

LOCAL GOVERNMENT AREAS IN NIGERIA AS THE SERFS OF TAXATION: A LEGAL DISCOURSE*

Abstract

The essential value rendered by taxes in every country is beyond dispute. Nigeria, at least on paper, is a federation and the drafters of the extant Constitution and the Taxes and Levies (Approved List for Collection) Act envisaged a federal regime of taxation where taxing powers are shared amongst the three levels of government. It is submitted that the philosophy underpinning this was that the three levels of government would be able to readily access revenue for their needs from the taxes they are able to impose and collect. Unfortunately, very few powers are given to the Local Government under the current tax regime and even these appear to be systematically eroded especially by the State Government. This has resulted in the situation where the Local Government is left virtually impecunious, susceptible to the machinations or whims and caprices of the other levels of government and virtually unable to meet its obligations or render the services expected of it. Everybody is worse for it especially the poor masses who find the level of government closest to them hamstrung by this deleterious circumstance. It is against the foregoing background that this study analyzes the taxing powers in Nigeria and submits that the taxing powers of the Local Government be strengthened and sustained. It is expected that the implementation of this and other recommendations herein advanced will remedy this situation with incalculable benefits to the society.

Keywords: Tax, Powers, Collection, Imposition, Local Government Areas, Nigeria

1. Introduction

It is evident and apparent that taxes play a huge role in the wellbeing of every country¹, especially in the modern era. They are important facilities for development and governance in every country² and since antiquity up till the present time,³ have constituted an avenue through which the government raises funds for its activities.⁴ The importance of taxation in Nigeria has been accentuated in recent years because of the depreciation in earnings from the petroleum sector⁵ and in view of the fact that it is arguably the most sustainable means of generating revenue for the country.⁶ In Nigeria, there is a hierarchy (one might as well call it stratification) in the tax system involving the Federal Government, the State Government and the Local Government. This hierarchy is maintained both in tax imposition and tax collection. However, the tax powers of the Local Government are comparatively very little and this situation substantially weakens it and makes it susceptible to the other levels of government. It also significantly hampers it in carrying out its functions because it is left with relatively little resources with which to work. This is why this article has set out to review the taxing powers in the Nigerian tax jurisprudence and to argue for a review of same to give more powers to the Local Government so it can have more revenue to work with especially having regard to the fact that it is the level of government closest to the people and therefore strategically positioned to tackle poverty, infrastructural challenges as well as the provision of essential services especially security, health and education. It is hoped and expected that this will serve as a clarion call to the Legislature and policy makers in this sector to do the needful and to do it in the shortest possible time.

2. Clarification of Key Concepts

Taxes are a compulsory contribution to the support of government levied on persons, property, income, commodities and transactions at a fixed rate most proportionate to the amount on which the contribution is levied.⁷ They have been similarly defined as a compulsory exaction of money by a public authority for public purposes or raising money for the purpose of government by means of contributions from individual persons.⁸ In *United States v Butler*,⁹ tax was defined as “a tax in the general understanding of the term, and use in the constitution signifies an exaction for the support of the government.” Finally, tax is a charge, usually monetary, imposed by the government on persons, entities, transactions or property to generate public revenue.¹⁰ The essential things about taxes are that they are compulsory, for public benefit and mainly to generate revenue, although of course there are other functions they serve. It is also pertinent to underscore the fact that everything about taxes and taxation is entirely statutory¹¹ so that a tax is illegal if there is no statute which provides for it to be imposed or collected. Lord Blackburn in *Coltress Iron Company v Black* underscored this when he uttered the immortal words as follows:

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¹AL Suleman, ‘Taxation Regime in Nigeria: Critical Analysis of Basic Principles’, in JAA Agbonika, ed, *Topical Issues on Nigerian Tax Laws and Related Areas* (Ibadan: Ababa Press Ltd, 2015), 365.

