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LOCAL GOVERNMENT STATUTORY ALLOCATIONAND NATIONAL FINANCIAL INTELLIGENCE UNIT (NFIU)

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Abstract

The 1976 Local Government Reforms set the path for the inclusion of local governments into the revenue allocation formula in Nigeria. This inclusion into the revenue allocation has thus strengthened the State/Local government financial relationship. The resultant effect of this financial relationship between states and local governments has given birth to State Joint Local Government Account (SJLGA). This study examines the flow of local government statutory allocation into the State Joint Local Government Account and how the new guidelines of the National Financial Intelligence Unit (NFIU) has affected the financial relationships between states and local governments. The research is qualitative in nature and data is derived from both primary and secondary sources. The theory of fiscal federalism was used as the theoretical framework to explain the financial relationship between the three tiers of government and the constitutional provision with regards to the flow of funds and utilization. Findings of the study revealed that the SJLGA, has been ineffective in providing adequate financial resources to the Local governments as manifested in their consistent short-changing and denial of access to their statutory entitlements. The pronouncement of the new guidelines by the National Financial Intelligence Unit (NFIU) of May, 2019 on how the local government funds should henceforth be utilized, has made the state governors to become jittery pointing to the unconstitutionality of the proposal and their outright criticism and disapproval. The study therefore recommended for the enforcement of the NFIU proposal if any meaningful progress should be achieved at the local government level. This will ensure financial independence to the local governments in Nigeria and as well facilitate development in their respective communities. This is because, it is evident that the SJLGA as practiced has not effectively enhances the capacity of local governments to deliver services.

Key words: Local government, statutory allocation, National Financial Intelligence Unit

Introduction

Local government occupies a unique position in the governance process globally. Its importance and acceptance have led to its proliferation all over the world. Local government is a political authority under state for decentralizing political power and delegation of authority (Fajobi 2010). It is a political subdivision of a nation (or in a federal system, a state) which is constituted by a law and has substantial control of local affairs including the power to impose taxes or exert labour for prescribed purposes (United Nations, 1959). Scholars argued that Local government constitutes

the most critical level of government at which the momentum to sustain national development can be created. He added that, in some third world countries, Local government is the only semblance of authority known beyond tradition (Bello, 2007).

Broadly speaking, local government is a small political entity within a larger one created by law for the purpose of administrative convenience and having the power to carry out some social and economic responsibilities within its jurisdictional area. It is the closest tier of government to the people at the grassroots. It is because of its closeness that people at the grassroots found it convenient to report their grievances with the hope of getting prompt attention. Local government in most part of the world is engaged in a wide range of socio-economic activities including waste disposal, planning, primary education, primary health care, markets and motor parks, etc. Most of these activities if left with a more distant government would not be performed effectively (Pervez, 2011). This has necessitated the global trend towards decentralization and devolution.

According to Obasanjo, (2012) Local government stands the tallest among the three tiers of government in terms of accessibility by the people. In the same vein, development of every nation depends upon the geometrical progression of the third tier of government. Therefore, it is imperative to constantly reiterate the importance of this tier of government and as well remind those agitating for its scrapping (Tide, 2012).

Statement of the Research Problem

Previous studies focused on local government and its functions in the governance process. Most studies on local government focused on local government statutory allocation and how it has affected the flow of funds to the local government thereby hindering the smooth operations of the local government. For instance, Jumare (2008), conducted a study on Local Government Finance in Nigeria. The objectives of the study were: to test the causality between local government revenues, expenditures and development over a period of ten years (1994-2004). Secondly, to break local government aggregate expenditure into consumption and productive expenditure (i.e. Recurrent and Capital Expenditure) in order to analyse empirically the spending behaviour of local government councils and the impact of such spending on socio-economic services. Thirdly, to examine the relationship between local Government expenditure and revenue, in order to measure the level of fiscal mismatch and resource-gap. Finally, to elicit from the responses of the local people and political and administrative functionaries the service delivery functions of the Local Government Councils.

