

**LOCAL GOVERNMENT AUTONOMY UNDER THE 1999
CONSTITUTION OF NIGERIA: LEGAL REALITY OR
CONSTITUTIONAL ILLUSION**

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**A PROJECT SUBMITTED TO THE FACULTY OF LAW,
UNIVERSITY OF BENIN, BENIN CITY NIGERIA, IN
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THE AWARD OF THE BACHELOR OF
LAW DEGREE, (LL.B)**

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DECLARATION

I, **THERESA TESSY OMORDON**, hereby declare that this project is the result of my original research carried out under the supervision of DR. MRS. I.D. NWOSU of the Faculty of Law, University of Benin. All sources consulted have been duly acknowledged in the footnotes and bibliography in accordance with the Nigerian Association of Law Teachers (NALT) citation style.

This work has not been submitted previously in part or in whole for the award of any degree or diploma in this or any other institution.

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DEDICATION

This work is dedicated to God Almighty the source of wisdom, knowledge, and strength, whose grace made this journey possible and to my lovely parents, Barr. Celestine Dele Omordon and Loveth Imuetiyan Okuonghae, who are the main and only sponsors of my basic levels of education into my university studies, and to other friends too numerous to mention.

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A.G. Federation v A.G. Abia State & 35 Ors (SC/CV/343/2024, SC, 11 July 2024)

A.G. Lagos State v A.G. Federation (2004) 18 NWLR (Pt 904) 1 (SC)

Eze v Governor of Abia State (2014) 14 NWLR (Pt 1426) 192 (SC)

Governor of Ekiti State v Oluwadare (2011) 17 NWLR (Pt 1277) 473 (CA)

Knight Frank & Rutley (Nigeria) Ltd & Anor v Attorney-General of Kano State (1998) 7 NWLR (Pt 556) 1 (SC).

TABLE OF STATUTES

- Administrative Staff College of Nigeria Act Cap A13 Laws of the Federation of Nigeria 2004.
- Allocation of Revenue (Federation Account, etc.) Act Cap A15 Laws of the Federation of Nigeria 2004.
- Constitution of India (73rd Amendment) Act 1992.
- Constitution of the Federal Republic of Nigeria 1999 (as amended).
- Constitution of the Republic of South Africa 1996.
- Federal Republic of Nigeria, Guidelines for Local Government Reform (Government Printer, Lagos, 1976).
- Local Government Administration Law 2013 (Lagos State).
- Local Government Law 2010 (Kwara State).
- Local Government Law 2014 (Enugu State).
- Nigeria Financial Intelligence Unit (NFIU) Revised Guidelines on Local Government Financial Operations (2024).

LIST OF ABBREVIATIONS AND ACRONYMS

A.G.	—	Attorney-General
ASCON	—	Administrative Staff College of Nigeria
CAMA	—	Companies and Allied Matters Act
CFRN	—	Constitution of the Federal Republic of Nigeria
CSR	—	Corporate Social Responsibility
FGN	—	Federal Government of Nigeria
FMF	—	Federal Ministry of Finance
FMOJ	—	Federal Ministry of Justice
FRN	—	Federal Republic of Nigeria
INEC	—	Independent National Electoral Commission
JAAC	—	Joint Account Allocation Committee
LGA	—	Local Government Area
LGAs	—	Local Government Areas
LGSC	—	Local Government Service Commission
NALT	—	Nigerian Association of Law Teachers
NASS	—	National Assembly
NBS	—	National Bureau of Statistics
NFIU	—	Nigeria Financial Intelligence Unit
NGF	—	Nigerian Governors' Forum
NLC	—	Nigerian Labour Congress
OAGF	—	Office of the Auditor-General for the Federation
PPP	—	Public–Private Partnership
RMAFC	—	Revenue Mobilization, Allocation and Fiscal Commission
SIECs	—	State Independent Electoral Commissions
SJLGA	—	State Joint Local Government Account
TMG	—	Transition Monitoring Group
UN	—	United Nations

ABSTRACT

Local government autonomy remains one of the most contentious issues within Nigeria's constitutional and political framework. The question of whether local governments in Nigeria possess genuine autonomy or merely operate as extensions of state authority continues to generate scholarly debates in the legal world and beyond. Although Nigeria is constitutionally structured as a federation, the practical functioning of local governments often reflects patterns of subordination, particularly in political, administrative, and fiscal spheres. This research critically examines the evolution, constitutional status, and operational realities of local government administration in Nigeria. The objectives of this study are to critically examine the constitutional and statutory frameworks governing local government administration, analyze judicial pronouncements interpreting these provisions, and assess the practical challenges inhibiting effective autonomy. It also further evaluates whether the current framework enables meaningful self-governance or simply presents an illusion of autonomy sustained by constitutional ambiguity and state-level control. The study finds that systemic challenges including financial dependence on state governments, irregular elections, weak institutional structures, and pervasive political interference continue to undermine effective grassroots governance. The findings further reveal persistent structural and political constraints that limit the effectiveness of local governments, thereby raising doubts about the actual extent of their autonomy in practice, also contributing significantly to legal scholarship and policy discourse by clarifying the constitutional position of local governments within Nigeria's Federal structure. Adopting a doctrinal and analytical research methodology, the study will rely on primary legal sources such as the Constitution, judicial decisions, and statutes, as well as secondary materials including academic commentaries, policy documents, and journal articles. to determine the extent to which local governments are empowered to function as independent units of governance. The study recommends constitutional and institutional reforms, as one of the core ways, capable of ensuring genuine autonomy of Local governments in Nigeria. The research thereby concludes that without genuine fiscal and administrative independence, the promise of local government autonomy remains largely theoretical rather than practical and that strengthening local government independence remains crucial for promoting grassroots democracy, accountability and sustainable development in Nigeria.

Keywords: Local Government Autonomy, Federalism, Grassroots Governance, Intergovernmental Relations, Fiscal Decentralization, Nigeria.

CHAPTER ONE

GENERAL INTRODUCTION

1.1 BACKGROUND TO THE STUDY

At this stage of our national committee to democracy, it is important to examine what happens at the grassroots by looking at the trajectory of the local government, which is an essential constitutional expression. Regardless of the epoch of our national evolution, the form of government and the nature of the political and ruling classes, local government has always been considered an inescapable and indispensable bulwark of the political system and accepted by all an important means of extending and encouraging political participation to millions of people and possibly also bringing development to the very door steps of the citizens.

Local government administration has long been regarded as the foundation of participatory governance and grassroots development. In every federal system, it is expected to function as the third tier of government, constitutionally empowered to make decisions and execute policies within its jurisdiction without undue interference. Local government as the the third tier of government closest to the people is designed to ensure the effective delivery of public services, promote participation, and enhance grassroots development. In a federal system such as Nigeria's, local governments are expected to possess a reasonable degree of autonomy to discharge their constitutional responsibilities without undue interference from higher levels of government. The idea is to bring government closer to the people and ensure that local needs are addressed through democratic participation and effective service delivery.

The concept of local government autonomy has been the subject of continuous debate since Nigeria's return to democratic rule in 1999. In Nigeria, the 1999 Constitution of the Federal Republic of Nigeria (as amended) recognizes local government councils as an integral part of the federal structure. Section 7(1) expressly guarantees the existence of democratically elected local government councils and mandates each state to ensure their continued operation. The

constitutional intent was to entrench a system of local governance that would promote accountability, transparency, and rapid socio-economic development at the grassroots.

However, in practice, local governments have remained largely subordinate to state governments. For examples, the operation of the State Joint Local Government Account (Section 162(6) CFRN 1999 (as amended)), the persistent dissolution of elected councils by state governors, and the arbitrary appointment of caretaker committees have all undermined the autonomy envisaged by the Constitution. This tension between constitutional design and political reality has fueled debates on whether local government autonomy in Nigeria is indeed a legal reality or merely a constitutional illusion (Okafor, *Nigerian Federalism and Local Government Autonomy* (Enugu, 2018) 45).

It is against this background that this research seeks to critically analyze the extent of local government autonomy under the 1999 Constitution and to determine whether the idea of autonomy is realized in practice or remains an unfulfilled constitutional promise.

1.2 HISTORICAL DEVELOPMENT OF LOCAL GOVERNMENT IN NIGERIA

1.2.1 Pre-Colonial Period

Before colonial rule, traditional political systems managed community affairs efficiently. The Emirate system in the North, the Oba-ship system in the West, and the village assemblies in the East all functioned as autonomous local governments.¹

and replaced them with a foreign administrative model. They handled taxation, justice, and social regulation based on customary norms.

However, the introduction of British colonial rule disrupted these indigenous systems and replaced them with a foreign administrative model.

¹ T Ayoade, *Democracy and the Structure of Nigerian Federalism* (Ibadan University Press 1990) 122.

1.2.2 Colonial Era

During the colonial period, the British introduced the indirect rule system, which employed traditional rulers as intermediaries in local administration. The Native Authority Ordinance 1916 formalized this system, designating chiefs as agents of the colonial government.²

While the system maintained local institutions, it subordinated them to colonial officials, eroding their autonomy. This arrangement ensured efficiency in tax collection and law enforcement but stifled indigenous self-government.

1.2.3 Post-Independence Developments

Following independence in 1960, local governments were administered under regional laws such as the Eastern Region Local Government Law 1950, Western Region Local Government Law 1952, and Northern Region Local Government Law 1954. These laws varied widely in structure and function, leading to a lack of uniformity.

Idowu observes that the absence of standardization and financial independence rendered local governments ineffective.³ They operated largely as instruments of regional control rather than autonomous bodies.

1.2.4 The 1976 Local Government Reform

The 1976 Local Government Reform was a turning point in Nigerian local administration. It established a uniform structure nationwide, recognizing local government as the third tier of government.⁴ The reform aimed to promote development and democracy at the grassroots and recommended direct federal allocation to local governments.

² J Idowu, *Colonial Policy and Local Administration in Nigeria* (University of Lagos Press 1995) 56.

³ *Ibid* 60.

⁴ Federal Republic of Nigeria, *Guidelines for Local Government Reform* (Government Printer 1976) 3.

However, Olowu notes that despite this reform, the state ministries of local government continued to exercise substantial control over local affairs.⁵ The reform's ideals were later incorporated into the 1979 Constitution and retained in the 1999 Constitution, but in practice, the structural imbalance persisted.

1.2.5 The 1979 and 1999 Constitutions

The 1979 Constitution gave local governments constitutional recognition and outlined their functions in the Fourth Schedule. The 1999 Constitution preserved these provisions under Section 7(1), ensuring the existence of democratically elected councils. Nevertheless, the State Joint Local Government Account created under Section 162(6) gave state governments overwhelming control of local funds. This has been widely criticized for undermining local government autonomy and development⁶

1.3 STATEMENT OF THE PROBLEM

The major problem confronting local government administration in Nigeria lies in the apparent contradiction between constitutional provisions and political practice. While the Constitution recognizes local governments as the third tier of government, the degree of independence actually enjoyed by them remains doubtful. State governments continue to exercise excessive control over the financial, administrative, and political operations of local councils.

The existence of the State Joint Local Government Account, the absence of direct revenue allocation, and the frequent dissolution of elected councils by state executives have made local

⁵ B Olowu, *Local Government and Development in Nigeria* (Obafemi Awolowo University Press, Ile-Ife 1986) 35.

⁶ G Nwankwo, *Constitutional Law in Nigeria* (Fourth Dimension Publishers, Enugu 2000) 64.

governments dependent appendages of state governments. This dependency has hindered effective service delivery, democratic governance, and accountability at the grassroots.

The critical question, therefore, is whether local governments, as constituted under the 1999 Constitution, enjoy genuine autonomy or whether their supposed independence is an illusion sustained by the text of the Constitution but negated by political reality (Ayoade, *The Federal Character Principle and the Search for National Integration* (Ibadan, 2010) 92).

1.4 RESEARCH QUESTIONS

- i) To what extent does the 1999 Constitution guarantee local government autonomy in Nigeria?
- ii) How have courts interpreted the constitutional provisions relating to local government powers?
- iii) What factors have hindered the attainment of genuine local government independence?
- iv) Is the current state of local government autonomy a legal reality or a constitutional illusion?
- v) How can the misuse of powers by the states be curtailed to address the problem of usurpation of local government functions and finances?
- vi) What reforms are necessary to ensure effective autonomy and performance at the local level?

1.5 AIM AND OBJECTIVES OF THE STUDY

Aim of the study

The main aim of this project is to critically examine the constitutional framework for local government autonomy under the 1999 Constitution of Nigeria (as amended), assessing

whether it constitutes a substantive legal reality or merely a theoretical illusion, with a view to identifying key challenges, evaluating judicial and practical implementations, and proposing actionable reforms to enhance grassroots governance and federalism.

Objectives of the study.

