

**AUTONOMY OF LOCAL GOVERNMENT SYSTEM IN NIGERIA:  
AN ABERRATION OR NECESSITY\*\*\***

**Abstract**

*Autonomy of Local Government System in Nigeria is one shrouded in controversies. While some share the sentiment that there is need to grant substantial autonomy to this tier of government to exercise its constitutional roles and access its funds as enshrined in sections 7, 162(5) and 4<sup>th</sup> schedule of the Constitution of the Federal Republic of Nigeria, 1999(as amended); others believe that this quest for autonomy is misguided since no tier of government enjoys absolute autonomy. But in some developed nations (like, Brazil, Argentina and the United State of America) Local Governments enjoy relative autonomy. However, that is not so with the Nigerian Local Government Councils. Provision of basic amenities are the core roles of the Nigerian Local Government is to services to the natives. But how can this be realized when its autonomy is shrouded in controversy? This work examines the autonomy of the Nigerian Local Government all to ascertain it's useful or otherwise to Nigerians.*

**1. Introduction**

Since, Nigeria attained her Independence; there have been clamour to grant autonomy to Local Government System in Nigeria. However, the slim attempt to grant this tier of government autonomy was captured in section 105 of Constitution of the Federal Republic of Nigeria 1963. This Constitution also gave the existing regions, elative discretion to control their internal affairs and also operate regional police. But at present, it cannot be said that this tier of government enjoy autonomy due to constitutional restraints inherent in sections 1(3), 7, 8, 124(3,4), 162(5) and 4<sup>th</sup> schedule of the Constitution of the Federal Republic of Nigeria, 1999(as amended). An attempt was made in sections 1, 2 & 3 of the Nigerian Financial Intelligence Unit Act and its guideline, to address the overbearing powers of State governors over Local Government funds, but same has been lampooned for being inconsistent with section 1(3) of the CFRN 1999. At present, opinions are divided on the importance or usefulness of the Nigerian Local Government in national development and service delivery at the grass root. This work, made an appraisal of Local Government System in Nigeria, in bid to ascertain whether it is a necessity or an aberration.

**2. Conceptual Framework/Clarifications**

The discussion of this work will begin with the appraisal of terms and concepts used in this work.

**Autonomy**

The word autonomy has been giving variant of interpretations from scholars. For instance, Nwabueze<sup>1</sup> believes that, autonomy is 'self-rule or self-governance'<sup>2</sup> whereas, the Black's Law Dictionary<sup>3</sup> defined it 'right of self-government, a self-governing state'. The word, 'autonomy' as frequently used in this

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\* **OKAFO Chibuikwe Nnamdi**, is a Legal Practitioner, critic and lecturer at the Faculty of Law, Paul University; Awka. and

\*\* **KALU U.C.**, Professor of Law and Lecturer, Faculty of Law; Nnamdi Azikiwe University, Awka

<sup>1</sup> B Nwabueze, *The Presidential Constitution of Nigeria* (London: Sweet and Maxwell, 1983); p 84, *Nigerian Journal of Public Administration and Local Government*, Vol. 2, No. 2, 1984.

<sup>2</sup> C W Princewill, and others, 'Autonomy and Reproductive Rights of Married Ikwere Women in Rivers State, Nigeria' *Journal of Bioethical Inquiry*; (2017) vol. 14; p 205.

<sup>3</sup> BA Garner, *The Black's Law Dictionary* (8<sup>th</sup> edn, West Publishing Co. 2004) p 145.

work, also connotes the liberty or freedom of Local Government System in Nigeria to exercise its constitutional roles without any external influence.<sup>4</sup>

### **Local Autonomy**

The compound word 'Local autonomy' is nowhere defined in any contemporary dictionary. However, for the purpose of this work; it is construed to mean, the ability of a native unit; (in the instant scenario, Local Governments) to exist and execute its roles without external help or aid.<sup>5</sup>

### **Local Government**

In section 277(1) of the Constitution of Federal Republic of Nigeria 1999,<sup>6</sup> 'government' has been defined to include; the government of the Federation or of any State or of a Local Government or any person who exercises powers or authorities on its behalf.<sup>7</sup> Going by this definition, one can rightly assume that, the compound word, Local Government is 'a political authority set up by a nation or State as a subordinate authority for the purpose of dispersing or decentralizing political power'.<sup>8</sup>

### **3. Legal Reforms**

Many legislations and reforms have been made post-colonial era and in the recent time to grant autonomy to Local Government System in Nigeria without success. Few of these legislations will be examined.

