

**LOCAL GOVERNMENT ADMINISTRATION:
THE STATE GOVERNORS AND DEFICIT OF DEMOCRACY IN GRASSROOTS
NIGERIA**

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ABSTRACT

After twenty-three years of the fourth democratic republic in Nigeria, there is a strong temptation to presume that democracy has taken firm roots at the grassroots. However, the whimsical manner by which the state Governors have subverted and hijacked the Local Governments (LGs) structures in their respective states suggests the contrary. The 1999 Constitution of the Federal Republic of Nigeria (as amended) makes provisions for elected LG Councils, yet, the Governors having been in firm charge have rendered these provisions illusory. They toy with the autonomy and vitality of the LGs, interfering and removing elected LG officials at their fancies. This study assesses the role of the state Governors in the determination of representations at the LG level in Nigeria and its effects in providing credible leadership for rural development. Data were gathered through primary and secondary sources such as 1999 Constitution of the Federal Republic of Nigeria (as amended), books relevant to the present study, peer review journal articles, judicial precedents, internet materials and newspaper reports. The above data were subject to content analysis. The study finds that the LG elections in Nigeria are not given premium position by many state governments which rob the nation of a structured leadership development avenue. It also finds that the Electoral Management Body in the states are not independent. The paper, therefore, proffers Constitutional reforms as the way out of the wood. This will not only stop the Governors from acting capriciously and as omnipotent emperors, it will also allow the LGs enhance their capacity for optimum utilization of local initiatives through democratic means.

Keywords: Local Government, Administration, State Governors, Democracy, Grassroots

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INTRODUCTION

If men were Angels, no government
would be necessary. If Angels were
to govern men, neither external nor
Internal control on government
would be necessary³

Some of the challenges confronting Nigeria beyond the extant security and economic challenges are the mindset, the attitude, character and lack of decency and morals of the leadership. It is this mindset of impunity, the feeling of being above the law and the understanding that the law can always be violated without consequences that exacerbate the challenge. In this era of impunity, crimes and punishment have been delinked and the nebulous rule of man which was prevalent in the Hobbesian era has been glamourised and elevated over the rule of law. The extant Local Government (LG) system in Nigeria provides a veritable example of how a system created for acceleration of grassroots development and democratic consolidation has been twisted and turned into the exact opposite of the ideals⁴. In a rare display of righteous indignation, President Muhammad Buhari attests to this truism in his *Arise Television/This Day* newspaper interview in June 2021 when he narrowed down the unimpressive performance of the LG Councils to the ravenous grip of Their Excellences, the executive Governors of the states. The President laments that “the LG system has been killed”.⁵ To justify this weighty allegation, he says that the LG Chairmen “have been compromised” insinuating that they were being bullied by the state Governors to surrender their relative political and financial autonomy⁶. This is presumably because, they are either the Governors’ stooges, cronies or appointees. Even if the facts are not exactly as the President states them, the undeniable fact is that the LGs in Nigeria, ingloriously perceived in some quarters as administrative units of states and to others as

³ Quoted from Kunle Awotokun “Control of Administration of Local Government in Nigeria: Lessons from Ondo State” (1989) 3(1), *The Nigerian Journal of Local Government Studies*, Obafemi Awolowo University Press, 139.

⁴ Koni Ifeolu. ‘The search for Local Government Autonomy in Nigeria: Legal and Constitutional Pathways to its Realisation. (2016) 7, *Afe Babalola University Journal of Sustainable Development*. p. 1, Eric Teniola is a public affairs analyst.

⁵ Ibid.

⁶ Ibid.

the third tier of government have been debased, abused and castrated. The 768 LGs and the six Area Councils in the Federal Capital Territory⁷ exist in name, almost choked out of any meaningful existence by the states. The result is that the impact of the LGs, especially the democratic culture is not felt at the grassroots.

The issues which President Buhari has thrown up have been the concern of many Nigerians over the years. This is because out of the tripartite governance structure that are recognised by the 1999 Constitution of the Federal Republic of Nigeria (as amended) (1999 CFRN), the LG is the closet level to the people. It also possesses the capacity to be more impactful in fulfilling the wishes and aspirations of the local people. It is therefore not surprising that section 7(1) of the 1999 CFRN visualises a democratically elected and run LG system that will attend to the needs of the grassroots people under the legal framework for democracy established by the state governments⁸ and not by any other political contraption such as unelected Interim Management Body or Care-taker Committees. Unfortunately, this has been the practice of many state Governors, thereby denying the grassroots population of the benefits of democratic rule. In view of the recent dominant global pulse on democratic virtues as a spring board for popular participation of the people in governance and sustainable development, this paper focuses on the commitment of the state Governors to the promotion and sustenance of democratic virtues in the rural communities pursuant to the constitutional provision. It suffices to say at this early stage that presently, Nigeria have LG system where the elected officials no longer serve at the pleasure of the people who are the ultimate sovereign⁹, but at the whims and caprices of the state Governor. Currently, Nigeria has a LG system which its enabling laws give very limited tenure to LG Chairpersons and Councilors¹⁰ and a LG system where purported elections (where it is held at all) can best be described as farcical. All these contradict the perception of many LG scholars¹¹. The general belief is that if democratic LGs are allowed to live and thrive, competition for

⁷ Against the backdrop of popular belief, Nigeria does not have 774 LGAs. Section 3(6) of the 1999 CFRN provides that "There shall be seven and hundred and sixty-eight local governments in Nigeria as shown in the second column of part 1 of the First Schedule to this constitution and six Areas Councils as shown in Part II of that schedule.

⁸ Section 7(1) 1999 CFRN

⁹ Section 14 (2) (a) of the 1999 CFRN

¹⁰ A good example is Kaduna State Local Government Law, No. 3, 2018 which provides for a three year tenure for its elected LG officials.

¹¹ Adeyeye M.O. "Governing the Localities: Lesson (UN) Learnt" (2016), Being Inaugural Lecture 284, Obafemi Awolowo University, Ile-Ife, Nigeria, delivered on March 22, 2016 p. 5.

excellence in service delivery will come into play, such that the electorates themselves will be pushing which of the councils' officials should aspire to higher levels¹².

The areas examined in different segments of this paper include the evolution and philosophy of LG in Nigeria. The serial unconstitutional and capricious dissolution of elected LG councils is examined in *extenso*. The unabashed LG charades called elections by states Electoral Management Body (EMB), and State Independent Electoral Commissions (SIECs) are also examined. The paper is concluded with various recommendations which can be harvested to realise our quest – the enthronement of grassroots democracy. All these will be discussed in the order of segment in which they appear in this outline.

CONCEPTUALISATION AND PHILOSOPHY OF LOCAL GOVERNMENT

As a topical area of study, a number of contemporary scholarly works had been done on the concept of evolution and philosophy of LG. The Editorial Board of *The Punch*, a Nigerian tabloid, asserts that LG is fundamental to democratisation process, as it remains the most potent instrument to mobilise people for local participation, adding that “no political system is considered complete and democratic” without a functional local government system¹³. Hence, the ideal definition of LG in most democracies is that, it is a man-made device for the management of local affairs with local resources by representatives of the local population¹⁴. It is a functional tool designed to cater for the needs and interests set for it by those who designed it¹⁵. LG has also been defined in different ways and from different perspectives. To some, it is a generic term for the lowest level of public administration within a particular sovereign state with the authority to determine and execute policies¹⁶. It is a regional or sub- national level of a major political unit such as a nation or state¹⁷. Others like E.O. Awa see LG as “political authority set up by a nation or state as a subordinate

¹² Ibid.