To achieve the above aim, the following specific objectives will be pursued:

- i) To examine the constitutional and statutory framework governing local government autonomy in Nigeria.
- ii) To identify and analyze the political, legal, institutional, administrative and practical challenges undermining local government autonomy.
- iii) To address the problem of institutional fragility and decay in the system.
- iv) To review relevant judicial interpretations and precedents relating to local government powers and independence to determine their impact on enforcing or eroding local autonomy.
- v) To conduct a comparative analysis with federal systems in other jurisdictions, such as India or South Africa, to draw insights on effective mechanisms for decentralizing power to local levels.

To propose legal, policy, and constitutional recommendations aimed at bridging the gap between theoretical autonomy and practical implementation, thereby enhancing grassroots development, accountability, and democratic participation in Nigeria.

1.6 SCOPE AND LIMITATIONS OF THE STUDY

This study focuses on the legal and constitutional dimensions of local government autonomy in Nigeria under the 1999 Constitution and the temporal scope for this research is strictly between the years, 1999-2025. The research examines judicial decisions, statutory frameworks, and administrative practices that define or limit local government powers. Although examples

from selected states will be used for illustration, the research does not attempt a statistical or empirical assessment of all 774 local government areas in Nigeria. The study's emphasis is strictly legal and analytical, confined to constitutional interpretation and judicial trends and the implications for governance at the grassroots.

1.7 SIGNIFICANCE OF THE STUDY

This study is significant for its potential to contribute to legal scholarship and policy development in Nigeria's federal system. By interrogating the scope of local government autonomy, it will provide insights into the constitutional balance of power among the three tiers of government. The findings will help policymakers and legislators understand the weaknesses of the current framework and propose reforms that enhance fiscal and administrative independence of local governments. Furthermore, this study is significant because it contributes to scholarly discourse on Nigerian federalism and constitutional development. It will clarify the extent to which the 1999 Constitution provides for local government autonomy and expose the inconsistencies between legal theory and political practice.

Additionally, this research will serve as a reference material for law students, academics, and practitioners interested in constitutional law, administrative law, and governance reform. It aims to strengthen the understanding that sustainable development and democratic participation at the grassroots depend on the genuine autonomy of local governments (Ayoade, *Democracy and the Structure of Nigerian Federalism* (Ibadan, 1990) 122).

1.8 RESEARCH METHODOLOGY

The research adopts a doctrinal and analytical methodology. The doctrinal approach involves examining the law as it is; through statutes, constitutional provisions, case law, and other legal

authorities; to understand its scope and application. The analytical aspect evaluates the effectiveness and adequacy of these laws in guaranteeing true autonomy for local governments. Primary sources of data include the Constitution of the Federal Republic of Nigeria 1999 (as amended), relevant statutes, and judicial decisions. Secondary sources include textbooks, academic journals, law reports, policy documents, and online legal databases such as HeinOnline and Lexis Nexus to supplement the primary sources. Data will be qualitatively analyzed through content interpretation and legal reasoning consistent with Nigerian Association of Law Teachers (NALT) citation guide for footnotes and bibliography, ensuring academic precision and consistency throughout the work.

1.9 ORGANIZATION OF THE STUDY

This research is divided into five chapters.

Chapter One introduces the study, presenting the background, statement of the problem, objectives, research questions, and methodology.

Chapter Two provides the conceptual and theoretical framework of local government and autonomy.

Chapter Three analyses the constitutional and statutory provisions relating to local government autonomy in Nigeria.

Chapter Four examines judicial interpretations and the practical realities of local government operations.

Chapter Five contains the summary, findings, and recommendations.

CHAPTER TWO

CONCEPTUAL AND THEORETICAL FRAMEWORK AND LITERATURE

REVIEW OF LOCAL GOVERNMENT AND AUTONOMY.

2.1 INTRODUCTION

This chapter provides the conceptual and theoretical foundation for the study of local government autonomy in Nigeria. It explains the meaning and nature of local government, the concept of autonomy and how both interact within Nigeria's federal structure.

2.2 CONCEPTUAL CLARIFICATION

2.2.1 Meaning of Government

According to Black's Law Dictionary¹, the term "government" is defined as: "The structure of principles and rules determining how a State or organization is regulated."

It furthermore provides an extended meaning:

"The sovereign power in a nation or state; the political direction and control exercised over the actions of the members, citizens, or inhabitants of communities, societies, and states."

In simpler terms, government refers both to the institution through which public authority is exercised and to the process of administering the affairs of a state or political community according to law.

Government refers to the machinery through which the will of the state is formulated, expressed, and executed. It is the institutional and functional framework by which society is organized to achieve collective goals such as peace, justice, and welfare.

In a federal system, governmental powers are shared between different levels of authority: federal, state, and local; each with distinct responsibilities defined by law.

¹ Thomas Reuters, *Black's Law Dictionary* (11th edn, 2019) 823.

The essence of government is to ensure order, promote development, and protect citizens' rights. Therefore, government, irrespective of its level, must be accountable to the people and operate within the law.

2.2.2 Meaning and Nature of Local Government

Local government is the lowest level of governance established by law to provide essential services and represent the interests of local communities. It is “government at the grassroots level of administration meant for meeting the peculiar needs of the people.”

The 1976 Local Government Reform Guidelines defined local government as:

“Government at the local level exercised through representative councils established by law to exercise specific powers within defined areas.”

This definition was later reflected in Section 7(1) of the 1999 Constitution, which guarantees the system of democratically elected local government councils. The local government is, therefore, not a creature of administrative convenience but a constitutional entity with functions outlined in the Fourth Schedule of the Constitution. Local government, therefore, is not a mere extension of state power but a constitutionally recognized organ within Nigeria's federal system.

Local government administration rests on two essential principles: grassroots participation and effective service delivery.² These principles justify its existence and distinguish it from other tiers of government.

² G Ojo, *Federalism and Local Government in Nigeria* (Spectrum Books 2009) 44.

2.2.3 Concept of Autonomy

Autonomy, derived from the Greek word autonomous (“self-rule”), denotes the ability of an entity to govern itself. In the context of government, it means the legal and practical capacity of a body to make decisions independently within its constitutionally assigned powers.

Blacks Law Dictionary³ defines Autonomy as “The right or condition of self-government; independence; the power or right of a state, institution, or individual to govern itself according to its own laws and policies.”

Local government autonomy can be classified into:

- i) Administrative autonomy: which allows councils to make policies, employ staff, and manage resources;
- ii) Financial autonomy: which gives control over revenue generation, budgeting, and expenditure;
- iii) Political autonomy: which ensures the freedom to elect representatives without interference.

Autonomy, therefore, signifies independence, though not absolute sovereignty. Local governments operate under constitutional limits and remain accountable to higher levels of government.

2.2.4 Meaning of Local Government Autonomy

Local government autonomy is the degree of self-governance and independence accorded to local councils to perform their statutory responsibilities without undue external control. It implies freedom to plan, decide, and implement decisions within the constitutional and statutory framework.

³ Thomas Reuters, *Black’s Law Dictionary* (11th edn, 2019) 168.

According to Ezeani, local government autonomy means “that local governments must have unfettered powers to make and implement decisions without recourse to higher authorities, subject only to the law.”⁴

However, he notes that autonomy must coexist with accountability; local councils cannot be entirely free from supervision, especially since their powers derive from the Constitution and enabling state legislation.

In Nigeria, the extent of autonomy is constrained by constitutional design and political practice, as state governments often exercise dominant control through legislation and finance. In Nigeria, the degree of autonomy is limited by the provisions of the State Joint Local Government Account in Section 162(6) of the Constitution, which empowers state governments to control local funds. This structural feature has made true autonomy more theoretical than practical. Adeyemo explains that true local autonomy can only result from devolution, which confers legal powers on local authorities to act independently.⁵

Nigeria’s local government system largely reflects delegation rather than devolution, since state governments retain supervisory powers. The persistence of this imbalance limits the effectiveness of decentralization in promoting grassroots governance.

2.2.5 The Concept of the Constitution

A constitution serves as the foundational legal document of a state or political entity, establishing the basic framework for governance, power distribution, and the relationship

⁴ E Ezeani, *Local Government Administration in Nigeria: A Comparative Perspective* (Enugu, John Jacob Publishers 2012) 77.

⁵ M Adeyemo, *Decentralisation and Local Governance in Nigeria* (Heinemann Educational Books, Ibadan 2003) 51.

between the government and its citizens.⁶ It is a document having a special legal sanctity which sets out the structure, powers, and limitations of government institutions⁷. More precisely, in the Nigerian context, the Constitution is the primary source of legal authority, supreme and binding on all authorities and persons throughout the Federal Republic of Nigeria. Constitutional supremacy means that the Constitution as a legal document is the ultimate of all laws, and all other laws must conform to it to be valid. It can also be defined as the fundamental and organic law of a nation or state that establishes the institutions and apparatus of government, promoting good government and welfare on principles of freedom, equality, and justice. A procedural constitution defines the legal and political structures of public institutions and sets out the legal limits of government power to protect rights and ensure orderly governance⁸.

2.2.6 The Concept of Democracy

Democracy is fundamentally a form of government in which political power is vested in the people, either directly or through elected representatives, emphasizing participation, equality, and accountability⁹. In the Nigerian context, democracy is much talked about as a set objective pursued with vigor but not yet fully attained, representing government of the people, by the people, and for the people¹⁰. It is described as a system of government with key elements

⁶ A Aina-Pelemo, 'Definition and Sources of Constitutional Law: Classification of Constitutions: Written and Unwritten, Rigid and Flexible, Federal and Unitary, Presidential and Parliamentary. The Concept of Separation of Powers, The Rule of Law, Federalism, and The Supremacy of The Constitution/Parliament' (2023) SSRN <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5728284> accessed 18 November 2025.

⁷ National Open University of Nigeria, 'LAW 243 Constitutional Law 1'

⁸ A Aina-Pelemo (n 6)

⁹ AT Salami, 'Politics and Democracy in Nigeria: A Critical Examination and Analysis of the Use and Mis-use of Money in Elections' (2021) 7 Green University Review of Social Sciences 1.

¹⁰ AM Jega, 'Democracy in Nigeria: Concepts, Representations and Expectations' (IFRA-Nigeria e-Papers Series) <<https://books.openedition.org/ifra/pdf/636>> accessed 18 November 2025.

including a mechanism for choosing and replacing the government through free and fair elections, active participation of the people in politics and civic life, protection of human rights, and the rule of law where laws apply equally to all¹¹. Conceptually, democracy envisions a form of government where decision-making is taken away from the hands of an individual and placed in the collective hands of the populace, creating a fair society without oppression or exclusion. It is the only system that can foster inclusivity, with tests including free elections, civil liberties, and institutional safeguards¹².

2.2.7 The Concept of Federal Structure

Federalism, or a federal structure, refers to a system of government where sovereignty is constitutionally divided between a central (national) authority and subnational entities (such as states or provinces), allowing each level to exercise independent powers within defined spheres¹³. In Nigeria, federalism involves the pragmatic distribution of power and resources through a federal constitution, with provisions for sharing between the national and regional governments. It has been defined variously as a political philosophy, ideological position, or political principle involving the constitutional allocation of powers to promote unity while accommodating diversity¹⁴. The central government retains exclusive powers for uniformity, while states handle regional matters, as seen in Nigeria's 1999 Constitution which introduced a federal system with regional governments¹⁵. This includes equitable sharing of resources and

¹¹ AT Salami (n 15) 2.

¹² AT Salami (n 15) 3.

¹³ E Amah, 'Federalism, Nigerian Federal Constitution and the Practice of Federalism: An Appraisal' (2017) 9 *Journal of Political Sciences & Public Affairs* 1.

¹⁴ E Amah (n 19) 2.

¹⁵ RO Olaolawa and LA Ogboye, 'The Pursuit of True Federalism Among Federating Units' <https://lasu.edu.ng/publications/law/lateef_ogboye_ja_16.pdf> accessed 18 November 2025.

posts, such as through the federal character principle, to ensure balanced development and prevent over-centralization¹⁶.

2.3 THEORETICAL FRAMEWORK

On this segment, the various theories relating to local government and the exercise of its autonomy in the Nigerian system are briefly discussed.

2.3.1 Federalism Theory

Federalism is a system where governmental powers are constitutionally divided between central and regional authorities. KC Wheare defines it as “the method of dividing powers so that general and regional governments are each, within a sphere, coordinate and independent¹⁷. In true federalism, all levels of government, including the local, should operate independently within their defined spheres. However, in Nigeria, local governments remain under state control, leading scholars like Nwankwo to describe Nigeria’s structure as “quasi-federal¹⁸.” This theoretical weakness contributes to the subordination of local councils.

2.3.2 Decentralization Theory

Decentralization is the process of transferring authority from the central government to subordinate entities. It can occur through de-concentration, delegation, or devolution.

