



The 1999 Constitution And The Roles Of Local Governments In Nigeria: Hitches And The Way Forward^{1*}

Mu'azu Abdullahi Saulawa¹, Ibrahim Danjuma², Kabir Umar Musa³ & Haruna Muhammad Haruna⁴

¹ Lecturer, Faculty of Law, Umaru Musa Yar'adua University, Katsina State, Nigeria and Ph. D (Fellow) at Ahmad Ibrahim Kulliyah of Laws, International Islamic University, Malaysia.
E-mail: muazu.abdullahis@gmail.com, GSM +2348036026220.

² Lecturer, Faculty of Law, Bauchi State University, Gadau, Bauchi State, Nigeria and Ph. D (Fellow) at Faculty of Laws, National University of Malaysia.
Email: idanjuma27@gmail.com, GSM +2348068062226

³ Lecturer, Department of Political Science, Faculty of Social and Management Sciences, Umaru Musa Yar'adua University, Katsina State, Nigeria and Ph. D (Fellow) at Universiti Utara Malaysia. Email: kabirbumarmusa@gmail.com, GSM +2348069191053

⁴ Lecturer, Department of Political Science, Faculty of Social and Management Science, Bauchi State University Gadau, Bauchi State, Nigeria.
Email: harunaharuna65@yahoo.com, GSM +2348066341922

ABSTRACT

The paper focuses on the hitches and challenges of the constitutional roles of local governments in Nigeria and the way forward. The creation of local governments in Nigeria is meant to support the locals on their budding future in a platform purposely created for representation in the political administration of a State and the Federal Government. The aim of the paper is to discuss the roles of local governments as provided by the 1999 Constitution of the federal Republic of Nigeria, as amended 2011. In addition, to examine the laws of the local governments and further analyses the hitches and loopholes in the legal relations between the Local Governments in Nigeria and the States. The methodology adopted by the paper is content analysis approach wherein related literatures were discussed and analysed, particularly the local laws and other relevant documents. The findings of the paper reveal that firm control of local governments by the States especially through the Joint Accounts negates the developmental purposes of local governments' creation in Nigeria. In view of this, therefore, the paper suggests that for the realisation of the ultimate purpose of creation and maintaining the system, the silent constitutional hitches and lacuna of local governments' autonomy and other related issues highlighted in the paper should be addressed.

Keywords: 1999 Constitution, Local Government, Roles, Hitches, Way Forward, Nigeria

1. INTRODUCTION

Nigeria is one of the countries that operates Federal System of Government, with three (3) tiers of government, namely Federal, States and Local Governments. The federation is consists of Federal Capital Territory, 36 States and 774 Local Governments Areas (LGA). Each LGA is administered by a Local Government Council. The Council comprises the Chairman who is the Chief Executive of the LGA, and other elected members who are referred to as Councillors. The Chairman is normally elected, but may, under special circumstances also be appointed. He/she supervises the

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activities of the local government and presides over all meetings of the Council. The idea of local government is one aspect that was termed or viewed as a political authority under the State for decentralisation of political powers and for delegation of authority (Fajobi, 2010:1). In other words, local governments still remain an indispensable icon of any genuinely democratic system as they constitute a critical focus of the quest for a viable socio-political arrangement. The reason for this is not far-fetched that the local governments are seen to be the most closest and set of authority to the local people as an administrative council in local settings. The local government is also guided by law but with some limitations in their operations and more importantly being under the controlled of the States. As a local government represents a tier of the State government, it performs an enormous role of ensuring maintenance of law and order within the grassroots setting of administration. It also ensures the provision of structural platform of social facilities for that guaranteed the social well-being of the people around the community. Therefore, it then becomes mandatory for the local governments to ensure unification, cooperation and participation of the people fundamentally by encouraging them so as to develop and improve their living standard. (Fajobi, 2010).

