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# Beyond Financial Autonomy: The Imperative of Moving from Local Government to Local Governance in Nigeria

By REMI AIYEDE

On 11 July 2024, the Supreme Court of Nigeria ruled on a case brought by the Federal Government concerning the autonomy of the local councils as the third tier of government. The court declared the actions of state governors who remove elected local officials and control local government funds as illegal and unconstitutional. It also prohibited governors from managing local governments through caretaker committees and mandated that federation entitlements be allocated directly to the Local Government Areas (LGAs) and not through the states.

The decision of the court, which was celebrated in the media as liberating the LGAs from the control of governors, has also faced criticism. Some governors have opposed the court's decision, while some in civil society believe it contradicts the traditional federal system where local governments are under state authority. Others argue that directly paying federation allocations to the local councils could lead to centralisation. This has sparked a debate on the role and effectiveness of local government in governance and service delivery. Questions are also raised about the purpose, efficiency, responsiveness, and accountability of local government as a level of governance with direct funding from the Federation Account.

This Policy Note discusses the history and challenges of local government in Nigeria. It analyses



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the theoretical foundations of local government and governance to shed light on current practices and arguments. The note proposes a reform plan to establish an efficient and accountable local governance system that involves participation and self-governance, which are essential for democracy and development. It suggests new approaches to improve responsiveness, effectiveness, efficiency, and accountability at the grassroots level by transitioning from local government to local governance in Nigeria.

### A Short History of Local Government in Nigeria

Local government in Nigeria originated from the colonial indirect rule and native authority system. Its functions expanded in the 1940s to include native police forces and prisons. In the 1950s, regional governments introduced representative bodies. The Eastern Region adopted a three-tiered council system, the Western Region had direct and indirect elections, and the Northern Region gradually integrated elected positions into the existing system. Despite liberalisation in the First Republic, local authorities faced challenges like inefficiency, corruption, politicisation, and interference from regional governments. By 1965, the Western Region government replaced local councils with appointed administrators due to various issues (Suberu 2024: 383).

In 1966, the regional systems of local government in the country were replaced with appointed sole administrators following a military takeover. The military regime established 12 states in 1967, each with a two-tier administrative framework below it, standardising local government administration across the country. This change granted state governments the authority to determine the internal structure of local authorities. By 1973, some states began experimenting with local management, influenced by the post-civil war national mood and the need for social and political integration. These experiments were seen as tools for implementing the country's development plans at the local level (Gboyega 1987).

In 1976, a significant reform of local governments was carried out by the Federal Military Government in coordination with the states. This reform aimed to standardise local government structures across Nigeria, establishing a single-tier system with a specified population range for all local councils (between 150,000 and 800,000). The objective was to create uniformity in local government structures, personnel, and pay systems, without distinguishing between rural, urban, and municipal areas. As a result, small towns and villages were merged to form a single LGAs, while large cities were split into multiple LGAs. This led to fragmented governance in many cities, and the absence of a centralised authority for effective city-wide planning and management. (Gboyega 1981, 1998; Suberu 2024).

The 1979 Constitution assigned local government as a platform for cooperation between state and federal governments, with states managing local government affairs and the Federal Government regulating fund distribution. Legal disputes arose between the two levels of government over local government matters. Some of these disputes influenced some of the provisions in the 1999 Constitution. For instance, in the Second Republic (1979 to 1983), Lagos State created additional LGAs which led to a court case deeming them illegal due to procedural lapses. Despite this, states continued to creating new local government areas. During the Second Republic, many states significantly increased the number of local councils, sparking controversies over gerrymandering and economic viability. When the military took over in 1984, all new local governments created by states were dissolved (Gboyega 1981).

#### Transformation of Local Government in Nigeria

1940s	1965	1966	1967	1973	1976	1979	1996
Local government in Nigeria originated from the colonial indirect rule and native authority system. Its functions expanded in the 1940s to include native police forces and prisons.	The Western Region government replaced local councils with appointed administrators due to various issues.	The regional systems of local government in the country were replaced with appointed sole administrators following a military takeover.	The military regime established 12 states in 1967, each with a two-tier administrative framework... This change granted state governments the authority to determine the internal structure of local authorities.	Some states began experimenting with local management, influenced by the post-civil war national mood and the need for social and political integration.	A significant reform of local governments was carried out by the Federal Military Government in coordination with the states.	The constitution assigned local government as a platform for cooperation between state and federal governments, with states managing local government affairs and the Federal Government regulating fund distribution.	Between 1989 and 1991, President Ibrahim Babangida created 282 new Local Government Council Areas in addition to the existing 301. In 1996, General Sani Abacha's government added 185 more local government councils, resulting (alongside the six area councils of the FCT) in the current total of 774 LGAs in the country



