiciary serves as an umpire only in matters bothering on the</p>

			state.
vi	Constitutional autonomy	Although constitutionally the local government has its autonomy in the course of interaction with other levels of government, its powers are greatly eroded by some constitutional provisions, such as S 7(1) and S 162(6) which allow the state government to determine the existence, structure, composition and financing of local government, and also becoming the sole signatory to the state joint local government account respectively.	The local government here enjoys better autonomy in the face of it, but because their creation is also subject to the State constitution, similar to her Nigerian counterpart, in extreme cases they don't enjoy as much independence as the state government.
vii	Dissolution of Local Governments	Local governments in Nigeria cannot be arbitrarily dissolved by itself or by a state government	Local governments or their equivalent can be dissolved or their charters modified as the state governments deem fit

5:2 AUTONOMY OF THE LOCAL GOVERNMENT

There are issues that continue to pose challenges to the administration of local government both in Nigeria and in the United States of America. One of these issues is whether or not the third tier of government truly enjoys autonomy as it should.

In Nigeria, the local government was created by the Constitution but ties most of its administrative competence subject to the state government. In the United States, the creation of local government is covered the Constitution of the state government, while autonomy in terms of scope and authority is not clearly stated giving rise to ambiguity and subsequent resort to judicial interpretation.⁸⁷

5:3 THE RELATIONSHIP BETWEEN THE STATE AND THE LOCAL GOVERNMENT IN NIGERIA AND IN THE UNITED STATES OF AMERICA

The relationship between the state government and the local government in other clime are not strictly predefined and each country adapts to the peculiarity of their society. The mode of relationship is as diverse and controversial as forms of government.

The pattern of intergovernmental relations in any country is a function of many variables, which include the system of government, the types of Constitution, the character of leadership at the various levels of government, among other things.⁸⁸

⁸⁷ As pointed out in the preceding chapter, the issue of the home rule and the state creation leaves much to be desired in terms of local government autonomy. In most cases, resort is to the courts for interpretation and determination of true intentions of the draftsmen.

⁸⁸ Nwekeaku Charlie, Op cit

The relationship between state government and local government from the pre-colonial era, through the first republic, the military era and the current civil rule differ fundamentally. This is essentially so because of the various systems of government and power relations between the central and the component units.

Under the colonial era, their relationship was likened to that of principal and agent. The colonial government was the principal partner and determined the existence, structure, function and financing of local governments or local authorities. The Emirs, the Obas and the Warrant Chiefs were mere agents of the colonial governments which exercised effective control over them.

The military era was not entirely different from the principal/agent relationship between the local government and the state government. There was however a clear pattern of interaction between the state and the local government following the 1976 local government reforms which made this relationship discernible. The reforms made the state and the local the supervisory agent and implementing agent for the implementation of the programmes and policies of the military government respectively.

However, following the introduction of the 1999 federal Constitution as amended, the status of the local government has changed from that of an agent to equal partnership being a separate and independent tier of government. This is mostly in principle, as practice has shown that the local governments are still always dealt with like only a branch or an agent of the state government.

Like the federal government, state governments in America have branches; executive, legislature, and judiciary. The chief executive of a state is its popularly elected governor, who typically holds office for a four year term (although in some states the term is less; two years)

except for Nebraska, which has unicameral legislature, with the upper house usually called the Assembly or something similar and the lower house called House of Representatives.⁸⁹

The Constitutions of the various states differ in some details with regards to relations between them and the local government administration but generally follow a pattern similar to that of the federal Constitution, including a statement of the rights of the people and a plan for organizing the government. However, state constitutions are generally more detailed.

Each state Constitution provides for the establishment of local governmental entities, because of the similarities in these states, their local entities include counties and cities, but most states also provide for other special types of local government; including wards, school districts, conservation districts, townships and transportation authorities.⁹⁰ These special types of local government have regulatory, administrative or taxing authority as defined in the state Constitution or in state law.

There are over 500,000 elected officials in the United States, of these; fewer than 8,500 of them are at the national and state level. The rest are local government officials- city council members, school board members, mayors, sheriffs, and an array of other individuals who serve in various capacities. County government (as mentioned in the preceding chapter) is the basic territorial division within a state and range in size from under 100 square kilometres to over 200,000 square kilometres. In 48 states, counties are also the primary governing entity below the state government (counties in Connecticut and Rhode Island do not have governmental functions)⁹¹

⁸⁹ <https://google=safrazi.offices_in-US-localgovernment> assessed 22nd January 2017

⁹⁰ <https://google/definition/_localgovernment+in+America> assessed on 17th January 2017

