

## APPRAISAL OF LOCAL GOVERNMENT AUTONOMY AS A TOOL FOR THE POLITICAL RESTRUCTURING OF THE NIGERIAN FEDERATION\*

### Abstract

*The clamour for the restructuring of the Nigerian Federation has not yielded any positive result for some decades now. It has become a song on the lips of many Nigerians but with no result. The persistent call for restructuring takes different dimensions, but particularly outstanding is in the dimension of restructuring the political structure of the country through the autonomy of the local government. This is anchored on the fact that the existence of every State/Nation and the control of its resources bother on politics. President Goodluck Jonathan in 2014 held National Conference in a bid to restructure the country politically but all the suggestions and the outcome of the National Conference have not yielded any meaningful result as the suggestions seems not tenable. Autonomy of the local governments in Nigeria is the most ideal way of politically restructuring the Nigerian federation. Local Governments are constitutionally created with some functions it renders to the rural people. The autonomy of the local government is necessary not only as the closest government to the people but as a training ground for Politicians who will receive political instructions at that level. Local Government autonomy is the way forward in restructuring Nigeria. The methodology adopted in this research is purely doctrinal; while the approach is principally comparative and interdisciplinary. This paper found out that autonomy of the local government is the best way to restructure Nigeria politically. This paper finds out that political restructuring of the Nigerian Federation will be best achieved through the autonomy of the local government. This paper recommends solutions to the numerous challenges hindering the restructuring of Nigeria through the autonomy of the local government.*

**Keywords:** Local Government, Autonomy, Political Restructuring, Nigerian Federation.

### 1. Introduction

The scholarly discourse and investigation in constitutional studies and federalism, particularly in respect of local government autonomy, is engendered mainly by the overbearing powers of the state and sometimes lack of elected executive chairmen at the grassroots. State encroachment into local government affairs and their total control of the local councils by appointed committees who are loyalist to the State Governors has thus triggered research works aimed at reversing such encroachment given the immense role that can be played in grassroots politics by the local government. In Nigeria, reforms have been articulated and executed in a bid to correct certain perceived excessive state encroachment, abuse of powers and the use of undemocratic leaders and caretaker committee to run the local governments by the state governments in Nigeria<sup>1</sup>. Of all government reforms deliberately put in place to address this problem, the 1976 Local Government Reform which for the first time recognized local government as a third tier of government, accorded autonomous powers to the local councils. Irrespective of the nature and extent of flaws that may characterise local government autonomy in principle and practice in Nigeria, it has, for fairly some time, become an important issue for considerations at the National Assembly. Not surprisingly, it has been subjected to various critical assessments. The foregoing nevertheless, not much intellectual efforts has been deployed in examining the local government autonomy as a vehicle for the political restructuring of the Nigerian federation.

The federal government had in the past made frantic efforts to give autonomy to the Local Government in the country, for instance, in the forward of the guidelines for 1976 Local Government Reforms, it was remarked that the state governments have continued to encroach upon what have been the exclusive preserve of local government<sup>2</sup>. With this reform, the Federal Government granted the local government the power of grassroots governance, thus becoming the third tiers of government in the Country. Undoubtedly, there has been improvement in the degree of autonomy granted the local government since 1976, with more functions given to it. To strengthen the philosophy of the government, it went further to guarantee the statutory nature

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<sup>1</sup> SC Agunyai, *et al* 'Local Government Autonomy: A veritable Tool for Redressing Usurpation of Powers of Local Government by the State Government in Nigeria' (2013)3(10) *Journal of Public Policy and Administration Research*, <<https://www.iiste.org/Journals/index.php/PPAR/article/viewFile/8388/8716> accessed on 13/5/2021.

