

CONSTITUTIONAL PROBLEMS CONFRONTING THE LOCAL GOVERNMENT SYSTEM IN NIGERIA*

Abstract

The fulcrum of Local Government system is to bring government nearer and closer to the people, in order to serve its purposes therefore, it must have legal personality distinct from the state and Federal Government thereby enjoys substantial autonomy. Thus, the system of local government as a third-tier level of governance was first introduced into Nigeria Governmental structure in the 1979 Constitution. The reform conceives local government as separate, and independent from the State Governments. Local Government as the third tier of government in Nigeria is bedeviled with multiple problems such as non provision of basic social amenities and how to maintain such amenities if provided. Nigeria cannot boast of a very good performance in the public sector at the grass roots if a very huge percentage of her local citizens are faced with poverty, lack of basic social amenities and socioeconomic differences. A critical look at Nigeria at the grass root level will reveal that the Local Government Areas in Nigeria are not doing well in the area of service delivery and the performance of their constitutional functions. The failure of the Local Government in Nigeria as the third tier of government to solve many ongoing problems of the people at the grass root further show lack of contentment in governance. This work looks at the reasons for the establishment of the local government, their functions and possible problems. The work also looked at the factors working against the performance of local government management in Nigeria.

Keywords: Constitutional Problems, Local Governments, 1999 Constitution, Nigeria

1. Introduction

Local government administration in Nigeria has been in existence since 1972 but due to its inefficiency in addressing the primary needs of the people at the grass-root level has made the third tier of government irrelevant in the administration of the country's lowest tiers of government to the people¹. Local Government is defined as a government established through an Act at the local level and to deal with specific matters as it affects them. They are created under the 1963 Republican Constitution to deal mainly with matters of local concerns like Markets, Feeder-roads, Motor Park and many others. The essence if local government creation is to involve local participation in the affairs of their country, the idea of Local government is considered to be a generic term used for the lowest tiers of public administration within a state, country or a sovereign nation²; it is generally and geographically localized with limited powers. In Nigeria the local government is the third tier of government, the idea of a local government involves democratic participation in the governing process at the grassroots and local level. It is a legal and administrative decentralization of power, functions, and staff by higher level of government to an area with a will of its own, performing specific functions as within the wider national framework.³ The term local government has been defined by many scholars in different area of social sciences and even law. Local Government is described as some government bodies elected by the people that have administrative, legislative and executive functions on the territories under their jurisdiction. It is also defined as an authority that decides or determines certain measures within a given territory. It is a political mechanism for governance at the local or grassroots level. According to Tonwe, local government is a political or structural subdivision of a nation, or a federal system, which is constituted by law and has substantial control of local affairs, including the power to impose taxes or exact labour for prescribed purposes.⁴ The constitution also defined it as an integral part or aspect of government at the local level, administered by the representatives of the people in that area, in relation to matters affecting that locality alone.⁴

The fulcrum of Local Government system is to bring government nearer and closer to the people, in order to serve its purposes therefore, it must have legal personality distinct from the state and Federal Government thereby enjoys substantial autonomy. Thus the system of local government as a third tier level of governance was first introduced into Nigeria Governmental structure in the 1979 Constitution. The reform conceives local

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¹ Shamsuddin Bolatito, *Challenges of the Local Government Administration in Nigeria* (2014), Volume 3 p.1

² C.C. Diebie, *Tonad Essential Government in Nigeria* (2012), Tonad Publishers Limited, p. 131

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⁴ The 1976 Local Government Reform provides a holistic meaning of of local government as the government at the local level.

government as separate, and independent from the State Governments⁵. The constitutional provision with respect to the autonomous status of local government has since been retained in the subsequent Constitution of the Federal Republic of Nigeria.⁷ The introduction was a clear departure from what obtained under the 1963 Constitution when the local governments were subordinates to the Regional Governments or simply put, were appendages of the Ministry of Local Government in the Regions.⁶ The reason for the establishment of Local Government has its origin from the need to have a system that is close to the people. Many reasons have been adduced for the creation of local government. Some of which include the need to decentralized government at the centre thereby facilitating co-ordination and expediting action on local issues, to increase the local people's understanding and to enlist their support for social and economic developmental activities, to make programmes that would foster social and economic betterment at the local level, to train local people in the act of self-government, as well as to strengthen nationality.⁷ It has also been suggested that the creation of local governments is premised on the presumed superior capacity of local people to understand and conduct their local affairs.¹⁰ However, in order to reap the full benefit of its creation, local government should be granted considerable autonomy and independence.⁸ It is however unfortunate that contrary to the apparent spirit and intent of the 1996 Reform and the constitutional framework in creating a separate, independent entity of governance at the local level, reverse is the case in practice. The current level of local government autonomy has so far failed to translate into grassroots development potentials of the third tier of government. This paper therefore reviews the various provisions of the 1999 Constitution relating to local government. These include procedure for local government creation, the problem of autonomy, means of finance, conduct of election into the local councils, mode of finance and functions among many others.

