

State, Governance And Regional Integration In Africa

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Strengthening Local Governance in Nigeria's Fourth Democratic Republic: The Issue of Autonomy

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Abstract

The issue of local government autonomy is currently in the front burner of national discourse in today's Nigeria. Though local governments are constitutionally recognized as the third tier of government in the country, the general impression is that they have become mere appendages of the state governments due to the excessive control exerted on them by the states. This lack of significant autonomy has resultantly adversely affected the performance capacity of Nigerian local governments. This paper therefore examines the issue of local autonomy in Nigeria's fourth republic with particular focus on the core mechanisms employed by states to erode the autonomy of local governments. The literature-based qualitative research method was used in this work whilst data sourced through this means were analysed descriptively. Evidence revealed that due to absence of substantial local autonomy, what obtains in Nigeria should be properly termed local administration rather than local government. By implication, for local governments in Nigeria to truly function as distinct political units, they need to be freed from the overbearing control of state governments. So in order to strengthen local governments in Nigeria, it is critical to grant them substantial autonomy. It was therefore recommended, among other things, that the National Assembly should ensure that all flawed sections of the 1999 constitution relating to the local government system are reviewed and amended in favour of greater autonomy for Nigerian local governments.

Keywords: Local government, Local administration, Local autonomy, Fourth democratic republic, Constitution

Introduction

The issue of local government autonomy is currently in the front burner in today's democratic Nigeria. What has perhaps remained arguably the most contentious issue confronting local governments in Nigeria is the excessive control they are being subjected to by the states. The 1999 Constitution of the Federal Republic of Nigeria (as amended) recognized local governments as the third tier of governance in the country but subject them to the control of the states. For instance, the Governor of Osun State Rauf Aregbosa recently affirmed that the local government under the 1999 constitution is an appendage of the state government. The Governor held that there cannot be autonomy for local governments because they are absolutely under the control and ambience of the state governments ("Local governments under state's control", 2017).

Due to the excessive control exerted on local governments by the states they have been reduced to mere administrative agencies, so much so, that they can hardly function as a distinct unit of government. Indeed, local governments in Nigeria have not been able to perform optimally principally because of their lack of autonomy. It is worth noting that majority of the respondents in an opinion survey on local government performance involving a total of 2,408 Nigerian citizens aged 18 years and above, was of the view that local governments had failed in the performance of their primary duties (Afrobarometer, 2008). The National Union of Local Government Employees (NULGE) President Comrade Ibrahim Khalid recently lamented what he called bastardization of the local government system in Nigeria to the extent that it cannot deliver its mandate to the people. He bemoaned that the Nigerian local government system, which is the closest to the grassroots, cannot perform its functions because it has not been allowed to function as an autonomous body (“LG has been bastardised”, 2017).

Apparently, lack of autonomy has adversely affected the performance capacity of the local governments in discharging their mandatory responsibilities. This situation has necessitated the clamour for local government autonomy by major stakeholders in the local government project notably the Association of Local Government (chairmen) of Nigeria (ALGON) and the National Union of Local Government Employees (NULGE) amongst others. It is also in this same connection that NULGE had opposed the idea of expunging Local Government Areas from Nigeria’s 1999 constitution.

This paper therefore examines the issue of local government autonomy in Nigeria’s fourth democratic republic with particular focus on the key mechanisms employed by states to erode local government autonomy in Nigeria whilst advancing some actionable suggestions towards strengthening the local governments through enhancing their autonomy.

Research Method

The literature-based qualitative research method was used as data were derived mainly from secondary sources such as journals, newspapers, periodicals, text books, official publications, and other documentary sources as well as the internet. Data obtained through this means were analysed descriptively in form of narrative.

Conceptual clarifications

Concepts of local government, autonomy and Nigeria’s fourth democratic republic that are germane to this discourse are clarified for ease of understanding.

Local government

This term has been given different meanings by various scholars. Local government was conceptualized by Hill (1974) as a system of territorial units with defined boundaries, legal identity and institutional structure, and power and duties laid down in general and special statutes and a degree of financial autonomy. To Golding (1975), the term local government refers to a system of government at the

local level exercised through locally elected representative council enjoying ‘substantial’ autonomy in the exercise of specific powers over a given locality in the performance of a range of functions and responsibilities allotted to it by law.

