

An Appraisal of the Nature and Autonomy of Local Government as Enunciated in the Case of AG Federation Vs AG Abia State and 35 Ors

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Abstract

The history of the Nigerian local governments had been characterized by quests for autonomy. Despite many legal frameworks that guarantee local government autonomy, State Governments have over the years been exploiting local governments financially, politically and administratively. The Federal Government had deliberated on how to combat these exploitations and uphold the autonomy of the local government as envisioned by the Constitution. The attempts of the Federal Government to combating the unconstitutional acts of State Governments birthed the celebrated case of AG Federation vs AG Abia State & 35 Ors. The case addressed constitutional issues surrounding the administration, funding, and democratic structure of local government in Nigeria. This paper evaluated the nature and autonomy of the local governments in Nigeria based on the decision of the Supreme Court in AG Federation vs AG Abia & 35 Ors. The paper examined the historical development of local governments in Nigeria, the position of local government autonomy before and after the case. It scrutinized challenges hindering the implementation of the Supreme Court judgment. The paper recommended possible solutions. The study concluded that local government must be independent both politically and financially in order to realize the main reason behind its establishment which is to bring government closer to the people. Independence of the Local governments will also ensure a greater participation of the people in the government and to be able to lay a rightful claim as the third tier of government in Nigeria.

Keywords: *Local government, 1999 constitution, autonomy, reforms, colonial governments*

1. Introduction

It is a trite that local government being the grassroots government is the main reason behind its creation; to bring the government closer to the people.¹ Local government provides range of social amenities, and encourage the participation of people in improving their conditions of living. Similarly, federalism as a system of government in Nigeria envisages the independent operation of

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¹Adeyemo, D. 'Optimising Local Government Finance Through Public-Private Partnership (2011) In Tony, O. (ed) *Key Issues in Local Government Development: A Nigerian Perspective*. Enugu: Praise House Publishers.

each of the three tiers of government, viz; the Federal Government, State Government and Local Government.²

Local government in Nigeria have undergone different reforms and development from the pre-colonial era, colonial era and the local government systems after colonialism which had shaped the structure of local governments.³ In Nigeria, the issue of local government autonomy is a contentious one. Even with the 1976 local government reforms, many are still in doubt on whether the actual reason behind the creation of local government has been actualized. The struggle for local government autonomy in Nigeria can be traced back to the 1970s, and it was as a result of absolute control of the then regionals (state governments) over the local government. They determined the structure, functions and powers devolved to local governments including seizure of federal allocations meant for local governments. Autonomy was never in existence.⁴

The introduction of 1976 Local Government Reforms⁵ under General Olusegun Obasanjo gave local governments hope as to its independence and autonomy. Under the Reform, local government was recognized as a single-tier of government across Nigeria, having a distinctly defined powers and responsibilities. The Nigerian judiciary also helped in affirming the independence and autonomy of local governments. *The case of AG Federation vs AG Abia State & 35 Ors*⁶ is a remarkable case in the history of Nigeria local government. Similarly, in other cases, courts have established and affirmed the local government autonomy and declared the act of interference into the affairs of local government by state government unconstitutional.⁷

The Nigerian 1999 Constitution supposedly creates a three-tier federal system with federal, state, and local governments but local government has become shadow of itself due to overcontrolled tendencies of the state government. It is to be noted the real-world application of local government system had been damaged by state governments controlling local governments, going against the constitutional goal of making local governments independent bodies capable of handling grassroots development needs. State governments have historically controlled local government money through joint accounts, dissolved elected councils whenever they wanted, and appointed temporary committees to run local government affairs indefinitely.⁸

The controversy surrounding local government autonomy reached a pivotal point in 2024 in the Supreme Court case of *AG Federation vs AG Abia State & 35 Ors*. The case represented a decisive judicial response to decades of constitutional violations and bad administrative practices that have weakened local government independence. The Court's decision to give full financial freedom to all

2. F. Anyim-Ben, *et al.*, 'The Doctrine of Separation of Powers and Checks and Balances in the Nigerian Executive-Legislative Relationship' (2017) Nnamdi Azikiwe Journal of Philosophy. Volume 9, No 1.

3 Example of this reforms includes 1976 local government reform which led to the creation of local government as the third tier of government.

4 Ibe Ezechi, *et al.*, 'Nigeria's Local Government Autonomy: Issues and Implications for the Country's Development' (2024) *Journal of Political Discourse* 2, 53
<<https://www.jopd.com.ng>> accessed 20 July 2025

5 Federal Republic of Nigeria, *Guidelines for Local Government Reform* (Federal Ministry of Information 1976)

6 *Attorney General of the Federation v Attorney General of Abia State & 35 Ors* (2024)
LPELR 62576 SC

7 *Governor of Ekiti State vs Olubunmi and Ors* (2011) LPELR-4005(CA)

8 Oyeyemi Oke *et al.*, *The Supreme Court's Decision in AG Federation v AG Abia State & 35 Ors: Appraising the Fiscal Implications of Local Autonomy*< www.ao2law.com> accessed July 30 2025

774 local government areas across Nigeria, while also stopping state governments from dissolving democratically elected local government councils, marks a significant move towards true fiscal federalism and democratic governance at the grassroots level.

