



REIMAGINING OF LOCAL GOVERNMENT AUTONOMY AS INSTRUMENT FOR STRENGTHENING OF DEMOCRATIC GOVERNANCE IN NIGERIA

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Abstract

Nigeria has been grappling with local government reforms for many years, indeed, since independence in 1960, without a satisfactory result. With the ascendancy of constitutional democracy in Nigeria, it is not in doubt that most commentators and writers agree that what is needed for democratic local government administration to thrive is autonomy in the three facets of political, financial and administrative control of local governments. This requires constitutional and legal re-structuralisation as well as democratic acculturation. Unfortunately, all the constitutional making and reviews so far undertaken, left the local government system under the imposing control of the states. The State Governors have unashamedly treated the local government councils as subservient appendages, thereby stifling the dividends of democracy and the growth of democratic culture at the local level. The recent effort of the Supreme Court to enhance financial autonomy of Local Government Councils in Nigeria, while being commendable, is a tip of the iceberg of what needs to be done to enthrone the desired autonomy. Adopting the doctrinal research methodology, this paper espouses the reforms that ought to be carried out in the system of local government in order to achieve democratic and responsive autonomous local governance. It suggested that necessary constitutional and legal review, to provide for independent structure of local governments and for independent institutions to oversee the system, be established.

Key Words: Local Government, Autonomous Governance, Democracy, Constitutional and Legal Reform.

1. Introduction

The various tiers of government under the presidential system of government in Nigeria finds the local government structure at the bottom rung of the ladder of state administration, with the higher tiers of state and central government extensively placed above the local government structure. The local government may be at the lowest rung but it is incidentally the tier of government that is

closest to the people. It is not only close to the people; the involvement of the local people is expected to be much more active when compared to the state and central government level. It is therefore expected that development and contact with the grassroots citizens will be at a much closer level than that of the other tiers of government.

The advantage of its proximity, and therefore, the expected effectiveness, in addressing the day-to-day concerns of the citizens, has not been effectively accomplished in Nigeria. Several factors have been posited as being indispensably responsible for the wide gap between expectation of the administration of the local government on the one hand and the reality for the government by the local administration on the other hand. Among these factors, the poor quality of personnel of the rulers and the political leaders of the local government; the poor level of enlightenment and political education about the basic functions of the local government system and core corruption; the overbearing influence of the state government in the pattern of the choice of the leaders of the local government; the undemocratic introduction of local government sole administrators and caretaker committees; and most importantly, the focus of this research is the total absence of the independence of the local government system arising from the excessive control of the local governments by state government structure.

The focus of this paper is therefore a quest for the actualization of the autonomy of the local government system in Nigeria as contradistinguished from the current meddlesomeness in local government administration by state governors in complicity with the State House of Assembly. Autonomy must be erected under a system of that ensures accountability and probity of those who run the local government.

Careful study of Sections 7 and 162 of Constitution of Federal Republic of Nigeria, 1999¹ (CFRN 1999) show that there are well defined roles for the local government system to feature and to function effectively in Nigeria. However, the same sections left a lot of controlling influences over the local government administration in the hands of the state Houses of Assembly. In fact, despite the legal enabling provisions, there have been lots and lots of abuses. The objective of this study is the exploration of the various legal, quasi legal and political procedures for completely cutting

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¹ Cap. C23, LFN 2004

the umbilical cord tying the local government system to the state government with the consequential negative results being witnessed at the local government administration level. In the light of this objective, this paper undertakes a doctrinal approach by examining relevant statutes, decided cases, reports, articles and other sources and proffers the legal and constitutional reforms that will enthrone democratic autonomous local government administration in Nigeria.

To achieve these objectives, it would be imperative to undertake a thematic analysis of the relevant concerns and issues of local government administration as focused by this paper. This is done in five sections of introduction; definition and explanation of concepts relevant to this paper; consideration of legal theories under guarding the themes and thrust of this paper; consideration of extant constitutional and legal frameworks on local government, praxis associated with local government politics and problems arising from them; solutions to the problems and comparative study of local government autonomy in Canada and Australia and a final section of conclusion and recommendations.

2. Understanding the Concepts ‘Local Government Autonomy’ and ‘Democratic Governance.’

2.1 Local Government Autonomy

The word ‘autonomy’ connotes independence. It is a synonym for self-rule and self-government. It connotes governance without imposition from an external influencer. “Autonomy is the ability to make your own decisions about what to do rather than being influenced by someone else or told what to do.”² It is “the quality or state of being self-govern ant.”³ When applied to a local government, autonomy means that the local government is not under the influence of anyone outside the local government on how to conduct the business of local governance.