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In 1985, the Dasuki Committee was formed to regulate the creation of new local governments at intervals and based on specific criteria like minimum population size. However, by 1989, the Federal Government controlled local government policies through Decrees No. 15 and 32, giving the president the sole authority to establish or dissolve local government areas. Between 1989 and 1991, President Ibrahim Babangida created 282 new Local Government Council Areas in addition to the existing 301. In 1996, General Sani Abacha's government added 185 more local government councils, resulting (alongside the six area councils of the FCT) in the current total of 774 LGAs in the country (Gboyega 1998, Aiyede 2002, Suberu 2024).

The 1979 and 1999 constitutions listed the names of the local councils, but in the Fourth Republic, states attempted to create new LGAs. During President Olusegun Obasanjo's tenure, the Federal Government withheld the funds for Lagos State's newly created local government areas. Following a case, the Supreme Court decided on 10 December 2004 that the president could not withhold federation allocation meant for the local councils. The ruling also stated that state-created local government areas are incomplete until validated by the National Assembly (SC70/2004: AG Lagos v. AG Federation).

The Supreme Court rulings in March 2002 and December 2002 stated that the Federal Government couldn't regulate the tenure of local government councils and couldn't allocate federation revenues to entities beyond the three tiers of government. The court emphasized that all funds for local councils must flow through the states while the Federal Government wasn't mandated to deposit all revenues collected centrally into the national distributable pool. (SC3/2002: AG Abia & Ors v. AG Federation, SC137/2001: AG Ogun & Ors v. AG Federation, also see Suberu 2008).

The Supreme Court's decision on July 2006 prohibited the Federal Government from legislating on the distribution of federation revenues in states for localities (SC99/2005: AG Abia & Ors v. AG Federation & Ors). This, combined with previous rulings, enabled state governors to divert local government funds. Using this loophole, state governments established Local Council Development Areas (LCDAs) which they funded from revenues meant for local governments from the Federation Account. However, the Supreme Court ruling on 11 July 2024 now mandates direct payment of funds to local governments, aimed at curbing governors from diverting these funds and marking a shift in the court's stance. According to the court the "demands of justice require a progressive interpretation of the law. It is the position of this court that the federation can pay LGA allocations to the LGAs directly or pay them through the states. In this case, since paying them through states has not worked, justice of this case demands that LGA allocations from the Federation Account should henceforth be paid directly to the LGAs" (SC/CV/343/2024).

The ruling effectively prevents states from diverting local government funds and dissolving elected bodies to replace them with caretaker committees. However, the effectiveness, revenue generation, service provision, and accountability of local governments remain unaddressed. The ruling reflects ongoing judicial interventions in Nigeria's democratic system and prompts a re-evaluation of governance challenges. In this regard, Suberu (2024:377) notes that local government in Nigeria faces challenges like constitutional disputes, boundary reorganisation demands, funding shortages, staffing issues, unclear traditional institutions roles, and widespread corruption. The next section examines the theoretical basis of local government and its implications following the Supreme Court's recent ruling. It aims to pave the way for transitioning from local government to local governance in Nigeria by reforming the existing system.

## Contemporary Trends in Local Governance

Public discourse on local government in Nigeria focuses on the role of local governments in achieving community objectives and their connection with state and federal authorities. It is widely agreed that grassroots citizens' needs should be the primary focus of local government. According to Mills (1861/2008), local representation aims to allow individuals with common interests to autonomously manage shared concerns within specific areas, tailoring services to residents' needs. Local government promotes citizen engagement, local decision-making, and accountability, decentralising power to address various community needs.

Through proximity to residents, local government is deemed as more accessible and responsive, fostering innovation and leadership development (Jones and Stewart, 1983). In contrast to the localised view, some may see local government as an arm of the central government, facilitating



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the implementation of local decisions within national frameworks while allowing more autonomy for local governments to operate independently within established guidelines without extensive supervision from higher levels of government (Stoker, 1998; Miller, Dickson, and Stoker, 2001; Lachapelle and Onate, 2018). These contrasting perspectives represent different aspects of decentralisation practices seen in different countries.