²MN Umenweke and WA Chukwuma, ‘An Analytical Review of the Extant Tax Laws on Resolution of Business Tax Dispute in Nigeria’, *International Journal of Law and Clinical Legal Education* 1 (2020), 1.

³DC Nwuzor and AC Onah, ‘Interpretation of Tax Statutes in Nigeria: Unveiling Scholarly and Judicial Insights for Guided Implementation’, *Nigerian Bar Journal* (2023), Volume 13, Issue 1, 167.

⁴MN Umenweke, CO Nwabachili and UM Anushiem, ‘Appraisal of the Challenges for Taxation of Digital Economy in Nigeria’, *UNIZIK Law Journal* 19(1) 2023, 43. See also, MIT Maccarthy and AJ Adamu, ‘Tax Enforcement Measures and Revenue Generation in Nigeria’, *Management and Accounting Innovation Journal* Volume 8, Number 3, 2023, 1; CS Ola, *Income Tax Law for Corporate and Unincorporated Bodies in Nigeria* (Ibadan: Heinemann Educational Books (Nig.) Ltd, 1981), 6 and MN Umenweke, *Tax Law and its Implications for Foreign Investments in Nigeria* (Enugu: Noli Educational Publications (Nig), 2008), 6.

⁵MT Abdulrazaq, *Taxation System in Nigeria* (Lagos: Gravitas Legal & Business Resources Ltd, 2016), 83.

⁶DC Nwuzor and U Uguru, ‘Advancing the Frontiers of Tax Administration in Nigeria: Appraising the Roles of Tax Administration Agencies’, *Ebonyi State University Law Journal*, Volume 11 No. 2, 2020, 65.

⁷IA Ayua, *Nigerian Tax Law* (Lagos: Spectrum Law Publishing, 1996), 3.

⁸*Mathews v Chicory Marketing Board* (1938) 60 CLR 263 at 276.

⁹297 US 1 (1936).

¹⁰BA Garner, *Black’s Law Dictionary* (10th ed, St. Paul: Thomson Reuters, 2014), 1685.

¹¹MT Abdulrazaq, *Cases and Materials on Nigerian Taxation* (Lucknow: Eastern Book Company, 2016), 171. See also, KAG Whyte, ‘Interpreting and Understanding Nigerian Tax Legislation’ in O Akanle ed, *Tax Law and Administration in Nigeria* (Lagos: Nigerian Institute of Advanced Legal Studies, 1991), 85; JE Vinelott, ‘Interpretation of Fiscal Statutes’ (1982) *Stat. LR*, 78 and DW Williams, ‘Taxing Statutes are Taxing Statutes: The Interpretation of Revenue Legislation’ (1978) 41 *MLR*, 404.

No tax can be imposed on the subject without words in an Act of Parliament clearly showing an intention to lay a burden on him. But when that intention is sufficiently shown, it is, I think, vain to speculate on what would be the fairest and most equitable mode of levying that tax.¹²

In a similar manner, in *Ayrshire Employers Mutual Insurance Association Ltd. vs IRC*¹³, the Lord President Normand espoused as follows:

I seem in the end to be driven to that last refuge of judicial hesitation when confronted with a difficulty of interpretation, the doctrine that no tax can be imposed on the subject without words in an Act of Parliament clearly showing an intention to lay a burden on him.

Finally, it is established in Nigerian jurisprudence that tax issues are not arbitrary.¹⁴ It is vital to underscore these points relating to the statutory foundation of taxes and taxation because any progress to be made in the area discussed in this article will necessarily involve legislative intervention, almost certainly by amending certain pertinent statutory provisions. Taxation is the imposition or assessment of a tax; the avenue through which the government raises the revenue needed for its activities.¹⁵ Tax imposition is simply the power of a governmental agency or level to levy a particular tax on a particular set of people, income or individuals. As shall be seen subsequently, this is stipulated by the Constitution. Tax collection is the power of governmental agency or level to collect a particular tax from a particular set of people, income or individuals. As shown hereunder, both the Constitution and the Taxes and Levies (Approved List for Collection) Act provide for this. Local Government is the body that is responsible for governing a local area and for providing services.¹⁶ Local Governments are the third tier of government created in Nigeria to decentralize governance, bring government nearer to the populace at the grassroots level and supply services vital for national development.¹⁷