⁹¹ ibid

Some counties share responsibilities with the state for providing social benefits for low-income residents, monitoring and enforcing environmental regulations and building codes, overseeing child welfare, and performing judicial functions. In some states, counties are the geographic units for public districts, but schools usually have a separate administrative structure. Counties are run by popularly elected officials.⁹²

A look at the relationship between the federal and the state government in America shows federalism in which the central national government does not hold all powers, but share some with sovereign states. These powers to the states are expressly granted by the tenth amendment, the last of the Bill of Rights, which states “the powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people”

In other words, the federal government shares sovereignty with states, allowing the states the freedom to create their own sovereign laws based on their own needs and wants. Once again, this is known as federalism.⁹³

On the other hand, the local governments, whether they be cities, townships, counties, or towns, or all the other special local government districts that have been created, such as school districts, water districts, and other special districts are not given sovereignty by their own states, whatever their form, are creatures of the states, which determines what powers they have, what their obligations are, what privileges they hold, and what restrictions are held to limit their power. At any time, the state can disband any local government, or create a new one. What this means is that the local governments are not organizations that share power and sovereignty with the state

⁹² ibid

⁹³ <https://bloomp.net/articles/relationship_between_state_local_governments.htm> assessed 17th January 2017

governments, but are mere extensions of state governments. Whereas state governments are like outside contractors working for a bigger business on their own terms, local governments are like employees within the bigger business of state government. Local governments are merely delegated state powers over a local district. The concept of federalism, which is held by the national government towards individual states, in their connection with local governments, as it is elsewhere such as Mexico or Brazil⁹⁴ states can disband, or dissolve, local governments whenever they choose to do so in order to change things up if they so choose to. The national government, on the other hand, cannot arbitrarily dissolve state governments, they must let them be. One example of how local governments are merely an extension of state can be seen in the fact that municipalities, such as medium and large sized cities, get their power from state government which gives the city a charter, denoting their boundaries, limitation of their structure, their methods of taxation and finance, and what roles need to be created, among other things, all making the city something of a municipal corporation. In this regard, a state can take away a city charter at any time, or change it.

LIMITATION OF LOCAL GOVERNMENT POWERS IN THE UNITED STATES

A statement about the limitations of powers cities have, based on their charter, shows that cities only possess those powers expressly granted to them in their charter. This is definitely different from the powers granted to states within the United States Constitutions Tenth Amendment. Any powers not specifically granted to the states, or to the people. On the other hand, any power not specifically granted to a city in its charter is not given to them, which is just the opposite of the tenth amendment concerning states powers. It is like this- any powers not specifically given to the United States government is allowed to be determined by the states; the states then have their

⁹⁴ <<http://www.bloomp.net>> ibid

own powers, and allocate some powers to local government, in this case, the city through its city charter, any power that the states don't use, or specially grants to cities, or other local government entities by the state, in city charters, or otherwise, is given to the people, allowing them their own power in those few areas that municipalities, state governments, and the national government don't control.

The fact that the local government entities are merely an extension of a state's power may be a reason why there is not always the separation of powers as one may find in state governments or in the American national government, such as when the city has a commission or council-manager form of city government. For example, the council-mayor type of city government doesn't separate the legislative and executive powers in a way that it would under a council-mayor form of government.

The amount of power or authority exercised by a local government differs from state to state. This so because each state determines the type and level of powers they want to divulge to their local entities. This further strengthens the argument that local governments are merely extensions of state powers rather than autonomous entities possessing their own reserved powers.

Considering the fact that the relationship between the states and local governments can be significantly affected by federal government policy, they formed associations to ensure that the interests of states, cities, counties, and other governments have a voice. Several major groups in this category are: National Conference of states Legislatures, National Association of Counties, International City Managers and United States Conference of Mayors⁹⁵

⁹⁵ <https://google:state_and+local+government+relationship> assessed 16th January 2017

5:4 ADMINISTRATION OF THE LOCAL GOVERNMENT SYSTEM

In the administration of the local government system in Nigeria, we have the chairman at the helm of affairs. He acts as both the chief executive and the accounting officer of the council. In their implementation of policies, the chairman is assisted by the council secretary and the councilors. The day to day running of the local government is done between the chairman and these other persons who ensure that their functions are duly carried out as and when due.

The principles of separation of powers appear visibly in the administration of the local government level. This is essentially to guide against abuse of power by any of these arms. In other words, the legislature acts as a watch dog on the activities of the executive and vice versa, while the judiciary acts as a control mechanism on the activities of both the legislature and the executive. The councilors can call out the executive team by refusing to approve any programme or policy that fails to follow laid down procedure. The legislature on their path may fail to approve executive budgets.

Like its Nigerian counterpart, local governments in America occupy the next layer of government after the federal and state government. Because of their unique nature however, the local government administration in America is not easy to discuss under a single canopy. The Constitutions of various states differ in many respects but to a very large extent they tend to follow the same pattern or similar structure.