This paper appraises the nature and autonomy of local governments in Nigeria based on the decision of the courts; it adopts some theoretical frameworks such as federalism theory, decentralization theory, constitutionalism and rule of law. By analyzing the decision of the court on local government autonomy, this paper contributes to the contemporary discourse on governance reform, intergovernmental relationship and the democratic accountability in Nigeria.

2. Conceptual Framework

2.1 Local Government

Local government has been defined as the tier of government responsible for providing basic services to the people. It is also known as the third layer of government in Nigeria that is nearest to the people.⁹ The United Nations Division of Public Administration defined local government as “a political subdivision of a nation, or in a federal system, a state which is constituted by law and has substantial control of local affairs, including the power to impose taxes or exact labor for prescribed purposes.”¹⁰ To Orewa, it is the lowest unit of administration to people whose laws and regulations the communities who live in a defined geographical area with common social and political ties, are subject.¹¹ The 1976 local government reforms¹² defined it as:

Government at local level exercised through representative councils established by law to exercise powers within defined areas. has substantial control over local affairs as well as the staff and institutional and financial powers to initiate and direct the provision of services...and to ensure that local initiative and response to local needs and conditions are maximized.

Agreeing with the above definition, Hugh Whalen believes that any local government must have:

...a given territory and population, an institutional structure...a separate legal identity, a range of powers and function authorized by delegation from the appropriate central or intermediate legislature, and lastly within the ambit of such delegation, autonomy subject always...to the test of reasonableness.¹³

Local government symbolize catalyst for socio-economic and political development in Nigeria. They serve as the foundation upon which other level of government is created. Since local governments are the nearest governments the people, they are thus, in the better position than the state and the federal governments to determine and appreciate the real problems affecting the people.¹⁴ There is no doubt that local government system promotes direct and indirect participation of the people in the government, and thereby serves as an integral part of a democratic governance.

⁹ Ibe Ezechi, *supra* n 2.

¹⁰ Mckenzie WJN, *Theories of Local Government* (1964, London) 5

¹¹ G. O. Orewa *Principles of Local Government* (ASCON), 1991) 22

¹² Federal Republic of Nigeria, *Guidelines for Local Government Reform* (1976) Government Printer, Kaduna.

¹³ United Nations Summer Conference on Local Government in West Africa (Cambridge) 11

¹⁴ Linus Ugwu Odo, 'The Challenges of Local Government Autonomy in Nigeria' (2014) 2 *International Journal of Advanced Studies in Ecology, Development and Sustainability* <<http://www.internationalpolicybrief.org>> accessed July 30 2025

2.2 Autonomy

The term *autonomy* admits a wide range of meanings which include qualities such as self-rule, self-determination, freedom of will, individuality and independence.¹⁵ To John Donald, the term autonomy connotes individuality and self-governance.¹⁶ Autonomy encompasses the ability of these councils to make decisions, raise and manage funds, implement policies, and carry out their constitutional functions without undue interference from higher levels of government, particularly state governors.¹⁷

Autonomy under a federal system connotes that each level of the government (federal, state and local governments) is functioning independently, without interference or usurpation of powers, either politically or financially. Autonomy must not only exist in legislations; it must as well be practically realized. Nwabueze asserted that autonomy would only be meaningful in a situation where each level is not constitutionally bound to accept directives from another.¹⁸

Majorly, autonomy can take three dimensions namely; political autonomy, financial autonomy and administrative/bureaucratic autonomy. Political autonomy involves the ability of local governments to operate through democratically elected representatives, make laws and policies affecting their jurisdictions, and maintain institutional independence. Financial autonomy refers to the power of local governments to receive funds directly from the Federation Account and internally generate revenue, and to exercise discretion over their spending without manipulation by state governments. Administrative autonomy pertains to the power of local governments to control their internal administration including recruitments, trainings, and discipline of staff as well as implementation of policies assigned under the relevant law.¹⁹ The principle of autonomy is an essential matter for local government because it cannot function well without considerable freedom.²⁰

3. Theoretical Framework

Nigeria is a federal state, therefore, the study of local government autonomy in Nigeria requires a deep engagement with legal, political and governance theories that frame the rationale for federalism. This framework adopts *federalism theory, decentralization theory and constitutionalism*.

Federalism theory connotes the existence multiple levels of government each with constitutionally guaranteed powers and autonomy. Federalism emphasizes division of powers, autonomy and mutual dependence. This theory is fundamental to how the Supreme Court in the case of *AG Federation vs AG Abia State & 35 Ors* interpreted the responsibilities of local governments vis-a-vis the federal and state government.

