

THE CHALLENGES TO DEMOCRATIC GOVERNANCE AT THE LOCAL GOVERNMENT LEVEL IN NIGERIA

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ABSTRACT

This paper examines the crisis of democratic Governance at the Grassroots level in Nigeria. The conceptualises democratic governance, and then examine the ways this was captured in the 1999 constitution in respect of the local government system in the country. Drawing examples from across the country, the paper discusses how various state governments have attempted to give content to the constitutional provisions in respect of local government financial autonomy and periodic elections. The 1999 Constitution of the Federal Republic of Nigeria specifically provided for democratically elected local government councils throughout the country. However, in virtually all the states of the federation, this provision has been systematically violated through the arbitrary dissolution of elected local government councils by state governors and their replacement with Caretaker Councils. Where elections are held, they fall far short of the requirements of free, fair and credible elections. Coupled with the operation of the State Joint Local Government Account, the state governments have systematically emasculated local councils, with the people at the grassroots thereby denied the tools to make their councils responsive, responsible and accountable. While certain judicial pronouncements have clearly restated the constitutional imperative of the democratic foundation of local governance, some constitutional reforms as well as increased visibility of civil society organisations at the state and grassroots level are required to restrain the arbitrary impulses of the state governments in matters relating to local government.

Key Words: Democratic Governance, Disempowerment, De-institutionalisation, Electoral Commission, Grassroots,.

INTRODUCTION

Governance at the grassroots in Nigeria is in a state of crisis. This stems from what increasingly looks like deliberate efforts to undermine the advancement of democratic governance at the local government level in the country. The crisis into which it is enmeshed has undermined its essence as a local government whose authority is directly derived and anchored on the Constitution.

Section 7 (1) of the 1999 Constitution specifically provides: "The local government by democratically elected government councils is under this Constitution *guaranteed*" (emphasis mine). The section went on to enjoin state governments to activate these provisions through

the enactment of enabling Acts . However, an irreducible minimum core is explicit in that provision. This is that the only form of governance under which the local government must be run is democracy. The central proposition canvassed in this paper is that the conscious and systematic degradation of this constitutional provision on democratic governance constitutes the central problem of the local government system in Nigeria today.

Democracy seeks to anchor government on the people. The principal means of doing these in populations that have gone beyond proximate, face-to-face physical existence is elections. An election, in a simple sense,

enables people to choose those who will govern them. In enabling 'government', elections as the chief tool to midwife a democracy also implies that those given the mandate to govern must view that mandate in terms of the imperative of promoting the welfare of the electorate, that is carry out 'development' as a way of enhancing the welfare of the people. Equally, those who have been given the mandate to govern must be responsible and accountable to those who gave them the mandate that is the electorate. In effect, 'development' and 'good governance' are key concepts that have become increasingly intertwined with democracy.

The second and secondary proposition of this paper therefore emerges. Denied of its anchor on a democratic base, the local government system in Nigeria becomes suspended from the grassroots. In the circumstances, the local councils can hardly be developmental, just as they are practically unaccountable. They are in fact imposed structures that have increasingly become sad and forceful reminders of the systematic disempowerment that has become the lot of the grassroots in Nigeria. This paper systematically examines the crisis at the local government level in Nigeria in three steps. The first is the analysis of the concept of governance at a theoretical level. This is followed by a description of the constitutional provisions dealing with grassroots governance in Nigeria. Finally, drawing examples from various states in the country, the paper attempts to unravel and examine the condition of democratic governance at the local government level in the country.

The Local Government: Conceptualising Governance at the Grassroots.

The concept of Local Government may be seen as "a segment of a constituent state or region of a nation state", established by law to

provide public services and regulate public affairs within its area of its jurisdiction (Ikelegbe, 2005: 38-9). As the lowest level of government (and therefore, closest governmental authority to the people), it has the necessary powers to function and control its own finances and personnel. Although territorially and functionally demarcated as a constituent unit of a larger and higher level of government to which it is responsible, it must also have some level of autonomy which is commensurate with its functions, local peculiarities and democratic credibility. "It is government under the responsibility of the local people and in the interest of the local population by local representative bodies" (Ikelegbe, 2005: 39). As King observed, the local government is universally found in modern polities, although it goes by various appellations. Its legitimacy lies in its "claim to represent the interests or wishes of the local inhabitants and to administer to their needs". Founded on democratic ideals, it is required "that they be given an opportunity to control their affairs at this level, especially since this is the point at which their interests and welfare are most likely to be directly affected" (King: 1988; 3).