<sup>2</sup> D O Adeyemo, 'Local Government in Nigeria: A Historical perspective' (2005) 10 *Journal of Social Sciences*, 77-87

of local government by embodying it in the 1979 Constitution<sup>3</sup> which stated thus: the system of democratically elected local government councils is under this Constitution guaranteed. In spite of the inclusion of this in the Constitution, the civilian administration between 1979 and 1983 seriously bastardized the so-called autonomy. It should be noted that successive Military regimes tried to give local government its rightful position through the revitalization and restructuring of local government system in Nigeria. The Babangida administration since 1985 made conscious efforts to strengthen local government system by enhancing its autonomy<sup>4</sup>.

Certain measure of autonomy started coming the way of local governments in January 1988 with the scrapping of the State Ministries of local government throughout the Country. This was to remove the political control and bureaucratic redtapism created by the Ministries in the developmental performance of local government councils.

The 1999 Constitution of the Federal Republic of Nigeria (as amended) recognizes local government<sup>5</sup> and its functions<sup>6</sup>. But beyond this, the local government is to the whims and caprices of the other tiers of government. Its elections are to be conducted by the State Independent Electoral Commission<sup>7</sup>, and the State House of Assembly is empowered to make laws for the State Joint Local Government Account<sup>8</sup>; the creation of the local government is to be done by the joint efforts of both State and the Federal Government<sup>9</sup>; the local government is dependent on the financial allocation from the Federal Account and the Constitution does not make provision for how the local government shall run like it made for the State and Federal Government. The result is that the local governments instead of perfecting in line with the 1987 – 1992 glory, is limping backwards to the pre- 1976 arrangement. This is because each state government decides how many months it will give as a tenure of elected officials instead of three years in the pre- 1999 constitution which treated local government as a responsible tier of government with all the powers and privileges, State government under the local government laws reserves the powers to remove the Chairman from the office without the impute from the Local government Councilors. The funds sent to the local government on monthly basis are highjacked by the State Governments. The so called local government elections in 2004 was fake as the governors hand-picked and appointed some persons as ‘Chairmen’ of local government in the name of elections. The result is that local government exists as a place where party thugs are compensated with the jobs of Chairmen, Supervisory Councilor, or Ordinary Councilor. In view of the above, the dream of the heroes of the 1976 reforms has been dashed as the aim of establishing the system cannot be realized.<sup>10</sup>

There is no doubt that the history of local government autonomy in Nigeria is a chequered one which is yet to find a steady base. The clamour for the political restructuring of the Nigerians Federation cannot be achieved without autonomy of the local government for the grass root development. It is high time autonomy is given to the local governments in Nigeria for the political restructuring of the Federation.

## **2. Conceptual Analysis of Local Government Autonomy**

Local Government autonomy is the freedom to the local governments to exercise authority within the confines of the law or Constitution. This is to enable them to discharge legally or constitutionally assigned responsibilities satisfactorily without undue interference or restraint from within or higher authority. This definition argues for adequate autonomy for local governments within the law for the purpose of performance, which actually guarantees it. Without performance, the law or Constitution may not be able to guarantee even adequate autonomy for local governments as the people yearn for development. Autonomy operated within a democracy must be limited as indeed democracy limits the use of power<sup>11</sup>. In view of these conceptual interpretations, local government autonomy is perceived as local self-government or grassroots democracy. This grassroots democracy is primarily aimed at giving the vast majority of the people the fullest opportunity to participate in determining their own destiny. But it is obvious that we cannot have complete

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<sup>3</sup> Section 7 (1)

<sup>4</sup> *ibid*

<sup>5</sup> Section 7 of the 1999 constitution (as amended)

<sup>6</sup> 4<sup>th</sup> schedule to the 1999 constitution (as amended)

<sup>7</sup> Section 178; part ii, 3<sup>rd</sup> schedule to the 1999 constitution (as amended)

<sup>8</sup> Section 162(8) of the 1999 constitution (as amended)

<sup>9</sup> Section 8 of the 1999 constitution (as amended)

<sup>10</sup> *ibid*

<sup>11</sup> D O Adeyemo, ‘Federalism and the Logic of Local Government Autonomy in Nigeria’ (1996)16 *Nigerian Journal of Local Government Studies*, 86.

autonomy or complete local self-government within sovereign states. If local governments were completely autonomous they would be sovereign states<sup>12</sup>.

