

STATE-LOCAL GOVERNMENT FISCAL RELATIONS: IMPLICATIONS FOR LOCAL GOVERNMENT SYSTEM IN NIGERIA

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Abstract

Since the inception of the system of local government in Nigeria, there had been persistent clamour for the autonomy of the local government as the third tier of governance in the federation. It is interesting to note that even the federal government has in recent times joined in championing the course of local government autonomy. In order to strengthen the autonomy and philosophy of government at the local level, The Federal government guaranteed the statutory nature of local government by embodying it in the 1979 constitution. Even the military administration of General Ibrahim Babangida from 1986 took bold steps to strengthen the autonomy of local government. By January 1988, good measures of autonomy came the way local government with the scrapping of the state ministries of local government throughout the country thus removing the political control and bureaucratic red-tapism perpetuated by these state ministries. It has been stated earlier in the paper that the Act which established the State Joint Local Government Account (SJLGA) was passed in 1981 by the National Assembly but the eventual domestication and implementation of the provisions of the Act by the states in the federation only took effect in the early years of the Fourth Republic when State House of Assembly passed the SJLGA laws to give effects to that constitutional provisions. The paper explored these issues.

Keywords: Constitution, State Joint Local Government Account (SJLGA) National Assembly/State Assembly, Fiscal federalism and Local Government.

Introduction

It is important to posit that the conduct of government business should be carried out in an atmosphere of harmonious relationships among the various tiers of government. The reason for this assertion is obvious. First and foremost, a good understanding of the jurisdictional scope of each of the tier of government is necessary to avert any overlap that will affect productivity. Secondly, as partners in progress, the issues of acrimony arising from day-to-day performance of the government can always be eliminated by a good understanding of government business. The form and extent of the changes in Federalism, according to Wright (1993), led to the emergence of intergovernmental relations, often abbreviated IGR, which is a broader concept than Federalism. IGR has therefore emerged to provide scope for the understanding of the relations that exist within the circle of governmental relations, since Federalism calls for the coordinate interaction of the various levels of government viz Federal, State and Local Governments. Intergovernmental relations according to Deil Wright comprise all the permutations and combinations of relations among the units of government in a Federal System. It also refers to the activities and attitudes of persons occupying the positions in all the units of government under consideration- State, Local, political, administrative, judicial, legislative or executive branches of government (Olowu and Ayo, 1996 as quoted in Jonah and Chukwuemeka, 2007).

Fiscal resources speak loud about relationships. Knowledge of the basic fiscal patterns is an important first step in understanding IGR in any country. Nwanegbo (2004) explains that a unit of government needs to be sufficiently self-reliant to be qualified to be called a government; otherwise it may be seen as an administrative unit of the sponsoring government. The Local Government is the third tier of government and is close to the grassroots. The 2011 Amended Constitution of Nigeria Chapter 1 of section 3(6) recognizes 774 Local Governments. In a bid to make Local Governments more meaningful, a number of reforms were undertaken. The 1976 Local Government reforms in Nigeria have since remained the greatest in the development of Local Government System. The aims and objectives of the reforms were meant to make the Local Government a real third tier of government administration after the Federal and State Governments. The Reforms covered the functions, structures, financial resources, and the place of traditional rulers in Local Government, law enforcement as well as the relationship between the Local Governments, State and Federal Government. It was in the recognition of these objectives that the fourth schedule of 1999 Constitution of the Federal Republic of Nigeria outlined in detail, the development function of Local Government in Nigeria. Currently, Nigeria operates a Federal System of Government, with a Federal Government, thirty-six States and seven hundred and seventy-four Local Governments. This paper seeks to determine the relationships the challenges and background between State - Local Government Fiscal Relations is in Nigeria . It will look into the factors affecting the relationship and proffer solutions to problems that may be discovered.

