

# Decentralisation, Local Governance and Nation Building in Nigeria

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**Abstract:** The paper examines the logic of decentralization and local governance in Nigeria with a hint on its constitutionality and contributions to nation building. Emerging facts reveals that Nigeria operates a centralized and decentralized system of governance and state administration. This is confirmed by its federal nature, division of state administration into federal, state and local government, state power into exclusive (federal), concurrent (federal and state) and residual powers (local government), and the allocation and distribution of fiscal responsibilities and benefits along vertical and horizontal lines by the Fiscal Responsibility Act 2007 and the 1999 constitution. Data generated from the Federal Responsibility Act 2007 shows that the federal government gets 52.68%, the 36 state governments get 26.72% and the 774 local government councils get 20.60% fund allocation from the pool of distributive resources domiciled in the Consolidated Federal Revenue Account of Nigeria. Analytical evidences are also drawn from other secondary sources of information to confirm the abuse of the tenets of political and administrative decentralization through the instrumentality of the State-Joint-Local Government Account and the Caretaker Committee System. The dialectics of undue political interference in the management of local government affairs by the state government and the use of the Caretaker Committee system as a governing structure at the local government level reveals the threat it poses to leadership development, liberal democratic growth, local governance and nation building. These conclusively undermine the tenets of true federalism, decentralization, local government autonomy and the statutory powers and authority of elected local government councils to initiate and manage local development visions and initiatives. The need to place a balance between avoidable political control and local government autonomy as pathways to promoting genuine decentralization, participatory local governance and grass root development is strongly advocated.

**Keywords:** Decentralization, Local Governance, Rule of Law, Autonomy, Caretaker Committee, Nation Building

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## 1. Introduction

Decentralization and centralization are dominant patterns of governance adopted by many countries. The logic of whether a political system or administrative systems is centralizes or decentralized is challenged by the lack of absoluteness in the application of each element to the management of public and private organizations. Within a centralized and decentralized system are features of both patterns of public administration as evidences from Nigeria reveals. The Nigerian federation is decentralized into the federal government, 36 states, 774 local government councils and the Federal Capital Territory. The 1999 Constitution delineated power into exclusive (centralised powers),

concurrent and residual legislative (decentralized) powers. However, the exercise of the powers decentralized to the local government is associated with constitutional, political and bureaucratic inertias that hook wing the operational feasibility of the local government as an autonomous tier of government. This weakens the capacity of the local government to initiate and implement local development programmes for good governance.

## 2. Centralization as Patterns of Governance in Nigeria

It is logically correct to start the discussion of the major

theme of the paper with elaborations on the concept of centralization in order to chart a way for discussing and understanding the concept of decentralisation. This pathway discussion is also necessary due to the intricate and mutually reinforcing relationship between centralisation and decentralisation in governance relations. It also underscored the fact that no system of government is completely centralised or completely decentralised but admixture of both. This makes their relationship easily traceable and mendable to a unit-test analysis.

In many political systems, the process of building a nation state begins with the centralization of political and bureaucratic powers for ease of management, policy direction and control. This creates overbearing and powerful government at the national level and weak and subordinate governments at the regional levels. The positive outcomes of centralization are speedy decision making, even development and efficient allocation and utilization of limited material, human and financial resources. At the negative side are abuse of power, dictatorship, remoteness of government to areas or localities far removed from the central government and uneven development. Advocates of centralization have argued that it alienates distant subnational political communities from central government presence. Generally, civil society organisations, development partners and donor agencies have queried the propriety of centralization and began to mount intense pressure on government to decentralize governance and administrative processes for efficient and collective decision making, participatory governance and collaborative development in line with liberal reforms. The adoption of centralization as a model of development, state building and nation building processes was challenged by the “complexity of social problems” handled by government, “the strength of organised interests” opposed to it, the growing internationalization of interdependence” that favors... [1] decentralization, the failure of existing structure to meet up with citizens demand and the need to introduce a new model of decision making and governance that broaden participation at political and bureaucratic levels.

As part of the processes of state building, centralization was a dominant ethics of colonial administration (1900-1960) and military administration (1966-1979; 1983-1999). Under colonial rule, state power was centralized on the colonial government at the Headquarter of colonial administration. Due to the limited opportunities provided by the colonial government for the subject people to participate in government, there were public agitations against over-centralization of power. This compelled the British colonial authority to decentralize the colonial state into three regions in 1946 (Western, Eastern and Northern regions) with a fourth regions created in 1963 and 36 states, 774 local government councils and the Federal Capital Territory [2] created by the post-independent government afterward. Like the colonial ordinances, military Decrees and Edicts were instruments of centralized powers used by the military regimes to create states and local government councils. While the Nigerian federation was political decentralised under the military regime, political

power was more or less centralised on the federal military government (the Armed Forces Ruling Council, or Provisional Ruling Council as was the case).

