The Constitutional and Political Implications of Operating State Joint Local Government Account in a Federation: An Assessment of Nigeria's Experience in the Fourth Republic

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Abstract

The study assesses the constitutional and political implications of operating a State Joint Local Government Account in a federal system. The objective of the study is to unravel the intrigues and politics behind the continuous operation of State Joint Local Government account despite repeated calls for direct allocation to local government councils. The fiscal federalism model was adopted as a theoretical underpinning since the issue under consideration bothers on intergovernmental fiscal relations between the State and local governments in a federal arrangement. Methodologically, secondary method of data collection was adopted through content analysis of the 1999 constitution of the Federal Republic of Nigeria, 1976 and 1988 local government reforms guidelines, 2014 Constitutional Conference Report and appropriation bills signed into laws before arriving at a logical conclusion. Findings of the study revealed that the constitutional provision in section 162(6) of 1999 Constitution of the Federal Republic of Nigeria and the implementation of Ayida Panel Report of 1994 have made it difficult for direct allocation from the federation account to local council to be unrealistic. Hence, the study recommends the introduction of direct allocation to local government accounts, increase in the tax raising powers of local government, regular audit of local government accounts, regular payment of 10% internally generated revenue at the state level to local government and the amendment of section 162 (5&6) of the 1999 constitution which made provision for operation of Joint State Local Government Account.

Keywords: Local government, Joint Account, Fiscal Federalism, Intergovernmental Relations, constitution

Introduction

The introduction of 1976 local government reforms by General Olusegun Obasanjo administration was a significant milestone in the history of local government administration in Nigeria. Unlike previous reforms measures, which were highly restricted in scope and range, the 1976 reforms recognized local government as the third tier of government operating within a common institutional framework with defined functions and responsibilities. As the third tier of government, local government gets statutory grants from federal and state governments, and is expected to serve as agent of development especially in rural areas. However, the introduction of State/ Local Government Joint Account has been the bane of development at the grassroots level in Nigeria despite the laudable objectives of 1976 reforms. In view of this, revenue coming to local government from the Federation Account is paid into the State Joint Local Government Account at the state level. This was done purposely for the originating state to contribute 10% of its internally generated revenue to the account.

In the opinions of Ajeh (2009) and Sesan (2004), the idea of joint account is not entirely bad, but the manner of spending monies from such joint account exclusively by the governors is condemnable. Most states of the federation did not only refuse to contribute their share but the management of the account was opened to; abuse, mismanagement and misappropriation. Subsequently, the 1988 local government reforms guidelines introduced by General Ibrahim Babangida made provision for direct allocation to local government from the Federation Account and abolished the hitherto State Joint Local Government Account which gives room for the diversion of local government funds by state governors. Thereafter, the release of government white paper on the implementation of Ayida Panel Report in 1994 returned that practice of Joint State Local Government Account as against the direct allocation introduced by the Babangida Administration in 1988. This situation was maintained till the military handed over power to the democratically elected government of President Olusegun Obasanjo in 1999.

Unlike what existed during the Babangida era when the defunct 1989 Constitution was enacted as a Decree in a bid to guide the relations between the state and local governments, the 1999 Constitution has really made local governments to be agents of the state governments when it comes to the issue of finance. Whereas Section 160(4) of the 1989 Constitution states that "money standing to the credit of local governments shall be allocated directly to them", the 1999 Constitution in Section 162(5) provides that "allocation of money whether appropriated by the National Assembly or the House of Assembly shall be made to the States for the benefit of their Local Governments." The inability of local government to have access to adequate finance in the discharge of its constitutional responsibilities has resulted in absence of development at the grassroots level in Nigeria.

The failure of local governments in the area of service delivery has made the citizens to lose trust in government as an institution. Many Nigerians crave for change in the local government system as presently constituted in order not to only bring it in conformity with present day realities but also to make it live up to the expectations of the people who have been yearning for grassroots development. Armed with this background, this study examines the constitutional and political implications of operating State Joint Local Government Account in Nigeria in the fourth republic.