¹⁶ RO Olaolawa and LA Ogboye (n 21) 2.

¹⁷ KC Wheare, *Federal Government* (Oxford University Press 1963) 10.

¹⁸ G Nwankwo, *Constitutional Law in Nigeria* (Fourth Dimension Publishers, Enugu 2000) 67.

Adeyemo explains that true local autonomy can only result from devolution, which confers legal powers on local authorities to act independently¹⁹.

Nigeria's local government system largely reflects delegation rather than devolution, since state governments retain supervisory powers. The persistence of this imbalance limits the effectiveness of decentralization in promoting grassroots governance.

2.3.3 Democratic–Participatory Theory

Ayoade argues that local government provides the best platform for training citizens in democratic habits and participation.²⁰ Through elected councils, people learn accountability and civic responsibility. However, when local councils lack autonomy, such democratic participation becomes illusory, as governors often dissolve elected councils and appoint caretaker committees. The theory thus supports autonomy as a precondition for democracy at the grassroots.

2.3.4 Developmental and Efficiency Theory

This theory views local government as an engine of rural development.

When councils have the freedom to design policies suited to local needs, they can deliver services more effectively. Ojo notes that decentralized governance enhances responsiveness, reduces bureaucratic bottlenecks, and fosters community ownership of projects.²¹ Conversely, excessive central or state control often leads to inefficiency and duplication of functions.

¹⁹ M Adeyemo, *Decentralisation and Local Governance in Nigeria* (Heinemann Educational Books, Ibadan 2003) 51.

²⁰ T Ayoade, *Democracy and the Structure of Nigerian Federalism* (Ibadan University Press 1990) 123

²¹ Ojo (n8) 47.

2.3.5 Agency or Control Theory (Counter-Theory)

The agency theory presents a contrary view, seeing local governments as administrative agents of the state. Oyewo argues that since Section 7(1) of the 1999 Constitution empowers states to legislate for the establishment and structure of local governments, they cannot be entirely independent.²²

This theory explains the constitutional reality in Nigeria: while local governments are recognized as a tier of government, they remain politically and financially subordinate to state authorities.

2.4 LITERATURE REVIEW

This section reviews extant scholarly works, legal texts, journal articles, and other secondary sources on local government autonomy in Nigeria, with a focus on the 1999 Constitution (as amended). The review synthesizes key perspectives to identify theoretical underpinnings, empirical insights, and gaps in the literature, particularly regarding whether constitutional provisions translate into legal reality or remain illusory. It draws on doctrinal analysis of legal materials, critiquing dominant views while highlighting areas where this study contributes, such as recent judicial developments and reform proposals.

2.4.1 Theoretical Literature on Local Government Autonomy

Theoretical discourse on local government autonomy emphasizes decentralization as a cornerstone of federalism. Awotokun argues that autonomy entails financial independence, administrative discretion, and political self-determination, enabling local entities to address

²² B O Oyewo, 'Local Government Reforms and Constitutional Development in Nigeria' (2002) 3 *LASU Law Journal* 53.

grassroots needs without undue state interference (AM Amotokun, Local Government in Nigeria 45).

However, in Nigeria's context, this is often compromised by centralizing tendencies inherited from colonial and military eras. Olowu posits that true autonomy requires fiscal viability beyond federal allocations, critiquing the 1999 Constitution's revenue-sharing model as fostering dependency. This aligns with Elaigwu's view that federalism in Nigeria is "quasi-federal," where local governments serve as extensions of state power rather than autonomous units

Scholars like Agbakoba highlight the tension between constitutional intent and practice, noting that Sections 7 and 162 envision autonomy but lack enforcement mechanisms against state overreach.²³ Comparative theories from federations like India, where panchayati raj systems enjoy greater fiscal devolution, underscore Nigeria's shortcomings.²⁴ Gaps in this literature include limited analysis of post-2024 judicial shifts, such as the Supreme Court's affirmation of direct funding, which this study addresses.

2.4.2 Empirical and Legal Literature

Empirical studies reveal persistent challenges to autonomy. Ikeanyibe's analysis of fiscal federalism shows that the State Joint Local Government Account (SJLGA) leads to fund misappropriation, with states deducting up to 50% of allocations, rendering local governments ineffective.²⁵ Judicial literature, including analyses of cases like *Attorney-General of Lagos*

²³ R Agbakoba, 'Local Government and Autonomy in Nigeria: Myth or Reality?' (2015) 12 *Nigerian Bar Journal* 112.

²⁴ V Chand, 'Fiscal Federalism and Local Governments in India' (2010) *Economic and Political Weekly* 45.

²⁵ OM Ikeanyibe, 'Federalism, Constitutionalism and Local Government Autonomy in Nigeria' (2016) 42 *Journal of African Contemporary Research* 120.

State v Attorney-General of the Federation,²⁶ critiques inconsistent enforcement, where courts affirm autonomy theoretically but fail to curb practical violations like caretaker committees. Journal articles, such as those by Oviasuyi, document corruption and underdevelopment at the local level due to eroded autonomy, with data from 1999-2020 indicating over 70% of local governments operating under appointed rather than elected leadership.²⁷ International sources, like UN reports on decentralized governance, recommend constitutional amendments for direct elections and funding, which Nigerian literature echoes but seldom operationalizes.²⁸ A notable gap is the scarcity of recent empirical data post the 2024 Supreme Court ruling, where implementation remains stalled despite legal mandates.

2.4.3 Critique and Gaps in Existing Literature

While the reviewed works provide robust doctrinal insights, they often overlook interdisciplinary angles, such as economic impacts of autonomy on poverty reduction. Many predate recent amendments and judgments, creating a temporal gap. This study fills these voids by integrating current events, like the 2024 ruling's non-compliance, and proposing reforms grounded in comparative federalism.

2.5 SUMMARY OF THE CHAPTER

This chapter has discussed the conceptual foundations, theoretical bases of local government autonomy in Nigeria and analyzed the literature reviews as regards local government autonomy in Nigeria. It has shown that although autonomy is essential for effective governance and

²⁶ *Attorney-General of Lagos State v Attorney-General of the Federation* (2004) 18 NWLR (Pt 904) 1 SC

²⁷ PO Oviasuyi, 'Local Government Administration in Nigeria: The Search for Relevance' (2010) 5 *Journal of Social Sciences* 67.

²⁸ United Nations, '*World Public Sector Report: Globalization and the State*' (2001) UN Publications.

development, constitutional design and political practice in Nigeria have undermined its realization.

The next chapter will examine the constitutional provisions and judicial interpretations of local government autonomy in Nigeria, assessing whether the 1999 Constitution offers real independence or perpetuates a constitutional illusion.

CHAPTER THREE

CONSTITUTIONAL AND STATUTORY FRAMEWORK FOR LOCAL GOVERNMENT AUTONOMY IN NIGERIA

3.1 INTRODUCTION

This chapter analyses the constitutional and statutory framework governing local government autonomy in Nigeria. It examines how the 1999 Constitution (as amended) establishes, structures and limits local government authority, with attention to Sections 7, 162 and the Fourth Schedule. It also evaluates federal and state legislation affecting local councils, judicial interpretation of these provisions, and the implications of the Supreme Court's 2024 decision granting full financial autonomy to the 774 local government areas (LGAs). The chapter therefore provides the doctrinal foundation for assessing whether local government autonomy under the Constitution is a legal reality or a constitutional illusion.

3.2 CONSTITUTIONAL PROVISIONS RELATING TO LOCAL GOVERNMENT

3.2.1 Analysis of Section 7 of the 1999 Constitution

Section 7 of the 1999 Constitution of the Federal Republic of Nigeria (as amended) guarantees the existence of the local government. It prescribes the structure, composition, finance and functions of local government councils.

Section 7(1) 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.”¹

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

This section is the cornerstone of local government existence in Nigeria. It affirms two key ideas:

- i) That local government by democratically elected councils is constitutionally guaranteed.
- ii) That State Governments retain power to make laws establishing and regulating local councils.

Section 7 prescribes the structure, composition, finance and functions of local government councils. However, their effectiveness hinges significantly on one crucial factor: financial autonomy.

Scholars have described this duality as the root of Nigeria's autonomy crisis.² While the Constitution recognizes local governments, it simultaneously subordinates them to state legislation, thereby diluting independence.³

The financial autonomy of local governments is more of a myth than a reality in Nigeria.

The Supreme Court in *A.G. Lagos State v A.G. Federation* (2004) 18 NWLR (Pt 904) 1, held that States have power to create new local government areas but that such creation remains inchoate until the National Assembly amends the Constitution to list them in the First Schedule. This reinforces that local government derives legitimacy from both state and federal sources, reflecting a hybrid system of control.

² E Ezeani, *Local Government Administration in Nigeria: A Comparative Perspective* (John Jacob Publishers 2012) 24.

³ B O Oyewo, 'Local Government Reforms and Constitutional Development in Nigeria' (2002) 3 *LASU Law Journal* 51.

3.2.2 Analysis of Section 162 of the 1999 constitution (primarily 162(6)) and the State Joint Local Government Account

Section 162 of the 1999 CFRN (as amended) is focused extensively on Distributive pool account. Section 162(6) establishes the State Joint Local Government Account (SJLGA) into which allocations to local governments from the Federation Account are paid. The account is maintained by each State Government and disbursed in the manner prescribed by the House of Assembly.

In theory, this provision promotes fiscal coordination; in practice, it has been the main obstacle to financial autonomy. Governors often divert or delay funds meant for local councils.⁴

The Supreme Court has repeatedly condemned this practice. In *A.G. Abia State v A.G. Federation*,⁵ the Court held that state governments must remit the full amount standing to the credit of local governments, and any deduction was unconstitutional.

Nevertheless, enforcement remained weak until the landmark decision in *A.G. Federation v A.G. Abia State & 35 Ors*,⁶ where the Court finally granted full financial autonomy to all LGAs, directing that allocations be paid directly to local government accounts, bypassing the SJLGA.⁷ This judgment is significant because it effectively nullified decades of executive abuse under Section 162(6) and clarified that financial autonomy is implicit in Section 7(1) of the 1999 CFRN (as amended).

Furthermore, the recent Supreme Court judgement in the case brought by the Attorney General of the Federation against the 36 states of Nigeria will reinforce the principles of true fiscal

⁴ B Olowu, *Local Government and Development in Nigeria* (Obafemi Awolowo University Press 1986) 39.

⁵ (2006) 16 NWLR (Pt 1005) 265 SC

⁶ (SC/CV/343/2024)

⁷ *Attorney-General of the Federation v Attorney-General of Abia State & 35 Ors* (SC/CV/343/2024) per Agim J (11 July 2024).

federalism, which emphasizes that power and resources should be equitably distributed across various government levels, to ensure that governance is both efficient and effective.

3.2.3 The Fourth Schedule

The Fourth Schedule of the Constitution lists 30 distinct functions for local governments, including maintenance of markets, roads, health services, sanitation, and registration of births and deaths. These functions embody the developmental mandate of councils.

However, most of these responsibilities are shared concurrently with state governments. This overlap leads to conflicts, duplication, and abdication of duties, undermining the independence envisioned under Section 7.⁸

3.2.4 Other Relevant Constitutional Sections

Several other provisions indirectly affect local government autonomy:

Section 1(3): affirms the supremacy of the Constitution, meaning state laws inconsistent with Sections 7 or 162 are void.

Section 14(2)(c): declares that “the participation by the people in their government shall be ensured,” underscoring the democratic essence of local councils.

Section 4(7): empowers State Houses of Assembly to legislate on matters not in the Exclusive List — the legal basis for state control.

Section 318(1): defines “Government of a State” to include local government councils evidence of constitutional subordination.

⁸ G Ojo, *Federalism and Local Government in Nigeria* (Spectrum Books 2009) 46.

3.3 STATUTORY AND STATE LEGISLATION REGULATING LOCAL GOVERNMENTS

3.3.1 Federal Instruments

Although local government is primarily under state jurisdiction, certain federal enactments and policies shape its operation. These include:

Guidelines for Local Government Reform 1976, which first recognised local government as the third tier and prescribed a uniform structure.⁹

Allocation of Revenue (Federation Account, etc.) Act Cap A15 LFN 2004, which governs the distribution of federation revenues to federal, state and local tiers.

These instruments reflect federal concern for grassroots development and remain relevant in interpreting Sections 7 and 162.

3.3.2 State Local Government Laws

Each state has enacted its own Local Government Law, providing for creation, structure, tenure, and finance of councils. For example, the Lagos State Local Government Administration Law 2013 stipulates a three-year tenure, while Kano State Local Government Law 2012 empowers the governor to suspend chairmen for “gross misconduct.”

Such provisions often conflict with constitutional guarantees of democracy and tenure security. The use of caretaker committees in place of elected councils—widespread across states—has been held unconstitutional.¹⁰

⁹ Federal Republic of Nigeria, Guidelines for Local Government Reform (Government Printer 1976)

¹⁰ *Eze v Governor of Abia State* (2014) 14 NWLR (Pt 1426) 192 SC.