The Federal Republic of Nigeria as a sovereign country, is governed in accordance with the provisions of the 1999 Constitution of the Federal Republic of Nigeria, as amended (herein after referred to as 1999 Constitution). Thus, the said functions and roles of LGA as a tier of government are provided in the said 1999 Constitution. Hence, this paper examines the hitches and challenges affecting the LGAs in discharging their constitutional functions as enumerated under the 1999 Constitution.

In order to achieve this, the paper is divided into different parts. Following the introduction, the second part of the paper deals with the Constitution as it relates to Local Government administration in Nigeria. The third segment ex-rays Local Government administration in Nigeria from the historical point of view, whereas the fourth part dwells on the roles and responsibilities of Local Governments in Nigeria. The fifth part highlighted the constitutional hitches and challenges bedevilling the operations of LGAs in discharging their functions. At last, it ended with findings and recommendations.

2. THE CONSTITUTION

The Constitution of the Federal Republic of Nigeria has a history and is in various stages. A number of the Constitutions were silent on the Local Government whereas the other has highlighted the relevance of the Local Governments. The Constitution of 1979 and 1999 Constitution as amended significantly discussed the Local Government provisions, particularly with the Local Government Reform.

Though the Reforms started in the 1950s and 1966, the 1950s Reform was designated to address the local government administration in the Southern part of Nigeria. It also further leads to a number of reforms in the Eastern regions for the purpose of streamlining the local government system by structuring the system. (S. C Ugwu, 2000, at p. 14). The 1976 Local Government Reform is the most notable reform in the history and development of the Local Governments in the Constitutional platform of Nigeria. This further followed up by the Dasuki Reform Committee. (S. C Ugwu, 2000 p. 14). The output of the Reforms at this level supported the position of the Local Governments in the 1979 Constitution as well as being fundamentally position in the 1999 Constitution.

The 1999 Constitution had addressed the position of Local Governments, particularly on the creation of a States through which the Local Government Councils will be created in the respective areas.

Section 8 (1) of 1999 Constitution provides that “an Act of the National Assembly for the purpose of creating a new State shall only be passed if-

(a) a request, supported by at least two-thirds majority of members (representing the area demanding the creation of the new State) in each of the following, namely -

- (i) the Senate and the House of Representatives,
- (ii) the House of Assembly in respect of the area, and
- (iii) the local government councils in respect of the area,

is received by the National Assembly;”

Further, sub-sections (b) to (c) of the said Constitution provide for a platform upon which a States can be created through an approved referendum by at least two-thirds majority of the people of

the area where the demand for creation of the State originated; also such referendum approval by a simple majority of all the States of the Federation supported by a simple majority of members of the Houses of Assembly; and the proposal is approved by a resolution passed by two-thirds majority of members of each House of the National Assembly.

Equally, section 8(2) of the 1999 Constitution provides for an Act of the National Assembly for the purpose of boundary adjustment of any existing State shall only be passed if-

(a) *a request for the boundary adjustment, supported by two-thirds majority of members (representing the area demanding and the area affected by the boundary adjustment) in each of the following, namely-*

- (i) *the Senate and the House of Representatives,*
- (ii) *the House of Assembly in respect of the area, and*
- (iii) *the local government councils in respect of the area. is received by the National Assembly;*
and

(b) *a proposal for the boundary adjustment is approved by -*

- (i) *a simple majority of members of each House of the National Assembly, and*
- (ii) *a simple majority of members of the House of Assembly in respect of the area concerned.*

Similarly, section 8(3) of the 1999 Constitution also provides for a Bill for a Law of a House of Assembly for the purpose of creating a new local government area shall only be passed if –

(a) *a request supported by at least two-thirds majority of members (representing the area demanding the creation of the new local government area) in each of the following, namely -*

- (i) *the House of Assembly in respect of the area, and*
- (ii) *the local government councils in respect of the area, is received by the House of Assembly;*

(b) *a proposal for the creation of the local government area is thereafter approved in a referendum by at least two-thirds majority of the people of the local government area where the demand for the proposed local government area originated;*