The focus of local government as a unit of government has been the subject of much interest by scholars. Ola (1984), identified three Schools of thought in the functional conceptualization of the local government as a governmental unit. The democratic-participatory school "holds that local government functions to bring about democracy and to afford opportunities for political participation to the citizen as well as to socialize him politically" (Ola, 1984: 10). Local government is therefore seen as an avenue for training and inculcating of democratic values in the grassroots. These values include participation, mobilization, accountability, responsiveness and of course, self-governability. However, from the perspective of the efficiency-services school,

the appropriate functional focus of local government should be the provision of services, and its success or failure has to be judged by this yardstick (Ola, 1984: 12). The proximity of the Local government to the grassroots makes it especially suited to provide certain functions far more efficiently and in a more cost effective manner than the much more remote government at the higher level. Such functions should be allocated to the local governments with powers, resources and the necessary autonomy to handle them.

The third perspective is the developmental school. This school essentially seeks to make the local government a tool for the promotion of national consciousness and national integration (Ola, 1984: 14ff). Its emphasis is political development which modernization theorists see as the breaking down of primordial loyalties and the transfer of such loyalties to the central and national government. The local government is therefore seen as a tool of nation building and national unity. It decongests the activities of the centre by relocating such activities to the locality but in doing this, it brings the influence of the centre to the locality. It creates an awareness of life beyond the locality and in this way, serves as an instrument for the destruction of dysfunctional parochialisms that tend to interfere with the development of a national consciousness. Local government can also complement this in another way. It can act as a means of dispersing and localizing political tension, and in that way, neutralizing its impact. As Ola puts it,

By allowing local government to emphasize local interests and argue sectionally for parochial needs, a means is created for politically letting off steam. A build-up of strong local feelings and sentiments without such a safety valve can mean an unwitting build-up of local tension which when it explodes, might hurt not only the local

system but the national as well (Ola, 1984: 15).

Also, by harnessing developmental resources from the local level and applying same at that level to provide basic needs, the developmental school opines that the local government becomes a potent instrument of self-reliant development. Local government makes it possible for the “local public goods and services it provides to be adjusted to suit the tastes and the preferences of local residents” (Watt, 2006: 8). The ability to define and attend to local tastes and preferences suggest that local authorities must have some autonomy. This autonomy is measured on the capacity for initiative and immunity from the authorities at the state level (Clarke, 1984; Libonati, 2001). While the former denotes the ability to embark on legislation and regulation within its functional scope “in the absence of express state legislative authorization”, immunity in this case involves the power of local authority “to act without fear of the supervisory authority of the state government” (Libonati, 2001: 98). The 1999 Constitution of Nigeria explicitly recognised this nexus between grassroots development and local government autonomy when it made specific provisions for local government functions (as opposed to leaving these to be defined by the state governments), provided for their funding through the Federation Account (in the same way as other tiers of government), and made clear provisions for the democratic election of local councils.

These schools of thought are presented as differing perspectives on the role of local government. However, what is apparent is that they more accurately mirror various dimensions of the responsibilities that the modern local government may be called upon to shoulder than offer competing and mutually exclusive visions of what that tier of

government ought to focus on. A local government that is democratic must also justify itself to its electorate by providing efficient services to them. It is developmental when it progressively brings basic needs to the grassroots in a systematic programme that helps to reduce poverty. As democracy takes increasing hold across the world, so also the need to democratise all levels of government has become imperative. This imperative was quite evident in the 1976 local government reform which defined local government as “government at local level exercised through representative councils established by law to exercise specific powers within defined areas” (Igbuzor, 2009). Representative councils are constituted through periodic elections in which local constituents are given the opportunity to express their choice of candidates and programmes in matters that affect their localities.