Objectives of the Study

The major objective of this paper is to determine the constitutional and political implications of operating State Joint Local Government Account in Nigeria. However, the specific objectives are to:

i. Access the factors behind the continuous operation of State Joint Local Government despite repeated calls for direct allocation to local government.
ii. Determine the constitutional and political implications of operation State Joint Local Government Account in Nigeria.

Methodology

This study adopted both documentary and analytical methods in examining existing facts and information on issues regarding the constitutional and political implications of operating State Joint Local Government Account in Nigeria. This approach examined official records, policy pronouncements and empirical literatures. In light of the above, extant provisions of the 1999 Constitution of the Federal Republic of Nigeria, the recommendations of Constitutional Conferences Reports and guidelines on 1976/1988 local government reforms and relevant studies were critically analysed before arriving at a conclusion.

Conceptual Clarifications

Intergovernmental Relations

The concept of "intergovernmental relations" has been conceived from various perspectives by scholars in the field of federalism due to the kind of environment they themselves and their intellectual orientations. According to Adamolekun (1983), intergovernmental relations refers to the interactions that take place among the different tiers of government within a state. Such relationships could be vertical, hierarchical, formal or informal in nature depending on the system of government in practice. Similarly, Bekink (2006) conceives intergovernmental relations as a set of multiple formal and informal principles, processes, structures and institutional arrangements for both the bilateral and multilateral interaction within and between the different spheres of government. This definition is more comprehensive since it goes further to clarify the kind of relations that can exist between the tiers of government.

Local Government

Local Government on the other hand is a representative council established by law to exercise powers within its area of jurisdiction in order to ensure grassroots development. By implication, local government can only operate within its statutorily defined jurisdiction since two sovereignties cannot exist in a nation state. However, local government should also be given some measures of autonomy in order to achieve the objectives of engendering grassroots development. Local government, according to Appadorai (1975) is a government of the popular elected bodies charged with administrative and executive duties in matters concerning the inhabitants of a particular district or place. This means that aspirant for local government council must be duly elected through a democratic process.

Similarly, the United Nations Office for Public Administration (1976, p.11) defines 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 purposes." The governing body of such an entity is elected or otherwise locally selected. The guidelines for the reform of local government in Nigeria define local government as:

> Government at the local level exercised through representative council established by law to exercise specific powers within defined areas. These powers should give the council substantial control over local affairs, as well as the staff and institutional and financial powers to initiate and direct the provision of services and to determine and implement projects, so as to complement the activities of State and federal government in their areas, and to ensure, active participation of the people and their traditional institutions, that local initiatives and response to local needs are maximized (Local Government Reform, 1976, p.9).

A glance at the above definition will show that local government is synonymous with the concept of devolution. Devolution presupposes the exercise of political authority by primarily elected institutions within legally specified area, usually, "local units (which) are autonomous, independent and clearly perceived as separate levels of government over which central authorities exercise little or no direct control. It is a total transfer of authority from the central government to the local unit.

Theoretical Framework

The study adopted the model of fiscal federalism as a theoretical underpinning since the issue under consideration bothers on intergovernmental fiscal relations between the state and local government in a federal arrangement. The basic foundations for the initial theory of Fiscal Federalism were laid by; Kenneth Arrow, Richard Musgrave and Paul Sadweh Samuelson's two important papers on the theory of public goods in 1954 and 1955 provided the framework for what became accepted as the proper role of the state in the economy (Arowolo, 2011). Within this framework, three roles were identified for the government sector. These were the roles of government in correcting various forms of market failure, ensuring an equitable distribution of income and seeking to maintain stability in the macro-economy at full employment and stable prices (Musgrave, 1959). Thus, the government was expected to step in where the market mechanism failed due to various types of public goods characteristics. Governments and their officials were seen as the custodians of public interest who would seek to maximize social welfare based on their benevolence or the need to ensure electoral success in democracies (Arowolo, 2011).