(c) *the result of the referendum is then approved by a simple majority of the members in each local government council in a majority of all the local government councils in the State; and*

(d) *the result of the referendum is approved by a resolution passed by two-thirds majority of members of the House of Assembly.*

While section 8(4) of the 1999 Constitution provides for Bill for a Law of House of Assembly for the purpose of boundary adjustment of any existing local government area shall only be passed if-

(a) *a request for the boundary adjustment is supported by two-thirds majority of members (representing the area demanding and the area affected by the boundary adjustment) in each of the following, namely -*

- (i) *the House of Assembly in respect of the area, and*
- (ii) *the local government council in respect of the area, is received by the House of Assembly;*
and

(b) *a proposal for the boundary adjustment is approved by a simple majority of members of the House of Assembly in respect of the area concerned.*

On powers of the national Assembly to make to laws as to the names and headquarters of States and Local Governments, section 8(5) of the 1999 Constitution provides that an Act of the National Assembly passed in accordance with this section shall make consequential provisions with respect to the names and headquarters of State or Local government areas as provided in section 3 of this Constitution and in Parts I and II of the First Schedule to this Constitution.

Finally, section 8(6) of the 1999 Constitution provides that for the purpose of enabling the National Assembly to exercise the powers conferred upon it by subsection (5) of this section, each House of Assembly shall, after the creation of more local government areas pursuant to subsection (3) of this section, make adequate returns to each House of the National Assembly

3. LOCAL GOVERNMENT ADMINISTRATION IN NIGERIA: HISTORICAL GLANCE

In historical terms, Local Government in Nigeria was a creation of the colonial rule. It started with the colonial indirect rule/ native authority system championed by Sir Frederick Lugard and moved further from stage to stage. The Local Administration was transformed through the democratization of the system and the separation of the traditional/ emirate pattern to a new

democratic Local Government system. The last stage of its transformations in Nigeria became prominent as it deepened democratic culture. According to Olasupo and Fayomi (2012:1) to date, there is about nine reforms of Local Governments which had taken place in the country: The 1976 Guidelines for Local Governments Reforms; The 1979 Constitution of the Federal Republic of Nigeria; The 1984 Dasuki Report on the Local Government System; The 1988 Civil Service Reforms of Local Government System; The 1989 Constitution of the Federal Republic of Nigeria; The 1992 Handbook of Local Government Administration; The 1998 Constitution of the Federal Republic of Nigeria; The 1999 Constitution of the Federal Republic of Nigeria and the 2003 Review of Local Government Councils in Nigeria.

Thus, it can be deduced that Local Government Administration had passed through different epochs. The first covered the period between 1914 and 1950; the second period fell within 1950 to 1966, the third stage between 1976 - 1976, whereas the final era was from 1976 to date. However, Local Government system in Nigeria was essentially concentrative but in 1976, it became devolved and laid bare precisely what the word Local Government implies i.e. governing at the grassroots or local level (Olasupo and Fayomi, 2012: 1).

Importantly, the 1976 Local Government Reform was designed to strengthen the Local Governments system in such a manner that it will stimulate democratic self- government; encourage initiative and leadership potentials at the grassroots. The reforms were to ensure the availability of amenities, such as electricity, adequate water supply, improved transportation, health facilities etc. It was, in addition, to firmly entrenched Local Government as the third tier of government activities in Nigeria, and endowed Local Government with the human, financial and materials resources that would enable them to competently “compliment the activities of the State and Federal Governments in their areas”. The partnership model which involved the devolution of substantial functions and power to local government together with the financial recourses to exercise such functions was heralded by the 1976 reforms.

The politicians of the second republic frittered away the gains of the 1976 local government reforms by refusing to organize popular elections at the local level. Not only this, they also violated Section 7 (i) of the 1979 Constitution where they engaged in the proliferation of Local Governments, which were generally designed to reap the maximum political advantage. Among the mischief of the politicians was the appropriation of the revenue yielding functions of the Local Government which includes tenement rates, market and motor parks by the various state governments and also assigned to the Local Governments the heavy burden of funding costly programs, just to ensure that Local Governments once again became subservient to their dictates (Aliyu, 1992, p.30).

