

## Local government financial autonomy in Nigeria: The State Joint Local Government Account

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### Jude Okafor

Department of Political Science,  
Nnamdi Azikiwe University, Nigeria



This paper addresses the statutory financial relations and financial autonomy of local government in Nigeria, and the freedom of local government to generate revenue from its assigned sources without external interference. It focuses particularly on a financial instrument called the State Joint Local Government Account (SJLGA) and how its operations have positively or negatively affected the financial autonomy of local government councils and the inter-relations between state and local government in Nigeria.<sup>1</sup>

### Intergovernmental relations in Nigeria

Local government in Nigeria is a product of decentralization and is established by law. As a federal state, Nigeria has three tiers of government (federal, state and local) whose intergovernmental relations (which include political, financial, judicial and administrative) are mainly established by the constitution. Each tier is required to operate within its area of jurisdiction, and any action to the contrary is null and void to the extent of its inconsistency with the law. This is meant to guarantee the autonomy of each tier. Intergovernmental relations may be defined as “the complex pattern of interactions, co-operations and inter-dependence between two or more levels of government” (Ogunna

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<sup>1</sup> For further information about local government in Nigeria see:  
<http://www.clgf.org.uk/index.cfm/pageid/112/Nigeria> and  
<http://www.thecommonwealth.org/YearbookHomeInternal/138917>

1996: 350). According to Adamolekun (2002:60), intergovernmental relations “is the term commonly used to describe the interactions between the different levels of government within the state.” It can also be seen as “important interactions occurring between governmental institutions of all types and in all spheres” (Anderson 1960:3). It exists in all types of state but is more pronounced, complex, controversial and contentious in federal states. The level of development in a given state tends to be determined by the quality of its intergovernmental relations.

### **The State Joint Local Government Account**

Under the Constitution of Nigeria, the SJLGA is a special account maintained by each state government “into which shall be paid allocations to the local government councils of the state from the Federation Account and from the Government of the State” (Section 162 [6], 1999 Constitution of Nigeria). The Account is meant to be a mechanism that can implement the notion of ‘fiscal federalism’ at the local government level in Nigeria. Section 162 of the Constitution also provides for how public revenue shall be collected and distributed among the three tiers of government in the country. The following extract outlines the key elements of section 162:

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- (1) The Federation shall maintain a special account to be called “the Federation Account” into which shall be paid all revenues collected by the Government of the Federation, ....”
  - (2) The President, upon the receipt of advice from the Revenue Mobilisation Allocation and Fiscal Commission, shall table before the National Assembly proposals from the Federation Account, and in determining the formula, the National Assembly shall take into account, the allocation principles especially those of population, equality of states, internal revenue generation, land mass, terrain as well as population density. Provided that the principle of derivation shall be constantly reflected in any approved formula as being not less than thirteen percent of the revenue accruing to the Federation Account directly from any natural resources.
  - (3) Any amount standing to the credit of the Federation Account shall be distributed among the Federal and State Governments and the local government councils in each state on such terms and in such manner as may be prescribed by the National Assembly.
  - (4) Any amount standing to the credit of the states in the Federation Account shall be distributed among the states on such terms and in such manner as may be prescribed by the National Assembly.
  - (5) The amount standing to the credit of local government councils in the Federation Account shall also be allocated to the States for the benefit of their local government councils on such terms and in such manner as may be prescribed by the National Assembly.
  - (6) Each State shall maintain a special account to be called “State Joint Local Government Account” into which shall be paid all allocations to the local government councils of the state from the Federation Account and from the Government of the state.
  - (7) Each state shall pay to 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.
  - (8) The amount standing to the credit of local government councils of a state shall be distributed among the local government councils of that state on such terms and in such manner as may be prescribed by the House of Assembly of the state.
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Section 162, 1999 Constitution of Nigeria [extract]

### **Local Government Financial Autonomy**

Local government autonomy can be defined as “the freedom of the local government to recruit and manage its own staff, raise and manage its own finances, make by-laws and policies, and discharge its functions as provided by law without interference from the higher governments” (Ogunna 1996: 350). This includes political, financial and administrative autonomy. Financial autonomy of local government is the “freedom to impose local taxation, generate revenue within its assigned sources, allocate its financial and material resources, determine and authorize its annual budget without external interference. It must be noted that local government autonomy is not absolute; the third tier of government retains functional and fiscal relations with the higher tiers of government, however, the relationship must function within the relevant law.