In federal systems, local governments were traditionally under state governments' authority, leading to primary interactions between states and local governments, with minimal federal involvement. Over time, this view shifted as government levels became more interconnected nationally and globally, acknowledging local governments as distinct entities within multi-level governance systems (Steytler 2009; Loughlin, Hendriks & Lidström 2011; Leuprecht & Lazar 2007:7).

The changing role of local governments and increased collaboration among government levels are now seen from a broader intergovernmental perspective. Various models of federalism like horizontal and vertical federalism, cooperative federalism, and competitive federalism, alongside the concept of multi-level governance and non-formally federal governance systems that have undergone decentralisation offer insights into innovative decentralised economic development and governance efficacy. The current landscape across the world features a complex distribution of powers and responsibilities among central, state, and local governments (Opeskin, 2001; Stein & Turkewitsch, 2018).

Inter-governmental relations are crucial in federal systems, acting as the primary mechanism for efficient task execution regardless of their nature (Cameron, 2001: 121). Recent administrative reforms have involved shifting governmental services to non-governmental entities, leading to the emergence of new actors in service provision at the local level, emphasizing local governance and network governance. Societal complexity and changes have broadened the participation of various stakeholders in problem-solving processes, empowering citizens and clients to demand services and seek solutions beyond traditional government frameworks (Salamon 2002; Agranoff 2014).

While governments were traditionally relied upon for public welfare, disillusionment with government intervention has led to recognition of non-governmental entities and private individuals as effective agents of public welfare. Collaborative efforts among government, citizens, civil society, and the private sector are now emphasized to collectively address community welfare, embodying the essence of governance. The evolving governance concept involves intricate interconnections among politics and society, giving rise to dynamic 'interactive networks' that transcend traditional public, private, or civil society labels. These networks embrace a hybrid structure reflecting transformations in political mobilisation, policy formulation, and policy restructuring (Sorensen and Torfing, 2007; Roiseland, 2011; Stein & Turkewitsch, 2018).

Governance recognises that power is essential but not absolute; accountability, transparency, and adherence to regulations help mitigate power dynamics. It involves understanding how political processes and institutions impact economic outcomes and societal well-being. Governance acknowledges power dynamics beyond the state, emphasizing governments' leadership in leveraging power for collective goals. A key challenge in governance reform is finding a balance between expertise and democratic participation to craft public policies that effectively tackle social issues while securing public support (Rose-Ackerman (2017:23),

According to Shah (2006:1-2), local governance involves coordinating and implementing collaborative community-level efforts to ensure local government entities effectively fulfil their functions in a timely, inclusive, transparent, and accountable manner. It requires establishing systems, processes, norms, and values to guide and oversee local government actions, promoting community engagement and leadership. Reforming local governance in Nigeria should be based on democratic principles, active engagement, and mutual accountability between local governments and their communities.

## Crisis of Governance in Local Councils in the Fourth Republic

The Supreme Court's rulings on 11th July 2024 and on previous occasions about local government under the 1999 Constitution highlight the ongoing challenges facing local government in Nigeria. A key issue is the unresolved debate surrounding the status of local government, which has roots dating back to the 1950s, the First Republic, and the Second Republic. There is a clear consensus



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that locally-elected councils are essential for effective governance. It is noteworthy that all seven Justices in the 2024 Supreme Court ruling agreed on the importance of ensuring the presence of democratically-elected councils. This decision has reinforced the position of local government as the third tier in Nigeria's three-tier federal system.

The court's stance aligns with the growing consensus regarding local government as a distinct tier within the framework of intergovernmental cooperation and multilevel governance worldwide. The court explicitly highlighted: "The states are exploiting the role given to them by the constitution to create an unconstitutional status quo that has endangered the continual existence of Local Government as a third tier of government in the federal governance structure".

The recent Supreme Court ruling clarified that states cannot replace elected local council members with caretaker committees or administrators. It emphasized the constitution's intent to allocate federation funds only to local governments with elected officials, requiring states to conduct elections for local government leadership to access funds. States must transfer these allocations promptly to local governments upon receiving them from the Federation Account. The court mandated future allocations to be directly disbursed to the LGAs to safeguard their financial independence and democratic structure. However, this measure may not address the core issues of local governance, as historical instances show challenges like corruption and inefficiencies persist even with direct fund disbursement.