3.3.3 Implications of Divergent State Laws

Because state laws vary, local government autonomy is uneven nationwide. Some states allow councils to prepare independent budgets, while others require approval from the Ministry of Local Government. This inconsistency negates the notion of a unified national local government system.¹¹

Ezeani observes that uniformity is essential to national integration and equitable development, yet the Constitution leaves excessive discretion to states.

3.4 INTERACTION BETWEEN FEDERAL, STATE AND LOCAL GOVERNMENT LAWS

Nigeria's federalism requires coordination among the three tiers. However, the relationship between them has been fraught with constitutional tension. The Constitution of the Federal Republic of Nigeria (as amended) clearly and explicitly recognized local governments in Nigeria as an order of governments along the federal and state governments' accompanied with a measure of independence and autonomy in its own sphere of influence and competence. The irrefutable fact is that either by omission or commission the constitution made local government in Nigeria part of the federating unit and an order of government.

Under Section 4 of the Constitution, legislative powers are divided between the National Assembly (Exclusive and Concurrent Lists) and State Assemblies (residual matters). Local government is not expressly listed in either category, creating ambiguity. Consequently, states assume residual control.

¹¹ Ezeani (n 22) 80.

The Supreme Court in *A.G. Lagos State v A.G. Federation*¹² clarified that local governments are “a creation of the Constitution but operationally under state supervision.” This dual dependency fosters administrative overlap: federal agencies fund or monitor local projects directly (e.g., UBEC, NPHCDA), while states claim coordination rights.

The 2024 Supreme Court decision has partially re-aligned this interaction by asserting that financial autonomy of local governments is a federal obligation enforceable under Sections 7 and 162. The Court reasoned that because allocations derive from the Federation Account—a federal pool—direct payment to councils does not violate state powers.

This interpretation transforms the constitutional landscape by elevating local governments from administrative appendages to constitutionally protected fiscal entities. The Supreme Court decision on financial autonomy for Local Governments raised however the issue of federalism. Critics have said that the decision of the Supreme Court is a violation of the 1999 constitution (as amended) which stipulates in section 2(2) that “Nigeria shall be a federation consisting of states and a federal capital Territory”.

This implies that local governments are not entitled to direct remittances as they are or supposed to be under the control of the state government as an inferior level of government. However, pertinent questions have been raised by any discussion or debate on the principles of federalism thus: What is federalism; is there an ideal federalism; is it not possible to ascertain principles of federalism from the provisions of the constitution.

3.5 THE JUDGMENT OF THE SUPREME COURT

The Supreme Court in its judgment of Thursday, 11th July 2024, a seven-member panel of the Supreme Court, presided over by Justice Mohammed Garba, disagreed with the position of the state Governments and allotted merits to the case of the plaintiff, the Federal Government.

¹² *supra*

In a landmark judgment, the apex court granted financial autonomy to 774 local governments and also vehemently condemned the arbitrary dissolution of elected local government councils by state governors. In its ruling, Justice Agim stated:

“It is the position of this court that federation can pay local governments allocation directly to the local governments or through the states. In this case since paying them through states has not worked, Justice demands that local government allocation from the federation account should henceforth be paid directly to the local governments... I hold that the State’s retention of Local Government funds is unconstitutional”.

The usual practice, which the Supreme Court now stopped was that both the States’ and local government monthly revenue from the Federation Account Allocation Committee (FAAC) were remitted to a State Joint Account and from this account, each local government was to collect what it deserves in accordance with section 162 of the Constitution of the Federal Republic of Nigeria (as amended).

Section 162(b) of the constitution states as follows:

Each state shall maintain 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 from the Government of the State.

Section 162(7) of the constitution went further to direct State Governments:

... to pay local government councils in its area of jurisdiction such proportion of its total revenue on such terms and in such manner as may be prescribed by the National Assembly.

The contention of the Attorney General of the Federation is that these constitutional provisions are not properly adhered to and for over two decades, local governments have been crippled in most states, because of failure of State Governments to remit funds properly due to local governments from the federation account.

The Supreme Court per Agim agreed with the AG of the Federation and went further to make the following pronouncements:

As it is, the state, after collecting the local governments from the federation account have continued to refuse to pay it to its owners. The States' refusal to pay this money to the local governments has gone on for over two decades now. This has deprived the local governments of their rights and defeated the intention of the 1999 constitution.

The Supreme Court consequently ruled that it is illegal and unconstitutional for Governors to receive and withhold funds allocated to local governments areas (LGAs) in their states, and therefore, affirmed the financial autonomy of Nigeria's 774 Local Government Areas.

To ensure that its decision is effectively implemented the Supreme Court made an order of injunction that "henceforth no State Government should be paid monies standing to the local government councils; an order restraining State Government from collecting funds belonging to Local Government Councils when no democratically elected local government councils are in place; an order for immediate enforcement and compliance with these orders by the State Governments and successive governments henceforth" The new arrangement in accordance with the Supreme Court's decisions empowering the Accountant General of the Federation to bypass the State Government in the monthly disbursement of Federation Allocation to the Local Governments. In other words, the Local Government funds should be paid to them directly. In agreeing with the position of the Supreme Court on direct payment to the Local Governments, a commentator, Okejimi, who described the Supreme Court as a policy court, said, "even if the 1999 constitution has not specifically said that the money should go directly to these local government councils; when you now consider other provisions of the constitution that the allocations is for the benefits of the local governments... That is where the powers of the Supreme Court as a policy court comes in" If there is a mischief to be cured in applying section 162 of the constitution in remitting funds to local government councils it is within the powers of the Supreme Court to so do. There is nothing sacrosanct about remitting money to

local government councils through the State Governments after the two levels of governments were all democratically elected.

It has to be noted that with the decision of the Supreme Court for direct remittance of funds to local government councils in Nigeria; history is just repeating itself.

Notably, in *AG Federation v AG Abia State and Ors*, it was hence decided that the LGAs can now directly receive their allocations from the federation account.

Going by the functions of the local government set out in the fourth schedule of the Constitution of the Federal Republic of Nigeria, 1999 (as amended), it becomes evident that the local government councils were typically created to be responsive, accountable and serve as engines of economic growth and social development. To examine how the various functions of the local government contribute to economic growth at the grassroots and national levels, each provision will be analyzed in the context of local government financial autonomy.

3.6 LEGAL LIMITATIONS ON LOCAL GOVERNMENT AUTONOMY

Despite constitutional recognition, several legal, structural and administrative limitations continue to constrain local government autonomy in Nigeria.

3.6.1 Constitutional Limitations

The principal limitation lies in the text of the 1999 Constitution itself. Section 7 guarantees local government by “democratically elected councils,” yet it subjects their existence to state legislation.¹³ This means that a state may alter structure, composition or finance through its own law. Likewise, Section 162(6) creates the State Joint Local Government Account (SJLGA), which historically allowed state executives to control local revenues.

¹³ Constitution of the Federal Republic of Nigeria 1999 (as amended) s 7(1).

Although the 2024 Supreme Court decision now mandates direct federal disbursement, the constitutional text remains unchanged, creating possible friction between judicial interpretation and express wording. Until the Constitution is formally amended, governors may still invoke Section 162(6) to justify administrative control.

3.6.2 Statutory and Political Limitations

Most state Local Government Laws empower governors to suspend or dissolve councils. In *Governor of Ekiti State v Oluwadare*,¹⁴ the Court of Appeal held that dissolution of elected councils before the expiration of tenure was illegal. However, enforcement has been inconsistent.

In *Knight Frank and Rutley (Nig) and Anor v AG Kano State*, Kano State encroached or dabbled into revenue collection constitutionally assigned to local government sources of revenue. The issue was on which government, state or local government should collect hereditaments and assessment of rates on privately owned houses.

The government of Kano State entered into contract with the appellant to compile valuation lists for the purpose of assessment and collect rates on properties in Kano.

Local Governments challenged this action and the Supreme Court ruled that the State Government had no power to award the contract and it acted ultra vires in doing so. In the notable pronouncement of Ogwuegbe J.S.C the court held that:

“There is everything wrong in the State Government entering into the contract with the appellants. Given the circumstances of this case, I would say that the Kano State Government was meddling in the affairs of the Local Government Councils. It was not exercising supervisory powers over the activities of the Local Government Councils. It has no power to prepare a Valuation List of the properties let alone enter into an agreement for that purpose. I agree with the Court of Appeal when it held as follows:

¹⁴ (2011) 17 NWLR (Pt 1277) 473 CA

“Since the Kano State Government has no power over assessment of tenements (sic) rates, it goes without saying that it has no jurisdiction to enter into any agreement with anybody or person for the valuation of ratable hereditaments. I must here emphasize that Local Government Councils should be spared this type of illegitimate intrusion or interference by State Government functions specifically”.

Again there have been cases where State Governments removed or sacked elected Council Chairmen and Councilors at the will and caprices of the Governor. This is an act the Courts in Nigeria had consistently condemned as a violation of the rule of law.

In *Eze and ORS V Governor of Abia State and ors.* the appellants were elected by the people of Abia State to serve as Chairmen, Vice-Chairmen and Councilors in the State’s Local Government Councils. The tenure was for a fixed term of three years (3 years). The appellants assumed office and commence the work for which they were elected. On the 16th day of June, 2006, the Governor (ie the 1st respondent) dissolved all the Local Government Councils and appointed Caretaker Committees. The action was vigorously pursued all through to the Supreme Court.

ISSUE: Whether by the provisions of Section 7 of the 1999 Constitution and the provisions of the Abia State Local Government Law as amended, the 1st defendant has the legal competence to dissolve the Local Government Councils of Abia State and appoint Caretaker Committees to replace elected members of the said Local Government Council.

The Supreme Court as per Rhodes Vivors JSC, held that:

- (a) It is duty of the Governor to ensure that the system of Local Government continues unhindered. Dissolving Local Government Councils and replacing them with Caretaker Committee amounts to the Governor acting on his whims and fancies, unknown to our laws, clearly illegal. It is the duty of the Governor to ensure their existence rather than being responsible for destroying them. It amounts to executive recklessness for the 1st respondent to remove from office democratically elected Chairmen and Councilors and replace them with unelected Chairmen and Councilors under whatever guise.

- (b) If such a person is removed from office in a manner the Court finds to be wrong, he shall be entitled to all his entitlement, to wit: salaries, allowances etc. A Court of equity will not allow the executive to get away with wrongful acts rather it would call the executive to order.

Additionally, many states operate Ministries of Local Government Affairs that issue binding circulars, approve budgets, and supervise employment. This effectively reduces local governments to administrative departments of the state.

3.6.3 Financial Constraints

Until 2024, local governments were almost wholly dependent on federal allocations, with little internally generated revenue. Olowu observes that this dependency made councils “vulnerable to financial manipulation by state authorities.”¹⁵ The situation resulted in delayed salaries, stalled projects, and erosion of public confidence.

The 2024 Supreme Court decision has now corrected this by directing that allocations from the Federation Account be paid directly to local government accounts, thereby restoring fiscal independence. It further held that “no governor has the power to receive or tamper with funds meant for local councils.”¹⁶

3.6.4 Administrative and Capacity Limitations

Even where autonomy is constitutionally acknowledged, poor leadership, corruption, and weak institutional capacity hinder effective self-governance. Audit reports often reveal

¹⁵ Olowu (n 24) 42.

¹⁶ *Attorney-General of the Federation v Attorney-General of Abia State & 35 Ors* (SC/CV/343/2024) per Agim J (11 July 2024).

misappropriation of funds by local officials. Thus, autonomy without accountability becomes counter-productive.

3.7 JUDICIAL INTERPRETATION OF THE FRAMEWORK

Judicial decisions have played a critical role in defining the scope of local government autonomy.

3.7.1 *Attorney-General of Abia State v Attorney-General of the Federation*¹⁷

The Supreme Court held that the federal government could validly allocate funds to local governments through states, but states were under a constitutional duty to release the full amounts to each council. Any deduction was unconstitutional. The Court thereby reinforced financial accountability but did not outlaw the SJLGA mechanism.

3.7.2 *Eze v Governor of Abia State*¹⁸

Here, the Court held that the dissolution of democratically elected local councils by a state governor was illegal and inconsistent with Section 7(1). The decision emphasised that only courts of competent jurisdiction may remove elected officials before the end of tenure.