Decentralization theory implies the devolution of powers to states and local governments. Decentralization theory posits that local governments are in better position than the federal and state governments to deliver efficient services to the people, to understand the problems at the grassroots

¹⁵ George John Agich "Key Concepts: Autonomy" (2009)

<<https://www.researchgate.net/publication/236709831>> accessed August 1 2025.

¹⁶ John Donald Collier "What is Autonomy" (2002) <<https://www.researchgate.net/publication/28763485>> accessed August 1 2025

¹⁷ Dele Olowu, S. Bamidele and Bola Akande, *Local Institutions and National Development in Nigeria* (University of Ife Press, 1991).

¹⁸ Nwabueze B.O. "The Presidential Constitution of Nigeria" Conference Paper, ABU Zaria, March 1983.

¹⁹ Cornelius Okorie *et al.*, "Local Government Autonomy in Nigeria: Implications for Quality Service Delivery at the Grassroots Level" (2023) *African Journal of Politics and Administrative Studies* 293-312

²⁰ Ibe Ezechi, *supra* n 2.

and to ensure a wider participation of the people in governance. Decentralization can be political decentralization, administrative decentralization and fiscal decentralization. In this instance case, the Supreme court's decision centred on political and fiscal decentralization particularly in declaring the appointment of caretaker committees and withholding of allocations meant for local government as unconstitutional.

Constitutionalism is another theory that is relevant to this work. The theory states that the provisions of the constitution must be strictly adhere to. The Constitution of the Federal Republic of Nigeria 1999 as amended regulates governmental authority and protects the autonomy of each level of governments. The Constitution provides that a democratically elected local councils shall be in place in each local government of the federation. The Supreme court's decision in *AG Federation vs AG Abia State & 35 Ors* reiterated the position of the constitution thereby strengthening the supremacy of the constitution.

Therefore, by adopting the above explained theories, a well-structured appraisal of the Supreme court decision in *AG Federation vs AG Abia State & 35 Ors* would be yielded. Viewing the decision through the theoretical framework gives a thorough legal position of the Nigerian federalism and democracy.

4. Historical Development of Local Government in Nigeria

In order to fully understand the current struggle for local government autonomy in Nigeria, and the legal implications of the recent Supreme Court decision in *AGF v AG Abia & Ors*, it is important to examine the historical development of local governments in Nigeria. History, in this context serves not merely as a background, but as a mirror of institutional patterns, revealing how past decisions, reforms, and constitutional arrangements have molded the present-day structure, challenges, and controversies on local government autonomy.

4.1 Pre-Colonial Local Government Administration

Before the advent of colonialism, there was a local traditional system was in existence across the country. There were traditional institutions in place among the Yoruba, Igbo and Hausa Kingdoms.²¹ In the Hausa Kingdom there was a centralized system of government headed by the Emir. In the Yoruba Kingdom there was a decentralized system of government in the Oyo Empire headed by the Oba (Alaafin). The traditional institution in the Igbo land is termed as *Acephalous*. The Igbo operated a family-controlled system with representatives of family forming the leadership structure in each community.²² This continued till the period of colonialism.

4.2 Colonial Local Government Administration

The British colonial administration, employed the system of indirect rule, pioneered by Lord Lugard. The system relied heavily on traditional ruler such as the Emirs, Obas, and Chiefs to serve as intermediaries between the colonial government and the indigenous people.²³ While it created an administrative presence at the local level, it lacked democratic accountability and independence. Local authorities functioned more as agents of the colonial government than as autonomous institutions. Over time, the colonial authorities began to introduce Native Authorities Ordinances (such as the 1916 Native Authority Ordinance), granting limited administrative powers to local

²¹ A. I. Kanu, 'African Traditional Democracy with Particular Reference to the Yoruba and Igbo Political Systems' <<https://www.ikechukwuanthonykanu.com/repo/AFRICAN%20TRADITIONAL%20DEMOCRACY.pdf>>

²² Ibid

²³ E. O. Awa, *Local Government in Nigeria: Problems and Prospects* (Ethiope Publishing, 1973).

bodies. However, these native authorities were largely uncoordinated, regionally inconsistent, and structurally weak.²⁴ Since then, Local government has gone through various development and reforms aimed at strengthening its capacity for effective operation.²⁵

4.3 Post Colonial Local Government Administration

The post-colonial era more particularly, the period of 1960 to 1976 marks the establishment and development of the modern local government administration in Nigeria. After independence in 1960, Nigeria attempted to modernize and democratize local governance. However, these efforts were largely fragmented, as regional governments had full control over the design and function of local councils. The result was a highly uneven system, for example, the Western Region adopted elected councils early, while the Northern Region retained traditional rulers in authority for much longer. The lack of uniformity and absence of federal oversight created gaps in governance and efficiency.²⁶

4.3.1 Local Government and the 1963 Republican Constitution

Section 2 of the 1963 Constitution provides that:

Nigerian shall be a federation comprising regions and a federal territory and shall be a Republic of the Federal Republic of Nigeria.²⁷

Also, section 3(1) and (2) provide respectively that:

There shall be four regions that is to say, Northern Nigeria, Eastern Nigeria, Western Nigeria, and Mid-Western Nigeria; "the Regions and the Federal territory shall consist of the areas comprised in those territories respectively on the thirteenth day of September, 1963."²⁸

From the above provisions, it is very lucid that the 1963 Constitution did not recognize local government as a tier of government despite affirming that Nigeria is a federal state. What the Constitution actually recognizes is the division of powers between the federal territory and the regions.

