

Local Government and Intergovernmental Relations in Nigeria's Fourth Republic

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Abstract: The paper examines local government and intergovernmental relations in Nigeria's Fourth Republic, with special attention on the period of 1999 to 2014. The paper argues that Local Government is not mutually exclusive of other levels of government and that as such there is bound to be an interaction between the local and other levels of government. The study reveals that intergovernmental relations among the levels of government in the Fourth Republic up to 2014 were in disarray due to the conflicts over issues of tax jurisdiction, revenue allocation, intergovernmental relations, fund transfers, overconcentration of power at the centre, illegal removal of government officials, among other factors. The paper posits that for cordial relationship between the local and other levels of government to take place, the constitutional status of local government must be clearly spelt out, the issue of joint state-local government account should be reversed, election rather than appointment should be the means of choosing leaders at the local level, judiciary should be made to be independent and the undue interference on the local government by the state or federal government has been properly addressed. Also, there should be direct disbursement of federation allocation to all the levels of government.

Keywords: Local Government, Intergovernmental Relations, Conflict, Fourth Republic

Introduction

Globally, federalism necessitates the combination of self and shared rule.

It accommodates multi-level governance that authorizes autonomous political units to perform its peculiar functions within a political structure. Despite the initiation of formal decentralization policies, unsuitable intergovernmental relations can engender these relationships between central and local governments (Karingi, 2003). In a unitary system of government, there is a strong centre and weak constituents. In a confederal state however, the constituents are stronger

than the centre. In a federal system, every unit is granted autonomy, to decide whether to stay in the union or to back out. Events over the years in Nigeria's federation have shown the over-dominance of the federal government *vis-à-vis* intergovernmental relations, which is structurally improper. The existing mechanisms and institutions for intergovernmental policy coordination are very weak and need to be improved and strengthened (Lawson, 2011).

The 1999 Nigerian constitution stipulates the functions and powers of the levels of government in such a way that no one level of government can single-handedly perform the functions of service delivery to the people. Cooperation has thus become an important prerequisite for governance (Shah, 2006). Nigerian federalism like most other federal systems of government is characterized by diverse ethnic groups, languages, cultures, political affiliations as well as struggle for political power. The need to cater for these diverse elements and ensure service delivery at the grassroots level necessitated the creation of local government (Boadway and Shah, 2009).

Local government was therefore made to be the third tier of administration with some autonomy, which however still allows for interaction with the central and state governments. The characteristics of the federal government are, *inter alia*, the separateness and independence of each level of government, mutual non-interference in the distribution of power, the existence of a supreme court and a court of law to act as an arbiter in intergovernmental dispute (Abia, 2010).

Intergovernmental relations (IGR) provide a platform for series of legal, political and administrative collaboration between levels of government with varying degree of autonomy. It is generally referred to as the transaction between levels of

government- either national or regional or among federal, state and local governments (Ajulor and Okewale, 2011). Such relationships among the tiers of government are not without tension and conflict. Examining the conflict among the three levels of government, Jinadu (1998: 27) points out that:

the dynamics of federalstate relations within the federalist constitutional framework is one of a see-saw between interdependence and cooperation on one hand and conflict on the other hand, between the centre and the units and between the units themselves.

The Fourth Republic has witnessed unhealthy relationships between the states and local governments. During this period, about ten local government chairmen have, by state executive fiat, been removed or suspended from office. It was this that infuriated the local government chairmen and made them to sue the thirty-six governors and their state assemblies (Fadeyi, 2001). Also, the stoppage of the monthly revenue allocations to some states for the conduct of elections into newly created local governments made the federal and state governments to be at loggerhead.

By the arrangement of the 1999 constitution on the distribution of powers, Nigeria still remains a centralized federation with strong unitary elements. Currently, there are complaints about overconcentration of power in the federal government (the product of long periods of military rule). This school of thought has argued that, if Nigeria wants to practice "true federalism," it should go back to its 1963 constitution. Yet there are centrists who continue to support a very strong federal government in order to counter Nigeria's history of political instability (Adamolekun, 1983; Olopade, 1984).

The unhealthy rivalry between local government and other levels of government is a result of a number of interrelated factors: undue interference by the state government, unconstitutional removal of the local government chairmen by some state governments, shortening of local government chairmen's tenure of office, joint state-local government account, which the former controls and what the states perceive to be an attempt by the federal government to relate directly with local governments.

This paper thus examines intergovernmental relations in Nigeria's Fourth Republic as it concerns state and local governments, and the consequences of such relationships.