A local government is the tier of government that is closer to the people. It is “A political subdivision of a nation or (in a federal system) state which is constituted by law and has substantial control of local affairs including the power to impose taxes or to exact labour for prescribed purposes.”⁴ It has also been defined as “the government of a particular locality, such as a city or a

² Oxford Language and Google, *Autonomy*<Language.oup.com/google-dictionary-en/>accessed 21st June, 2025

³ Merriam-Webster Inc, *Autonomy*<<https://www.merriam-webster.com-dictionary/dictionary/autonom>>accessed 21st June, 2025

⁴ United Nations Office for Public Administration in IC Idoko and A E Obidinma, ‘Local Government Autonomy under the 1999 Constitution of Nigeria: A Reality or Myth’ NAUJPPL (2020) (10) 77,80

country; a governing body at a lower level than the state government.”⁵ These definitions are very appropriate in locating a local government in any state, taking cognizance that it is not necessarily the case that a local government is located in a nation-state at any particular tier of government but at the rung that has “substantial control of local affairs including the power to impose taxes or to exact labour for prescribed purposes.”⁶

In Nigeria, the gamut of constitutional and statutory and customary law rungs in the tiers of government include the Federal Government, State Governments, Local Government Councils, and as the case may be also kingdoms, emirates, chiefdoms, town unions and kindred governments. The federal government stands at the apex and the least in the rung may be the town or maybe kindred government. All these levels of government have control over the affairs of the people. Constitutionally, most, if not all of them, can exact labour upon the people. Section 34(2)(e)(i) permits labour or service that forms “(i) normal communal or other civil obligations for the well-being of the community” as an exception to the claim to the right to the dignity of the human person, guaranteed as a fundamental right under the constitution.⁷ But it will be improper to refer to the community governments as a local government in the formal sense because by law and as captured by the United Nations office for Public Administration’s definition,⁸ the community governments do not exercise substantial control of local affairs. By and large, what constitutes a local government is not dependent on the number in the rung of tiers of government, but on the nature (and substantiality) of control exercised by the government as prescribed by the law or the constitution. As far as the CFRN 1999 is concerned, local governments in Nigeria consist of the Local Government Councils established under section 7 of the Constitution and listed in Parts I and II of the First Schedule to the Constitution, numbering seven hundred and seventy-four.⁹

Local government autonomy are of three classes: political autonomy(democratic formation and termination of government without external imposition); administrative autonomy (operation of government without external influence) and financial autonomy (application of revenue without

⁵ B A Garner & Ors (eds.), *Black’s Law Dictionary* (8th Ed., Thompson West Publishing Co. Ltd, St. Paul, 1999) 716

⁶ (n 4)

⁷ See O Okpara, ‘History and Concept of Natural Law (1)’ in O Okpara (d.), *Human Rights Law and Practice in Nigeria* (vol. 1, Enugu, Chenglo Limited, 2005) 134

⁸ (n 4)

⁹ See S. 3(b), CFRN 1999. Notably this section mentions 768 as the number of Local Government Areas whereas in Parts I and II, First Schedule, they are actually 774 in number.

external control). Each of these aspects must be achieved to have true autonomy and democratic governance. The quest for local government autonomy, over years, has centered all three facets.¹⁰

The concept of local government autonomy in Nigeria thus refers to the independence of government of the seven hundred and seventy-four local governments established by CFRN 1999, shorn of the controlling influence of persons or authorities outside the local government. The struggle in Nigeria to establish true democratic governance, especially under the democratic constitutional rule since independence in 1960 has been tortuous.¹¹ The most recent advancement in that direction was made by the decision of the Supreme Court in *Attorney General of the Federation v Attorney General of Abia State*¹² in which the court by a majority judgment, proactively interpreted section 162(3) and (5) of Constitution of the Federal Republic of Nigeria, 1999 to compel the direct payment of credit due to Local Government Councils to them, bypassing the states. This decision, however, enabled partial, not total financial autonomy, as states have other avenues to apply external influence to control expenditure of Local Government Council finances.¹³

2.2 Democratic Governance

Democracy refers to the form of government in which those who constitute the government are chosen by the people governed and under a system of government that is responsive to the will of the people, as against the whim of the government. The choice, operation and termination of the government in a democratic rule is determined in accordance with the will of the people. The famous definition by the ex-American President, Lincoln, always comes up as the simplest definition; government of the people, for the people and by the people. Malemi has pointed out

¹⁰ I E Cyriacus, Y Ibrahim and E E Charity, 'Nigeria's Local Government Autonomy: Issues and Implications for the Country's Development' *Journal of Political Discourse* (2024)(3)(2)(2) 48, 53<<https://www.jopd.com.ng>>accessed 31 May 2026

¹¹ See A E Michael, C O Oparah and C E Solomom, 'Constitutional Imperatives for Strengthening Local Government Administration as Fulcrum for Advancing Citizen's Rights and Democratic Governance in Nigeria' *RUN Law Journal* (2025)(2)1, 11

¹² (2024) 17 NWLR (Pt. 1966) 1

¹³ See C O Oparah, 'Judge Made Law in the decision of the Supreme Court in AGF v AG, Abia State on Direct Payment of Federal Allocation to Local Government Councils,' *AUN JL* (2025) (1) (1) 1, 21<<https://journals.aun.edu.ng/index.php/aunijl>>accessed 3 August, 2025

three characteristics of democracy as a government made up of a generality of the representatives of the people, formed and installed by the people and existing for the welfare of the people.¹⁴

The technique to achieve a true democracy requires a combination of constitutional and legal rules and democratic culture. The constitutional and legal rules are like the mechanical formulation of a vehicle while the culture is akin to the right approach to operate the vehicle. Both are important in order to achieve a workable democracy. Proper constitutional and legal framework are important for the certainty of rules, otherwise, those who apply the rules will do as they wish, setting aside the rules.