Odo, A. (2007, p.8), revealed that the Dasuki Committee inaugurated in 1984 by the Buhari regime found a master/ servant relationship in existence between the state government and Local Governments in almost every state of the federation. This was manifested in the executive control and supervision of local governments by the various State Ministries of Local Government. He also observed that there was serious a erosion of the autonomy of Local Governments in many areas. Hence, their political and management cadres, having been handpicked by the State Governments, had become mere errand tools of the chief executives at the state level.

The Dasuki Committee pronounced as inadequate the existing structure and functions of Local Government, and recommended that the state governments should desist from encroaching on these functions. Some of the recommendations among others included the establishment of management audit panels to enhance public probity and accountability at the Local Government level, the involvement of the Federal Government in the funding and maintenance of primary education. The committee also recommended the preparation of a model scheme of service for Local Government employees in Nigeria to improve the status of Local Government practitioners and enable the Local Government service to attract and retain the high calibre professional personnel required to improve its capacity for effective services delivery.

On its assumption of office, the Buhari Administration in its efforts to restore sanity to the Local Government system, summarily abolished all the Local Government that were created by the civilian administration between 1976 and 1983 and their number brought back to 301. It however fell on the Babangida administration to implement the recommendations of the Dasuki Committee, remoulded the Local Government system, and enhance its freedom of action and accountability. This it did by carrying out a number of reforms aimed at liberating Local Governments from the

suffocating control of state government, enhance their freedom of action and provide them with the financial and other resources needed to perform effectively as the third tier of government in Nigeria (Olasupo & Fayomi, 2012, p.16).

Odoh, A. (2007, p.17) averred that Local Governments have not been autonomous in Nigeria except for the 1991/1992 experience. He further argued that what has been happening in Nigeria's Local Government system at that time then was a semblance of autonomy by tinkering with their democratic and financial basis. Thus, what the various administrations have been largely interested in was the selection of a group of loyalist as executives who would help to provide law and order and to explain the good efforts of the military in the transition process, not the genuine attempt of providing the people with basic services at the local level (Committee Report on the Review of Local Government 1997).

The 1976 Local Government Reforms and the 1979 Constitution, run counter to the establishment of an autonomous Local Government. The 1976 guidelines in its paragraph 2 views local government as a body created by and deriving its powers from the State Government. It is derivative not sovereign). It went further to define the term tier as a set of Local Government with their own identified powers and sources of revenue established under state legislative functions for which they are responsible to the state. Other areas in which the local government autonomy is limited include:

- a. The Local Government Services Commission an organ of the state government is charged with the responsibility for appointment, promotion, training, transfer and discipline of staff of the Local Government.
- b. The state government provides Local Government with the financial memorandum which guides financial management at the Local Government level.
- c. The Auditor General for Local Government at the state carries out quarterly and annual checks on the Local Governments.
- d. The Ministry for Local Government at the state exercised powers and control over the Local Government
- e. Annual estimate of the Local Government has to pass through the Ministry for approval before implementation.

4. ROLES AND RESPONSIBILITIES OF LOCAL GOVERNMENTS IN NIGERIA

Local Government as the third tier of Government in Nigeria is the closest government to the people as it deals with the people from the grassroots level. It is therefore, pertinent to stress that its importance is significant in the socio-economic and political life of a nation like Nigeria where majority of the teeming populace resides in rural communities. Thus, for this concern, the role of Local Government Administration cannot be over emphasized and hence clearly spelt out in the 1999 Constitution in the fourth schedule. The following responsibilities are therefore listed below:-

