

**PATTERN OF INTERGOVERNMENTAL RELATIONS IN THE  
CREATION OF NEW STATE AND LOCAL GOVERNMENT IN  
NIGERIA**

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**Abstract**

*As a federal state with a diverse polity, there is consistent pressure on the need for the creation of new states and local government Areas. The constitution of Nigeria 1999 provides established procedures for the creation of new state and new local government.. However, from independence to date, no state or local government area has been created by democratic government except the Midwestern State in 1963, in spite of the provisions of the constitution. It is predicated on the belief that, the constitution is the bedrock of intergovernmental relations in many democracies across the globe. The paper examined those constitutional provisions that provided for intergovernmental relations in relation to the creation of new state and local government areas. The paper employed documentary method relying the Constitution 1999, articles, published and unpublished materials. The study revealed that, the constitutional provisions are too cumbersome and very difficult to follow in the creation of state and local government in Nigeria and it was found that, in the history of Nigerian democratic regimes only the Mid-Western Region created in the First Republic and that, no instance of a successful creation of a single local government under any democratic regime. The study recommends among others for the establishment of an agency that will regulate and spearhead intergovernmental relations in Nigeria. Also, that the provision of section 8 of the Constitution 1999 should be reviewed and amended, that, adequate measures should put in place for the public to enlightened on procedures involved in State and Local Government creation*

**Keywords:** Intergovernmental Relations, Creation of New State, Creation of New Local Government, Constitution

### **1.1 Introduction and problem in context**

Federalism as a system of government stems from the desire of people to form a union without necessarily losing their diverse affinities. It is a deliberate effort to reflect the various diverse social, political, cultural and economic interests within the framework of a broader national unity. In this regard, federalism is not viewed as a political ideology; it is a product of necessity. It has emerged as a particular kind of political and functional arrangement between ethnic communities or desperate people for living and working together nationally, while presenting a measure of separate identity. Nonetheless, the Constitutional distribution of powers is an essential characteristic of federalism. The existence of a constitutionally entrenched division of power is the primary feature of federalism. Federalism can emanate through unification, that is when the state political units or communities come together to unite as commonly seen in U.S.A, Canada, and Germany Nigerian federalism remains a contentious one as lots of questions on the rationale and conditions which necessitated its formation are still and will still continue to beg for answers.

Nigeria rose from the national conference in 1950 held by representatives of Nigeria nations and communities opting unanimously for federalism. The dynamics of the Nigerian Federation and the Nigerian Constitution makes intergovernmental relations a political imperative. With over four hundred lingo-cultural groups, a population of over 162 million (Elaigwu, 2007), thirty-six states, a Federal Capital Territory and 774 Local Governments, intergovernmental relations (IGR) in Nigeria is inevitable. Over the years, the pendulum of Federal associations among groups has swung between centrifugal and centripetal forces, as Nigeria sought to adjust the Federation (Elaigwu, 2007). As Nigeria used the framework of Federalism to manage her conflicts, intergovernmental relations is a necessary mechanism to promote cooperation, manage conflicts, and respond to changing circumstances and deliver services more efficiently.

Intergovernmental relations in Nigeria has over the years especially since inauguration of the Richard constitution of 1946 and subsequent structuring of the country into a federation of three regional governments and a central (federal) government in 1954, remained quite contentious. The level of these relationships between and within the federating units (now consisting of Federal, States and Local Governments) particularly as it relates to the creation of new states and local governments and boundary adjustment has continually remained issues in the front burner of the nation's polity particularly under the current democratic dispensation.

Considering the extent of socio-political divisions that exist in Nigeria today, it will be extremely difficult to meet the provisions of the constitution. Each group in Nigeria sees state/local government creation as an avenue to receive greater benefits. As such, it is hard for these groups to support the quest by a particular group to get more states/local governments. Obianyo (2005) rightly observed that: It would appear that the military regimes after creating many local governments put a seal to more creation by any state by including the names of local government in the constitution to make more creation difficult as it being experienced in Nigeria today. To sum it up, in spite of agitations for the creation of states and local governments in Nigeria from 1999 to date there has never been a successful attempt to that effect. This paper thus examines the pattern of intergovernmental relations in relation to the creation of state and local government areas in Nigeria.