Contextualisation of Local Government Fiscal Autonomy

Local Government fiscal autonomy is derived from the fiscal federalism as is operated in the Nigerian federation. Fiscal federalism is the transfer of functions, resources and authority to peripheral levels of government. It also relates to the “disposition of tax powers,” retention of revenue and methods adopted in sharing centrally collected revenue in accordance with the constitutional responsibilities of all levels of government (Osakwe, 1999:524).

In line with the current reforms, the defunct Centre for Democratic Studies (CDS) defines local government autonomy as, “the relative discretion which local government enjoy in the regulation of their own affairs”. According to Tukur, fiscal federalism is all about

fiscal equity and financial independence among the federating units. The extents to which local governments are free from the control of the state and federal government in the management of their local affairs” (Adeyemo, 2005).

While Nwabueze (1983) sees the autonomy under the federal system as each tier of government enjoying a separate existence and independence from the control of the other governments. It is an autonomy which requires not just the legal and physical existence of an apparatus of government like a legislative assembly, governor, court etc, but that each government must exist not as an appendage of another government but as autonomous entity in the sense of being able to exercise its own will in the conduct of its affairs free from direction of another government.

Local government autonomy can also be defined as “the freedom of the local government to recruit and manage its own staff, raise and manage its own finances, make bye-laws and policies, and discharge its functions as provided by law without interference from the higher governments (Ogunna, 1991:350, quoted in Okafor, 2010). This includes the political, financial and administrative autonomy. Financial autonomy of local government entails the “freedom to impose local taxation, generate revenue within its assigned sources, allocate its financial and material resources, determine and authorize its annual budgets without external interference” (Okafor, 2010), fiscal autonomy is therefore the bedrock and most important aspect of local government autonomy.

Background to the State Joint Local Government Account

The state Joint Local Government Account (SJLGA) was initially introduced in the Nigerian federation as far back as 1981 during the second Republic administration of President Shehu Shagari. Conscious of the fact that the Nigerian economy is a mono economy where over 80% of both the federal, state and local governments revenues come from their shares of the oil wealth, the administration ostensibly wanted to create a platform where both the federal and state governments could play some roles in funding and monitoring the local government revenue earnings and expenditure to ensure their success in rural development.

The joint account system was brought into being through an act of the national assembly known as “allocation of revenues (federation accounts etc) act 1981 (Daily Trust, July, 27, 2006). The same act established what is today known as Federation Account Allocation Committee (FAAC), currently chaired by one Chief Olukayode Anjorin. The committee holds meeting every month. However, during intervening military eras in Nigeria, decrees were enacted by the Federal Government such as decree 49 of 1989 which established for the Federation (note the word Federation, not Federal government), the Revenue Mobilization, Allocation and Fiscal Commission (RMAFC) with powers to “monitor the accruals and disbursement of revenue allocations from the federation account”. This specific power of RMAFC amongst other functions in the above decree is sustained in section 153N sub-section 31 and 32 (a e) part 1 of the 3rd schedule to the 1999 constitution (Daily Trust, 2006).

This decree 49 of 1989 which established RMAFC made the commission a member of the Federation Accounts Allocation Committee (FAAC) as well as the State Joint Account Allocation Committee (JAAC). However, while the State Joint Local Government account (SJLGA) is retained in the 1999 constitution, the Federation Account Allocation committee (FAAC) was omitted or in a lighter word, dropped.

The 1999 constitution of the federal republic of Nigeria also stipulated the legislative power over public funds, especially on SJLGA, in section 162, Sub-section 18. specifically, section 5 8 of the constitution states:

The amount standing to the credit of local government councils in the federation account shall also be allocated to the states for the benefits of their local government councils on such terms and in such manner as may be prescribed by the national assembly.

Each state shall maintain a specific account to be called “state joint local government account” to 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. Each state shall pay to the 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. The amount standing to the credit of local government councils of a state shall be distributed among the local government councils of the state on such terms and in such manner as may be prescribed by the House of Assembly of the state. But decree No 160 of 1992, sub-section 5(2) specifically stated that the 10% of each state’s internally generated revenue payable to the local government councils in the state shall be distributed among the local government in the state on such terms and in such manner as the state house of assembly may prescribe.

