

## **1. BACKGROUND TO LOCAL GOVERNMENT SYSTEM IN NIGERIA**

1.1) Nigeria is a federation made up of 3 tiers of government – The federal government, thirty six (36) states (and the federal capital territory, Abuja) and 774 local governments and area councils.

1.2) Nigeria is a vast country with overwhelming human population and diverse culture. It will be almost impossible to administer such a country without a good measure of decentralization. This factor has informed the quest by successive governments for an effective system of local government, capable of mobilizing local people and their resources for sustainable local as well as national development.

## **2. EVOLUTION OF LOCAL GOVERNMENT SYSTEM IN NIGERIA**

2.1) The Nigerian local government administration can rightly be traced back to the traditional local administration system that existed prior to the colonial era. This was followed by the Native Authority System which was introduced to better service the colonial authority. At the time of independence in 1960, local government was essentially a regional responsibility.

2.2) During the early military era (1967 – 1976) local government system remained more or less a deconcentrated extension of the states, with local governments performing essentially, residual roles for their military overlords at the state level.

2.3) In the later military era (1976 – 1979), effort was made to transform the basic roles of local government as exemplified in the 1976 local government reform. This reform established local governments as the 3<sup>rd</sup> tier of government, with its own identity, power and sources of revenue. The need for devolution of power instead of delegation of functions to local governments was underscored in the reform. The objective was to entrust political responsibility to where it was most crucial and beneficial i.e to the people and to enshrine the principle of participatory democracy and political responsibility in the constitution for every Nigerian.

2.4) To further improve on the 1976 local government reform and entrench local democracy, the Dasuki Panel was established in 1984 to review the local government system. The panel made far reaching and wide – ranging people oriented recommendations for a virile local government system. Unfortunately, the panels' recommendations, as well as the government white paper on them were eventually not implemented. The report however, succeeded in highlighting and marshalling a system of effective democratic governance at the local level.

## 2.5) The 1999 constitution.

When the 1999 constitution of the federal republic of Nigeria came into force, the federal, state and local governments and all elected public officials, started to operate under the said constitution.

### **3. FACTORS HINDERING EFFECTIVE LOCAL GOVERNMENT ADMINISTRATION IN NIGERIA**

3.1) A number of factors are responsible for local governments not functioning optimally in Nigeria. The two most fundamental hindrances are inadequate constitutional provisions to guarantee the autonomy of local governments as a tier of government. The second factor is inadequate funding coupled with the insensitivity, overbearing and undue interference of state government in the finances and functions of local governments.

#### **4. INADEQUATE CONSTITUTIONAL PROVISIONS**

4.1) **Sec 7 of the 1999 constitution provides inter alia sec 7 (1) “The system of local government by a democratically elected local government council is under this constitution guaranteed; 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”**

4.2) There is no express provision in the constitution regulating the tenure of local government councils as it provided for the president and state governors, nevertheless **the constitution guarantees the existence of democratically elected local government councils.**

4.3) As a result of the singular omission or oversight of not expressly providing for the tenure of local governments in the 1999 constitution, the various state legislatures now determines the tenure of its elected councils and therein lies the prescription for the unfolding chaos in Nigeria local government system. The result is that we now have a situation where there is no uniformity of tenure across the country of elected local government officials. While a few states graciously accord local governments a 3 – year tenure, majority operate a 2 – year tenure, some 2 1/2 year, others even less than 2 years.

4.4) While it is obvious that conducting local government elections every 2 years is a huge drain on the finances of the states and a potential avenue of wasting the scarce resources that ought to be channeled to areas of need in the states, it is even more

obvious that 2 years is hardly enough time for a council to settle down, plan, execute and monitor programs and projects that can have long term impact on the lives of the people in their locality.

## **5. UNDUE INTERFERENCE BY STATE GOVERNMENTS**

5.1) More worrisome however is the trend that is becoming entrenched and endemic in local government administration in Nigeria and that is the unconstitutional and unceremonious termination of the tenure of elected councils by the state governors and legislatures before the expiration of the mandate given by the people during elections and replacing the elected council with unelected and selected individuals and political associates under the nomenclature of “caretaker committee”. The so called caretaker committee assumes the duties and responsibilities of an elected council to the extent that a governor allows and the committee’s life span is indefinite until such a time, it is most convenient for the state government to conduct local council elections. A typical example is Anambra state, the last time local elections was conducted in the state was in 1999. Since 2002 local governments in the state have been managed by the governor through caretaker committee, yet funds meant for democratically elected councils are still released to the state from the federation account.