The above theory is applicable to this study since the major goal of creating local government is to ensure the provision of social amenities to the people at the grassroots level. The above objectives can only be achieved if local councils are allowed to operate as coordinate with the higher levels of government. In light of the above, the 1976 local government reforms guidelines recognized local government as the third tier of government with powers to exercise its functions within its own area of jurisdiction. Unfortunately, the same 1976 reforms made provision for the operation State Joint Local Government Account (SJLGA) where all revenue accruing to local government from the federation shall be paid. The above guideline was eventually enshrined in 1979 and 1999 constitutions of the Federal Republic of Nigeria. The combined effects of the above reforms and constitutional provisions made it difficult for the practice of true federalism in Nigeria. Instead of local government to coordinate to State government, it became a subordinate to the latter. The operation of SJLGA made it possible for State government to mismanage local government funds recklessly.

Factors Responsible for the Continuous Operation of State Joint Local Government Account

All onslaughts against the continuous operation of State Joint Local Government Account in Nigeria appear to have hit the rock due to some salient factors which are yet to be addressed. For instance, the administration of President Ibrahim Babangida introduced direct allocation from federation account to local government through the introduction of 1988 local government reforms but all the perceived successes recorded during this period were filtered away through the release of government white paper on Ayida Panel report by Late General Sani Abacha in 1994 which later re-introduced the controversial State Joint Local Government Account. Subsequently, the successful handover of power from the military to a democratically elected government in 1999 brought high expectations on the possibilities of addressing all logjams to the effective running of local government administration in Nigeria.

After 21 years of democratic experiment, all efforts geared towards the introduction of direct allocation from the federation account to local government have not yielded any positive results. Several bills and executive orders introduced with the sole aim of ensuring the autonomy of local government failed to sail through. The process may appear smooth at the initial stage but the final outcomes of such bills leave much to be desired. After thorough review of empirical literatures, the following factors were found responsible for the inability to lay the issue of State Joint Local Government Account to rest permanently:

i. **Constitutional Provision:** Section 162 (5) and (6) of the 1999 constitution of the Federal Republic of Nigeria as amended provided that “the amount standing to the credit of local government councils in the Federal Account shall be allocated to the State for the benefit of their local government councils on such term and such manner as may be prescribed by the National Assembly. Each State shall maintain a special account to be called "State Joint Local Government Account" into which shall be paid all allocations to the local government councils of the State from the Federal Account and from the government of the State". The original intention of the above constitutional provision was for the State government to add 10% of its internally generated revenue with the amount standing at the credit of local government from the federation account and distribute same to each respective local government as may be prescribed by the State House of Assembly. On the contrary, the State government took advantage of the above constitutional provision to deny local government councils the revenue standing at their credit. By implication, direct allocation to local government councils is considered illegal until the above constitutional provision is amended. However, all attempts to amend section 162 (5) and (6) of the 1999 Constitution have been an exercise in futility due to the cumbersome process involved in such an exercise. For instance, it is difficult if not impossible to secure approval of 24 state Houses of Assembly before concluding the amendment process. Achieving success in such an exercise is difficult because the state governors who are in firm control of their respective Houses of Assembly would not allow the amendment process to sail through since its outcome would not be beneficial to them at the long run.

ii. Lack of Political Will: Successive governments in Nigeria have lacked the political will to ensure direct allocation to local government both at the federal and state levels. This is so because the state government is satisfied with the current situation that gives room for the manipulation of local government funds with reckless abandonment. Any attempt to change the status quo would be resisted vehemently at the State level. Also, the President of the Federal Republic of Nigeria may refuse to assent to the bill seeking amendment to constitutional provision of section 162 (5) (6) in solidarity with the intension of state governments in order to keep on enjoying their support for his administration.

iii. **Party Politics:** Most state governors are in the habit of ensuring that their political parties win virtually all political wards in their respective states during local government election in order to give room for the misuse of local government funds without any opposition. This is the more reason while state governors prefer the appointment of Caretaker Committees in place of conducting elections that may not be favourable to them in the long run. Sometimes, the sharing of local government funds by state governments is done in such a way that local councils belonging to opposition party are denied what legally belong to them due to partisan politics (Obidimma & Obidimma, 2016).