The Problematique Local Government is not mutually exclusive of other levels of government. For example, the functions set aside for local government in the fourth schedule of the constitution have to be conferred upon the local government by a law of the State of House of Assembly and do not derive from a direct constitutional grant as contained in Section 7(6) (Nwabueze, 1983). Therefore, there is bound to be an interaction between the local government and other levels of government. Unfortunately, this relationship has not been cordial because local governments complain about undue interference from state governments. For example, the Sokoto State government was taken to court by fifteen local government councils, and the court prohibited it from deducting 3% of its statutory allocation to fund the Sokoto Emirate Council, as passed by the State House of Assembly (Vanguard, 1999).

Intergovernmental relations among the levels of government in the Fourth Republic have been in disarray due to the unhealthy rivalry exists. The problem is not unconnected to the dissatisfaction in the distribution of functions among the levels of government and lack of adequate tax powers allocated to the states and local governments in relation to their functions, undue removal of local government

chairmen by the State Governors through their audit powers, joint state- local government account, and shortening of the tenure of local government chairmen, among other factors.

In the past, scholars have discussed various issues that brings about conflict between local government and other levels of government, but not much work has been done in providing solutions to such conflictual relationships; a gap, which this attempts to fill.

Conceptual Analysis

There are two basic concepts that are central to this research work. These are local government and intergovernmental relations. The concept of local government represents a grassroots level of administration meant for meeting peculiar needs of the people at the local level. It is the lowest unit of administration with laws and regulations the communities to which a group of people who live in a defined geographical area and with common social and political ties, are subject (Agagu, 1997).

The United Nations (UN) defines local government as a political subdivision of a nation in a federal system that exist within a state, which is constituted by law to have a substantial control of local affairs, including the power to impose taxes, or exact labour for prescribed purposes. The governing body of such an entity is elected or

otherwise locally selected. Lawal (2000) defines local government as that tier of government that is closer to the people, "which is vested with certain powers to exercise control over the affairs of people in its domain".

The International Encyclopedia of Social Sciences (1976), defines local government as "a political subdivision of national or regional government, which performs functions and derives its power from the national or regional government, but which possesses some degree of discretion in the making of decisions, with a measure of taxing power".

The 1976 Local Government Reforms Hand Book defined local government as:

Government at the local level exercised through representative councils established by law to exercise specific powers within defined areas. These powers should give the council substantial control over local affairs as well as the staff and institutional and financial powers to initiate and direct provision of services and to determine and implement projects so as to compliment the activities of the state and federal government in their areas, and to ensure, and through devolution of functions to these councils and through the active participation of the people and

their traditional institutions that local initiatives and responses to local needs and conditions are maximized .

Intergovernmental Relations The concept of intergovernmental relations (IGR) can be understood by considering three dimensions or schools of thought. The first school of thought believes that intergovernmental relations occurs in a federal system; the second believes that it can only exist in both federal and unitary systems of government; while the third stresses that it can take place at the international level.

The above is an indication that intergovernmental relations exist in both the federal and unitary systems. Therefore, intergovernmental relations is not associated with any system of government.

Adamolekun (1983 and Olopade (1984) define intergovernmental relations as interactions that take place among the different levels of government within a state. It is federalism in action. Okoli (2005) argues that IGR is dominated by the relationship between the central government and the major subnational governments with the main features spelled out in the constitution.

Okoli (2005) further posits that IGR involves patterns of cooperative

relationship between various levels of government in a federal governmental structure. IGR encourages a focus on the vertical and horizontal governmental and non-governmental policy-making structures at different levels and in different sectors of the overall intergovernmental process. It also places greater emphasis on cooperative as opposed to conflictual aspects of intergovernmental relations.

In his opinion Watts (2008) identifies formal interactions that are conducted exclusively among the governments of constituent units or states. The informal pattern occurs when the same party is dominant in both levels of government for IGR issues to be addressed within the informal structures of that party itself, rather than in more formal IGR channels. Watts (2008) cites Nigeria since 1999 as a notable example of a presidential regime with a “strong executive”. Nigerian federalism and IGR have gone through many changes over the past five decades. Frequent constitutional reforms or changes have taken place since independence in 1960, 1963, 1975 and 1979 (Ugwu, 1998), and most recently in 1999. Ogbuishi (2007) gives reasons why IGR is necessary. These include the under-listed:

- To promote peace and harmony among the three levels of government
- To enhance the emergence of cooperation rather than

- competition in federation
- To ensure effective and efficient utilization of available human and material resources among the various levels of government
- To accelerate the achievement of self-reliance economy
- To minimize intergovernmental conflict among the various levels of government
- To solve problems of rural and urban poverty, ignorant and suffering of the people
- To foster greater national integration via the activities of the levels of government.