¹³ Democratising LGs essential for Growth Editorial Comment. The Punch Newspaper available at <<https://www.punching.com//democratising-lgs-essentialforgrowth>.> Last visited 23/12/2022.

¹⁴ Ebo C “The Structure of Local Government in Nigeria” (1989), *A Brief Historical Review in The Nigerian Journal of Local Government Studies*, p. 127.

¹⁵ Ibid.

¹⁶ Ibid.

¹⁷ Ozeklome Mike. “Local Government Autonomy as a Panaceas for National Development” *Daily Sun Newspaper* (Nigeria, 2021). <<https://www.thesun.ng>.> last visited November 24, 2021.

authority for the purpose of dispersing or decentralising political power”¹⁸. Emezi adopts a definition similar to the above. According to him, LG is

a system of local administration under local communities that are organised to maintain law and order, provide a limited range of social amenities and encourage cooperation and participation of inhabitants towards the improvement of their conditions of living¹⁹.

It is clear from the definitions given by Awa and Emezi that colonial connotations are embedded. For example, during the colonial times, native administration (as it was called at that time) was primarily established to maintain law and order and provision of limited range of social services. After independence, emphasis shifted from maintenance of law and order to that of provision of social services²⁰. With regards to democratic culture, Appadorai explains LG as a government by the popularly elected bodies charged with administrative and executive duties in matters concerning the inhabitants of a place²¹. The International Union of Local Government Authorities (IULA) defines LG as

That level of government with constitutionally defined rights and duties to regulate and manage public affairs which are constitutionally defined for the exclusive interest of the local population²².

The official definition and narrative given by the Nigerian government cannot be discountenanced. The 1976 Guidelines on LG Reforms defines LG *ad nauseam* as “Government at local level exercised through representative councils established by law to exercise specific powers within defined areas”²³. The guidelines further provide that the powers should give the councils substantial control over local affairs as well as the staff and institutional and financial powers to initiate and direct the provisions of services and to

¹⁸ Adeyemo D.O “Federalism and the Logic of Local Government Autonomy in Nigeria” (1996), *Nigerian Journal of Local Government Studies*, p. 24.

¹⁹ Emezi Cleus “Local Government in Historical Perspective” (1984) 2(2), *Nigerian Journal of Public Administration and Local Government*, p. 50.

²⁰ Adeyemo D.O. (n 18).

²¹ Appadorai A. “The Substance of Politics” (Oxford University Press, New Delhi, India, 2004).

²² Samuel C. Agunya et al. “Local Government Autonomy: A Veritable Tool for Redressing Usurpation of Powers of Local Government by The State Governors”. (2013) <<https://www.researchgate.net/publication>.> Last visited 14/9/2022.

²³ Federal Republic of Nigeria Guidelines for Local Government Reforms. (Kaduna, Government Printer 1976).

determine and implement projects so as to compliment the activities of the state and federal government²⁴. It is implicit in this official definition that it envisages a democratic representation in the councils and effective participation of the local people and their traditional institutions²⁵. This official definition proposes the existence of a local authority with power to act independently of external control as well as the participation of the local community in the administration of its own affairs²⁶. Taking the 'modern state' as his frame of reference, Hugh Whalen, a Canadian political analyst, sees local authorities in such states as possessing

a given territory and population, institutional structure for legislative, executive and administrative purposes, a separate legal entity, a range of powers and functions authorised by delegation from the appropriate central or intermediate legislature and lastly within the ambit of such delegation, autonomy-including fiscal autonomy²⁷..

Whatever may be the differences in the definitions given by these scholars, one thing that stands out like a sore thumb is that LGs are not sovereign unlike independent nation states. They are a subordinate government which derives its existence and power from law enacted by a superior government. These definitions are clearly useful to summarise the salient characteristics of what LGs should be. They include (a) a given territory, population and legal entity (b) a range of powers and functions and (c) autonomy, especially with respect to finance²⁸.

Democracy

In general terms, democracy is the rule of majority for the overall benefit of the society. It is a process which necessarily incorporates the views of the minority in the governing process.

²⁴ Ibid.

²⁵ Adeyeye M.O. *Governing The Localities Lesson (UN) Learnt* (n 10), p. 10.

²⁶ Ibid.

²⁷ Whalen H. "Ideology, Democracy and The Foundation of Local Government" (1070) in Fielman L.D & Goldrick M.D. (eds) *Politics and Government of Urban Canada* Toronto, Mathuwn Publication, p.12. For more on definitions of LG, see Akande Idiat Funmilola "An Appraisal of the Control of Local Government Council in Nigeria with particular Reference: to Kaduna State". (2007-2009) 2(3) *A.B.U Journal of Private & Comparative Law*, pp. 146-147.

²⁸ Ibid.

Democracy can also be viewed against the background of the perspective of Robert Dahl who sees democracy as

a system of government that meets three essential conditions viz, meaningful and extensive competition among individual and organized groups (especially political parties) for all elective positions of government powers at regular intervals excluding the use of force, a highly inclusive level of political participation in the selection of leaders and policies, ... and a level of civic and political liberties... freedom of expression, freedom of the press...freedom to join organisations...sufficient to ensure the integrity of political competition and participation²⁹.

According to Thomas Jefferson;

democracy is cumbersome, slow and inefficient, but it is due in time. The voice of the people will be heard and their latent wisdom will prevail³⁰.

In a speech delivered by Thomas Jefferson in Maryland in 1809, he stated again that "The care of human life and happiness and not their destruction is the first and only legitimate object of good government."³¹ One basic truism that permeates each of these definitions or any other definition is that if truly analysed, and practiced, it should be a government in which the people through elections freely choose those who will represent and govern them well.

In contradistinction with universal or orthodox concept of democracy, grassroots democracy as it has been stated earlier, means the extent to which the general citizenry of a country is involved in the decision making of the society. In other words, the degree of the contribution of the people in shaping the policy process and output of government in a generic manner. Accordingly, the policy output must necessarily conform to the input of the people. In other words, it is not just the representative who goes to the high level, the citizen's decisions must also go to a higher level³². For Smith G, grassroots democracy is based on more

²⁹ Awotokun Adekunle M. "Localism Communitarianism and The Logic of Grassroots Democracy in Nigeria's political landscape" (2015), Being Inaugural Lecture Series 272 delivered on February 14, 2015, Obafemi Awolowo University press, Ile-Ife, p. 20.

³⁰ Olanipekun Wole, Constitutional Safeguard for Sustainable Democracy in Nigeria (2005) 4(2), *Ibadan Bar Journal*, p.94.

³¹ *Ibid.*

³² *Ibid.*

stringent requirements than national or orthodox democracy³³. Thus, in grassroots democracy, the individuals and the communities they belong to are inseparable as they are mutually reinforcing³⁴.