The process of creating a new local government in Nigeria has its root from the constitution, the method of creating a new local government as provided in the Nigerian Constitution is manifestly problematic⁹. This is because the 1999 Constitution under section 7 (1) expressly provides that it is the duty of the State Government, subject to section 8 of the Constitution to ensure the existence of the local government councils under a law which provides for the establishment, structure, composition, finance and functions of such councils. While this section vests the power of creation in the state, the procedure for creation of such new local government areas is provided for in section 8 (3), (5) and (6) of the Constitution.¹⁰ However, the new local governments so created will not take effect or come into operation until they are accommodated in section 3(6) and Part 1 of the First Schedule of the Constitution by the National Assembly apparently by the consequential amendment of the above mentioned section and part of the Constitution. This is observed by Edozie JSC in *Attorney-General of Lagos State v. Attorney-General of the Federation*.¹¹ It is my view that although by virtue of sections 7 (1) and 8 (3) of the Constitution, a State Government is vested with the power to create new local government areas within its domain, that power is not absolute but subject to an Act of the National Assembly amending section 3 and Part 1 of the First Schedule of the Constitution and until such an Act is enacted any new local government area purportedly created by a State Government is inchoate and not properly constituted.

For the purpose of clarity, the relevant section 8 (3)¹² provides that a bill for a law of a House Assembly for the purpose of creating a new local government area shall only be passed if: A request supported by at least two-thirds majority of members (representing the area demanding the creation of the new local government area) in each of the following: The House of Assembly in respect of the area, and the local government councils in respect of the area, is received by the House of Assembly, a proposal for the creation of the local government area is thereafter approved in a referendum by at two-thirds majority of the people of the local government area where the demand for the proposed local government area originated, the result of the referendum is then approved by a simple majority of the members in each local government council in a majority of all the local government councils in the State and the result of the referendum is approved by a resolution passed by two-thirds majority of members of the House of Assembly. A State Government that intends to create new local government areas must comply with the outlined procedure above. However, after the creation, the State House

⁵ The 1976 Local Government Reform provides a holistic meaning of local government as the government at the local level

⁶ S. 7 of the 1999 Constitution of the Federal Republic of Nigeria (1999 Constitution) as amended

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⁸ B.O. Nwabueze, *Federalism in Nigeria under the Presidential Constitution* (1983) Sweet & Maxwell, London, p.125

⁹ Garuine Albert, The Utilization of Local Government for National Development, *Journal of Local Government Administration Overseas*, Vol. V No 4 Otc, 1965, p.225

¹⁰ R.O.F. Ola, *Thoughts on Local Government in Developing Countries (Nigeria) in Local Government in West Africa since independence* (Adamolun, Oluwu and Lateye (1988) Ibadan, University of Ibadan Press) p.5