By 1999, the military government handed over a constitution to the elected civilian government on 29<sup>th</sup> May 1999 with strong elements of centralization and decentralization embedded in it. The 1999 constitution is also embedded with high degree of vertical decentralization and low level of horizontal decentralization as evident in Part II of the Constitution of the Federal Republic of Nigeria 1999 [3] where the exclusive powers of the central government is elaborately defined. The exclusive powers centralized on the federal government are:

- i. Military, Police, Security, Prisons, arms, ammunition and explosives;
- ii. Aviation, post, telegraphs and telephones, stamp duties;
- iii. Award of national honors and titles,
- iv. Census, citizenship, copyrights, creation of states;
- v. Currency, coinage, legal tender, weight and measures;
- vi. Customs and exercise, immigration, emigration, passport and visas, export duties, exchange control;
- vii. Defence, deportation of foreigners, extradition;
- viii. Elections, finger prints and liquidations of corporate bodies;
- ix. Insurance, labour, meteorology;
- x. Mines and minerals, national parks, patents, trademarks;
- xi. Nuclear energy;
- xii. Public holidays, railways, quarantine;
- xiii. Formation and regulation of political parties;
- xiv. Maritime shipping and navigation; and
- xv. External affairs among others [3].

Most policy analysts have argued that the powers of the federal government over police, security, prisons, mines and minerals, national parks, quarantine, insurance and labour should be decentralized and handed over to the regional governments with accompanying fiscal powers. They have argued that the centralization of powers stifles regional government initiatives and capacity to carry out regional investment and promote regional economic development. To this end, regional political elites have been mounting pressure on the federal government to devolve more powers to the subnational government for broad stakeholders' participation and mobilization of regional resources for development and good governance. But the response to this demand call is challenged by ethnocentric vision and the fear of losing the benefits of the status quo. Hence, Nigeria remains a federal state with strong elements of centralization and weak elements of decentralization in many areas of state administration.

### 3. Decentralisation and Governance in Nigeria

In this section of the paper, decentralization is treated as a

conceptual and theoretical framework. As a conceptual framework, its meaning is drawn from the intellectual viewpoint of scholars on the subject matter highlighting its merits and demerits. Without treated the conceptual and theoretical approach in a mutually exclusive manner, there are synthesized reviewed and analyzed and presented as a part of the thesis on public administration in Nigeria.

From its conceptual dimension, the World Bank report define decentralization as the transfer of authority and responsibility of major government functions from the central government to the sub-national governments, like the states, local governments and civil society and the private sector [4]. This definition makes decentralization a broad-based governance activity that is political, administrative and fiscal in nature. At the level of political decentralization, policy and legislative powers are transferred from central governments to autonomous, lower-level assemblies and local councils democratically elected by their constituencies to administer public affairs. Political decentralization thrives on the basis of regular elections, clearly defined jurisdictions and powers and the provision of the right legal, political and functional space for operation. At the level of administrative decentralization, the responsibility to plan and implement government policies and programmes is placed in the hands of civil servants stationed at the regional level to work under the jurisdiction of elected local governments. Its success depends on the ability of the regional civil servants to make independent decisions on staffing and negotiate favorable conditions of service.

Compelling evidences provided by many scholars and institutional authorities revealed that decentralization promote efficiency and effectiveness in state administration and governance. To accept this view point, the view of Jorgen Anderson provides a theoretical guide: "our experience is that decentralization is good both for democracy and for efficiency. We have not experienced even far-reaching decentralization which has created unacceptable differences between municipalities" [5] to warrant its jettisoning. In the same vein, Shabbir Cheema's assertion that decentralising key authorities and functions of government from the central government to the subnational governments is an effective mechanism that enables the citizens to participate equitably in governance [5]. The ultimate concern for the World Bank Group is that decentralisation redistributes authority, responsibility and financial resources to the various levels of government for efficient services delivery [6]. The United Nations Department of Economic and Social Affairs, the Regional Council of Tuscany and the Conference of the European Regional Legislative Assemblies (CALRE) mutually agreed that decentralization provides the structural arrangement and level playing fields for stakeholder to promote peace and development [7]. The Conference of the Regional Assemblies and the Experts' Meeting noted with great concern that:

