

LOCAL GOVERNMENT ELECTIONS AND ITS FAILURES UNDER NIGERIA CONSTITUTIONAL DEMOCRACY AND WAY FORWARD*

Abstract

The creation of local governments in Nigeria is meant to support the locals on their budding future, in a platform purposely created for representation in the political administration of a State and the Federal Government. However, over the years the position, status and particularly the autonomy of the local government as a third tier government have been a concern. Nigerian constitutional provisions pertaining to local governments laid the basis for the unhealthy interference of the state governments over local government's election and administration. This article critically examined the pertinent issues affecting local government elections, appraising the challenges to the success of democracy and democratic governance in Nigeria particularly at the local government level and the way forward. The article revealed that democracy in Nigeria especially at the local government level has not been impressive due largely to corruption, partisan politics, upper governmental interference, lack of local government autonomy, among others. The doctrinaire research methodology was adopted as the work examined the Nigerian Constitution and other legal framework pertaining to local governments elections in Nigeria. The article concluded that the challenges of democracy in Nigerian local government are both attitudinal and institutional as it has been established that state governors are the major impeding factors against democracy at the local level. The article therefore, recommended, among others, for a constitutional amendment aimed at freeing the local government system from the control of the state with regards to their elections, powers and functions. In addition, the fight against corruption should be stretched to the local government areas while Local government officials are made accountable to the local residence.

Keywords: Local Government, Election, Challenges, Nigeria, Constitutional and Democracy.

1. Introduction

Local government simply means government at the local level or government at the lowest tier of administration within a country, an instrument through which democratic political culture are established, nurtured and sustained such as grassroots political participation and socialization or a political sub-division of a nation state, which is constituted by law and possesses substantial control of local affairs.¹ They are

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¹ Federal Republic of Nigeria, *Guidelines for Local Government Reforms* (Kaduna: Government Printers, 1979) p.77, cited in E.I. Amah, 'Power to Local Government: Appraising Local Government Autonomy under Nigerian Devolution' *Beijing Law Review* Vol.9 No.2, June 2018, available at:

government at the local level exercised through representative councils established by law to exercise specific powers within defined area.² it can also be defined as the form of government operated in a restricted geographical area within a nation or state, through local election,³ a system of local administration under which local communities and towns are organized to maintain law and order, provide some limited range of social services, public operation and participation of the inhabitants in joint endeavour towards the improvement of their living.⁴

Nigeria is one of the countries that operate a Federal System of Government, with three tiers of government, namely Federal, States and Local Governments. The federation is consists of Federal Capital Territory, 36 States and 774 Local Governments Areas. Each Local Governments Areas is administered by a Local Government Council. The Council comprises the Chairman who is the Chief Executive of the Local Governments Areas, and other elected members who are referred to as Councillors. The Chairman is normally elected, but may, under special circumstances also be appointed.⁵

The local governments in theory are generally accepted as viable instruments in the democratization of modern governments as it makes for easy grassroots political participation and socialization. Its idea represents the most effective means through which democracy and democratic dividends are effectively delivered for the benefit of the masses at the grass root.⁶

Fundamentally, the Local Government is primarily out there to promote the spirit of local self-help and self-reliance, community sense of unity, national engagement, and achievement of development through a network of grass root participation and civil society organizations which connotes the basic tenets of democracy as a system of government.⁷ However, the not too impressive scorecard of democracy in Nigeria has

<DOI: 10.4236/blr.2018.92018 PDF HTML XML Beijing Law Review>, accessed on the 23rd March 2023.

² T.O. Agboola, 'The Challenges of State/Local Government Creation in Nigeria Critical Analysis', *International Journal of Politics and Good Governance*, Vol. VII No. 7.1 Quarter 1, 2016, p.4.

³ C.P. Ekukpo, *Local Government Administration in Modern Nigeria* (Ikot Ekpene: Egme Publication, 1994) p. 1.

⁴ G.A. Odenigwe, *A New System of Local Government* (Enugu: Nwamife Publishers, 1977) p. 19.

⁵ U.M.Yar'adua, *et al*, 'The 1999 Constitution and the Roles of Local Governments in Nigeria, Hitches and the Way Forward', *International Journal of Innovative Legal & Political Studies* 5(2):1-10, April-June, 2017 © Seahi Publications, 2017, available at<www.seahipaj.org ISSN: 2354-2926http://www/JILPS-J-1-2017.pdf>, accessed on 19th of March 2023.

⁶ G.I Sheriff, *et al*, 'Challenges of Democracy in Nigerian Local Government System: A Critical Analysis', *Journal of Advanced Research and Multidisciplinary Studies* 1(1), 118-128. (2021), DOI: 10.52589/JARMS-BJXQ8P44 Article. DOI URL, available at<<https://doi.org/10.52589/JARMS-BJXQ8P44>>, accessed on the 19th of March 2023.

⁷*Ibid*(Footnote 6).

invariably made the Nigerian experience of local government as well as local democracy with regards local government elections very disappointing.