Wamakko (2010) on the other hand, conducted a research on State Local government financial relationship and the socio-economic development in Sokoto State. The study focused on the financial relationship between the state and local government and how it translates into socio-economic development of the local governments in Sokoto state. The variables focused by the study are the issues of ascertaining the profiles of local governments' current revenue receipts; ascertaining the local governments spending

profiles; management of SJLGA and the intergovernmental relations. It should however be noted that the two researches conducted by both Jumare and Wammako and many other researches did not go beyond state-local government financial relationship. However, there is paucity of study on local government and National Financial Intelligence Unit (NFIU), this establish a gap to conduct further study.

Methodology

The study was conducted in three states from the northwest region comprising Katsina, Kano and Zamfara States. A cross section of respondents was interviewed while some were given questionnaires to fill. The secondary data was obtained from some journals writings where respondents provided some insight about the aftermath of the NFIU guidelines in some states in the country. The responses elicited from the respondents were analyzed and recommendations were proffered.

Conceptual Discourse and Theoretical Framework

The 1976 Local Government Reforms

The most important political and constitutional changes on the Local government in Nigeria however, were the 1976 Local Government Reforms by the military government under the Obasanjo regime. It was during this period that the system of local government in the country was unified. The 1976 Local Government Reforms was aimed at enhancing the management and capabilities of local governments through adequate financial resources, harmonisation and professionalization of personnel and career security of administration staff (Olasupo, 2012). It was in this reform that the name of Native Authority System was changed to Local Government while few statutory measures were included in the reform package to strengthen the system and make it an independent tier of government. All these were aimed at institutionalizing the Local Government System in the country.

The 1976 Local Government Reforms gained wide acceptance and therefore became a subject of discussion particularly at the Constituent Assembly of 1977-1978 which led to its domestication in the 1979 Constitution of the federal Republic of Nigeria (Obi and Nwade, 2010). This was the first time that Local governments in Nigeria appeared in the constitution and a provision was made for them in the revenue allocation formula. We can therefore argue that the 1976 Local Government Reforms was the brain behind the inclusion of Local governments in the revenue allocation formula. The Reforms have the following objectives:

- i. To make appropriate services and development activities responsive to local wishes and initiatives by developing or delegating them to local representative bodies.
- ii. To facilitate the exercise of democratic self-government close to the grassroots of our society, and to encourage initiative and leadership potential.
- iii. Mobilization of human and material resources through the involvement of

34 -

members of the public in their development, and

iv. To provide a two-way channel of communication between local communities and government (both state and federal) (Abubakar 2002).

Based on the aforementioned considerations and in an attempt to strengthen the Local government system, the National Assembly passed a Law in 1981 establishing the State Joint Local Government Account (SJLGA) known as "allocation of revenues (Federation Accounts) act, 1981" (Daily Trust, 2006). The provision of the constitution establishing the SJLGA was made in good faith. It was meant to protect the local governments' allocations from possible manipulations. Those who introduced the idea of a joint account never envisaged the problem that the system will breed (Omoruyi, 1985).

In a contrary view on the 1976 Local Government Reform, Aworawo and Akpan (2003) claimed that in spite of the lofty ideals generated by the 1976 Local Government Reforms, it did not satisfy the legislature and the executives because of disagreements over the number of local governments to be created. They maintained that within a period of two years, the number of local governments practically jumped from 301 in 1979 to over 700 local governments. They further maintained that the Dasuki Committee set up by General Buhari's administration to look at the deplorable condition of local governments in Nigeria in 1984came up with a report that the 1976 reforms had more operational problems rather than structural problems (Eze, 2016). Though the local government reform was designed to strengthen the local government system and ensure development at the grass root, the aim was defeated as it is still bonded to the state government. It is disheartening to note that funds meant for the development of the grassroots are being diverted by the state governments leaving the local governments to be staved of funds. The 1976 Local Government Reforms therefore did not address the objectives they were designed to achieve. It is based on this premise that the National Financial Intelligence Unit (NFIU) was established to address the lingering crises between the state and the local government.