- i. With clear political will and effective management, decentralization becomes an instrument of democratization, reconciliation, social integration, sustainable human development and good governance;

- ii. Civic engagement into the process of decentralization facilitates resources mobilization and allocation for poverty reduction and the achievement of Millennium Development Goals (MDGs);
- iii. Participation of local communities in the decision-making process at sub-national levels facilitates identification of local development priorities and goals;
- iv. Women are critical success agents of decentralization and are invariably strengthened by it to participate in the governance process;
- v. Decentralization protect and promote cultural diversity, participatory and plural democracy and improved services delivery; and
- vi. Forms and modalities of cooperation and partnership in institution, capacity building and sharing of experiences requires serious attention in efforts to strengthen local governance, service delivery and reduce poverty [7].

The draw out from Bertucci, et al [7] view is that decentralization can succeed when the life and operations of local government is guaranteed by the rule of law and not the whims and caprices of political leaders as evident in Nigeria. In addition to the financial autonomy of the local government which enhance its capacity to implement local development programs is the need for leadership accountability to the local people and the central government and the partnership between the local government and the central government on the one hand and with development partners and the private sectors on the other hand to enhance the efficient management of decentralized projects. These can also be made possible if the danger of recentralization by local elites is avoided [7] which in the case of Nigeria is suffocating the capacity of the local government to develop the rural areas.

Widespread international concern was also raised at the Brussels conference where the Less Developing Countries agreed to:

- i. Establish an effective, fair and stable institutional, legal and regulatory framework that strengthen the rule of law and foster participation and cooperation among stakeholders of development at all tiers of government;
- ii. Promote broad-based popular participation in governance through decentralization; and
- iii. Promote social inclusion and empowerment to encourage the poor to participate in the governance process by strengthening their social networks [7].

In line with the logical conclusion of the LDCs, African leaders agreed at the Fifth African Governance Forum held in Maputo in May 2002:

- i. To mandate countries to legislate decentralization into existence if there are yet to do so;
- ii. To put in place comprehensive capacity development programmes for good governance with clear goals and strategies for developing and consolidating local governance with a view to promoting strong leadership, accountability and transparency;
- iii. Avoid the transfer of unfunded mandates to lower levels of government but to transfer sufficient financial resources to sub-national authorities based on clear,

objective, stable and predictable formulae and not undue discretionary charges without undermining local fiscal efforts; and

- iv. Ensure that local government authorities benefit from well-conceived and funded management and technical capacities to enable them play better role as effective partners in service delivery and poverty reduction [7].

Another account of the propriety of decentralization presented by Barnett, Minis and VanSant reveals that democratic decentralization facilitates “the development of reciprocal relationships between central and local government and between local governments and citizens” [7]; addresses the power to develop and implement policy, extend democratic processes to lower levels of government, promote sustainable democracy and broaden political participation, transparency and accountability and the rule of law in local governance. More assurances of the benefits of decentralization are provided by the World Bank Group (WBG) thesis that called for:

- a. The creation of new responsibilities for inexperienced actors and responsibilities to more specialised constituencies;
- b. The empowerment of local self-government units to form association and pool their resources together to cater for their specialised personnel needs;
- c. The introduction of more levels of governance and personnel with specific preferences distinct from the preferences of personnel at national level in state administration;
- d. The relaxation of central control and the creation of potentials for regional variations in conditions of service in the public sector and promote variations in contracts of employment and wages governance along lines of budget capability; and
- e. The shedding of responsibilities by the central government to reduce personnel costs and at the same time increase employment at the local government level [6].

However, the realization of these goals can be constrained by:

- a. The duplication of government responsibilities at the central and regional levels which complicates the task of human resource allocation, management of programme incentives and mobility of labour;
- b. Governance failure at the sub-national levels due to poor technical, professional and managerial capacities;
- c. Dearth of technical staff at the sub-national level leading to ineffective and inefficient regional administration;
- d. Divergent views and convictions, preferences and feedbacks received from constituent political units which create a distinct class of public servants and conflict that requires special intervention to manage;
- e. Conflict between local autonomy and national standards over payment of national minimum wage by tiers of government, as evident in Nigeria; and
- f. Increased administrative costs of governance [6].

Other dangers of decentralization listed by the World Bank [4] are elite capture, corruption, patronage politics, compromising stand of local civil servants, impediments on further decentralization, incomplete information, inability of constituents to hold representatives accountable, opaque decision-making that affect upward and downward accountability and rationalization of reform delays and claw back of power by the central government.