#### **Constitution of Federal Republic of Nigeria, 1963**

The key reforms made in this Constitution as it relates to autonomy of Local Government System in Nigeria is the establishment of regional police<sup>9</sup> and granting discretion to regional governments to create Local Governments where desired. For clarity, section 105(7) of the CFRN 1963 states:

Nothing in this section shall prevent the legislature of a Region from making provision for the maintenance by any native authority or local-government authority established for a province or any part of a province of a police force for employment within that province.

#### **Constitution of Federal Republic of Nigeria 1979**

The blueprint of the Nigerian Local Government Councils and its administration were laid in the Constitution of the Federal Republic of Nigeria (CFRN) 1979.<sup>10</sup> This Constitution is the first to recognize the Nigerian Local Government as the third tier of the nation's government.<sup>11</sup> However, like previous legislations before it, the CFRN 1979 failed to make Local Government System in Nigeria, an independent tier of Nigerian government,<sup>12</sup> rather it gave the Nigerian State governments power to ensure:

- i. the existence of a system of democratically elected Local Government Council

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<sup>4</sup> F Okoli, 'Theory and Practice of Local Government: A Nigerian Perspective' (Bismarck publications: 2009) *Journal of Political Science and Leadership Research* ISSN 2504-883X Vol. 1 No.8, 2015. <[www.iiardpub.org](http://www.iiardpub.org)> last accessed on 23/3/19.

<sup>5</sup> Definition mine. These were highlighted in the cases of: *Eze v Gov. of Abia State & ors* (2010) LPELR-4133(CA), *Gov. of Ekiti State v Akinyemi & ors* (2011) LPELR-4218(CA).

<sup>6</sup> CFRN 1999.

<sup>7</sup> *Governor of Kwara State & ors v Dada* (2011) LPELR\_8132 (SC).

<sup>8</sup> E O Awa, 'The Theory of Local Government', *ibid* (n 16).

<sup>9</sup> CFRN 1963, s 105.

<sup>10</sup> Constitution of the Federal Republic of Nigeria 1979.

<sup>11</sup> *Ibid* ( n 12), s 7(1).

<sup>12</sup>*Ibid*, s 7(4).

- ii. make laws that provide for the establishment, structure, composition, finance and functions of such councils.

Worthy of note is the fact that, the legal status of Local Government System in Nigeria is nowhere defined in the CFRN 1979. It also failed to grant exclusive liberty to this tier of government to exercise its roles.<sup>13</sup>

### **Constitution of the Federal Republic of Nigeria 1999**

The Constitution of Federal Republic of Nigeria, 1999, like legislations before it, failed to address the dependent state of the Nigerian Local Government and this can be gleaned from the combined reading of sections 7, 8, 124(3,4), 162(5) and 4th schedule of the CFRN 1999. While section 7 of the CFRN 1999 gave the Nigerian States discretionally power to determine the existence, maintenance, sustenance, structure and funding of this tier of government, section 124(3,4) excluded executives of the Nigerian Local Government from those that are entitled to remuneration and life pension from the Revenue Mobilization and Fiscal Commission. Section 162(5) of the CFRN 1999, on its part; made State governors sole trustees over Local Government Funds. Whereas the 4<sup>th</sup> schedule of the CFRN 1999 which enumerated roles of the Nigerian Local Governments, made them exercisable at the direction of the Nigerian State governors or such body/commission appointed by it.

From the totality of the examined laws, it is not in doubt that; the current Constitution did not envisage an independent Local Government System but a dependent one. Going by the decision of Apex Court in the case of; *AG Lagos v AG Federation & ors.*,<sup>14</sup> which was re-echoed in *AG of Ogun State & Ors v AG of the Federation & Ors*,<sup>15</sup> one might erroneously presume that; Nigeria practice true federalism.

Nigeria does not practice true federalism and her leaders, hardly adhere to laws. Rather, they take delight in abusing laws and usurping the roles of Local Government Councils as guaranteed under section 7 of the CFRN 1999 (as amended). A feat many have attributed to; lack effective legislations, nonchalant attitude on the part of Nigerians, and non- adherence to laws, corruption and religious bigotry that holds sway in Nigeria.