4.3.2 The 1976 Local Government Reform

In 1976, Local Government Reform was introduced under the military regime which served as a turning point in the history of the local governments in Nigeria. For the first time, local governments were clearly defined as the third tier of government, with specific functions, structures, and financial frameworks.²⁹ The reform introduced several structures such as uniformity across the federation, direct federal allocation to local governments, elected council chairmen and councilors and a shift away from traditional rulers to democratic representation. It also emphasized local development and participation, seeing local governments as tools for national integration and grassroots democracy. The 1976 Reform highlighted the main objectives for establishing local government as follows:

1. To make appropriate services development activities responsive to local wishes and initiatives by developing or delegating them to local representatives' bodies.

²⁴T. N Tamuno, *The Evolution of the Nigerian State: The Southern Phase, 1898–1914* (Longman, 1972).

²⁵Ibe Ezechi, *supra* n 2.

²⁶Dele Olowu, *supra* n 15.

²⁷Constitution of the Federal Republic of Nigeria 1963, s. 2

²⁸*Ibid* (s. 3)

²⁹Federal Republic of Nigeria, *Guidelines for Local Government Reform* (1976).

To facilitates the exercise of democratic self-government close to the local levels of our society and to encourage initiative and leadership potential.

2. To mobilize human and material resources through involvement of the public in their local development and;
3. To provide a two-way channel of communication between local communities and government.

The overall objective of the Reform was to revamp the local government systems and serve as a guideline for local government administration throughout Nigeria.³⁰ However, because it was implemented under a military regime, the reform lacked constitutional backing and was vulnerable to reversal.³¹ The 1976 Reform experiment ended on a bad note as most of its policy recommendation, particularly the institution of a democratic elected local government system could not be realized. However, the most enduring features of the Reform was its inclusion into the 1979 Constitution, which serve as the bedrock of its successors viz: 1989, 1999 and 2011 as amended.

4.3.3 Local Government and the 1979 Constitution

For the first time in Nigeria, local government was well documented in the Constitution and this was as a result of the 1976 Local Government Reform.³² Local government is expressly provided for in Chapter One, Part Two of the 1979 Constitution. Section 7(1) provides as follows:

The system of local government by democratically elected local government councils is under this constitution guaranteed: and accordingly, the Government of every state shall ensure their existence under a law which provides for the establishment, structure, composition, finance and functions of such councils.³³

In addition to the above provision, subsections 2 to 6 equally address fundamental issues relating to the creation, area delimitation, public revenue sharing and the role of local governments in economic and development planning among others. The innovation is indeed phenomenon and germane in history of local government in Nigeria.³⁴

4.3.4 Local Government and the Abortive Third Republic 1989 Constitution

The Federal Military Government under the Babangida regime made numerous reformations in 1989 Constitution, which are designed to remove the inadequacies of local government system. In the aborted Third Republic, the Federal Government in obedience to ensuring a meaningful grassroots democracy took further steps to guarantee local autonomy. The 1989 Constitution recognizes the autonomy of each unit of government. However, the 1989 was not in full operation as a result of the annulment of June 12, 1993 election, which was meant to usher in the President of

³⁰ A. T. Ariyo and G. I. Oikhala, 'Local Government Reforms and Grassroots Development in Nigeria' (2021) *Journal of Administrative Science* Vol.18, Issue 1, 113 - 133
<https://jas.uitm.edu.my/images/2021_JUNE/JAS6.pdf> August 27, 2025.

³¹ Linus Ugwu Odo, 'The Challenges of Local Government Autonomy in Nigeria' (2014) 2 *International Journal of Advanced Studies in Ecology, Development and Sustainability* <<http://www.internationalpolicybrief.org>> accessed July 30 2025 p.103-104

³² Adebayo T. Salami "Local Government and the Constitution: The Nigerian Experience" (2021) *Journal of Public Administration, Finance and Law*, 359-368

³³ Constitution of the Federal Republic of Nigeria 1979, s. 7(1)

³⁴ Adebayo T. Salami, *supra* n 31.

the Federal Republic of Nigeria. But many scholars agreed that 1989 Constitution accepted and recognized local government as a third tier of government with full administrative and financial control.³⁵

4.3.5 Local Government and 1999 Constitution

The Nigerian Constitution 1999 as amended like its predecessors also guarantees the establishment of democratically elected local governments.³⁶ Their establishment, structure and compositions, finance and functions, are to be promulgated upon by States Houses of Assembly which also has the authority to repeal or amend such laws when the need arises. Section 7(1) in quoting section 7(1) of 1979 Constitution word for word, provides as follows:

The system of the local government by democratically elected local government councils; and accordingly, the government of every state shall subject to section 8 of this Constitution, ensure their existence under a law which provides for the establishment, structure, composition, finance and functions of such councils.