¹¹ 1999 Constitution as amended

¹² S. 8, 1999 Constitution as amended

of Assembly shall make adequate returns to each House of National Assembly.¹³ The National Assembly after receiving such returns will pass an Act to make consequential provision with respect to the names and headquarters of the newly created local government areas as provided in section 3(6) of the Constitution and in Part 1 of the First schedule of the Constitution.¹⁴ The first notable anomaly is the fact that these constitutional provisions vest the power to create new local governments in both states and federal governments.¹⁵ Both levels of governments must exercise their separate but complementary role in order to bring into being a local government. The process will be first initiated by the state governments and has to be completed by the federal government. By implication in reality, unless both federal and state are mutually willing to bring about such creation, no new local government can emerge. This is obviously problematic where different political parties control the Federal and such state concerned. The second anomaly concerns the issue of making adequate returns to the National Assembly by the State government after it has created new local governments in line with section 8 (6) of the Constitution. The section provides that: For the purpose of enabling the National Assembly to exercise the powers conferred upon it by subsection (5) of this section, each House of Assembly shall, after the creation of more local government areas pursuant to subsection (3) of this section make adequate returns to each House of the National Assembly. The question is, what constitutes adequate returns? Since the constitution did not define adequate returns, there is possibility of considering its meaning in a subjective rather than in an objective manner. Section 8 (6) of the Constitution emphasizes that such returns must be adequate. Who determines the adequacy of the returns? National or State Assembly? Does it mean that the State Assembly after creating local government has to do beyond mere official communications to the National Assembly of what it has done? All these are yet to be resolved. Some the powers of the local government are to do the following: Make bye-laws by through the legislative arm making laws for the local government, power to punish offenders and Imposition of levy at the local government. On the other hand, the reasons for creating local government in Nigeria among other things include: bringing government closer to the people at the grass-root, encourage local participation, to create intentionally even distribution of development, to cater for diverse interest, they are agents of state and federal government, they also provide essential services to citizens, create employment and provide a veritable ground for the training of future political leaders for the state and federal government.¹⁶ Section 8 (5) states that 'An Act of the National Assembly passed in accordance with this section shall make consequential provisions with respect to the names and headquarters of State or local government areas as provided in Section 3 of this Constitution and in Parts I and II of the First Schedule to this Constitution'. It is only after the National Assembly had received adequate returns that they will pass an Act to make consequential provision with respect to the names and headquarters of the newly created local government areas as provided in section 3(6) of the Constitution and in Part 1 of the First Schedule of the Constitution.¹⁷

The third controversial issue relates to the operative word 'shall' as used in the above section 8 (5) is the mandatory or directory? In order words, does it impose obligation on the National Assembly to pass consequential Act or does the word merely directs the National Assembly to do so after it receives adequate returns. A sober reflection and perusal of the sentence in section 8 (5) shows that the word 'shall' is pointing to the Act that is to be passed by the National Assembly rather than commanding the National Assembly to pass such Act. This has been construed by the Supreme Court to be directive rather than mandatory in the case of *Lagos State v Attorney General of Federation*.¹⁸ Fourth, as a corollary to the above argument, unless and until the National Assembly passes a consequential law as complementary to accommodate the newly created local government by the state, such local government will be considered inchoate. Supreme Court was confronted with the dispute between Lagos State Government and Federal Government in 2002 where Lagos State created 57 new local governments without the National Assembly passing any consequential Act. The Supreme Court emphatically pronounced the process of their creation as 'inchoate' and in fact emphasized that no public fund must be appropriated for the running of the so-called 57 local councils created in Lagos state. In fact, to avoid any ambiguity whatsoever, the Supreme Court ruled that the allocation which the Federal Government must unconditionally release to Lagos state is to be solely used for the running of the 20 Local councils listed for Lagos state in the schedule to the 1998 constitution. In conclusion, this shows that the constitution provides for a two- tier approach to the creation of new local government areas; the first or state tier procedure and the second or Federal tier procedure. The satisfaction of only the first or state tier procedure is not sufficient to

¹³ J.A. Yakubu, *Constitutional Law in Nigeria* (2003) Nigeria, Demyars Law Book 5, p.330

¹⁴ 1999 Constitution as amended

¹⁵ 1999 Constitution as amended

¹⁶ C.C. Dibia, *Tonad Essential Government in Nigeria* (2012), Tonad Publishers Limited, p. 133

¹⁷ Section 8 (6) of the 1999 Constitution

¹⁸ S. 8 (5) Ibid

confer or vest legality or validity in the view local government areas created. The second or federal tier procedure must also be satisfied before the exercise can be taken as having been completed.¹⁹