In recent time, an attempt was made in sections 1, 2 & 3 of the Nigerian Intelligence Financial Unit Act (NFIU Act)<sup>16</sup> and its guideline<sup>17</sup> to address the dependent of the Nigerian Local Governments by according it financial autonomy. The Nigerian Financial Intelligence Unit, acting on its jurisdiction as expressed in sections 2 & 3 of the NFIU Act, recently issued a guideline to the Nigerian banks which barred them from honouring daily withdrawal above the sum of N500,000 drawn from any Local Government Account whether through valid cheque or electronic transfer. The obvious aim of this guideline is to regulate the siphoning of Local Governments funds. However, this wonderful guideline has been lampooned for contravening section 162(5) of the CFRN 1999.

As it stands today, the Nigerian Local Governments exist as stooges of the State governments. But aside not being financially autonomous, the non-autonomous state of Local Government System in Nigeria can also be attributed to;

<sup>13</sup>*Chief Sule Balogun & Ors. v AG of Lagos State & Ors.* (1981) 2 NCLR 589.

<sup>14</sup>(2003) LPELR-620(SC).

<sup>15</sup>(1982) 1-2 SC 13.

<sup>16</sup>NFIU Act 2018, ss 2,3,4 and 15.

<sup>17</sup> Issued by Ahmed Dikko (Acting Chief Media Analyst NFIU) on 6th May 2019 in line with sections 2,3 NFIU Act.

- i. the strangulating provisions of the CFRN 1999 which include sections 7, 8, 84,124, 162 and 4th schedule thereof,<sup>18</sup>
- ii. failure of previous and the current Constitution to accord legal status to the Nigerian Local Government Councils,<sup>19</sup>
- iii. lack of proactive legislations to address the dependent state of this tier of government.

Toyin,<sup>20</sup> while aligning with this stance, did argue that; one of the most serious problems currently militating against the developmental role of Local Government in Nigeria is its legal status and the neglect on the part of legislators to enact proactive legislations that will grant autonomy to the Nigerian Local Government Council. To him;

Nigeria seems to be the only federation in the whole world where the federal government decides how, where and when a Local Government Council must run compare to colonial era when it enjoyed some sort of autonomy. During colonial era, each region made provision for the legal frame work that allowed it to oversee the activities of Local Government under its jurisdiction. These are the Eastern region local government ordinance of 1950, the Western region local government law of 1952 and the native authority law in Northern Nigeria, 1954.

But in all fairness to Toyin, the undefined status of Local Government System in Nigeria, is not the only challenge that daily undermines the autonomy of this tier of government. Going by the provisions of sections 2(1-2), 7(1), 8,124, 162(5-8) and 4<sup>th</sup> schedule of the CFRN 1999(as amended), it is evident that; the Nigerian legislatures never desired an independent Local Government System but a dependent one. From section 2(1-2) of the CFRN 1999<sup>21</sup>, it will be seen that; the Nigerian Local Government Council is not designated as part of the federation despite the fact that, section 3(2) of the current Constitution<sup>22</sup> made it clear that, States consist of Local Government Areas. The Nigerian State governments wield exclusive power to regulate Local Government affairs<sup>23</sup> and this include its: existence,<sup>24</sup> structure, composition, finance,<sup>25</sup> functions, boundaries or to create new Local Government Area<sup>26</sup> and make adequate returns of such creation to National Assembly.<sup>27</sup>

**At this juncture, there is need to ask:**

Is the quest for absolute autonomy for Local Government System realizable?

Is the clamour for autonomy of Local Government System in Nigeria an aberration or a necessity?

Does any Local Government System in the world enjoy absolute autonomy?

In all fairness, no Local Government System enjoys absolute autonomy same way no tier of government can assume that its conduct or activities cannot be checked by other tiers of government; relying on the principle of check of balance associated with democratic governance.

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<sup>18</sup> CFRN 1999.

<sup>19</sup>This is also so in CFRN 1979. Section 2(1-2) thereof is clear on this and same is applicable in the current Constitution; s 2(1-2) thereof.

<sup>20</sup> T C Adetiba, 'Existentiality of Local Government in Nigeria an Answer to Grassroots Development, but for Unsolicited Socio-Political Factors' *Acta Universitatis Danubius* (2017) vol. 9, no. 2, p 9.

<sup>21</sup> CFRN 1999.