The constitution sets out the principles and rules guiding the government and the people to be complied with in governance.¹⁵ A well written constitution will not likely be such that areas of doubt as to how the rules and principles should be applied do not exist,¹⁶ but it does as much as possible to make the rules and principles certain and ascertainable. A democratic constitution ensures that the following features rules and/or principles are entrenched in it:¹⁷

- (a) Supremacy of the constitution;
- (b) Sovereignty of the people;
- (c) Rules for amendment of the constitution. (A democratic constitution should not easily be amended).¹⁸
- (d) Rule of Law;
- (e) Equality of all in the eyes of law;
- (f) Separation of Powers;
- (g) Guarantee of Human Rights and Fundamental Freedoms;
- (h) Multi-party system;
- (i) Democratic Elections; and
- (j) Democratic Institutions.

¹⁴ E Malemi, *The Nigerian Constitutional Law* 3rd Ed., (Princeton Publishing Co., Lagos, 2012) 38

¹⁵ See B O Nwabueze, *Presidential Constitution of Nigeria* (C. Hurst and Co., London and Nwamaife Press, Enugu, 1982) 7; AG Ondo State v AGF (2002) 9 NWLR (Pt. 772) 222, 418-419, *per* Uwaifo, JSC

¹⁶ C A J Chinwo, *Principles and Practice of Constitutional Law in Nigeria* (2nd Ed., Princeton & Associates Publishing Co. Ltd., Lagos, 2006) 50

¹⁷ See generally C O Oparah, *The Power of the President During a State of Emergency* (Dee Lee Agency, Port Harcourt, 2018) 77-93;

¹⁸ However, the British Constitution is not contained in a single document. All British Laws can be amended by parliament alike. Confidence is placed in the British democratic parliament to guard against detrimental alteration of the foundational rules and principles that ensure democratic rule.

Achievement of democratic governance requires the establishment of democratic institutions to act as gatekeepers. An institution is “an organization, establishment, foundation, society or the like, devoted to the promotion of a particular cause or program, especially of a public educational or charitable character.”¹⁹ Thus, institutions may be public or private and are established in a manner permitted under the law. Democratic institutions are those institutions established by the constitution or by law in accordance with the provisions of the constitution, for the purpose of executing the provisions of the constitution. For example, the courts are institutions established to execute the constitutional mandate of the judicial arm of government; an electoral commission is established to execute the provisions for free and fair elections, and a local government council is an institution established to execute the constitutional provision for democratic government of a local government area of a country or state.

The adherence to democratic culture in running democratic institutions is of no less importance than their constitutional and legal establishment. Democratic culture to democracy is like what a good driver is to a car. A car without a driver/guide will serve no useful purpose. If the car is driven against the rules of safe driving, that is, recklessly or negligently, it portends disaster to the driver and others. The Council of Europe delivered a simple and apt list of core values and attitudes that make for democratic culture: “valuing of human dignity and human rights;” “valuing cultural diversity;” “valuing democracy, justice, fairness, equality and the rule of law;” “attitude of openness to cultural otherness and to other beliefs world views and practices;” “respect;” “civil mindedness;” “responsibility;” “self efficacy;” “tolerance of ambiguity;” and conflict resolution skills.”²⁰ According to the American Institute in Taiwan, “Democracy is more than the sum of its institutions. A healthy democracy depends in large part on the development of a democratic culture. Culture in this sense, according to Diane Ravitch ...refers ...to the behaviors, practices and norms that define the ability of a people to govern themselves.”²¹ African Charter on Democracy Elections and Governance²² acknowledged the importance of democratic culture in Article 2, Chapter 2, in stating as one of its objectives as to “1. Promote adherence by each state

¹⁹ Oxford Language and Google, *Institution*<languages.oup.com/google-dictionary-en/>accessed 21 June, 2025

²⁰ Council of Europe, *Competences for Democratic Culture* (Council of Europe Publishing, Strasbourg, 2018) 8-11<<https://im-coe.int/PDF>>accessed 24 June, 2025.

²¹ American Institute in Taiwan, *The Culture of Democracy*<<https://web.archive-2017.art.org.tw.DOCs.whatdm6.htm>>accessed 24 June, 2025

²² AU Assembly Resolution of 30 January, 2007<<https://au.int/sites/default/files/treaties/36384-treaties-african-charter-on-democracy-elections-and-governance-pdf>> accessed 12 August, 2025

party to the universal values and principles of democracy and respect for human rights,” and in devoting chapter 5, Articles 11 and 13 to provisions on “The culture of Democracy and Peace.” This Charter also devoted Chapter 6, Articles 14-16 to “Democratic Institutions.”

A proper system of local government administration must consist in ensuring that constitutional, legal and cultural imperatives are in place in the administration of the local government. Democratic institutionalism is immediate once the constitutional and legal mechanics are introduced but democratic culture is gradual and inevitably feeds on democratic constitutional and legal structure to thrive.

3. Philosophical Basis for Full Democratisation of Local Government Administration

It may be argued that in fostering democracy in a nation, it is not too bad if the effort is concentrated in ensuring that the principles and rules of democracy are applied at the federal and state tiers of government, and neglected or partly neglected at the local level of government. A strong argument may be that no matter how much emphasis is laid on democratisation, certain aspects of governance must be ceded to administrative powers, as a means of carrying out decisions taken by officials conferred with constitutional democratic powers. One answer to this argument is that major decisions taken in local governance do not resemble administrative decisions. Local governments deal with important issues of governance that directly affect citizen rights. The local people cannot be adequately represented at the level of local government by those who are not democratically elected or who are not made to be responsive to the people. The weight of the need at the state and federal levels to ensure the practice of democratic government is the same, and maybe, even more.