The Constitution 1999 is clear and vivid about state creation which conferred the powers on the National Assembly by virtue of section 8 (1:a,b,c,and d). Subsection 8 (3 a, b, c, & d) and Section 8 (5& 6) provides procedure for the creation of local government and conferred the power on the State House of Assembly and the states are mandated to make adequate returns to each House of the National Assembly for inclusion in the fourth schedule.

## **1.2 Conceptual and Theoretical Considerations**

### **1.2.1 Federalism**

Two schools of thought explained the meaning and nature of federalism. The orthodox school led by Wheare (1963), sees federalism as condition and the revisionist school led by Fredrich (1966) sees it as process. According to Wheare (1963), federalism means the method of dividing powers so that federal and regional governments are each, within a sphere, coordinate and independent. From this definition, federalism is the formal division of powers between levels of government. it is also an association of states so organized that powers are divided between a general government, which in certain matters independent of the governments of the associated states. On the other hand, state governments are in their turn, independent of the general government.

The principle of federalism according to Wheare (1963) involves certain uncompromising qualities such as: the division of powers among levels of government; written constitution showing the division; co-ordinate supremacy of the two levels of government with regards to their respective functions; the powers to amend the constitution to be exercised by both levels of governments acting in cooperation; existence of an independent judiciary or body to adjudicate dispute

arising from clash of powers between the federal and state governments and financial independence of both levels of government.

The second school of thought led by Fredrich, (1966) argues that, federalism is a process rather than a design. He argues that federalism should be seen as a process by which unity and diversity are politically organized and this process includes, like all political phenomena, persons, institutions and ideas. He asserts "that federalism is a general principle of social organization and that the degree of federalism in a political system is a function of sociological and not legal criteria". He also sees federalism as dynamic and contends that the federal instrumentalities can be found in several forms of political systems, ranging from centralized to decentralize. As such he defined federalism as "the process of federalising". Important and inherent in this reformulation is that federalism is a general principle of social organization and that the degree of federalism in a political system is a function of sociological and not a legal criterion. Nigerian type federalism coincides with this definition since the government from 1967 has tried to create states and local governments for people of identical cultural and social background. Thus from the civil war period in 1967 to 2000 the government engaged in the creation of states and local governments for a number of reason. Some of these reasons are socio-political and economic.

Appadorai (1975) explains that, a federal state is one in which there is a central authority that represents the whole, and acts on behalf of the common interest, and in which there are also provincial or state authorities with powers of legislation and administration within the sphere allotted to them by the constitution. According to him, federalism is a political contrivance intended to reconcile national unity with the maintenance of state rights. He also recognized the formal division of governmental powers by the constitution and the supremacy of constitution as distinctive features of federalism.

Awa (1976) sees federalism as the coming together of different (sometimes also distinct) political units under a single political umbrella, a central authority (government) that faithfully represents the whole and acts on behalf of the whole in such areas as external affairs, which are in a sort of social contract agreed to be to the mutual interest of the different constituent units (Wheare, 1963 & Ransom, 1943).

From the above, three things are clear. First, is that constitutional specification is the starting point of any federal arrangement. Secondly, social, political and cultural factors determine and affect the nature of any federal system. Thirdly, federalism is a concept for promoting unity in diversity and has to be worked upon by the country to reflect economic, social, cultural and historical reality.

### **1.2.2 Intergovernmental Relations**

The concept of intergovernmental relations (IGR) can be understood by considering three dimensions or schools of thought. The first school of thought believes that intergovernmental relations occurs in a federal system; the second believes that it exists in both federal and unitary systems of government; while the third stresses that it can take place at the international level (Adebayo, 2014). This is a clear indication that intergovernmental relations exist in both the federal and unitary systems. Therefore, an intergovernmental relation is not associated with any system of government be it unitary or federal systems of government.