<sup>22</sup>Ibid.

<sup>23</sup>Ibid, s 5.

<sup>24</sup>Ibid, s 7.

<sup>25</sup>Ibid, s 162(5-8).

<sup>26</sup>Ibid, s 8(1-5).

<sup>27</sup>Ibid, s 8(6)

Local Governments in other climes do not enjoy absolute autonomy and this can be best appreciated from appraisal of few selected foreign jurisdictions made hereunder.

#### 4. Legal Reforms in Some Selected Jurisdictions:

##### 4.1 South Africa

South Africa is a nation that shares similarity with Nigeria being a democratic and an African nation. Just like Nigeria, administration of Local Government System in South Africa is regulated by laws. Top among them are the Constitution of the Federal Republic of South Africa, 1996<sup>28</sup> and the South African Local Government Municipal Structures Act.<sup>29</sup> The South African municipalities are recognized in the South African Constitution and this is seen in section 4 thereof which states that:

All spheres of government and organs of State within each sphere must co-operate with one another in mutual trust and good faith by fostering friendly relations, assisting and supporting one another, informing one another of, and consulting one another on, matters of common interest, co-coordinating their actions and legislation with one another.<sup>30</sup>

Going by the provisions of the South Africa's Constitution,<sup>31</sup> the South African municipal councils enjoy five years tenure in office<sup>32</sup> and it is also within the powers of South African Municipal Council to dissolve itself at a meeting called purposefully for same. The South African Municipal Council may also be dissolved by adopting a resolution proposed in that regard and supported by at least 2/3 votes of the affected councillors. Going by the provisions of the South African Local Government Municipal Structures Act,<sup>33</sup> the South African municipalities enjoy relative autonomy even though her provincial members wield the power to determine the type of municipality that may exist in their localities and to establish municipality in each municipal area. Part of liberties enjoyed by the South African municipalities as provided by the Municipal System Act<sup>34</sup> include:

To finance the affairs of the municipality by-charging fees for services; and imposing surcharges on fees, rates on property and, to the extent authorized by national legislation, other taxes, levies and duties exercise the municipality's executive and legislative authority and use the resources of the municipality in the best interests of the local community;<sup>35</sup>... promote a safe and healthy environment in the municipality; and contribute, together with other organs of State, to the progressive realization of the fundamental rights.<sup>36</sup>

It is worthy to note that, the South African Local Governments like her Nigerian counterpart, rely on charging fees for service, imposing of surcharges, collection of rates on property, levies<sup>37</sup> as well as allocations from the central government<sup>38</sup> for its sustenance. One unique attribute of the South African municipalities is that it is entitled to earn revenue from executing delegated roles outside her

<sup>28</sup> CFRSA 1996.

<sup>29</sup> Municipal Structures Act, 1998 no. 117.

<sup>30</sup> CFRSA 1996, s.4.

<sup>31</sup> Ibid(n 32)

<sup>32</sup> Ibid (n 32) s 24.

<sup>33</sup> Ibid.

<sup>34</sup> Municipal Structures Act 2000, s 12.

<sup>35</sup> *Workers' Union Applicant v Minister of Co-Operative Governance & Traditional Affairs & 12 ors* [2017] ZACC 7.

<sup>36</sup> Ibid (n 32), s 4.

<sup>37</sup> Municipal System Act, 2004(as amended), s 93(G).

<sup>38</sup> Municipal System Act, 2004 (as amended) s 10A.

scope/jurisdiction at the instance of States.<sup>39</sup> By the provisions of section 10(a) of Municipal Structure Act,<sup>40</sup> the South African municipalities are paid specified amount for executing delegated roles that are outside its constitutional roles/jurisdiction. South African municipalities are more useful, resourceful to its Provinces and this can be appreciated in the case of *Dudley v City of Cape Town & anor.*<sup>41</sup> In the instant case, while appraising the provisions of section 16 of Employment Equity Act<sup>42</sup> which states that, 'every employer must take steps to promote equal opportunity in workplace by eliminating unfair discrimination in any employment policy or practice' the Court held that:

The decision to appoint (the 2nd respondent and not the Applicant) failed to comply with the City's own policy, was arbitrary, irrational and unfair to the Applicant, was discriminatory against black women and failed to give effect to the City's affirmative action obligations.