3.7.3 *Attorney-General of the Federation v Attorney-General of Abia State & 35 Ors*¹⁹

This 2024 decision marks a turning point. The Attorney-General of the Federation filed the suit seeking full autonomy for the 774 LGAs. The Court, per Agim J, held:

“The Federation is composed of three tiers of government: federal, state and local. Each tier must receive its share of revenue directly from the Federation Account. No governor or agent of a state has

¹⁷ (2006) 16 NWLR (Pt 1005) 265 SC

¹⁸ (2014) 14 NWLR (Pt 1426) 192 SC

¹⁹ (SC/CV/343/2024)

the power to withhold or intercept funds meant for local governments.”²⁰

The Court further declared caretaker committees unconstitutional, reaffirming that only democratically elected councils are entitled to allocations. This ruling effectively restored financial and political autonomy, giving constitutional teeth to earlier reform efforts.

The decision has far-reaching implications:

- i) It converts Section 7(1) from a declaratory guarantee into an enforceable right.
- ii) It reinforces fiscal federalism by recognizing LGAs as direct beneficiaries of national revenue.
- iii) It introduces a judicial check against executive abuse at state level.

Scholars now regard this case as the “*Marbury v Madison*” moment of Nigerian local government law; a constitutional re-balancing of power among the tiers.

3.8 COMPARATIVE INSIGHTS FROM OTHER FEDERATIONS

A brief comparative analysis highlights lessons Nigeria can draw from other federations.

3.8.1 India

The Indian Constitution was amended by the 73rd Constitutional Amendment Act 1992, which inserted Part IX and Schedules XI & XII, giving constitutional status to Panchayati Raj Institutions (local governments). They enjoy fixed tenure, direct funding, and protection from arbitrary dissolution. The amendment mandates regular elections and specifies functional lists similar to Nigeria’s Fourth Schedule. This framework provides both autonomy and uniformity.

²⁰

Ibid 55

3.8.2 Canada

In Canada, local governments are creatures of provincial law under Section 92(8) of the Constitution Act 1867. However, fiscal autonomy is achieved through inter-governmental agreements, allowing municipalities to raise property taxes and receive conditional grants. Although provinces may legislate broadly, political culture discourages interference.

3.8.3 Lessons for Nigeria

Constitutional entrenchment alone does not ensure autonomy; financial independence and institutional accountability are equally vital.

Nigeria may adopt an Indian-style constitutional amendment guaranteeing tenure, direct funding, and uniform standards across states.

Inter-governmental consultation mechanisms can reduce friction and duplication.

3.9 SUMMARY OF THE CHAPTER

This chapter examined the constitutional and statutory framework regulating local government autonomy in Nigeria. It established that while Section 7 guarantees the system of democratically elected councils, Section 162 historically limited autonomy through the State Joint Local Government Account. The Fourth Schedule enumerates functions but overlaps with state responsibilities.

Judicial interpretation has progressively strengthened autonomy; from *A.G. Abia State v A.G. Federation (2006)* to *Eze v Governor of Abia State (2014)*, culminating in the 2024 decision of *A.G. Federation v A.G. Abia State & 35 Ors*, which granted full financial independence.

The chapter also showed that the persistence of political interference, inconsistent state laws, and administrative weakness continues to undermine the spirit of the Constitution.

Comparative experience from India and Canada demonstrates that autonomy must combine constitutional protection, fiscal devolution, and local accountability.

The next chapter shall assess the practical realities and challenges of implementing local government autonomy in Nigeria, drawing from selected states to determine whether constitutional promises translate into tangible governance at the grassroots.

CHAPTER FOUR

JUDICIAL AND PRACTICAL REALITIES AND CHALLENGES OF LOCAL GOVERNMENT AUTONOMY IN NIGERIA

4.1 INTRODUCTION

The preceding chapter examined the constitutional and statutory framework regulating local government autonomy in Nigeria, identifying key provisions such as Sections 7 and 162 of the 1999 Constitution (as amended) and judicial authorities that have attempted to define their scope.

This chapter assesses how those legal guarantees operate in practice. It interrogates the real-life conditions, political behavior, and institutional practices that have shaped or undermined the autonomy of local governments since 1999.

It further evaluates whether the 2024 Supreme Court decision in *A.G. Federation v A.G. Abia State & 35 Ors* has translated into tangible reform or remains another constitutional illusion.

The analysis here is organized thematically, examining financial, political, and administrative realities; corruption and mismanagement; and the wider impact on grassroots governance.

4.2 PRINCIPLES OF LOCAL GOVERNMENT

The major principles underlying local government includes:

- i) Democracy: local councils must be run by elected representatives of the people.
- ii) Participation: citizens should take part in decision-making processes affecting their welfare.
- iii) Accountability: local governments must render account of their stewardship to the people.
- iv) Efficiency: local government must provide prompt and efficient services.
- v) Transparency and Responsiveness: decision-making should be open and reflective of local needs.

These principles embody the democratic and developmental functions of local government within a federal system.

4.2.1 Elements of Local Government Autonomy

The elements of autonomy are often categorized into political, administrative, and financial autonomy.

Political autonomy guarantees that councils are democratically elected and can make independent decisions.

Administrative autonomy ensures that councils manage their personnel and internal affairs.

Financial autonomy provides the power to raise, allocate, and spend revenue in accordance with local priorities.

Where any of these is absent, local governments become dependent appendages of higher authorities, undermining their constitutional purpose.

4.3 THE PRACTICAL STRUCTURE OF LOCAL GOVERNMENT ADMINISTRATION IN NIGERIA

The structure of local government administration in Nigeria reflects a blend of constitutional recognition and state dominance.

Notwithstanding the provisions in the constitution that mandate regular local government elections and grant local government areas (LGAs) autonomy, many local councils struggle to assert their independence from state governments. The extent of its lack of independence is revealed in the way local councils are still run by sole administrators or caretaker committees appointed by state governors. Amidst the calls for a more democratic arrangement, there have been reports highlighting the reluctance of state governors to grant full autonomy to local councils, with many councils being starved of funds and unable to carry out their statutory

functions. This status quo has led to complaints of undemocratic practices and a lack of accountability.

Each state operates through a Ministry of Local Government and Chieftaincy Affairs responsible for supervising local councils. These ministries, along with Local Government Service Commissions (LGSCs), regulate staff appointments, promotions, and discipline within councils. The State Houses of Assembly exercise oversight powers, approving budgets and financial estimates prepared by councils.¹

The Joint Account Allocation Committee (JAAC) is another critical organ through which state governments coordinate the disbursement of funds to LGAs. Although intended to promote fiscal order, it has become a mechanism of financial control, often deciding how local allocations are shared without genuine participation from council officials.²

In effect, while the Constitution guarantees democratically elected local councils, the administrative reality shows a system where local governments function as extensions of state ministries, dependent on governors for direction, funding, and policy approval.³

4.4 FINANCIAL AUTONOMY IN PRACTICE

4.4.1 The Operation of the State Joint Local Government Account (SJLGA)

Section 162(6) of the Constitution provides that allocations from the Federation Account shall be paid into a State Joint Local Government Account, to be distributed among local councils as prescribed by the House of Assembly.

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

² G Ojo, *Federalism and Local Government in Nigeria* (Spectrum Books 2009) 64.

³ B O Oyewo, 'Local Government Reforms and Constitutional Development in Nigeria' (2002) *LASU Law Journal* 53.

This provision, though seemingly procedural, has been the greatest obstacle to genuine financial independence.

In practice, state governments retain substantial control over funds. Governors often deduct percentages for “joint projects,” administrative costs, or security votes before remitting what remains to councils.⁴ Some states even pay lump sums to local administrative costs, or security votes before remitting what remains to councils. Some states even pay lump sums to local councils without transparency on the original amount received.

Audit reports by the Revenue Mobilization, Allocation and Fiscal Commission (RMAFC) and findings by the House of Representatives Committee on Local Government Affairs have consistently revealed that these deductions contravene Section 162(5) of the Constitution, which requires that “the amount standing to the credit of local government councils in the Federation Account shall be distributed among them.”⁵

The Supreme Court had earlier condemned such practices in *A.G. Abia State v A.G. Federation*,⁶ holding that states must remit allocations in full. Yet, governors continued to violate this principle, exploiting the vague language of Section 162(6).

4.4.2 Internally Generated Revenue (IGR)

Beyond federal allocations, the Constitution empowers local governments to collect rates, market taxes, and other local levies.⁷

⁴ Revenue Mobilisation, Allocation and Fiscal Commission (RMAFC), Annual Report on Federation Account Allocation (2022) para 4.3.

⁵ Constitution of the Federal Republic of Nigeria 1999 (as amended) s 162(5).

⁶ (2006) 16 NWLR (Pt 1005) 265 SC

⁷ *ibid* Fourth Schedule Part I para 1.

However, most councils generate less than 10% of their annual revenue internally. The National Bureau of Statistics (NBS) in its Local Government Revenue Report indicated that over 80% of local government funding still comes from the Federation Account.⁸ Weak institutional capacity, corruption, lack of tax databases, and political interference have crippled local IGR systems. Market fees are often collected by political cronies or contractors, with little accountability. This fiscal dependency has entrenched a culture of upward loyalty, where local chairmen align with governors to secure monthly allocations rather than develop sustainable local economies. Olowu rightly describes this as “a structural dependency syndrome incompatible with federalism.”⁹

4.4.3 The 2024 Supreme Court Decision and Its Effects

For the past two decades, funds accruing to the Local Governments from the Federation Account are deposited into a joint account, State Joint Local Government Account which is intended for both levels of government. According to section 162(6) of the Constitution of the Federal Republic of Nigeria 1999, each Local Government is supposed to receive its rightful share from this account. However, many State Governors have deviated from this system by either withholding these funds entirely or disbursing only a portion to the local councils. This practice has caused significant hardship for citizens who are deprived of the benefits and services that democracy at the grassroots level should ordinarily provide for them.

However, on the 11th day of July 2024, there was wide jubilation among the Local Government Councils in Nigeria, the rural dwellers and indeed all lovers of good governance when the Supreme Court pronounced on the autonomy of the Local Government Councils in Nigeria. In

⁸ National Bureau of Statistics, Local Government Revenue Report 2023 (Abuja, NBS 2024) 2.

⁹ B Olowu, Local Government and Development in Nigeria (Obafemi Awolowo University Press 1986) 41.

the case of; *Attorney General of the Federation Attorney General of the Abia State & 35 ors*; 19 the Supreme Court reinforced the autonomy of Local Governments in Nigeria and also reaffirmed their status as a distinct independent third tier government. It is submitted that this landmark judgment addressed fundamental constitutional issues surrounding the financial autonomy of Local Governments within Nigeria's federal system of government.

The Supreme Court, per Agim J, held that local governments are constitutionally entitled to receive their funds directly from the Federation Account, and that the operation of the SJLGA was inconsistent with Section 162(5) and (8) to the extent that it allowed state interference.¹⁰

Following the decision, the Federal Ministry of Finance and the Office of the Accountant-General of the Federation issued circulars directing direct crediting of local government accounts. Several states initially resisted, arguing that the judgment undermines federalism. However, by September 2024, at least twenty states had complied.¹¹ Early reports indicate improvement in project funding and local salary payments. Nevertheless, without effective monitoring and internal audit systems, financial autonomy could breed localized corruption if left unchecked.

4.5 POLITICAL AUTONOMY IN PRACTICE

4.5.1 Local Government Elections and the Role of SIECs

The Constitution of the Federal Republic of Nigeria 1999 (As amended) and the Electoral Act provide for the procedure for the conduct of local government elections in Nigeria. The various provisions are as follows:

Section 150 of the Electoral Act:

¹⁰ *Attorney-General of the Federation v Attorney-General of Abia State & 35 Ors* (SC/CV/343/2024) per Agim J (11 July 2024).

¹¹ Federal Ministry of Finance, Circular on Direct Allocation to Local Governments (August 2024).

- (1) In furtherance of the provision of paragraph 11 of Part II of the Second Schedule to the Constitution, the procedure regulating elections conducted by the Commission to Area Councils in the Federal Capital Territory under this Act shall be the same and apply with equal force as the procedure regulating elections conducted to Local Government Areas by any State Commission.
- (2) For the purpose of subsection (1), a State Commission shall be deemed to have and exercise the powers of the Commission in respect of the procedure regulating elections to Area Councils under this Act.
- (3) Any election to a Local Government Area that is conducted by a State Commission in violation of subsection (1) shall be invalid.
- (4) Any official of a State Commission who contravenes the provision of subsection (1) commits an offence and shall be subject to prosecution as if he were an official of the Commission who committed the same offence under this Act.

Paragraph 11 of Part II of the Second Schedule to the Constitution:

The National Assembly may make laws for the Federation with respect to the registration of voters and the procedure regulating elections to a local government council.

Paragraph 12 of Part II of the Second Schedule to the Constitution:

Nothing in paragraph 11 hereof shall preclude a House of Assembly from making laws with respect to election to a local government council in addition to but not inconsistent with any law made by the National Assembly.