Local government elections also serve to gauge or feel the pulse of the nation. In Nigeria, local government elections have often been used as the starting point in democratization programmes. In fact, the 1998 local government election served as a practical gauge of the national spread of the political associations that applied for registration as political parties. The three political parties that initially emerged to contest the 1999 general elections that ushered in the Fourth Republic demonstrated their grassroots rootedness in the 1998 local government elections. As Ola aptly observed, “no marked dichotomy can be singled out among, the schools. In many ways, these functional requisites of local governments are to be expected from all local government systems whether in developed or developing administration” (Ola’ 1984: 17). The local government functions to promote democratic ideals, political participation, economic and social development, as well as provide various services. To reduce these to contemporary

parlance, the local government system must be able to provide governance at the local level. And it has to be ‘good governance’.

Governance and its Building Blocks

What then is ‘governance’? And what makes it ‘good’ and democratic? The term governance, it is held, is not new. However it is only in the last two to three decades that it seems to have slipped into widespread usage. In fact, it has increasingly become the concept of choice in discourses on the conduct of political and economic affairs at various levels. It has increasingly come to denote “how public institutions conduct public affairs and manage public resources” (UNESCAP, n.d.). This development is associated with the twin forces of the global wave of democratization in the last three decades and the economic reform programmes associated with the International monetary Fund and the World Bank during the same period.

Governance is concerned with the process of decision making and the processes in which decisions are implemented (or not implemented)” (UNESCAP, n.d.). For Manasan, it is the manner in which power is exercised in the management of a country's economic and social resources for development” (Manasan, *et al*, 1999: 149), while in Graham, it takes the form of interactions among structures, processes and traditions that determine how power and responsibilities are exercised, how decisions are taken, and how citizens or other stakeholders have their say” (Graham, *et al*, 2003: ii, quoted in Davidson, *et al*, 2006: 149). Governance recognises the fact that in an increasingly complex world, the task of getting things done must involve collaboration between formal institutions of government and informal arrangements among government and non-governmental actors from the civil society and the private sector (Davidson, *et al*: 2006: 1). Thus an analysis of governance must focus on the formal and informal actors involved in the

making and implementation of decisions. It must also look at the structures that have been emplaced to arrive at and implement the decisions (UNESCAP, n.d.). Governance is to promote the interests of the electorate. They should not only be able to participate through representatives they have chosen for themselves, they should also be able to hold their government accountable.

What emerges from the above point is that 'government' is only one of the actors in governance, although it is the core actor. However, as the pivotal actor, the process through which it manages the interactive situation that constitutes governance, how it relates with other actors in the process, and the choice of actors that constitute the interactive process imparts an ethical and normative quality to governance. For example, key questions might be posed as follow: What kind of actors does the government interact with? How is the government formed? Does it have a popular base or are there usurpation of power along the lines? What is the character of the government itself? Are the processes of interaction open or closed and shrouded in secrecy? Are these processes inclusionary or exclusionary? The response to these kind of queries will, among other things, determined, in a rather broad sense whether governance wears the tag of 'good' or 'bad', or can be considered democratic. The core features of good governance include popular participation, observance of the rule of law, transparency, and responsiveness, equity and inclusiveness in public policy, effective and efficient management of the public domain, the accountability of those who govern to the governed, among others (UNESCAP, n.d.). When popular participation is anchored on periodic, competitive, free, fair and credible elections and the people are given the opportunity to hold their government

accountable, then it becomes possible to talk of democratic governance.

Good governance, as in the foregoing, is an ideal, but its elements can provide a viable toolkit for conducting peaceful, stable and harmonious relations between those in Government and the governed. Good governance provides a guide for creating the conditions necessary for the promotion of economic development in accordance with the peculiar conditions of a country's social and political space. Indeed, its principles offer important insights which are indispensable to the management of the relations between elected officials and their constituents.

In providing a guarantee for a democratic local government system, the 1999 Constitution explicitly and mandatorily enjoins that government at the grassroots as in all other levels, be run on the basis of good governance. In fact, governance becomes 'good' to the extent that it is anchored on a democratic foundation. Local councils are expected to be elected on a periodic basis, and the grassroots constituents are by this expected to hold these councils accountable. To what extent has the functioning of the local government system across the country since 1999 met with the above principles of democratic governance?