The term intergovernmental relations is commonly used to refer to relations between central, regional and local governments, as well as governments between any one sphere (level) , that facilitate the attainment of common goals through co-operation (Opeskin, 1988).

For Van der Waldt and Du Toit (1997) intergovernmental relations refer to the mutual relations and interactions between government institutions at horizontal and vertical levels. This is in line with Thornhill (2002) definition that “intergovernmental relations consist of all the actions and transactions of politicians and officials in national, sub-national units of government and organs of the state”. The foregoing are in line with Adamolekun (1986) who defines intergovernmental relations as the interactions that take place among the levels of government within a state. Crucial to this relation amongst spheres of government are statutory bodies (legislative backing) and non-statutory bodies (constituted by government for a specific task) as this can promote intergovernmental relations in the form of committees, boards or a range of other bodies (Kuye, Thornhill and Fourie, 2002).

Wright (1988) defines intergovernmental relations as an interacting network of institutions at national, provincial and local levels, created and refined to enable the various parts of government to cooperate in a manner which is appropriate to its institutional arrangements. In his own view, Obi (2004) sees intergovernmental relations to mean the complex patterns of interactions, co-operations and inter-dependence between two or more levels of government. It is further described as a

plethora of formal and informal relationships and transactions that develop among levels of government within a nation-state. In Nigeria for instance, it refers to the interactions that exist among the Federal (Central or National) states and local governments, state and state interactions, state and local interactions or local and local interactions. All these put together refer to the pattern of intergovernmental relations.

An intergovernmental relations system therefore, consists of facilitative systems and relationships that enable the units of government to participate effectively and carry out mandate so that governmental goals are achieved. This includes executive mechanisms, coordinating mechanisms, cooperative agreements, judicial and legislative mechanisms that all facilitate delivery by government machinery. Intergovernmental relations can thus be defined as the 'glue' that holds them together. The aim of governmental relations therefore, is to enable governmental activities (primarily service delivery), through synergy, effectiveness and efficiency in delivering services, to sustain democracy and strengthen delivery capacity across all spheres of government for the common good (Isioma, 2010).

Flowing from the above, intergovernmental relations can be described as the interactions that take place among the different levels of government within a state. Usually, the concept is associated with states having a federal administrative system. This, however, does not in any way suggest that intergovernmental relations do not take place in a unitary system. In a federal system however, where the relationships between the Federal (Central or National) Government and the major sub-national units (region or state and local government) are formally spelt out in the constitution, any re-arrangement must be through a constitutional amendment involving all the levels of government. With respect to a federal state therefore, nine types of relations are discernible. These are: Federal-state, Federal-local, Federal-Civic groups, state-state, state-local, state-civic groups, local-local, local-civic groups and inter-civic groups (Adamolekun, 1983; Olopade, 1984; Nwatu & Okafor, 2004).

### **1.2.3 Patterns of Intergovernmental Relations in Nigeria**

An intergovernmental relation (IGR) is a comprehensive term to conceive and discuss the full gamut of relationship between all governmental authorities that share public power for governance. There exist multiple divisions of relational activities in a federally structured governmental system such as Nigeria. There are bilateral and multilateral relations. Also the patterns indicate vertical, horizontal

and lateral trends in the relationships among the different levels of government; the patterns vary with regime, time and circumstances.

According to Mohammed (2006) the patterns of intergovernmental relations refer to institutional arrangements through which intergovernmental relations operate. The exact nature and number of these inter-system transactions defy enumerations just as they raise problems of departmentalism, organization and coordination. Different basis are used by scholars to identify the various patterns through which this takes place. Using the scheme of constituent jurisdiction in a federal system and the USA experience as a guide Olugbemi (1980) identified nine patterns of intergovernmental relations which to him are both vertical and lateral, these are: Federal- State, Federal- Local, Federal-State-Local, Federal-Civic Groups, State-State, State- Local, State- Civic Groups, Local – Local, and Local- Civic Groups. However, according to Ayoade in Muhammad (2006) there are six levels of intergovernmental relations in a federal set up. viz: National-state-local relations, National-state Relations, National-Local Relations, Inter-State Relations, State-local Relations, and Inter-local Relations Akindede, (1994) observed that, while these patterns of intergovernmental relations exist in many federal systems, they might differ in their level of refinement, development and utilization. For instance, while the federal state axis of interaction may be adequately and frequently used, the state- state or state – local relations may remain grossly underutilized.