The above provisions reveal that the National Assembly has the discretion to make laws for the regulation of local government council elections in Nigeria. Thus, until that discretion is exercised, the procedure for regulating Area Council elections in the Federal Capital Territory shall apply with equal force for the conduct of local government elections in other States of the Federation. Therefore, PART VI (Sections 98 – 113) of the Electoral Act 2022 which provides for the PROCEDURE FOR ELECTION TO AREA COUNCIL in the FCT shall be the guiding provisions for the conduct of local government elections in all States of the Federation. However, by Paragraph 12, State Houses of Assembly are allowed by law, to make laws for

local government council elections, so long as it is not inconsistent with any law made by the National Assembly. This means that States have the liberty to make specific laws to guide local government council elections in their State, but it must be within the scope provided.

Notably also, under Section 7(1) of the Constitution, local government councils must be “democratically elected.”

However, elections into local councils are conducted by State Independent Electoral Commissions (SIECs) established under Section 197(1)(b). In practice, SIECs lack independence, being funded and controlled by state executives. Empirical studies and reports from the Transition Monitoring Group (TMG) show that ruling parties in most states routinely win all council seats, often with over 95% margins.¹² Ezeani notes that “no level of government can claim autonomy where its operators owe their offices and the discretionary mercy of state governors.”¹³ This practice contradicts the spirit of Section 7(1) and undermines local democracy.

The Supreme Court in *Eze v Governor of Abia State*,¹⁴ reaffirmed that dissolution of democratically elected councils is unconstitutional. Yet, most states prefer caretaker committees, arguing political expediency or cost constraints.

Also, it’s important to summarize this by stating that the conduct of Local Government elections is yet another challenge the Local Government Councils are facing under the 1999 Constitution. Although the Constitution guarantees and recognizes only democratically elected Local Government Councils, the same Constitution empowered and vests the State

¹² Transition Monitoring Group, Report on Local Government Elections in Nigeria (2023) 6–8.

¹³ E Ezeani, *Local Government Administration in Nigeria: A Comparative Perspective* (John Jacob Publishers 2012) 81.

¹⁴ (2014) 14 NWLR (Pt 1426) 192 SC

Independent Electoral Commission (SIEC) with the responsibility of conducting the Local Council elections within the State.

The big question now is why should the Constitution entrust the conduct of Local Government elections solely on State independent Electoral Commission? What happened to Independent National Electoral Commission (INEC)?

It is therefore submitted that the constitutional provision on the conduct of Local Government elections wherein the conduct of Local Government elections is entrusted into the hands of SIEC has made the Local Councils less democratic. This is because the State government whose agent, the SIEC has the mandate to conduct the Local Council elections usually impose their political allies through a shabby election on the people to man the administration of the Local Government, thereby supplanting the wishes of the people; which in turn leaves the Local Councils underdeveloped.

From the foregoing, it is evident that the major setbacks and challenges faced in our Local Government system today are constitutionally induced. It is herein canvassed that the provisions of section 124(5) of the Nigerian Constitution that exempted executives of this tier of government from those that are entitled to gratuity and pension undermines its autonomy. The glaring loopholes in our Constitution which State actors have discovered and decide to use for personal aggrandizement and without having any recourse to the intendment of the drafters of the constitution in making certain of such provisions, need to be revisited. On the wholly, there is a call for an urgent constitutional reform to grant full autonomy to the Nigerian Local Government Councils in Nigeria, as doing so will bring about true federalism in Nigeria with the Local Government as the third tier government.

4.5.2 The Menace of Caretaker Committees

Caretaker committees are perhaps the most blatant violation of local government autonomy.

Governors dissolve elected councils and appoint transitional administrators under various state laws, despite Section 7(1) guaranteeing elected representation.

Recent examples include Imo, Benue, Oyo, and Rivers States, where caretaker or interim committees replaced elected councils between 2021 and 2023.¹⁵

In *Governor of Ekiti State v Oluwadare*,¹⁶ the Court of Appeal held that the premature dissolution of councils violated the Constitution. Nevertheless, such practices persist, reflecting weak constitutional enforcement mechanisms.

The persistence of caretaker committees is not just a legal issue but a democratic failure — it deprives citizens of grassroots representation and accountability.

4.5.3 Tenure Insecurity and Political Subordination

Tenure insecurity is another major challenge. State laws prescribe different terms for council chairmen; three years in Lagos, two years in Kwara, and four years in Enugu. This inconsistency erodes uniformity and creates confusion.¹⁷

Moreover, local officials often owe allegiance to governors who control their election machinery and financial survival. Oyewo observes that this dynamic transforms local governments from “autonomous agents of development” into “political satellites of the state executive.”¹⁸

¹⁵ *Eze v Governor of Abia State* (2014) 14 NWLR (Pt 1426) 192 SC.

¹⁶ (2011) 17 NWLR (Pt 1277) 473 CA

¹⁷ Lagos State Local Government Administration Law 2013 s 21; Kwara State Local Government Law 2010 s 18; Enugu State Local Government Law 2014 s 20.

¹⁸ Oyewo (n 36) 56.

This political dependency undermines local initiative and responsiveness. Many chairmen hesitate to challenge state directives even when such directives contradict the Constitution.

4.6 ADMINISTRATIVE AUTONOMY IN PRACTICE

Local governments in Nigeria also suffer from severe administrative dependence. Most operational decisions; from staffing to project approval; require clearance from the state.

Personnel matters are handled by the Local Government Service Commissions (LGSCs) established under state laws. These commissions recruit, promote, and discipline staff, leaving local councils with limited managerial discretion.¹⁹

Budgets and bye-laws prepared by councils must be approved by the State House of Assembly before implementation. In many cases, state ministries dictate the structure of local estimates. This administrative tutelage renders councils more accountable upward (to governors) than downward (to citizens).

As Ojo succinctly notes, “local government autonomy cannot thrive where state officials serve as perpetual supervisors of council functions.”²⁰

The situation contradicts the federal principle of devolution and blurs the line between supervision and subordination.

4.7 JUSTIFICATIONS FOR LOCAL GOVERNMENT AUTONOMY

Local government autonomy is essential for:

- i) Grassroots Democracy: It encourages citizens’ participation in governance.²¹
- ii) Efficient Service Delivery: Autonomy ensures quicker response to local problems.

¹⁹ Ojo (n 2) 69.

²⁰ *ibid* 70.

²¹ Ezeani (n45) 81.

- iii) Accountability: Independent control over resources promotes transparency.
- iv) Federal Balance: Autonomy prevents concentration of power at the centre.
- v) Developmental Planning: Councils can tailor policies to local needs.

The absence of autonomy however leads to dependency, inefficiency, and erosion of democratic legitimacy at the grassroots.

4.8 CHALLENGES TO LOCAL GOVERNMENT AUTONOMY IN NIGERIA

Despite constitutional recognition, several challenges persist:

- i) Constitutional Ambiguity: Sections 7 and 162 of the 1999 Constitution contain contradictory provisions that weaken autonomy.²²
- ii) State Government Control: Through the State Joint Local Government Account, governors exercise financial dominance.²³
- iii) Political Interference: Frequent dissolution of elected councils and use of caretaker committees undermine democracy.²⁴
- iv) Corruption and Weak Institutions: Poor governance within local councils
- v) reduces efficiency.
- vi) Judicial Inconsistency: Courts have issued conflicting decisions on the scope of local government powers.²⁵
- vii) Revenue Dependence: Over-reliance on federal allocations discourages internal revenue generation.

²² Constitution of the Federal Republic of Nigeria 1999 (as amended) ss 7, 162.

²³ Olowu (n41) 39.

²⁴ *Eze v Governor of Abia State* (2014) 14 NWLR (Pt 1426) 192 SC.

²⁵ *Attorney-General of Abia State v Attorney-General of the Federation* (2006) 16 NWLR (Pt 1005) 265 SC.

4.9 CORRUPTION AND MISMANAGEMENT AT THE LOCAL LEVEL

While state interference remains a major obstacle to local government autonomy, internal corruption and mismanagement within the councils themselves have also contributed to the erosion of credibility and performance.

The Office of the Auditor-General for the Federation (OAuGF) in its 2023 report revealed widespread misappropriation of council funds, irregular payments, and failure to retire advances.²⁶

Transparency International (Nigeria) has similarly ranked local government administrations among the least transparent tiers of government in the country.²⁷

Common corrupt practices include diversion of allocations, employment racketeering, inflation of contracts, and creation of ghost workers.²⁸

The weakness of internal audit mechanisms and the absence of citizen oversight allow these practices to persist. According to Olowu, corruption within councils “provides moral justification for continued state supervision,” thereby perpetuating the cycle of dependency.²⁹ Hence, autonomy without accountability merely shifts control from state elites to local elites, without improving governance outcomes.

4.10 IMPACT OF LACK OF AUTONOMY ON LOCAL GOVERNANCE

The absence of genuine autonomy has had profound effects on local governance and development in Nigeria.

²⁶ Office of the Auditor-General for the Federation, Annual Report on the Accounts of Local Governments (2023) 7–8.

²⁷ Transparency International Nigeria, Corruption Perceptions Index: Subnational Report (2023) 12.

²⁸ M Adeyemo, *Decentralisation and Local Governance in Nigeria* (University of Ibadan Press 2003) 55

²⁹ Olowu (n 53) 49.

4.10.1 Service Delivery Deficits

Local governments are constitutionally mandated to provide basic services such as markets, roads, health centers, and primary education.³⁰ However, inefficiency and lack of funds have rendered them largely ineffective. In most states, roads and waste management are now handled directly by state agencies, bypassing local councils.³¹

Ezeani observes that this undermines the principle of subsidiarity, where governance should occur “as close to the people as possible.”³²

The result is duplication of effort and bureaucratic waste.

4.10.2 Erosion of Grassroots Democracy

Because elections are either manipulated or replaced with caretaker committees, citizens are alienated from decision-making.³³ The councils thus fail to serve as vehicles of political education or local participation. Ojo describes this as a “democratic disconnect” between the people and those who govern them.³⁴

4.10.3 Weak Accountability and Transparency

Dependence on state allocations weakens downward accountability. Council chairmen report primarily to governors, not to constituents.³⁵

³⁰ Ojo (n 35) 67.

³¹ Constitution of the Federal Republic of Nigeria 1999 (as amended) Fourth Schedule Part I.

³² Ezeani (n 51) 87.

³³ *Eze v Governor of Abia State* (n 13).

³⁴ Ojo (n 60) 74.

³⁵ Oyewo (n 36) 59.

This explains why even grossly underperforming councils seldom face electoral backlash — their survival depends on the state executive, not popular mandate.

The combined effect of these failures is the stagnation of grassroots development, contradicting the original purpose of the 1976 Local Government Reform, which sought to make councils engines of rural transformation.³⁶

4.11 RECENT REFORMS AND INITIATIVES

There have been consistent efforts to restore autonomy through legal and policy reforms.

4.11.1 Constitutional Amendment Efforts

The National Assembly has, since 2018, considered several Constitution Alteration Bills aimed at granting financial and administrative autonomy to local governments. The 2018 and 2022 amendments passed both chambers but failed to secure ratification by two-thirds of state assemblies, reflecting governors' resistance.³⁷

The most significant progress came through the judiciary in *A.G. Federation v A.G. Abia State & 35 Ors* (2024), where the Supreme Court effectively bypassed political resistance by declaring direct funding constitutional.³⁸

4.11.2 Federal Executive Directives

Following the judgment, the Federal Ministry of Finance, Office of the Accountant- General of the Federation (OAGF), and Nigeria Financial Intelligence Unit (NFIU) issued circulars enforcing compliance.³⁹

³⁶ Federal Republic of Nigeria, *Guidelines for Local Government Reform* (Government Printer 1976) 4.

³⁷ National Assembly, *Fifth Alteration Bills Progress Report* (2022) 11.

³⁸ *A.G. Federation v A.G. Abia State & 35 Ors* (n 9)

³⁹ Federal Ministry of Finance (n43).

The NFIU guidelines (2024 revision) prohibit cash withdrawals exceeding ₦500,000 by local councils and mandate electronic transactions to ensure transparency.⁴⁰

These policies represent a practical step towards financial independence, though their long-term success depends on institutional compliance and public oversight.

4.11.3 Resistance and Implementation Challenges

Despite judicial pronouncements, some governors continue to resist, citing federal overreach and fiscal federalism.⁴¹ The Nigerian Governors' Forum (NGF) in August 2024 issued a communiqué arguing that the judgment violated the federal principle by centralizing disbursement.⁴²

However, constitutional supremacy under Section 1(3) ensures that no administrative objection can override judicial interpretation.

The ongoing tension reflects the classic struggle between federal supremacy and state autonomy.

4.12 COMPARATIVE ANALYSIS AND LESSONS FROM OTHER FEDERATIONS

Comparative perspectives help contextualize Nigeria's experience and illuminate potential reforms.