The above provision vividly shows that there was adequate consideration of local government in planning, drafting and ratifying the Constitution. However, reverse has been the case in reality as State government have seen this provision as a way to exercise undue fiscal, political and administrative control over the local government thereby turning the local governments to appendages.

The State governments have exercised undue fiscal and political control over local governments in many ways, including withholding of the funds meant for the local government, appointing Caretaker Committee into the local councils instead of conducting election as envisaged by the Constitution.³⁷

The 2024 Supreme Court's decision in *AG Federation vs AG Abia State and 35 Ors*³⁸ represents another critical moment in the historical journey of local government administration in Nigeria. The Court reasserted the importance of democratic governance at the local level and condemned the unconstitutional use of unelected caretaker committees, calling for a reaffirmation of the ideals of the 1976 reform and 1979 Constitution.

5. Local Government Administration in Nigeria

Local government is regarded as the third level of government owing to the fact that they have legal backing to exercise all powers of government. The Nigerian Constitution recognizes local government as the third tier of government separate and distinct from the state and federal governments under the nation's federal system.³⁹ The administration of local government must be governed by a democratically elected councilors and the state government must ensure its actual realization.⁴⁰ Local government has some basic characteristics which include the following:

1. It is the tier of government that is subordinate to the central regional government
2. It involves both administrative and political processes of governmental power.

³⁵ Maduabum C. "The Mechanisms of Public Administration in Nigeria" (2008) Lagos Concept Publication

³⁶ Constitution of the Federal Republic of Nigeria 1999 (as amended), s.7

³⁷ Oyeyemi Oke, *supra* n 6.

³⁸ (2024) RPELR 62576 SC

³⁹ Constitution of the Federal Republic of Nigeria, 1999 (as amended) s. 7.

⁴⁰ *Ibid*

3. Its area of authority is delimited by the statute establishing it.
4. Its councils are made up of elected representatives who are responsible to the people that elected them into the government.
5. It has legal autonomy to make policies, prepare its own budget, hire its own staff and to execute its own policies.⁴¹

Local governments are financially sustained through allocations from the Federation account.⁴² The allocation is channeled through the State Joint Local Government Account (SJLGA) and managed by the state governments.⁴³ The fiscal nature of local governments have⁴⁴ been subjected to numerous criticisms including being described as weakening the autonomy of local government.

The Constitution in the Fourth schedule outlined the functions of local governments which include the provision and maintenance of health services, primary education, markets, waste management and community development. Local government is no doubt an integral part of the government, as it is the smallest unit of government. The constitutional nature of local government also reflects a grassroots governance and local autonomy.

5.1 Local Government Autonomy in Nigeria

The conceptual interpretation of local government autonomy means self-government or grassroots democracy which aims at giving the people the fullest opportunity to participate in determining their own destiny.⁴⁵

In legal parlance, local government autonomy refers to the degree of self-governance granted to local councils, encompassing their legal, administrative, and financial independence from higher levels of government. It involves the authority to make decisions on local policy matters, manage fiscal resources including the power to generate and allocate revenue and implement development initiatives tailored to community needs without undue interference from state or federal institutions.⁴⁶ In the context of federalism, autonomy is essential for achieving effective decentralization, citizen participation, and sustainable grassroots development.

Under the Nigerian law, local government autonomy cannot be examined without mentioning the two major sections of the Constitution, which are section 7 and 162 respectively. Section 7(1) of the 1999 Constitution (as amended) provides that:

the system of local government by democratically elected local government councils is under this Constitution guaranteed; and accordingly, the Government of every State shall... ensure their existence under a Law which provides for the establishment, structure, composition, finance and functions of such councils.

The provision is unambiguous in its mandate: every local government council must be democratically constituted. In practice, however, many states have violated the constitutional

⁴¹Aderonke Majekodunmi "The State of Local Government and Service Delivery in Nigeria" Africa's Public Service Delivery and Performance Review <<https://apsdpr.org>> accessed on August 1 2025.

⁴² Constitution of the Federal Republic of Nigeria, 1999 (as amended) s. 162(6)

⁴³ Ibid.

⁴⁴ Ibid.

⁴⁵ Linus Ugwu Odo, supra n 12.