These conceptual and theoretical perspectives laid the pathways for understanding the workings of decentralization in Nigeria.

## 4. Mode of Decentralization in Nigeria

In terms of fiscal decentralization, substantial revenue and expenditure autonomy is accorded the local governments by the national government. The power to levy taxes and charge user charges is at the heart of fiscal decentralization which requires for a successful operation the need to place a balance between spending limit and revenue generation, increasing revenue autonomy, capacity building for data analysis and of budget decisions and the establishment fiduciary control over local resources [4].

With reference to fiscal decentralization in Nigeria, at the level nation state analysis, the 1999 Constitution and Fiscal Responsibility Act 2007, No. 31 established a statutory framework for sharing fiscal resources between the federal, states and local government. The ability of tiers of government to meet up with the statutory obligations of governance is dependent on access to finance, fiscal interdependent and fiscal responsiveness. The fiscal culture of Nigeria stipulates that federally derived revenue is shared monthly on the basis of 52.68% for the federal government, 26.72% for state governments and 20.60% for local governments. The allocated revenue is disbursed by the Federation Account Allocation Committee using Vertical Allocation Formular (VAF) and Horizontal Allocation Formular (HAF).

### 4.1. Vertical Allocation Formulae (VAF)

VAF (inter-tier) is used to share revenue between the federal, states (36), local government councils (774) and the Federal Capital Territory. The 52.68% of the federal government revenue is further distributed thus:

- i. General ecological problems (1%);
- ii. FCT (1%);
- iii. Development of natural resources (1.68%);
- iv. Statutory stabilization (0.5%);
- v. The balance of 48.5% of 52.68% is for the exclusive use by federal government [8, 9].

In addition, value-added tax (VAT) is shared between the federal government (15%), state government (50%) and local government (35%).

### 4.2. Horizontal Allocation Formular (HAF)

Similarly, HAF (intra-tier) is used to share revenue

between the 36 states and the 774 local government councils. It shares the 26.72% revenue among the 36 states based on equality of states (Equity: 40%). The remaining 60% is shared based on population (30%), landmass (10%). Landmass is determined by the Proportional Areal Size of state and Local Government over the Total Areal Size of Nigeria as demonstrated below:

$$\text{Proportional Areal Size: } \frac{\text{Areal size of state} \times 100}{\text{Total Areal size of Nigeria}}$$

In addition, the allocation to terrain is shared based on wetland or water bodies, plains and highlands.

On the 10% revenue allocated for social development factors, education takes 4%, health 3.0% and water 3.0% respectively [8]. The 4% allocated to education is further distributed thus: 60% allocated in direct proportion to primary school enrolment and 40% allocated to secondary school enrolment. Out of the 40% allocated to secondary school, 50% of the fund is made in direct proportion to secondary school enrolment and 50% in inverse proportion to secondary school enrolment.

At the level of health as social development factor (SDF), the number of hospitals is used as determinant. 50% of the 3.0% allocated to health is made in direct proportion to the number of State hospital bed and 50% in inverse proportion to the number of state hospital beds.

Using water as SDF, the mean annual rainfall in the state capital and territorial spread of the state is used. 50% of the 3.0% revenue allocated for water is made in direct proportion to the territorial spread of the state and 50% in inverse proportion to the mean annual rainfall in each state capital using the current live year figures of the same year for all states [8, 9]. This mode of fiscal decentralization is designed to enhance the fiscal capacity of tiers of government, facilitate efficient resources allocation and utilization, promotes regional development and governance.

Generally, fiscal decentralization varies with national political culture. Robert Dahl (1966) described a political culture as either “pragmatic or rationalistic, cooperative or non-cooperative, allegiant or alienated and trustful or mistrustful” [10]. In Nigeria, the fiscal culture is alienated and deeply entrenched in the fiscal relations between the state and local government. This is routinized through the State Joint Local Government Account (SJLGA) through which the federal allocation to local government is paid into. The SJLGA is controlled by the state government and dispensed based on political whims of state governors. The SJLGA undermine genuine devolution of powers to the local government and the vision to use the local government to create a robust, open, responsive and responsible community-based channels of governance and legitimately decentralize political power [11] as well as promote “the commonly shared goals and accepted rules” [12] for local governance.