Secondly, a culture of democracy is more meaningfully developed at the grassroots. More so, it is arguable that truer democracy is more realizable at the grassroots than at the other levels of government in the behemoth modern state. The invention of democracy attributed to the Greeks,²³ by which people collectively took decisions relating to state affairs, has a better setting in local governance. The Greeks founded the practice of democracy on the idea of equality of all men and consequential lack of inherent right of any man to rule his fellow man. Thus, natural law applies

²³ (n 7) 4

to grant human rights to be enjoyed by all humans, irrespective of one's colour, race, religion, status in life and whatsoever.²⁴

Natural law philosophers identify a natural social pact between the people and the government by which the people delegate their power to govern to those elected to be in government.²⁵ The social pact is natural, invisible and founded on the principle that the government must comply with the general will of the people in governing. The constitution represents the formulated, visible contract document in which particular rules and principles, derived from the rules and principles of social contract, are set out for government at all levels. And if the constitution establishes the local government as an institution of government, then of necessity, it ought to be a democratic institution through which more realistic democratic government could be achieved.

Although, democracy is practiced in the form of representative government-since the classic Greek form of its practice is not realistic in a modern state-the local government practice of democracy could and should be made to resemble and adopt more of the features of classical democracy than the tiers of government above it. By doing so, some of the set-backs associated with modern democracy could be significantly avoided.²⁶

It is a sort of wonder that many nations have stuck their local governments at the level of semi-autonomy rather than allow them to be fully democratised. But Nigeria's experience in local government administration has an appeal to historical and sociological jurisprudence to be remarkably different. Sociological jurists recommend that law reflect the social conditions prevalent in the society. Pound posits that law should be framed and interpreted to satisfy social needs and the changing social conditions in the society.²⁷ Von Savigny, who by his writings, became a strong influencer of law reform in Germany, propounded the influential notion that a people's national spirit arises from historical and cultural realities which are peculiar to the nation.²⁸ Thus law recognizes historical and cultural realities in its making and interpretation.

²⁴ Ibid

²⁵ U O Umozurike, *African Charter on Human and Peoples' Rights* (Martinus Nijhoff Publishers, The Hague, 1979) 4

²⁶ (n 11) 40

²⁷ R Pound, *Philosophy of Law* (Revised ed. 1954) in M D A Freeman, *Lloyds Introduction to Jurisprudence* (7th Edition, Sweet and Maxwell, London, 2001) 673

²⁸ F K Von-Savigny, *System of Modern Roman Law* cited in M D A Freeman, *Lloyds Introduction to Jurisprudence* (7th Edition, Sweet and Maxwell, London, 2001) 921, 922

Accordingly, the universality of natural law as well as the peculiarities of historical experience, culture and social conditions ought to bear in influencing the constitutional and legal provisions on local government administration in Nigeria.

4 Constitutional and Legal Structure and Practice of Local Government in Nigeria.

4.1 Establishment of Local Governments

CFRN 1999 established Seven Hundred and Seventy-Four Local Government Councils in Nigeria in the Thirty-six States and the Federal Capital Territory (FCT).²⁹ Without constitutional amendment, local government councils cannot be legally created. Nevertheless, at one time or the other, states have created sub units of local government councils.³⁰ The provision of section 7 relating to their establishment under the law made by the House of Assembly of a state only alludes to the fact that constitutional creation of local government councils commence as State House of Assembly Bills.

4.2 Structure of Local Government Council

CFRN 1999 prescribed that local governments must be democratically elected.³¹ The State House of Assembly has the power to make laws relating to their structure and composition.³² The imperatives of democratically elected local government councils as provided for in section 7 of CFRN 1999 implies that there should be democratically formed executive and legislative branches of a local government³³ constituted through popular periodic elections, conducted by voting of those qualified to vote at an election to House of Assembly seats,³⁴ and that those to be voted shall have the right to be so voted to become members of a State House of Assembly.³⁵

The implication of the provision of section 7 is that the qualification to stand as a candidate in a local government election shall be the same with the qualification for a member of a State House of Assembly. The qualifications are set out in sections 106 and 107 of the Constitution. One of the

²⁹ See s 7 & Fourth Schedule, CFRN 1999

³⁰ See for example the case of *AG Lagos State v AGF* (2004) 18 NWLR (Pt. 904) 1, which arose from the creation of Local Development Areas by the Lagos State Government

³¹ S. 7 CFRN 1999

³² Ibid.

³³ *Akan v AG, Cross River State* (1982) 3 NCLR 881

³⁴ S. 7(4), CFRN, 1999

³⁵ Ibid

qualifications therein stated is that he shall be a member of a political party and is sponsored for the election by the political party.³⁶ Whereas the executive and legislative structures are required to be provided for by law made by the State House of Assembly, the Constitution did not make any provision for local government courts. Only the federation and states have the powers to establish courts.³⁷

4.3 Conduct of Election into Local Government Councils

The Constitution established State Independent Electoral Commissions (SIECs)³⁸ to be composed of members as set out in Part II of the Third Schedule³⁹ of the Constitution.⁴⁰ State Independent Electoral Commissions (SIECs) are charged with the duty to organise, undertake and supervise all elections into local government councils in the state and to advise INEC as relating to compilation of the register of voters in the state.⁴¹ Elections to local government councils are conducted with the register compiled by INEC.⁴² Registration of voters and procedure for local government elections are regulated by an Act of the National Assembly subject to the State House of Assembly making additional laws provided they are not inconsistent with law made by the National Assembly.⁴³ A chairman and members of SEIC are appointed by the Governor subject to confirmation by the state House of Assembly,⁴⁴ and shall be persons having the qualifications stated in section 200, CFRN 1999; and may be removed as provided for in section 201(1). Chairman and members of a State Electoral Independent Commission (SEIC) are to be independent.⁴⁵