3. Taxing Powers¹⁸

Power to Impose Taxes

Prior to 1951, the colonial British government governed Nigeria as a unitary country and there was only one lawmaking authority for the entire country.¹⁹ However, pursuant to the passing of the Macpherson Constitution of 1951, the country adopted federalism as its governmental system in recognition of the heterogeneity of ethnic groups, territories and languages in the country.²⁰ Subsequently, lawmaking functions have been shared mainly between the central (now federal) and regional (now state) governments²¹. Thus, the Constitution stipulates that the legislative powers of the Federal Republic of Nigeria shall be vested in the National Assembly²² while those of a state are vested in the House of Assembly of the State²³. The local government areas have no constitutional legislative power but are permitted to make by-laws pursuant to powers granted to them by the laws of their various states.²⁴ The question that arises at this point is why local government areas are not given constitutional power to make laws bearing in mind that they are a federating unit. If the reason is to ensure uniformity across the federation and eliminate multiple taxation, the Joint Tax Board²⁵ exists for that purpose and the Joint State Revenue Committee²⁶ exists to similarly ensure the harmonization of tax administration in the state. No one is suggesting that they should have expansive powers like the federal or state governments but they should at least be empowered to make substantive laws and have some jurisdiction to enact laws on a number of limited areas. The absence of these powers, as argued above, hamstrings their ability to generate revenue in a sustainable fashion to carry out their duties.

The Federal Government is empowered to make laws for the peace, order and good government of the Federation or any part thereof with respect to any matter listed in the Exclusive Legislative List set out in Part 1 of the Second Schedule to the Constitution.²⁷ The above power shall be to the Exclusion of the Houses of Assembly of the States.²⁸ The matters in the Exclusive List over which the Federal Government has power include customs and excise duties,²⁹ stamp duties³⁰ as well as taxation of incomes, profits and capital gains.³¹ Accordingly, it has been opined and this article agrees, that the major tax enactments like the Personal Income Tax Act, Stamp Duties Act, Companies Income Tax Act, Capital Gains Tax Act, Education Tax Act, Customs and Excise Management Act and Petroleum Profits Tax Act can only be enacted by the National Assembly.³² The exact ramifications of these are not difficult to discern. The Federal Government is made too powerful to the detriment of the State and Local Governments.

¹² (1881) 6 App. Cas. 315. See also, *SA Authority v Regional Tax Board* (1970) LPELR SC 273/1961 and *IRC vs Hinchy* (1960) AC 748.

¹³ (1944) 27 TC 344. See also, *Vodacom Business Nig. Ltd v FIRS* (2018) 35 TLRN 18.

¹⁴ KC Bielu, 'Taxation of the Legal Profession in Nigeria: A Legal Appraisal' *Nigerian Bar Journal* (2022) Volume 12, Issue 2, 59.

¹⁵ BA Garner, *op cit*, 1688.

¹⁶ AS Hornby, *Oxford Advanced Learner's Dictionary of Current English* (Oxford: Oxford University Press, 2015), 915.

¹⁷ P Musa and OE Ajibade, 'Local Government and Challenges of Revenue Allocation in Nigeria (A Case Study of Yewa South Local Government, Ogun State)', *Journal of Public Administration, Finance and Law*, Issue 10, 2016, 57.

¹⁸ For a succinct history of taxing powers in Nigeria, see TW Nwoke, 'Taxing Powers of the Three Tiers of Government in Nigeria: An Extrapolative Appraisal' *IJOLACLE 2* (2021), 74-76.