Under President Obasanjo's administration when local governments received direct allocations, local government chairpersons played notable roles in national politics. They used funds to strengthen their umbrella association (ALGON), advocated for extending local officials' tenures, and engaged in lavish spending, including buying 1000 SUVs for law enforcement agencies and federal bodies. This behaviour echoed actions under military rule that aimed to gain favour with the military president by honouring him as the "Grand Redeemer of Local Government in Nigeria" (Gboyega, 2001: 21, Aiyede 2002). Local governments, during this period, shifted focus from local issues to national politics, sidelining state governments. Local governance and accountability declined as powerful chairpersons prioritised personal interests over those of the community and routinely misused public funds. This trend was widespread across Nigeria, except in Lagos State where then-governor and current president, Bola Tinubu, introduced LCDAs to reduce the Federal Government's control (Aiyede, 2002; Tribune editorial 2024).

The election process for local government positions requires scrutiny, with State Independent Electoral Commissions (SIECs) often seen as tools of state governors. Unfortunately, in most cases, these commissions allocate all positions to the ruling party in the state in each election. Elections in several states were postponed due to financial reasons or legal disputes related to the electoral process. This troubling trend has persisted since 1999. Yiaga Africa's report on local government election stated that:

The SIECs generally face a gamut of challenges. Although duly provided for in the constitution, the SIECs operate at the mercy of the state governors to whom they owe their appointments. They could not operate independently and conduct elections when they were due. In some states, the government claimed not to have funds to conduct LG elections, while others opted to appoint caretaker committees. Many state governments have blatantly refused to constitute the SIEC. Even when inaugurated, they are poorly funded to enable them to perform their constitutional duties (Yiaga Africa 2024a:6).

In the words of Suberu (2023: 401): "State governors bear the primary responsibility for the failure of local democracy. The 'governors in collaboration with state assemblies unilaterally change the timeline for the conduct of elections', whimsically determine the 'timing of the release of funds for the conduct of elections', and arbitrarily dissolve and reconstitute SIECs".

There is a movement in the National Assembly to amend the constitution and replace the SIECs with a single national body to manage local government elections. Some recommendations propose assigning this responsibility to the Independent National Electoral Commission (INEC). However, others advocate strengthening the autonomy and capabilities of SIECs to prevent overcentralisation and reduce the burden on INEC (Yiaga, 2024b).

In Nigeria, the involvement of citizens is hindered by conflicting interests arising from a divided citizenship system in local governments, which distinguishes between settlers and indigenes.



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This differentiation affects community engagement and the sense of shared interests among residents. The issuance of controversial indigene certificates by local governments, excluding non-indigenes from accessing public opportunities and services for indigenes, hampers inclusive civic participation (Human Rights Watch, Aiyede 2017). Some non-resident indigenes elected to local government posts turn into absentee officials who visit only to distribute funds from the Federation Account (Aiyede 2002).

Urban local governance faces a critical challenge due to the presence of multiple local governments in a single city, leading to governance fragmentation. The lack of a centralised framework results in state authorities taking over various municipal functions. This institutional fragmentation, caused by dividing urban spaces among numerous local governments, causes overlapping responsibilities and unclear authority lines. Consequently, coordination issues, redundant actions, complex decision-making, uneven urban development, infrastructure shortcomings, and social disparities emerge, particularly affecting informal and marginalised urban areas. (Grover, Lall, & Maloney, 2022).

The fragmented urban governance structure stems from historical local government setups shaped by ethno-regional factors and power dynamics under military regimes. Recommendations suggest reconsidering the current federal-driven local government creation approach and favour restoring states' authority to manage local government establishment. Criticism includes the belief that direct fund disbursement to local governments perpetuates inequitable distribution, mirroring military practices across the country.

Local governance is characterised by a historical lack of transparency and effectiveness, with local government councils often failing to fulfil their designated functions as outlined in the 'Fourth Schedule' of the 1999 Constitution. Responsibilities like contributing to economic planning, urban development, and managing local services are frequently ignored or taken over by state authorities. Moreover, local governments' power to levy and collect taxes has been assumed by state governments, contributing to inefficiencies in governance (Suberu 2024).