³⁶ S. 106(d), CFRN 1999

³⁷ See S. 6, CFRN 1999

³⁸ S. 97(1)(b)

³⁹ See S. 197(2) and part II B (3), Third Schedule

⁴⁰ Part II B (4)(a), Third Schedule

⁴¹ S. 198, CFRN 1999

⁴² See Paragraph 15(e), Part 1F, Third Schedule, CFRN 1999; *Akanro v AG, Lagos State* (1981) 1 NCLR 51; *APC v RSIEC* (2025) 7 NWLR (Pt. 1990)551, 578-579 G-A

⁴³ Paragraphs 11 & 12, Second Schedule, Part II, Concurrent Legislative List, CFRN 1999; *APC v RSIEC* (2025) 7 NWLR (Pt. 1990)551, 557B-D, 581F-H, 583C-D

⁴⁴ S. 198, CFRN 1999

⁴⁵ S. 202, CFRN 1999

4.4 Functions of Local Government Councils.

The functions of local governments are specified and determined by the provisions of the Constitution and partly by the provisions of law made by the State House of Assembly. Section 7(1) envisages the State House of Assembly making provisions on functions of local government councils. Section 7(3) provides that a local government council shall have a duty to participate in economic planning and development of its area and to that end, an economic development board shall be established by a law enacted by the State House of Assembly. Section 7(5) provides that the functions conferred by law upon local government councils shall include those set out in the Fourth Schedule to CFRN 1999.

The functions set out in the Fourth Schedule are set out as main functions,⁴⁶ and others, including such other functions as may be conferred on a local government council by the House of Assembly of the state.⁴⁷

The question arises; what is the relationship between the local government and the state with respect to exclusivity of regulatory powers in relation to the specified functions? Could it be said that a local government council has exclusive right to regulate, for example, collection of rates, radio and television licenses as set out in paragraph 1(b) of the Fourth Schedule to the Constitution? CFRN 1999 assigns legislative powers in two lists: Exclusive Legislative list⁴⁸ and Concurrent Legislative List.⁴⁹ The Exclusive Legislative list is exclusive to the Federal Legislative Houses⁵⁰ while the concurrent list may be legislated on by both federal and state legislative Houses⁵¹ subject to the doctrine of covering the field.⁵² Paragraphs 9 and 10 of the Concurrent Legislative List and Fourth Schedule particularly paragraphs 1(f)(j), 2(d) read along with section 4(6)(7)(a)-(c) show that the State House of Assembly has overriding competence to legislate on matters relating to functions of a local government council. The legislative arm of the local government however has power to legislate on specific aspects of matters as stated in the Fourth Schedule to the exclusion of the State House of Assembly. For example, a State House of Assembly is not competent to

⁴⁶ Paragraph 1, Fourth Schedule, CFRN 1999

⁴⁷ Paragraph 2, Fourth Schedule, CFRN, 1999

⁴⁸ Part I, Second Schedule, Part I

⁴⁹ Part II, Second Schedule, Part II

⁵⁰ S.4(2), CFRN 1999

⁵¹ S. 4(7), CFRN 1999

⁵² See *NPF v Police Service Commission* (2024) 15 NWLR (Pt. 1922) 231

deprive the local government council of the power to legislate on and collect rates, and issue radio and television licenses or override their power to name roads and streets and number houses, *et cetera*. The rate chargeable is nevertheless to be determined by law passed by the State House of Assembly. In *M. Nig. Ltd. v G.C.E. Nig. Ltd.*⁵³ the High Court of Rivers State, *coram*, Amadi, J. as he then was held that,

...the fact that the phrase “Exclusively reserved for Local Government Council” does not appear in the Constitution or was not used by those who drafted the Constitution with respect to the functions of Local Government Councils does not derogate the fact that the functions of providing public conveniences, sewage and refuse disposal is vested in Local government Councils to the exclusion of Federal and State Governments

4.5 Finance of Local Government Councils

Finance of local government councils in Nigeria come from three sources: federal allocations as prescribed by the National Assembly in accordance with sections 4(1)-(4)(a)(b), 7(6)(a) and Item A, Paragraph 1(a)(i)-(iv), CFRN 1999; state allocation as prescribed by section 7(a), CFRN 1999 and revenue generated by the local government council in accordance with or as prescribed by law made by the House of Assembly of a state.

Section 162(5)-(8) are further provisions relating to finance of local governments. The text of section 162 provisions read together require the states to receive the federal allocation for local government councils and pay them over to local government councils. However, the Supreme Court in a landmark interpretation held that federal allocation to local government councils could be paid directly to them, bypassing the states.⁵⁴

4.1.6 Supervision of Local Government Councils

⁵³ (2012) 6 RSLR 133, 162 lines 2-9

⁵⁴ (n 12). Oparah argues that this decision on the issue of direct payment of federal allocation to local government councils is improper and amounts to judge made law. See C O Oparah (n 13) But being the decision of the apex court, it represents the law in Nigeria at present on the issue

The supervision of the administration of local government is undertaken by the checks and balances and separation of powers operated by the executive and legislative arms of the local government council, made imperative by the requirement of section 7 of the Constitution on democratic structure and composition of local government councils.