⁴⁶ Ogunyemi, A. 'Federalism and Local Government Autonomy in Nigeria: Historical and Legal Perspectives' (2022) *Journal of African Public Administration*, 15(4), 78-102.

prescription by suspending elected councils and replacing them with caretaker committees or sole administrators—actions which lack constitutional backing and, as judicial pronouncements have reiterated, are patently illegal.⁴⁷ Section 162 of the Constitution on the other hand addresses public revenue and distribution. Subsections (5) to (8) are particularly relevant to local governments:

Subsection (5) mandates that the amount standing to the credit of local governments in the Federation Account shall be paid to the State Joint Local Government Account (SJLGA).

Subsection (6) establishes that each state shall maintain such an account. Subsection (8) empowers state houses of assembly to prescribe the terms and manner in which funds shall be distributed among local governments in the state.

While the arrangement appears to provide a structured financial flow, in reality it has been used as a tool of control. State governments frequently divert or withhold these funds, crippling the financial independence of local councils and causing significant hardship for the citizens.⁴⁸ The 2024 Supreme Court judgment explicitly addressed this issue, stating that the practice of misappropriating funds meant for local governments is unconstitutional and undermines the essence of federalism.

In addition, Section 164 provides the federal government with the authority to make grants to states and, by extension, to local governments, on such terms and conditions as may be prescribed. The section opens the door for the federal government to support developmental efforts at the grassroots.⁴⁹ Local government autonomy in Nigeria is only effective on paper, as in reality, local government are totally dependent, they are managed by the federal and state governments who dominate the local government administration through the state offices of local government affairs, the ministry of local government and local government service commission.⁵⁰

5.2 Challenges Facing Local Government Autonomy in Nigeria

Lack of autonomy is one of the greatest challenges facing the Nigerian local government system, in spite of the various legislation and institutional structures that have been put in place since the period of 1976 local government Reforms such as human capacity building through designation of some universities for local government manpower training; increase in the local government share of the federation account from 10 to 20%; abolition of state ministries of local government; and so on.⁵¹

Another challenge of local government autonomy is political instability. This is as a result constant swinging of local government system from one administration to another for instance, from administrators to caretaker committees and to elected councilors.⁵² Also, the incorporation of local government in the control of states is another challenge.⁵³ Section 7(1) of the 1999 Constitution of Federal Republic of Nigeria as altered empowers state government to ensure the provisions of the section is realized. State governments have then used the provision of the section as a catalyst for controlling the affairs of local government.

Additionally, the unlawful takeover of local government revenues and sources of income by the state governments is another challenge facing local government autonomy in Nigeria. Similarly, it

⁴⁷ *Governor of Ekiti State v Olunmi and Ors* (2011) LPELR-4005(CA); *AG Federation v AG Abia State and 35 Ors* (2024) LPELR-62576(SC)

⁴⁸ Oyeyemi Oke, supra n 6.

⁴⁹ Constitution of the Federal Republic of Nigeria, 1999 (as amended) s. 164

⁵⁰ Cornelius Okorie, supra n 17.

⁵¹ Linus Ugwu Odo, supra n 12.

⁵² Ibid

⁵³ Cornelius Okorie, supra n 17.

has been argued that internal revenue is the backbone of local government autonomy⁵⁴ yet, most local government in Nigeria are highly dependent on the federal allocation to meet their statutory responsibilities. Thus, their financial autonomy is compromised.

6. Analysis of the Supreme Court Case of AG Federation vs AG Abia State & 35 Ors

The case of arose from a growing constitutional crisis in Nigeria one that had persisted for decades without definitive judicial pronouncement. For years, the Federal Government had observed with concern that state governments were systematically undermining the autonomy of local governments particularly through the appointment of unelected caretaker committees and the mismanagement of funds allocated to local governments from the Federation Account.⁵⁵

This traditional practice, although politically tolerated, gradually increased into a national concern. In many states,⁵⁶ local government elections were not conducted for years, with Governors instead appointing caretaker administrators, thereby denying Nigerians the grassroots-level representation the Constitution envisaged.

The unconstitutional practices prompted the Federal Government, acting through the Attorney-General of the Federation (AGF), to seek a judicial declaration from the Supreme Court.⁵⁷ The AGF approached the Court with the intention of restoring the autonomy of local governments in line with constitutional principles and ensuring that funds meant for local governments are used for their intended purpose.

6.1 Parties and Legal Arguments

The plaintiff was the Attorney-General of the Federation, acting as the Chief Law Officer of the Federation and legal representative of the Federal Government. The defendants were the Attorneys-General of all the 36 states of the Federation.

The AGF contended that the actions of state governments in hijacking local government funds and refusing to conduct local government elections contravened sections 7(1), 162(3), 162(5), and 162(6) of the 1999 Constitution (as amended). He further argued that the practice of bypassing democratic processes at the local government level eroded accountability, transparency, and development, and was a fundamental breach of the federalism as envisaged by the Constitution.⁵⁸ The states on the other hands argued that Section 162(6) clearly authorized that local government funds be paid into the State Joint Local Government Account (SJLGA), which is managed by the states. They submitted that the Federal Government could not bypass this process by paying directly to local government.