In Nigeria these six patterns of intergovernmental relation are designable in the three tiers of government, the details of which are presented below:

**i. Federal-State Relations:** The constitution of the federal republic of Nigeria has delineated the functions and relationships between the federal government and the state government. While the national assembly has the power to make laws on the exclusive and concurrent legislative list, the state house of assembly is empowered to make laws on the concurrent list, federal state relations exist in the allocation of functions and revenue. In fact there are basically three areas of interaction namely sharing of jurisdictional power from exclusive list, residual and concurrent list, Fiscal relations in terms of statutory allocation/grants, and Administrative relations (Emmanuel 2003)

**ii The Federal-State-Local Relations:** The constitution provides an overlapping role for the three tiers of government in a mutually reinforcing mechanism. for instance in the 1989, 1995 and 1999 constitution, the creation of new state or local government or boundary adjustment demanded the involvement of the three tiers of government. Every tier is relevant and no tier can take a single action without

the others. Another area where these kinds of relations exist is in the formulation and execution of development plans for the country which placed the development initiatives on the states and local government. Another critical area where such type of interactions exists is in the area of fiscal relations which involves the transfer of public funds of the federation to the state and local governments. In fact the responsibilities of governance in most issues are split among the units of the Nigerian federation. For instance, primary health care, primary education, maintenance of law and order enjoy mutual relations among the three levels of government.

**iii. Federal-Local Relations:** Initially local government existed as a mere outpost of the state government: Their functions were by deconcentration rather than by devolution. However increasing local government reform in 1976 and 1989 has made the local government a third tier of government. In the 1989 constitution, local government received its financial allocation directly from the federal government and no longer from the state. The federal ministry of the local government was established to supervise the relationship and deal with issues emerging between the state and local government. Though the ministry is at the moment reduced to a directorate in the presidency, its existence is now in the development of the relationship between federal and state governments. The relationship between the federal and local government is from the constitution and mainly fiscal which allows for increased web of interactions. There are subsisting policies which link and sustain the relationship such as federal funding of primary health care delivery, primary education, poverty alleviation programme, training of local government career and elected officials, public security and public welfare and the occurrence of natural disaster beyond the capacity of the state government to normalize.

**iv. State-State Relations:** An interstate relation in Nigeria is one pattern of intergovernmental relation that has not been fully developed. Most areas of interstate relations are non-statutory. The national council of state meeting is the arm that provide avenue for interstate interactions. Other areas include, party structure, state governors meetings. The direction of the objectives of the relation has always been the promotion of the common ties, economic and commercial activities.

**v. State-Local Relations:** The constitution guaranteed the relations and enjoined the state to ensure the existence of local government under a law which provides



for the establishment, structure, composition, finance and functions. The state house of assembly are empowered by the constitution to pass the enabling laws which empower the governor to establish new local government, the details will be discussed later.

The state performs supervisory role on the local governments economic, social and political development, the state could dissolve local government council on flimsy or imagined political excuses; the state also approves the relevant byelaws of the local government to ascertain whether it exceeded the powers of the local government. States lease with the local government to ensure law and order in the state, there are also consultations between the various departments and ministries in the state and local government, staff training, conduct of local government elections, state and local government joint account etc.

**vi. Local-Local Relations:** Interactions among local governments in Nigeria is brought about to ensure cooperation and relating in a manner mutually beneficial to them in the performance of the functions allocated to them in the fourth schedule of the 1999 constitution. Basically inter local government relations occur through: the ministry of local government and chieftaincy affairs; the monthly state joint account allocation; seminars, workshops and economic trade fair; monthly meeting of secretaries; conference of local government chairmen (ALGON); conference of the leaders of the local government legislative council. Some of the advantages of the inter-local relations include: evolving a common front in dealing with federal and state governments, sharing of experience, resolution of conflicts and building a mutually sustained relationship.