Nevertheless, up till year 2000 when there was no joint account committees, local government councils picked up the cheques for their allocations from the federal pay offices (PPOS) in their respective states. These FPOS religiously kept records of all the allocations collected and the accountant General’s office still publishes such remittances/disbursements to states and local governments for public consumption at regular intervals.

Those provisions introducing the joint account system since 1981 had remained silent and unimplemented by the states due to the constant interruptions of the military in the political process. However, on resumption of civilian democracy from May 1999, some interest groups with obvious ulterior motives for the allocations prevailed on the state chief executives who adopted the sections of the 1999 constitution dealing on the state joint local government account system and consequently set-up the joint account system in their respective states (This day July 21, 2006).

Since the inception of the system of local government in Nigeria, there had been persistent clamour for the autonomy of the local government as the third tier of governance in the federation. It is interesting to note that even the federal governments have in recent times joined in championing the course of local government autonomy. In the forward of the guidelines for the 1979 local government reforms, it was clearly remarked that, “the states have continued to encroach upon what would have been the exclusive preserve of local governments. With this reform, the local government was granted the power of grassroots governance with apparent improvement in the autonomy as the third tier of government in the country.

In order to strengthen the autonomy and philosophy of government at the local level, The Federal government guaranteed the statutory nature of local government by embodying it in the 1979 constitution. In section 7(1) of the constitution, it was stated that, “the system of democratically elected local government councils is under this constitution guaranteed”. Even the military administration of General Ibrahim Babangida from 1986 took bold steps to strengthen the autonomy of local government. By January 1988, good measures of autonomy came the way local government with the scrapping of the state ministries of local government throughout the country. Since the inception of the system of local government in Nigeria, there had been persistent clamour for the autonomy of the local government as the third tier of governance in the federation. It is interesting to note that even the federal government has in recent times joined in championing the course of local government autonomy. In the forward of the guidelines for the 1979 local government reforms, it was clearly remarked

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- The approved scheme of service for local government employees following the recommendation of the Oyeyipo Committee report of March 1988.
- The direct disbursement of funds to local governments; thus preventing the hijacking of the funds of local government by the state governments (through the federal pay offices).
- Subsequent increases in the statutory allocations to local government in the 1989 constitution which are aimed to remove the inadequacies of the local government system viz; section 7(8), section 292 and section 304 etc.

While admitting that local government autonomy cannot be absolute in a federation it is pertinent to note that local governments need to be granted good measure of fiscal autonomy so as to be able to carry out effectively the task of rural development. These series of reforms carried out by the federal government in order to strengthen the local government as the third tier of government in the federation has given rise to visible improvements of the revenue base of the councils. It has been stated earlier in the paper that the Act which established the state Joint Local Government Account (SJLGA) was passed in 1981 by the National Assembly but the eventual domestication and implementation of the provisions of the Act by the states in the federation only took effect in the early years of the fourth republic when state house of assembly passed the SJLGA laws to give effects to that constitutional provisions.

Studies conducted by this researcher in Enugu state for the period under review shows that the law establishing the joint account allocation committee was enacted in 2001. This law was published in Gazette No. 6 of 2001 under the caption “State Joint Local Government Account/Distribution of Revenues and other related matters law 2001. It is good news that President Goodluck Jonathan has forwarded a Bill to the National Assembly to stop the operation of the joint state/local government accounts. The president’s action is predicated on calls by well-meaning Nigeria for financial autonomy to be granted the constitutionally recognized 774 local government areas in the country.

The Minister of Culture and Tourism, Chief Edem Duke, who stated this in Abuja recently, also said that government is fully committed to ensuring that effective local government system that would serve as a catalyst for grassroots development is entrenched. The bill, if passed into law and assented to by the president would be one of the best that has emanated from presidency we are hopeful become law.