The Local Government System in Nigeria

The current platform for local government practice in Nigeria came into existence in 1976. It created a uniform structure of an elected council with specific functions and financial base which drew directly from the federation account. The new platform represented a departure from the myriad of practices, often with regional flavours, which had evolved under colonial rule from the Native Authority system. Colonial rule anchored the local government system on the evolving colonial administrative structure of Northern, Eastern and Western Group of

Provinces. Although, Lugard had tried to implement native authorities that were anchored on strong, highly centralized rulership, the varying degree of resistance which this encountered in the Southern part of the country, particularly the Eastern region led to some modifications which took local peculiarities into consideration. Thus, the Southern parts of the country were allowed, for example beginning by the 1920s, to gradually integrate western-educated elements into the system (Anyanwu, 1996: 130). In fact, at this time “it was the local government system which was used to make each group feel that despite colonial rule as well as the evolving colonial state of Nigeria, their respective aspirations and values were to be preserved” (Anyanwu, 1996: 133). The trend towards federalism reinforced this. As each of the regions gained self-rule within the evolving federal framework, local government fell under residual matters, the exclusive preserves of the regions or states. This allowed for varying structures and practices across the regions. The state creation exercise in 1967 that saw four regions metamorphose into twelve states exacerbated this trend (Oyediran: 2001: 195).

The 1976 Reform reversed this trend of varied and diverse approaches to local government practice in Nigeria. A uniform local government system was put in place. Specific functions were allocated to the local government. This did not only widen the functional scope of the local government, there was also an attempt at a “decentralization that ensures that appropriate divisions of functions exist between the State and Local Governments and that local authorities thereby play a significant role in the development process” (Oyediran, 2001: 197). In effect, while the supervisory role of the state was retained, there was some attempt at a clear delineation of space that was meant to enlarge the

functional autonomy of local authority. It was to reinforce this autonomy while ensuring the viability of the local governments in the light of increased responsibilities that the third tier of government became a recipient of direct funding from the federation account. Although the allocation from the federation account was channeled through the state governments, local government became a statutorily established part of the national fiscal regime, with a definite percentage of funds in the current revenue allocation formula. Perhaps the core aspect of the reforms was the democratization of the local government system. This was a fundamental step that sought to transform councils that had hitherto functioned as ‘local administrations’ (which meant that they could only function at the behest of a central authority) to ‘local governments’, which implied a high degree of initiative and autonomy in their functioning (Igbuzor, 2009). The local council, made up of a chairman and councilors was to be elected for a definite term. Within the framework of democracy, the new local government system would “ensure that participation and involvement begin at the grassroots level...They should articulate the demands of the masses and when these are satisfied within the limits of available resources, they should provide authorities with the necessary feedback” (Oyediran, 2001: 197). Other innovative areas of the reforms include the professionalization of the local administration.

The 1979 Constitution basically adopted and incorporated these reforms. However, in practice it was clear that many of the provisions of the reforms were being breached. For example, it was not until the passage of the Revenue Allocation Act of 1981 that local government became statutorily entitled to 10% of the Federation Account. But even then, since the allocation was passed through the state government, “they were not

actually transferred to local governments; they were instead, credited to the coffers of local governments in the book and then used by state governments to reimburse themselves for expenditure made on behalf of local governments” (Oyediran, 2001: 201). The Babangida regime sought to come to grips with this problem. Commencing from 1988, the federal government removed the state government from its intermediary role in the transmission of funds from the Federation Account to the local governments. This was also enshrined in the 1989 Constitution. The Ministry of Local Government at the state level was also abolished and in its place, states were to establish Departments of Local Government in the Governor’s office to “assist, advice and guide, but not control local governments in the performance of their constitutional functions” (Oyediran, 2001: 203). The fact is that the 1976 reforms attempted to democratize the local government as a tier of government, increase its autonomy in terms of functions and financial base. But as suggested above, these innovations did not go uncontested by state governments which saw these innovations as being at their expense.

Disempowerment of the Local Government System: Financial De-autonomy

The local government council as a democratically elected government is, as earlier noted, guaranteed under section 7 of the A1999 Constitution while the Fourth Schedule details the functions. Section 162 (5, 6,7, 8) provides for the funding of the local councils through the Federation account. Paragraph 6 specifically provides “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 Federation Account and from the Government of the State”. This was of course, a reversal of

the reform carried out by the federal government in 1988.