Specifically, the Fiscal Responsibility Act 2007, No. 31, clearly define the fiscal rights and obligations of each tier of government” [13] and their tax responsibilities which are classified by Otinche [11] into tertiary (federal), secondary

(state government) and primary (local government) tax responsibilities. Section 162 (8) mandated each state government to distribute the funds credited by the Federation Account Allocation Committee into the State-Joint-Local Government Account (SJLGA) to local government councils on terms and conditions prescribed by the State House of Assembly [3]. On the contrary, Section 162 (7) of the Constitution mandates each state government to pay 10 percent (10%) of its internally generated revenue to the local government on such terms and manner prescribed by the National Assembly and not the State House of Assembly. The existence of the SJLGA presupposes that Local Government Councils do not have its independent account to warehouse its revenue. It also presupposes that the state governor exercises control over the revenue generated by the local government council. These contradictions placed the affairs of the local government under the firm control of the state governors and thereby strip it of its fiscal rights, obligations and autonomy. These overall fiscal relations create ambiguity in the controlled position of the state government and the National Assembly on the local government finance which altogether erode the safeguard provided by the rule of law as a stabilizing force for decentralized authorities, local governance and political control vulnerability.

Deconcentration is the transfer of state responsibilities and resources from the center to the periphery within the same administrative system for speedy dispensation of public services. From the prism of deconcentration, decision making powers and authority, financial and managerial responsibilities are transferred by institutions of the central government to institutions of the regional government for concurrent legislation and implementation. In public policy administration, the regional institutions act and function as custodian institutions of central government policies and are supervised by officials of the federal government. For instance, the federal government of Nigeria mandated the state and local government councils to domesticate and implement the National Economic Empowerment and Development Strategy (NEEDS) as State Economic Empowerment and Development Strategy (SEEDS) and Local Economic Empowerment and Development Strategy (LEEDS) respectively. In the same vein, the domestication and implementation of the Universal Basic Education Policy (UBEP) by state governments as State Universal Basic Education (SUBEP) attracts federal intervention fund. Associated with this inter-tier partnership in policy governance is federal funding and accountability to the federal government by lower levels of government as prerequisite accessing programme intervention fund. These policies are implemented within the fiscal, jurisdictional capabilities and policy guidelines approved by the federal government. The scope of decentralization has increased with the establishment of regional offices of Ministries, Departments of Agencies (MDAs) and tertiary institutions and unity schools in the 36 states of the federation. These levels of state building and state administration are financed via vertical and horizontal fiscal decentralization.

At the level of delegation, responsibilities and decision-making powers are transferred by the central government to semi-autonomous organisations not wholly controlled by it but answerable to it [14, 2].

Generally, devolution is said to have taken place where the central government transfer authority over decision making, resources, administration and service delivery to the local government units for ease of implementation. With particular reference to Nigeria, there are two levels of devolution of powers. These are devolution of powers to the state government and devolution of powers to the local government. At the level of devolution of powers to the state government, Part 11 Section 4 (items 1-30) of the 1999 Constitution of Nigeria decentralize the following powers to the state government for concurrent legislation:

- i. Public revenue, allocation, grants, loans;
- ii. Law making within jurisdictional capacity;
- iii. Taxation, elections;
- iv. Electricity: establishment of electric power stations, power generation, transmission and distribution of electricity to areas not covered by the national grid within the state;
- v. Industrial safety;
- vi. Agriculture, education, health, transport, housing;
- vii. Scientific research;
- viii. Trigonometrical and topographical surveys [3].

In terms of devolution of power to the local government, the Fourth Schedule, Section 7 of the 1999 constitution also decentralized residual powers to local government to:

- i. Make recommendations to the state government on economic planning and development of the state;
- ii. Collect rates, radio and television licences;
- iii. Establish and maintain cemeteries, burial grounds and homes for the destitute or infirm;
- iv. Licence bicycles, non-mechanically propelled trucks, canoes, wheel barrows and carts;
- v. Establish and maintain slaughter houses, slaughter slabs, markets, motor parks and public conveniences;
- vi. Construct and maintain roads, streets, street lightings, drains, public highways, parks, gardens, open spaces and public facilities as may be prescribe by the State Houses of Assembly;
- vii. Name roads and streets and number houses;
- viii. Provide and maintain public conveniences, sewage and refuse disposal;
- ix. Register all births, deaths and marriages;
- x. Assess privately owned houses or tenements for the purpose of levying rates;
- xi. Control and regulate out-door advertising and hoarding; movement and keeping of pets; shops and kiosks; restaurants, bakeries and food vendor outlets; laundries;
- xii. Licence, regulate and control of the sale of liquor;
- xiii. Provide and maintain primary, adult and vocational education;
- xiv. Develop agriculture and natural resources;
- xv. Provide and maintain health services; and
- xvi. Perform other statutory functions that may be

assigned to it by the State House of Assembly [3].

