



Chapter Thirteen

LOCAL GOVERNMENT FINANCING: CONSTITUTIONAL PROVISIONS AND IMPLICATIONS FOR EFFECTIVENESS.

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Abstract

Local Government, as it is presently known, was originally known as Indirect Rule System of Local Administration. It was first tried in the Northern Emirates, and upon the amalgamation of the Southern and Northern Provinces by Lord Lugard in 1914, the system came down to the Southern Provinces. It was assimilated in the Western Provinces but was not so easily in the Eastern Provinces. The Local Government Ordinance patterned after the English system of Local Government came into effect in 1950. The first Local Government Law was passed by the Western Nigeria in 1952; followed by Lagos Local Council Law of 1953; Northern – 1954; and Eastern Nigeria – 1955. These Laws replaced the Local Government Ordinance in 1950. The methodology adopted to achieve the objective of this paper was a combination of documentary, historical and descriptive approach. The 1979 Constitution of the Federal Republic of Nigeria, which has the same Provisions and Schedules as the 1999 Constitution, raised the status of Local Government Councils to the third tier of the government of the Federation, section 7 subsection 1. Section 7 subsection 6(a) and (b) provide for the sources of revenue to the Councils. Apart from the foregoing provisions on sources of revenue to the Councils, section 162 subsections 3, 5 and 6 provide crippling constraints on the freedom of the Councils to have direct access, without recourse to the State Governments, to the funds allocated to them from the Federation Account. Since the meager internally generated revenue of the Councils cannot sustain ten per cent of the development needs of the Councils, their inability to have direct access to their major source of revenue accounts for their ineffectiveness in most respects. This paper recommends the removal of section 6, subsections 3, 5 and 6 from the Constitution, for the Councils to be responsive to the needs of their localities.

Local Government Finance:

Local Government Finance is the study of economic behaviour of Local Council. Local Government Finance is concerned with how money is procured in the local council to execute project, and how it must be used to ensure effectiveness and efficient evaluation of projects for the benefit of the teeming rural population. It is therefore an inquiry into the facts, techniques, principles, theories, rules and policies shaping, directing, influencing and governing the use of scarce resources of the local governments, (Sharp & Slinger, 1970: 6). The study of Local Government Finance is an examination of its generating, spending, taxing, borrowing and managing.



The fourth Schedule of 1999 Constitution listed main functions of a Local Council in Nigeria. In carrying out these functions, the Local Government Councils need finance. There are three principal sources of finance to local government. First is the Statutory Allocation from the Federation Account, which is the major source; second is the Non-Statutory Allocation including project grants from the State and Federal governments or donor agencies, while the third is the Internally Generated Revenue. Other sources include external non-official sources, such as loan credits from banks and other financial institutions; dividends and profits from private companies and interests from bank deposits.

Constitutional Provisions and Implications for Effectiveness: Contemporary Local Government in Nigeria has been a system of Government that is very ineffective, unresponsive, as well as unable to initiate and direct the provisions of services and to determine and implement projects. The effectiveness of the local government is subject to the availability of sufficient funds which it can use to finance its ever-increasing responsibilities, to complement the activities of the State and Federal Governments within its jurisdiction. Our focus will now be on the Constitutional Provisions for Local Government finance.

Section 7⁽⁶⁾ of the 1999 Constitution of the Federal Republic of Nigeria, provides as follows:

- (a) The National Assembly shall make provisions for statutory allocation of public revenue to the Local Government Councils in the Federation, and
- (b) The House of Assembly of a State shall make provisions for statutory allocation of public revenue to Local Government Councils within the State. Section 162⁽³⁾ of the Constitution provides that - Any amount standing to the credit of the Federation Account shall be distributed among the Federal and State governments and the Local Government Councils in each State on such terms and in such manner as may be prescribed by the National Assembly.

Further, section 162⁽⁵⁾ provides that-

The amount standing to the credit of Local Government Councils in the Federation Account shall also be allocated to the States for the benefit of their Local Government Councils on such terms and in such manner as may be prescribed by the National Assembly.

Section 162⁽⁶⁾ provides that-

Each State shall maintain a special account to be 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.

Section 162⁽⁷⁾ of the Constitution goes further to provide that -

Each State shall pay the Local Government Councils in its jurisdiction such proportion of its total revenue, in such terms and in such manner as may be prescribed by the National Assembly.