Under the Nigerian federal arrangement, while the constitution demarcated and allocated legislative functions between the national/federal government and the states, the local governments were made to function based on laws made by the states legislatures. This deliberate state of affair has generated much controversy among Nigerian constitutional and political commentators as most proponent of local government autonomy have favoured the total devolution of autonomous power and functions on the local government councils, while others favour the status quo whereby the local government remains the appendage of the State government.⁸

However, since the return to democratic rule in 1999, Nigeria's Local Government elections have been conducted in a manner that leaves much to be desired. To put it mildly, Nigeria's experience with holding local government elections has been a dismal. Furthermore, it has been observed that democratic elections at the Local Government level have not significantly improved over the years, despite concerns and criticisms that have emanated from stakeholders. The elections, which are constitutionally within the jurisdiction of the state governments, have been marred by a number of electoral irregularities, including political violence, election fraud, near absence of governance mechanisms that encourage citizen participation and accountability, which has resulted to the absence of a truly representative system of government and other malpractices that limit citizens ability to choose among the available political options if the circumstances permit any option at all.⁹

Good governance based on transparency and accountability has eluded local governments in Nigeria. Local communities have been denied the right to democratically choose their representatives into local government councils in free, fair and credible elections from independence till date. Most of the elections conducted into the local councils cannot be said to be credible. Most elections amount to 'selection' and 'appointment' of local representatives because state governors use the incumbency factor to rig elections in favour of their preferred candidates.¹⁰

⁸E.I. Amah, 'Devolution of Power to Local Government: Appraising Local Government Autonomy under Nigerian Federation', *Beijing Law Review*, 2018 9, 275-293, available at <DOI: 10.4236/blr.2018.92018>, *op cit.*, (Footnote 1).

⁹M. Isah, 'Local Government Election Observation in Nigeria: Challenges and Prospects', Mar 6th 2023 Local Government Election Observation in Nigeria: Challenges and Prospects, *Feasibility Study of Lagos and Oyo States Conducted by Yiaga Africa Watching The Vote*, Yiaga Africa, available at <<https://www.yiaga.org/local-government-election-observation-nigeria-challenges-and-prospects>>, accessed on March 6, 2023.

¹⁰M. Omar, 'Ensuring Free, Fair and Credible Elections in Local Governments in Nigeria', *Department of Local Government and Development Studies, Institute of Administration, Ahmadu Bello University, Zaria*,

When elections are manipulated, it continues to be the worst fate for local government areas in Nigeria. In reality, failure to address the escalating issues inherent in local governance, not the least of which is holding local elections, has had significant accompanying effects, including banditry, overburdened federal and state governments and ethnic rivalries.¹¹

After several attempts at democratization, the country is yet to evolve a viable and stable democracy, not even at the local level that will elicit popular support or even have direct bearing on the lives of the ordinary people, the country is unarguably still struggling with the delivery of democratic governance and dividends.¹²

Many Nigerians feel detached from the government. If the idea of the local government system is to bring the government close to the people then the system is not working or fulfilling its primary objective.¹³The overwhelming dominance of state governors and a small group of people who have mastered a system that both impoverishes the populace and denies them a voice when elections are manipulated continues to be the worst fate for local government areas in Nigeria.

In reality, failure to address the escalating issues inherent in local governance, and in holding local elections, has had significant accompanying effects. Even though democratic administration at the local level is all but non-existent, elections nevertheless present a chance for participation, particularly in giving the people the power to select their own leaders.¹⁴

For democratic governance to thrive in Nigeria and at the local government in particular, grass root participation and autonomy with regards election must be encouraged and sustained, and Local Government officials be made accountable to the localities and not the state governors. As such, every other problem becomes surmountable as the overbearing attitudes of the state governors would have been curbed genuinely if the spirit of the 1999 Constitution is allowed to work.

2. Local Government Analyzed

Developing Country Studies, available at<www.iiste.org ISSN 2224-607X (Paper) ISSN 2225-0565 (Online) Vol 2, No.11, 2012>, accessed on 6th March, 2024.

¹¹M. Isah, 'Local Government Election Observation in Nigeria: Challenges and Prospects Feasibility Study of Lagos and Oyo States', Conducted by Yiaga Africa, *op cit*(Footnote 9).

¹²*Ibid.* (Footnote 11).

¹³F.Akinla, 'Nigeria's Local Government System: Challenges and Opportunities', available at<[abound08Jul, 2021http://www.localgovernment.challenges.opportunities](http://www.localgovernment.challenges.opportunities)>, accessed on the 18th of March 2023.

¹⁴O.K. Ohiole and others, Local Government Autonomy and Democratic Governance: a Comparative Analysis of Nigeria and United States of America,' *Journal of Policy and Development Studies*' Vol. 9, No. 1 November 2014 ISSN: 157-9385, available at<www.arabianjbm.com/JPDS_index.php>, accessed on the 20th of March 2023.