#### **4.2 Legal Reforms in Brazil**

Local Government System exist in Brazil<sup>43</sup> and is regulated by the Brazilian Constitution.<sup>44</sup> The roles of this tier of government are also well enumerated<sup>45</sup> even though it does not enjoy financial autonomy. This can be gleaned from the provisions of article 29 of the Brazilian Constitution which states that, its municipalities shall be guided by organic laws approved and promulgated by the Municipal Chamber.<sup>46</sup> Flowing from this constitutional restriction, it will be right to argue that, the Brazilian municipalities enjoy some level of legislative capacity but not financial autonomy.

However, the Brazilian Constitution made little effort to accord relative autonomy to this tier of government by specifying how municipal personnel may be elected into offices<sup>47</sup> and the degree of supervision that can be exercised by high level governments<sup>48</sup> on municipalities. For instance, article 35 of the Brazilian Constitution<sup>49</sup> barred her State governments and Unions from interfering with activities of her municipalities.<sup>50</sup> By the dictates of the Brazilian Constitution,<sup>51</sup> activities of its municipalities' can only be interfered with when:

Funded debt is not paid for two consecutive years, without reasons of force majeure; due accounts are not rendered, in the manner prescribed by laws, minimum required amount of the municipal revenues has not been applied in the maintenance and development of education; Court of Justice grants petition to ensure observance of the principles indicated in the State Constitution or to provide for the enforcement of law, judicial order or decision.<sup>52</sup>

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<sup>39</sup>Ibid (n 36).

<sup>40</sup> Ibid (n 36).

<sup>41</sup> (2008)12 BLLR 1155(LAC).

<sup>42</sup> Employment Equity Act, 1998.

<sup>43</sup> As of 2000, Brazil have 5,560 municipalities and 1,586 of these were created between 1980 and 2000.

<sup>44</sup> Brazilian Constitution 1988 (with Amendments through 2015).

<sup>45</sup> Ibid, art. 18; (title III).

<sup>46</sup> Ibid, art. 29.

<sup>47</sup> Be it executive or legislative posts.

<sup>48</sup> Brazilian Constitution 1988, art. 35. This provision in Brazilian Constitution is lacking in CFRN 1999.

<sup>49</sup> Ibid.

<sup>50</sup> Ibid, art. 35. It is worthy to note that such provision is lacking in CFRN 1999(as amended). Rather Nigerian Constitution empowers State governments to maintain, finance and determine the existence of Local Governments.

<sup>51</sup> 1988, Brazilian Constitution, art. 35.

<sup>52</sup> Ibid, art. 35.

The scenario as captured in the above extract is totally alien in Nigerian jurisdiction where State governments determine how the constitutional roles of this tier of government can be exercised.<sup>53</sup> Local Government System in Brazil acts as an integral part of her system. In Brazil, her Mayors<sup>54</sup> and Municipal Councils enjoy a four-year term<sup>55</sup> while councilors are elected according to size of each municipality.

### 4.3 Legal Reforms in the United States of America

Local Governments are not recognized in the United States of America national law,<sup>56</sup> they are creation of State laws.<sup>57</sup> In many States in the United States of America, where Local Governments exist, their roles are usually restricted by State legislations even though they are often times; allowed to undertake activities; programs that will benefit the States. Nevertheless, some responsibilities are mutually shared by the national and States government of the United States of America and they include; controlling of tax<sup>58</sup> and making of essential policies.<sup>59</sup> Be that as it may, the United States' Local Government system is structured to reflect the dynamic; sovereignty of masses.<sup>60</sup> In other words, counties serve as outlet of meeting needs; realizing aspirations of States and National government.

States in the United States of America wield wide discretion to either create, consolidate and ascribe roles to its counties were entrenched by law and as was echoed in Dillon's rule<sup>61</sup> and re-affirmed in *Hunter v Pittsburgh*.<sup>62</sup> In the instant case, the Court affirmed the power of Pennsylvania to consolidate the city of Allegheny into the city of Pittsburgh, despite the wishes of the majority of Allegheny residents.<sup>63</sup> The wild card giving to States in United States of America wield to create counties also empowered them to place whatever restrictions they fancy on municipalities and these restrictions include; merging municipalities, controlling them directly, or abolishing them outrightly; as long as such action does not violate such State's Constitution.<sup>64</sup> While affirming this wide power of the States, Judge John Dillon, had to say;

A municipal corporation can possess and exercise the following powers, and no others: first, those granted in express words; second, those necessarily or fairly implied in or incident to the powers expressly granted; third, those essential to the accomplishment of the declared objects and purposes of the corporation—not simply convenient, but indispensable. Any fair, reasonable, substantial doubt concerning the existence of a power is resolved by the courts against a corporation, and the power is denied.