#### **1.2.4 Review of Related Empirical Studies**

Agbola, (2016) investigated on the challenges of state/local government creation in Nigeria; A critical analysis. The study focuses on the nature of Nigerian state, the politics of local government creation using interview instrument in gathering data. The interviews were conducted on the local government officials, employees and grass roots people to obtain their views on local government creation in Nigeria. Findings revealed that, most countries across the world, local governments are seen as catalyst for rural development, but in Nigeria, local governments are seen as appendages with no discretionary powers. It was concluded that, ethnicity among other socio-political issues has a lot of implication for the Nigerian project.

Solomon, (2014) conducted a study on Local Government and Intergovernmental Relations in Nigeria' Fourth Republic with a special attention on the period 1999-

2014. It was argued that, local government is not mutually exclusive of other levels of government and that as such there is bound to be an interaction between the local and other levels of government. The study reveals that, Intergovernmental relations among the levels of government in the fourth republic up to 2014 were in disarray due to the conflicts over issues of tax jurisdiction, revenue allocation, fund transfers, over concentration of power at the centre, illegal removal of government officials among other factors. It was posited that, for cordial relationship between local government and other levels of government to take place, the constitutional status of local government must be clearly spelt out, the issue of state local government joint account should be reversed, election rather than appointment should be the means of choosing leaders at the local level, undue interference on the local government by the state and federal government should be properly addressed and that, there should be direct disbursement of federal allocation to all the levels of government.

However, the researches above were mainly focused on the issues of local government and intergovernmental relations with particular reference to 1999-2014. It was meant to address the issue of state and local government relations in Nigeria only and not state/local government creation and the pattern of relationship that exist among the tiers of government which is the central focus of this paper. The research conducted by Agbola (2016) quietly focused on the issue of state/local government creation in Nigeria but addressed only the politics involved in the creation of states and local government in Nigeria. The main thrust of this paper however was to examine the pattern of intergovernmental relations that exist among the tiers of government in Nigeria as teleguided by the constitution of the Federal Republic of Nigeria 1999 as amended which others did not focused on.

#### **1.1.5 An Overview of Creation of State and Local Government in Nigeria:**

Since 1950s, Nigerians have developed an unending crave for new states. The ferocity with which communities demanded for new states after Nigeria's independence in 1960 led to a repeated restructuring and division of the country's internal boundaries into four regions in 1963, 12 States in 1967, 19 States in 1976, 21 States in 1987, 30 States in 1991 and 36 States in 1996. In the 1960s and 1970s, the yearning for new states was driven principally by the need to address perceived domination or fear of domination of ethnic minority communities by the majority. Furthermore, creating of local government areas had become enormously popular in the country as a means of redressing the imbalance in socio-economic development among the component units of Nigeria (Sanni 2010), in 1976, 301

local governments were created, 449 local governments in May, 1989, they rose to 500 local governments in August, 1990, 589 local governments in September, 1991, 768 local governments in October, 1996 and increased to 774 in 1999 (Agbola 2016).

However, since the 1980s, the rationale for demanding for new states has changed, most communities yearn for new states based on the belief that additional states will translate to enhanced share of federal revenue/opportunities. Considering that much of Nigeria's federal revenue and opportunities in federal public service is shared on the basis of equality, more states for a particular community means more revenue and opportunities. This material consideration has tended to encourage unending demands for state creation including the current agitation for new states.

One noticeable aspect of the history of state creation in Nigeria is the fact that civilian governments have found it extremely difficult to create new states. Apart from the government of Abubakar Tafawa Balewa (1960-1966), no other civilian administration has been able to create new state despite the numerous requests that they usually receive. One explanation for the inability of civilian regimes to create new states is that the issue is a very divisive one which requires considerable level of consensus of which most civilian governments are not able to mobilize. Unlike the civilian governments, military regimes do not need national consensus to make important decisions such as state creation. Considering that past civilian governments have been unable to create new states, it is therefore interesting to ask whether the present government would be able to create new states and local governments.