- a. The consideration and the making of recommendations to a State Commission on Economic Planning or any similar body on:
 - The economic development of the State, particularly in so far as the areas of authority of the Council of the State are affected, and
 - Proposal made by the said Commission;
- b. Collection of rates, radio and television licenses;
- c. Establishment and maintenance of cemeteries, burial grounds and homes for the destitute or infirm;
- d. Licensing of bicycles, trucks (other than mechanically-propelled trucks), canoes, wheel barrows and carts;
- e. Establishment, maintenance and regulation of slaughter houses, slaughter slabs, markets, motor parks and public conveniences;
- f. Construction and maintenance of roads, streets, streets lightings, drains and other public highways, parks, gardens, open spaces, or such public facilities as may be prescribed from time to time by the House of Assembly of a State;
- g. Naming of roads and streets, and numbering of houses;
- h. Provision and maintenance of public conveniences, sewage and refuse disposal;
- i. registration of all birth, death and marriages;

- j. assessment of privately owned houses or tenements for the purpose of levying such rates as may be prescribed by the House of Assembly of a State; and
- k. Control and regulation of movement and keeping of pets of all descriptions, out-door advertising and hoarding, shops kiosks, restaurants, bakeries and other places for the sale of food to the public, laundries and licensing for the sale liquor.

Moreover, apart from the aforementioned exclusive functions, Local Government is also empowered by the same constitution to provide and maintain primary, adult and vocational education; the development of agriculture and natural resources other than the exploitation of minerals, the provision and maintenance of health services and such other functions as may be conferred on a Local Government Council by the House of Assembly of a State. At this juncture, it is worthy to note that these roles are performed exclusively by the Local Government as enshrined by the Constitution of the country. But on the other hand, some other roles are concurrently played with the State Government. Among these includes primary education, agriculture, health and other functions that may be conferred on Local Government by the House of Assembly of the State. In view of this, it can be observed that the roles and responsibilities of Local Government are quite enormous and demanding. The tragedy of the situation is that Local Governments have very limited and circumscribed sources of revenue to enable them execute meaningfully and effectively the functions and responsibilities assigned to them.

5. THE CONSTITUTIONAL HITCHES AND CHALLENGES AFFECTING THE ROLES OF LOCAL GOVERNMENTS IN NIGERIA

From the foregoing, the constitutional functions and the essence of creating local governments in Nigeria were clearly highlighted. The operation of Local Governments in Nigeria under the said 1999 Constitution would not be said is perfect without some hitches. Despite the fact that Local Governments were recognised as the third tier of government, still there are some of the constitutional hitches and challenges bedevilling their operations as required by the law. Thus, below are some of the constitutional hitches and challenges affecting the smooth operation of Local Governments in Nigeria.

a. Existence of Triple Laws: As earlier stated that Local Governments in Nigeria are the creation of the 1999 Constitution) and regarded as the third tier of government (section 7 of the 1999 Nigerian Constitution (as amended). Local Governments operate under a legislative framework established by the 1999 Constitution. These legislative provisions are meant to guide the administration, disbursement of funds and other related issues in the system. Technically, local governments in Nigeria operate under the three levels of legislative frameworks. There are Act of National Assembly, Laws of State Assembly and the Bye-Laws of Legislative Councils. The 1999 Constitution empowers the National Assembly by an Act to make provisions between States and Local Government Council and among Local Government Council in the States respectively (Section 1 of the Part II of 1999 Constitution).

The 1999 Constitution equally empowers the National Assembly to make laws with respect to the registration of voters and election procedures regulating Local Government Elections (Section 11 of the 1999 Constitution) just to mention few.

With regard to the powers of the State Assembly to make laws for Local Government, section 7 of the 1999 Constitution empowers State Assembly to make laws for the establishment, structure, composition, finance and functions of such Local Government. Also, the State Assembly are allowed by the Constitution to make law for the establishment of Economic Planning Board that may permit Local Governments in the State to fully participate towards the economic development and planning of the area (Section 7(3) of the 1999 Constitution). In addition, the House of Assembly of a State shall make provisions for statutory allocation of public revenue to local government councils within the State and to make laws on registration of voters and election procedures regulating Local Government Elections (Sections 6(b) & 12 of the 1999 Constitution).