Theoretical Framework

There are two theories that have helped us to have a vivid understanding of IGR and Local Government. These are System theory and Power theory

System theory: This theory is attributed to David Easton.

According to him, organization as a system refers to a set of elements or units, which interacts with its environment by importing inputs, while it exports outputs. A system can be closed or open. An open system interacts with its environment and closed systems do not. Easton stresses

further that demands are made from the environment on the system in form of inputs, for example, demands of the citizens for the maintenance of law and order and provision of infrastructural facilities. These demands are then processed into outputs, which are authoritative decisions within the governmental administration. The feedback corrects the actions of the administrative system. This is necessary for equilibrium. A system's theory is a conceptual framework and methodology for understanding the operation of a system where there are two or several actors that are essentially components of the whole. Systems theory is therefore defined as a series of statements about the relationship among independent variables in which changes in one variable is accompanied or followed by changes in other variables. In a functional democracy, the application of the system theory cannot be over emphasized. This is because it addresses the issues of interdependence, dependence and interactions of variables. This theory is relevant to the study because each level of government must interact with other levels of government for policy making and other matters affecting the state. The component units are complementary rather than competitive.

Power theory: The concept of power is relative. Hickson, *et al* (1971) defines power as the determination of the behaviour of one social unit by

another. Following Kaplan (1964), it is seen as having three dimensions: weight or amount, scope, or ranges over behaviour and domain, number of persons or collectivities whose behaviour is determined. The power theory assumes that the responsibility of each unit of government is to promote the interest of its people against the opposition of other units in IGR. The whole question of federalism is related to the question of how power is shared (Fatile, 2011).

Kelemen (2004) in his *Regulatory Federalism in "Fused" Power and "Fragmented" Power Federations* has considered power as an important tool in intergovernmental relations. Kelemen (2004) argues that in parliamentary federations, especially those of the executive-dominant Westminster type, the combination of a fusion of executive-legislative powers at both levels of the federal system and an upper legislative chamber with weak unit representation at the national level tends to produce a decentralized pattern of centre-state relations in most IGR policy areas. In a presidential federation like Nigeria where power is sharply divided among competing structures both horizontally and vertically, the federation tends to produce a more centralized pattern of IGR policy making and regulation, which

Kelemen describes as "nondiscretionary regulatory federalism". Kelemen classifies Canada and Australia as an ideal-type of a "fused" or "concentrated" power federation in its IGR policy-making; while countries like US and Nigeria are classified as ideal-type of a "fragmented" power federation because of the numerous veto groups in its governmental decision-making process.

Kelemen's analysis of fragmented power is relevant to Nigeria IGR because a group or level of government tends to use its constitutional power to veto some bills in order to produce desired results. This is apparent between federal government and Lagos state government when the former declared as null and void the creation of additional local development councils by the latter during Obasanjo regime. This view is also supported by Fatile, *et al* (2009) when he argues that the relationship between power theory and intergovernmental relations in Nigeria is apparent. It is visible in the interaction among the tier of government which is often marred with conflict and disagreement as a result of domination of one level of government over the other.

This paper adopts power theory because a particular level of government tends to exert its

influence on other levels of government in order to achieve its aims.

Kelemen's theoretical argument is fraught with some weaknesses.

These include:

- It is not clear whether he intends to apply his theory of regulatory federalism only to regulatory policy-making, or to include statutory legislation as well.
- He lays too much stress on the extent to which the political behaviour of leading actors is governed by a desire to maximize power.
- It is unclear why the federal executive in a "fused" power federation would be willing to surrender so much discretionary authority to state governments at the implementation stage of IGR policy agreements.
- By defining federalism and IGR in terms of only two vertical structures and the politics of competence "exercised by them, Kelemen creates an oversimplified and excessively "top-down"

perspective in the process of policy-making in federal systems (Asare; Cairney; and Studlar, 2009)

Constitutional Provision of the Powers of Levels of Government in Nigeria

The idea of federal system of government, as given by Wheare (1963), demands that there should be constitutional division of powers among the different units or levels of government. In Nigeria, the federal, state and local governments have their powers embedded in the constitution. Prior to the 1976 reform, local government was one of the subjects on the residual list which was entirely the responsibility of the regional government. Thus, the 1976 reform made local government to become a third tier of administration.

Sections 4 and 5 of the 1999

Nigerian constitution stipulate the powers of the three levels of government. These are in the exclusive, concurrent and residual lists.