State Governors in the context of this study means elected chief executive of a state who are constitutionally empowered to oversee the affairs of states of the federation in Nigeria³⁵. The state Governors are the chief accounting, security, and administrative officers of their respective states. He is the one who gives policy directives to states agencies and institution³⁶. However, if there is a ubiquitous word in the Nigerian political lexicon, it is grassroots. It is used to imply the notional 'ordinary person' or the common man on the street especially in the rural areas. There is no doubt that majority of Nigerians constitute the grassroots who live in the LG Councils that make up Nigeria³⁷. Thus, grassroots within the meaning of this conversation is defined as a tendency towards designing political process to shift as much decision making authority as practical to the organisation's lowest social level³⁸. Grassroots democracy therefore means the extent to which the general citizenry of a country are involved in the decision making of the society.

Philosophy of LG

One of the philosophies behind the creation of LGs anywhere in the world is to employ the institution to take responsibility for the development of their areas directly and also contribute indirectly to the development of the nation³⁹. Apart from bringing governance closer to the people at the grassroots and fast-tracking rural development⁴⁰, the system of LG has also being supported on the philosophical belief that it serves as a training ground for mass political mobilisation. In this regard, it is believed that the LG system fosters healthy political understanding. It enables the citizens to avoid electing the dregs of the community

³³ Smith G. "Sustainable Local Democracy" (1996) 16(2), *Hague Journal of Public Administration and Development*, p. 32.

³⁴ Adekunle M.A. (n 29).

³⁵ Section 5(2) (a) 1999 CFRN

³⁶ Agbakoba O. & Ogbona H. "Local Government Administration and Development in Nigeria: A Capacity Building Manual". (Lagos. Hurilaw Publication, 2004).

³⁷ Encarta online dictionary <<https://www.authority/ng.com>> last visited 22/9/2022.

³⁸ Ibid.

³⁹ Adekunle M.A. (n 34).

⁴⁰ Ibid, p. 38.

or corrupt representatives⁴¹. Similarly, the LG serves as an academy (a training period) for future political leaders i.e. a breeding place for elected and appointed functionaries at the federal and the state government levels. Having mastered the rudiments of representation, they can become vital democratic assets in administration at the higher levels, and having being monitored by the rural dwellers, they would have acquired the skills of transparency and accountability⁴². On this note, it is remarked that if members of Parliament (MPs) were before their candidature was legally required to serve three years on a local body, they would gain the feel of the institution so necessary to success⁴³.

John Stuart Mill, a profound advocate of the relevance of LG says that LG is one of the “free institution” which provides political education. With great enthusiasm he says;

I have dwelt in strong language, hardly any is strong enough to express the strength of my conviction on the importance of that portion of the operation of free institution which may be called the public education of the citizens. Now, of its operation, the local administrative institution are the chief instrument...⁴⁴

LG is also seen as a guard against unhealthy concentration of power at the centre, that is, it discourages the tyranny of centralisation of power and provides greater accountability and control than field administration⁴⁵.

EVOLUTION OF LOCAL GOVERNMENT

There is a strong contention that LGs existed in Nigeria prior to colonialism⁴⁶. In other words, a form of LG preceded any form of central government or at best, government at the

⁴¹ Ibid.

⁴² Ibid.

⁴³ Importance of Local Government Bodies. <<https://www.geeksforgeeks.org/importance-of-local-government-bodies/>> last visited, 21/3/2020

⁴⁴ Babatunde Moshood, Local Government and Grassroots Development in Nigeria: A Critical Review of the Constitution. (2012) 12(1), *A Journal of Constitutional Development*, p. 57.

⁴⁵ Ibid.

⁴⁶ Ibid.

level of village or extended family was a reality before colonialism⁴⁷. The Fulani Emirates and the kingdoms of the Yorubas and Binis were relatively well developed LG organisations. Similarly, in the East, the family or extended family catered successfully for the basic needs of their communities⁴⁸. The development of Nigeria's present LG system can however be traced to the Native Authority Ordinance of 1916 passed by the British colonial government to leverage the existing traditional administrative system in Nigeria⁴⁹. The Ordinance as the first legal framework for the operation of indirect rule was resisted in the east and the west. Nevertheless, the system was effected through the administrative machinery which had been created by the natives themselves⁵⁰. The Ordinance lasted till 1946 when the Richardson Constitution introduced Regional Assemblies in 1949. The same year, the Eastern House of Assembly created a platform for debate that led to the Local Government Ordinance of 1950. The Ordinance provided for a democratic LG⁵¹. In spite of this, the Ordinance highlighted the predominance of federal and state government over LG administration, the legacy of which has endured through the post-colonial era till the contemporary times⁵².

It is noteworthy that the system of LG experienced a lull during military dictatorship lasting between 1966 and 1979. The reason being that at best, the military operated a two-tier system of governance⁵³. Notwithstanding this, the issue of LG administration was paramount to them. Hence, it is not surprising that at the twilight of its stay in power in 1976 and after wide consultation, there was unanimity of opinions that for a successful return of the country to democracy, there was the need to reform the LG system⁵⁴. This led to the setting up of the Dasuki Committee by Chief Obasanjo led military administration with the *raison d'être*, among other things, to stimulate democratic self-government and encourage local initiatives and leadership potential⁵⁵. The Reports of Dasuki-headed Committee led to the reforms of LG system of 1976 which started the modern trend of LG system in Nigeria.

⁴⁷ Ibid.

⁴⁸ Ibid

⁴⁹ Ozekhome Mike (n 17).

⁵⁰ Ibid.

⁵¹ Olaniyi Johnson O. "State Independent Electoral Commission and Local Government Election in Nigeria" (2017) <<https://www.apsdpro.org/indexd.php>> last visited 21/10/2022

⁵² Ozekhome Mike (n 49).

⁵³ Ibid.

⁵⁴ Ibid.

⁵⁵ Adeyeye M.O. (n 25), p. 16.

Described as a watershed in the history of LG in Nigeria, the Reports made far reaching recommendations among which are uniform LG system throughout the country and legal recognition of the LGs under the tutelage of the of the state government. This was reflected in the 1979 constitution of the Federal Republic of Nigeria and consolidated in the 1999 CFRN. The Reports also marked a conscious attempt to identify the primary responsibilities of LGs which includes facilitation of the exercise of democratic self-government close to local level of our society and encouraging initiatives and leadership potentials⁵⁶. The LG thus became a single-level authority with the primary and sole responsibility for exercising the statutory powers of LG. It must then be appreciated that it is on the basis of these responsibilities that the LGs exist upon the basis of two justifications: the democratic and the developmental principles. The democratic principle which is considered as the most remarkable of the reforms enshrines the idea of participatory democracy and of political responsibility to every citizen which is of interest to this study. The latter principle implies the mobilisation of human and material resources for local development⁵⁷. In spite of the fact that the 1999 CFRN makes provisions for democratically elected LG councils, the serial capricious dissolution of elected LG officials explains why the agitations for a review of the status of the LG administration have not abated.