Constitutional and Political Implications of Operating State Joint Local Government Account in a Federation

The origin of State/ local Government Joint Account can be traced to the introduction of 1976 reforms in order to make local governments have statutory allocation relationship with their respective state governments and improving the sorry financial condition of local councils Subsequently, this provision of the 1976 local government reforms was eventually enshrined in 1979 Constitution of the Federal Republic of Nigeria. In the opinion of Omoruyi (1985), the major reason for the Joint Account System was to forestall possible manipulation of the local government finances by the various state governments. Contrary to expectations, the implementation of State Joint Local Government Account (SJLGA) rather empowered state governments to mismanage, divert and deduct local government revenue with reckless abandonment. Ojugbeli and James (2014) averred that contrary to the protection of Local Government allocation as was envisaged by the constitution, the various state governments have resorted to manipulations of the account according to their interests. The different types of illegal deductions, diversions and sometimes delay in the release of council's allocation from the Joint Account System attest adequately to this. The misuse and embezzlement of councils fund was made possible due to the fact that the Joint Account Allocation Committee (JAAC) places local government under the direct control of the states as the local governments have no real control over their resources.

The shortcomings noticed in the implementation of State Joint Local Government Account (SJLGA) led to its eventual abolition by the administration of General Ibrahim Babangida in 1988 Local Government Reforms Guidelines. The 1988 reforms guidelines were eventually enshrined in 1989 constitution of the Federal Republic of Nigeria. Specifically, section 160 of 1989 constitution provides that the share of Local Government be allocated directly to its account. Unfortunately, the abolished State Joint Local Government Account (SJLGA) was smuggled into 1999 constitution in order to perpetually encourage the manipulation and diversion of local government funds by each respective state government. Since then, all efforts geared towards ensuring direct allocation from the federation account to local government were to no avail. Specifically, the constitutional and political implications of operation State Joint Local Government in a federation during the Fourth Republic are discussed under the following headings:

i. Arbitrary and Unjustifiable Deduction of Local Government Funds

The major intention for the introduction of State Joint Local Government Account (SJLGA) was for state government to collect revenue on behalf of local government from the federation account for the purpose of adding its 10% internally generated revenue and distribute same to each respective local government account as prescribed by the State House of Assembly. On the contrary, the state government engages in all manner of illegal deductions through instrumentality of Joint Account Allocation Committee (JAAC). Most of these deductions are done under one form of cover or another in strong connivance with corrupt executives of some local governments. In situations where elected local government officers are found uncooperative in allowing such deductions, the state governments will find reasons to sack such officials and appoint caretaker committees comprising of members who are their cronies and who will assist them in making all the deductions they want (Obidimma & Obidimma, 2016).

Agu (2007) argues that local government is well funded, but unfortunately these resources do not get to them. In order words, the revenue accruing to local government both internally and externally is adequate for the effective discharge of its statutory functions but such funds hardly get to local councils as envisaged. Abiodun (2005) opines that the joint account across states of the federation showed various illegal and arbitrary deductions from the statutory funds. It was equally alleged that monies accruing to the local governments in the joint account were occasionally paid to contractors without verifying such debts and that new contracts were award centrally (at the state level) without recourse to the interest of the respective local councils.