The autonomy under a federal system means that 'each government enjoys a separate existence and independence from the control of the higher tier of governments' It is an autonomy which requires not just the legal and physical existence of an apparatus of government like a legislative assembly, Governor, Court etc. but that each government must exist not as an appendage of another government but as autonomous entity in the sense of being able to exercise its own will in the conduct of its affairs free from direction of another government. Autonomy would only be meaningful in a situation whereby each level of government is not constitutionally bound to accept dictation or directive from another. Local government autonomy refers to the relative discretion which Local Governments enjoy in regulating their own affairs. The extent to which Local Government are free from the control of the State and Federal Governments encroachment in the management of local affairs. Local autonomy is primarily concerned with the question of responsibilities, resources and discretion conferred on the local authorities. As such discretion and responsibility are at the core of local government<sup>13</sup>. It presumes that local government must possess the power to take decisions independent of external control within the limits laid down by the law. It must garner efficient resources particularly of finance to meet their responsibilities, Put differently; local autonomy is the freedom of independence in clearly defined issue, areas, as well as separate legal identity from other levels of government.

It is important to note that considering the country's federalism and constitution there can never be an absolute autonomy because of the interdependence of the three levels of government and this bring into focus the intergovernmental relations of local government autonomy. The federal, state and local governments rule over the same population. If they are to achieve the purpose of their creation and not to waste the meagre resources at their disposal, there must be a definition of the boundaries or arena of operation of each of them. In essence, when one talks of local government autonomy in Nigerian's polity, it refers to the relative independence of local government control by both the state and federal governments. Therefore, it is the nature and structure of transactions or interactions between the three levels of government that reveals the degree of local government autonomy. The country's constitution clearly spelt out its position on local government autonomy, for instance, the exit of the military and the enthronement of democratic government in 1999 brought to the fore, again, some contradictions of local government autonomy. The provisions regarding local government administration in the 1999 Constitution created a lot of confusions. The 1999 Constitution (as amended) by its provisions sections 7 and 8<sup>14</sup> recognize the local government as a third tier of government and also guarantee it, but gives the state the autonomy to lord over the local government section 7 and 8<sup>15</sup>. The implication of these provisions is that local government cannot exercise the functions assigned to it<sup>16</sup> until the State House of Assembly had passed a law to that effect.

### **3. Relationship between Local Government and Other Tiers of Government in Nigeria**

The system of Local Government by democratically elected local government council is 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 functions of such council<sup>17</sup> is a categorical provision of the 1999 Constitution (as amended) and this is the basis of the existence of local government in Nigeria<sup>18</sup>. The first relationship therefore is the one between the local government and the State Government and it is to the effect that every state government shall (i. e. mandatory) make law for the establishment, structure, composition, finance and functions of such Councils but the power of the state governments is subject to section 8 of the Constitution which stipulates conditions precedent for the creation of new State and Local governments. The interpretation of this section has been a subject of controversy between all the tiers. By this provision, the State Governments claim authority to threaten the Local Government any how they like particularly, the issue

<sup>12</sup> D O Adeyemo, 'Local Government Autonomy in Nigeria: a Historical Perspective' (2005)10 *JSS* 77-87

<sup>13</sup> K J Davey 'Local government and Independent Revenue (1991) 45 *Journal of Public Administration*, 49

<sup>14</sup> section 7 and 8 of the 1999 Constitution (as amended)

<sup>15</sup> Section 7 and Section 8 of the 1999 Constitution (as amended) provides that there shall be: The system of local government by democratically elected councils (which) is by 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 functions of such councils.