For many years, local government allocation has been hijacked by the various state governments because of absence of a truly local government system in our practice of democracy. Section 7 (1) of the 1999 constitution allows for an elected administration in the

councils but in practice, most of the councils in Nigeria are administered appointed chairmen or caretaker committees. Only very few can be said to be under democratically elected officials. Even in those with elected administrations, their finances are under direct control of the state government. Hence there is no visible development in practically all the 774 councils in Nigeria. Their roads are as dilapidated as ever. There is nothing to show that there is grassroots government in Nigeria. And, this is the tier of government that is supposed to be closer to the people. Unfortunately, they are not centres of exist only on paper. In reality, they are not centres of rural governance and development.

Ordinarily, local government is supposed to be the third tier of government. As a third tier government, all local government is supposed to be independent. And, because some state governors do not ascribe to this independence, they have done all in their power to ensure the emasculation of the councils so that they can utilize their federal allocations they like. One instrument that gave the governors the power of control of the councils is the state/local government joint accounts. Once this umbilical cord is broken, the councils can be in a position to develop their areas.

Under the uniform account system, state have dictated projects for councils and disbursed council funds as they like. That is why officials at the local government level are largely not elected. In some states where elections were held in the councils, the party in power ensured that its candidates won all the seats. They do this in connivance with electoral officers of the state independent electoral commission (SIECs). This scenario obtains because SIEC officials are appointed by the governor, who expect them to loyal to him and his party. With SIEC in place, outcome of council polls are predictable. With SIEC it will be difficult for the opposition to win an election at council level. This is why many state governments have not conducted council polls despite constitutional provision for elected council administration in the country. **ving** the political control and bureaucratic redtapism perpetuated by these state ministries. According to Adeyemo (2003) other efforts made towards strengthening local government autonomy include;

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Account/Distribution of Revenues and other related matters law 2001. The following provisions were made by the law;

Composition the Committee

1. (a) Chairman
(b) One Treasurer of a Local Government Council to be appointed by the Governor from each of the senatorial Zones of the state in rotation.
(c) One member from each of the zones of the state who in the opinion of the Governor are persons of unquestionable integrity with requisite qualifications and experience.
(d) One representative of the ministry of finance and another of the office in charge of Local Government matters both of whom must not be below the rank of GI-13 in the civil service of the state.
2. The committee shall liaise with the Accountant General of the state in the discharge of its function.

Secretary:

There shall be appointed by the Governor a Secretary of the committee who shall carry out duties as prescribed in this law and shall;

- a. Issue notices of the meetings committee as directed by the chairman.
- b. Performance such other functions as the committee or the chairman may from time to time direct.

Allocation of Revenues to the Local Government Councils by JAAC

The Act stated that, any amount which shall be set out by the committee at any time for distribution from the amount standing to the credit of Local Government Councils in the Joint Account shall be distributed among the local government councils by the Joint Account Allocation Committee (JAAC) in the following manner;

- a. 40% on the basis of equality
- b. 25% on the basis of population
- c. 20% on the basis of primary school enrollment
- d. 10% on the basis of internally generated revenue
- e. 5% on the basis of landmass.

Some Deductions Provided for by the Law:

The deductions provided for under the Joint Account Law tagged "First-Line-Charges" include the following;

- Local Government Education Authority gross salary
- Local Government Education Authority Overhead
- Total Education Fund payable
- Pension Fund allowance.
- Training fund
- Traditional rulers

The Implications of the Joint Account System on Local Government Fiscal Autonomy

The paper reveals the following;

- a. The laws made by the State houses of Assembly to bring the State Joint Local government Account (SJLGA) into force are usually tilted to favour ends thereby compounding the already distressed financial positions of the councils.
- b. The key officers of the Joint Account Committee set up by the State governor are state government representatives who function on the directive of the State Chief Executives with little or no control from the Council Chairmen who are the statutory owners of the fund as the chief accounting officers of their Local Governments.