6.2 Constitutional Provisions in Question

The following sections of the Constitution are notable:

- Section 7(1) guarantees the system of local government by democratically elected councils. The section imposes a duty on states to ensure local governments are governed by democratically elected officials, not appointees.⁵⁹

⁵⁴ Linus Ugwu Odo, Ibid.

⁵⁵ Oyeyemi Oke, supra n 6.

⁵⁶ Prior to 2025, states like Osun State, Rivers State, Lagos state, Ekiti State, Ondo State, Edo State and many others failed to conduct local government election for several years

⁵⁷ Ibid (n2)

⁵⁸ Ibid

⁵⁹ Constitution of the Federal Republic of Nigeria, 1999 (as amended) s. 7(1)

- Section 162(3) provides that any amount standing to the credit of the Federation Account shall be distributed among the federal, state, and local governments.⁶⁰
- Section 162(5) mandates that amounts standing to the credit of local governments shall be allocated to the states for the benefit of local governments councils.⁶¹
- Section 162(6) stipulates that each state shall maintain a State Joint Local Government Account into which shall be paid all local governments allocations.⁶²

The interpretation of these sections especially the nature and purpose of the Joint Account was at the center point of the case.

6.3 Issues for Determination

The following issues were determined by the Supreme Court:

1. Whether the Federal Government can directly disburse funds from the Federation Account to local government councils, bypassing the State Joint Local Government Accounts.
2. Whether the appointment of caretaker committees in place of democratically elected local councils is unconstitutional.
3. Whether such practices violate the autonomy of local governments as guaranteed by the Constitution.

6.4 Judgment

The Court held that:

- a. Under section 7(1) of the Constitution, local governments are a constitutionally recognized tier of government and leadership of local government must be independent and democratically elected.
- b. The State Joint Local Government Account, as provided under Section 162(6), was never intended to be a tool for state governments to hijack or misappropriate funds meant for local governments.
- c. Any state that fails to conduct local government elections and instead runs the councils through caretaker committees is acting unconstitutionally.
- d. Federal Government is empowered to take steps in ensuring that direct allocation is being paid into the accounts of democratically elected local government councils.⁶³

6.5 Dissenting Judgement

There is a need to consider the dissenting judgment of Justice Abiru who competently pointed out that the dispute as to whether funds can be paid directly to the Local Government Councils by the Federal Government is between the States and the Local Government Councils and not the business of the plaintiff and the court. The learned Justice also cited Section 162(5) and (6) that the said subsections do not allow for direct payment of funds from the Federation account to the Local Government Councils and that ordering direct payments to the Local Government Councils with the

⁶⁰ Ibid s. 162(3)

⁶¹ Ibid s. 162 (5)

⁶² Ibid s. 162(6)

⁶³ Oyeyemi Oke, supra n 6.

effect of by-passing the states would be an invitation for the court to engage in judicial legislation and undermine the foundation of federalism established in the constitution.⁶⁴

6.6 Orders Made by the Supreme Court

The Court made the following binding orders:

1. The Federal Government can directly allocate funds to local governments, particularly where states have failed to comply with constitutional provisions.
2. All state governments must ensure that local governments are administered by democratically elected officials.
3. All caretaker committees currently in place must be dissolved immediately.
4. States are to comply strictly with the constitutional provisions on the financial and political administration of local governments.

7. Notable Principles Established in the Case

7.1 The Nature of Local Government

The case is no doubt a landmark case in the history of Nigerian local government. From the case it is affirmed that local government is the third tier of government as recognized under the Constitution. Federalism envisages a three-tier government in which each of the tier is to operate independently without usurpation or interference. Also, the court in the case also reiterated that local governments must be governed by a democratically elected councils as stipulated in the Constitution.⁶⁵ State governments are therefore bound with the principle of democracy. A well conducted free and fair election into local councils must be ensured devoid of appointment of caretaker committees. Additionally, local governments do not enjoy full sovereignty. Their powers are limited by the Constitution and must be exercised within the framework of state laws that are themselves consistent with constitutional provisions. Hence, their autonomy is functional and administrative, not absolute or detached from constitutional oversight.

7.2 Local Government Autonomy

From the decision of the court, local governments autonomy can be appraised in the dimensions of administrative autonomy, financial autonomy and political autonomy.

7.3 Administrative Autonomy

Elected local government councils cannot be arbitrarily dissolved by state governors. Such acts were ruled unconstitutional, as they contravene Section 7(1).⁶⁶ The Court emphasized that elected councils must serve their constitutionally mandated tenure, and any attempt to interfere with this process undermines the rule of law and democratic governance.