¹⁹ A Ipaye, *Nigerian Tax Law & Administration: A Critical Review* (London: ASCO Prime Publishers, 2014), 33.

²⁰ *Ibid.*

²¹ *Ibid.*

²² The Constitution of the Federal Republic of Nigeria (1999) As Amended, s. 4(1).

²³ *Ibid.*, s. 4(6).

²⁴ *Ibid.*

²⁵ The Personal Income Tax Act, s. 86(1).

²⁶ *Ibid.*, s. 92.

²⁷ The Constitution, s.4 (2).

²⁸ *Ibid.*, s.4 (3).

²⁹ Item 16.

³⁰ Item 58.

³¹ Item 59.

³² A Ipaye, *op cit*, 34.

The Constitution further gives to the National Assembly the authority to enact laws with respect to any matter in the Concurrent Legislative List but only to the extent stipulated in the Second Column thereof as well as to any other matter with respect to which it is empowered to make laws in accordance with the provisions of the Constitution.³³ The House of Assembly of a State shall have power to make laws for the peace, order and good government of the State or any part thereof with respect to: a) any matter not included in the Exclusive Legislative List set out in Part I of the Second Schedule to the Constitution; b) any matter included in the Concurrent Legislative List set out in the First Column of Part II of the Second Schedule to the Constitution to the extent stipulated in the second column opposite thereto; and c) any other matter with respect to which it is authorized to make laws in accordance with the provisions of the Constitution.³⁴

By virtue of the above, State Houses of Assembly may validly impose sales tax, tenement rates, land use charge, development levies; etc.³⁵ Local Governments cannot make laws except by way of subsidiary legislation as allowed by the relevant law of the House of Assembly.³⁶

Power to Collect Taxes

The power to collect taxes is different from the power to impose them.³⁷ The Taxes and Levies (Approved List for Collection) Act³⁸ expressly delineates the different taxes collectible by the different tiers of government. It was promulgated in response to the complaints of multiple taxation by taxpayers.³⁹ The philosophy undergirding the enactment of the TLA has been stated to be the harmonization of taxes in Nigeria.⁴⁰ The delineation is as follows:

The taxes collected by the Federal Government are as follows:

1. Companies Income Tax.
2. Withholding tax on companies, residents of the FCT and non-resident individuals.
3. Petroleum Profits Tax.
4. Value Added Tax.
5. Education Tax.
6. Capital Gains Tax on residents of the FCT, bodies corporate and non-resident individuals.
7. Stamp duties on bodies corporate and residents of the FCT.
8. Personal Income Tax in respect of:
 - a. members of the armed forces of the Federation;
 - b. members of the Nigerian Police force;
 - c. residents of the FCT; and
 - d. staff of the Ministry of Foreign Affairs and non-resident individuals.⁴¹

In the opinion of Abiola Sanni, the aforesaid list gives the Federal Government control over the most important spheres of the economy⁴².

Those to be collected by the State Government are:

1. Personal Income Tax in respect of:
 - a. pay-as-you-earn (PAYE); and
 - b. direct taxation (self-assessment).
2. Withholding tax (individuals only).
3. Capital Gains tax (individuals only).
4. Stamp Duties tax on instruments executed by individuals.
5. Pools betting and lotteries, gaming and casino taxes.
6. Road Taxes.
7. Business premises registration fee in respect of:
 - a. Urban areas as defined by each state, maximum of-
 - i. ₦10,000 for registration; and
 - ii. ₦5,000 per annum for renewal of registration; and
 - b. Rural areas-
 - i. ₦2,000 for registration; and
 - ii. ₦1,000 per annum for renewal of registration.
8. Development Levy (individuals only) not more than ₦100 per annum on all taxable individuals.
9. Naming of street registration fees in the State Capital.
10. Right of occupancy fees on lands owned by the State Government in urban areas of the state.

³³ The Constitution, s. 4 (4) (a) and (b).