The United Nations Office for Public Administration defines local government as a political subdivision of a nation or (in a federal system) state which is constituted by law and has substantial control of local affairs, including the powers to impose taxes or exact labour for prescribed purposes. The governing body of such an entity is elected or otherwise locally selected (United Nations, 1975).

According to the guidelines for the implementation of the 1976 local government reforms in Nigeria, local government is a government at the local level exercised through representative councils established by law to exercise specific powers in defined areas (Nigeria, 1976). Local government in Nigerian context is established as the third tier of governance, protected by the constitution, which comprise of democratically elected representatives whose purpose is to provide basic services to the people at the grassroots (Adeyemi, 2013).

The foregoing conceptions of local government clearly reveal certain common features thus:

- (i) It is government at the local level of governance
- (ii) It operates within a defined geographical area
- (iii) It is established and empowered by law
- (iv) It is saddled with specific functions
- (v) It is run by local representative bodies
- (vi) It enjoys substantial autonomy.

It is pertinent to point out that local government is different from local administration. In fact, if the word ‘government’ is replaced with that of ‘administration, then it gives a different meaning altogether. Local administration refers to decentralized structural arrangements that are more or less, extensions of the central or state government (Aaron, 2012). Local administration is therefore essentially an agency of the central or state government and lacks the attribute of substantial autonomy. As Obi (2010) rightly pointed out, while local government enjoys a degree of autonomy, local administration does not enjoy any autonomy at all since it is an appendage of either the central or state government.

Local government is the product of decentralized political arrangement by which the management of the public affairs of a country is shared by the national, state and local governments in such a manner that the local level of government is given reasonable scope to raise funds and to use its resources to provide a range of socio-economic services and establish programmes to enhance the welfare of the local populace in its area of jurisdiction (Orewa, 1992).

Local (government) autonomy

The term autonomous comes from the Greek words ‘auto’ meaning self and ‘nomos’ denoting law. Thus, autonomy concerns self-governance or self-government. Autonomy is defined in the *European Charter of Local Self Government*, as the right

and opportunity for the local governments within the limits laid down by the laws to organize and govern the public affairs under their own responsibility and according to the local populace benefit (Sayann & Ovgiin, 2014). According to Nwabueze (as cited in Adeyemo, 1996), autonomy means that each government enjoys a separate existence and independence from the control of the other governments. This implies that autonomy would only be meaningful if there is no constitutional requirement for each level of government to accept dictation or directive from another.

In a political sense, the concept of autonomy refers to the ability of a self-governing unit to regulate its internal activities without intervention from external bodies (Awofeso, 2004). Imhanlahimi and Ikeanyibe (2009) see local government autonomy as the freedom of local governments to exercise authority within the confines of the law or constitution.

The notion of autonomy as it relates to local government suggests that as a type of sub-national government which performs the political function of government at the local level of governance, they should not only enjoy independent existence but also freedom of action within their sphere of authority and area of jurisdiction. As such, to all intent and purpose, it is an aberration for local governments to operate as mere administrative appendages or field offices of the central or state governments.

But given “the fact that a local government is only a lower level of government within a sovereign state, it is inconceivable for us to think of local autonomy in absolute sense” (Aaron, 2012, p.60). As such, substantial rather than full autonomy for local governments is what is feasible and practicable.

Nigeria’s fourth democratic republic

Following Appadorai (1975, p.187), “by democracy we mean that form of government in which the ruling power of a state is legally vested not in any particular class or classes but in the members of a community as a whole”. Democracy therefore means rule by the people as it is based on popular sovereignty. In distinguishing between democratic and authoritarian systems of governance, Sodaro (2001, p.28), points out that democracy places the people above the government while authoritarianism or dictatorship places the governing authorities above the people. In other words, ultimately power belongs to the people and not the government. A Republic refers to a governmental system whereby the citizens through universal franchise have equal political power – they not only participate in the political process but also freely choose their leaders (Ejere, 2010).

Nigeria, as it is called today, is situated in the West Africa sub-region and has common boundaries with Republic of Benin in the West, Chad and Cameroun in the East and Niger in the North. Its coast in the South lies on the Gulf of Guinea in the Atlantic Ocean. Nigeria is a federation with an area of 923,768 Square Kilometers comprising of 36 states and a Federal Capital Territory as well as 774 local government areas (Bach, 2007; World bank, 2012).