The State House of Assembly's legislative oversight, subject to not tampering with democratic establishment, and structure as required by section 7 of the Constitution⁵⁵ provides another supervisory means.⁵⁶ Besides, the finances of local governments are audited by the auditor of the local government and the auditor of the state for local governments who is supervised by the state auditor-general.⁵⁷ The local government service commissions also control the staffing and discipline of civil servants who work in the local government councils.⁵⁸

5. Problems of Lack of True Democracy and Autonomy and Non-Responsiveness of Local Governments in Nigeria: Solutions and Comparative Study of Select Jurisdictions-Canada and Australia.

5.1 Problems of Local Government Administration in Nigeria

5.1.1 External Manipulation of Local Government Administration.

External manipulation of local government politics and administration arises from two main sources: undemocratic political culture prevailing in the Nigerian society and the constitutional and legal weaknesses relating to local government administration. It seems that the far greater problem is undemocratic political culture that manifests in the practice of *godfatherism*. *Godfatherism* results in the side tracking, and frustration of the democratic free choice to install candidates of the *godfather's* choice as electoral candidates and elected officials, and the selfish control and teleguiding of the administration of the elected official by the *godfather*.⁵⁹

⁵⁵ (n 28)

⁵⁶ See for example s. 64, Rivers State Local Government Law, 2001

⁵⁷ Ss. 125(1)(2), CFRN 1999

⁵⁸ See for example Local Government Service Commission Law, 1976 (Law No. 14 of Lagos State, Revised Laws of Lagos State, 2015, Cap. L43)

⁵⁹ E A Oghuvbu 'Godfatherism and its Effects on Nigeria's Democracy,' Global Journal of Political Science and Administration (2003) (2) (2) 58, 67-68 < <https://www.eajournals.org/wp-content/uploads/Godfatherism.pdf>>accessed 14 February, 2025

These *godfathers* are influential politicians, particularly, state governors, in many instances. The experience of local government elections in Nigeria show that in most cases, the candidates and elected local government officials are handpicked by the sitting Governor. Governors control the State Independent Electoral Commissions through control of the State House of Assembly and nomination of members who do their bidding. The obvious preponderance of electoral fraud in local government elections and the culture of imposition and the complicity of the people in docile belief that nothing could be done to successfully challenge a *godfather* ensures that local government politics and administration is perennially undemocratic. States also remove elected local governments officials at will, working with pliable *godfathered* state legislatures, and replace them with appointed caretaker committees and sole administrator, and that in defiance of the decisions of the courts against such abuse. In *AGF v AG, Abia State*⁶⁰ the Supreme Court noted:

The continuing and flagrant refusal to enforce the decisions of this court in the aforementioned cases wherein the court emphatically and unequivocally constitutional stated that State Governors have no constitutional power and authority to dissolve democratically elected local government councils and to appoint officials, by whatever named called, to run such councils, as it constituted a violent breach and infraction of the provision of section 7(1) of the Constitution...⁶¹

The Constitutional and legal frameworks also enable other weak institutions and officials outside the local government to control local government administration. The State House of Assembly, state Auditor general and local government service commission play roles in this regard.

⁶⁰ (n 12)

⁶¹Ibid, 153 C, D and G, *per* Garba, JSC

5.1.2 External Manipulation of Local Government Finance

Political corruption by way of *godfatherism*, dovetails into financial corruption. The *godfather* also manipulates the use of local government finances through seizure and arbitrary disbursement of federal allocation and intimidation of local government officials using the State House of Assembly and other officials in the state appointed by the governor to supervise local government finances. There are occasions when some Governors publicly instruct chairmen of local government councils to construct particular roads, as announced *impromptu* at public functions, without recourse to due process. Although the recent decision of the Supreme Court in *AGF v AG Abia State*⁶² appears to have solved the problem of hijack of federal allocation by local governments by states, by ordering that federal allocations be disbursed directly to them, the manipulation of local government finances cannot be over, in view of the provisions of relating to finances of local governments and functions of local governments in sections 7(3)(6)(b) and 162(7)(8), CFRN, 1999, even if it may be asserted that the provisions of section 162(4)(5) are directory as decided by the Supreme Court.⁶³

These provisions ensure that the state can starve the local governments of other sources of finance and dictate how the federal allocations to local government councils may be applied.⁶⁴

5.1.3 Corruption and Poor Management Skills of Local Government Officials

Reports and research findings show that the local government officials themselves manifest managerial incompetence and unbridled corruption in running the local governments.⁶⁵

Accountability and management of local governments in Nigeria have been described as

⁶² Ibid

⁶³ Ibid, 184-185 H-A

⁶⁴ See L O Nwauzi and D O Onyema, 'Local Government Autonomy in Nigeria: A Constitutional Dilemma' in O V C Okene, G O Akolokwu and G G Otuturu (eds), *Legal Essays in Honour of Mary Odili* (Princeton & Associates Publishing Co., Lagos, 2022) 44, 60-63

⁶⁵ Human Rights Watch, *Local Government Corruption and Management in Rivers State: An Overview* <www.org/reports> 2007> accessed 20 May, 2025; M C Nwakanma 'Corruption in the Nigeria Local Government System: the way forward.' *African Journal of Politics and Administrative Studies* (2017)(10)(1) 99; M S Agba and Ors. 'Local Government Finance in Nigeria: Challenges and Prognosis for Action in a Democratic Era (1999-2013)' *Journal of Good Governance and Sustainable Development in Africa* (2014) (2)(1)

84<<https://www.remss.com>>assessed 22 May, 2025

“disastrous,” “a bazaar,” and riddled with *prebendalism*.⁶⁶ An integral aspect of achieving local government autonomy must take account of the need to make the local government accountable, financially responsible and managerially capable.