## Local Governance as Foundation for Reforming Local Administration

Local governments are essential in Nigeria's multi-level governance system to provide services and promote grassroots democracy through elected councils. Local government reform should aim to enhance community ownership, place the local populace at the centre of governance, provide effective service delivery, ensure revenue generation, efficient planning, and issue resolution. The ruling by the Supreme Court should shift emphasis to how to improve local ownership and deepen local governance in the LGAs.

Local governance emphasizes effective structures over power dynamics, highlighting the need for collaboration instead of state or federal control. The debate on state versus federal authority over local governments pertains to federal versus unitary systems, but challenges the multi-level governance concept crucial for better services and inter-governmental collaboration. Currently, local governments serve as the third tier in multi-level governance, underscoring cooperation and networking as essential components.

The fragmentation caused by disjointed Local Government Areas presents challenges in coordination, resource mobilisation, and decision-making, thus requiring long-term solutions. States can establish cooperation among local governments to address urban challenges collectively instead of encroaching on local functions.

Local governments should provide services meeting citizen needs by involving residents in budget planning and decision-making. Instead of creating LCDAs, the local councils can form development committees at village or ward levels to engage residents in school maintenance, road repairs, and community projects. These committees, possibly voluntary, can enhance efforts in providing water, sanitation, libraries, Internet access, and maintaining parks and recreational spaces.

Bottom-up accountability for outcomes is essential to local governance. The direct allocation



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of funds to local governments highlights a situation where the revenue source differs from the spending location, creating a challenge for accountability called the non-correspondence problem. As Adio (2024) puts it, there is need to “provide the incentives and the tools for citizens to exercise their agency as accountability actors, to fashion new accountability mechanisms for the local level and to strengthen existing ones”. Citizens have different roles in local governance, such as policymakers, community organisation members, stakeholders, taxpayers, and service recipients. They evaluate the local government’s performance as the coordinator of service providers.

All levels of governments must manage resources wisely, follow plans and budgets diligently, and operate transparently to gain public trust and support. Continuous capacity building is crucial to maintain professionalism. Integrity, grievance redressal, service standards, fair tax administration, e-governance, citizen-focused budgets, and regular comprehensive service reports are necessary.

## Recommendations for Deepening Local Governance in Nigeria

The Supreme Court’s ruling for direct allocations to local governments, bypassing state control, has heightened tensions between state and federal authorities. To resolve this, President Bola Tinubu should engage in political negotiations, similar to the offshore vs. onshore rule approach during President Obasanjo’s tenure. Dialogue with governors, focusing on cooperative federalism, is crucial to shift from federal-state discord to collaborative partnership. This holds significance considering the state assemblies’ role in constitutional amendments. State governors significantly impact the results of state parliamentary elections which are conducted by INEC because of their influence on party nominations and ability to distribute favours.

State governments should recognise local governments as autonomous, community-focused entities, distinct from state administration or the governor’s office. Local governments should not be treated as branches of the state governments, and the stability and clarity of officials’ tenures should be guaranteed. Conducting regular and credible local government elections with a standardised four-year tenure is crucial.

State governments should collaborate with and back local governments as partners in the state’s economic planning and growth. They should offer aid to local governments for participation in state-wide initiatives through financial assistance and programmes mandated by the constitution.

The division of cities into multiple local governments poses service delivery challenges that can be overcome through intergovernmental cooperation. State governments should encourage and support collaboration among local governments to enhance governance and service provision in these areas.

Local government officials (whether appointed or elected, or employed as career civil servants), should be reoriented to understand that local government belongs to citizens who have the right to be informed and participate in decision-making. Each local government should enact bye-laws highlighting residents’ right to information, including publicly displaying budget proposals and annual performance reports, which can be accessible online. Transparent processes for contract bidding and citizen boards to assess service delivery performance and offer feedback are crucial for ensuring transparency and accountability.

Local governance-focused NGOs should activate and enhance accountability structures to fulfil their roles effectively. These include community-based organisations, religious groups, women’s associations, parent-teacher groups, opinion leaders, traditional institutions, professional bodies, and the office of the auditor general of local governments. Inclusive methods like direct democracy, citizen charters, town hall meetings, village squares, and development committees involving all residents, not just indigenes, should be promoted to enhance continuous engagement and participation in local government activities.

Local councils should conduct regular public hearings involving experts and stakeholders, implement participatory budgeting, transparent procurement processes, and other platforms for citizen engagement in local government decision-making and priority setting.

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