2. Elections Conducted at the Local Government Areas by the Various State Independent Electoral Commissions (SIEC)

Item 11 of the concurrent Legislative List of the 1999 Constitution empowers the National Assembly to make laws for the Federation for the registration of voters and the procedure regulating elections to a local government council. It needs be pointed out that the power given to the National Assembly by item 11 does not go beyond the registration of voters and regulating of elections, which may include the setting up of a single day to hold the general election for the local government councils throughout the country and the franchise of the electorate. Item 22 of the Exclusive Legislative List specifically excludes the National Assembly from legislating for election to a local government council or any office in such council. This therefore makes such legislation a residual matter, within the purview of the State House Assembly. Thus, the State Government is vested with the power to organize elections into the Local government through the state independent Electoral Commission established by such state.²⁰ Though states have the power to conduct the elections, such power of the State Government to organize local government elections is limited in the sense that it is dependent on the preparation of register of voters for the election by the Independent National Electoral Commission. If for any reason the register of voters is not prepared, the state Independent Electoral commission cannot organize the local government elections. Similarly, where such register is not updated at the time of conducting local government election, a free and fair election cannot be guaranteed.²² It must be emphasized that the SIEC is not empowered to review or update the voters' register and as a result, necessary update, change and review occasioned due to a long interval of time between the compilation of voters register and the date of local government election are not taken care of. In *Chief Gabriel A. Akanro v. Lagos State Electoral Commission*²¹, the Plaintiff challenged the holding of local government elections on the ground that the register of voters planned to be used was the one that was compiled by FEDECO in 1977/78 for the presidential, gubernatorial and legislative elections in 1979. The register was based on constituencies for the legislative elections, which made it clearly unsuitable for use in local government elections that were based on wards. The Court held that until a register has been prepared by FEDECE, the Lagos State Electoral Commission cannot lawfully conduct local government elections in the state. The court therefore made a declaratory order that the holding of Local Government elections by the State Electoral Commission on the basis of the 1977/78 register of voters would be null and void a being unconstitutional. This is because if the register of Voters is used it will deny many voters who became qualified to vote after 1979 the right to vote.

3. The Tenure of Office of Local Government Area Officials/Caretakers across the States

The 1999 Constitution does not specifically provide for the tenure of the officers of local government councils as it does in respect of the president, Governors and members of the legislative houses. This therefore legally leaves the state government with power to determine the number of years to be tenure of office since the constitution in section 7 has invested states with mandate to establish the local government councils and draw up the structure, composition, finance, and functions of such councils. Failure of the Constitution to specifically mention the tenure of local government councils makes the power a residue [power, which only the State House of Assembly can legislate upon. This was why the State Government challenged the validity of the Electoral Act 2001, which increased the tenure of officers of the local government councils from three to four years as a total invasion of the legislative powers of the state. The Court held that by not vesting power under the Exclusive Legislative List to do so; the makers of the constitution intended that the power to legislate on the tenure of local government councils should not be exercised by the National Assembly but by the House of Assembly of a state. The apparent loopholes and partial confusion created by this provision have been exploited by state government to exercise undue power and control over the local governments. Local government is manipulated in any manner that pleases the state governments. In some instances, local councils are dissolved and caretaker committees are appointed to manage them. This is manifestly contrary to the section 7 of the constitution. Courts have in few instances held that local government council can only be dissolved by effluxion of time or by due process of law and not by the whims and caprices of the Governor and that the Governors have no power to replace an elected local government council with a Caretaker Management Committee and that even when the tenure of the council has expired, a new election must be held. Thus, in *AKPAN V UMAH*, the court held that since section 7 (1) of the 1999 Constitution has guaranteed that local government shall only be administered by

¹⁹ As at today we have seven hundred and seventy four (774) local government areas in Nigeria and they all operate same system of administration with the following number as contained in the constitution in first schedule, part 1 (States of the federation, Local Government Area)

²⁰ Third Schedule of, Part 11 Para B. Sub Para. 4 of the 1999 Constitution

²¹ (1981) INCLR 51

democratically elected representatives, it therefore means that the appointment of any caretaker committee to replace same whether during the pendency or upon expiration of tenure is unconstitutional. Similarly in *AG Abia State and Ag Federation*²², The supreme court allowed for the elongation of the tenure of the democratically elected local government councils by the state Governments when elections were not yet to be held.²⁶ As Ogunbare JSC observed: By virtue of the provisions of the Interpretation Act, the Tenure of those officers of the local government council remains three years unless increased by the state House of Assembly which has power to do so.²⁷