The main challenges to local governance in Nigeria are in the manner the provisions of sections 7 and 162 of the Constitution have been handled by the state governments. The first relates to the issue of guaranteeing the third tier of government as a democracy. The second relates to its financial autonomy and capability to carry out its developmental function. As they were required to do under the constitutions, the various states passed the necessary enactments to give effect to these constitutional provisions. However, these have rather compounded the problems of local government and in fact, turn them into zones of governance crises, disempowerment and, authoritarian rule.

First, the financial autonomy which direct allocation from the Federation Account sought to confer on the local governments has been severely undermined as a result of various deductions and diversions of funds intended for the government at the grassroots. “State governments have instead used the SJLGA mechanism (or Account) to hold local governments hostage and make them appendages of the of the State. In practice, the operation of the SJLGA has denied local Governments their financial autonomy” (Okafor, 2010: 128). Okafor further points out that

the state government is not intended to be a beneficiary of the SJLGA, rather, it is a trustee of the Account. It is required to maintain the Account for the benefit of the local governments by ensuring that the amount allocated for this third tier of government is equitably and fairly shared among the councils, adhering strictly to constitutionally stipulated criteria. However, reports across the country indicate that most state governments are using SJLGA laws contrary to this intention. (Emphasis in Original) (Okafor, 2010: 128).

The Judicial Commission on the Activities of the 17 Local Government Councils in Enugu State, from January 1999-December 31, 2007, revealed “that allocation to the local governments was usually not in full because they were used by the state for purpose other than those authorized”, and could not find explanation for the sum of N3.4billion transferred out of the Joint State Local Government Account “into various state government accounts” (Anukwuorji, 2011: 7). This is not a new development. Dlakwa has graphically demonstrated this in his study of Borno State (Dlakwa 2004). Under the Borno SJLGA Distribution and Fiscal Committee Law 2002, a committee was set up to administer the Account. Membership of the committee was heavily skewed in favour of the State government. Second, the Law empowered the committee to make various deductions before distributing the balance to the local government councils. About 7 line items were to be specifically effected in the deductions and as Dlakwa noted, by the time these had been made a substantial percentage of the original allocation would have disappeared into the coffers of the State Government. Between March 2002 and March 2003, a total of N13. 3 billion was available to the councils in Borno State. Out of this, the State Government deducted almost half. The Local Councils in Borno State did not allow this state of affairs to go uncontested. Thus, in 2003, 26 of the Local Government Chairmen jointly filed an action in the Borno State High Court on the legality of the State Joint Local Government Account Law 2002 from which the State government claimed to derive its powers to make deductions from statutory allocations to the local government councils from the federation account. In its judgement, the court held that while state government had the power to pass the law as provided under section 162(8) of the Constitution, the specific provisions under the law that empowered the

State Joint Local Government Account Committee to make deductions at source was unconstitutional (Dlakwa, 2004: 120-121).

The judicial pronouncement on this issue is quite clear and unequivocal. However, although this judgment was delivered in June 2002, according to Dlakwa, the Borno state government simply ignored it and continued with the deductions at source. This is an example which local government practitioners and keen observers are familiar with across the country. The state government’s hijack of the finances of the local government denies the latter the basic ‘personality’ of a functioning government. Machineries of good governance are weak or non-existent. If the state government is not being transparent in the process, it cannot be expected that the councils will be transparent either. Ibeanu *et al* captured this state of affairs graphically in the context of local councils in Abia State.

In the case of the local government councils, there were no data available in respect of resources (or anything for that matter) accruing to them, except the ones from the federal government showing how much they were allocated from the Federation Account. The local government councils did not present budgets, expenditure patterns and disbursement of funds. There were no accounting documents to refer to in all the local government councils. The inference is that when they collect their allocations, they disburse the funds as they see fit. This portrays lack of focus, transparency and accountability (Ibeanu et al, 2007: 63).