In 2009, the Revenue Mobilization Allocation and Fiscal Commission (RMAFC) indicted the state governors of abandoning their statutory responsibilities in respect of the State/Local Governments' Joint Account (Aliyu, Afolabi & Akinwande, 2013). It is rather unfortunate that the level of development at the local government level does not justify the huge sums of money being allocated to local councils. For instance, the Community Watchdog (2015) reported that President Muhammadu Buhari questioned the Imo State Governor, Rochas Okorocha on the mismanagement of local government funds from 2011 to 2015 which statistics has estimated at N165 billion at average of N6 billion per local government council. As a matter of fact, local governments in Nigeria would have been a little heaven, if ₦165 is judiciously utilized for the provision of infrastructure and amenities within the period of 5 years.

ii. Lack of Prompt Release of Local Government Funds:

The operation of State Joint Local Government Account (SJLGA) requires input of numerous stakeholders before taking decision on the sharing formula to each respective local councils. This made it difficult for revenue coming to local councils from the federation account to be distributed to them promptly. The delay in the release of funds to local council has adversely affected the effective implementation of approved budget as at when due. This unfortunate situation was not the intention of introducing Joint Account System in the first place. Apart from the inability to remit the revenue coming from the federation account to local council, the 10% internally generated revenue at the State level are not being paid to local government account promptly. In the opinion of Bello-Imam (1996. p50) "those that even managed to pay 10 percent of their internally generated revenue to their respective local governments units, most often, never paid as and when due". This practice is contrary to the provision of section 149 (6) of 1999 constitution which mandated state governments to remit 10% of its internally generated revenue to local government account.

iii. Misappropriation of Councils Allocation

The powers given to state governments in Section 7 (1) of the 1999 constitution of the Federal Republic of Nigeria to be responsible for determining the establishment, structure, functions and finance of local council created an opportunity for the misappropriation of local government revenue by them. According to Aghayere (1997. P.90) “state governments have compounded the financial problem of local governments by failing to pass on to local governments the federal allocation that has been passed through them as provided for by section 149(5) of the Nigerian constitution”. It is clear therefore, from the above submission that the problems of the state joint local government account system to local government administration in Nigeria are caused by the state governments. This actually is a total negation and contradiction of the intention of the policy formulators which have the objective of preventing possible manipulation of the account by state governors.

Conclusion

This study has examined the constitutional and political implications of operating State Joint Local Government account in a Federation using the experience of Nigeria in the fourth Republic. The findings of the study revealed that all attempts by successive administrations to ensure direct allocation to local government from the federal account have been an exercise in futility due to inconsistency in constitutional provisions, lack of political will, partisan politics and tax raising powers of local government. The practice of State Joint Local Government Account (SJLGA) came into existence after the introduction of 1976 local government reforms. However, the implementation of Joint Account System was not fully in force until it was eventually enshrined in the 1999 constitution when the military handed over power to a democratically elected government of President Olusegun Obasanjo. The original plan for Joint Account System was to enable the state government to disburse both the revenues coming from the federation account and 10% internally generated revenue at the state level to the respective local governments as prescribed by State Houses of Assembly. On the contrary, State governments in most cases fail to remit the revenue coming from the federation account to local government regularly let alone dispatching the 10% internally generated revenue at the State level into the coffers of local councils. The inability of local government to have access to adequate revenue for discharging its constitutional roles has been the bane of development at the grassroots level in Nigeria.

Recommendations

Based on the findings of the study, the following recommendations are made;

i. There is urgent need for the amendment of section 162 (5 & 6) of the 1999 constitution

of the Federal Republic of Nigeria which made provision for the operation of State Joint Local Government Account in order to ensure the introduction of direct allocation from the Federation account to local councils.

ii. The internally generation capacity of local government should be enhanced through increase in the tax raising powers of local councils. By implication, all the areas within the jurisdiction of local councils to collect taxes being hijacked by state government should be restored.

iii. There should be strict enforcement of the regular payment of 10% of State internally generation revenue to local councils. This can only be made possible through the amendment of section (7) (1) of the 1999 Constitution of the Federal Republic of Nigeria which handed over the determination of the establishment, structure, finance and administration of local government to the local government.

iv. Relevant laws should be amended in order to ensure the inclusion of local government representatives in Joint Account Allocation Committee (JAAC). This will go a long way in ensuring that the interest of local government is taking care of when decisions on who get what, when and how? Are being taken.

v. All forms of deductions from revenue accruing to local government through the instrumentality of JAAC will stop forthwith when the representative of local government council is included in the body.

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