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EMPOWERING NIGERIA'S LOCAL GOVERNMENTS:

ANALYZING THE CONSTITUTIONAL BASIS AND SUPREME COURT JUDGMENT ON FINANCIAL AUTONOMY

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INTRODUCTION

The Attorney General of the Federation ("AGF") filed a suit[1] against the Attorneys General of Abia State & 35 Ors. earlier this year, 2024, aimed at engendering the autonomy of Nigeria's 774 Local Government Areas ("LGAs"). The Supreme Court, in its judgment delivered on Thursday, 11th July 2024 granted the prayers of the Plaintiff and affirmed the LGAs' financial autonomy.[2] Of note from the several pronouncements of the Apex Court is the decision that democratically elected Local Government Councils have the constitutional right to receive allocation payments directly from the Federation Account into their accounts.

Many have celebrated this landmark judgment calling it a watershed moment in developing the country's constitutional democracy. The President of the Republic described the decision as historic and one that will enhance Nigeria's true federal 3 fabric. Others have not been more celebratory in their remarks following the judgment of the Apex Court. The pan-Yoruba socio-political association, Afenifere for example described the decision as a conspiracy against democracy.[4]

The Supreme Court's decision, one could argue, underscores and reaffirms the autonomy granted to Local Governments by the Nigerian Constitution. Afterall, the Fourth Schedule of the Constitution of the Federal Republic of Nigeria, 1999 as amended ("the 1999 Constitution") delineates the powers of Local Governments, establishing their right to manage their affairs independently,

[1]Referenced SC/CV/343/2024 (unreported), on behalf of the Federal Government
[2]Premium Times. 11th July 2024. Available at https://www.premiumtimesng.com/news/top-news/711923-supreme-court-affirms-local-governments-financial-autonomy.html accessed on 15th July 2024.
Punch. 11th July 2024. Available at https://punchng.com/breaking-supreme-court-grants-lgs-financial-autonomy/ accessed on 15th July 2024.
[3]"LG Autonomy: Tinubu, Atiku, Akpabio, others hail S'Court as tension grips 21 governors". Daily Post – 12 July 2024. Available at https://dailypost.ng/2024/07/12/lg-autonomy-tinubu-atiku-akpabio-others-hail-scourt-as-tension-grips-21-governors/ accessed on 15th July 2024.
[4]"LG autonomy: S'Court judgment conspiracy against democracy – Afenifere". Punch – 13th July 2024. Available at https://punchng.com/lg-autonomy-scourt-judgment-conspiracy-against-democracy-afenifere/ assessed on 15th July 2024.

albeit under the laws enacted by State Houses of Assembly. No doubt this is essential for effective governance, enabling local administrations to address community-specific issues efficiently.

While the judgment marks a significant step towards bolstering grassroots governance and enhancing fiscal responsibility within Nigeria's federal system[5], the constitutionality of some aspects of this judgment (particularly the decision that the Federation can bypass State Governments in LGAs' allocation process) is called into question and warrants thorough analysis, hence this article. In carrying out this analysis, we will briefly highlight the major dictums of the Supreme Court in its judgement, what Local Government autonomy means given the clear provisions of the 1999 Constitution on this subject and and the practicality of effectively implementing local government financial autonomy.

THE SUPREME COURT'S LANDMARK JUDGMENT ON LOCAL GOVERNMENTS FINANCIAL AUTONOMY IN NIGERIA

At the heart of the contentious action initiated by the AGF at the Supreme Court lay the intricate interpretation and nuanced application of various sections of the 1999 Constitution concerning Local Government autonomy.

This high-stakes litigation zeroed in on the States' constitutional duties regarding Local Government administration and the equitable allocation of funds from the Federation Account to Local Governments. The AGF argued that the 1999 Constitution unequivocally mandates States to

[5]Scholars and commentators have agreed that it will address the pervasive issues of delays, diversions, and mismanagement of funds by State Governments that have plagued the financial operations of Local Governments

ensure democratic governance at the local levels. This mandate encompasses the obligation to conduct elections for Local Government councils and prohibits the substitution of elected officials with unelected caretaker committees. It was also argued that the States' grip on Local Government funds must be curtailed, insisting that their allocations should be disbursed directly from the Federation Account to the Local Governments because the States have persistently refused to pay to the Local Government Councils the funds standing to their credit from the Federation Account contrary to Section 162 (4), (5) and (6) of the 1999 Constitution, which is the central focus of our discussion in this article.