Local Government is seen as a government at the local level or grassroots.¹⁵ It is equally regarded as the form of government that is most nearer to the people.¹⁶ Local government relates to the self governance of the community or a collection of communities in a given areas.¹⁷ Although some scholars¹⁸ have used the term 'self governance' to mean community based on self-organised Community Development Association,¹⁹ it is best suited to the local government terms of description.²⁰ Seeing local government from the perspective of self government of the people, self governance is a demonstration of the self-organising capabilities and propensities of the communities of understanding and how they use their own initiatives and institutional potentials to address problems of daily existence.²¹ In the position of the Guidelines for the Local Government Reforms 1976, it is seen as 'the government at local level. It is also seen as 'the government at local level exercised through representative council established by law to exercise specific powers within defined area.²² Thus, local government is concerned with the affairs, exercised in virtue of power delegated to it for that purpose by the government of the state or nation.²³

In line with opinions of U.N. Women Entity for Gender Equality and the Empowerment of Women on what local government is:

Local government tiers are political administrative level of a territorial, districts, regions, etc. with the legislative, executive and financial authorities to make binding decisions in some local policy areas. The organisation of local government by tiers involves a hierarchical territorial (geographical) division of the country, for example, a region may comprise several municipalities and each municipality may contain several municipal districts.²⁴

However, the hierarchical territorial division does not necessarily imply a hierarchy of powers between the different tiers of local government. In the editions of the Oxford

¹⁵ O.J. Onwe, 'The Constitutional Dilema of Operating the Local and Individual Government System in Nigeria under the 1999 Constitution, being a paper presented during LL.M Seminar, in July, 2009 at Faculty of Law Ebonyi State University, Abakaliki, p. 7.

¹⁶ *Ibid.*, (Footnote 15).

¹⁷ *Ibid.*, (Footnote 15).

¹⁸ S.R. Akintoal, 'Local Self-governance as an Alternative to Predatory Local Governance in Nigeria', *International Journal of Studies in Humanities and Arts*, University of Nigeria, Nuskka, Vol.3, 2004 pp. 47-60.

¹⁹ *Ibid.*, (Footnote 18).

²⁰ *Ibid.*, (Footnote 18).

²¹ *Ibid.*, (Footnote 18).

²² Guideline for the Local Government Reforms, 1976, printed by the Government Press, Kaduna; H.C. Blacks (ed.), *Black's law Dictionary* (6th Edition, Paul Minnesota: West Publishing) 695.

²³ Leyo and Entin, 'Decentralisation-Delegation of Power Local Government', December, 2016, available at <[https://wpinctive .page. link/FKTb8](https://wpinctive.page.link/FKTb8)>, accessed on 6th March 2024, p. 291.

²⁴ U.N. Women, "what is local government and how is it organised? (www document) (n.d) available at [https://wspin page link IFKTb8](https://wspin.page.link/IFKTb8).p.9.

Constitutional Law, Max Plank Encyclopedia of Comparative Constitutional Law, Local or municipal self government is a system of local affairs which is exercised by special elected bodies directly representing the population of particular administrative territorial unit of the country. The European Charter on Local Self-government²⁵ defines local government as the right and ability of local authorities, within the limits of the law, to regulate and manage a sustainable share of public affairs under their own responsibility and in the interests of the local population. It is also defined as:

Local communities represent one of the basic element of any democratic regime and the right of citizens to participate in management of public affairs is an integral part of the democratic principles of most modern states. The concept of local self-government assumes that citizens' participation in management of public affairs can be implemented most directly at the local level. It is clear that the existence of local communities vested with real powers makes it possible to provide control which would be the most effective and close to the needs of the population.²⁶

3. Appraising the Functionality of Election

Election is a latin word from 'eligere' meaning 'pick out'. In line with this assertion, 'election is the process of picking out one's preferred candidate'.²⁷ Election is also seen as 'decision-making process by which the electorate chooses an individual to hold public office'.²⁸ Again, it is an 'established way through which members of a community/society are allowed to choose representatives to control the government'.²⁹

Universally, election is regarded as the hearth of representative democracy. A credible election not only confers legitimacy on political leadership. It is also crucial to the sustenance of democratic order. Election provides citizens with the freedom to choose their rulers and to decide on public policy. Under any democratic system, citizens who are legally qualified to exercise franchise are provided alternatives and to make decision that express their preferences. Elections are critical aspects of the democratic framework for governing modern political societies.³⁰ They serve as instrument of political choice,

²⁵ Articles 3 of the European Charter on Local Charter on Local Self-government Adopted by the Council of Europe on 15 October 1958 (CETS 122).

²⁶ Batanov, "State Territory-Decentralization-Delegation of power at [https: Local Government, \(www.document\)](https://www.document.com), 2016, available at <https://wpsinvite>. Page. link/FKTb8,9.2.

²⁷K. Study 'What is Election,' available at <https://www.kpfastudy.com/course_ijss3_civic_education, 3rd term lessons/election-and-election-bockes-in-nigeria-week/topic./definition-of-election>, accessed on 6th March 2024.

²⁸*Ibid.*, (Footnote 27).

²⁹*Ibid.*, (Footnote 27).