Statutory Allocation

Nigeria is a federating state with three tiers or levels of administration. The three tiers/levels received allocations from the federation account on monthly basis depending on the revenue allocation formula. Presently, there are 774 local governments in Nigeria each receiving monthly statutory allocation from the Federation Account as stipulated by the 1999 Constitution of the Federal Republic of Nigeria. The Constitution provides that 20.6% of the amount standing in the credit of the Federation Account should be given to the Local Governments based on some specified principles as provided by the 1999 Nigerian Constitution. This allocation goes directly into the State Joint Local Government Account (SJLGA) of each state. Apart from the 20 percent share from the federation account, Value Added Tax (VAT) is also shared among the three tiers of government with the local government having 23 percent share. Excess Crude account which is an excess of the budgeted amount is also shared to the three tiers of government. All these shares received by the local

government must go through the SJLGA. The states are also constitutionally required to allocate 10% of their Internally Generated Revenue (IGR) to their local governments (Abubakar, 2002).

The SJLGA is operated in order to ensure effective service delivery, accountability and control in the Nigerian Local Government System. It is however expected that, such financial relationship between the state and local governments will serve as an important vehicle for carrying out the functions of local governments stated in the Fourth Schedule of the 1999 Constitution of the FRN; ensuring rural transformation, improvement in human development and standard of living of the populace in general(Jumare, 2008). Though the State Joint Local Government Account (SJLGA) was established to carry out the functions mentioned above, findings revealed that local governments' exclusive rights and responsibilities were encroached by the state governments. In addition, there was a violation of law in the use of funds in the SJLGA by the state governments as funds were being diverted to other areas outside the Local government through arbitrary deductions.

Gabriel (2018), maintained that the State Joint Local Government Account has provided the state governments with the opportunity to milk local governments dry and this has adverse effect on the ability of local governments to accomplish their statutory responsibilities.

State/Local Government Financial Relationship

Local governments were established to carry out functions and responsibilities and participate in socio-economic planning and development that have direct bearing on its people. In order to carry out these functions, Local governments have to be financially stable. Wheare (1963), opined that an efficient and effective discharge of statutory functions requires adequate financial resources. Each level of government within the federal system should have adequate financial resources to perform its functions without unduly appealing to other levels of government for financial assistance. Jumare (2008), shares the same views with Wheare (1963) who also argued that effective and virile federalism depends to a large extent on the availability of financial resources. He pointed out that, for the three tiers of government to exist, they have to be financially healthy.

Nigeria operates a federal system of government with three tiers or levels of administration, i.e. federal, state and local government. Under this federal arrangement, the three tiers of government receive allocation of funds from the federation account as revenue. The history of revenue allocation to Local governments in Nigeria begins with the 1976 Local Government Reforms even though the local governments receives grants and aid from the federal government and states before the reforms. The reforms were however, the brain behind the inclusion of Local governments into the main stream revenue allocation formula (Eze, 2016). Though the local governments in Nigeria were included in the main stream of revenue allocation, two problems started to emerged in relation to their survival politically and financially. One of such problem is their inability to generate enough resources to

sustain themselves, hence their reliance on the federal statutory allocation. Secondly, their affiliation to the state government has created another vacuum for the survival of the local governments as they will continue to operate under the control of the state governments.

During the periods 1981 to 1985, local governments continue to experience excessive control from the state governments who encroached into what would normally have been the exclusive preserves of local government and consequently there has been a divorce between the people and government at most basic levels (Abatemi, 2012).

The state governors continue to encroach, unabated, into the allocations of the local governments thereby crippling their capacity to function effectively. The Ibrahim Babangida regime that came into power in 1985 made some far-reaching reforms that were aimed at enhancing the local government's capacity and ensure their autonomy. In 1989 there was a bold move by the government to revisit the financial autonomy of the local government. To this effect a provision was made in the constitution of 1989 under section 160 which stated that the allocation to the local governments should go directly to them. By this provision therefore, the SJLGA was abrogated. The regime also abolished the ministries for Local Governments throughout the country and statutory allocations were collected directly by the local governments from the Federal Pay Offices in their various states. It was also during this period that executive and legislative arm were introduced into the local government system. At the same time the allocation of the local governments was raised from 10 to 15 percent. The regime also conducted local government elections into the local government councils given room for democratically local government executives (Jude, 2010).