The implication of these provisions is that the Local Government Councils do not enjoy fiscal autonomy and this accounts for their inability (barring corruption on the part of local council



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functionaries) to perform greater part of the functions assigned to them in section one of the fourth schedule of the constitution. These provisions, further diminishes the supposed role of the local government councils as the third tier of government. Section 162⁽⁶⁾ which provides for "State Joint Local Government" did not provide for the method of operating the account. In the absence of this provision, it is implied that the state governments are not only the sole signatories to the account but also decide what to do with it. There is no doubt, therefore, that The Local Government Councils are at the mercy of the state governments as to the quantum of the amount of money to be "re-allocated" to them from the State Joint Local Government Account. It was observed that some Local Government Chief Executive Officers who do not enjoy the support of the State Chief Executive were starved of funds. This arrangement provides avenue for state governments to divert most of the financial resources accruing to the Local Government Councils as the third tier of government. Regrettably, this has crippled the financial base of the Local Government Councils in Nigeria.

This article was anchored on the theory of "Classical Federalism" propounded by K.C Wheare. By Classical Federalism, K.C Wheare, (1973:2), means "the method of dividing power so that general and regional governments are each within a sphere co-ordinate and independent".

In addition, he stressed the importance of formal institutional requirements such as delimitation of power by as Supreme Constitution, Bicameral Legislature, Independent Electoral System, an Independent Judiciary and so on as prerequisites for the existence of federation. This classical federation encourages the idea whereby the powers of the various levels of government are in watertight compartments, distinct and separable.

Nwabueze (1982:1) appears to adopt the same idea of federalism when he defined federalism as an arrangement whereby the powers of the government within a nation or country are divided between a national, country-wide government and number of regionalized government in such a way that each exists as an entity separately and independently of the other and operates directly on the persons and property within its territorial areas, possessing a will of its affairs, sometimes on matters exclusive to it.

Thus, for a classical federation to exist there must be:

- (a) Separateness and independence of each tier of government;
- (b) Mutual non-interference;
- (c) Equality between the various regional governments;
- (d) Techniques for the division of powers;
- (e) Fiscal Federation and;
- (f) A supreme constitution.

The forgoing requirements are supposedly necessary for the existence of a federation. The relevance of this theory to this article or study is that insistence on these requirements especially fiscal federation will guarantee financial autonomy to the federating units in the country.

Another important issue is the relationship between financial base of the Local Government Councils and effective discharge of the functions assigned to them under the fourth schedule of the



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1999 Constitution of the Federal Republic of Nigeria.

The three main types of the relationship between financial autonomy and implications for effectiveness are as follows:

Positive Correlation: This means that when local government enjoys strong financial base, it is likely that they will perform effectively and efficiently in the development of their areas. For instance, if grants from Federal and State Governments to local governments are increased and paid directly to them, it is expected that they can embark on developmental projects with ease independent of the State Government.

Negative Correlation: If local government enjoy strong financial base, they will perform ineffectively and inefficiently. For instance, if the grants from Federal and State Governments are increased and paid directly to local government, it is not unlikely that local government functionaries will divert these funds to their personal pause to the detriment to the needs of the people, and create avenues of waste, fraud and corruption.

No Correlation: Here, strong financial autonomy for Local Government has an independent relationship to effectiveness. For instance, some local government councils are performing effectively despite the current constitutional financial arrangement that weakens the financial base of the councils.

Having examined the constraints imposed by the constitution on the direct access of the Local Government Councils to their shares of Statutory Allocation, it becomes necessary to asses the various sections of the constitution that guaranteed the existence of the Local Government Council and provided for statutory allocation from Federation Account and State Governments' internally generated revenue and determine whether Local Government Councils enjoy the status of a third tier of government or not. From the assessment of the 1999 Constitution, section 162^(5, 6 & 7), which provide inter alia that "The amount standing to Local Government Councils in Federation Account shall be allocated to the States for the benefit of their Councils" and the issues of the operation of "State Joint Local Government Account," incapacitated the Local Government Councils in Nigeria. With the foregoing constraints imposed by the constitution on the freedom of the Local Government Councils to freely access the funds due to them, the 1999 constitution does not guarantee financial autonomy to the Local Government as a third-tier of Government. The direct effect of the weak financial base of the Local Government Councils has a direct negative relationship to their effectiveness. Thus, the incongruous nature of local government revenue rights and fiscal jurisdiction with the duties and functions constitutionally allocated to them need to be reviewed. A situation where the constitution provides for statutory allocation of public revenue to the Local Government Councils on the one hand and constraining the Councils' access to the allocated funds on the other hand, places the councils at a gross disadvantage on the utilization of such funds to carry out their development functions.

It is recommended that section 162^(5, 6 & 7) should be repealed or amended to grant Local Government unfettered access to their shares of statutory allocation from Federation Account and State Government internally generated revenue. The financial base of the Local Government Councils



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needs to be strengthened to enhance the effectiveness of the Councils in performing their assigned roles in governance. It is expected that the foregoing having been implemented will guarantee the status of the Local Government Councils as the third-tier of government and ensure their effectiveness, efficiency and accountability.

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