³⁰O.C. Onyepuemy, 'The Quest for Democratic Sustenance in Nigeria; Role of the Police Force', available at <www.iosrjournals.org p.137; Journal of Humanities and Social Science, Volume 20, Issue 1, ver. Iv (Jan. 2015), pp-140.

mobilization and accountability. It is equally as formal decision making process by which a population chooses an individual to hold public office in the legislative, executive arm of the government at the federal state and local levels. It is a mechanism by which modern representative democracy is given birth to. Centrally, elections is a suffrage, which is the power of an individual to vote and to be voted for. In addition, election is defined thus:

It is s a platform that allows the masses to choose their leaders. It must be free and fair, devoid of any pre-conceived and pre-ordained agenda if the polity is to enjoy an atmosphere of peace, freedom and progressive political, social and economic mobility.³¹

In Nigerian parlance,³²election means the way of choosing representatives to political positions in the federal government and various state governments in Nigeria. Elections is a process where people vote in order to elect someone in a political position. It is also regarded as a tool used to fill legislative seats and executive posts.³³Also, elections are a procedure typical for democratic systems, but also systems, which do not respect the principles of democracy often employ them.³⁴

4. Situating the Functionality of Democracy

Allot of authors have define democracy from different perspectives. Some of these definitions are going to be highlighted as follows. In the words of Animashuan³⁵ democracy is defined as:

A broad model of government that is epitomized by good governance, the rule of law, security and protection of individual rights, vibrant civil society and shared economic prosperity.

Democracy derives its root from the Greek words ‘demos’ meaning people and ‘Kratem’ meaning power.³⁶This means ruling power to the people. Democracy is formed on the principle of popular sovereignty, political equality, popular consultation, majority rule and protection of the minority rights.³⁷ Furthermore, democracy is built on the existence

³¹*Ibid.*, (Footnote 30).

³²*Ibid.*, (Footnote 30).

³³*Ibid.*, (Footnote 30).

³⁴ W. Woitask, ‘Functions of Election in Democratic System’ (2013), available at <pdf functions of election <https://www.researchgate.net>, accessed on 9th April 2024, p. 25.

³⁵ K. Animashuan, ‘Regime Character, Electoral Crisis and Prospects of Electoral Reform in Nigeria’, *Journal of Nigeria Studies*, Volume 1, No. 1, 2010, p. 2.

³⁶ F.A. Ikenga and O. Chima, ‘Fundamentals of Good Governance: The Penance for Development Performance in Nigeria’, *Journal of Public Administration, Finance and Law*, 2021, p.7, also available at <<https://dio.orgchima>>, accessed on 20th March 2024.

³⁷E.O. Bonaventure and I.O. Igwe, ‘Critically Examine the Role of Judiciary in Sustenance of the Nascent Democracy in Nigeria, An Unpublished Seminar Paper Presented at Faculty of Law Ebonyi State University Abakiliki, 2009 pp1-2.

of statutory institutions where different opinion and interest are harmonised. Democracy as the government of the people (majority) has a duty of equal protection of her citizens, their possession and their right. People under democratic society have their welfare and security taken care of by the government. There is equal right, for political participation, freedom from undue interference, and freedom of speech and religion³⁸

Equally, 'democracy' is built on the existence of institutions whereby different opinions and interest are harmonized.³⁹ Such institutions include the police, the judiciary, political parties, electoral commissions, etc.⁴⁰The modern democracy is expressed in a representative model in which decision making is restricted to the elected.⁴¹In the words of Abdulsasheed,⁴² democracy is a sought after value. It is not a perfect system of governance, even theoretically. Thus, every state has a constitution which is best suited to the peoples temperament and brilliance.The term 'constitution' is of Latin origin, which refers to rules and regulations such as imperial enactment (Constitutiones Principis: edicta, mandata, decreta, rescripta).⁴³ It is also referred to as 'the state's governing wheel because without it, the administration of the state would be anarchic.'⁴⁴Constitution is also referred to as the way of life the state has chosen for itself. Although this description does not provide a clear understanding of what the constitution is, it does convey a way of life through the use of a few term. It also denotes the collection of principles according to which the powers of the government, the rights of the governed and the relation between the two are adjusted. In *Attorney General of Abia State v. Attorney General of Federation*⁴⁵, Niki Tobi J.S.C. viewed a 'Constitution' as follows:

The constitution is the *Fons et Origo*, not only of the jurisprudence but also of the legal system of the nation. It is the beginning and the end of the legal system. In Greek Language, it is the Alpha and the Omega. It is the barometer with which all statues are measured. In line with this kind position of the constitution, all the three arms of the government are slaves of the constitution, not in the sense of undergoing servitude or bondage, but in the sense of total obeisance and loyalty to it. This is in recognition of the supremacy of the constitution over and above every statute be it an Act of National Assembly or

³⁸*Ibid.*, (Footnote 37).

³⁹ O.C. Onyepuemi, 'The Quest for Democratic Sustenance in Nigeria: Role of Police Force', *International Journal of Humanities and Social Science*, Volume 20, Issue 1, ver. Iv (Jan. 2015), pp-134-140.