<sup>16</sup> section 1 schedule 4 of the 1999 Constitution

<sup>17</sup> Section 7 (1) of the 1999 Constitution of the Federal Republic of Nigeria (as Amended)

<sup>18</sup> B O Igwenyi, 'Modern Constitutional Law in Nigeria' ( Nigeria, Nwamazi Printing &Publication Co. Ltd) 417

of creation (establishment), structure, composition and function. But the States do not claim responsibility to finance the local government within their jurisdiction, this is the responsibility of the Federal Government which comes through the monthly Federation Allocation,<sup>19</sup> but the States are also enjoined to make financial allocation to the Local Governments<sup>20</sup> which they do not except to hijack the one coming from the Federal Government. The second relationship between Local Government and the State Government is that the local government shall dutifully participate in the economic planning and development of its area within the state. to this effect, the State Houses of Assembly shall by law establish the economic planning board whose job will be the planning of all areas of the State for the purposes of development<sup>21</sup>. Hence it is a joint effort of the state government and the local government. The third relationship between the Local Government and the State is that the State Independent Electoral Commission organizes elections into the Local government in the state. This relationship is rooted in<sup>22</sup> which enjoins the State Government to ensure that those who are entitled to vote in the House of Assembly elections also vote in that local government. The fourth relationship between the State Government and the Local Government could be seen in the area of state creation. This is because under section 8 (1) (iii), the creation of a state requires that there must be an impact from the local government council in that state. The same thing applies for boundary adjustment in a state.<sup>23</sup> In like manner, the state government plays a major role in local government creation exercise.<sup>24</sup> The fifth relationship between the State and the Local Government also lies in the local government participation (i) the provision and maintenance of primary, adult and vocational education (ii) the development of agricultural and natural resources, other than the exploration of minerals; (iii) the provision and maintenance of health services and (iv) such other functions as may be conferred on the local government council by the House of Assembly of a State<sup>25</sup>. Finally, the main relationship between the Federal Government and the Local Government is that of making financial allocation to the local government as enshrined in the Constitution.<sup>26</sup> Above all, the National Assembly can make law for the peace, order and good governance of all the local governments in Nigeria.<sup>27</sup>

The above relationships is a clear appreciation of the facts that local government is a separate tier of government and can only relate with the State as provided by the Constitution. That is why this paper is advocating for the total autonomy of the local governments in Nigeria to reduce the overbearing influence of the State Governments over the finances of the local governments as same is unconstitutional.

### **3. Meaning of Political Restructuring**

Political restructuring has different meanings as it has been a topic on the papers of many scholars with varying perspectives. It entails both political configuration of the country and devolution of powers to the constituent units as it is practiced in other climes.<sup>28</sup> It is the re-organization and re-arrangement of the nature of resource control by the various government and regions to foster unity and development<sup>29</sup>. Be that as it may, political restructuring in the context of this work is systematic reforms and re- organization of the local governments in Nigeria to bring about its desired autonomy to enable it provide to the grassroots the functions as contained in the Constitution of the Federal republic of Nigeria 1999 (as amended).

### **4. Rationale for the Autonomy of Local Government in Nigeria**

Several reasons have been advanced for the quest for local government autonomy in Nigeria. The essence is to allow the local government specific powers to perform a range of functions assigned it by law and to perform array of functions, plans, formulate and execute its own policies, programmes and projects, and its own rules and regulations as deemed for its local needs. This autonomy includes power to control its finance, recruit and discipline its staff. It is premised on the ground that when local government has power to take decisions on its own as regarding its finance, service to the local people in grassroots politics then, a sense of belonging is likely to be evoked from the local people. It is also sought for, and designed to lessen, if not

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<sup>19</sup> Section 7 (6) (a)

<sup>20</sup> Section 7 (6) (b)

<sup>21</sup> Section 197 part ii. 3<sup>rd</sup> Schedule 1999 Constitution (as amended)

<sup>22</sup> Section 7 (4) of the 1999 Constitution (as amended)

<sup>23</sup> Section 8 (2) (a) (iii)

<sup>24</sup> Section 8 (3) (4) of the 1999 Constitution (as amended).