### **Transfer of Revenue Resources**

There are reasons why transfers of revenue resources from higher to lower levels of government occur in a federation. Firstly, this relates to the *nature of the functions and revenue resources* of the three tiers of government. These may be determined either traditionally, constitutionally or administratively, and may exhibit an imbalance between responsibility and revenue which requires the higher tier of government to ‘make good’ such imbalance by executing transfers of financial resources. These are referred to as ‘deficiency’ transfers (Okafor 2001:49). Secondly, lower levels of government may have variations in revenue raising capacities. Due to the fact that it is desirable for every state or locality to attain given levels of service delivery, states or localities whose revenue raising capacities are low need to impose a heavier tax burden than those with higher revenue-raising capacities. In order to eliminate this burden in the former, the latter (more well-resourced states or localities) make transfers of resources to them. This type of transfer is called an ‘equalization’ transfer (Graham 1964: 8). These two types of resource transfers are commonly referred to as ‘unconditional intergovernmental grants-in-aid’. We can now turn to the processes of statutory funding of local government in Nigeria.

### **Statutory Funding of Local Government in Nigeria**

For local government to serve as a powerful instrument for rapid community and rural development it must possess a solid and sound financial base. To ensure that local government performs the numerous functions assigned to it (Section 7, Schedule 4, 1999 Constitution of Nigeria), the Constitution makes provision for statutory funding of local

government. Specifically, Section 7(1) mandates the government of every state to make provisions for the financing of local government councils in the state. Key provisions of this section are:

- (a) The National Assembly shall make provisions for statutory allocation of public revenue to local government councils in the Federation; and
- (b) The House of Assembly of a state shall make provisions for statutory allocation of public revenue to local government councils within the state.

In addition, section 162 states that:

- (3) Any amount standing to the credit of the Federation Account shall be distributed among the Federal and State Governments and the local government councils in each state on such terms and in such manner as may be prescribed by the National Assembly.
- (5) The amount standing to the credit of local government councils in the Federation Account shall also be allocated to the states for the benefit of their local government councils on such terms and in such manner as may be prescribed by the National Assembly.
- (7) Each state shall pay to 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.

To give effect to the above provisions for statutory funding of local governments, 20% of the amount standing in the Federation Account is paid to them on a monthly basis, while 10% of each state's internally generated revenue is also paid to the local government councils in the state. It must be noted that the percentage allocations to local government councils are not quantitatively certain. They depend at any given time on the amount standing in the Federation Account and the amount internally generated by each state respectively.

The bulk of the revenues of most local government councils in Nigeria comes from the federal government. In some cases, especially in rural local governments, the grant constitutes as much as 80% of their revenue (Obi, 2001:89). The state statutory allocation to local government councils is usually small and in most cases unreliable.

### **Operation of the State Joint Local Government Account**

To distribute the amount standing in the SJLGA to the local government councils in each state, section 162 (8) of the Constitution directs that:

The amount standing to the credit of local government councils of a state shall be distributed among the local government councils of that state on such terms and in such manner as may be prescribed by the House of Assembly of the state.

State Houses of Assembly have passed SJLGA laws to give effect to the above constitutional provisions, however, evidence has shown that such laws are usually tend to further compound the already distressed financial position of local government councils. This results from various forms of deductions and diversions of funds intended for local government. State governments that are constitutionally required to fund local government councils have instead used the SJLGA mechanism (or Account) to hold local governments hostage and make them appendages of the state. In practice, the operation of the SJLGA has denied local government councils their financial autonomy.

It should be noted that the state government is not intended to be a *beneficiary* of the SJLGA, rather, it is a *trustee* of the Account. It is required to *maintain* the Account for the benefit of the local governments by ensuring that the amount allocated for this third tier of government is equitably and fairly shared among the councils, adhering strictly to constitutionally stipulated criteria. However, reports across the country indicate that most state governments are using SJLGA laws contrary to this intention.

Dlakwa (2004:119-122) has outlined this problem in the case of Borno State. He states that under the Borno SJLGA Distribution and Fiscal Committee Law 2002, a committee was set up to administer the Account. It comprised:

- the Commissioner of the Ministry of Local Government and Chieftaincy Affairs (Chairman)
- Permanent Secretary, Ministry of Local Government and Chieftaincy Affairs
- Accountant-General of the State
- all Local Government Councils' Chairmen in the State
- a representative of the Borno State Primary Education Board
- a representative of the Board of Internal Revenue, and
- the Director of Local Government and Chieftaincy Affairs (Secretary).