However, the powers of the local government to generate revenue from radio, television and bicycle licences have lost its relevance due to the loss of commercial value of bicycle and absence of technology to track the ownership and usage of radio and television for billing. Therewith the production and sale of bicycle licenses have also been jettisoned by local government councils. A review of the fiscal jurisdiction of local government is therefore inevitable.

Drawing inferences from decentralization in other jurisdictions, Section 193 (4) of the Constitution of the Republic of The Gambia 1997 and Part IV Section 51 of the Local Government Act No. 5 of 2002 decentralized some measures of powers and responsibilities to the local government [15], [16]. In the republic of Syria, the Local Administration Law of 2011 devolved authority and responsibility over education, culture, archaeology, tourism, environment, youth and sport to the Governorates, cities, towns and districts for efficient and effective state administration [17].

As may have been applicable to other jurisdictions, Part 11 Section 7 (1-2a&b) of the 1999 constitution recognised the local government as a political unit with distinct composition, structure, finance and functions that reflect community interests, traditional affiliations, administrative convenience [3] and the political, economic and socio-cultural peculiarities of local communities. Attempt to create more representational channels for traditional communities led to the creation of many states and local government councils in Nigeria. Over time, the number of states has increased from three regions to four (4) regions in 1963, 12 states in 1967, 19 states in 1989 and 1996 to 36 states and the Federal Capital Territory. In the same manner, the number of local government councils has also increase from 301 local governments in 1976 to 453 in 1989, 589 in 1991 and 774 local government councils [2].

## 5. Decentralization and Delusions of Local Governance in Nigeria

The discourse on decentralization has drawn scholarly attention to the relationship between the local government and the citizens. Decentralized local governance emphasized the need to make the local government more functional, transparent and accountable to the citizens and civil society organisations that play integral roles in decision making. On this basis, Barnett, Minis and VanSant argued that “democratic local governance looks beyond local government administration and service delivery to institutions and structures that enable people to decide things and do things for themselves” [18]. Decentralization and local governance emphasize the existence of institutional mechanisms that promote fair political competition, transparency and accountability in local governance, responsibility to the public and local governance guided by the rule of law.

At the backdrop of the reform to promote decentralization emerged the search for a more viable system of local government that transcends theoretical consideration to empirical justification that makes the local government system compatible with the ideals of the local communities. Drawing inferences from Jean Jacques Rousseau philosophy, the local government is the training ground for democratic development. Alexis de Tocqueville also acknowledged the contribution of the local citizens and local government to sustainable development in emerging democracies [5]. Local governance and local government are not independent political isolates. The existence of the rule of law (legal instruments) provides guarantee for viable local government (institutions) and responsible local governance (outcome).

This intrinsic relationship called for the reconceptualization of local government and local governance. The United Nation Office for Public Administration (UNOPA) (1976) defines the local government as:

A political sub-division of a nation or (in a federal system) state, which is constituted by law and has substantial control of local affairs, including the powers to impose taxes or to exert labour for prescribed purpose. The governing body of such an entity is elected or otherwise locally selected [19].

The legal imperatives of local government confirm the rule of law of local governance. But the reference to “exact labour” and “locally selected” reveals the undemocratic [19] nature of local governance and the rule of law arbitrariness that surrounds it. It also confirms the force majeure deployed by state governors to dissolve elected local government councils without recourse to due process of the law. In the Nigeria democracy, the appointment of Caretaker Committee by political selection undermined the propriety of elections as a means of leadership recruitment and of “local government as government at the local level exercised through representative council established by law to exercise specific powers within defined areas” [19]. The dissolution of elected local government councils means the loss of power by its political leaders, the loss of power by the ward electorates to hold their political leaders accountable, the collapse of the local government system and local governance. The ward is the stronghold of democratic local governance. Each local government area is delineated into wards [20]. Beside political rationality, territorial and population size of local government are some of the determinants of the number of wards created for each local government. By political and democratic consideration, each ward is represented by a Counsellor popularly elected by the electorates during the local government councillor election.