⁴⁰ A. M. Abdulsasheed, "political Nigeria Emerging Democracy: some critical reflection, Crawford Journal of Business and Social Science Vol. 111, No. 1 cited in O.C. Onyepuemi, p.134.

⁴¹*Ibid.*, (Footnote 40).

⁴²*Ibid.*, (Footnote 40).

⁴³ O.C.Oyepuemi, *op.cit.*p.135.

⁴⁴ T.A. Suma, 'The Constitution and Constitutionalism: A Comparative Approach, available at <[https://www.research gate.net.](https://www.researchgate.net)>, accessed on 26th March 2024.

⁴⁵ B.O. Nwabueze, *Constitutional Democracy in Africa*, volume 1, (Ibadan: Spectrum Books Ltd, 2003) p.3.

law of the House of Assembly of a State. It can be seen from the foregoing that the constitution is the supreme law in our democracy, *ditto* the United States of America.

In assertion with respect to the supremacy of the Nigeria constitution, the 1999 Constitution of the Federal Republic of Nigeria⁴⁶ justifies the supremacy of the Nigeria constitution to the effect that the constitution is supreme and its provision shall have binding force on all authorities and persons throughout the Federal Republic of Nigeria.

5. The Constitutional Framework on Local Government System in Nigeria

The 1999 Constitution of the Federal Republic of Nigeria provide for effective constitutional provisions relating to local government administration in Nigeria.⁴⁷ Accordingly, section 7 of the Constitution provides thus:

The system of local government by democratically elected local government council is under the constitution guaranteed; and accordingly the government of every state shall subject to section 8 of the constitution ensure their existence under a law which provides for the establishment, structure, composition, finance and functions of such council.⁴⁸

Also, subsection 2 of section 7⁴⁹ provides that the person authorised by law to prescribe the area over which a local government council may exercise authority shall:

- (a) Define such area as clearly as practicable and
- (b) Ensure to the extent to which it may be reasonably justifiable
- (c) that in defining such area regard is paid to:
 - (i) The common interest of the community in the area.
 - (ii) Traditional interest of the community and
 - (iii) Administrative convenience.

In line with subsection 3, it shall be the duty of a local government council within the state to participate in economic planning and development of the area referred to in subsection (2) of this section and to this end an economic planning board shall be established by a law enacted by the house of the Assembly of the state. Furthermore, subsection 4 of section 7 provides that the government of a state shall ensure that every person who is entitled to vote or be voted for at a house of assembly shall have the right to vote or be voted for at an election to a local government council.

⁴⁶*Ibid.*, (Footnote 45).

⁴⁷ A. Aderogba, "Constitutional Constrains on the performance of Local Governments in Rural Development in Nigeria, *Abraica Humanities Review*, vol 12, No. 1, 2022. also available at A. Aderoaba, "Constitutional Constrains on the performance of Local Governments in Rural Development in Nigeria, 2022) (www. Document available at <https://www.wps.com/d/?from=tpp> 98-105.

⁴⁸ Constitution of the Federal Republic of Nigeria 1999 (as amended), section 7.

⁴⁹*Ibid.*

The functions of the local government council are:

- a. The consideration and the making of recommendations to a state commission on economic planning or any similar body on:
 - i. The economic development of the state particularly in so far as they are of authority of the council and of the state are affected and
 - ii. Proposals made by the said commission or body;
- b. Collection of the rates, radio and television licenses.
- c. Establishment and maintenance of cemeteries, burial grounds and homes for the destitute or infirm,
- d. Licensing of bicycles, trucks, canoes, wheel barrows and carts;
- e. Establishment, maintenance and regulation of slaughter houses, slaughter slabs, markets, motor parks and public conveniences;
- f. Construction and maintenance of road, street, street lighting's, drains and other public highways, parks, gardens, open spaces or such public facilities as may be prescribed from time to time by the house of assembly of a state.
- g. Naming of roads and streets and numbering of houses.
- h. Provision and maintenance of public convinces, sewage and refuse disposal;
- i. Registration of all births, deaths and marriages.
- j. Assessment of privately armed houses or tenements for the purpose of levying such rates as may be prescribed by the house of assembly of a state and
- k. Control and regulation of
 - i. Outdoor advertising and boarding
 - ii. Movement and keeping of pets of all description.
 - iii. Shops and kiosks
 - iv. Restaurants, bakeries and other places for sale of food to the public
 - v. Laundries and
 - vi. Licensing, regulation and control of the sale of liquor.⁵⁰

In addition, the functions of a local government council shall include participation of such council in the government of a state in the following aspects:⁵¹

- a) The provision and maintenance of primary adult and vocational education;
- b) The development of agriculture and natural resources other than the exploitation of minerals;
- c) The provision and maintenance of health services; and
- d) Such other functions as may be conferred on a a local government council by the house of assembly of the state

⁵⁰Schedule to the 1999 Constitution of the Federal Republic of Nigerian (As Amended)

⁵¹*Ibid.*, (Footnote 50).