Local Government as a third tier of government has its own bye-laws made by the Local Government Council regulating some of its affairs. But such bye laws are ineffective as compare to the Act of National Assembly and State Assembly. These triple laws regulating the affairs of the Local Governments render them powerless and cannot decide what is good for their people at the

grass root. This is one of the constitutional hitches affecting the smooth operation of the Local Governments in Nigeria.

b. Absence of a Democratic Elected Local Government Councils: The 1999 Constitution provides that the system of Local Government should be based on democratically elected local government council and each State of the Federation is expected to recognise its existence (section 7(1) of the 1999 Constitution). From the above constitutional provision, one may deduce that the affairs of the Local Government in Nigeria should be manned by duly elected persons based on the wishes of the people. But unfortunately, there is an adverse application of the said constitutional provision nowadays.

Looking at those that are saddled with the powers or responsibilities to run the affairs as chairmen of the Local Governments in Nigeria are not elected by the people but instead they are appointed by the State Governors. Therefore, this issue of appointing Caretaker Committee to head the Local Governments in Nigeria by the State Governors has become the order of the day. Most or almost all the States in Nigeria have reduced the tenure of Local Government Chairmen from 4 or 3 years to 2 years. The most recent one is the resolution passed by the State Assembly of Adamawa State reducing the tenure of Chairmen from Two and half years to Two years (Nigeria Politics Online, 2016).

It has been the practice of the State Governors when they came on board to appoint loyalists to serve as Caretaker Chairmen. Some Governors may rule for 8 years but they will only allow election may be once or at most twice for the whole period of their tenure, they end up appointing cronies as Caretakers. For instance, on 2nd March, 2016 Governor Ibrahim Hassan Dan Kwambo of Gombe State appointed Caretaker Chairmen (Ahmad, 2016). The Governor said they were appointed based on the powers conferred on him by Section 79, sub section (3) and (4) of the Gombe State Independent Electoral Commission (GOSIEC) and Election Amendment Law 2013. He further said they were reappointed for another six months, based on their dedication (Ahmad, 2016). Such appointment generated debate a threat to institute an action against such appointments. A legal practitioner from the State in person of Barrister Abdullahi Mohammed, and a politician, Alhaji Sale Tinka, have threatened to drag the Governor to court for appointing Caretaker Chairmen, instead of allowing them to be elected by the people (Mohammad, 2016). On the other hand, The Speaker of the Gombe State House of Assembly, says the appointment of caretaker chairmen for the eleven local government areas in the state was properly made and in accordance with the laws of the State (Mohammad, 2016).

The Governor of Bauchi on his assumption of office after the 2015 general elections in Nigeria, on 26 June, 2015 dissolved the Caretaker Chairmen appointed by his predecessor. And then directed the respective Council Administrators to hand over the affairs of the local governments to their respective Heads of Personnel Managements (Gbande, 2015). Since then he has not appointed Caretaker Chairmen much less of conducting local government elections. It was on 10th August that he swears in new caretaker chairmen (Cyboknews, 2016).

Rivers State joined the suit, where Governor Nyesom Ezenwo Wike on 9th November, 2015 appointed caretaker chairmen and charged them *to* focus on the improvement of security and enhancement of environmental sanitation (Scan news, 2015). Others, like Bayelsa State appointed caretaker chairmen on 18th April, 2016 (Sundiata Post, 2016) and Akwa Ibom governor appointed caretaker chairmen for 31 local govt councils on the 4th July, 2016 (Premium Times, 2016) among others.