TABULAR REPRESENTATION OF NIGERIA AND UNITED STATES OF AMERICA'S
LOCAL GOVERNMENT ADMINISTRATION

S/N	FEATURE	FEDERAL REPUBLIC OF NIGERIA	UNITED STATES OF AMERICA
i	Mode of Election	They are elected	They are elected
ii	Separation of Powers	There is separation of powers amongst the organs in the local government council	There is hardly separation of powers amongst the organs in all the local government councils. There is variation on the amount of separation of powers at the level in America.
iii	Officials/employees within the council	They are employed by the council and sometimes state government	They are employed by the council and sometimes they outsource city managers.
iv	Term in office	Elected members serve a fixed term in office.	Elected members serve a fixed term in office while an outsourced manager may be disengaged anytime upon unsatisfactory service delivery.

v	Political leadership	The chairman is known as the political head of the council and is an elected office holder	The city manager may be the council political head and he has no fixed term in office.
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CHAPTER SIX

SUMMARY, RESEARCH FINDINGS, OBSERVATION, RECOMMENDATION AND CONCLUSION

6.1 INTRODUCTION

The local government system in a federal state varies slightly in their adherence to their dictates of federalism. In practice, the local government system is almost completely subsumed under the state government, even though the Constitution recognizes them as independent tiers of government. The states and the federal government have continued to exert overwhelming powers over the local government. In the America however, the local government system is neither expressly mentioned in the state nor in the federal Constitution. The practice has always been that each state government determines the existence of the local government. In this chapter a summary of findings and observation from the two systems above will be made and finally the works contribution to knowledge will also be stated.

6.2 SUMMARY OF FINDINGS

It is a notorious fact, that local government in the past few years of both military and civilian era, became reduced to mere rent collecting institutions for the political class and bureaucratic officers. The local government is virtually non-functional.

It is the researcher's candid opinion that should the local government in Nigeria be strengthened as a third tier possessing absolute control in consonance with the dictates of true federalism, this will remove the seeming unnecessary control the state and federal government have over it. To this end, there is need for constitutional amendment. The Constitution should only state that

“there should be a system of democratically elected local government council in various states of the federation, but the powers, responsibilities and structure of these local governments should be the joint decision of the local government and the states”. So every state has a measure of independence and uniqueness.

Beyond the issue of its creation, the local government is plagued other challenges which include inadequacies in income from internal and external sources. Also, another major problem of local government is official corruption which has given much room for privatization of public funds by a few privileged top political and civil service officials in the local government.

6:3 OBSERVATIONS`

The local government system is conceptualized as a constitutional creation in Nigeria and while the Federal Republic of Nigeria has only one constitution which governs the activities of all the tiers of government in the United States of America, the local Government is a matter left to states. States constitutions pronounce the creation of the local government and also determine how they run.

During the course of this research it was observed:

- that local government challenges being faced by the administration in Nigeria is not completely absent in other federations. In the United States of America, the local government is plagued with similar challenges.
- That it will not be totally out of place to say that the Nigerian local government system is stronger than those in the United States of America. One reason adduced for this observation is that in extreme cases the states in America can dissolve a local government all together.

- That no other tier of government in Nigeria can dissolve the local government because its creation is clearly a Constitutional creation and except same is altered it cannot be dissolved solely by a state or jointly with the federation.
- No matter the good intentions behind enhancement of local powers and permitting federal control in certain aspects of local affairs, there is no doubt that it vitiates states powers and control over local government.

6.4 RECOMMENDATIONS

- State ascendancy or their repressive attitude towards local governments in their area should be checked by mass education of the people on their political rights and must importantly through a virile civil society.
- In this vein, the civil society will not only be useful in checking the excesses of the state government but also that of the endemic corrupt attitude of local government officials.
- Also, the distribution of statutory allocation should be made directly to the local government's accounts in accordance to their agreement.
- The states and local governments should be allowed the discretion of how to organize or structure the funding of their local governments. This will make competitive federalism as states may be compelled not only to learn from other diverse experiences but to surpass each other in delivering the dividends of democracy to their people. It will also allow them opportunity to experiment with fewer areas before being nationalized. It will also importantly give the states a fair sense of justice and equity that they have not been unduly cheated in the scheme of things.
- The elaborate provisions made with regards to local governments in the 1999 Constitution be expunged in consonance with the dualistic structure that underline

federalism as against the tripodal structure that has created confusion and problems in the present federal framework.⁹⁶

- There is need for total transformation in the local government system by way of reforms. This will cater for the recent realities regarding the challenges facing the system as opposed to the solutions proffered which are no longer feasible or answerable to the demands of today.
- This will automatically require a constitutional amendment to reflect the terms of reference from the reforms. The reforms may include involving traditional rulers and native authorities more in the politics at the local government.
- Elections into the local government should be conducted periodically and this may be alongside other tiers of government. If this is clearly stated as such it will take care of ambiguity surrounding the election time table into the local governments and completely eradicate the menace of care taker committees.