5.2 Solutions to the problem of lack of Local Government Autonomy in Nigeria

5.2.1 Improvement of Democratic Culture

The essence of democracy is to achieve responsible government under a democratic process. No matter how well a framework for democracy is drafted, lack of democratic culture will undermine it. Lack of democracy breeds selfishly imposed government and financial corruption. Political and opinion leaders need to ensure that the people are educated to disdain political *godfatherism* and corruption of all sorts. This requires the leaders to lead by being exemplary. It is difficult to get leaders who, out of personal choice, allow democratic culture to prevail, even against their selfish interest. The world has produced such leaders nevertheless. It is not all about the sainthood of local government officials but more about having responsive officials at the echelons of the institutions responsible for democratic governance. It is difficult to pin down a full proof formula for achieving this but a combination of appropriate legal reforms and religious and secular education for public office seekers, and the public will enhance democratic culture

5.2.2 Constitutional and legal Establishment of Independent Democratic Institutions for Local Government Administration

Legal techniques of establishing independent democratic institutions alone do not ensure democratisation and governmental integrity, but the essence of a legal framework is to check abuse and forestall the rule of man in preference for the rule of law. It is important, taking a cue from the historical and social conditions of the past, to shape law for future application with a view to overcome the abuses of democracy and responsibility in the local government system of administration in Nigeria. It may not be unlikely that legal creation of new spheres of responsibility may cause the heights of abuse and corruption to merely

⁶⁶ “A political system where elected officials and government workers feel that they have a right to a share of government revenues and use them to the benefits of their supporters, co-religionists and members of their ethnic group” M C Nwakanma, ‘Corruption in the Nigeria Local Government System: the way forward,’ African Journal of Politics and Administrative Studies(2017) (10)(1) 99, 104

migrate from where it was located to another location of influence,⁶⁷ but well considered use of law as a tool of social engineering is inevitable to achieve democratisation and government responsiveness.

The Nigerian peculiar experience in local government administration demands constitutional amendment of CFRN 1999 to ensure financial autonomy, political autonomy and fiscal responsibility. These can be achieved by taking the following measures:

- (a) Constitutionalisation of the structure of local government administration with executive and legislative branches. The non-specific provision of section 7 of the Constitution on this is partly responsible for resorting to judicial interpretation before certain issues touching on democracy in local government became clarified. The High Courts may continue to serve as the judicial arm of local government administration. The same principles and rules for separation of powers applicable to federal and state tiers of government should be applied to local government councils.
- (b) Granting local governments councils well defined limited functions, with independent powers, to generate and appropriate revenue, in addition to financial grants from the state and the federal government, free from the control of appropriation by the state and federal governments.
- (c) Permitting independent candidates to run at local government elections. The practice of classical Greek democracy is more easily achievable and desirable at the local level of government. Independent candidacy will both enhance it, and also douse the influence of *godfathers* in local politics.
- (d) Allowing the local government to be an independent tier in a manner similar to state and federal governments. The Nigerian experience is that Governors through their strangle hold on the Houses of Assembly and other state institutions, selfishly influence the tide of local government politics and administration. State Independent Electoral Commissions should no longer conduct local government elections not because INEC has proved very efficient

⁶⁷ For example, the bulk of corruption associated with misuse of federal allocation to local government councils may now occur in the local government councils rather than with the states which seized and disbursed federal allocation to local government councils arbitrarily.

but because the band wagon success of Governors' handpicked candidates at local government elections is worrisome and perhaps even more disturbing than the poor performance of INEC at national elections.

- (e) A local government Fiscal Responsibility Commission should be constitutionalised with members representing state and federal governments, NGOs and several professional bodies, to serve as financial watchman over financial dealings by local governments. Professional bodies and NGOs should be made to appoint their representatives in the commission. A robust grant of standing to locals to initiate investigation into the use of local government finances and take court action with regard to misuse of local government finance will ensure that officials of local governments are kept on their toes to handle local government finance with probity and responsiveness.
- (f) Appointment, discipline and administrative control of civil servants in local governments should be under an independent local government service commission. Adequate minimum standard qualifications for prospective civil servants in local government service should be prescribed to enhance competence and efficiency.