Nigeria was colonized by Britain in 1885 and became a British protectorate in 1901. The Northern and Southern protectorates were amalgamated in 1914. Nigeria became an independent state on October 1, 1960 and a Republic in 1963. But the First

Republic collapsed in 1966 and the country came under military rule between 1966 - 1999 excluding the short-lived Second Republic of 1979-1983.

With the preparation and approval of a new constitution in 1989, Nigeria embarked on yet another attempt at democratization but this never came to fruition and so became known as the abortive third republic. The country was therefore under military rule between 1966 – 1979 and 1983 - 1998. The term Nigeria's fourth democratic republic refers to the period from May 29, 1999 when civil rule was re-established in Nigeria based on the republican constitution of 1999.

Theoretical orientations and framework of analysis

There are no actual theories of local government rather what is available in extant literature are essentially various strands of ideas which seek to provide justifications for the institution. Ademolekun (1983), Ola (1984) and Ibodje (2007) identified four broad theoretical viewpoints justifying the need for local governments namely, Democratic-participatory, Efficiency-services, Developmental, and Holistic-integrationist schools of thought.

Democratic-participatory school of thought

This school of thought posits that local governments exist to ensure citizens' participation in the management of local affairs. Local governments exist to promote democracy and create opportunities for political participation to citizens at the local level. By bringing government closer to the people, local governments help to enhance democratic values and skills.

According to Maas (1957), the values of local government are to be found in liberty, equality and welfare: Liberty as applied by Maas entails protecting citizens from the excessive control and arbitrariness of the central government by allowing local governments' significant degree of autonomy thereby giving the local people a free hand to initiate and implement ideas to enhance their own development. Local governments provide equality through opportunities offered citizens to participate in governance. The welfare justification for the existence of the institution of local government is premised on its ability to provide increased and efficient administration of resources which facilitates increased production of public goods and services.

Laski (1982, p.411) writes that:

The case indeed, for a strong system of local government in any state is clear almost beyond the needs of discussion. We cannot realize the full benefits of democratic government unless we begin by the admission that all problems not central in their incidence require decision at the place, and by the persons, where and by whom the incidence is most deeply felt.

Wunsch (2004) maintains that democracy must be rooted in functioning local participatory self-governance institutions as democracy has certainly shown itself to

be the best system for controlling governments and engaging people in their own governance. According to King (1988), the legitimacy of the local government institution lies in its claim to represent the interests or wishes of the local inhabitants and to administer to their needs – thus founded on democratic ideals, it is required that the local populace be given the opportunity to control their own affairs especially since this the point at which their interests and welfare are most likely to be directly affected.

Mills (1975) asserts that local government in a democratic polity is justified by its ability to promote political participation, political education, and political accountability. The first reason is that every community has unique features which are common to the locality hence only those that have this community interest should administer the community. The second rationale is that such an institution allows for political education as the local governments provide a training ground for politicians aspiring to higher political offices. The third reason is that it provides for accountability as popular control over local government officials can be ensured through a separate organ (the appointment of officials, watching and checking them, granting or withholding of resources for their operation should be vested in local citizens).

Efficiency-services school of thought

This viewpoint submits that local governments exist for the purposes of administrative efficiency and effective service delivery. Local government is said to be an agency for the efficient provision of services at the local level. Accordingly, the essence of local government is to serve the interest of the people at the grassroots by performing those specific services, which are local in character, which directly affects them. Mill (1975) argues that local government is the most efficient agent for providing those services that are essentially local. According to him, because of its closeness to the people who share a community of interest, local government can provide certain services far more efficiently and economically than can do the central government, and that it was convenient and advisable that those who share this community of interest should administer such services.

The major concern of local governments, according to the efficiency services perspective, is the extent to which goods and services are delivered to local citizens in the right quantity and quality and at the right time (Adamolekun, 1983). In summary, the existence of local governments is justified because of their crucial role in the effective and efficient delivery of public goods and services to the local populace.