In terms of funding the local government council, subsection 6 of the said section 7 provides as follows:

- a) The national assembly shall make provisions for statutory allocation of public revenue to local government council in the federation; and
- b) The house of assembly of a state shall make provisions for statutory allocation of public revenue to local government council within the state.

Furthermore, section 162 (3) provides as follows:

Any amount standing shall be credit of the federation account shall be distributed among the federal and state government and the government councils in each state on such terms and in such manner as may be prescribed by the national assembly.

In line with the wordings of section 162 (5), the amount standing to the credit of local government councils in the federation account shall also 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. Subsection 6 of section 162 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 council of state from the federation account and from the government of the state. Subsection 7 provides 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. In section 7 (8), the constitution went ahead to provide that the amount standing to the credit of the 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.

Moreso, the constitution provides for state independent electoral commission which shall be incharge of the conduct of local government elections.⁵² According to section 3 paragraph B of the Third Schedule of the Constitution,⁵³a state independent electoral commission shall comprise the following members: a chairman and not less than five but not more than seven other persons. Paragraph 4 of this schedule equally highlights the role of the commission by providing that the commission shall have the power:

- a. To organise, undertake and supervise all elections to local government council within the state; and
- b. To render such advice as it may consider necessary to the independent National Electoral Commission on the compilation of and the register of voters in so far as that register is applicable to local government elections in the state.

6. Challenges of Local Government Elections

⁵²A. Aderogba, *op.cit.* (Footnote 47) p.4.

⁵³ The Constitution of the Federal Republic of Nigeria 1999 (as amended).

6.1 Political interference:

One of the challenges of democracy in Nigeria is the unconstitutional interference in the affairs of local government by higher governmental levels especially the state which threatens her local government existence and effective performance as a unit of government in the country. Despite its recognition as an independent level of government, the third tier of government have been kept under the undue control of state governments through such policy choices and strategies including fiscal or juridical bureaucratic hostility and weakness as well as the absence of complimentary reforms needed in national or state administrative law and systems.

Another form of unconstitutional interference and control of local government especially by the State governors is the dissolution of local government officials at will.⁵⁴ In many instances, state governments have refused to conduct local government elections. Instead, state governments, as political favours, appoint acquaintances and party loyalists as caretakers. This has eroded whatever appearance of a merit-based system a democratic process would have provided.⁵⁵

Some states have even gone as far as dissolving local government councils because the councilors were elected on the platform of a different political party. As a result, the local governments operate at the whims and caprices of the state governors who use them as an extension of their rule in a state contrary to section 7 (1) of the 1999 Constitution, which provides that ‘the system of local government by democratically elected local government councils is under this Constitution guaranteed.’⁵⁶

However, because the constitution put the local councils under the control of the state governments, on several occasions, many states truncated the tenure of the democratically elected council chairmen and councilors and replaced them with members of the ruling political party in the state, as caretaker committees. In some states, the government would decide not to conduct elections, preferring to run the councils with caretaker committees. In other states, elections are regularly conducted but the outcome always favour the ruling party in the state. This has resulted in growing voter apathy towards local council elections across the states. In Enugu State for instance, elections conducted by the Enugu State Independent Electoral Commission (ENSIEC) that produced local council chairmen and councilors left much to be desired. In fact, the state, which is dominated by the Peoples Democratic Party (PDP) had always produced the helmsmen in the 17 local councils despite the existence of other political parties. The situation has become so uninspiring that aspirants from other political parties don’t get into it anymore. When the last council election was held in the state in December 2020, the electoral commission

⁵⁴*Ibid.*, (Footnote 53).

⁵⁵*Ibid.*, (Footnote 53).

⁵⁶*Ibid.*, (Footnote 53).

announced the ruling PDP as the winner in all the local governments without figures allocated to the candidates that participated in the process.⁵⁷In December 2020, Borno State Independent Electoral Commission (BOSIEC) conducted local council elections with the ruling APC winning all the 27 chairmanship and 312 councillor-ship seats. The same month, the Kogi State Independent Electoral Commission (KOSIEC) conducted council elections and the ruling APC won all the 21 chairmanship and 239 councillor-ship positions. In April 2021, PDP cleared all the chairmanship and councillor-ship seats in the council election conducted by the Rivers State Independent Electoral Commission (RSIEC). The result of the council elections held in May 2021 in Oyo State was also 100 per cent in favour of the ruling PDP in the state. The story was the same in Jigawa State where the ruling APC cleared all the 27 chairmanship seats and 286 out of the 287 councillor-ship seats in the council elections conducted same year. The pattern of victory is the same across the states, leaving observers to wonder where Nigeria's democracy is headed if the current trend is allowed to persist.⁵⁸

6.2 Absence of a Democratic Elected Local Government Councils:

The 1999 Constitution provides that the system of Local Government should be based on democratically elected local government council and each State of the Federation is expected to recognise its existence.⁵⁹ From the above constitutional provision, one may deduce that the affairs of the Local Government in Nigeria should be manned by duly elected persons based on the wishes of the people. Unfortunately, there is an adverse application of the said constitutional provision nowadays. Looking at those that are saddled with the powers or responsibilities to run the affairs as chairmen of the local governments in Nigeria generally, they are not elected by the people, rather, they are appointed by the State governors. Thus, this issue of appointing Caretaker Committee to head the Local Governments in Nigeria by the State Governors has become the order of the day.