³⁴ *Ibid*, s. 4(7). See also, NU Richards, 'An Examination of the Powers to Impose and Collect Consumption Taxes in Nigeria' *Ebonyi State University Law Journal*, Volume 8, No. 2, 2017, 4.

³⁵ A Ipaye, *op cit*, 39.

³⁶ *Ibid*, 44.

³⁷ *Ibid*, 34.

³⁸ For a review of the TLA, see DC Nwuzor and AC Onah, 'Reiterating the Need for Adherence to the Provisions of the Taxes and Levies Approved List for Collection) Act, *Law and Social Justice Review* 4 (1) January 2023, 82-85.

³⁹ N Ikeyi and S Orji, 'How much Force is still Left in the Taxes and Levies (Approved List for Collection) Act?' (2011-2012) 10 *Nig. JR*, 73.

⁴⁰ JO Okorie, 'Nigerian Tax Harmonisation Policy: An Appraisal', *EBSU Commercial and Industrial Law Journal*, Vol. 1, No. 1, 111 – 119.

⁴¹ TLA, Schedule, Part 1. See also, IM Ajogwu, 'An Appraisal of the Controversy Between the Federal Inland Revenue Service and River State Government in respect of Value Added Tax Collection', *NAUJCLP* 9(3) 2022, 27.

⁴² AO Sanni, 'The Approved List of Taxes: a Commentary', *Modern Practice Journal of Finance and Investment Law*, 1998, 2.

11. Market taxes and levies where state finance is involved.⁴³

Those collected by the Local Government are:

1. Shops and kiosks rates.
2. Tenement rates.⁴⁴
3. On and off liquor license fees.
4. Slaughter slab fees.
5. Marriage, birth and death registration fees.
6. Naming of street registration fee, excluding any street in the state capital.
7. Right of occupancy fees on lands in rural areas, excluding those collectable by the Federal and State Governments.
8. Market taxes and levies, excluding any market where State finance is involved.
9. Motor park levies.
10. Domestic animal license fees.
11. Bicycle, truck, canoe, wheelbarrow and cart fees, other than a mechanically propelled truck.
12. Cattle tax payable by cattle farmers only.
13. Merriment and road closure levy.
14. Radio and television license fees (other than radio and television transmitter)
15. Vehicle radio license fees (to be imposed by the local government of the state in which the car is registered).
16. Wrong parking charges.
17. Public convenience, sewage and refuse disposal fees.
18. Customary burial ground permit fees.
19. Religious places establishment permit fees.
20. Signboard and advertisement permit fees.⁴⁵

It is submitted that the above streamlining of the taxes collectable by each tier of government is a positive development. This is because it goes a long way to reduce incidents of multiple taxation and ensures a high degree of certainty, both among the tax authorities and taxpayers, as to who to collect or pay each tax to. Furthermore, it increases the effectiveness in tax collection. Finally, it allows each tier (especially the weakest one, i.e. the Local Government Area) to have some certain revenue to work with. It is worthy of note that in the exercise of its powers to impose any tax or duty on capital gains, incomes or profits of persons other than companies as well as documents and transactions by way of stamp duties; the National Assembly may, subject to such conditions as it may prescribe, provide that the collection of any such tax or duty or the administration of the law imposing it shall be effected by the Government of a State or other authority of a State.⁴⁶

Under the above sharing regime, the National Assembly is therefore empowered to delegate to the States only the collection or administration of the aforesaid taxes but not taxes on capital gains, incomes or profits of companies on which the said powers are non-delegable.⁴⁷ It is based on the above that State Governments are permitted to collect personal income tax, capital gains tax and stamp duties from individuals and unincorporated bodies resident within their territories.⁴⁸ Since revenues from individuals and unincorporated organizations are ultimately meant for the states, the obvious rationale for the dichotomy between the powers of imposition and collection therefore is to ensure uniformity of the charging provisions throughout the country and thereby prevent double taxation and inconsistency of rates.⁴⁹ Consequently, Item 8 of the Second Column of the Concurrent Legislative List stipulates as follows:

Where an Act of the National Assembly provides for the collection of tax or duty on capital gains, incomes or profit or the administration of any law by an authority of a State in accordance with Paragraph 7 hereof, it shall regulate the liability of persons to such tax or duty in such manner as to ensure that such tax or duty is not levied on the same person by more than one State.