The report submitted to the Senate by the Economic and Financial Crimes Commission in September 2006 indicated that the main reasons many state governors and local government chairmen went under the commission’s searchlight was due to

allegations of misuse of the local government allocation. In fact, the then chairman of the EFCC, Nuhu Ribadu emphasized that “where a local government was indicted, the governor of such a state was involved”. He further noted that of the 15 governors who were implicated in the report, all with the exception of one, were alleged to have perpetuated the offences through the siphoning of local government accounts” (Aziken, 2006).

It has become clear that the 1999 Constitution should be amended to abolish State Joint Local Government Account Committee and ensure that funds meant for the local councils from the federation account are consigned directly to the councils. Various interests, especially the National Union of Local Government Employees (NULGE) made strong representations to the National Assembly on the necessity for this measure. Although the National Assembly passed the measure when it embarked on the amendment of sections of the Constitution in 2014, only 13 State Houses of Assembly concurred. The opposition of 23 of the State Houses of Assembly in the country ensured that the amendment was not carried (Momoh, 2014: 1). All the States in the North Central voted in favour of autonomy while every state in the North West and South-South geopolitical zones in the country voted against autonomy. In the North-East, only Adamawa voted in favour of autonomy. The other states in the zones voted against the measure. Both the South-East and the South-West were split. In the South-East, Ebonyi, Abia and Anambra were in favour of autonomy while Enugu and Imo voted against. Lagos, Oyo and Ogun were the states that voted for the measure in the south western states. This zone had Ondo, Ekiti and Osun States voting against (Mbamalu, 2015: 2; Momoh, 2014: 1).

The pattern of support or opposition on the autonomy issue did not follow any party lines either. While Five APC-controlled states

and 7 PDP-controlled states voted in favour, the ‘No’ votes came to nine for the APC, it was 14 for the PDP. The only state controlled by APGA voted in favour of autonomy. What this indicates is that the political parties have no defined policy positions on the issue of autonomy at the local government level. In fact, what the autonomy issue has clearly brought out is that there is no systematically articulated position by any of the major political parties on democratic governance at the local level. They have practically left the local governments to be run at the convenience of the state governors.

De-institutionalising Local Government: From Democratically Elected Councils to Appointed Caretaker Committees

The second main area of infraction, and perhaps the core infraction is the issue of democratically elected local government councils. This needs to be viewed from two dimensions. The first is the imposition of caretaker committees on local governments in most states of the federation. The second has to do with elections into the councils, that is when they are deemed necessary to be held at all. The democratically elected local council is clearly what is envisaged by section 7 of the Constitution. Yet, the elected local government council which is what is envisaged in the 1999 Constitution has practically turned into a caretaker council imposed by state governments. This ‘caretaker council’ or ‘transitional council’ as the operational form of local administration was transformed into the operational norm of local administration through the deliberate actions of the State governments.

As at 2009, Anambra state had not held any local council elections since the return to civil rule in 1999 (Nkwocha, 2009). Three years into the administration of Governor Timipre Silva in Bayelsa, there was no elected Local Government in place. In others, as soon

as a new governor comes into office, one of the first actions is to dissolve the existing local councils, whether elected or simply constituted by executive fiat. This, as the case of Imo State demonstrates, can degenerate into anarchy, with claims of legitimacy between rival appointees or elected officials. The staff of the councils invariably find themselves caught in the middle (Anyanwu and Okara, 2011). In many cases, caretakership is perpetuated through promises of elections which are invariably postponed. This has been the case in Edo, Delta, Kogi, Ekiti, and others. If the outright denial of democratically elected local councils through caretaker committees demonstrates the increasing authoritarian holds of the councils by state governors, the case of those were elections manage to hold does not give cause for cheers.

Some state governors have tried to absolve themselves of blame over the non-conduct of democratic elections when they are due. For Governor Peter Obi of Anambra State, the blame for the non-conduct of elections at the local government level must be laid at the door of political opponents who will always use the judiciary to frustrate his efforts to conduct local council polls. First, when he wanted to conduct the polls in 2009, he was taken to court to prevent the elections from holding. The idea was that he was trying to conduct the council polls in order to consolidate the grass roots for his own re-election (Odogwu, 2012). Being a gubernatorial election year in which the governor himself was seeking re-election, it is hardly surprising that such motives would be read into his attempt to hold the elections in that year. Those opponents felt that the election would be merely used to impose the governor's candidates to chair the councils and these in return would use their control of the local government machineries to facilitate

the governor's re-election. Hence the use of the courts to stall the process.