4. Income of Local Government Areas in States

Local government derives its revenue from three different sources. First, section 162 (3) of the constitution provides that any amount standing to the credit of the Federation Account shall be distributed among the Federal and State Governments and Local Government Councils in each state on such terms and in such manner as may be prescribed by the National Assembly. Also, section 162 (5) provides that the amount standing to the credit of Local Government Councils in the Federation Account shall also be allocated to the States for the benefit of their local government councils on such terms and in such manner as may be prescribed by the National Assembly. The provisions of this section simply implies that the Federal Government is not empowered to make allocations of any amount standing to the credit of the local government councils in the Federation Account directly to the local government councils. It must be pay the allocation directly to the State which will in turn pay it into the state joint local government Account from where the money is distributed to the local government councils. Any law which provides for such direct allocation is contrary to section 162 (5) and therefore unconstitutional. In *Attorney-General Ogun State v Attorney – General of the Federation*, the plaintiff sought a declaration that the defendant is not entitled within the proper meaning of section 162 (5), (6) and (8) of the 1999 constitution to pay the amount standing to the credit of the local government councils in the Federation Account directly to the local government councils and that such payments by the defendant is illegal and unconstitutional. In the lead judgment Onu JSC observed: The National Assembly cannot validly make a law permitting direct allocation to the local government councils, such money must be allocated directly to the State, which shall in turn pay the same into the State Joint Local Government Account vide section 162 (6) In *Attorney-General Lagos State v Attorney-General of the Federation*²³, he Lagos State acting under section 8(3) of the 1999 Constitution promulgated Creation of New Local Government Area Law No. 5 of 2022 under which 57 Local government councils were created by breaking the existing 20 local government councils. Consequently, the President ordered the suspension of statutory allocation meant for Lagos State local government. The action of the President was challenged in court. The Supreme Court held that the President has no power vested in him (by executive or administrative action) to suspend or withhold for any period whatsoever the statutory allocation due and payable to Lagos State Government pursuant to the provisions of section 165 (5) of the constitution. Akintan JSC maintained that –Nowhere in the constitution is the president of the Federal Republic conferred with the power to withhold the statutory allocation due and payable to Lagos State Government or any other state, for the benefit of the local government councils in Lagos State or any State, pursuant to the provisions of section 162 (5) of the 1999 Constitution. The second source of revenue for the local government is that the state Government is under a constitutional duty to grant a proportion of its total revenue to the local government councils in its area of jurisdiction on such terms and in such manner as may be prescribed by the National Assembly. The Allocation of Revenue (Federation Account) Act 1990 as amended by Decree No. 106 of 106 of 1992, fixed the proportion at 10%. Section 5 (2) of the Act provides that: Each State should pay into its State Joint Local Government Account 10% of its internally generated revenue to be distributed among the local government councils in the state on such terms and in such manner as the State House of Assembly may prescribe. The third source of Local government's independent revenue is that which is derived from, the functions assigned to the local government councils by the constitution.³³ These include rates, radio and television licenses, fee for the use of cemeteries and similar fees or revenue that are locally generated by the local government in the course of carrying out its assigned constitutional functions.

5. The Constitutional Functions of the Local Government

The 1999 Constitution enumerated in its Fourth Schedule, the functions of the local government council. These include collection of rates, provision of licenses, establishment of burial grounds, slaughter houses, motor parks. Others include provision and maintenance of primary, adult and vocational education; development of agriculture and natural resources, other than the exploitation of minerals; provision and maintenance of health services, and such other functions as may be conferred on a local government council by the House of Assembly of the State. Unfortunately, the constitution does not make these functions of the local government council set out to the fourth schedule of the Constitution to be self executing; they must be conferred upon the local

²² *A.G. Abia State v. A.G. Federation* (2002) 6 NWLR (pt 763) p.624

²³ (2002) 18 NWLR (pt 798), 232

government council by law.³⁴ The word 'Law' according to section 318 of the constitution means a law enacted by a House of Assembly and House of Assembly means the House of Assembly of a State. This simply means that until the House of Assembly of a State makes a Law conferring the above mentioned functions on the local government council, the council cannot validly exercise them. Another uncertainty is whether the state Government can concurrently exercise the above functions with the local government councils, after they have been conferred on the councils. However in practice, state governments do collect fees, issues licenses and exercise functions that are constitutionally provided for the local government. Thus the action of Kano state was challenged in the case of Knight Frank and Rutley (Nig) Ltd v. Attorney – General of Kano State,²⁴ where the Kano State Government entered into a contract with the appellant for the valuation of hereditaments, despite the fact that the local government council had the constitutional power to levy tenement rates under section 7(5) and the fourth schedule of the 1979 Constitution. The court held that once the state passes a legislation assigning the function of valuation of tenement rates to the local government as the constitution as directed, only the local government council will have the power to deal with the subject matter. The State has no power to deal with the matter and the local government council cannot, even if it wants to, divest itself of these powers.