Having gained autonomy, the local governments started to operate independent of the state governments with full freedom to administer their funds without any interference from any other tier of government. However, within a short period of gaining this autonomous status, the local governments were enmeshed into cases of high-level corruption and mismanagement of resources around the country. The Local governments became a centre of sharing money every month end and Chairmen and Councillors became an envy of the society. The activities of the Local government political office holders became a thing of gossiping and outcry from different quarters of the society. This and many other reasons culminated into the birth and reintroduction of the provision of 1999 constitution of the State Joint Local Government Account which was included in section 162. The idea of the inclusion of the SJLGA was to restore confidence in the local government system and curtailed the excesses of the local government functionaries (Abubakar, 2002).

It was to be noted that the formulators of the joint account have good intentions for its establishment. However, this financial policy played into the hands of hawks such that the objectives were defeated as the supervision of the account by the state governments provided a vent for manipulation of the account through deduction, delay in the release of allocation to councils and diversion of funds into private use (Ojugbeli and James, 2014). Despite the fact that SJLGA was meant to strengthen the

local governments and curtailed their excesses, the local governments were not functioning as expected due to high level of interference by the state governments manifested in lack of access to the statutory allocation and lack of adequate knowledge on the financial position of the councils.

National Financial Intelligence Unit (NFIU)

The National Financial Intelligence Unit (NFIU) is an agency of the Federal government of Nigeria established by an Act of National Assembly in 2018. The establishment of the NFIU is based on the requirements of recommendation 29 of the Financial Action Task Force Standards and Article 14 of the United Nations Convention against Corruption. One of the key objectives of the Act is the creation of a legal, institutional and regulatory framework to ensure transparency, effective and efficient and management administration and operation of the Nigerian Financial Intelligence (Enang, 2018).

The NFIU has, in May, 2019 made a pronouncement regarding the financial allocations to the local government that caught the Nigerian state governors off balance. The NFIU made the pronouncement through a new guideline titled 'NFIU enforcement and guidelines to reduce crime vulnerabilities created by cash withdrawal from local government funds throughout Nigeria' which was proposed to take effect on 1st June, 2019. The following were contained in the guidelines:

i. That no local government should make a daily cumulative cash transaction of more than N500,000 daily.

ii. That no bank, financial institutions, public officers and other stakeholders in the country should tamper with the local council allocation

iii. Any bank that allows any transaction from any local government account without the funds first reaching a particular local government account will be sanctioned locally and internationally(Abdulrahman, 2019).

iv. All transactions must be done through valid cheques or electronic funds transfer

Some parts of the NFIU (2019) statement reads as follows:

"having realised through analysis that cash withdrawal and transactions

of the State Joint Local Government Account (SJLGA) poses biggest corruption, money laundering and security threats at the grassroots leveland to the entire financial system and the country as a whole, the NFIU decided to uphold the full provisions of section 162 (6) (8) of the 1999 Nigerian Constitution as amended which designated State Joint Local Government Account into which shall be paid allocations to the local government councils of the state from the federation

account and from the government of the state. "The Amount standing to the credit of local government councils of a state shall be distributed among the local government councils of that state and not for other purposes."

The decision of the NFIU has generated a lot of controversy over its constitutionality among various stakeholders. Though there are criticisms leveled against the move by the NFIU of trumping on the provisions of the constitution, the move is however in line with the federal government bid to check mass looting by local government officials and diversion of local government funds by officials of the state, the NFIU guidelines is meant to restore financial autonomy to the local governments. The NFIU guidelines will help in the delivery of good governance at the grassroots (Nwachukwu, 2019).

.The implication of the new guidelines of the NFIU is that the state governors will no longer play any major role in the disbursement or making any transaction with the local government funds. While the new guidelines were expected to kick off on 1st June, 2019, the Nigerian Governor's Forum has petitioned President Muhammadu Buhari kicking against the move. The Forum argues that the NFIU lack the powers to enact such rules. The NGF in a letter signed by its Chairman and then Governor of Zamfara state,

Yari (2019) and (Kingsley, 2019) expressed dismay on NFIU's action as attempt to dabble into a matter that was beyond its mandate. Yari (2019) further accuses the NFIU of stocking mischief and also deliberately seeking to cause disaffection, chaos and overheat the polity. He maintained that the action of the NFIU was not only illegal but total disregard to the Constitution of the Federal Republic of Nigeria 1999. Despite the accusation leveled against the NFIU, the new guidelines are seen as a step forward in granting the much-awaited local government autonomy. But one may be tempted to ask whether the new guidelines of the NFIU were adhered to by the state governors.