<sup>25</sup> 4<sup>th</sup> Schedule, paragraph 2 199 Constitution

<sup>26</sup> Section 163 (3) and (5) and 7(6) of the 1999 Constitution (as amended)

<sup>27</sup> Section 4(2) of the 1999 Constitution (as amended), AG of Ondo State v AG Federation(2002) 9NWLR (pt 772) 222 SC

<sup>28</sup> A. Norafidah & T.Z Knocks Resource Control and political Restructuring in Nigeria: *journal of Multidisciplinary Studies* Vol.5 NO8 (2017) p 8

<sup>29</sup> A Najakku, 'the politics of restructuring' *Daily Trust*, August ,2016, 6

avert, the belligerent state encroachment and the use of unelected leaders (care-taker committee) to govern the local government that has characterized Nigeria's democratic systems.

However, it is imperative to state that a close look at the local government autonomy as articulated in the different legal documents reveals that it is not foreseen to have under its realm total removal of state control over local government and its finance as the constitution specifically gave the power to create local government according to established laws to the state. This is accentuated by the fact that the issue of allowing unelected leaders to govern the local government, for the purpose of relegating to the background the utility of local government autonomy, has always been on such areas as 'finance', 'corruption' and 'conflicting sources of revenue between state and local government'. It is further reinforced by the fact that, in its implementation, some of these form the basis of the objections and oppositions to the approval of local government autonomy in the 2013 constitutional amendment at the National Assembly<sup>30</sup> One other reason for local government autonomy is rural development, Local government is closer to the people at the grassroots and when local councils have the powers of their own without any overbearing interference from the state, they could implement decisions or policies that will enhance rural transformation without having to wait for the state which in most cases focus mainly on the state development and neglecting the grassroots areas<sup>31</sup>. In Nigeria, there are conspicuous cases by observations and News reports that the money meant for rural development and provision of social services for people at the grassroots have been diverted and mismanaged by the State Governors. Local government autonomy will make local councils to have direct access to their finance with which to implement policies and decisions that will promote grassroots development in Nigeria. Thus, even though the local government autonomy is, in part, designed to deal with the problem of state's excessive control and encroachment in local politics, it is not focused on absolute and total autonomy for the local councils.

### **5. Challenges of Local Government Autonomy as a Tool for the Political Restructuring of the Nigerian Federation**

There is an unequivocal need for political restructuring of the Nigerian state through the autonomy of the local government as observable from the above analytical discourse in this work. Also observable is that there have been previous attempts made towards the restructuring of the Nigerian Federation. This work in an attempt to do justice to these questions outlined and buttressed below as the factors that are responsible for the unresponsiveness and fruitlessness of political restructuring of the Nigerian Federation through local government autonomy struggle<sup>32</sup>. These factors amongst others included:

**Elite interest:** This appears to be a major problem facing political restructuring of Nigeria. The politico-economic elites of the country who are being favoured in one way or the other by the existing political structure of Nigeria influence negatively the struggle for political restructuring. These set of people constitute the wealthy, the politicians and even some elected government officials.<sup>33</sup> No Governor today will lift a finger or put himself out to diversity or second restructuring when every month he can go to Abuja to collect his share of the booty. The only reason he would do so is if he knows that the survival of his state depends on it<sup>34</sup>. This out-rightly shows that the call for restructuring through local government autonomy has fallen to the dictates of the politico-economic elites of the Nigerian Society. Thus, they become a strong challenger of the bid to restructure the pseudo-federalist political structure of Nigeria.