7.4 Financial Autonomy

The Supreme Court declared that statutory allocations from the Federation Account must be paid directly to the local governments, as mandated by Sections 162(5) – (8) of the Constitution. It condemned the diversion or misapplication of such funds by state governments. The judgment clarified that the State Local Government Joint Account is merely a financial mechanism and not a tool for withholding or controlling local government funds. Similarly, apart

⁶⁴ Akinola Olademeji "LG Financial Autonomy: what the Supreme Court held in *AG of Federation v A.G Abia State &ors*)

⁶⁵ Constitution of the Federal Republic of Nigeria, 1999 (as amended) s. 7

⁶⁶ Ibid

from the direct federal allocation, the decision of the court, will enable the local government to have direct access to the revenues that are being generated locally without having to remit them to state accounts.⁶⁷

7.5 Political Autonomy

The Court emphasized the importance of regular, free, and fair local government elections. It warned against using state electoral bodies to manipulate or delay the electoral process. The use of caretaker committees or postponement of elections without constitutional justification was found to be a violation of the Constitution. The decision thus reinforced the principle of democracy.

8. Potential Challenges in Implementing the Court Order

Despite the fact of the Supreme court judgment reasserting the autonomy of local government, the actual implementation of the judgment has not been fully realized due to the challenges explained below;

8.1 Lack of Prepared Mechanisms by Local Governments: Despite the Supreme Court's affirmation of fiscal autonomy, many Local Governments lack well-structured systems for revenue generation, financial management and budgetary control.⁶⁸ Without these, the benefits of the judgment may not be fully actualized.

8.2 Opposition from State Governments: Some State interest groups (e.g., the Oyo State Local Government Chairmen) have shown blatant disregard for the authority of the Supreme Court, pulling out of associations like ALGON in protest. Such acts threaten constitutional order and the integrity of judicial supremacy.⁶⁹

8.3 Mismanagement and Corruption at the local level: Without legal safeguards and transparent practices, there is a potential for mismanagement or political interference in how Local governments exercise their new fiscal powers.

8.4 Lack of Independent Electoral Body at the local level: Elections into local councils as upheld by the court are conducted by the state electoral body. This directly or indirectly have effect on the autonomy of local government more particularly on their political autonomy.⁷⁰ This is because, sequel to section 198 of the 1999 Constitution, the chairman and members of the State Independent Electoral Commission are appointed by the Governor, subject to confirmation by the State House of Assembly.⁷¹ The above clearly undermines the conduction of free and fair election into the local government councils.

9. Recommendations and Conclusion

Local government autonomy especially financial autonomy must be practically realized in order to bring even development to the grassroots. In ensuring this, both the local and state government must be independent.

Also, the contradictions in the Constitution, particularly, the provisions of section 7(1) which empowers state governments to ensure the existence of a democratically elected local councils under

⁶⁷ Oyeyemi Oke, *supra* n 6.

⁶⁸ Victoria Yadeka, "The Principle of Fiscal Federalism: An Appraisal of the Supreme Court' Recent Decision on Local Government Autonomy" <<https://pthlp.com>> accessed August 1 2025.

⁶⁹ The Guardian Nigeria News, < <https://guardian.ng> > accessed August 1 2025.

⁷⁰ Victoria Yadeka, *ibid*.

⁷¹ Constitution of the Federal Republic of Nigeria 1999 (as amended) S. 198.

a Law which provides for the, structure, composition, finance and functions of such councils must be reviewed. This is because state governments have employed the provisions as a catalyst of exercising control over local governments. Similarly, the provisions of section 162(6) which provides for State Joint Local Government Account (SJLGA) must be equally reviewed. The law could be better if there is a provision for separate accounts for local and state government.

In addition, dependable sources of revenue of local government must be ensured. This will prevent local governments from relying solely on Federal allocation or any funds from state governments before discharging their duties, paying the staff and so on. On the issue of implementation of court's decision, an independent body should be set up to ensure that the decision of the court on local government autonomy is carried out. The body should ensure that each state of the Federation is acting in compliance with the decision of the court and the provisions of the constitution.

Additionally, an independent electoral body must be set up at the local level, and state independent electoral body must be disbanded from conducting election into the local government councils. Lastly, the need for a thorough constitutional reform is indispensable. The Constitution must be reformed to accommodate the new era of local government autonomy and to clearly depict the position of local governments financially, politically and bureaucratically.

Autonomy is paramount for effective operation of local government in Nigeria. With greater control over their own finance, administration and politics, local government will be able to address pressing issues at the local level. Provision for primary education, health care and other amenities will be even at the local level. There is no doubt that the court in the case of *AG Federation vs AG Abia State & 35 Ors*⁷² have distinctively upheld the principle of the Supremacy of the Constitution in its judgment by reaffirming the position of the Constitution regarding the autonomy of the local government. The Government especially the State Governments are left with no option than to be bound with the position of the law and judicial pronouncement.

The struggle for local government autonomy is a vital step towards strengthening the democratic governance and local development, therefore, it is germane for the government at all levels to ensure that local government autonomy is operational. Local government should be truly made autonomous so as to rightfully lay claim to the status of a third tier of government.

⁷² (2024) RPELR 62576 SC