It is instructive to do the aforementioned because we cannot sweep the basic necessity for good governance under the carpet and expect that we will one day be transformed for better.

6.5 CONTRIBUTION TO KNOWLEDGE

The items over which the federal and state government have jurisdiction as enshrined in the exclusive legislative list, the concurrent legislative list and residual list are overwhelming and a gross suppression of the abilities of the local government in Nigeria. These powers deprive the local government of substantial autonomy.

⁹⁶ Nkolika Obianyo, 'Federalism, Constitutionalism and Local Government System in Nigeria: The Need for Constitutional Amendment' in Warisu O. Alli (eds), *Political Reforms Conference, Federalism & The National Question*, (The Nigerian Political Science Association, 2005)

It is common knowledge that local government is at the grassroots which is the nearest to the populace both those in Nigeria and America. The local government ought to be the government of the people run by the people for the people. The beauty of democracy ought to manifest in local administration. The local government in Nigeria as a tier of government is the most neglected, the most undemocratized and the worst cheated tier of government.⁹⁷

The fact that there is need for a Constitutional amendment is obvious; we must however not on that basis completely neglect respect for the areas adequately covered by the current Constitution. We must continue to abide by Constitution because it is better to have rules that have inherent loopholes than to completely leave the relationship to chance. Where this is the case, abuse is imminent.

6.6 AREAS FOR FURTHER RESEARCH

This research work titled; local government system in a federal system: Comparative Study of the Federal Republic of Nigeria and the United States of America has focused strictly on matters bothering on the subject. During the course of the research those areas were discussed. The following areas have however been proposed for further research.

- Whether the local government is necessary in the Nigerian federal system,
- Whether the local government is subsumed into the state government,
- Whether the local government elections should be conducted alongside the federal and state government elections.

⁹⁷ <<http://www.google.com.ng/amp/observers>> assessed 19th February 2017

6.7 CONCLUSION

The position of this work is that the place of local councils as enshrined in the 1999 Constitution (as amended) is practically honored in the breach than in strict observance. Hence, local councils in Nigeria have been highly politicized by the powers that be, and the true position of the Constitution on the status of the councils is greatly in doubt.⁹⁸

In Nigeria today, local government administration is a worrisome situation, because development at that level is at its lowest ebb, with corruption being the order of the day. Being a critical partner in the overall development of Nigeria society, local governments must therefore be given more than a casual attention.

This work concludes that greater autonomy, consensus building, adequately constitutional obligations should be granted to local councils to enhance overall best practices as well as grassroots transformation and sustainable development.⁹⁹

The 1999 Constitution with all the amendments so far, has not specially made any provision for the local government. It is hypocritical to say the least, and it is therefore not acceptable if we are to really meet up with the democratic demands and norms in this tier of government. If anything, we need a total overhaul on our local government democracy. It is sad to observe that less than 10 state governments have been able to conduct local government elections since 1999. It is surprising that even where the so called local government elections are conducted the governors, through the State Independent Electoral Commission select their loyalists to run the affairs of the local government. This is the current state of affairs in the local government in Nigeria.

⁹⁸ Abu Tom Usman, Erunke Canice Esidence, Relations in Nigeria's 4th Republic: An Assessment of the (1999-2010) Experience <<http://eujournal.org/index.php/esj/es/article/view/state-localgovernment>> assessed 18th February 2017

⁹⁹ Ibid

Like every other concept in a federation, they apply differently in all states. This is bearing in mind that each nation has their inherent dynamic features. While, the American local government system seems to run smoothly in comparison to ours, it is important to recall that the latter is not without its own strengths and is capable of a more excellent practice if strengthened and fueled in the right direction.

If transparency, accountability and recourse to due process are adopted at all levels and facets of government, it will go a long way in checking the abuse of office by federal, state and local government officials.

This can be achieved if a feedback mechanism is put in place, whereby the people at the grassroots and indeed other tiers of government are sure that they can bring reports from their wards, constituencies and states. This feedback may include observations and explanations from government against the terms of their election promises. Where this machinery is strengthened, the representatives at all levels of government will have no choice but to deliver the dividends of democracy to the people, failure from which they are made to face the full wrath of the law.

Despite all the criticisms, local government system still remains a very important aspect of a federal state. It is better we quickly start to rebuild on our seeming faulty structure to meet up with the best international practice in a hope for a better future in no distant time.

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