<sup>53</sup>CFRN 1999, ss 7,8, 162, 2nd schedule & 4th schedule. States can also intervene to preserve counties autonomy; Brazilian Constitution, art. 34.

<sup>54</sup> A Mayor can be re-elected once.

<sup>55</sup>Election of the Prefect, Vice-Prefect and Aldermen, for a term of office of four years, through direct and simultaneous elections held throughout the entire Country- 1988 Brazil Constitution; Article 29.

<sup>56</sup>United States of America Constitution 1789.

<sup>57</sup> Pennsylvania Constitution 1776, State of New York Constitution 1894; State of Alabama Constitution 1819.

<sup>58</sup>Ibid, Article I, ss 2, 9 Amendment 16.

<sup>59</sup>Ibid, Article I, s 10. This section says that, 'no State shall enter into any treaty, alliance or confederation, grant letters of Marque and reprisal; coin money; emit bills of credit, make anything but gold...or grant any title of nobility'.

<sup>60</sup>Tocqueville, A. D, 'Democracy in America' (New York: Penguin Books, 1956).

<sup>61</sup> 1872. That is Judge John Forest Dillon's postulation.

<sup>62</sup> (1907) 207 US 106.

<sup>63</sup> 'Local Government in United States of America' <<http://scrij.Localgovt.US>> last accessed 12/12/19.

<sup>64</sup>Dillon's Rule does not apply in all States of the United States, some States' constitutions made specific provisions for rights of their counties.

Be that as it may, the Dillon's Rule, has been criticized for making mockery of historical and political reality in America. It is Tocqueville<sup>65</sup> stance that, Dillon's rule makes mockery of United States of America's pattern of Local Government which is tailored to reflect the dynamic and sovereignty of masses.<sup>66</sup>

Aside the Dillon's rule, there also exist Pennsylvania's rule which provides that, 'municipalities shall have the right and power to frame home rule charters'.<sup>67</sup> Under this charters, 'a municipality may exercise any power or perform any function not defined by State Constitution, its home rule charter, or by the General Assembly.'<sup>68</sup> Acting on this later theory, Pennsylvania State; through legislation, extended this home rule option to her counties and townships. And of present, many States in the United States of America are beginning to have some sort of constitutional provision for home rule,<sup>69</sup> even though some United States of America courts still and always rely on Dillon's Rule in determining powers of States to create counties and roles of her existing counties. For instance, in *Hunter v Pittsburgh*,<sup>70</sup> the Court held that; Pennsylvania State has power to consolidate the city of Allegheny into the city of Pittsburgh, despite the wishes of the majority of Allegheny residents.

The quest for autonomy by Local Government System in the United States of America are hampered or undermined by many factors. Aside the over-bearing powers of State governments, restriction of its roles; the emergence of e-commerce, modern advanced technologies is another serious threat to the existence of this tier of government and same applies to jobs manually executed by natives. With the advent of these electronic devices, most natives are gradually being displaced by robots.

### **5. Local Government System in Nigeria: An Aberration or Necessity**

There has been diverse argument on the need to grant autonomy to Local Government System in Nigeria. Some have anchored their narrative about this on what is obtained in some foreign jurisdiction. For instance, Tonwe<sup>71</sup>, shares the sentiment that, that the existence of Local government system in Nigeria is undermined by activities of the Nigerian State governments and as such, it can only be autonomous when States are deprived access to Local Governments' funds by amending section 162(5) of the CFRN 1999 (as amended). Oguonu<sup>72</sup> while agreeing with this sentiment believes that, Local Governments as the government at the grassroots level deserve serious attention from the federal government for it to be able to deliver essential services to the rural populace. But the question that begs for serious answer is, whether the grant of absolute autonomy to the Nigerian Local Government is practicable? While attempting to address this issue, Nyewusira and Nweke<sup>73</sup> did argue that:

It is the responsibility of the Local Government to implement the ideals; objectives, programmes and aspirations of the national government at the local level it is will

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<sup>65</sup> A D Tocqueville, 'Democracy in America' *ibid*.