On the other side of this legal maelstrom, the State Governments mounted a vigorous defence.[6] They contended that the Constitution endows them with authority to manage Local Government affairs, including the power to administer Local Governments and staunchly defended their prerogative to control the allocation & disbursement of Local Government funds through the State Joint Local Government Account, as sanctioned by the 1999 Constitution under Section 162 (6), (7) and (8). The State Governments argued that the failure of some States to organize the conduct of democratic elections into Local Government Councils is not deliberate as there are subsisting orders of courts in pending suits restraining the States from conducting democratic elections to Local Government Councils in their States. In determining the question as to whether the Local Government Councils can validly obtain their allocations directly from the Federation Account, the Supreme Court held that it would interprete the provisions of Sections 7 (1) and 162 (3), (5), (6), (7) and (8) by adopting a progressive and purposive approach, and a broad and liberal construction. It was the position of the Court that an interpretation in this regard would correspond with the intention and purpose of the 1999 Constitution which is to establish the Local Government Councils as a smooth system capable of running their own affairs based on their allocations from the Federation Account. This interpretation is essential, as opposed to applying the general rules of statutory interpretation, which is literal, narrow, strict, technical, and legalistic and may result in absurdity, injustice, impracticality, or undermine the objectives of the 1999 Constitution.

Based on this, the Court therefore held that the States' retention and use of the funds standing to the credit of Local Governments from the Federation Account paid to it for their benefit is unconstitutional and illegal. The Court also held that, the word “shall”

[6]This defence was accompanied with a Notice of Preliminary Objection challenging the jurisdiction of the Supreme Court. However, it was dismissed by the Court for being incompetent.

used in the Constitution in respect of payment of the said allocations may be permissive and imposing a discretionary and not mandatory duty. As such, the allocations from the Federation Account can either be paid directly to a democratically elected Local Government Councils or could be paid to them through the States. However, the Court reasoned that since paying through the States has not worked, the justice of the case demands that the allocations from the Federation Account should henceforth be paid directly to the Local Government Councils.

The merits of this decision cannot be overemphasised. The Supreme Court's judgment directing that the allocations of the Local Government Councils be paid directly to their accounts represents a pivotal step towards enhancing fiscal responsibility within Nigeria's governance framework. This judgment addressed longstanding challenges associated with the allocation of funds intended for local development, ensuring that financial resources are efficiently and transparently distributed.

Before the judgment, allocations earmarked for Local Governments often traversed through State Governments, leading to delays, misappropriation, or inefficiencies in resource utilization.[7] The Supreme Court's intervention sought to eliminate these bottlenecks by stipulating among other things direct payments from the Federation Account to Local Government accounts. This directive not only streamlines the financial flow but also empowers local authorities with the autonomy needed to expedite developmental initiatives.

By ensuring prompt and transparent disbursement of funds, this judicial directive empowers Local Government Councils to undertake critical infrastructure projects, improve public services such as healthcare and education, and stimulate economic activities at the grassroots level. This financial autonomy not only enhances governance effectiveness but also strengthens accountability, fostering a more robust and responsive local government administration. Moreover, the decision aligns with global best practices on decentralization, where local governments play a pivotal role in socio-economic development. It underscores the importance of local governments' autonomy in tailoring policies and programs that directly address community-specific needs and aspirations. As important as these objectives are, the kernel of the question is whether the judgment aligns with prescriptive dictates of the Nigerian Constitution. This will lead us to examining the existential structure and funding of local governments in Nigeria.

[7] ANALYSIS: How Nigerian state governments 'pocketed' N15.5 trillion LGA allocations in 12 years (premiumtimesng.com) Accessed on 26th July 2024.

LOCAL GOVERNMENTS' EXISTENCE AND FUNDING IN NIGERIA

What does our grundnorm say about the existence and funding of local governments in Nigeria and how can it be reconciled in light of the recent decision of the Supreme Court as highlighted above?

The local government system is recognised in Nigeria, having been well entrenched in the Constitution under **SECTION 7 (1) OF THE 1999 CONSTITUTION**. The implication of this provision is that the system of Local Government is to be run by *"democratically elected Local Government Councils"* and the Local Government is to be a creation of the State Government as the states are *"to ensure their existence under a law which provides for the establishment, structure, composition, finance and functions of such councils".* By this, the State Houses of Assembly are to pass laws before the Local Government Councils can effectively perform the functions donated to them in paragraph 1 of the 4th Schedule to the 1999 Constitution.[8]

In light of this, whether the Local Governments can in the legal sense be said to be truly autonomous (i.e being free from the direction or control of another government – the State Government in this case) is not the focus of this article. What is however not in dispute is that, by the provisions of the 1999 Constitution as highlighted above, the Local Governments have been placed under the direct control of the State Governments. This is moreso as the 1999 Constitution[9] made provisions for the funding of Local Governments by both the Federal and State Governments. This is where the provisions of **SECTION 162 of the 1999 CONSTITUTION** come alive.