Developmental school of thought

The expediency for the creation of local governments, from the developmental perspective, is the need to facilitate development at the local level particularly in developing countries. According to Okpata (2003), developing countries have two broad areas of development problems namely nation-building and socio-economic development. The thesis advanced is that decentralized structures especially of the local government type can provide a vehicle for effective

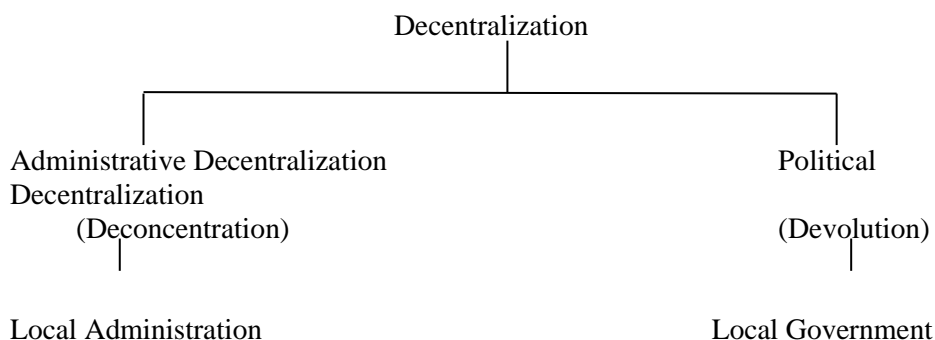
development engineering. Local governments are therefore seen as a veritable instrument of development in terms of improving the welfare of the local populace by bringing about a better life and an improved standard of living. Therefore, local governments are said to exist to foster nation building as well as carry out the socio-economic and other developmental programmes of the other levels of government (federal/state) either as agents or bodies to which these functions are delegated (Ola, 1984).

Holistic-integrationist School of Thought

From the standpoint of the holistic-integrationist prism, developing societies are characterized by pluralism of culture, socially diffused and ethnically differentiated which often create problems of integration. This situation at the national level is often replicated at the local levels. As such, the holistic-integrationist school of thought sees local government as a mechanism for the attainment of national integration, national evolution and national consciousness (Ibok & Tom, 2010).

4 Framework of Analysis

Figure I: Decentralization and its elements



Source: Author's conceptualization, 2017

The concept of decentralization is of salience to the issue of local government autonomy because the degree of autonomy (or lack of it) accorded the local level of governance depends largely on an understanding of the concept. According to White (1948), the process of transfer of administrative or political authority from a lower to higher levels of government is called centralization, the converse decentralization.

Specifically, decentralization can be defined as the transfer of the authority to plan, make decisions and manage public functions from the central government to any organization agency or sub-national units of government (Ibodje, 2007). Deconcentration and devolution are the two major forms of decentralization. Deconcentration entails the transfer of administrative authority from the centre to the field or outpost offices subject to the control of the central authority. Deconcentration

can also be referred to as field administration. Deconcentration is therefore administrative decentralization.

Devolution refer to a political arrangement involving the transfer of specific powers, functions, and resources by the central government to sub-national level government units including regional, state or provincial governments and local governments or municipalities. In many cases, these sub-national government units are substantially independent of the central government and have a legal status (Adamolekun, 2005). Devolution is commonly called political decentralization. While local administration involves administrative decentralization or deconcentration, local government has to do with political decentralization or devolution. According to Oguna (1996), local government entails the transfer of political authority while local administration denotes the delegation of administrative authority.

Mechanisms for states' control of Local governments in Nigeria

The key mechanisms used by states to undermine local governments in Nigeria are identified and discussed in this section.

Constitutional provisions vesting supervisory control of Local governments on states

Section 7(1) of the 1999 constitution (as amended) stipulates inter alia that "...accordingly the Government of every state shall subject to section 8 of this constitution, ensure their existence under a law which provides the establishment, structure, composition, finance and functions of such councils". The section 8 mentioned therein is in respect of constitutional provisions on the procedure for the creation of new local government areas and boundary adjustment of any existing local government area.

Though the aforementioned section 7 of the constitution guarantees the existence of the Nigerian local government system, it also vests in the states supervisory control over local governments. It stands to reason that if local governments are the creation of state governments, as provided by section 7(1) of the constitution, then it is erroneous to say that they are the third tier of government in Nigeria. One implication of this provision is that local government councils cannot exercise the powers and functions assigned to them in the Fourth schedule of the constitution until the State House of Assembly had passed an enabling law.

The overbearing role of the state governments and State Houses of Assembly in local government affairs poses a major obstacle to local government autonomy, and this manifests in various forms. For instance, the fact that bye-laws made the legislative arm of the local government require the approval of the State House of Assembly to come into effect renders the concept of autonomy for local government futile. Also the constitution empowers the states to scrutinize and approve local government budgets and expenditure through the State House of Assembly. Again, the spending limits imposed on local governments subject to the approval of state governments also constitute undue constraint on local government autonomy.