However, even after the reelection of Governor Obi for a second term in 2009, the local government councils in Anambra State remained under the control of caretaker committees. Although the Anambra State Independent Electoral Commission (ANSIEC) wanted to hold the elections by the end of 2009, the elections were again stalled through the judiciary on the grounds that the electoral register available was faulty (Odogwu, 2012). A similar situation of pendency of a court case filed by the Congress for Progressive Change (CPC) provided the excuse for the Bauchi State Government to delay the conduct of council elections in 2012. The elections which were due in 2011, were earlier shifted due to litigation over the premature dissolution of the councils (Galadima and Omar, 2013: 23). In Kaduna State, delay in the conduct of the local government elections that were due in 2011 were variously attributed to legal challenges to the sacking of the existing council before the expiration of its term of office, logistic challenges, and the absence of a workable electoral register from INEC (Omar, 2013: 186-9).

When elections were held at the local level, the general picture that emerges is one of a huge mockery of democracy. In the first place there is the general feeling that the infrastructure emplaced for the election is not right. This starts from the State Independent Electoral Commission which is seen as a handpicked body bent on doing the bidding of the state governments. The manner the SIECs are dissolved and reconstituted irrespective of tenure provisions whenever a new Governor takes office attest to the inability of these bodies to live up to, nor are they expected to live up to the 'independence' in their appellation. The deliberate emasculation of SIECs is furthered entrenched through deliberate under-funding. Following this is

what has become the bane of Nigerian politics, but even made worse at the local areas. This is the imposition of candidates by governors and godfathers. In other words, those who become 'elected' as councilors and chairmen hardly derive their mandate from the people they govern. They owe their loyalty to, and are responsible to those who put them in the office. Given all these, the results that emerge from the elections conducted by the SIECs across the country very often produce 100% victory for the ruling party in the state, at least in the chairmanship election.

The 1999 Constitution clearly envisaged regular, periodic elections as the sole method of choosing members of the local government councils in Nigeria. However, this fundamental, constitutional guarantee for good governance at the grassroots has suffered systematic debasement from virtually all the state governments in Nigeria. This debasement is founded on the very 'ownership' of the local councils by the state governor. At its most benign, this expresses the position that the local government is not a level of government on its own, but an integral part of the state government under the direct supervision of the governor through the ministry of local government whose political head is appointed by the governor. All semblance of congeniality disappears once this relationship is given practical expression. In simple terms, it means that those who govern at the local council level must similarly be part of the mandate of the state governor. As so, just as the members of the state executive council are the personal appointees of the governor, the councilors and chairmen of councils cannot, and should not operate political platforms that are separate from or autonomous from that of the state executive governor. Any measure of autonomy for the councils will amount to, as a political aide to a governor told this researcher, allowing them to "reap where they did not sow" (Interview,

Benin City August, 2013). Thus, even when a local government chairmanship candidate has clearly won an election under the platform of an opposition party, the result cannot be allowed to stand.

This 'ownership', then, operates at two major levels – the electoral management body (the state independent electoral commission), and the council itself. The state governor is vested with the powers to constitute the membership of the electoral commission. This very fact permeates its activities. The SIEC is empowered to observe and supervise party primaries in local elections. However, due to financial and logistics handicap which may be contrived, the electoral commission is often unable to register its presence at these events. The end result is that the list of candidates handpicked in these often fake or non-existent congresses are handed to the SIEC for record purposes (Adeleke, 2013: 230). It is for this reason that many local government election results are contested in court on the grounds that candidates other than those that won in the genuine primaries are actually those declared by the SIEC as the winners (Adeleke, 2013: 230; Abutudu, 2013: 82-3). The impunity gets to the point where the local elections are regarded as just formality. The results actually recorded at the polling stations are not even collected from the polling officials. The results to be declared had long been written and handed to the SIEC to declare. In the 2014 council elections in Anambra state (the only local election held in that state since 1998) the official vote tally from the polling units were not even accepted from the *ad hoc* staff who manned the various polling units when they went to submit results to ANSIEC staff (Personal communication from an ANSIEC *ad hoc* staff). The state independent electoral commission had already made up its own numbers and did not attempt to conceal that fact.