Danjuma (2012) argues that many state governments especially during civilian administration 1999-to date embarked on creation of local governments but only few could see the light of the day due to many problems that bedeviled local governments, some perished after few years of their existence, while other suffered from problems ranging from politics, to lack of continuity, death of funds and inability of the national assembly to recognized it as a true tier of government due to politics of confrontation, mockery of state where the dominant party is not in control of such states. Apata (2011) also observes that, in the federal system like Nigeria, the role of national assembly in the creation of new local governments was listing them in the appropriate schedule of the constitution.

Many states created local government that are more than the old local governments for instance Lagos created 37 new area development council otherwise known as

new local governments, Kebbi added another 20 area development council, Ebonyi state also created 23, Katsina state, 30, Kano state 44, Nasarawa state 16, Niger 17 and Yobe state created 23 without adequate funding especially during this period of global financial meltdown, the possibility of such local governments to see the light of the day is very meager.

### **1.2.6 Theoretical Framework**

The study adapted the overlapping authority model identified by Wright (1978). The model has three basic elements viz:

- i. There are sustained areas of governmental operations involving national, states and local units simultaneously.
- ii. The areas of authority or single jurisdiction, independence and discretion are comprehensively small.
- iii. The power and influence available to any one jurisdiction is substantially limited. The limit produced an authority pattern best described as bargaining the wide array of exchanges and agreements involve in the conduct of intergovernmental relation. The bargaining syndrome has so many implications:

First it makes for exchange or transfer of resources and influence across governmental boundaries, making it possible to alter authority relationships among units. Secondly, power tends to be widely dispersed, although it is not uniformly distributed. Thirdly the model does not suggest exclusive, competitive relationship that consensus prevail over conflict. Fourthly, as the structure of the circles implies national-state-local relations are the largest domains, while modest are of autonomous action (the non-overlapping areas of the circle) still rest with each respective jurisdiction.

Akinsoye (1999) discerned three features of overlapping authority model. Viz;

- i. Substantial areas of governmental operation involve the federal, state and local government
- ii. These areas of autonomy and full discretion are comparably small.
- iii. The power and influence available to any one jurisdiction is significantly small indeed, the limits produced an authority best described as bargaining.

In relating this model to our study, we can observe that, state and local government creation provided under section 8(1-6) of the 1999 constitution of the federal republic of Nigeria is a clear indication that the authority relationship is overlapping

which requires a substantial bargaining-exchange relationship hence, a federal government can not under normal circumstance create a new state without an inputs from the states and local government S.8 (1), nor a state of the federation can create a new local government without the support and approval of the National Assembly S.8(3 and 6). Therefore the model is found to be relevant and worthy of explaining the intergovernmental relations in the creation of states and local government areas in the present democratic dispensation in Nigeria.

### **1.3 Methodology**

The research design for this study is content analysis. The Constitution 1999 is clear and vivid about state creation which conferred the powers on the National Assembly by virtue of section 8 (1:a,b,c,and d). Subsection 8 (3 a, b, c, & d) and Section 8 (5& 6) provides procedure for the creation of local government and conferred the power on the State House of Assembly and the states are mandated to make adequate returns to each House of the National Assembly for inclusion in the fourth schedule. Therefore, Section 8 subsection 1 paragraph a, b, c, d; section 8 subsection 3 paragraph a, b, c, d; section 8 subsection 5 and 6 of the constitution 1999 of the Federal Republic of Nigeria was used for analysis. Relevant information obtained from judicial review, journals and other publications were also used.