Furthermore, in abuse of their supervisory powers over local governments, some state governors have either suspended or sacked chairmen of local government councils. According to Akinsanya (2005), state governors not only exercised their power under section 7(1) of the 1999 constitution to dissolve elected local government councils to dissolve elected local government councils and replace them with sole administrators or caretakers but also created new local government areas though such newly created local government areas can only become operative pursuant to section 8(5) of the constitution. A constitutional issue that has been thrown up is if a state governor has the power to remove an elected local government council before the end of their tenure. It is gratifying that the supreme court of Nigeria in its landmark ruling of December 9, 2016 annulled the powers of state governors to dissolve elected local government councils before their tenure ends.

Caretaker/transitional committees

Section 7(1) of the 1999 constitution (as amended) states, among other things, that “the system of local government by democratically elected local government councils is under this constitution guaranteed...” This constitutional provision presupposes that local governments should be constituted by elected local officials. But many state governors have disregarded this constitutional requirement and rather have resorted to the appointment of caretaker/transitional committees to run the councils.

It should be clear that local government officials that are appointed by the state governors owe their allegiance not to the local populace but to the state governors who appointed them thereby seriously eroding local government autonomy particularly as concerns political accountability.

Ola (1984) maintained that “local self-government is not reconcilable with the running of local affairs by local men nominated for the purpose by the state government”. Nigeria’s House of Representatives recently raised an alarm that as many as 25 out of the 36 states of the Nigerian federation have care-taker system in place which contradicts the democratic principle upon which the Nigerian local government system was founded given the absence of popular mandate behind such caretaker or transitional committees. A state high court at the Abak judicial division in Akwa Ibom state recently declared caretaker/ transitional committees’ illegal, unlawful and unconstitutional (“sack of all council chairpersons by court”,2017).

State Independent Electoral Commission (SIEC)

Section 197(1b) of the 1999 constitution (as amended) provided for the establishment of the state electoral commission saddled with the responsibility of conducting local government elections though the Independent National Electoral Commission (INEC) still retained the task of updating the voters’ register and making same available to SIEC. The problem arising from this arraignment is that the inability of SIEC in the states to conduct local government elections had sometimes been blamed on the non-availability of updated voters register from INEC.

Though often times, some states deliberately refuse to conduct local government elections for other sundry reasons such as lack of funds and political expediency. More problematic is the fact that state governors through SIECs stage manage the election of their own handpicked candidates into the local councils. The cause of democracy is not served when purported elected local government officials are in reality imposed on the people by the state governors, as this subverts the will of the people.

State Joint Local Government Account (SJLGA)

Section 162(6) of the 1999 constitution (as amended) 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. Also, section 162(7) stipulates that 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. According to section 162(8), the amount standing to the credit of local government councils of a state shall be distributed among the local government councils of that state on such terms and in such manner as may be prescribed by the House of Assembly of the State.

From the above constitutional provisions, it is apparent that local governments do not have direct access to their allocations from the federation account as such must pass through the State Joint Local Government Account. The implication of this is that the states retain the controlling power over the major revenue source of local governments in their jurisdiction.

Although the constitution enjoined states to pay a proportion of their total revenues (at least ten percent) to their local governments, states rarely honour this constitutional obligation. Instead, statutory allocations from the federation account to local governments remitted into the State Joint Local Government Account are often tampered with or diverted for other purposes by most state governments. For example, the purchase of patrol vans for the police and thirty-one tractors for the 31 local governments in Akwa Ibom state was handled by the state government during the administration of Godswill Akpabio's administration (Edet, 2011). Finance is the life wire of a viable local government and the extents to which a local government can discharge its statutory responsibilities depend on its financial capability. Without adequate financial resources, local government autonomy will be a mirage as financial autonomy is a vital aspect of an autonomous local government system.

Encroachment on Local governments' functional responsibilities

The functions of local governments in Nigeria are spelt out in the fourth schedule of the 1999 constitution (as amended) and categorized into exclusive and concurrent lists. Despite the constitutional delineation of functions between the states and local governments, there are instances whereby states have either completely usurped or interfered with some of the functional responsibilities that should normally be exclusive to the local governments especially those that have the potential to

generate huge revenues such as motor parks, markets and liquor licensing. A glaring example was the takeover of motor parks and markets by Anambra state government in 2012 (Adediji, 2012).