What do all these suggest about the state of the local government system in Nigeria? The basic verdict is that there is a crisis of governance at the local level. The local government system has in fact become suspended above the people, with at best, very tenuous linkages to the grassroots.. The local people cannot claim ownership. Local council officials are detached from their supposed constituents (Chokor and Garuba, 2007: 174). The system as it is playing out is responsible and accountable only to the state governor. With no elections, or very warped ones when held, governance at the grassroots is denied the mobilisational synergies which a democratic character imparts. Development, if any is hardly anchored on the felt needs of the people at the grassroots as the machinery of democratic participation, consultation, responsibility, responsiveness, transparency and accountability, are undermined. In fact, the system as it is currently, tramples on 'good governance'. As a tier of government, the autonomy which it requires to function and meets it constitutionally assigned responsibilities has been systematically eroded.

CONCLUSION: Restoring the Promise

Some judicial pronouncements have clearly indicated the path for bringing democracy back in to local government. The decision of the High Court of Kogi State is a welcome development (*The Guardian*, 22 December, 2011: 5). In a legal challenge to the tendency of the State government to constitute transition local councils, the High Court held that this practice was illegal and unconstitutional. Specifically, "Section 56 of the State Local Government Law 2008 which empowered the executive arm to appoint transition committees was unconstitutional, null and void" as it infringed on Section 7(1) of the 1999 Constitution of the Federal Republic of Nigeria which makes elected local councils mandatory. In July 2012, the Court of Appeal

sitting in Owerri nullified Governor Rochas Okorocha's dissolution of the democratically elected councils in Imo State. The court ordered the reinstatement of the council officials who were sacked a year earlier when he was elected as the chief executive of Imo State. The Supreme Court has put a final seal of authority on the unconstitutionality of dissolution of elected local councils by state governors. In July 2014, the apex court ruled that the Abia State governor acted unconstitutionally when he dissolved the elected councils in 2006 before the expiration of their tenure (Iriekpen, 2014).

The judicial intervention has reaffirmed the democratic character that the framers of the 1999 constitution envisaged for governance at the grassroots. However, while grassroots democracy is spoken for, the elections and the SIECs that produce them remain too much at the beck and call of the state governors to act as vehicles for responsive, transparent and accountable governance. In fact, given the high degree of impunity and executive recklessness in Nigeria in general and the states in particular, it is not too clear that even the clear pronouncement of the Supreme Court on the inviolability of the democratic character of local councils will not be circumvented by state governments. A greater visibility of civil society organisations at state and local levels will certainly make a difference towards advancing the democratic character of local government system in Nigeria. Civil society has generally tended to focus their activities at the national level. This neglect of the grassroots has given the governors the opportunity to perpetuate, perhaps, the most widespread violation of the Nigerian constitution since the inception of the Fourth Republic in 1999.

There is a critical need for various reforms, including tinkering with the relevant sections of the constitution. Just as the 1999 Constitution makes clear that the government

of the federation must be constituted by democratic means, there is need to amend the constitution to reinforce the provisions of section 7. It needs to be clearly stated that elections must be the sole basis of constituting local government councils. Any state law that provides for anything to the contrary must be voided. If caretaker committees must be emplaced, it must be under conditions of a state of emergency in a particular council area. These conditions and the procedure under which a state of emergency can be so declared by the state government in a particular council area must be spelt out in the constitution. In any event, the power of dissolution of councils by state governors has to be restricted, and carried out only on a case by case basis, rather than the current practice of dissolving all councils in a state with just a stroke of the pen.

Furthermore, there is a need to reform the SIEC in order to make them truly independent in terms of how the membership is constituted, their funding, training, etc. Placing the burden of choosing the SIEC on an independent body as the Justice Uwais panel recommended for INEC should be given serious consideration. On the funding of the SIEC and local elections, the recommendation by the 4th National Delegate Conference of the Forum of State independent Electoral Commissions (FOSIEC), that a percentage of the Federation Account allocation to the local governments should go to the electoral body should be carefully considered. It can provide that much needed independent source of funding. Finally, while amending the constitution, serious thought should be given to the abolition of the State Joint Local Government Account.

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