DISSOLUTION OF ELECTED LOCAL GOVERNMENT OFFICIALS-- EXECUTIVE RASCALITY

Many political observers believe that one of the reasons that gave rise to the scenario given by President Buhari in earlier discourse is the manner of recruiting the LG chairmen and councilor.⁵⁸ The constitution puts the LG councils under the control and supervision of the state government⁵⁹, many state Governors truncate the tenure of democratically elected council chairmen and councilors at their pleasure. This is purportedly in pursuance of laws passed by their respective state Houses of Assemblies under section 7(1) of the 1999 CFRN. They replace them with members of the ruling party as administrators, members, or

⁵⁶ The Reports of the Dasuki Committee on Reform of Local Government.

⁵⁷ Oviasuyi, P., Idada, W. & Isiraojie, L. Constraints of Local Government Administration in Nigeria (2010) 24, *Journal of Social Sciences*, 81-86.

⁵⁸ Agbedo Onyedika et al "Salvaging the Local Council System via Credible Elections" (2021) <<https://www.pressreader.com>> Last visited 22/7/2022.

⁵⁹ The constitution does not provide for the issue of LG in the exclusive legislative list thereby making it a residual matter. This claim is also fortified by the express provision of section 7 (1) 1999 CFRN.

Care-taker committees. They often justify the illegal dissolution of these councils on vacuous ground of financial misappropriation or electoral malfeasance to scurry public sympathy. It is therefore no surprise that the 1999 CFRN provides for how LGs councils are to be constituted and administered. It 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 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 councils⁶⁰.

The plain and literal meaning of this section is that LG must be administered by persons elected by the people in the locality and state government must work to establish “a legal framework for its establishment, structure... and functions” of such councils. This has been judicially affirmed by the Court of Appeal in the case of *Tabwasa v. Adamawa State Government*⁶¹ when the court held as follows:

The system of democratically elected local government gained prominence with the coming into force of a constitutional democracy founded on the constitution of the Federal Republic of Nigeria 1999 (as amended) By this, all tiers of government starting from the federal through the states to the local Councils/Areas are from the date of the commencement of the 1999 Constitution are to be managed, governed and administered by persons or officials who are/were democratically elected by the people hence section 7(1)of the constitution (as amended) is the guiding constitutional provision for the structure of governance at local government levels. In other words, the constitution under section 7(1) guarantees the existence of a democratically elected government at that local level⁶².

⁶⁰ Section 7(1) 1999 CFRN. Section 14(1) of the same constitution also provides as one of the fundamental objectives that Nigeria shall be a state based on the principle of democracy and social justice.

⁶¹ (2019) LPELR-47326 (CA).

⁶² *Ibid*.

It is also discernible from this provision that the LG system is designed to reflect federal and state levels structures of elected executive in the chairman and vice chairman and elected legislature composed of councilors. Thus, executive and legislative powers are to be exercised at the LG level. This is however subverted by many state Governors when democratically elected LG Councils are routinely removed before the expiration of their tenure and are replaced by the Governors' political allies. This is with the active connivance of the state House of Assemblies⁶³. The imposition of the nebulous caretaker- committee, a concept which has no legal origin, or any other political contraption by whatever name it is called is worrisome. As unhealthy as this incongruous system of using care-taker committees in the place of democratically elected LG Councils is, the arbitrary practice has persisted and has in fact festered to become a scourge to grassroots democracy. This is in spite of the unmistakable condemnation by the Supreme Court in *Eze v. Governor Abia State*⁶⁴ where the court emphatically said as follows;

If general elections are held every four years to elect the President, Governors, and members of the National and State Assemblies, there is no justifiable reason, except where a state of emergency has been declared, for a state Governor to dissolve a local government and appoint a Caretaker council in its place⁶⁵.

It is also significant to note that in 2016, the Supreme Court in the case of *Governor (Ekiti state) v. Sanmi Olubunmi*⁶⁶ minced no words on the unconstitutionality of arbitrary dissolution of elected LG officials. The court unanimously held that;

...the system of local government by democratically elected local government confers a *toga of sacrosanctity* on the election of such officials whose election mandates derive from the will of the people freely exercised through the democratic process. The intendment of the constitution is to vouchsafe the inviolability of the sacred mandates which the electorates at

⁶³ Ameh Ochojila "Governors and Practice of Running Local Councils with Committees, Administrators" (2021) <<https://www.guardian.ng>> last visited 11/10/2022.

⁶⁴ (2014) 14 NWLR (pt. 1426) 192 at p. 220.

⁶⁵ Ibid. per Akaahs, JSC at p. 220. The case of *A-G Plateau State v. A. Goyok* (2007) 16 NWLR (pt. 10590) 57 and the case of *A-G Benue State v. Musa Umar* (2008) 1 NWLR (pt. 1068) 311 were also similarly decided.

⁶⁶ (2017) 3 NWLR (pt. 1551) 1.

that level, democratically donated to the elected officials ...the election of such officials into the offices and their tenure are clothed with constitutional force and the elected officials' tenure cannot be abridged without breach of the constitution⁶⁷.

The Court further said;

The implication therefore is that section 23(b) of the Ekiti State Local Government Administration (Amendment) Law 2001, which was not intended to ensure the existence of such democratically elected councils but to snap their continued existence by their substitution with care-taker councils was enacted in clear breach of the supreme provision of section 7(1) of the constitution⁶⁸.

The court finally declared that section 23(b) of Ekiti state Local Government Administration (Amendment) Law is inconsistent with section 7(1) of the 1999 CFRN and consequently void⁶⁹. Similarly, in the earlier case of *Atoshi v. A-G (Taraba State)*⁷⁰ which facts are on all fours with *Olubunmi's case*, the court held that;

...the culture of impunity must give way to the culture of integrity in accordance with the spirit of the 1999 CFRN in order for democracy to survive and thrive as it cannot be a learning curve *ad infinitum*⁷¹.

The latest of this constitutional absurdity and which perhaps have sounded the death-knells to its practice are the cases of *Bashorun Ajuwon & 10 ors v. Governor (Oyo State)*⁷² and the case of *Abubakar Umar Yantaba v. Governor (Katsina State)*,⁷³ the facts of which are *in pari materia* with the cases earlier cited and with similar outcomes from the Supreme Court. Specifically, the court held that the dissolution of elected LG officials in Katsina state is illegal, unconstitutional, and null and void⁷⁴. Reacting to this unwholesome development,

⁶⁷ Ibid. per Olabode Rhodes Vivour JSC at p. 7.

⁶⁸ Ibid, per Nweze JSC at p. 8.

⁶⁹ Ibid, per Olabode Rhodes Vivour (JSC) at p. 42.

⁷⁰ (2012)All FWLR (635) 352.

⁷¹ Ibid, at p. 386.

⁷² (2021) MWLR (pt. 33) p. 491.

⁷³ (2022) 1 NWLR (pt. 1811) 259.

⁷⁴ *Abubakar Yantaba v. (Governor Katsina State)*, per Jauro (JSC) at p. 315

Emeka Nwadioke, a legal practitioner and social commentator, laments that the Governors have hijacked LG administration to bolster their political influence at the expense of Nigerian electorates whose right to elect LG officials is being usurped with impunity⁷⁵.