Powers in the exclusive list are those reserved for the central authority to carry out. Such powers give control over immigration, currency, defence and foreign policy. For the concurrent list, these are powers jointly performed by both the central and state governments. These include industrial relations, insurance policy, public safety and education. The constitution further states that if there

is any conflict between the central and the state governments on any issue relating to concurrent functions, the central law must prevail over the state law. Residual lists are powers that are given to the local government to perform. These areas are of local interest and therefore needs local attention. These include construction and maintenance of rural roads and rural electrification, chieftaincy affairs, provision and maintenance of local health center and primary education. In addition to the concurrent powers of the central and state governments, Part 1 Sub-section 7 of the 1999 constitution points out that the House of Assembly of a state shall have power to make laws for the peace, order and good governance of the state or any part thereof. The 1999 constitution that guarantees the existence of local government has equally placed it at the whims and caprices of both state and federal governments (Avosetinyen, 2011). Section 7(6) of the 1999 constitution of the Federal Republic of Nigeria states that, subject to the provision of this constitution,

- (a) The National Assembly shall make provision for statutory allocation of the public revenue to 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.

The above section of the constitution enables the local government to depend on the central and state governments for finance.

Also, Section 162 (5,6 and 8) provides that:

- (i) The amount standing to the credit of local government councils in the Federation Account shall be allocated to the state for the benefit of their local government councils on such terms and in such manner as may be prescribed by the National Assembly.
- (ii) Each state shall maintain a special account to be called „State-Joint Local Government“ into which shall be paid allocations to the local governments of the state from the Federation Account and from the government of the state.
- (iii) 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.

In addition, Section 8(3), (5) and (6) of the constitution empowers each state to create local government if so desires and vested the final approval

of such newly created local government on the National Assembly. In the same manner, Section 7 (1) of 1999 constitution states as follows:

The system of local government by democratically elected local government system 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 function of such council (FRN, 1999).

Relationship between Local Government and Other Levels of Government

The relationship between local government and other levels of government in Nigeria are in different folds. These include:

Constitutional relationship: There is no local government that is totally autonomous. Each is part of the system: they are interdependent and inter-related political and administrative structures of a country (Enemuo, 1999). In spite of the autonomous powers granted to the local government, Section 7(1) provides that the state government shall ensure their existence under a law which provides for the establishment, structure, composition,

finance and functions of such councils. Section 4(5) of the constitution also provide that if any law enacted by the House of Assembly of the state is inconsistent with law validly made by the National Assembly, the law made by the National Assembly shall prevail, and that other law shall to the extent of inconsistency be void.

Political relationship: The central government reserves the right to establish new local government units, change the boundaries of the existing ones, amalgamate them or terminate them (Enemuo, 1999). Section 8 provides that the government of every state shall ensure their existence under a law which provides for the establishment, structure, composition, finance and function of such council (FRN, 1999).

Financial relationship: The fiscal and monetary powers of each tier of government have been delineated by Decree No. 21 of 1998, which has become the Act of National Assembly. The constitution expects local government councils to generate their revenues (Eliagwu, 2011). Section 162(1) provides that all revenues from the federation shall go into the federation account and that Revenue Mobilization, Allocation and Fiscal Commission (RMAFC) shall present a revenue formula to the President to be placed before the National Assembly for the purpose of

distribution. The distribution is both vertical (in terms of federal-state-local) and horizontal (in terms of allocation among states). Also, the maintenance of special account called joint-state-local government by the state through which local government funds are paid allows for interaction between the two levels of government.

Administrative relationship: The ministries and agencies of the central government usually have the power to regulate, supervise and mentor local councils in their respective fields of concern. For example, both the federal and state ministries of health in Nigeria work closely with the local councils to ensure that they provide primary health services in accordance with the national standards and policies (Enemuo, 1999). Other administrative relations occur among officials at all levels of government during meetings and conferences. Such conferences as noted by Adamolekun in Awofeso (2004) include the biannual conference of commissioners or local government, meetings of secretaries of government of the federation, the national conference of minister and commissioner for works etc. At the local government level, Awofeso concludes:

apart from the three major areas
of transactional

interactions among levels of government there also exist intergovernmental social service delivery which may cut across issues such as the protection of life and property to be provided by the police, community and rural development efforts and health services delivery all of which have greater implication of federal-state-local government collaboration there is also the need for development project which in our past experience has made federal agencies such as the DFRRI, Better Life for Rural Dwellers most relevant in federal-state-local collaboration (Awofeso, 2004: 34).