In a liberal democracy, the Chairman who is elected by the local people can only be removed from office by the councillors through impeachment or vote-out by the electorates in elections. Supervisory Councillors are appointed by the elected Chairman based on political interest and cultural expediency. Over the years, these democratic processes have been undermined by the appointment of Caretaker Committee by the state governor to oversee the affairs of the local

government. The state governor placed expenditure ceiling on the Caretaker Committee and this him/her and the ruling political party the leverage to use local government finances to finance politically motivated projects.

The interference by state governors on the management of local government affairs is an element of centralization and the rule of law arbitrariness introduced by the military into the Nigeria politics. Insight from the 1976 Local Government Reform initiated by the Murtala/Obasanjo military administration shows elements of centralization where provisions were made for State Military Governors to nominate 25% of council members and ratify the election of the Chairman of local government Councils. In 1983, the Buhari/Idiagbon military regime abolished the new local government councils created by the Shagari civilian administration and appointed Caretaker Committee or Sole Administrators to oversee pre-existing ones. The use of Sole Administrators to manage the affairs of the local government was sustained by the Ibrahim Babangida military administration. The centralization and bureaucratization of local government administration by the military increased its vulnerability to political control as underscored by Abe and Omotoso thus: the military government “laid (sic the) foundation upon which local government councils are dissolved and Sole Administrators or Caretaker Committees appointed” [21] to oversee them. The management of local government council by Caretaker Committees vitiated the capacity of the local government to mobilise resources and build social, physical, administrative, regulatory and legal infrastructures for rural development, constricts the space for political representation and participation, democratic growth and grass root development [22] and encourage political apathy.

The strict application of the rule to all facets of local governance has been undermined in many dimensions. Even though the Basic Constitutional and Transitional Provision Decree No. 36 of 1998 fixed three (3) years tenure for elected local government Chairmen, this provision was not integrated into the 1999 Constitution. This gave state governors the political freedom to tinker with tenure of elected local government chairmen. On 17<sup>th</sup> June 2003, the 36 state governors appeal to the federal government to allow them appoint local government Chairmen and Councilors into offices and to implicitly remove or dissolve them at will. Even though the request was not expressly granted, the indifference of the executive, legislative and judicial arm of government to the removal of elected local government Chairmen and Councils from office with impunity in favour of Caretaker Committees betrayed the democratic and constitutional order of leadership choice and recruitment, decentralization and devolution of power.

Over the years, the tenure of elected local government Chairmen has been reduced from 3 years to 1 year by many state governors in defiance to section 7 (1) of the 1999 constitution that guarantees the existence of a democratically elected system of local governance which by implication abhors the interference by any tier of government in the process of building and consolidating democracy at the local government level. It also defies Section 3 (a-c) of the

Constitution of the Federal Republic of Nigeria 1999 which mandate the state government to exercise its power in a manner that does not impede or prejudice the exercise of the executive powers of the federation, endanger any asset or investment of the government of the federation and the continuance of a federal government in Nigeria [3] and invariably the local government. Ironically, the 1999 constitution at the same time mandates the state government to establish and determine the structure, composition, finance and functions of local government councils. This statutory trajectory placed the local government councils at the whims and caprices of the state governments.

In line with the tenets of decentralization, the 1999 constitution states that a local government can be created when:

Two third majority of members representing the area demanding for the creation of a new local government council in the State House of Assembly and the local government councils in the area consented to it; or by a two third majority vote in a referendum by the people from the proposed local government and a simple majority approval in a referendum by members in each local government council in majority of all the local government councils in the state subject to its approval by two third majority of members of the State House of Assembly of the state via a referendum [23].

This provision has never been tested by a democratically elected government in Nigeria. Democratically elected governments have demonstrated the lack of capacity to create new states and local government due to conflict of interest and influence paddling among political elites.

The notion that local government councils are placed in a precarious condition and treated like an abandoned child struggling for survival [11] is revealed in the manner in which governors of the states of Jigawa, Lagos, Ondo, Oyo, Ekiti, Edo, Adamawa, Cross River, Rivers, Kaduna and Zamfara states among others manage the affairs of local government councils. In Adamawa state, “the tenure of local government chairmen was reduced from three (3) to one (1) year. In Cross River state, elected local government chairmen were arbitrarily removed from office by former governors Donald Duke without due recourse to due process of law and the constitution. The case of Precious Oforji who was removed from office as the elected Chairman of Oyiibo Local Government by the then Governor Peter Odili of River State on the frivolities of gross misconduct” [11] is another compelling evidence. The frivolities of what constitutes gross misconduct are defined, understood and interpreted by the state governor. The arbitrary removal of elected local government chairmen from office and the appointment of Caretaker Committee in its stead underscored the adage that “he who pays the piper detects the tune”. In figurative terms, it means he who finances the election of the local government Chairman dictates how long he/she stays in office. This is a constitutional anomaly upheld in the Nigerian democracy that have shifted the bond of transparency and accountability from the people to the governor and weakens effective political representation,

responsibility and responsiveness to local needs. To justify the rule of law arbitrary, the pessimists have argued that local government council are “staffed by incompetent, poorly skilled and trained personnel” [24] without advocating the need for build capacities to strengthen it.