5.3 Local Government Autonomy in Australia and Canada

Local government reforms in Canada have been slow.⁶⁸ It has been more vigorous in Australia with strident but unsuccessful suggestions to entrench provisions on local governments in the Commonwealth of Australia Constitution of 1901.⁶⁹ In both countries, there is no full autonomy of local governments but the local governments basically conducts their affairs.⁷⁰ In Australia, it was reported in 2016 that only three and a half percent of local government finance is internally

⁶⁸ C Storley, R Hilton and T Krawchenko, 'Canada's City Regions: Time to Rethink Local Governance,' (Paper presented at IRSPM III Conference, Copenhagen, 4-8 April, 2009)<<https://careton.ca/cure/wp-content/uploads.canadianCity-Regions.Time.Pdf>, 3-4>accessed 4 August, 2025

⁶⁹ A H Kelly, 'The Development of Local Government in Australia, Focusing on NSW: From Road Builder to Planning Agency to Servant of the State Government and Developmentalism' (Being Paper presented at the Word Schools Congress, Perth, 4-8 July, 2011)<https://ro.uow.edu.au/articlesconference_contribution/The_Development_of_Local_Government_in_Australia_Focusing_on_NSW_From_Road_Builder_to_Planning_Agency_to_Servant_of_the_State_Government_and_Developmentalism>accessed 4 August, 2025

⁷⁰ Ibid; CLGF, *Local Government System in Canada*<clgf.org.uk/default/assets/Country_profiles/Canada.pdf>assessed 26 May, 2025

generated.⁷¹ Regional governments are main financiers of local governments in Australia while both the Dominion and Provincial governments are the main financiers of local governments in Canada.

Legislation on local government is left to the Australian States' legislatures and Canadian Provincial legislatures.⁷² The Constitution of Australia did not even mention local governments. Local government in both countries are basically democratic.⁷³ Supervision of local government administration is majorly external, not by internal democratic process. Of course, corruption is never totally absent in local government administration⁷⁴ or in any human endeavor for that matter.

If the legal framework in Canada and Australia on local government must be copied in Nigeria, no progress will be made. Where institutions are strong and disallow brazen and 'fantastic' corruption, as Tony Blair, ex-British Prime Minister was said to have described corruption in Nigeria, there may be no urgent need to strengthen the constitutional and legal framework. According to Tan, Morris and Grant, "Political institutions do not shape the behaviour of political actors, they provide a relatively stable systematic set of opportunities and constraints of enforced prescriptions."⁷⁵ It is more so the case in Nigeria where the democratic institutions are weak and seem to be influenced by powerful politicians. The need for a tighter system of constitutionalism and legalism in establishing institutions- to protect democracy and compel accountability- is higher than in Canada and Australia where a generally more democratic ethos is at work. In Transparency International's corruption index, Nigeria scored a dismal 24 points out of 100 in 2024, while Australia and Canada scored 77 and 75 points respectively out of 100 in the same year.⁷⁶ This is an indicator of the urgency of dealing with political corruption and abuse of office in Nigeria.

⁷¹ S T Tan, A Morris and B Grant, 'Mind the Gap: Australian Local Government and Counsellors' Understandings of their Roles' Commonwealth Journal of Local Governance (2016) (19) 5447<<https://dx.doi.org/10.5130/cjlg.vo019.5447>> accessed 30 August, 2025

⁷² See S. 92(8), Constitution Act, 1876 (30 & 31 Vic. Cap 3). See also for example Paragraphs (1) & (2), Preamble, Local Government Act, 1989 (Act No. 11 of 1989 of State of Victoria)

⁷³ See for example, Paragraphs (1) & (2), Preamble, Local Government Act, 1989 (Act No. 11 of 1989 of State of Victoria)

⁷⁴ Canada is however reputed to be the least corrupt society in the Americas in 2023 See Wikipedia, *Corruption in Canada*<https://en.wikipedia.org/wiki/corruption_in_canada>accessed 4 August, 2025. Australia is said to have improved in transparency in 2024. See Wikipedia, *Corruption in Australia*<https://en.wikipedia.org/wiki/corruption_in_Australia>accessed 4 August, 2025

⁷⁵ (n 68)

⁷⁶ See Transparency International, *Corruption Index*<<https://www.transparency.org/en/countries/Nigeria>>accessed 4 August, 2025; Transparency International, *Corruption*

6. Conclusion

The experience of local government in Nigeria shows that local government councils lack political, administrative and financial autonomy. Unfortunately, the conduct of the local government officials themselves has shown that their lack of probity and integrity is also part of the problem. All these indicate that democracy is undermined in the administration and performance of local government in Nigeria. The brunt of the unfortunate situation is borne by the people who do not get citizen rights in the process.

Lack of autonomy of the local governments arise from external and internal influences contrary to democratic practices and are due partly to lack of democratic culture and as a result of the constitutional and legal provisions prescribing the structure, composition, functions, supervision and institutions involved in the operation of local governments.

Ensuring democratic governance of the local government is very vital to the future of democracy in the nation as a whole. In Nigeria's peculiar bad experience with local governance, it is recommended that the local government councils should be constitutionally and legally constituted as an independent tier of government, serviced by independent institutions. This will ensure that selfish politicians no longer sabotage the will and welfare of the people through their corrupt practices and influence. While lessons could be drawn from democratic practice of local government administration in states like Canada and Australia, Nigeria's local government administration requires the adoption of an autochthonous model, informed by the historical and social experience in local government administration in Nigeria.

The positive shift from seizure of federal allocation to Local Government Councils to direct payment of same to Local Government Councils as endorsed by the Supreme Court should be fully implemented. The recommended constitutional amended should entrench the same position.

The independent institutions to be involved in the organisation of the local government system should include an electoral umpire for local government elections constituted by the federal government. This is against the back drop that states influence on local government elections have been unpretentiously Machiavellian and anti-democratic.

An urgent and dedicated comprehensive constitutional review of local government administration geared to achieve political, administrative and financial autonomy of Local Government Councils in Nigeria is needed.