5.2) This practice which first reared its ugly head as far back as year 2002, is fast becoming the accepted norm instead of an aberration to democratic practice. Initially Governors will unilaterally and without recourse to due process of law, suspend or outrightly remove targeted elected Council Chairman from office. The practice has grown beyond that. Presently, Governors are truncating the tenures of the whole Local Government Councils within their states with impunity. As at June 2011, over 2/3 of the 774 local government councils in the country are being run by non elected caretaker committees, appointed by state governors ( see appendix A)

5.3) ALGON has observed this abuse of our democratic institution with a deep sense of despair and regret. State Governors and legislatures have continued to exhibit a complete contempt and disregard to the letters and intent of the 1999 constitution and their actions has brought about avoidable and palpable tension which significantly constitutes a veritable treat to the survival and operations of the local governments and indeed their ability to deliver quality services to the people.

5.4) We are forced to ask, under which constitution or law does a state Government derive the powers to dissolve or cut short the tenure of a democratically elected local government council and appoint caretaker committee to take over their functions. We

are yet to see any law that can subvert the constitution and the mandate of the people. Any such law will be inconsistent with constitutional provisions and therefore null and void to the extent of such inconsistency.

5.5) Unfortunately, various judicial pronouncements and orders from the courts against such unwholesome practices have not alleviated the situation because of flagrant disobedience of court orders by the state Governors and legislatures. Various attempts by ALGON to lobby the National Assembly on behalf of local governments have come to nil due to their lack of political will to challenge the state governments.

5.6) It is very worrisome what is happening in the Nigerian local government system. A country other African nations look up to for good leadership and as a role model for democratic practice and norms. The irony is that Nigerian leaders at the head of state and ministerial levels have been partners in the signing of several international treaties and conventions geared towards entrenching decentralization and deepening local democracy including the Aberdeen convention. It is therefore very unfortunate that what is in practice today is an aberration of internationally accepted democratic norms.

5.7) ALGON's position is that local governments should not be left entirely at the mercy of state governments because instead of empowering the councils to attain desired results of effective and sustainable service delivery at the grassroots, they are stifling the very existence of this most needed tier of government.

5.8) The spirit of democracy ought to be seen in practice to foster progress, peace and unity. It is our position that council elections must be conducted before the lawful expiration of the elected official's tenure as is being practiced by other tiers of government; this is to avoid any vacuum that will be an excuse for governors to appoint caretaker committees. Our democracy will deepen when all stakeholders work towards a lawful and peaceful conduct of local elections so that elected office holders will be succeeded by elected functionaries.

## **6. LOCAL GOVERNMENT FINANCING ( JOINT ACCOUNT)**

6.1) Another challenge that impedes effective service delivery at the local governments in Nigeria is again hinged on the provisions of the 1999 constitution:

**6.2) Sec 162 provides inter alia Sec 162 (6) " Each state shall maintain a special account to be called "State joint local government account" into which shall be paid all allocations to the local government councils of the state from the federation account and form the government of the state.**

6.3) Contrary to the intent and letters of the constitution on the operation of the joint account, state government under the guise of the joint account, has assumed and arrogated to themselves, powers to completely usurp and manage local government funds under the same guise, the state redistributes and reallocate monies already appropriated to local councils from the federation account in the name of joint projects, resulting in various illegal deductions from local government funds. At the end of such deductions what finally gets to the local councils is hardly enough to cover overhead and recurrent expenditures, leaving little or nothing to embark on capital projects and programmes that will alleviate the lives of the people in their communities.

6.4) A situation where allocations already made to the local governments by the federation allocation committee (FAAC) is subjected to a redistribution by the state government is a clear breach of the constitution. The question is can the federal government police funds disbursed to the state governments from federation account? The answer is a clear NO. Then where does the state derive the legal and moral backing to do the same to local governments. Statutory allocations to each tier of government should be sacrosanct; it is only by being so that you can hold that tier of government responsible and accountable.