**Corruption:** The struggle for political restructuring of the Nigerian federation through the autonomy of the local government has seen shades of manifestation of corruption in different dimensions. There are corrupt officials who are but political restructuring entrepreneurs using the call for political restructuring as a way to gain favour from the government or gain recognition or even paid. Once they achieve this, they end their call and move towards discouraging the call for political restructuring in Nigeria<sup>35</sup>. This is an absolute inhibition of political restructuring in Nigeria. Similarly, corruption has also manifested in the struggle for political restructuring in the nature of presence of corrupt recidivistic politicians who having been in the

<sup>30</sup> Agunyai *et al*, 'Local Government Autonomy: A Veritable Tool for redressing usurpation of Powers of Local Government by the State Government in Nigeria (2013) 3JPPAR, 35 <https://www.iiste.org/Journals/index.php/PPAR/article/viewFile/8388/8716> accessed on 13/4/2020.

<sup>31</sup> *ibid*

<sup>32</sup> I Nwafor-Orizu *et al*, 'Political Restructuring in Nigeria: The Need, Challenges and Prospects' (2018)18 *Global Journal of Human-Social Science*, 13

<sup>33</sup> EH ujah & J. Agbakwuru who says Nigeria is indissoluble, *vanguard news*, May 26 2017,p

<sup>34</sup> *Ibid*

<sup>35</sup> *ibid*

position of government *ab initio* have also resorted to influence those in government now who are more like their godsons not to effect political restructuring. This is a strong challenge against the political restructuring of Nigeria and one that needs urgent attention<sup>36</sup>.

**The constitution:** the Nigerian constitution has undergone a lot of reviews through the years but unfortunately, it has failed to address the major problems of the local government autonomy. There is no clear distinction of the constitutional powers and boundaries of both the State Government and the Federal governments as its operations affect the establishment and operations of the local government. Furthermore, section 162 (6) compounded the problem of local government autonomy more as the said provision divest local government of financial autonomy through the creation of State Joint Local Government Account.

**Legality of the Local Government:** section 7(1) of the Constitution<sup>37</sup> provide that, the system of local government by democratically elected local government council is under this constitution guaranteed; and accordingly, the government of every shall, subject section 8 of this constitution ensure their existence under a law which provides for the establishment, structure, composition, finance and functions of such council. The above provision, the Constitution strips the Local Government off all the powers and place5s same on the State Government.

**Inadequate finance:** The issue of the autonomy as a tool for political restructuring of the Nigerian federation will remain a mirage if financial autonomy of the Local Government is not provided for in the Constitution. This is anchored on the fact that Local Government depends heavily on the Statutory Monthly Allocation from the Federal government and Internally Generated Revenue. Section 162(6) of the 1999 Constitution divested Local Governments of financial autonomy. The dream of political restructuring of the Nigerian federation will not be attained if the above provision of the Constitution is not amended to give financial autonomy to the Local Government.

**Weak Institution:** The government institutions who were strategic to the country pursuit of democratic ideas instead of serving as the bulwark of democracy, have become weakened by inefficiency, corruption, lack of commitment, incompetence, tribalism, hooliganisms and other sundry handicaps<sup>38</sup>. An instance is the case of Revenue Mobilization and Fiscal Allocation Commission which was and still charged with the responsibility of structuring revenue allocation in such a way that will restructure the federal character of the country. Had they efficiently carried out their responsibilities, the revenue allocation problem trending in Nigeria today would have been a thing of the past. This shows the extent to which government institutional weakness has affected the political restructuring of the Nigerian state.

