

The Jurisdiction of Local Government to Generate Revenue under the 1999 Constitution of the Federal Republic of Nigeria

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Abstract

Federal system of government has several fiscal policy measures which specify revenue jurisdiction and financial responsibilities of the various levels of government. Thus, Federal, State and Local governments in Nigeria have their potential sources of generating revenue respectively. The 1999 Constitution of the Federal Republic of Nigeria has spelt out clearly the jurisdiction of each tier of government on revenue generation. Most of the local governments in the Country have abundant sources of revenue generation in their areas untapped. This is because of their total reliance on the federal allocation. The focus of this paper therefore is on the constitutional jurisdiction of Local Government on revenue generation both internally and externally as well as the causes and consequences of conflicts between states and local governments.

Introduction

It is a well-known fact that, under federal system of government there are several fiscal policy measures which specify revenue jurisdiction and financial responsibilities of the various levels of government. Thus Federal, State and Local Government in Nigeria- each has its own potential sources of generating revenue. Hence, the 1999 Constitution of the Federal Republic of Nigeria has spelt out clearly the jurisdiction of each tier of government on revenue generation. Most of the Local Governments in the country have abundant sources of revenue generation in their areas untapped. This is because of their total reliance on the federal allocation.

For Local Governments there are many responsibilities awaiting them in their areas which the Federal allocation alone cannot meet. Therefore, there is the need for Local Governments to look for other sources of generating revenue, in order to meet the demand and aspiration of their people.

Those Local Government that are ready to tap the resources in their areas are known to face problems from their states. One of the problem is ''?

The main focus of this paper, therefore, is on the constitutional jurisdiction of Local Government on revenue generation internally; externally; the causes of conflicts between States and Local Governments and its consequences on the conflict shall be suggested and appropriate recommendation will be made herein.

Revenue

According to the 1999 Constitution of the Federal Republic of Nigeria .revenue is defined under section 162 subsection 10 as any income or return accruing to or derived by the Government of the Federal from any source and it includes:

- (a) Any receipt, however described arising from the operation of any law;
- (b) Any return, however described arising from to in respect of shares or interest held by the government of the Federation;
- (c) Any return by way of interest on loans and dividends in respect of shares or interest held by the government of the Federation in any company or statutory body.

The definition of revenue as stated above is broad. To narrow it down and made applicable to the Local Government will require a discussion on the functions of Local Government as Highlighted in the said Constitution.

Function of Local Government

The existence of what is known as Local Government is a universal phenomenon. The central government cannot possibly attend to every detail of local administration, give weight to local preferences and prejudices in every issue. This is why national or central government all over the world, irrespective of the system of government, attempts to make use of its citizens, local loyalties by delegating local functions to local administrative bodies. However, the 1999 Constitution has specifically provided for democratically elected Local Government Councils in the country.¹

Some political science scholars adopted various methods in the discussion of the functions of Local Government and by explaining the view of different schools of political science in respect of the functions of Local Government.²

The concern of this writer is not the diverse views of these scholars but on the specified functions of Local Government as mentioned in the Nigeria Constitution. The 1999 Constitution of the Federal Republic of Nigeria provides that the functions to be conferred by law upon Local Government Councils shall include those set out in the fourth schedule to the Constitution.³ At its fourth schedule right from paragraphs 1 (a) to (k) and 2 (a) to (d) of the same schedule explicitly illustrate the functions of Local Government. But as regards revenue generation. Paragraph 1 (b) to (k) thereof are relevant. Among the functions of the Local Government are collection of some rates, radio, television licenses as well as maintenance of roads, markets, motor parks, shops and kiosks to name a few. The Constitution also provides the services that could be carried out concurrently by the Local Government and state and these include the provision and maintenance of primary education, the development of agriculture and natural resource other than exploitation of minerals.⁴

Sources of Finance

Sources of finance at Local Government level may simply be categorized into two that is external revenue resources.

External Sources of Generating Revenue

Since the Local Government is more or less the Federal Government 's baby it is not surprising to see that the bulk of the revenue of Local Government are from the Federal account be it statutory grant or grant for specific project. All money made available to the Local Government. State Financial Institution as well as private individual constitution external revenue for the Local Government Council.

It is pertinent to note that, there is no way Local Government can survive and be effective without potential external revenue. Huge projects that some Local government used to embark on would not have been possible without external grant.

The Federal government appreciated the work and the service of Local Government Councils at grass root level and it realized the need. As a result the Federal Government through the various committees, increased the Federal allocation of its grants to the Local Government Council in 1999 to 20% in order to enable Local Government meet its actual demand and need of the people.

In addition to the Federal grant it directed all the State Government to give a certain percentage of their own total income or revenue as grant to the Local Government .all these are done to strengthen the external revenue of Local Government Council, so that it would be able to meet the demand of the grass root people.⁵

Similarly, the 1999 Constitution has provided that both National and State Houses of Assembly shall make provisions for statutory allocation of public revenue to Local Government Councils in the Federal and within the State respectively.⁶

Despite the attention given by the Federal Government to Local Government and the increase in their allocation, there is still a serious need for the Local Government to find potential source of generating fund internally otherwise it would not be possible for them to execute any project in good time. This is because It may have to wait for a very long time to get its share from the Federal and State Joint Local Government Accounts.⁷

Internal Source of Revenue

The major sources of revenue generation of Local Government level include:

Taxation of Local People: That is to say that all the adults (who are not civil servants) who are self-employed persons in the local government area are supposed to pay such tax to the Local Government Council, e.g. farmers, traders etc.