In his view, “this is beyond the widest imagination of the framers of the 1999 CFRN”⁷⁶. It is also his view that;

It is clearly an anathema and a national embarrassment that some Governors have decided to operate outside the ambit of Nigeria’s constitution to administer local councils by proxy and through unelected care-taker committee or worse, sole administrators⁷⁷.

One reasonably expects that apart from the explicit provisions of section 7(1) of the 1999 CFRN which guarantees democratically elected LG Councils, two other factors should have put an end to the unenviable political culture; one, section 1(2) of the 1999 CFRN which forbids the country to be governed, nor any person or group of persons to take control of the government or any part thereof except in accordance with the provision of the constitution and two, the decisions of the Supreme Court in the cases cited herein-before. Instead, the practice continued in flagrant violation of these sources of law, It is therefore respectfully submitted that the judgments of the Supreme Court in the cases aforementioned, can hardly be assailed as there are no lawful reasons for the state Governors to discountenance the supreme and binding provisions of the constitution⁷⁸ and the legally binding and enforceable decisions of the highest court of the land⁷⁹ other than unabashed assumption of being the reincarnations of Louis the XIV in the historical account of France who declared himself as being above the law. It must be stated that the idea that requires that LGs should be managed by elected officials is to constitute the LGs as the nursery of democracy as self-determination. Since the LGs perform functions that touch on the most basic and fundamental aspects of community well-being, the people will learn the way of democracy and self-determination through robust engagement in town hall

⁷⁵ Ameh Achojila (n 63).

⁷⁶ Ibid.

⁷⁷ Ibid.

⁷⁸ Section 1 (1) CFRN

⁷⁹ Section 287 CFRN

discussion in their LG councils⁸⁰. However, this idea has been observed more in breach than observance. The state Governor more often than not impose their cronies as members Care-taker committee. The ultimate victim of this aberration is democracy itself. We hold the view that as long as the people are deprived the opportunity of learning the public spiritedness that underpins democracy, there is little prospect of nurturing the values and norms that support democracy. It is also our view that without the nurturance of town council meetings, where citizen develop the habit of public debate on policy issues and demand accountability from local officials, the foundation of democracy at the grassroots will not be solid⁸¹.

Be that as it may, this constitutional aberration has thrown up some germane issues which of course cannot be easily wished away. Prominent among them is that, in subjugating the LG councils, both the executive and legislature in the concerned states showed total disregard for the provision of section 6(6) of the 1999 CFRN which makes the court the arbiter in disputes between institutions of state. The Governors feigned ignorance of the law and completely annexed the LGs in their respective states with a mindset that the law can always be violated with impunity. Can we then say that with regards to the relevant laws they are all guilty of collective amnesia? Certainly, the answer is in the negative. It is a deliberate refusal and wilful subversion of the fundamental law of the country and the time tested concept of the rule of law. It is better to remind the Governors, and the beholden and pliable legislative arm at the state level that they derive the power to govern their states from the constitution⁸² so also are the elected LG officials⁸³. As it is unlawful for the President, or Federal executive or the National Assembly to sack an elected Governor or the state legislature, it is equally unconstitutional for Governors and the state House of Assembly to think that they can legitimately sack the LG Council's officials during the currency of their tenure. In a democracy founded on the pillars of the rule of law, what is honourable for any Governor who is not satisfied with the conduct of any council official is to approach the court for a civilised resolution of the dispute.

⁸⁰ "Nigeria Local Government Development and Democracy". <<https://www.financialnigeria.com>.> Last visited 18/2/2023.

⁸¹ Ibid.

⁸² Section 4 and 5 of the 1999 CFRN respectively.

⁸³ Section 7 (1) 1999 CFRN.

Equally noteworthy is the fact that the 1999 CFRN mandates the National Assembly to provide statutory allocation of public revenue to LG councils in the federation⁸⁴. Each state government in the federation is under the same obligation under section 162 (7) 1999 CFRN to do the same for LG Councils within the state. This, to a discerning mind, implies that where public funds are allocated to any arm of government in line with the constitution, it is only a body duly constituted and legally recognised by the constitution that can lawfully expend such resources. This, in other words means that an unelected body which spend those resources commit grave constitutional error even if the Governor authorises it⁸⁵. However, the Federal High court in the case instituted by Dr. Olisa. Agbakoba⁸⁶ holds a contrary opinion. The court held that the federal allocation is for the LG and not for the officials who run the LG...

It is also argued in some quarters that by virtue of classical theory of federalism, only the federal and the state governments constitute the federating units which *ipso facto* makes the LGs mere administrative outposts of the state governments⁸⁷. This argument may be difficult to sustain on the ground that the theory of federalism in the making of a constitution is not sacrosanct. In other words, adherent to ideal constitutional theories is never a condition precedent for the validity of the express provision of the constitution⁸⁸. This is the position of the Supreme Court in the case of *A-G Abia state v. A-G (Federation)*⁸⁹. It is also argued that there is no absolute federalism. It is an ideal and an idea set to achieve a particular goal. It is along this line that late Honorable Justice Niki Tobi (JSC) stated in the case of *Chief Adebisi Olafifisoye v. A-G (Federation)*⁹⁰ as follows;

⁸⁴ Section 162 (5) 1999 CFRN.

⁸⁵ "The Gubernatorial Impunity". The Editorial. *The Nation Newspaper, Nigeria*. <<https://www.thenation.ng>> Last visited 18/3/2021.

⁸⁶ Suit No. FHC/L/770/13.

⁸⁷ Wheare K.C. *Federal Government* 4th edition 1963 Oxford University Press, p. 34. However, the tragedy of Nigerian's Federalism is that the country adopted a skewed or corrupted version which is described as "military command federalism which heaped all governmental powers in the centre, thereby creating a monster centre or a feeding bottle federalism. This reduces the federating units to ineffectual dependencies. That is why the constituent states have extended the same oppressive behavior to the LGs, condemning them to inactivity.

⁸⁸ Suleiman Musa Y.. "The Tier Status of Local Government in Federal Constitution. An Overview of the Constitution of the Federal Republic of Nigeria" (2019) 1(2), *International Review of Law and Jurisprudence*, p. 15.

⁸⁹ (2003) FWLR (pt. 152) 131 at 163.

⁹⁰ (2004) 4 NWLR (pt. 840, p. 580.

A federal government will mean what the constitution writers say it means. And this can be procured within the four walls of the constitution. Therefore, a general definition of federalism or federal government may not be in the answer to the peculiar provision of a nation's constitution which is the *font et origo* of the legal system. Thus, the word federalism conveys the constitutional arrangement shown particularly in the legislative lists...⁹¹

The import of the argument here is that a principle of constitutional law could be excluded by an explicit constitutional provision⁹². Although the 1999 CFRN does not give full-fledged tier status to LGs since it is not within the Exclusive Legislative List, it is a residual matter within the legislative competence of the states. The 1999 CFRN recognises them and makes provision for their existence in section 7(1) and the First Schedule of the 1999 CFRN. It is therefore erroneous in our view, that the recognition of LGs by the 1999 CFRN against the grain of the classical theory of federalism does not entitle the Governors to treat LGs as the pawn in their political chessboard.