At another level, local government councils are supervised by the Ministry of Local Government and Chieftaincy Affairs. In terms of contract award, local government Chairmen are mandated to obtain approval from the Department of Local government in the office of the state governor and the State Executive Council before awarding a contract whose value exceeds one million (N1, 000, 000.00) naira. In an alienated political culture, the approval of such contract might be contingent on political loyalty and not development expediency. In addition, the local government is mandated to prepare and submit its monthly financial report to the Director of Local Government Audit and the Governor’s office [11] periodically for auditing. In terms of personnel management, the recruitment, training and transfer of staff of the local government is done by the Local Government Service Commission and “grievances and complains resulting from such personnel matters are channeled by the aggrieved officer to the state Governor” and not the Local Government Service Commission or local government Chairman [25]. These networks of control limit the operational capacities and efficiency of the local government.

The growth of local democracy depends partly on the degree of fiscal jurisdiction and fiscal independence granted to local government. In view of this, the Nigeria Financial Intelligence Units (NFIU) recommends the allocation of statutory funds by the Federation Account Allocation Committee (FAAC) directly to local government councils. The enforcement of the directive is constrained by the absence of democratically elected council, inability of the State Joint Allocation Committee to meet, controversy over the status of Local Council Development Areas, inability of Caretaker Committee Chairmen to access the funds and litigation seeking the stoppage of funds to council without elected officials [26, 27]. However, exceptions have been recorded in Gombe and Kaduna state where the state governments have disbursed the funds allocated by the Federation Account Allocation Committee directly to local government councils to underscores the vision of President Muhammadu Buhari government on local government autonomy thus:

The All-Progressives Congress (APC) governors are not against autonomy for local governments, and that it is opposed to local governments being administered by appointee caretaker officials instead of elected officials.... All local government administration must be democratically elected in a free and fair election... The appointment of caretaker committees to run local governments is an aberration [28].

The affirmative action taken by the Attorney General of the Federation and Minister of Justice Abubakar Malami by declaring Caretaker Committees illegal, unconstitutional and a breach of Section 7(1) of the 1999 constitution (as amended)



made resolute the desire by the Mohammadu Buhari government to promote fiscal independence and local government autonomy. The Attorney-General queried the dissolution of elected local government councils and the appointment of the Caretaker Committee by Governor Seyi Makinde of Oyo state and forced the reinstatement of the elected local government Chairmen, Councilors and Development Areas Caretaker Chairmen [29, 30] on Oyo state governor. In Cross River State, Local Government Councils are administered by Heads of Local Government Administration [31] while in Ekiti state they are managed by Caretaker Committee on the basis of the rule of law guarantee in Section 23 (b) of the Ekiti State Local Government Administration (Amendment) Law 2001. Records have shown that nearly all local government councils in Nigeria are administered by Caretaker Committees [32-33].

## 6. Conclusion

The need to decentralize more powers to other tiers of government is strongly re-emphasized to underscore its genuineness and necessity in the development process. Its actualization requires a change in political attitude and orientation that recognized the fundamental principles of true federalism, decentralization and local governance. The frequent dissolution of elected local government councils by state governors creates inertias in the democratic aspiration of local people to take part in decision-making, development process and nation building. The excessive control of the local government by state governors undermines the philosophy of devolution, local government autonomy and the sovereign powers of the electorates at the ward levels to elect and hold their political leaders accountable. The reduction of the tenure of elected council to one year betrayed the time-for-developments philosophy catalytic to leadership training, efficient state administration and sustainable development. The need to review the tenure of local government chairmen to four (4) years as applicable to political leaders at state and federal levels is inevitable to encouraging genuine decentralization, independent political action and autonomy of local governance. More powers should be devolved to local government and the revenue sharing formula reviewed to reflect new levels of responsibilities thus: federal (30%), state (30%) and local government (40%). The process of leadership recruitment and replacement should be genuinely democratic and consensus-based to avoid democratic ironies, inertias and apathy setting in.

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