As seen earlier in the provisions of the TLA, for the sake of convenience, the Federal Government is permitted to collect income and capital gains tax from individuals such as members of the police or armed forces as well as stamp duties from corporate bodies but the net proceeds of these are returned to the states on the basis of derivation⁵⁰. A House of Assembly may, subject to such conditions as it may lay down, make provisions for the collection of any tax, fee or rate or for the administration of the Law providing for such collection by a Local Government Council⁵¹. Furthermore, every State is constitutionally mandated to ensure the existence of Local Government Councils under a law which provides for the establishment, structure, finance and functions of such Councils⁵². Functions that must be accorded to the Local Government Councils include collection of rates, radio and television licences as well as the assessment of privately

⁴³*Ibid*, Schedule, Part II. See also, YY Dadem, *Property Law Practice in Nigeria*, (2nd ed: Jos: Jos University Press Limited, 2012), 432 and KJ Bielu, 'The Legality or Otherwise of Vesting the Power to Impose Tax, Levies and Rate Reserved for the Local Government on the State Government Nigeria; A Legal Appraisal' *NAUJCPL*, Vol. 8 (5) 2021,75.

⁴⁴For a convincing argument as to why this tax should be left exclusively for the local government, see AO Sanni, 'The Controversial Lagos Property Tax – The Flip Side of the Coin', (2003)23 *JPL*, 71 – 92. The aforesaid argument is hereby adopted.

⁴⁵*Ibid*, Schedule, Part III. See also, G Etomi, *An Introduction to Commercial Law in Nigeria: Text, Cases & Materials* (Lagos: MIJ Professional Publishers Limited, 2014), 307, IU Ibe, 'An Appraisal of the Taxing Powers of the Three Tiers of Government in Nigeria' *The Premier Bar Journal*, Volume 1, Number 1, 2013, 81-82 and KJ Bielu, 'Limitations to the Exercise of Taxing Powers by Local Governments in Nigeria: A Critique' *IJOCLLEP* 1 (2) 2019, 145 .

⁴⁶The Constitution, Second Column of the Concurrent Legislative List, Item 7.

⁴⁷ A Ipaye, *op cit*, 35.

⁴⁸ *Ibid*.

⁴⁹ *Ibid*.

⁵⁰ *Ibid*. The Constitution, s.163.

⁵¹The Constitution, Item 9 of the Concurrent Legislative List. See also, A Uzo-Peters, 'Inequities in the Constitutional Allocation of Taxing Rights in Nigeria' online article available at <<https://hdl.handle.net/11159/320137>>; accessed on 14th October 2023.

⁵² *Ibid*, s.7 (1).

owned houses or tenements for the purpose of levying such rates as stipulated by the State House of Assembly.⁵³ It also needs to be noted that there is nothing that stops States and Local Government Councils from collecting taxes and rates from companies other than on profits, income, capital gain and stamp duties.⁵⁴