## **6. Problems of Sustaining Local Government Autonomy in Nigeria**

It has been difficult to practice an enduring autonomy in Nigerian local governments. Even, though various institutional structures have been put in place since the 1976 Local Government reform, so as to concretize certain degree of autonomy, yet an amalgam of bottlenecks have been put on the way of an emergent autonomous Local Government System.<sup>39</sup> The most prominent among all the bottlenecks militating against the autonomy of the Local government as a tool for the political restructuring of the Nigerian federation is the 1999 Constitution. The usurpation of Local Government functions and revenue sources by State Government is another serious area that erodes the autonomy of the Local Government. More often than not, parallel revenue boards, by the states unwittingly usurps and erodes the revenue yielding areas of the Local Government. It is not uncommon to see such Boards to include market, motor parks, building plan approvals and forest royalty collection fund etc. Furthermore, it is appreciated that finance is the bedrock of any meaningful development. A balance sheet of the comparative performance of Nigerian Local Governments is nothing to write home about. Most of the Local Governments exist only for payment of salaries, as they depended on the federal allocation, which in most cases are deducted from sources for the payment of Primary School Teachers Salaries. Even the mandatory 10 percent Internally Generated Revenue of the State to Local Governments is not forthcoming. Legislative laxity and incompetence is another problem that is facing the autonomy of the local government in Nigeria. It is the duty of the National Assembly to make laws for the peace and good governance of the federation but the laxity and incompetence on the side of the legislatures is a major problem facing the local government autonomy in the country. It is the duty of the

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<sup>36</sup> *Ibid*

<sup>37</sup> 1999 (as amended)

<sup>38</sup> D Ocholi, 'Running Behind Time' *Newswatch*, December 21,2009, p 21

<sup>39</sup> Adeyemo *op cit* p. 18

National Assembly to either amend the existing Constitution to reflect the true autonomy of the local government or enact an Act or state clearly the autonomy of the local government in the Country. It is the laxity on the side of the National Assembly that gives the presidency the impetus to be dishing out orders and guidelines as to the governors interferences with the local governments funds which does not have the binding force as an executive order or guideline is not a law.

### **7. Is the Constitution of the Federal Republic of Nigeria 1999 (as Amended) the Bane of Local Government Autonomy and Political Restructuring of the Nigerian Federation?**

The existence of the Local Government in Nigeria is specifically guaranteed by section 7(1) of the Nigerian Constitution<sup>40</sup>. The territorial boundaries of the Local Government Areas are further enumerated in the second column of part 1 of the First Schedule to the Constitution<sup>41</sup>. Following the provision of section 7(1), the local government is a creation of the state government. Thus while it is mandatory for the State to ensure the existence of local government, local government cannot be said to have the status of a third tier government with autonomous status. Although section 162(3) of the Constitution<sup>42</sup> made provision for funding of local government by both the federal and state governments, the said section also provided for a local government and state's joint account to be managed by the state and through which the state shall transfer funds to each of the local governments of the state.<sup>43</sup> Further, section 2(2) and 14 of the Constitution made Nigeria a federation consisting of states and a federal capital territory. No mention was made of local governments. Section 4 of the Constitution also divided legislative powers between the national and the state's government only. No legislative powers were constitutionally granted to the local government. The Nigerian Supreme Court<sup>44</sup> in affirming the dependency status of the local governments on the state government emphasized the fact that the federal government of Nigeria has no constitutional legislative powers with respect to the establishment, structure, composition, finance and functions of local government councils, rather it is the states' governments that are bestowed with such powers under the Constitution. The Court stated further that the purport of sections 3 and 7 of the Constitution was to enumerate the federating units and their geographical areas as well as to identify the federal capital territory and nothing more.<sup>45</sup> Obviously, such powers and functions to the Local Governments would make them a federating unit. Therefore, since local government is a function of the state government and only the state government has the constitutional power to establish local government and to define its structure and functions, it clearly and necessarily follows that local government is neither an independent third tier of government nor an autonomous entity in the sense of possessing its own free will in the determination of its affairs free from control of any government. It may, notwithstanding be rightly argued that the effect of the constitutional provision for the existence and creation of local governments is to mandate or oblige the states government such that the states are deprived of any discretion to do otherwise. Thus the Constitution obliges a state government not only to make the necessary legislation to provide for the establishment, structure, composition, functions and finances of local government councils but very importantly to ensure the existence of democratically elected local government councils under such laws. This position is supported by a number of judicial decisions wherein the court declared void the suspension and subsequent dissolution by state governor of an elected government councils and the appointment of Caretaker or Management Committees in their place as a violation of the constitutional guarantee of democratically elected local government councils.<sup>46</sup> Also, the states are further obliged to make provisions enabling the local government to carry out certain enumerated functions<sup>47</sup>. However the local government can only carry out its functions pursuant to a law made by the state house of assembly for this purpose, thereby placing the local governments under the direct control of the state government. It can be glaringly gleaned from the above analysis that the Constitution is really the bane of the local government autonomy and the restructuring of the Nigerian federation.