It is almost ten months now since the implementation of the NFIU guidelines, but a study of the events happening in most parts of the country revealed that nothing much has changed with regards to the management of the local government funds. Though some states adhere to the guidelines, other states remained adamant. In his report of the activities of Ekiti state, Ayodele (2020) as reported by Onyedika (2020) in his study of the "unending wait for financial autonomy for local council" maintained that there is confusion as to whether or not the 16 local governments in Ekiti State have been enjoying appreciable degree of financial autonomy in line with the NFIU new guidelines. He pointed out that, though the local governments get their accounts credited, there was still the Joint Account Allocation Committee (JAAC) monthly meeting where the money was redistributed to fund joint projects and other sundry matters by the state government.

In Rivers State for instance, Ayodele (2020) in Onyedika (2020) reported that the issue of financial autonomy for local councils is still shrouded in secrecy in Rivers State. It is not very clear if the local government chairmen are truly in charge of their fund as none of them was bold enough to disclose the true state of things.

In Katsina, Zamfara and Kano States, the situation is not different from other states of the federation. A cross section of some stakeholders interviewed revealed that, though funds meant for the local governments are credited into the local government's accounts, the state governments dictates how it should be allocated and utilized. In Zamfara State for instance, some council chairmen revealed that the funds released to them are not commensurate with the funds disbursed from the federation account. One of the chairmen contacted complaint that the figures in the table of statutory allocation shows greater variation with what was released to them after all deductions. What is released to the local councils from the federation account usually undergoes intensive deduction by the officials of the state government and little is left for the local government. Though Zamfara State has an elective council, the situation has never changed. In Katsina State, there are neither elected representatives nor appointed ones on ground. Sources from the office of the Secretary to the state government, Alhaji Mustapha Inuwa and obtained by the Africa Prime News (2015) indicated that the Local Government elected council members were dissolved on 10th July, 2015. However, the state government appointed Transition Committee members of the 34 local government councils on 13thAugust, 2018 as reported by Premium Times Newspaper of 13th August, 2018. The appointed Transition Committee Members were however dissolved in appointed caretaker committee members of the thirty-four (34) local governments in the state were relieved of their appointments in October, 2019 as reported by Katsina Post (October, 2019). Since then, the local councils were left in the hands of administrative officials. The Administrators in charge of the local councils are civil servants and therefore has no authority to challenge the state government over any decision with regards to the local government funds. In such circumstances, the administrators utilized what is released to them.

Theoretical Framework

The theory of fiscal federalism was propounded by the German-born American economist Richard Musgrave in 1959. According to him fiscal federalism deals with the division of governmental functions and financial relations among levels of government. The basic theory of fiscal federalism postulates that the central government should ensure equitable distribution of income, maintain macroeconomic stability and provide public goods that are national in character such as defence and security, and money and fiduciary printing etc. Decentralized levels of government on the other hand should concentrate on the provision of local public goods while the central government provides targeted grants in cases where there are jurisdictional spill-over associated with local public goods (Musgrave, 1959).

According to Akindele (2002), Fiscal federalism refers to the allocation of tax-raising powers and expenditure responsibilities between levels of governments.

Fiscal federalism is concerned with understanding which functions and instruments are best centralized and which is best placed in the sphere of decentralized levels of government (Oates, 1999). The basic foundations for the theory of fiscal federalism were laid by Kenneth Arrow (1974), Richard Musgrave (1976) and Paul Samuelson (1978).

In broad terms, fiscal federalism is the division of power, functions and resources among the tiers (Federal, State and Local government) in a federating system. There are principles that guide fiscal federalism and sustain the overriding factors of administrative efficiency and fiscal independence. Specifically, Nigerian fiscal federalism structure involves the allocation of expenditure and tax raising powers among the federal, state and local government. Fiscal federalism is deeply rooted in a political arrangement called federalism Abubakar (1992). As the financial relationship between and among existing tiers of governments, fiscal federalism deals with the system of transfer or grants through which the federal government shares its revenue with states and local governments.