The absence of the duly elected chairmen and councillors of Local Governments in Nigeria serves as a stumbling block to performing their constitutional functions. The appointees are responsible to the governors and do anything humanly possible to please them so as to maintain in power to extend their tenure in office. For instance, the extension of the tenure of local government chairmen by the Governor of Gombe, where he said they were reappointed for another six months, based on their dedication (Ahmad, 2016). The caretaker chairmen will only last if they dance to the tunes of the government but where they acted contrarily to this directives, they will face the consequences of being sacked.

c. Abuse of Joint Account established by the 1999 Constitution: The said Constitution provides for the establishment of State Joint Local Government Account in each state of the federation where funds from the Federal Account are lodged before disbursement to the local government councils in

the state. This arrangement has been hijacked by state governments to starve local governments in their jurisdiction the needed funds for project implementation and rural development. This point is aptly acknowledged by Mbam, the Chairman of the Revenue Mobilization Allocation and Fiscal Commission (RMAFC) when he observed that information at the disposal of the Commission shows unethical practice in the disbursement of funds from the State Joint Local Government Account in various states of the federation. As he maintained, allocations from the Federation Account, most times do not actually reach the Local Government Councils. There are numerous allegations of manipulation of the Account at the point of disbursement. States hardly make their own contributions as stipulated by Section 162 (7) of the Constitution of the Federal Republic of Nigeria. In view of the above challenges, it is the position of the RMAFC that Local Governments should be granted fiscal autonomy by paying statutory allocations from the Federation Account directly to their coffers in which case the State Joint Local Government Account should be abolished through appropriate reforms.

d. Diversion of Fund Meant for Local Government Affect Constitutional Functions: It was observed above that the establishment of Joint Account in each State where funds from the Federal Account are lodged before disbursement to the local government councils in the state hinder them from performing their constitutional functions. Akpan (1965, p.126) posits that the bottom line in judging the effectiveness of local government in discharging its constitutional responsibilities amount to funds at its disposal. The services rendered by local government councils cost money which most of them cannot boast. It is important to note that the financial crisis in the local governments has worsened because the federal government has failed to recognize the new local governments and development centres created by some state governors. Governors of such states use part of the statutory allocations meant for the recognized local governments to pay staff salaries (Zwingina, 2003).

Therefore, the diversion of the funds meant for Local Governments by the Governors of most States make it practically impossible for them to perform efficiently their constitutional roles. The Local Governments in Nigeria are mandated under the Fourth Schedule of the 1999 Constitution to carry out some functions such as maintenance of primary, adult and vocational education, health services, improves agriculture among others. These cannot be carried out without funds.

e. Lack of Fixed Tenure by the Constitution: The 1999 Constitution provided for a democratically elected local government council under section 7 of the said Constitution. The Constitution unequivocally made provisions for the tenure of federal and state political office holders to be four years. But it did not make provisions for the tenure of local government office holders. However, the Constitution in the concurrent legislative list gave both the National Assembly and the State Assemblies the power to make laws with respect to the registration of voters and the procedure regulating elections to a local government council. The confusion created by the constitution later became a source of controversy between the National Assembly and State Governors, which subsequently became a subject of litigation (Igbuzor, nd). The confusion caused by the provisions of the 1999 Constitution on local government is just one of the many problems of the 1999 Constitution.

Therefore, the chairmen serve according to the pleasure of the Governor of a particular State and sacked when they displease him or when they probe stubborn not dancing to his tune. This is possible due to the lack of uniform fixed tenure of Local Government Chairmen across the country. This can be demonstrated as what happened in 2009 when Governor Isah Yuguda of Bauchi State suspended the 20 Local Government Chairmen. The Governor hide under the pretence of cases of misconduct, fraudulent activities and habitual absenteeism from office established against the council officials as the reasons for their suspension (Adamu, 2009)

f. Awkward Procedure for the Creation of Additional Local Governments: The 1999 Constitution makes provision for the creation of additional Local Governments in the country. It is a fact that one of the reasons for the creation of Local Government is to bring the government closer to the people at the grass root level. Over a period of time especially where the population of a particular Local Government is high and the people cannot feel the impact of the government. Then, it becomes imperative to create Local Government in order to ease the tension and demands that may be mounted on the highly populated Local Government. Also to remove the fear of being marginalised of minority by the majority tribe or group in the Local Government, thus, the 1999 Constitution provides as follows;