<sup>66</sup> E Katz, 'Democratic Local Government; Local Self-Government in the United States', *Electronic Journals of the U.S Information Issues of Democracy Agency*, 1999, vol. 4, p 10

<sup>67</sup> H L McBain, 'The Doctrine of an Inherent Right of Local Self-Government,' *Columbia Law Review*, 1916 Vol. 16, No. 4, pp. 299-300 <<https://www.jstor.org/stable/1110287>> last accessed 12/12/19.

<sup>68</sup> Howard 18.

<sup>69</sup> For instance, 1777 Constitution of the State of New York; s IV.

<sup>70</sup> *Hunter v Pittsburgh* (1907) 207 US.

<sup>71</sup> D Tonwe, 'Fluidity in Democratic Local Governance: The Achilles' heel of Nigerian Local Government', *Journal of Humanities and Social Sciences* (2012) vo. 4.

<sup>72</sup> C Oguonu, 'Fiscal Jurisdiction and Administration Among the three Tiers of Government: A Case of Local Government System', *Nigerian Journal of Public Administration and Local Government* (2004) vol. xii.

<sup>73</sup> V Nyewusira, and K Nweke, 'Party Politics and Democratic Governance in Nigerian Local Government Administration: The Case of Rivers State (1999-2010)', *Research on Humanities and Social Sciences* (2012), vol. 2.

erroneous to think there should be political and administrative chasm between the Local Government and the national government, merely to fulfill the operational requirements of autonomy and localness.

In essence, Nyewusira and Nweke merely advocated for practical autonomy as opposed to comical conception currently practiced in Nigeria. But, Ogunna<sup>74</sup> in disagreeing with the stance of Nyewusira and Nweke, argued that, Local Government autonomy, in theory and practice is never absolute, just like the doctrine of separation of powers.

Prof Nwabueze on his part, believes that autonomy under the federal system connotes that each tier of government must enjoy a separate existence and independence from the control of the other governments. To him, autonomy 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. Going by stance of Prof Nwabueze as expressed above, it will be totally hard to determine the degree of autonomy that must be ascribed to the Nigerian Local Government for it to be adjudged autonomous. Prof Nwabueze, also failed to state the degree of autonomy that this tier of government must enjoy so as not to undermine the national stability, co-existence among Nigerians.

It is worthy of note that, Prof Nwabueze is not the lone mouth that castigated the quest or clamour to grant absolute autonomy to the Nigerian Local Governments, Danjuma and Muhammad also share the same sentiment. To them, Local Government System in Nigeria is an unproductive outlet that should be disbanded. They believe that, granting autonomy to this tier of government, will amount to waste of resources and time.

While this work agrees with the stance of Prof Ben Nwabueze that granting absolute autonomy to Local Government System in Nigeria with amount to having three independent government entity that rule over same geographical location and natives, there is need to grant substantial autonomy to the Nigerian Local Governments as it is applicable in South Africa, Brazil and the United States of America if it will be effective in effecting its core role; which is service delivery at the grass root. Of present, there is no legislation that accorded this tier of government liberty to either execute its roles or access its funds.<sup>75</sup> From the combine reading of sections 7, 8, 124(3, 4), 162(5) and 4th schedule of the CFRN 1999<sup>76</sup>, none exist and it is unhealthy for democracy.

## 6. Conclusion

Local Government System is a necessity for the overall development of any nation and Nigeria is no exception. The Nigerian Local Governments exist at the mercies of the Nigerian State governments due to the provisions of sections 7, 8 162(5) and 4th of the CFRN 1999 (as amended) and this narrative can only change when these offending legislations are amended. Until this tier of government gain control over its roles/ funds, its executives included as beneficiaries of life pension scheme like executives of other tiers of government by the Revenue Mobilization Allocation Commission of States;<sup>77</sup> and also granted power to pay its staff; it will never be independent. In all, there is need to grant substantial autonomy to the Nigerian Local Government for it to remain relevant and be efficient in executing its constitutional roles.

<sup>74</sup> A Ogunna, 'Handbook on Local Government in Nigeria,' (Owerri: Versatile Publishers, 1996) p 351.

<sup>75</sup>CFRN1999.

<sup>76</sup>Ibid.

<sup>77</sup>Ibid, s 124.