It has been the practice of the State governors when they come on board to appoint loyalists to serve as Caretaker Chairmen. Some Governors may rule for 8 years but they will only allow election may be once or at most twice for the whole period of their tenure as they end up appointing cronies as Caretakers.⁶⁰

⁵⁷O. Agbedo, *et al*, 'Salvaging the Local Council System via Credible Elections', *The Guardian Newspaper* 31 July 20213, available at <[amhttps://guardian.ng/saturday-magazine/cover/salvaging-the-local-council-system-via-credible-elections/](https://guardian.ng/saturday-magazine/cover/salvaging-the-local-council-system-via-credible-elections/)>, accessed on the 23rd of March 2023.

⁵⁸*Ibid.*, (Footnote 57).

⁵⁹Constitution of the Federal Republic of Nigeria 1999 (as amended), section 7(1).

⁶⁰ U. M. Yar'adua, *et al*, 'The 1999 Constitution and the Roles of Local Governments in Nigeria: Hitches and the Way Forward,' *International Journal of Innovative Legal & Political Studies* 5(2):1-10, April-June, © Seahi Publications, 2017, also available at <www.seahipaj.orgISSN:2354-2926http://www/JILPS-J-1-2017.pdf>, accessed on 19th of March 2023.

6.3 Electoral Fraud and the Clash of Thugs

Closely related to the challenge of non-conduct of local government election is that in the instances where the elections are conducted, the process is crowded by electoral malpractices ranging from intimidation to other form of violence that will facilitate rigging and the ruling party's domination facilitated by their Governor.⁶¹ Political violence is not new in Nigeria especially during election, both in the federal state and local government level, but it has recently taken on new dimensions. Previously, it was typically associated with the disruption of electoral processes or attacking electoral bodies through armed raids on voting and collation centres, as well as disrupting campaign events.⁶² Recently, it has become political clashes between thugs of the same or different parties, leading to a full cycle of post-electoral criminality.⁶³

Politicians typically hire thugs, who disguise themselves as ordinary supporters, wearing political party insignia, and initially concealing their weapons. Campaigns are organised with a plan for violence, and when two opposing factions or parties meet, it is difficult to part in peace, and people are killed as a result of the process.⁶⁴ There has been the spectre of electoral violence in the form of killings, attacks, assault, assassination, affray before, during and after elections. The primary function of these thugs is to protect political leaders, and help rig the votes on election day by snatching ballot papers, destroying election materials when necessary and at times even harm the electorates. This became an established pattern in Nigeria's elections, which are regarded more by the stakeholders not as a democratic process but war by another name.

These activities carried out by thugs to disturb election is not common only at the Federal and State level, but even at the local government level. More saddening part of this narrative is that the security agencies appear to be helpless during election, as the security and protection of the electorate who had come out to discharge their civic responsibility and elect their leaders through credible means cannot even be guaranteed.

6.4 Corruption

⁶¹G.I Sheriff, *et al*, 'Challenges of Democracy in Nigerian Local Government System: A Critical Analysis', *Journal of Advanced Research and Multidisciplinary Studies*, 2021 1(1), 118-128. DOI: 10.52589/JARMS-BJXQ8P44 Article DOI: 10.52589/JARMS-BJXQ8P44 DOI URL: available at <<https://doi.org/10.52589/JARMS-BJXQ8P44>>, accessed on the 19th of March 2023.

⁶²A. Dahiru, 'Thuggery Hurting Political Activities Ahead of Nigeria's General Elections, as the 2023 Election Approaches, Politicians in Kano, Northwest Nigeria, Are Enlisting the Help of Thugs,' June 25, 2022

⁶³*Ibid.*, (Footnote 62).

⁶⁴*Ibid.*, (Footnote 62).

Corruption in Nigerian local governments is one of the fundamental problems of local democracy just as it is to the country as a whole where it has thrived, progressed and flourished unabated. As against effective and viable local democracy, it breeds in a worrisome magnitude the - menace of poor governance, inefficiency, and rises in cost of transaction, undermines institutions and hinders development which is central to the existence of local government.⁶⁵

Corruption has also been identified by a number of scholars as a major bane to the prospect of Nigerian democracy and democratic process. Defined as the offer and receipt of undue advantage or the prospect thereof, corruption results to the distortion of proper performance of any duty, due process or behaviour required of the recipient of bribe or the undue advantage directly or indirectly. As a structure or tier of government, the local government is popularly seen as the last and closest unit of government through which the people easily participate in the process of administering and making decisions that affects them but the issue of corruption even at the local government has affected the development at the grassroots level.