That section 8(3). A bill for a Law of a House of Assembly for the purpose of creating a new local government area shall only be passed if –

(a) a request supported by at least two-thirds majority of members (representing the area demanding the creation of the new local government area) in each of the following, namely–

(i) the House of Assembly in respect of the area, and

(ii) the local government councils in respect of the area, is received by the House of Assembly;

(b) a proposal for the creation of the local government area is thereafter approved in a referendum by at least two-thirds majority of the people of the local government area where the demand for the proposed local government area originated;

(c) the result of the referendum is then approved by a simple majority of the members in each local government council in a majority of all the local government councils in the State; and

(d) the result of the referendum is approved by a resolution passed by two-thirds majority of members of the House of Assembly.

The above procedure provided by the 1999 Nigerian Constitution make it difficult to create additional Local Government in the Country despite the role that it will play towards bringing government closer to the people. As observed since the returned to democratically elected government in 1999 in Nigeria, there is no single Local Government that was created. Even though there was an attempt while in some States were created but later annulled based on the reasons best known to the politicians. For instance, State like Gombe prior to 2003 election, Governor Hashidu created additional Local Governments in the State after he lost, the said additional Local Government were cancelled by his successor Governor Danjuma Goje.

8. FINDINGS AND THE WAY FORWARD

This paper had explored myriads of literatures with regards to the role and challenges bedevilling the local Governments constitutional roles and responsibilities in its grass root administrative capacity. It revealed out serious problems ranging from lack of autonomy; constitutional gaps; absence of political will and to a greater extent non adherence and implementation of laws especially by the political class. These challenges, undoubtedly, dwindle the achievements of the actual reason for the creation and maintaining the Local Government system of the country. In view of these problems, the paper suggests that the 1999 Constitution shall be revisited to address the silent lacunae on which the States Governments rest to suffocate the Nigerian Local Government system. Not only this, the issue of Joint Accounts shall be totally abolished to allow the system to determine their fate as a truly third tier of government. Further, the Local Government Chairmen should be elected instead of being nominated by the State Governors. They should equally be responsible to the people and not to the State Governors. In the process of amending the Constitution, it is important to incorporate a fixed tenure for the Local Government Chairmen preferably 4 years so as to avoid undue influence or interference of their tenure by the State Assembly. This would certainly improve and accelerate socio-economic and political advancement of the rural dwellers for whom the Local Government system was entirely created.

9. CONCLUSION

It is of great importance to acknowledge the recent remarkable and a landmark decision of the Supreme Court of Nigeria that was delivered on Friday, 9th December, 2016. The appeal marked as SC/120/2013 was filed by the Ekiti State Government of Nigeria against the Association of Local Governments in Nigeria (ALGON). The recent Supreme Court judgment voided the laws that were enacted by the State' Houses of Assembly that grant the governors powers to sack elected Chairmen of Local Governments and Councillors and replace them with appointed administrators or turns them to Caretakers.² It is observed that there is a Bill currently before the House of Representatives of Nigeria on local governments' autonomy and independent from the States of Federation which has passed second reading exercise. It is only when provisions of the 1999 Constitution have been altered that the local governments will be able to strengthen its commitment in realizing the objectives of the

² Eric Ikhilae, "Supreme Court voids law empowering governors to sack LG chairmen, councilors", on December 10, 2016, available at <http://thenationonlineng.net/supreme-court-voids-law-empowering-governors-sack-lg-chairmen-councillors/>.

local government in a State as among the third tier of the government.³ Thus, this paper is timely since there is similar pending issue before the law makers and hope that the challenges and lacunas identified in this paper will be part and parcel of the Bill before the law makers and the recent decision of Supreme Court of Nigeria on LGA will be reflected in order to address the hitches once and for all.

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³ “Bill to grant financial autonomy to local govts scales second reading”, on November 2, 2016, available at <http://www.vanguardngr.com/2016/11/bill-grant-financial-autonomy-local-govts-scales-second-reading/>