Also worthy of mentioning is the intransigence of the Governors to the provisions of the constitution. By so doing, they are in serious breach of their oath of office which they duly swore to at their inauguration⁹³. With regard to this, the Supreme Court in the case of *Olubunmi & 10 ors v. Governor (Ekiti state)*⁹⁴ expressed the view that by his oath of office, the Governors swore to protect and not to supplant the constitution. Hence any action of his, which has the capacity of undermining the same constitution is tantamount to executive recklessness which would not be condoned⁹⁵.

These unambiguous words of the oath of office which the Governors voluntarily subscribed to, raises the prevailing question of how best to describe the insidious behaviour of the Governors again? By their actions, they mutilated the constitution by observing it in breach instead of its letters and spirit. Also complicit are their respective Attorney-General. This is because if they had lived up to their professional billing as the chief law officers of their

⁹¹ Ibid, at p. 647.

⁹² Suleiman Musa Y. (n 88).

⁹³ Seventh Schedule, 1999 CFRN

⁹⁴ (2017) 3 NWLR (pt. 1551) 1.

⁹⁵ Per Ogunbiyi (JSC) at p. 11.

states by way of giving dispassionate legal advice, the Governors would not have violated the constitution with reckless abandon⁹⁶. We submit with humility that to flout this unambiguous provision of the law is not only to undermine democracy and development at the grassroots, but also, it is to put the society into the direction of anomie. It seems as though the rule of law is a farce when juxtaposed with the actions of the Governors. There are no better words in our estimation, to describe their actions than executive rascality. Nevertheless, it is better to protect the democratic essence of LGs as it is crucial to bringing development closer to the people in Nigeria. We therefore see the judgments of the Supreme Court on this issue as a clarion call to members of the National Assembly to use further legislative measures to rescue the LGs from the stranglehold of the Governors and defend the democratic ideals of the makers of the constitution which is well expressed in the provisions of section 7 of 1999 CFRN.

LOCAL GOVERNMENT ELECTION BY STATE EMB (SIECS) - A TRAVESTY

It is argued that LG and election thereto are two essential features of modern democracy⁹⁷. Accordingly, they help to establish, nurture, and sustain democracy and democratic political culture. Elections at the grassroots also provide the electorates with the power to freely participate in choosing their leaders and providing the much -needed support and legitimacy to the state⁹⁸. Thus, beyond the Governors' unconstitutional rascality, one other issue that needs fixing is the LG electoral system where farcical elections are routinely being held. As at this time, the electoral process at the grassroots level in Nigeria has not only been relegated to the background, it has derogated from the sanctity of elections as an institutional mechanism for conferring political power on citizens in a democratic dispensation⁹⁹. The ostensible reason, among others, is because the domineering

⁹⁶ It is conceded that the Attorney-General might have given dispassionate advice which the Governors might have discounted because of transient political gains and the time worn insulation from both civil and criminal prosecution pursuant to section 308 of the 1999 CFRN.

⁹⁷ Jerome Maria Utomi "Local Council Elections INEC and State Governor". (2021) <<http://file/local-council-INEC-and-state-governor>> Last visited 25/3/2021.

⁹⁸ Dudley B. "An Introduction to Nigerian Government and Politics" (London, Macmillan Press, 1982).

⁹⁹ *Ibid*.

Governors and kleptocratic state officials have undercut democracy and transparency at the LG levels¹⁰⁰.

Beginning from 1951-1966 when the first republic collapsed, elections for the LGs (Native Authorities as at that time) did not take a uniform pattern¹⁰¹. Each Regional Government used to determine its own pattern of LG administration. This continued till 1976 when the Dasuki-led Committee on LG reforms gave impetus to the LG administration as a unit under the state government¹⁰². The reform among other things, provides a uniform elective LG councils for the whole country which was incorporated in the defunct 1979 constitution of Nigeria and consolidated in the extant 1999 CFRN. Thus, after the rebirth of our democracy and more than twenty-three years of uninterrupted practice, the question really is; how has this new democratic order impacted the grassroots Nigerians? In other words, what are the democratic dividends that have accrued to the rural people? We may even ask whether our renascent democracy has improved the people's ability to choose their local leaders and how it has promoted good governance and a better life for the down-trodden in local communities. The ideal expectation is that LG electoral system would have consistently experienced many election cycles. Contrary to this expectation, the despicable reality is that of irregular conduct of elections to the LG councils and where it was purportedly conducted, there appear to be no remarkable difference between the result of such elections and that of one party affair¹⁰³. This has been attested to by Massoud Omar of the Department of LG, Ahmadu Bello University Zaria in the following words:

Credible election into the local government councils have been non-existence since independent in 1960. This is because local government are often subjected to control by the upper levels of government in a federal system of government"¹⁰⁴.

¹⁰⁰ Page T. Mathew "Halting the Kleptocratic Capture of Local Government in Nigeria". (2022) <<http://E/Halting-the-kleptocratic-capture-of-Local-Government-in-Nigeria.Carnegie-Endowment-for-Internal-Peace.html>> Last visited 3/3/2022.

¹⁰¹ "State Independent Electoral Commissions and Local Government Election Nigeria" <<http://www.apsdpro.org/index.php>> Last visited 12/6/2022.

¹⁰² Ibid.

¹⁰³ Onyedika Agbede et al. (n 58), p. 10.

¹⁰⁴ Jerome Maria Utomi (n 97).

The corollary is voters' apathy and lack of competitiveness in subsequent LG elections. These, no doubt, have rendered the country's search for credible elections at the grassroots a mirage¹⁰⁵. The causative factors are however not far-fetched; firstly, the state Governors use the incumbency power not only to intimidate the opposition but also to influence the results of the election in favour of their preferred candidates. Hence, the purported election is sarcastically referred to as the selection and coronation of local representatives¹⁰⁶.

Nearly in all cases, the hand-picked candidates of the Governors won the election one hundred percent. The opposition parties boycott the polls blaming their withdrawal on overtly rigged previous election process. Apparently relying on section 7(1) of the 1999 CFRN, the House of Assemblies of some states even passed specific legislations which authorised the Governors to shun LG elections and run its affairs with unelected committees while putting in place appropriate arrangement for the conduct of fresh polls which will hold at the pleasure of Their Excellences¹⁰⁷. These authors observe that the state House of Assemblies that were involved were either not sincere and or mischievous. This is because they cannot in good conscience feign ignorance of the provisions of section 1(3) of the 1999 CFRN which nullifies any law (Federal or state) when it conflicts with a constitutional provision. Indeed, since 1999, the LG have had more of skeletal elections. Apart from few states that conducted elections in 2007, the unenviable culture is that of care-taker committees¹⁰⁸. By and large, these untoward practices by state government have inadvertently undermined good democratic process in many states of the country.