It should be observed that the key officers of the committee are state government officials and, in the view of this author, the committee was structured from the outset to disadvantage the Local Government Councils (LGCs). Moreover, the Borno SJLGA Law

2002 empowers the committee to effect the following deductions before distributing funds from the Account to LGCs:

1. 3% of the fund of each council due to the emirate councils
2. 15% of the total personnel emolument of those retired in each council
3. 1% as a training fund
4. 5% of the total allocation of each council as a stabilization account
5. 2% of the total allocation of each council as an administrative charge
6. 1.5% of the allocation of each council to the department of local government
7. 0.5% of the allocation to the local government audit department.

Thus the Borno state government effectively deducted and diverted funds meant for development of local areas, contributing significantly to the abysmal performance of local governments in providing good governance for the community. According to Dlakwa (2004:121), between March 2002 and March 2003 a total of N13.3bn<sup>2</sup> was available for councils in Borno State. Out of this amount the state government deducted almost half (see Table 1).

Aggrieved by this incessant interference in local government's financial autonomy, 26 LGC Chairmen (with the exception of Maiduguri Metropolitan Council) sued the Borno state government for passage of the SJLGA Law 2002, challenging the right of the state government to deduct local government funds at source. The High Court held that the state government had power to pass the law under section 162(8) of the Constitution, but declared unconstitutional the specific provisions that empower the committee to deduct funds at source. This judgment was delivered in June 2002. However, as indicated in Table 1 the deductions continued. The Borno example is a reflection of the situation affecting other local government councils across Nigeria.

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<sup>2</sup> The Nigerian dollar is the *Naira*.

**Table 1: Deductions at source from LGC funds by Borno State Government (March 2002 – March 2003) in Nigerian dollars (millions)**

<b>LGC</b>	<b>Gross Allocation</b>	<b>Total Deduction (source)</b>	<b>Net Allocation</b>
Abadam	437.1	165 (37.7%)	272.1
Askira/Uba	504	325 (64.5%)	179
Bama	627	300 (47.8%)	327.2
Bayo	390	156 (40.0%)	234
Biu	558.0	303.4 (54.4%)	252
Chibok	361	185.4 (51.4%)	175.4
Dambo	632	293 (46.3%)	339
Dikwa	444	207.2 (46.7%)	236.4
Gubio	410	143.1 (35.0%)	266.3
Guzamala	420	161.2 (35.0%)	259
Gwoza	540	314 (58.1%)	226.3
Hawul	500	356 (71.2%)	144.2
Jere	753.2	339.4 (45.1%)	414
Kaga	431.2	213.4 (49.5%)	218
Kala Balge	343.1	167.3 (48.8%)	176
Konduga	646.1	293 (45.3%)	353.1
Kukawa	501	207.3 (41.4%)	294
Kwaya Kusar	364	198 (54.4%)	166
Mafa	419	183 (43.6%)	236.3
Magumeri	487.1	192.4 (39.5%)	295
MMC	993	599.3 (65.0%)	323.4
Marte	457	209 (45.7%)	248
Mobbar	450.3	171 (37.9%)	280
Monguno	441	207 (47.0%)	234
Ngala	473	212.2 (44.9%)	261
Nganzai	385	150 (38.9%)	235.1
Shani	421	189.1 (44.9%)	232
<b>TOTAL</b>	<b>13388.1</b>	<b>6440.7 (48.4%)</b>	<b>6876.8</b>

(Dlakwa 2004: 121)

## Conclusion

Intergovernmental relations are supposed to play a 'bridge building' role to bring a degree of coordination and cooperation to divided powers (Okafor 2007:16). Following from this, the operation of the SJLGA as provided for in the constitution should contribute to cooperative administration, accountability and transparency in local governance within the principle of separation of powers and the rule of law. However, the reality in Nigerian local government indicates the opposite. As evident from the

Borno example, state governments interfere with the financial autonomy of local governments through the instrument of the SJLGA. This has greatly hampered the developmental efforts of local government councils. As a remedy to this most unsatisfactory situation, Sections 162(6) and (8) should be expunged from the 1999 Constitution of Nigeria.

It is also suggested that, via a constitutional amendment, the sub-sections on SJLGA should be replaced with (a) direct allocations to local government councils and (b) the establishment of an independent audit agency comprising federal, state, local government and private representatives. These members must have a proven track record of financial management to supervise, inspect and audit the use of statutory allocations by local government councils. This would provide 'checks and balances' on local government officials' administration of finance matters to ensure accountability and transparency in the use of local government funds.

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