4. Comments on Local Government Taxing Powers

The importance of the Local Governments in rural development cannot be over-emphasized.⁵⁵ They are the level of government closest to the people⁵⁶ and their history⁵⁷ clearly shows the crucial roles they are meant to play in the socio-economic development of the country. They are meant to render services which the Federal and State Governments find it difficult to undertake because of their remoteness from the local populace.⁵⁸ Needless to say, revenue is required for these services, the most reliable of which is meant to come from taxation. Unfortunately, poor internally generated revenue is a major impediment to the effective and efficient administration and development of the local government in most states in Nigeria.⁵⁹ Although taxes are not the only means of generating IGR, they are the biggest source. As stated above, the Local Governments have no power to make laws except subsidiary legislation as permitted by the State. Furthermore, the taxes they are meant to collect are often collected by the State Government without same being paid into their coffers. Moreover, some of their statutory functions have been usurped by the states.⁶⁰ Other existential problems faced by Local Governments include unhealthy relations amongst the levels of government, illegal removal of local government leaders and over centralization of powers in the Federal Government.⁶¹ It is certainly obvious that the local governments bear the brunt of this. There are even places where local government chairmen are appointed (usually in the guise of sole administrators or caretaker chairmen.⁶² with the obvious effect of complete denial of autonomy). This sordid state of affairs has led to the debilitating situation of virtually every Local Government in Nigeria.

According to Ipaye, by far one of the greatest tax scholars in Nigerian history, a more vibrant and dynamic local government system may come about if local government councils are empowered directly to impose taxes.⁶³ However, according to him, the extant constitutional situation 'appears well thought out and should not be abandoned casually... otherwise, we would have to face the prospect of a chaotic jumble of discordant laws operating within a single State territory'.⁶⁴ While there is a lot of sense in this view, the question is whether it is impossible for local governments to be given the power to impose taxes without there being 'the prospect of a chaotic jumble of discordant laws'? It is submitted that the answer is negative. Why must it be presumed that the chairmen and other officials of local government areas are unintelligent people who are incapable of doing the right thing? Furthermore, states are allowed to impose taxes but has that resulted in confusion in the country? There is no reason why the power to impose taxes cannot be circumscribed or put under the supervisory overview of the states. Moreover, the Joint Tax Board is there to ensure uniformity. The Association of Local Governments of Nigeria (ALGON) can meet together and deliberate on key issues with regards to any prospective laws to be passed regarding local government taxation so that there will be uniformity of rates and issues across the country. It is not our position that the process will, at the outset, be tidy and straightforward but it is incongruous and unnecessarily pessimistic to throw in the towel without putting up a fight. It is submitted that experienced tax scholars like Ipaye himself, MT Abdulrazaq, MN Umenweke, Abiola Sanni, JAA Agbonika and others as well as experienced tax officials and tax practitioners can come together and brainstorm on the way out of this issue.

Exacerbating the current conundrum is the fact that even regarding the by-laws Local Governments are allowed to make, the States have done very little to guide them or give them the necessary power to make by-laws on tax collection.⁶⁵ Furthermore, states frequently usurp the functions of local governments by passing laws authorizing their agencies to assess and collect taxes meant to be collected by the local governments.⁶⁶ This must be deprecated for being not just immoral and heinous but illegal. As a short-term measure therefore, states are hereby urged to pass laws authorizing the local governments in their territories to make by-laws with regard to collecting the taxes within their purview and to desist from encroaching into the tax jurisdiction of local governments by assessing or collecting taxes meant for the latter in any guise.

⁵³*Ibid*, Fourth Schedule. See also the case of *AG Cross River State vs Ojuo 2010 LPELR-1904* where it was held that property tax should be collected by the Local Government because of the onerous conditions imposed on it by the Constitution, a ratiocination with which this article completely agrees.

⁵⁴ A Ipaye, *op cit*, 45-46.

⁵⁵K Oyekan, 'The 1999 Constitution and the Allocation of Taxing Powers: Where Lies the Principle of Fiscal Federalism', *Nnamdi Azikiwe University Journal of Commercial and Property Law*, Vol. 7(1) 2020, 5. See also, SO Rabi'u, 'The Jurisdiction of Local Government to Generate Revenue under the 1999 Constitution of the Federal Republic of Nigeria' *Journal of Law, Policy and Globalization*, Vol. 45, 2016, 177.

⁵⁶CI Obika, 'Local Government Council as a Constituent of the Nigerian Federation: Benefits and Constitutional Constraints' *NAUJILJ* 9(2) 2018, 81.