## **7. ALGON VIS A VIS ITS MANDATE**

7.1) ALGON is the umbrella association of all local government in Nigeria, with an institutional membership of 774 local governments and area councils. ALGON was established legally in the year 2000 under the appropriate Nigerian law (companies and allied matters act 1990) Being an association established under a democratic dispensation, it envisaged representation by elected local government functionaries.

7.2) The objectives for establishing the association is to have a unified voice for local governments in Nigeria and to protect their interest, rights and privileges amongst others. ALGON as an association has an important and large role to play towards achieving its mandate which is to assist its members in their effort to deliver quality service to their communities.

7.3) Ten years after establishment, ALGON, is yet to attain the objectives for which it was founded due to various challenges, viz

### **A) FREQUENT CHANGE IN LEADERSHIP AND MEMBERSHIP**

The very short tenure (2years) given to elected council official at the state level and frequent dissolution and truncating of their tenures by the state governments

adversely affects the effectiveness of the association because the frequent change of its leadership impedes continuity and focus.

## **B) FUNDING**

ALGON is not a creation of the Nigerian constitution or that of any federal or state law, (as is applicable in some countries), it is simply an association and as such does not receive any subvention or grant from the federal, state or local governments. It depends mostly on the token membership fee from its members as its main source of funding. Most of which goes towards offsetting administrative and recurrent cost at its national and state secretariats.

Members are not always forthcoming with their dues, due to various challenges they face at the states (example operation of joint account) and also at most times, a lot of councils are administered by states through caretaker committees that are not elected, and consequently cannot pay dues to ALGON.

The resultant effect is that the association is often underfunded and meeting up with administrative cost and its obligations to members and international affiliates becomes very challenging.

## **8. CONCLUSION**

8.1) ALGON is compelled by sheer desire towards ensuring the survival of a vibrant local government system in Nigeria. Democratic practice cannot be deepened in Nigeria or elsewhere with an encumbered local government administration. Local governments cannot be seen and treated as an extension of the empires of state governments. A situation as we have now, where elected local government officials have no constitutional protection for their tenure, but left to the vagaries or whims and caprices of state governors and where funds meant for councils are hijacked by the states is totally unacceptable because it creates a hostile environment for democracy to take root in the communities.

8.2) The trend worldwide is towards decentralization which is reflected in a strong, autonomous, independent and democratic local government system. Nigeria, having endorsed this position in many international foras, should move with the times. To eliminate the present confusion engulfing Nigerian local government administration which is inevitably limiting its service delivery capacity, a constitutional amendment that will address in detail issues of tenure and autonomy of local governments must be initiated and sustained. One cannot say for sure that local government administration exists in Nigeria, except for the federal capital territory under the federal government that has not suffered this fate. Under the present situation, the local people are robbed

of the much needed funds to drive development with the full support of the state house of assembly. This has also encouraged the people so appointed, not elected as provided for in the constitution, to defraud the system because they are neither accountable nor responsible to the people since they were not elected in the first place by the people. This is why the most accepted best practice of achieving local development, poverty reduction and the attainment of Millennium Development Goals (MDGS) worldwide cannot work in Nigeria now “Local Economic Development Strategy” (LED) – a development partnership between local government officials elected by the people, with private sector, NGO, Civil society and the community.

8.3) ALGON as the umbrella body of local government is in dire need of both national and international support to strengthen its capacity and be positioned to face challenges and deliver on its mandate to its members. We also expect Nigerians to rise up to their responsibility as the governors had taken over the power of the Nigerian people to elect their leaders at the local government level as guaranteed in the Nigerian 1999 constitution. The governors cannot and should not be allowed to continually violate the Nigerian constitution without resistance. Every Nigerian is expected to operate under the rule of law irrespective of position. **A situation where a sitting governor appoints his cronies to administer the councils is an abuse of the Nigeria constitution and an impeachable offence.** It is sad to observe that these governors are themselves product of democratic process, who in their oath of office, swore to uphold and defend the constitution of the federal republic of Nigeria. Once in power cannot without blinking an eyelid swiftly dissolve elected local government council or run local government council with transition government which is unknown to the Nigerian constitution till date. We therefore appeal to all stakeholders in local governance, within and outside Nigeria for support.

Sign

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