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<sup>40</sup> 1999 Constitution (as amended)

<sup>41</sup> Federal Republic of Nigeria

<sup>42</sup> *ibid*

<sup>43</sup> Section 162(6) of the 1999 Constitution (as Amended)

<sup>44</sup> *Balogun v A.G Lagos State & Ors* (1981) 1 NCLR 31

<sup>45</sup> *Balogun v A.G Lagos State & Ors*, *supra*

<sup>46</sup> *Adeniji Adele and ors v. Governor Lagos state and ors* (1982) *Akpan v. Umah* (2002) FWLR (Pt 110)1820, *Akpan v. A.G. Cross Rivers State & Ors* (1982)2 FNR 177, *Akinpelu v. A.G. Oyo State* (1982)2 FNR 428.

<sup>47</sup> See section 7(1) CFRN.

## **8. Conclusion and Recommendations**

The Nigerian constitutional provisions pertaining to local governments laid the basis for the unhealthy interference of both the federal and states' governments over local government's administration. The controversy surrounding the position of the local government in the 1999 Constitution should be resolved otherwise; the autonomy and development efforts at the grassroots will be in jeopardy. It therefore means that there must be a constitutional review that will clearly and constitutionally specify the borderline of each level of government as well as state the nature of their constitutional relationships. By implication, to resolve the challenges facing local government in Nigeria is to resolve the constitutional loopholes that tie the survival and development of rural areas to the apron string of state governments. The political restructuring of the Nigerian federation through the autonomy of the local government will remain a mirage until the provisions of the constitution that made the local government an appendage to both Federal and State governments are amended.

The issue of political restructuring in Nigeria through the autonomy of the local government is one that needs addressing because Nigerian political structure is long overdue for restructuring. Therefore, in a bid to tackle the hydra-headed monsters impeding the political restructuring of Nigeria and in order to facilitate the birth of a new and improved political structure that will be suitable to the current civilization of Nigeria and ease the country of the tensions and conflicts emanating from ill-fated federalism practice in Nigeria, the following are recommended: There is need for Constitutional review that will clearly and constitutionally specify the borderline of each level of government as well as state the nature of their constitutional relationships. Corruption must be discouraged and where officials are found guilty of corrupt practices they must be punished to serve as deterrent to others. The political elite need to change their values and orientation to politics as some of them believe that once you occupy a political office you automatically become a millionaire, this is one of the factors delaying the restructuring of the Nigerian federation and the autonomy of the local governments. The Politician in power sees the attainment of autonomy of the local government and the restructuring of the Nigerian federation as a ploy of making them politically irrelevant thereby depriving them their share of the national cake. The Constitution shall be amended to divest the controlling powers of the Local Governments from the States. The entire citizens of Nigeria irrespective of tribe or region of origin should be value re-oriented and psychologically engineered towards understanding the need for both unity in their diversities and advantage of politically restructuring the country into an egalitarian society. This will also make them to change their laissez-faire attitude and embark on a nationalistic call for restructuring without fear of suppression. State laws that provide for an Administrator/ or Caretaker position to be appointed by the Governor to man the Local Government contrary to by the constitution should be abolished. There shall be an institutionalized electoral process for local government where elections are timely conducted without any form of interference from the centre or the state. Autonomy must be accorded local governments in areas such as revenue generation, expenditure as well as personnel administration and matters relating to development. This will bring about the needed restructuring of the Nigerian Federation as same will reduce the unnecessary frictions at the center.