- c. Most of the Local Government councils were not even represented in the Joint Account Allocation Committee (JAAC).
- d. The Council who are the chief accounting officers of their respective Local Governments were never briefed as to how much accrued to their councils monthly from the Federation Account before sharing.
- e. Substantial amounts of the allocations from FAAC to each of the Local Government Councils were deducted at source in the name of Joint projects or any other contrived reasons.
- f. The council chairmen who picked up the courage to protest over the unwarranted deductions from their councils' statutory allocation were threatened and some were even sacked from their positions for daring to query the activities of the joint Account Allocation Committee (JAAC) by the State Governors.
- g. State governments that are constitutionally required to fund local government councils have instead used the SJLGA provisions to hold local government's hostage and make them mere appendages of the stat thereby practically denying the local government councils their financial autonomy (Okafor, 2010).

This study shows that the Revenue Allocations that accrued to Local Government Councils in the States were not only deducted at source but that they were in some occasions totally withheld by the State Government through the Joint Account Committee.

Recommendations

This paper will not be complete without the making recommendations. The paper recommends as follows that the Constitution of the Federal Republic of Nigeria Section 7 and also the Fourth Schedule which dwell on Local Governments should be reviewed to give the Local Governments more autonomy and to shield them more from the meddlesomeness of the State Governments. It is only through such fundamental review, the breach of which people can challenge in the law courts, which can restrain State Governors, to some extent, in their capricious propensity towards the Local Governments in their domain.

Target financing should be adopted, in target financing, allocations and grants should not merely come in bulks with the "saints" are going to manage it. Rather, transfers should go to Local Governments on the basis of targeted (identified) programmes or projects, which should always be censored. Indeed, more allocations should be given to Local Government to the tune of 30% based on their budgets, which should be in line with the expenditure assignments. However, there should be stringent constraints and proper surveillance of the development programmes carried out and of their fiscal positions. While we observe that there should be autonomy, such fiscal autonomy should not be to the detriment of the development potentials of the Local Government Area.

For the much desired improvement in the status of State Governments to be achieved; there is the need to increase the financial resources of the Local Government. In this case the Local Government has to be innovative to spot avenues where it can generate revenue.

One of the deficiencies of the Nigerian constitution to date is their failure to match tax powers with functions when dividing jurisdictions among the tiers of government, hence, there is need to review the present system of Local Government financing, with intent to transferring tax-sources to Local Governments. We emphasize that Local Governments should step up its efforts in the collection of its internal revenue sources. This is to put a check on the implications of over dependence on Statutory Allocation from the Federal and State Government. This is owing to the fact that Local Governments are being excessively dependent on the Federal and State Government and does not make serious efforts to tap their other sources of revenue optimally. The ultimate implication is that once there is a short fall

in the expected Federal Government revenue system, it will affect the financial activities of the State and the Local Government expenditures.

Finally, a National Commission which would be vested with the responsibility of monitoring Federal, States and local Governments relation should be set up. This is to ensure meaningful interaction with particular reference to functions relating to finance and Local Government Structure so as to evolve and create opportunities for a meaningful and virile third tier government.

Conclusion

For any nation to excel and develop there has to be a cordial relationship between the three tiers of government (Federal, State and Local Government). The aim of intergovernmental relations is to ensure that each tier of government operate in a harmonious environment (Federation) which can only be achieved if there is cooperation and coordination between the tiers of government. It is as a result of intergovernmental relations that the Local Government receives allocations, grants and other external sources of revenue. Through its relationship with the Federal and State Government, the Local Government seeks its own sources of revenue (internal revenue source). Although, the internally generated revenue of the Local Government is not sufficient to perform its constitutional functions, the local Government has to be innovative to bring up ideas that will enable it increase its internally generated revenue source.

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