Relevance of the Theory to the Study

Nigeria is a federating state with three tiers or levels of administration. These tiers of government received allocation from the federation account based on a specified formula. The theory of fiscal federalism is therefore relevant in determining the allocation principles and tax raising powers for each level of government. Fiscal federalism operates through the various federal taxes, grants, and transfers that occur in addition to states and localities. It is therefore important to use the concept of fiscal federalism to keep the relationship between the three tiers of government by granting money to them based on the agreed principles.

Findings

The NFIU guidelines indicated its readiness to grant financial autonomy for local governments and ensure grassroots development as well as good governance. Though the action was seen by many experts and stakeholders as breaching into the provision of the constitution, it is nonetheless a good development in the life of the local government councils. For several years, the local governments were under funded by the states and the trend will continue unabated unless a pragmatic attempt is made to resuscitate them. The followings are the research findings:

The new NFIU guidelines shows that financial autonomy to the local governments is practically possible if the government demonstrate political-will about its operations. The criticism of the NFIU guidelines by the state governors has shown the extent to which the governors can go to protect the local government funds for their selfish interest, otherwise they would have willingly accepted the proposal if they don't have any hidden agenda for the funds. Though the NFIU has issued a statement on the new guidelines, some state governors refused to comply with the directives and continue to encroach into the local government exclusive preserves. The council chairmen who are representatives of the people are helpless as the state governors have the upper hand in maintaining the statutory allocation.

Though the NFIU threatened to prosecute erring governors and stakeholders who contravened the order issued, some legal luminaries pointed to the unconstitutionality of the order and therefore not binding on the state governments. Some stakeholders pointed to the unconstitutionality of the NFIU order and therefore viewed the directives as one that will fail even at the court of law. There is the fear in some

quarters that if local governments are given such leverage of financial independence, there will be a reverse to the previous situation where funds will be squandered to the state of not being able to pay even monthly salaries, a situation that lead to the implementation of the SJLGA.

Conclusion and Recommendation

It is important to note that the NFIU has made a pronouncement that is welcomed in most parts of the country and applauded by many stakeholders. However, it is equally important to note that there may be constitutional crises and debate as regards to the legality of the pronouncement and subsequent implementation of the guidelines by the state governors. In as much as the state governors adhere to the provision of the constitution, there is also the fear that they can be hunted even after leaving office and be prosecuted for an act committed legally. It is in view of this that the governors are treating the guidelines with caution so as not transcend beyond the boundaries of the law. The NFIU guidelines can thus be said to lay foundation for financial prudence in the local government and reduce the level of corruption and diversion of public funds. This will make the local governments effective and provide good governance as well as grassroots development at the local level. In the light of the foregoing, this study recommends that the federal government, through the NFIU, can play a major role by adhering to the earlier warning issued to the states not to encroach into the local government funds. Sanction can be applied to erring state governments so that the right procedure in spending local government funds will be strictly adhered to and reduce the level of corruption and diversion of the local council funds. The NFIU should also ensure compliance of the guidelines by strictly monitoring the local government funds and ensuring that the state governors did not divert them for their personal interest.

State governors that refused to comply with the directives of the NFIU should be sanctioned. Those who floated the directives and make any transaction outside the local government account should be made to pay back the exact amount involved through their monthly allocation. The National Assembly should amend the constitution so that local government election should be conducted by the Independent National Electoral Commission (INEC) and conducted at the same time with the presidential election. A fix tenure of four years should also be implemented so that election into the local government councils will be conducted concurrently with other state and federal election. This will remove all the obstacles associated with encroachment and emasculation of the lower tier of government. The unconstitutionality of the NFIU guidelines as pointed out by some legal luminaries should be looked into so that the national assembly will commence a legislative procedure that will ensure the legality of the order through constitutional amendment. To avoid reverting to the previous situation where local governments were given financial independence but was abused, the NFIU should put in place some measures to ensure that financial independence does not mean license to still or embezzle money.

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