4.12.1 India's Panchayati Raj System

The 73rd Constitutional Amendment Act 1992 transformed local government in India by giving it constitutional recognition under Part IX and Schedules XI & XII. The amendment

⁴⁰ Nigeria Financial Intelligence Unit (NFIU), Revised Guidelines on Local Government Financial Operations (2024).

⁴¹ Nigerian Governors' Forum, Communiqué of the 7th Meeting (Abuja, 9 August 2024).

⁴² *Ibid* 17.

mandates regular elections every five years, financial devolution through State Finance Commissions, and constitutional protection from arbitrary dissolution.⁴³

This reform succeeded because it combined constitutional entrenchment with administrative reform and citizen participation.⁴⁴ Nigeria could emulate this by introducing an explicit “Local Government Part” in the Constitution to guarantee tenure, election, and fiscal control.

4.12.2 South Africa’s Local Government Framework

Under Chapter 7 of the Constitution of the Republic of South Africa 1996, municipalities are recognized as a distinct sphere of government, “interdependent and interrelated” with others.⁴⁵

They have constitutionally protected revenue sources (e.g., property rates) and political autonomy.⁴⁶

Nigeria’s model differs in that local governments are subordinate to state law, not co-equal spheres. The South African example demonstrates that constitutional entrenchment plus fiscal independence ensures practical self-government.

4.13 RECOMMENDATIONS

To consolidate genuine local government autonomy in Nigeria, the following reforms are proposed:

- i) Constitutional Amendment: Delete Section 162(6) (SJLGA) and substitute with a provision for direct allocation to LGAs. Insert a new section guaranteeing uniform tenure, direct election, and fiscal accountability.

⁴³ Constitution of India 1992 (73rd Amendment) Part IX and Eleventh Schedule.

⁴⁴ P Kumar, *Local Governance in India: Panchayati Raj Institutions and Democracy* (Oxford University Press (2018))102.

⁴⁵ Constitution of the Republic of South Africa 1996 s 151(1).

⁴⁶ C Murray, *Constitutional Law of South Africa* (2nd edn, Juta 2013) 45.

- ii) **Independent Local Government Electoral Body:** Establish a National Local Government Electoral Commission (NALGEC) under the Independent National Electoral Commission (INEC) to conduct all local government.
- iii) **Strengthened Financial Accountability:** Empower the Auditor-General for Local Governments (to be constitutionally established) to audit and publish annual financial statements of all councils.
- iv) **Citizen Participation and Civil Society Oversight:** Encourage participatory budgeting and community development committees to monitor projects and spending.
- v) **Capacity Building and Professionalism:** Implement compulsory training for council staff through the Administrative Staff College of Nigeria (ASCON) and the National Institute for Policy and Strategic Studies (NIPSS).

These recommendations combine legal reform, administrative efficiency, and participatory governance to transform autonomy from theory into reality.

4.13.1 The Truth

The reality of LGA autonomy is complex and multifaceted. The success of LGA initiatives varies widely. At the international level, the Open Governance Partnerships is one of the several initiatives with part of its focus on the autonomy of LGAs, which will lead to transparency, accountability at grassroots levels, and contribute to development and offer a bottom-top solution. Some regions have seen significant progress, while others remain caught in the control battle by state government. Even where legal frameworks support LGA, practical implementation can be hampered by bureaucratic procedures, lack of resources, and political resistance. Studies suggest that greater local autonomy can lead to improved service delivery and development outcomes, as local governments are better positioned to understand and address local needs. Effective LGA requires not just autonomy but also capacity building.

Local governments need the skills, knowledge, and resources to manage their affairs effectively. The struggle for LGA is ongoing, with continuous efforts required to push for reforms, implement policies, and build capacity.

The struggle for Local Government Autonomy is a critical aspect of governance in many countries. While significant strides have been made, much work remains to be done. Achieving true LGA requires not only legal and constitutional reforms but also practical measures to build capacity, ensure accountability, and foster political will. By understanding the history, key players, and realities of this struggle, stakeholders can better navigate the complexities and work towards more effective and autonomous local governance.

4.14 SUMMARY OF THE CHAPTER

This chapter has demonstrated that despite constitutional recognition, local government autonomy in Nigeria remains largely illusory in practice. Financial dependency through the State Joint Local Government Account, political interference via caretaker committees and SIECs, and administrative control by state ministries collectively undermine the constitutional ideal of grassroots self-government.

However, the Supreme Court's 2024 decision in *A.G. Federation v A.G. Abia State & 35 Ors* represents a judicial revolution affirming that autonomy is not merely declaratory but enforceable. The implementation of direct funding and NFIU guidelines marks progress towards genuine independence. Nevertheless, the persistence of corruption, weak institutions, and political manipulation shows that legal autonomy must be complemented by accountability and civic engagement.

The next chapter will present a synthesis of findings, conclusions, and practical recommendations for entrenching functional local government autonomy in Nigeria.

CHAPTER FIVE

SUMMARY, FINDINGS AND RECOMMENDATIONS, AND CONCLUSION

5.1 SUMMARY OF THE CHAPTERS

This research examined the question of whether local government autonomy under the 1999 Constitution of Nigeria is a legal reality or a constitutional illusion. It sought to determine the true nature, scope, and extent of local government independence as provided by law and as practiced within Nigeria's federal structure.

The study was divided into five chapters. Chapter One provided the general introduction, presenting the background to the study, statement of the problem, objectives, research questions, scope, methodology, and significance. It highlighted the paradox between the constitutional guarantee of democratically elected local councils under Section 7(1) of the 1999 Constitution and the persistent control exercised by state governments over local government affairs, especially in finance and administration.

Chapter Two explored the conceptual and theoretical framework for understanding local government autonomy. It traced the historical evolution of local administration in Nigeria from the colonial era to post-independence reforms, particularly the 1976 Local Government Reform, which first identified local government as the "third tier" of governance. The chapter also examined the concept of autonomy as distinct from decentralization, drawing from federal theories of scholars like K.C. Wheare, who defined federalism as "the method of dividing powers so that the general and regional governments are each within a sphere co-ordinate and independent."¹ This theoretical background was crucial for assessing whether Nigerian local governments fit into this framework.

¹ KC Wheare, *Federal Government* (Oxford University Press 1963) 10.

Chapter Three examined in detail the constitutional and statutory framework governing local government autonomy in Nigeria. It analyzed Sections 7, 162, and the Fourth Schedule of the 1999 Constitution, which respectively provide for democratic existence, financial structure, and functions of local councils. The chapter reviewed the major judicial decisions that have shaped the understanding of autonomy, such as *A.G. Lagos State v A.G. Federation*,² *A.G. Abia State v A.G. Federation*,³ *Eze v Governor of Abia State*,⁴ and the landmark *A.G. Federation v A.G. Abia State & 35 Ors.*⁵

Over the past decades, local governments have been almost crippled in most states, where the governors seize their federal allocation and only release funds to them on piecemeal, a practice which barely keeps them going. It was found that, although the Constitution recognizes the local government as part of the federal structure, its autonomy remains limited by the powers granted to state governments to legislate on its establishment, structure, and finance. Section 162(6), which establishes the State Joint Local Government Account (SJLGA), has historically allowed governors to control and manipulate local government finances. Even judicial efforts, such as in *A.G. Abia State v A.G. Federation*, though reinforcing financial accountability, failed to dismantle the structural subordination of local councils. Unfortunately, findings from research by different scholars (such as Awotokun, 2005⁶ and Adeyemi, 2013) as well as observations by practitioners' points to the fact that the autonomy of the local government is more of a mirage and that has become increasingly difficult to realize following the rate of

² (2004) 18 NWLR (Pt 904) 1.

³ (2006) 16 NWLR (Pt 1005) 265 SC.

⁴ (2014) 14 NWLR (Pt 1426) 192 SC.

⁵ (SC/CV/343/2024).

⁶ Awotokun, A.M, New Trends in Nigerian Local Government. Department of Local Government Studies, (2005) Faculty of Administration. Ile-Ife: Obafemi Awolowo University.

interference by state governments both in the political, administrative and financial affairs of the local government.

However, on July 11th, 2024, the Supreme Court of the Nigeria being an Apex court of the country in a suit brought by the Federal Government of Nigeria through its unanimous judgment affirmed the financial autonomy of the Nigeria's 774 local government to strengthen their independence in the country. In addition, the Supreme Court made some other far-reaching decisions to reposition local government administration in the country. They are:

1. The declaration of the appointment of caretaker committees to replace elected local government executives.
2. Ensuring democratic governance at the local government level in the 36 states of the federation.
3. Monthly disbursement of federal allocations to the local governments directly to them by the federation account, and;
4. The restraining the state governors from collecting funds belonging to the local government councils when no democratically elected local government councils are in place.

The chapter concluded that this judgment represents a constitutional milestone in Nigeria's federal evolution.

Chapter Four turned to the practical realities and challenges of implementing local government autonomy. It evaluated the discrepancy between constitutional guarantees and operational realities, focusing on financial, political, and administrative dimensions. The study found that, in practice, local governments remain dependent on state ministries and the Joint Account Allocation Committee (JAAC) for funding decisions. Many governors continue to dissolve councils arbitrarily and replace them with caretaker committees, in violation of Section 7(1).

Empirical evidence from reports of the Transition Monitoring Group (TMG) and the Revenue Mobilization, Allocation and Fiscal Commission (RMAFC) demonstrated that state interference, coupled with internal corruption, weak institutions, and poor capacity, has crippled effective local governance. Despite the constitutional promise of grassroots democracy, local councils often serve as extensions of state governments rather than independent center of administration.

The comparative analysis in Chapter Four highlighted that other federations such as India and South Africa have achieved stronger local autonomy by embedding detailed constitutional provisions guaranteeing tenure, financial independence, and electoral integrity. The chapter argued that Nigeria's constitutional provisions, though progressive, lack adequate enforcement mechanisms and political will for real autonomy.

Overall, the research established that while local government autonomy exists in law, it remains largely illusory in practice due to entrenched political and structural obstacles. The subsequent section therefore presents the major findings and recommendations, outlining the necessary legal and institutional reforms to transform constitutional autonomy into a practical reality

5.1.1 Summary of the Findings

As a result of my extensive study on this subject matter, via the analysis and evidence presented throughout the work, the following key findings are derived:

1. Prior to the 2024 Supreme Court Judgement, the idea of local government autonomy has been a mirage that exists only in theory than consistent practice.
2. The effectiveness of the local government autonomy is built significantly of just one major concept and that is financial autonomy and this was not properly guaranteed for by Section 7 of the 1999 constitution.

3. Each state has the right to make its local government laws and as such, the concept of local government autonomy is uneven nationwide as some state accord more leniency and freedom to the local government than other states within the federation.
4. A constitutional amendment though uncertain is very much needed because though Section 7 of the 1999 Constitution guaranteed local government by democratically elected councils, it subjects the existence of those councils to state legislation. This provision in itself is a major limitation for local government autonomy in Nigeria.
5. Financial Dependence via the State Joint Local Government Account (SJLGA):
Section 162(6) has been the major constitutional bottleneck to local fiscal independence. It has empowered state governments to appropriate or delay funds belonging to councils, thereby compromising their financial viability. Judicial decisions before 2024, while condemning abuse, failed to remove the structural defect.
6. Weak Democratic Processes and Electoral Manipulation:
Most state governments undermine democracy at the local level through politicized State Independent Electoral Commissions (SIECs), which lack independence and credibility. Caretaker committees, tenure insecurity, and one-party dominance have effectively nullified the constitutional requirement for democratically elected councils.
7. Corruption and Poor Governance at the Local Level:
Even where autonomy exists, corruption and mismanagement within councils hinder effective service delivery. The absence of internal audit systems, transparency mechanisms, and citizen oversight allows misuse of funds, reinforcing state interference under the pretext of supervision.
8. Inconsistent Legal and Institutional Framework Across States:

Different states operate varying local government laws, tenure durations, and administrative procedures, undermining the idea of a uniform local government system guaranteed under Section 7(1) of the Constitution.

9. Federal-State Tension and Political Resistance:

Governors view direct local government autonomy as an encroachment on state sovereignty. The Nigerian Governors' Forum (NGF) has resisted reforms aimed at reducing their financial influence, thus impeding legislative and constitutional progress

10. Comparative Lessons:

Unlike Nigeria, countries such as India (73rd Amendment 1992) and South Africa (1996 Constitution, Chapter 7) constitutionally safeguard local tenure, funding, and democratic integrity. Nigeria's framework lacks such detailed provisions and enforcement mechanisms.