### **1.4 Discussions and Results**

Nigeria's federation is a constitutional arrangement with three tiers of government: Federal, State and Local governments. These tiers of government have functions which are to some extent, independent and clearly specified in the constitution (exclusive, concurrent and residual lists). The constitution of the federal republic of Nigeria reposed powers for the creation of states on senate and House of Representatives and of creation of local government and its boundary adjustment on state government but subject to recognition by national assembly. The provisions of the constitution were analysed in relation to the pattern of IGR on creation of new state and local government areas

#### **1.4.1 Creation of State and the Patterns of Intergovernmental Relations**

Constitutionally, Nigeria became a federation in 1954 with three regions (north, west and east) as well as Federal Capital Territory, Lagos, following the introduction of Littleton constitution. Demand for state creation could be traced to the (1950s) when minorities in the three regions felt marginalized by the dominant ethnic group. In august 1963 the civilian administration responded to the request of the people and then mid-western region was carved out, the only one created by a

civilian regime up till this moment. In 1967 the Gowon administration under a further restructuring by creating additional units making a total of 12 and changing the name from regions to states. This process continued as the number increased to 19 states in 1976, 30 states in 1992 and to 36 in 1996. Today Nigeria has a federal structure comprising 36 states and federal capital territory (Abuja) and 774 local government areas. There are still indications that more states will be created in the cause of time several reasons have been advanced in favour of state creation some of which include: to address the perceived structural imbalance in the Nigerian federalism; the desire to generate divisions with the ranks of some regional power elites; mitigating the fear of domination by minorities; the need to bring government closer to the people; the need to minimize conflicts between and within states; The need for national unity; the desire to facilitate development.

In order to address the above issues and ensuring a cooperative and efficient system of government in Nigeria, the constitution (1999) under section 8 made a provision on process and procedure for creating a state thus; S.8. (1) An Act of the National Assembly for the purpose of creating a new State shall only be passed if:

- (a) A request, supported by at least two-thirds majority of members (representing the area demanding the creation of the new State) in each of the following, namely:
  - (i) The Senate and the House of Representatives,
  - (ii) The House of Assembly in respect of the area, and
  - (iii) The local government councils in respect of the area, is received by the National Assembly;
- (b) A proposal for the creation of the State is thereafter approved in a referendum by at least two-thirds majority of the people of the area where the demand for creation of the State originated;
- (c) The result of the referendum is then approved by a simple majority of all the States of the Federation supported by a simple majority of members of the Houses of Assembly; and
- (d) The proposal is approved by a resolution passed by two-thirds majority of members of each House of the National Assembly.

From the above provisions it is clear that, state creation in Nigeria demands involvement of the three tiers of government, as every tier is relevant and no tier can take a singular action without the others this calls for intergovernmental relations to provide a smooth interaction among the tiers. The reason for this is that any state creation that does not take the three tiers into consideration will set the

fiscal relationship that exist between them into crises hence, the national assembly subject to the provision of S.8(5) must make an amendment of S.3(1) part I and II of the third schedule.

The patterns of intergovernmental relations visible here include both vertical and horizontal relationships i.e. federal- state and local relations, state-state relations and local-local relations, federal-civic, state-civic and local-civic relations.

The relationship is vertical when it involves approving a request for state by two-thirds majority of the number representing the area demanding the creation of state. Members of the national assembly, state house of assembly and the local government councils S.8 (D) when it comes to the approval of the proposal by the people of the area. It involves relations between the federal agency responsible for holding the referendum, the state and the local government council's representation and the approval must be at least two-third majority.

Inter-states relations also comes in when the result of the referendum is to be approve by the state house of assembly by simple majority of all the state assembly and supported by a simple majority of the members of the house of Assembly before the national assembly pass a resolution on it, it needs to be supported by 2/3 of each House.

From the foregoing we may conclude that, state creation in Nigeria involves all the nine patterns of intergovernmental relations as identified by Olugbeni (1980) or the six patterns as identified by Akendele (1994). However the cumbersome nature of these relations has made state creation in the country a difficult thing if not impossible under the current democratic dispensation. A major implication of state proliferation has been an attack on the principles of federalism which consequently affects federal- state relations adversely as wheare (1963) posits that a federal principle means "the method of dividing powers so that the general and the regional governments are each within a sphere coordinated and independent" this has in no means reduced the viability of state units and their capabilities. In fact most of the states of the federation with the exception of few cannot with stand and survive without allocation from the federation account, this has narrow down independent tax base and increased overhead cost. May be this is one of the reason why the constitution has made the state creation a very rigid and cumbersome process, the attainment of which is difficult if not impossible.