Property Tax: There is no constitution provision that prevents the Local Government from collecting property tax from its inhabitants. This type of tax has several advantages as source of Local Government revenue. Its advantages include:

- (i) All municipalities have already within their boundaries many taxable real estates unlike taxes on business and trades whose bases are concentrated in major cities, the property tax can produce revenue in small outlying Local Government as well as in large cities.
- (ii) Within small towns the property tax base is broad, thus the proceeds from such tax can be distributed across a large segment of the population and as a result a significant revenue can be achieved at a low tax rate.
- (iii) Property tax values are enhanced by the provision of Local Government services. Property taxation based on accurate property valuation can cover the cost of services directly from the beneficiaries. Relatively little of the tax on residential property will be shifted from property owner to others whereas the tax on commercial property can be shifted to consumers.
- (iv) With explanation above it becomes pertinent that the burden of property tax on the poor can be reduced or eliminated by reducing or exempting taxes on property below a certain value.⁹

Cattle Tax: jangle is one of the sources of revenue of the Local Government Council. All cattle owners are to pay it to the Council.

Fee from Licenses: The fees accruing from the issuance of various kinds of licenses as vehicle, bicycle, wheelbarrows, dog, hotel, night party or entertainment, radio and T.V, licenses are the ways of revenue generation for the Local Government –See paragraph 1 of the Fourth Schedule to the 1999 Constitution.

Charge Tax: Local Governments have the right to charge some rate on any service rendered to the public e.g. Motor Park, Market; Slaughter Houses, Land Registration, Marriage Registration, Naming Certificate, Birth Registration, Death Registration, etc.

Investment: Local Government has constitutional right to invest its capital in certain profit making venture. This can provide for the Local Governments a lucrative source of revenue.¹⁰

Road/Street Name: name of roads and streets and numbering of houses are also sources of revenue generation for the Local Government Councils.

Conflicts between Local and State Governments

The main problem which always deter Local Government progress is the conflict between two tiers of Government. State and Local Government. Some state Government usually encroach on the jurisdiction of the Local Government as far as generation of revenue is concerned.

Some state governments do go to the extent of reaching an agreement with the Local Government Councils concerning certain formula for sharing accrued revenue in the Local Government Area, with the understanding that at the end, the State will remit the percentage due to the Local Government. But unfortunately, some of such State could hardly fulfill their promise which subsequently has an adverse effect on the development and progress of the affected Local Governments. An example of such an act can be seen or observed in sharing development levies and taxes collected in market.

Some of the revenue resources under Local resources under Local Government jurisdiction have been taken over by most State Government and that rendered the Local Government under them inefficient.¹¹ All the foregoing are some of the sources of the conflicts.

The following sources of revenue have been identified as some of the areas of conflict between State and Local Government Councils:

- a. Liquor licenses

b. Sale and property tax

c. Development levy

d. Market fee

Granting liquor licenses, collection of sale and property tax, development levy, market fees are some of the constitution functions of the Local Government Council. But some State Governments have taken over all these functions from Local Government.¹²

Consequences of the Conflicts

One of the consequence of the conflict between the State and Local Government is that there is duplication in revenue generation between the two tiers of Government. Example of such could be seen in registration of business premises, fuel license fees, development levy and so on.

Lack of mutual confidence between the State and Local Governments also is one of the consequences of any conflict, in the sense that the State Government are of the opinion that Local Governments do not have adequate and enough manpower to tap the revenue, while the Local Government s feel that the power to tap the revenue has been usurped from them by the State.

Even in the concurrent list, the tax prayers in some areas are taxed twice under the pretext of revenue generation. Obviously this creates doubts in the minds of people as to the sincerity of purpose of the Government. Thereby leading to lack of confidence in the Government.

Furthermore, the undue competition between the State and Local Government created by this conflict has tendered to produce inefficient and ineffective nature of both in the society.¹³ it has also reduced the gravity of both in the eyes of the populace.

In an attempt to put an end to the conflict between the two, this writer will recommend the following:

a. The Local Government exclusive sources of revenue which are forcefully taken over by the State Government should be given back to the Local Government e.g. the collection of market fee in urban areas.

b. Since the responsibilities of the Local Government are relatively increasing every day, concurrent areas of revenue generation should be included in the exclusive list of the Local Government e.g. patent medicine stores, business premise and so on an so forth.

c. As it was in the past, the development levy should fall under the exclusive list of the Local Government .if all these and others alike could be done, the Local Government would be able to function very well, to the satisfaction of the masses.

Conclusion

The role of the Local Government in rural development cannot be over emphasized. But neither the State nor the Local Government can embark on any project for the progress of such areas without .proper financial backing. Therefore, revenue generation plays a vital role in the progress of any nation.

Over the years there have been conflicts between the State and Local Governments in jurisdiction of revenue generation which have been known to constitution constraint in the performance of the Local Government.

Despite the constitution provisions which clearly state the jurisdiction of each, some Governments vehemently refuse to respect such provisions.

Finally, the Local Government should be allowed to function properly under their jurisdiction in the present dispensation. Any attempt by any State Government to usurp any of the constitution functions of the Local Government should be resisted by them by seeking redress in the court of law. This is the beauty of democracy which distinguishes it from a dictatorial regime.

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