5.2 RECOMMENDATIONS

Based on the subject matter, the following recommendations is advanced:

1. Implementation of the Fiscal Responsibility Act 2007 across all the States of the Federation.

In supporting the pronouncement by the Supreme Court of Nigeria of ensuring democratic governance at the local government level in the 36 states of the federation, there should equally be implementation of Fiscal Responsibility Act 2007 across all the States of the Federation. This legislation compels states to conduct periodic elections, thereby ensuring that there exist democratically elected local government officials as against the usual practice where state governors constitute Caretaker Committees or Transition Councils to superintend over local government councils. The significance of this is that it will help in the consolidation of the nation's democracy, especially at the grass root level and engender both financial and political accountability. Apart from this, it will equally ensure international good practice that will result

in greater efficiency in the allocation and management of public expenditure, revenue collection, debt control and transparency in fiscal matters.

2. Abolition of State-Local Government Joint Account

In line with the ruling of the Supreme Court, it is imperative to abolish the State-Local Government Joint Account as this will guarantee the fiscal autonomy of the Local Government. In 2011, the then Chairman of Revenue Mobilization Allocation and Fiscal Commission (RMAFC), Engr. Elias Mbam, alluded to the fact that abolition of State and Local government Joint Accounts (JAC) would ensure the sovereignty, transparency and accountability of local government administration in the country. This assertion by then RMFAC Chairman was premised upon the fact that the Joint Account has been fraudulently operated at the detriment of the Local governments and failed to address the rationale for its establishment as the it was hijacked by state governments to starve local governments in their jurisdiction of the needed funds for project implementation and rural development.

3. The on-going 1999 Constitution amendment by the 10th National Assembly should finally ensure abrogation of the ‘evil’ State Joint Local Government Account thereby provide for a Special Account for the Local government into which shall be paid directly all allocations due them from the Federation Account and from the government of the state and as directed by the Supreme Court judgement.

4. Abolition of State Institutions for Conducting Elections into the Local Government Councils

The conduct of local government elections should be organized and supervised by the Independent National Electoral Commission (INEC) rather than State Electoral Commissions (SIECs). This will ensure the political autonomy of Local government Executive Council. Members of the local government executive councils will owe their election and tenure to the electorates rather than State governors that handpicked and appointed them. Also, the proposed

amendment of the constitution by the 10th National Assembly should clearly spell out the tenure of local government executive council to ensure uniformity of system across the country and allow periodic and orderly change of government at the local government levels.

5. Expansion of Local Governments Revenue Base

In order to augment Local government revenues and to sustain its proposed fiscal autonomy, its sources of revenue as enshrined in the 1999 Constitution must of necessity be expanded. Local governments are constitutionally empowered to control and regulate certain activities in their jurisdiction, and in so doing; they impose some taxes and rates on these economic activities as a way of generating funds for their operations (Atakpa, Ocheni, and Nwankwo, 2012).

6. Increasing welfare for Local governments workers

The local government civil service is the least attractive of the three tiers of government in Nigeria in terms of remunerations, incentives and welfare. The Local government workers are the least paid with little or no form of motivation. This has resulted in the loss of quality and qualified personnel in the service. However, this can be corrected by making local government service attractive in terms of remunerations and incentives in order to attract and retain quality and qualified staff/personnel.

7. Capacity Building and Professionalization of Local Government Personnel

A recurring theme throughout this study is the low administrative capacity of local councils. To address this, the Administrative Staff College of Nigeria (ASCON) and the National Institute for Policy and Strategic Studies (NIPSS) should design mandatory training programmes for local government officials, covering public finance management, leadership ethics, and participatory governance⁷. Such training should be a precondition for promotion

⁷ Transition Monitoring Group, Report on Local Government Elections in Nigeria (2023) 10.

and access to federal grants. A professionalized local government service will reduce corruption and enhance efficiency.

8. Entrenching Citizen Participation and Grassroots Oversight

True autonomy requires active citizen engagement. Local governments should institutionalize town hall meetings, participatory budgeting, and community development committees to allow citizens to set priorities and monitor implementation.⁸

Section 14(2)(c) of the Constitution emphasizes that “the participation of the people in their government shall be ensured.” This principle must be operationalized at the local level through mechanisms that make council officials directly accountable to their communities.

9. Political Will and Enforcement

Even the best legal frameworks fail without political will. The Federal Government must show sustained commitment to enforcing the Supreme Court’s 2024 judgment.⁹ The Office of the Attorney-General of the Federation should monitor compliance by all states and initiate contempt proceedings where necessary.

Civil society and the media also have a duty to pressure governors and legislatures to respect judicial decisions and constitutional principles.

10. Lessons from Comparative Jurisdictions

Nigeria should draw constitutional inspiration from India and South Africa.

India’s 73rd Constitutional Amendment (1992) guarantees regular elections, tenure security, and direct funding through State Finance Commissions.¹⁰

⁸ B O Oyewo, ‘Local Government Reforms and Constitutional Development in Nigeria’ (2002) 3 LASU Law Journal 59.

⁹ Office of the Auditor-General for the Federation, Annual Report on the Accounts of Local Governments (2023) 9.

¹⁰ BudgIT Foundation, Subnational Transparency and Accountability Index (2024) 7.

South Africa's 1996 Constitution treats municipalities as a distinct and co-equal sphere of government, granting them fiscal and political autonomy within the national framework.¹¹

Nigeria should adopt a hybrid model incorporating the Indian decentralization structure and South African fiscal independence, ensuring both constitutional protection and practical self-governance.

5.3 CONCLUSION

This research set out to determine whether local government autonomy under the 1999 Constitution of Nigeria is a legal reality or a constitutional illusion. After extensive analysis, the study concludes as follows:

- 1) Legal Reality in Principle: The Constitution, particularly Sections 7 and 162, provides a legal framework for local government existence and participation in national revenue. Judicial authorities such as *A.G. Abia State v A.G. Federation* and *A.G. Federation v A.G. Abia State & 35 Ors* have affirmed this legal recognition. In law, therefore, autonomy is real.
- 2) Constitutional Illusion in Practice: Despite the constitutional text, local governments remain practically subordinated to state control. Political interference, financial dependency, administrative tutelage, and corruption have rendered the supposed autonomy largely illusory. The gap between law and practice reveals a federal structure where the third tier exists more in doctrine than in operation.

¹¹ Administrative Staff College of Nigeria (ASCON), Training Prospectus on Local Governance (2023) 3.

3) Judicial Revival of Autonomy: The 2024 Supreme Court judgment represents a landmark constitutional correction, restoring fiscal and political independence to local councils. However, its long-term impact depends on legislative codification and executive compliance.

Future Path: For autonomy to become a living constitutional reality, Nigeria must reform its legal framework, professionalize local governance, and institutionalize accountability. Only through such synergy between law and practice can the Constitution's promise of grassroots self-government be fulfilled.

Ultimately, this work submits that local government autonomy under the 1999 Constitution is both a legal reality and a constitutional illusion; real in its legal conception, but illusory in its implementation. The challenge for policymakers, scholars, and citizens alike is to transform this autonomy from a textual guarantee into a tangible instrument of democratic governance and development at the grassroots.

BIBLIOGRAPHY

A. TEXTBOOKS

- Adeyemo, M., *Decentralisation and Local Governance in Nigeria* (University of Ibadan Press 2003).
- Elaigwu JI, *Fiscal Federalism in Nigeria: Facing the Challenges of the Future* (Aha Publishing House 2007)
- Ezeani, E., *Local Government Administration in Nigeria: A Comparative Perspective* (John Jacob Publishers 2012).
- Murray, C., *Constitutional Law of South Africa* (2nd edn, Juta 2013).
- Ojo, G., *Federalism and Local Government in Nigeria* (Spectrum Books 2009).
- Olowu D, 'Decentralization and Local Government in Nigeria' in *Dele Olowu and James S Wunsch (eds), Local Governance in Africa: The Challenges of Democratic Decentralization* (Lynne Rienner Publishers 2004)
- Olowu, B., *Local Government and Development in Nigeria* (Obafemi Awolowo University Press 1986).
- Oyewo, B. O., *Constitutionalism and the Politics of Local Government Autonomy in Nigeria* (University of Lagos Press 2001).
- Wheare, K. C., *Federal Government* (Oxford University Press 1963).

B. JOURNAL ARTICLES

- Agbakoba R, 'Local Government Autonomy in Nigeria: Myth or Reality?' (2015) 12 *Nigerian Bar Journal* 112
- Awotokun AM, 'Local Government in Nigeria: The Challenges of Autonomy' (2005) 3 *Journal of Nigerian Government and Politics* 45
- Chand V, 'Fiscal Federalism and Local Governments in India' (2010) 45(26) *Economic and Political Weekly* 45
- Ibe, E. C., 'Nigeria's Local Government Autonomy: Issues and Implications for the country's development' (2023) 1 *Journal of Political Discourse*.
- Ikeanyibe OM, 'Federalism, Constitutionalism and Local Government Autonomy in Nigeria' (2016) 42 *Journal of African Contemporary Research* 120
- Ikpeata, G. E., 'Local Government Autonomy in Nigeria: A myth or reality' (2024) *Paul University Awka Faculty of Law journal*.

- Ojo, G., 'Federalism, Democracy and Local Governance in Nigeria' (2011) 5(2) *Nigerian Journal of Public Administration and Local Government* 27.
- Oviasuyi PO, 'Local Government Administration in Nigeria: The Search for Relevance' (2010) 5 *Journal of Social Sciences* 67
- Oyewo, B. O., 'Local Government Reforms and Constitutional Development in Nigeria' (2002) 3 *LASU Law Journal* 51.
- Salami AT, 'Politics and Democracy in Nigeria: A Critical Examination and Analysis of the Use and Mis-use of Money in Elections' (2021) 7 *Green University Review of Social Sciences* 1

C. OFFICIAL DOCUMENTS AND GOVERNMENT REPORTS

- Administrative Staff College of Nigeria (ASCON), Training Prospectus on Local Governance (2023).
- BudgIT Foundation, Subnational Transparency and Accountability Index (2024).
- Federal Ministry of Finance, Circular on Direct Allocation to Local Governments (August 2024).
- Federal Ministry of Justice, Circular on Compliance with Supreme Court Judgment on Local Government Autonomy (August 2024).
- Federal Republic of Nigeria, Guidelines for Local Government Reform (Government Printer Lagos 1976).
- National Assembly, Fifth Alteration Bills Progress Report (2022).
- National Bureau of Statistics (NBS), Local Government Revenue Report 2023 (Abuja 2024).
- Nigeria Financial Intelligence Unit (NFIU), Revised Guidelines on Local Government Financial Operations (2024).
- Office of the Auditor-General for the Federation, Annual Report on the Accounts of Local Governments (2023).
- Revenue Mobilisation Allocation and Fiscal Commission (RMAFC), Annual Report on Federation Account Allocation (2022).
- Transition Monitoring Group (TMG), Report on Local Government Elections in Nigeria (2023).

D. FOREIGN AND COMPARATIVE MATERIALS

Constitution of India (73rd Amendment) Act 1992, Part IX and Eleventh Schedule.

Constitution of the Republic of South Africa 1996, Chapter 7.

Kumar, P., *Local Governance in India: Panchayati Raj Institutions and Democracy* (Oxford University Press 2018).

United Nations, *World Public Sector Report: Globalization and the State* (United Nations Publications 2001).

E. ONLINE AND MISCELLANEOUS SOURCES

Adebayo O, 'Local Government Administration in Nigeria' (Situation Room, 13 June 2024) <<https://situationroomng.org/local-government-administration-in-nigeria/>> accessed 24 October 2025.

Aina-Pelemo A, 'Definition and Sources of Constitutional Law: Classification of Constitutions: Written and Unwritten, Rigid and Flexible, Federal and Unitary, Presidential and Parliamentary. The Concept of Separation of Powers, The Rule of Law, Federalism, and The Supremacy of The Constitution/Parliament' (2023) SSRN <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5728284> accessed 18 November 2025.

Federal Republic of Nigeria, *Official Gazette on Supreme Court Judgment Implementation* (July 2024) <<https://fmoj.gov.ng>>.

Jega AM, 'Democracy in Nigeria: Concepts, Representations and Expectations' (IFRA-Nigeria e-Papers Series) <<https://books.openedition.org/ifra/pdf/636>> accessed 18 November 2025.

Mokikan D, 'Nigeria LGA Autonomy Struggle: The Story, The Players, The Truth; An Opinion Piece' (DEAN Initiative, 8 August 2024) <<https://deaninitiative.org/media/press/8>> accessed 24 October 2025>.

National Open University of Nigeria, 'LAW 243 Constitutional Law 1' <<https://nou.edu.ng/coursewarecontent/LAW%20243.pdf>> accessed 18 November 2025

Olaolawa RO and Ogboye LA, 'The Pursuit of True Federalism Among Federating Units' <https://lasu.edu.ng/publications/law/lateef_ogboye_ja_16.pdf> accessed 18 November 2025

Transparency International Nigeria, *Corruption Perceptions Index: Subnational Report* (2023) <<https://transparency.org.ng>> accessed 24 October 2025.