#### 1.4.2 Creation of Local Government and the pattern of Inter-Governmental Relation

A careful examination of the distribution of powers among the three-tiers of government under the 1999 Constitution and the practice of IGRs in the on-going democratic dispensation, clearly shows the total subordination of Local Government Council (LGCs) to the other two tiers of government (Centre and federating states). The question now asks is, what then is the Locus standi of a local government council as the third-tier of government in Nigeria? Section 7(1) of the 1999 Constitution provides unambiguously that: *The system of local government by democratically elected local government council is under this constitution guaranteed.* It adds, and this is very important that: *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.* Taking their authority from section 7(1) of the 1999 constitution that guarantees democratically elected local councils and empowers state governments to enact laws for the “establishment, structure, composition, finance and functions” of the councils,

Section 8(3) states thus; A bill for a Law of a House of Assembly for the purpose of creating a new local government area shall only be passed if; (a) A request supported by at least two-thirds majority of members (representing the area demanding the creation of the new local government area) in each of the following, namely; (i) The House of Assembly in respect of the area, and (ii) The local government councils in respect of the area, is received by the House of Assembly; (b) A proposal for the creation of the local government area is thereafter approved in a referendum by at least two-thirds majority of the people of the local government area where the demand for the proposed local government area originated; (c) The result of the referendum is then approved by a simple majority of the members in each local government council in a majority of all the local government councils in the State; and (d) The result of the referendum is approved by a resolution passed by two-thirds majority of members of the House of Assembly Constitution of federal republic of Nigeria 1999.

It is on these frameworks that a federal-state-local relation becomes obtainable as a cross consultation, referendum and approval from grassroots to the federal level are made. Creation of local government is a herculean task as provided by the constitution as it requires two third majority of house of assembly members in that area at the state level, two third majority of the local government council in respect



to that area and subsequently a simple majority of members in all local government of the state. The result of the referendum is however forwarded to the house of assembly where an approval requiring two third of the house members is required. It becomes imperative, the role national assembly in creation of local government as section 8(5) stated thus: An Act of the National Assembly passed in accordance with this section shall make consequential provisions with respect to the names and headquarters of State or Local government areas as provided in section 3 of the Constitution and in Parts I and II of the First Schedule to the Constitution of federal republic of Nigeria (1999) as amended.

(6) For the purpose of enabling the National Assembly to exercise the powers conferred upon it by subsection (5) of the section, each House of Assembly shall, after the creation of more local government areas pursuant to subsection (3) of this section, make adequate returns to each House of the National Assembly.

It is on this ground that a federal-state-local relationship is established with both the members of the local government council, house of assembly and at the national level the national assembly all inter working for the sole purpose of local government creation.

### **5.1 Conclusion and Recommendations**

Traditionally, while the National Assembly is responsible for state creation, the state government possess absolute powers for creation of local government even though the National Assembly have to recognize such local government in order to have powers and functions as well as financial backing after their creation. In the history of civil rule in Nigeria it has been a difficult endeavour by any civilian regime to create state or local government area due to the cumbersome nature of the constitution as rightly observe above.

In some other federations such as the USA, Australia and India, IGR is monitored by a standing advisory council on IGR. This council recommends improvements where necessary and equally resolves any differences among the levels of government. Such a body known as the National Council on Intergovernmental Relations (NCIR) was established in Nigeria by Decree No. 89 of December 1992 but was short-lived and is nowhere to be found or heard.

Based on the conclusion reached, the study recommends the following:

- i. The re-establishment of the NCIR as a permanent institution under the Third schedule to the 1999 Constitution is hereby recommended to resolve crisis that may arise in the process of state and local government creation.
- ii. The provisions of the constitution (S.8) in relation to the IGR in the creation of new state and local government should be revisited to make the creation of state and local government easier.
- iii. The provisions of the 1999 constitution on the creation of state and local government do not take into cognizance ethnic and cultural affiliation in the creation of state or local government areas. As such, ethnic, cultural and administrative convenience should be the priority in the creation of local government areas in Nigeria.

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