Local Government Service Commission (LGSC)

The establishment of local government service commission by each state has also significantly eroded the autonomy of local governments in Nigeria. State governments through their respective local government service commission are in control of local government senior staff from grade level 07 and above: the local government service commission is responsible for the appointment, promotion and discipline as well as the training and posting of this category of officers. But the local government service commission is a state body whose members are appointed by the state governor subject to the approval of the State House of Assembly. This implies that all senior staff members of local governments are invariably state government employees. Local government councils only control junior staff on salary grade level 06 and below. But all local government employees, whether senior or junior, should properly be under the control of local governments if the principle of autonomy was strictly adhered to.

Ministry of Local Government (MLG)

Though the 1989 local government reforms abolished the ministries of local government in the states and placed local government matters under the offices of the Deputy Governor, virtually all the states have since re-established this ministry. Ministries of local governments are used by state governments to ensure the strict monitoring and supervision of the local governments in their states. The existence of the ministries of local government with a commissioner at its helm of affairs effectively subjugate elected local government officials to a state commissioner appointed by the governor thereby further undermining the autonomy of local governments.

Conclusion and recommendations

After an in-depth consideration of the state of local government autonomy in Nigeria, the unavoidable conclusion to reach is that though local government councils are recognized constitutionally as the third tier of governance in the country, but they are so in name only and not in practice. This is because local governments in Nigeria hardly operate as a distinct level of government as they lack significant autonomy and are more or less appendages of states. In the absence of local autonomy what obtains is local administration rather than local government.

Local government finds expression in the devolution (as opposed to deconcentration) of powers and functions to the local level of governance. For the gains envisaged in devolution to be actualized, it is imperative for local governments in Nigeria to be empowered to truly function as distinct political/governmental units by allowing them substantial autonomy within the confines of their enabling or

establishment law. For this to happen, local governments must be salvaged from the excessive control of the states.

Speaking on the current debate on local government autonomy, Alhaji Gambo Tanko Kagara, the chairman of ALGON (who doubles as the incumbent chairman of Rafi local government of Niger State of Nigeria) disclosed that his association would lobby intensively for local government autonomy in Nigeria. According to him, being the closest tier of government to the people, the independence of local governments will bring about more development and gains of democracy (“ALGON vows to actualize autonomy for LGs”, 2017).

As Mahajan (2008, p.603) noted “...too much of control destroys democracy and the spirit of local government and hence it is necessary to avoid reducing local authorities to the position of mere agents of the central government if they are to continue to make their indispensable contribution to the democratic way of Life”.

It is salutary that Governor Okowa of Delta State of Nigeria backs local government autonomy: it was reported that the governor had pledged one hundred per cent commitment to the attainment of local government autonomy, noting that one of the panacea to end the nation’s development crisis is to grant full autonomy, politically and financially to local government councils in the country (“Okowa backs LG autonomy”, 2017).

In order to strengthen Nigerian local governments, it is critical to grant them substantial autonomy. To this end, the following recommendations are hereby advanced:

- (1) The National Assembly should ensure that all Clauses in the 1999 constitution that compromises the autonomy of Local Governments such as 7(1)(6), 8(5) (6), 162 and 197(1b) are reviewed and amended in favour of greater autonomy for the Nigerian local governments.
- (2) The State Joint Local Government Account should be abolished to ensure the financial autonomy of local governments. Local governments should have unfettered access to their statutory allocations from the federation account. In addition; more revenue bases should be granted local governments to enhance their financial viability and autonomy.
- (3) State ministries of local government as well as local government service commissions should also be abolished. Likewise, the state electoral commissions should be abolished as their activities, in the main, have hitherto served only the selfish interest of the state governors.
- (4) The establishment statute of local government should be by national law passed by the national assembly. Each State House of Assembly should then domesticate the law in their respective states.
- (5) To avoid the problems that bedeviled Primary Education in the past when it was put under Local Governments, the funding of Primary Education should continue to be the shared responsibility of the three tiers of government. The National Basic Education Commission(UBEC) and the Universal Basic Education Boards in the states should be legally saddled with the responsibility of handling matters pertaining to primary/basic education so as

to free local governments from the financial burden associated with this costly social service.

- (6) Greater emphasis should be given to the institutionalization of a culture of accountability in the local government system to ensure that local resources are actually used to bring development and promote the welfare of the local populace.

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