The second factor is the democratisation of EMB by the 1999 CFRN. The constitution creates INEC¹⁰⁹ and SIECs¹¹⁰. By virtue of the latter, LG elections become the responsibility of each state's SIECs. The state Governor appoints its top officials as provided by the Constitution¹¹¹. As a result of this and as asserted earlier, each state Governor exerts undue control over it. On the contrary, Olaniyi J.O. finds that while INEC is allowed to enjoy some degree of independence in the cause of performing its statutory responsibility in national

¹⁰⁵ Adeyeye M.O. (n 55), p. 23.

¹⁰⁶ Ibid.

¹⁰⁷ Oyo Jide, "Imperative of Local Government Autonomy in Nigeria" *The Punch Newspaper, Nigeria*, (Wednesday, May 18, 2021) p. 18.

¹⁰⁸ Adeyeye M.O. (n 105).

¹⁰⁹ Ibid.

¹¹⁰ Ibid.

¹¹¹ Section 198 of 1999 CFRN.

and state elections, SIECs, which are the most relevant to this discourse, have been performing ignoble roles in the conduct of LG elections and have in fact become ready tools for performing electoral frauds during LG elections¹¹². This is possible because the chairman and members of SIECs are either card-carrying members of the ruling party in the state or close associates of the Governors. According to the former chairman of Transition Monitoring group, (TMG), Dr. Fabiola Akinyode;

The ruling party in the state determines the members of the SIEC. As such, they skew the process to install their candidates at the local councils and this is unlikely to change until SIEC is independent of the ruling party¹¹³.

By its nomenclature, the SIECs are supposed to be independent like INEC at the federal level. The composition and mode of appointment however betray this desire. With this situation, you are confronted with a tainted and partial body surprisingly expected to conduct a free and fair election.¹¹⁴ Election as a reflection of the electoral will of the people is supposed to be free and fair as guaranteed by the 1999 CFRN and International Instruments that Nigeria is signatory to. The non-conformity with this explains why members of the public especially members of opposition parties do not usually have respect for the outcomes of elections conducted by SIECs¹¹⁵. This results in opposition politics becoming unattractive and unbeneficial to society.

We however strongly believe that the beauty of democracy lies in its credibility. We also share the view that in all and every contest, some factors must be held constant and sacrosanct. One of such is the independence and objectivity of the (EMB). The EMB must never be perceived or actually be seen to have interest in any of the contestants, let alone talk of being a member of a team participating in the contest. A situation where the executive constitutes the EMB, it cannot foster public trust but cynicism. It is our humble view that the legal framework of elections at the local level is not sufficient enough to guarantee the electoral integrity of the EMB which can ensure political inclusion. Thus, LG polls have been turned into a *pro-formal* exercise. The consequential result of such an election, YIAGA

¹¹² Olaniyi J.O. (n 51).

¹¹³ Agbedo Onyedika et al, (n 103).

¹¹⁴ Banire Muiz "LG Polls: Between Election and Coronation". (2021) <<https://sunnewslines.com>.> Last visited 23/2/2022.

¹¹⁵ Olaniyi J.O. (n 112).

AFRICA¹¹⁶, a non-governmental organisation's Preliminary Report of the recent Lagos state LG election, July 24, 2021 says;

Beyond the abysmally low turnout of voters, the election revealed a persistent capacity deficit with respect to human and financial resources and technical expertise required for successful election administration at the local level. It also revealed the absence of a robust legal framework for LG areas election that can sufficiently guarantee electoral integrity, enable political inclusion and regulate political parties' conduct in the election....¹¹⁷

Another challenge to electoral system in the grassroots Nigeria is the nefarious activities of godfathers. Pursuant to section 221 CFRN, only political parties are allowed to sponsor candidates for the purpose of elections. Thus, an aspirant is expected to be a member of political party in order to realise his political ambition. Due to this constitutional requirement, the political parties have suddenly become so powerful and oppressive that the interests of their members, much less that of the electorates, matter to them. The godfathers have hijacked the political parties in one form or the other such that nomination process are not complied with¹¹⁸. Due to this aberration, the ultimate products of most party's nomination are usually charlatans. They mostly demonstrate no skill in the art of governance. The consequence is the catastrophic impact on the people at the grassroots. The LG councils are meant to be the fastest developmental tool in the country, but unfortunately, they have been denigrated so badly as a result of poor leadership¹¹⁹.

It has been suggested that in order to put a stop to the undisguised and dubious nomination process, a charade called election, the antidote is to expunge the provision of section 197(b) relating to SIECs by way of amending the 1999 CFRN¹²⁰. The contention is that because of the relative independence which INEC enjoys from the Federal government and because of the functions and responsibilities placed on INEC by a community reading of the provisions of sections 78, 1999 CFRN, section 6 and section 9 of the Electoral Act

¹¹⁶ Youth Initiative for Advocacy, Growth and Advancement.

¹¹⁷ "LG Election and Administration in Nigeria" <<https://www.punch.ng>> last visited 29/7/2021.

¹¹⁸ Banire Muiz. (n 114).

¹¹⁹ Ibid.

¹²⁰ Page T. Mathew (n 100).

2022, there is great wisdom in empowering INEC to handle LG elections¹²¹. There is no doubt that the current legal framework of SIECs exposes them to manipulation by the state governments which runs afoul of international standard of conducting free and fair elections by any EMB. It is also a truism that if the suggestion is adopted for action, it will give LGs electoral stakeholders confidence in the ability of the INEC to organise and conduct credible elections¹²². This suggestion however runs contrary to the federal system of government which the country adopted since 1954¹²³. By virtue of our twisted variety of federalism¹²⁴, the federal government is already overwhelmed with too many functions some of which are better performed at the lower levels of government¹²⁵. To add the conduct of LG elections to the job descriptions of INEC, will not only be an anomaly, but also an over-kill of the central government. Apart from this, it is also a veritable erosion of the limited political freedom given to the states as a separate tier of government. The plea further ignores the fact that the state and federal legislators who are empowered to make laws¹²⁶ and carry out constitutional amendments¹²⁷ are beholden to state Governors. They personally benefit from the *status quo*. The fate of such constitutional Amendment Bill is a *fait accompli* because the concurrence of two-third of the thirty-six state legislatures necessary to ratify it may not be secured¹²⁸. To salvage democratic precepts from becoming extinct at the grassroots, these authors humbly submit that the way forward is not to expunge SIECs from the body of our law because of the reasons earlier advanced. To change the narrative and rescue the LGs from the clutches of the state Governors, the therapy lies in abrogating section 198, 1999 CFRN, ie, divesting the state Governors of the power of appointing the top officials of SIECs coupled with a massive re-orientation of the political class to imbibe the political culture that sees opposition as a partner in progress in a democracy. By stifling citizens' participation in grassroots decisions making process through the manipulation of state EMB, the Governors have created a political environment

¹²¹ Ibid. A Community reading of the two sections is to the effect that INEC shall register, compile, maintain, and update continuously a national register of voters for each state, the FCT and the LGs.

¹²² Ibid.

¹²³ Osardolor Osarhieme B. "The Development of the Federal Ideas 1913-1966" (2003) in *Federalism and Political Restructuring in Nigeria*. Kunle Amuwo et al. (eds) p. 62.

¹²⁴ Ibid.

¹²⁵ Ibid p. 45.