Judicial relationship: Through its power of judicial review, the judiciary can declare as null and void, ultra-vires, unconstitutional and with no effect any law made by the federal or state government which is contrary to constitutional provision. Also, local government as a legal entity can sue and be sued by other levels of government.

Local Government and Intergovernmental Relations in Nigeria's Fourth Republic: Cooperation or Conflict?

IGR in Nigeria has been characterized by reluctant cooperation and competition among the levels and arms of government. Areas that have generated intense competition

between the federal and state governments are revenue allocation and the allocation of jurisdictional powers between federal and state governments (Elaigwu, 2011). Taiwo (2000) once remarked that: "It is not an exaggeration to say that from 1914 when the colony of Lagos, the Southern and the Northern

Protectorates were amalgamated to form the country now known as Nigeria, the relationship among its diverse units have been marked by tensions of different degrees of severity".

Conflict is a universal phenomenon in a federal set up. Jinadu (1998) stresses that the Nigerian federation cannot be an exception in areas of conflict, and that even the oldest federation in the world US also experience conflict. According to him, the dynamics of federal-state relations within the federalist constitutional framework is one of a see-saw between interdependence and cooperation on one hand and conflict on the other hand, between the center and the units and between the units themselves.

The Fourth Republic has witnessed unhealthy relationship among the levels of government. Ugwu (1998) points to such problems that arise from tax jurisdiction and revenue sharing.

Revenue sharing: Conflicts have arisen over issues of tax jurisdiction, revenue sharing and IGR fiscal transfers. The federal government has control of income from customs and excise taxes on oil. However, most of Nigeria's states and local governments are not able to raise more than 10% of their annual budget from these internal sources and they are therefore heavily reliant on federal aid (Ugwu, 1998).

Diamond (2001) argues that centralization or control over revenue flows has "virtually erased a fundamental principle of federalism—that lower levels of government have some areas of autonomous authority that cannot be overridden by the center and robbed subordinate units of any significant incentive to generate revenue of their own"

In addition, delays in the disbursement of funds by the state to the local governments are a frequent occurrence. This unnecessary delay has made service delivery at the local level to suffer. The stoppage of the monthly revenue allocations to the state that conducted elections into newly created local governments made the federal and state governments to be at loggerhead.

Overconcentration of political power: Under the distribution of powers in the 1999 constitution, Nigeria is a

centralized federation with strong unitary elements.

Currently, there are complaints about the overconcentration of power in the federal government. This school of thought has argued that, if Nigeria wants to practice a true federalism, it should go back to its 1963 constitution.

Illegal removal of local government officials: The illegal removal of local government chairmen by some state governors has constituted a cause of serious acrimony. During this period, about 10 local government Chairmen were removed and suspended from office. It was this that infuriated the local government Chairmen which made them to sue the thirty six governors and their state assemblies (Fadeyi, 2000).

Ambiguity of status of local government: Some of the provisions of the constitution are ambiguous and contradictory. Therefore, the jurisdiction of local government cannot be determined. Ajulor; Adejuwon and Okewale (2011) point out that there is still an unresolved issue about the constitutional status of local government, which contests the clarity of the provision of section 7 of the constitution. The provision has made local government to become an appendage of federal and state governments and has resulted to excessive control over the local government.

Recommendations

The constitutional status of local government as contained in Section 7 must be clearly spelt out. This will allow local government to perform the functions for which it was set up. By-laws can be used to regulate the affairs of the local government. Also, the issue of joint-state-local government account should be modified in order to allow proper monitoring of the activities of local government.

Moreover, the judiciary should be made to be independent. Undue interference in the local government affairs by the state or federal government should be properly addressed.

Finally, election should be held periodically and should be the basis of assuming political positions at the local government level. Thus, the appointment of caretaker committee by the Governors to direct the affairs of local government would be on the basis of acceptability, which will reduce the degree of conflict or acrimony.

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Conclusion

The paper has considered local government and intergovernmental relations in Nigeria's Fourth Republic. The three levels of government are constitutionally allocated powers, but the State House of Assembly determines the functions of the local government.

The central and the state governments seem to have autonomy but the autonomy of local government is questionable because of the ambiguity of the constitution on this.

The local government has therefore become an appendage of federal and state governments due to lack of financial and by extension, political autonomy. This has also strained the relationship between the local government and other levels of government. The unhealthy rivalry and competition among the levels of government has made service delivery at all levels of government to be impossible. Cordiality will reign among the levels of government when the constitution gives the boundaries, by which all levels are bound.

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71

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