⁵⁷For a succinct but detailed history of the development of Local Governments in Nigeria, see EJ Monday and JH Wijaya, 'The Historical Development of Local Government Administration and its Contemporary Realities in Nigeria' *TheJournalish: Social and Government*, Volume 3 1, 2022, 43-54 as well as EI Amah, 'Devolution of Power to Local Government: Appraising Local Government Autonomy under Nigerian Federation' *Beijing Law Review*, 2018, 9, 278-281.

⁵⁸RA Dada, IA Adebayo and OA Adeduro, 'An Assessment of Revenue Mobilization in Nigeria Local Government: Problems and Prospects' *Archives of Business Research*, Vol. 5, No. 9, 2017, 120.

⁵⁹TW Yunana, YA Yunana and DA Muhammad, 'Impact of Internal Revenue Generation on the Development of Local Government Areas in Kaduna State: (A Case Study of Chikum Local Government)', *Dutse Journal of Economics and Development Studies*, Vol. 8, December 2019, 185.

⁶⁰EM Monday and JH Wijaya, *op cit*, 51.

⁶¹SO Ijimakinwa, ES Zinsu and KO Osakede, 'Local Government and InterGovernmental Relations in Nigeria Fourth Republic (1999 to Date)' *INJODEMAR*, Vol. 10, June, 2015, 152-153.

⁶²In support of this postulation, see for instance, MN Umenweke and N Asomadu, 'An Appraisal of the Local Government Property Tax Collection in Nigeria: Echoes from Some Other Jurisdictions' *IJOCLLEP* 4 (3) 2022, 65.

⁶³ A Ipaye, *op cit*, 48.

⁶⁴ *Ibid*.

⁶⁵ *Ibid*, 49.

⁶⁶JO Olatoke and DA Ariyoosu, 'Regulation of Taxing Powers of Local Government Councils by State Governments in Nigeria: Legislative Approach and Judicial Responses', *Joseph Ayo Babalola University Law Journal*, Vol. 1, No. 1, 2014, 181.

Subsequently, efforts in the long term can be made to fine-tune and put in place a sustainable regime where local governments can impose a limited range of taxes (say those they are allowed to collect by the TLA). Where problems arise, steps can be taken to resolve them as they arise. Each tier of government should have financial autonomy and the local government should not have to rely on state and federal governments.⁶⁷ It is fervently believed that if fiscal federalism is not entrenched in Nigeria, progress cannot be made and the surest way of kick starting that is by ensuring that all the tiers of government can both impose and collect certain taxes and will therefore be assured a certain and sustainable source of revenue with which to carry out their functions for the benefit of the populace.

5. Conclusion

In conclusion, it is an incontestable fact that the current regime for taxation in Nigeria gives too much powers to the Federal Government and too few to local government areas. Accordingly, it needs to be restructured. Local government areas must be given the power to impose some taxes, and those they are allowed to collect by the TLA would be a good start, and more autonomy to collect those they are legally empowered to collect. Where the State Government illegally collects these, same should be refunded to the local government. Furthermore, scrutiny should be brought by the Joint Tax Board to ensure uniformity of rates across the country. The ALGON too can act in concert and sponsor a uniform legislation in relation to the taxing powers of local government areas. Tax scholars, officials and practitioners should come together and establish a paradigm for progress in this area. The Constitution should be amended to actualize this and more. Without adequate and autonomous funding through taxation, the local government areas will remain the serfs of taxation hamstrung by a debilitating and excruciating state of impecuniosity, desperation and gross inability to carry out their functions. This deleterious state of affairs cannot be allowed to continue.

⁶⁷A Salami, 'Taxation, Revenue Allocation and Fiscal Federalism in Nigeria: Issues, Challenges and Policy Options' *Economic Annals*, Volume LVI, No. 189, April-June 2011, 46.