¹²⁶ Section 4, 1999 CFRN.

¹²⁷ Section 9, 9(2) and 9(3) 1999 CFRN.

¹²⁸ Section 9(2) 1999 CFRN.

in which corruption thrives leading to LG failures. Politics in our view, should be seen as a non-zero-sum game where there is some level of tolerance and accommodation of opposing views, instead of a game of domination or do-or-die affair which has serious implication for democracy.

In a federalists' country like the United States, local election is highly decentralised to local EMB. The entities that do the running of an election are typically on the county level¹²⁹. The diversity of election administration structures in the United States is seen as a positive or negative aspect of the system depending on who is assessing it. In all, there are more than 10,000 election administration jurisdictions in the United States with the necessary safeguards for the integrity of the local election

Having identified that the narrative of the integrity of local elections in Nigeria is different because of the political hegemony of the state Governors, what is necessary now is a poser: where did we go wrong? Perhaps, the answer lies in the fact that we have not asked ourselves what it is that we want in Nigerian localities and what LG can supply. There is absolutely no need for righteous indignation or cynical condemnation, but the way to get out of the woods with a view to entrenching sustainable democratic virtues at the local level in Nigeria.

CONCLUSION AND RECOMMENDATIONS

This paper has discussed the collapse of democratic virtues in the grassroots of Nigeria. The reasons for this unenviable situation have also been articulated. These include the overbearing attitude of the state Governors in the electoral affairs of the LGs, the charades called election by the State Electoral Management Body and the capricious dissolution of elected LG officials. All these combined together to deny the grassroots population of the benefits of democratic representation in the LGs. This is at variance with the popular perception that if democratic LG is allowed to live and thrive, it will serve as veritable centres for service delivery and structured leadership recruitment avenue. It is in this respect that the former Nigeria's Minister of Finance, Dr. Ngozi Okonjo Iweala drew the attention of the administrations of President Obasanjo and that of Goodluck Jonathan to the need for the

¹²⁹ "Election Administration at State and Local Levels" <<https://www.file//electionadministration-at-state-and-local-levels.html>> Last visited 12/11/2021.

general development of the rural areas which of course includes democratic awareness¹³⁰. The wisdom behind this, according to her, is that it will bring government closer to where it matters most- the rural areas¹³¹. The prevailing question at this stage is; with seven hundred and sixty-eight LGs in the country and six Area councils in the FCT, why does the total neglect of the grassroots still persist to the detriment of our national development? The irony of this neglect is perhaps the mother of all ironies and the simple answer is that the LG system is dysfunctional and has been deliberately made so by those who should know better¹³². Dr. Okonjo Iweala and other well-meaning stakeholders before her, have sounded the wakeup call. This is the time to hearken their voices, it is the time to quit playing the ostrich and face the grim reality. While these writers are not preaching utopia in respect of democracy in the rural areas, it is our humble belief that we can do better if the specific steps of salvation suggested below are adopted for action.

There is nowhere in any federal clime where LGAs are listed in its constitution. Since it has no tier status, it is a residual matter within the exclusive province of the state governments, it is *ipso facto* incongruous to have LGAs listed in the 1999 CFRN. We therefore suggest that section 3(6) of extant constitution be deleted so that each state government will determine the number, nature of their respective local governance, (Presidential or Parliamentary), the functions and the electoral modality that reflect the unique features of each state.

The practice of arbitrary dissolution of LG Councils during the subsistence of the tenure of elected LG officials or wilful refusal to conduct election at all, should attract consequences. It demonstrates utter contempt for the *groudnorm* (the constitution) and the Supreme Court's decisions which is final and with binding force of law¹³³. It is therefore recommended that to put an end to this constitutional absurdity, a flagrant violation of the provisions of section 7(1) 1999 CFRN should be considered as a gross misconduct within the purview of section 188 1999 CFRN leading to the possibility of impeachment.

The present legal framework of election at the LG level is not sufficient enough to guarantee electoral integrity. To ensure political inclusion and dictate of a political patty's conduct in

¹³⁰ Guardian Newspaper, Nigerian (n 63).

¹³¹ Ibid.

¹³² Ibid.

¹³³ Section 235, 1999 CFRN.

the election, there is the need for the states to enact their own legal framework. This will require the amendment of the 1999 CFRN. Reliance on the national legal framework meant for INEC by the thirty-six states' SIECs as directed by 1999 CFRN¹³⁴ is a product of our predilection for centralism which is antithetical to the tenets of federalism.

In principle, the idea of having democratically elected LG councils as provided in the constitution is sound and should be made to succeed. The liberalisation of EMB which is a form of devolution of power from the federal centre to the constituent units is a step to achieve this noble objective. However, as an institutional means of achieving this success, measures should be taken to strengthen the independence and autonomy of the state EMB to reduce the stranglehold of the Governors on them and enhance their capacity to conduct credible LG elections.

Credible election is the key pre-requisite for ensuring citizens' demand for accountability in a democratic polity. Getting electoral legitimacy right must therefore be considered a priority challenge because it is critical to giving meaning to accountability of the governors to the governed. One factor that could dissuade the political class from their win-at-all-cost mentality is to make public office less attractive materially. Along this line, the judiciary should descend firmly on public officers who loot our common patrimony to serve as deterrent.

There is no doubt that as a result of the Governors' ravenous and banditry grip of the LGs' administration, democracy in Nigeria has been generally affected. The local people are unable to vote for candidates of their choice. It has in no small measure robbed the LG councils of accountability. Although impunity reigns in Nigeria, the Governors have to be reminded that to operate above the law is an invitation to anarchy. Government functionary must realise that the rule of law, respect for human rights, constitutional supremacy are central to democracy. Adeyeye M.O. rightly concludes that:

There is a consensus of opinion among the LG scholars that in spite of all the efforts that have been deployed, Nigerians are still an appreciable distance away from enjoying the benefit of a system of LG that is

¹³⁴ Section 78, 1999 CFRN.

empowered to be a legitimate driver in the national development project and a site for the pursuit of everyday democracy¹³⁵.

This, notwithstanding, it is imperative for our political leaders to emasculate the LG in order to restore legitimacy to electoral process at that level¹³⁶ or alternatively, the people must act and demand full participation and control over their own affairs beginning at the grassroots.

According to the Editorial Board of *The Punch*;

Complacency has created unaccountable rulers. It is left to people in every state to agitate for grassroots democratisation or to continue to tolerate the imperial Governors riding roughshod over their lives¹³⁷.

This is crucial to bringing development to the grassroots people.

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¹³⁵ Adeyeye M.O. (n 108), p. 5A

¹³⁶ As at the time of writing this paper, the National Assembly has forwarded 44 Amendment Bills to the 1999 CFRN which includes Local Government autonomy. However, the Bills have not secured the endorsement of 24 State Houses of Assembly out of the 36 State Houses of Assembly for the Bills to become laws as required by section 9(2) of the 1999 CFRN.

¹³⁷ The Punch Editorial, Democratising LGs essential for growth, *Punch Newspapers* (23rd December, 2022) <<https://punchng.com/democratising-lgs-essential-for-growth/>> last visited 4th January, 2023.

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