6.5 Local Government Autonomy

Another factor that threatens or hinders local democracy in Nigeria is the issue relating to the autonomy of local government as a level of government. The local government is argued to lack in reality the autonomy constitutionally accruing to it in the management of its affairs and appropriation of funds as such power is being absolved by the states. A situation where, against its independent status, the local governments have no direct access to her share of federal allocation and acts largely as the agents of state governments in expending resources allocated to them by higher government authorities and the management of personnel.⁶⁶

The implication is that the local governments do not have direct access to funds accruing to them from the Federation Account since the funds are held in trust by the state governments who determine how much, and when, the funds will be disbursed to the local governments. Most of the challenges faced by local governments stem from lack of autonomy. Ideally, each tier of government ought to be independent and should be allowed to carry out their constitutional functions free from any form of restriction. On their part, local governments, by virtue of their set-up, are not autonomous in areas of finance and operations. Many local government councils claim that funds which should, by the constitution, accrue to them are withheld by their respective state governments. As a result, local governments are hampered from carrying out their constitutional roles. This

⁶⁵*Ibid.*, (Footnote 62).

⁶⁶*Ibid.*, (Footnote 62).

said control of the local government system by the state governments does not encourage uniform development across the federation.⁶⁷

6.6 Lack of Fixed Tenure by the Constitution

The existence of a democratically elected local government council is undoubtedly provided under section 7 of the Constitution of the Federal Republic of Nigeria 1999. The Constitution unequivocally made provisions for the tenure of federal and state political office holders to be four years. But it did not make provisions for the tenure of local government office holders. However, the Constitution in the concurrent legislative list gave both the National Assembly and the State Assemblies the power to make laws with respect to the registration of voters and the procedure regulating elections to a local government council.

The confusion caused by the provisions of the 1999 Constitution on local government is just one of the many problems of the 1999 Constitution. Therefore, the chairmen serve according to the pleasure of the Governor of a particular State and sacked when they displease him or when they prove stubborn by not dancing to his tune. This is as a result of lack of uniform fixed tenure of local government chairmen across the country.⁶⁸

7. Conclusion and Recommendations

The Nigerian constitution, in order to promote local governance, made provisions for the existence and sustenance of local government. The constitution however, failed to make clear provisions as to the form of organization for local government, leaving it at the discretion of the state governments. The constitution also provided for a cumbersome procedure for creation of a new or additional local government area by a state government. It further made provisions whereby the state government can interfere in the affairs of the local government, and this has clearly affected the affairs of the local government.

It makes democracy meaningful to these local people if their immediate affairs are not dictated by the central functionaries but managed locally by themselves. Relationship between local government system and democracy lies on the premise that both functions to promote the local economy and social service for the realization of the socio economic development of the local people. This can be done through the empowerment of the local people in decision making. Credible elections at the local government level can also be achieved if the local government are completely freed from the control of the state

⁶⁷F. Akinla, Nigeria's Local Government System: Challenges and Opportunities Abound 8th Jul, 2021, available at <<http://www.localgovernment.challenges.opportunities>>, accessed on the 18th of March 2023.

⁶⁸U.M. Yar'adua, *et al*, 'The 1999 Constitution and the Roles of Local Governments in Nigeria: Hitches and the Way Forward', *International Journal of Innovative Legal & Political Studies* 5(2):1-10, April-June, © Seahi Publications, 2017, *op cit.*, (Footnote 60).

government. Currently however, the absolute involvement of the state in the local government election cannot guarantee the election of a credible leader since the wishes of the electorates are usually irrelevant in the whole process. It could be virtually said that local government election does not exist; it is about a conspiracy between the governors and the members of the State Independent Electoral Commission (SIEC), who are appointed by the governors to manipulate results, favour them and be able to ultimately divert funds that belong to local governments.

To restore the trust of citizens in the local government system, the existing law for example the constitution, which has been amended to give financial autonomy to the local government should be enforced. Centrally allocated fund should go directly to the local government instead of the state and the Third Schedule, Part II, that establishes the State Independent Electoral Commission, should in practical terms be expunged from the constitution and the functions be transferred to Independent National Electoral Commission (INEC). This does not imply that INEC has evolved as a credible institution but it shall minimize governor's imposition of Local Government political operatives. That way, the governors would be denied state electoral commissions with which they kill multi-party democracy at local government level.

State government should play supervisory roles and must not usurp or dictate the day to day operations of their local government. State governors can also cause to be prosecuted any officer indicted for misappropriation of state funds given to the local government. State governors should be barred from interfering in local government, especially where the officers are elected on the platform of a political party that differs from the governor's party. Where possible, such interference must be penalised by law following a verdict of a competent court. It is also important to note that the local government as a unit is better equipped with value system and democratic culture so as to make it a true democratic administrative system, real service providers, efficient decision makers, and dynamic grassroots transformers. Essentially, it is vital to have improved mechanisms for active and maximal participation of local residents in local government affairs through involvement in not only election, both for the initiation and implementation of the local government projects.