6. The Problems Associated with the Nature of Undemocratic Governance at the Local Government in Nigeria

A communication issued by participants from 10 different countries at a Senior Policy Seminar on 'Strengthening Electoral Administration in Africa' Held in Accra, Ghana, in April 1993 under the umbrella of the African Association for Public Administration and Management (AAPAM) and the Canadian International Development Agency (CIDA) advocated the following about systems for the management of elections:²⁵ A permanent, independent and credible electoral agency should be responsible for organizing and conducting periodic free and fair election, the mandate of the electoral agency should be defined in the constitution and should include the method of conducting elections; Voter and other civic education; constituency delimitation, registration of voters, parties and candidates, formulation of electoral policies and procedures, and settling disputes on electoral matters, the composition of the electoral agency should include a reasonable number of members, they should be non – partisan, enjoy security of tenure, and be appointed by the head of state, subject to approval by the parliament, the agency should be adequately funded, with all its expenses as a direct charge on the Consolidated Fund and be granted autonomy to establish its own accounting procedures and greater flexibility in procurement procedures than the government bureaucracy and Legal provision should be made to allow the electoral authority to mobilize additional staff and other resources during the conduct of elections. (AAPAM, 1993), they are expected to organize, undertake and supervise all elections to Local government Councils within the State' and to render such advice as it may deem 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' It is however painful that reverse is the situation in most Nigerian local governments. More than two thirds of Nigerian states are being run by undemocratised governments at the local governments' level where Caretakers are been appointed by the Governor to oversee the affairs of the local government in their area where the party in power in that state will normally take all the positions in the local government election in a manner that is clearly undemocratic, in some situation no election is conducted but results are announce to govern the local government. In states where elections are conducted by SIEC, The Present constitutional arrangement in which governors appoint chairmen and commissioners of SIECs makes the latter dependent on the former, and this hardly creates the enabling environment for organizing free, fair and credible elections at the local government level. This constitutional arrangement takes us back to the 1950s, 1960s and 1980s, where local government elections amounted to 'selection' and 'appointment' of chairmen and councilors. Between 1976 and 2009, there had been 16 different forms of local government administration in the country, and out of these, only seven (ie less than half), were based on elections. Out of the seven elections, only two, the elections of 1976 held on zero party basis and that of January 1988 also held on zero party basis, were adjudged to have some semblance of credibility. All the other elections – January 1991, June 1997, June 1999, March 2004 and April 2007 – have all been tainted by allegations of widespread irregularities such as inflated voter returns, ballot box stuffing, altered results and disenfranchisement of voters. The Electoral Acts have been reviewed in 2001 and 2002, as well as in 2010. The reviews did not to take into cognizance the issue of entrenching democracy in the local government councils the review of the Electoral Acts 2001, 2002 and 2010 as well as the review of the 1999 Constitution did not take into cognizance the issues of how Local Government Councils were to be constituted or elected into office.²⁶ The present State Independent Electoral Commissions

²⁴ (1985) 2 NWLR (pt 6), p. 211

²⁵ A declaration by participants from 10 different countries at a Senior Policy Seminar on 'Strengthening Electoral Administration in Africa' Held in Accra, Ghana, in April 1993

²⁶ F.R.A. Adeleke, *Systemic Challenges Confronting Local Government Administration in Nigeria*, Lagos State University, Ojo, Lagos State

(SIEC) saddled with the responsibility of conducting elections into local governments appear to have become so dependent on their governors to the extent that they seem too distant from being truly independent. Many of the SIECs have not been able to conduct elections as scheduled due to non – availability of funds. Thus, arbitrary dissolution of the local government councils has now become fashionable in the country. Rather than conduct elections at the local government levels, the states find it more convenient to appoint sole administrators who can dance to their whims and caprices.

7. Conclusion

The problems presently in circulation in the various local government area in Nigeria are self generated, it is endemic and intentional artificially created to make the local government not to work. The Constitutional provisions concerning the functions, creation, finance, tenure, administration and conduct of elections in the local government are generally contradictory in the manner they are managed. In many situations, the provisions of the constitution are contradictory and open capable of being interpreted subjectively to serve a desired purpose of the interpreter. It is therefore recommended that a holistic approach be made to confront the existing challenges and continuously unfolding ones. Confronting and proffering solution to these challenges as they unfold would require constant amendment to the constitution. In view of the fact that Nigeria constitution is rigid and the procedure for its amendment is difficult to accomplish, it is better if the constitution can just recognize the local government as a third-tier government but prescribes that a comprehensive legal framework be put in place by the national assembly which could take care of not just the existing challenges but also those that could emerge.