By virtue of **SECTION 162** (1) OF THE **1999 CONSTITUTION**, a special account is to be maintained known as *"the Federation Account"* into which all revenues (except those specifically stipulated in that provision) to be collected by the Government of the Federation are to be paid. As to what should then happen to the monies in the Federation Account, the 1999 Constitution provides that they are to be distributed among *"The Federal and State Governments and the Local Government Council in each State in ways and manner as the National Assembly would prescribe"* [10]. Since the

[8] See Section 7 (5) and paragraph 1 of the 4th Schedule to the 1999 Constitution
[9] See Section 7 (6) of the 1999 Constitution
[10] Section 162 (3) of the 1999 Constitution

amount in the Federation Account is to be distributed as aforesaid, the amount standing to the credit of the States is to be further shared among the States, and the Local Governments' share from the Federation account is to be allocated to the States for the benefit of the Local Government Council.[11]

Since the States are to 'collect' their share and that of the Local Government Councils (for the purpose of further distribution to the said councils) from the Federation Account, the 1999 Constitution provides in **SECTION 162** (6) that ***"Each States 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". Each state is then to pay the Local Government Councils in its area of jurisdiction certain proportions of its total revenue and to distribute the amount standing to the credit of the Local Government Councils of the State among the Local Governments, from the special account, on such terms and in such manner as would be prescribed by the House of Assembly of the State.[12]

What is clear from these provisions of the grund norm is that, the Local Governments are finely placed under the financial control of the State Government leveraging the special account. It is also clear that the amounts standing to the Local Government's credit are allocated to the States for the benefit of their Local Government Councils and are to be distributed on terms. It is not open to the States to keep/or retain the allocation. In fact, the Local Governments are supposed to enjoy a double portion being their share from the Federation Account and proportions from the total revenue of the State government.

While the Supreme Court's judgment above marks a significant departure from previous practices of the States who retain or keep the allocations that ought to be paid to the Local Government Councils, it also prompts a re-evaluation of the constitutional framework governing fiscal relations between tiers of government. A proper look at constitutional provisions under Section 162 of the 1999 Constitution, which outlines the mode by which revenue from the Federation Account is to be allocated becomes imperative in determining whether the judgment aligns with the fundamental framework of the grundnorm against which all actions of the State are weighed.

CONSTITUTIONALITY OF THE JUDGMENT CONCERNING THE FINANCIAL AUTONOMY OF LOCAL GOVERNMENTS

While the Supreme Court's objective (as stated above) is commendable, the decision

[11]Section 162 (4) & (5) of the 1999 Constitution
[12]Section 162 (8) of the 1999 Constitution

raises critical constitutional questions that may affect its effectiveness. The Supreme Court's decision appears to deviate from the explicit provisions of the 1999 Constitution of the Federal Republic of Nigeria ("Constitution") - the *fons et origo*[13] of the Nigeria laws - regarding public revenue and how the Local Government Councils are to receive their allocations from the Federation Account which has been discussed above.

Of note from the provisions of the Constitution concerning payment of allocations is the use of the word **"shall"** in inter alia, the allocation of the share of the Local Governments from the Federation Account to the States for the benefit of the Local Governments, the opening of the special account, the payment of all the Local Governments' allocation into the special account and the distribution of the monies to the Local Government by the States.

The position of the law is settled that the word 'shall' connotes mandatory discharge of a duty or obligation, and when the word is used in respect of a provision of the law, it generally means that the requirement must be met. This position was aptly captured by the Supreme Court in the case of **BUHARI V. INEC & ORS.**[14]

While it is conceded that where the context so admits, the word "shall" may sometimes be equivalent to "may" which would be construed as merely permissive or directory to carry out the legislative intent[15], particularly in cases where it being construed in mandatory sense will bestow no right or benefit to anyone. What is clear from the provisions of the Constitution is that, the construction of the word "shall" in its mandatory sense would bestow benefits on the Local Governments. We posit therefore that, the intendment of the drafters of the Constitution in respect of the provisions as highlighted above is that it must be complied with and allows of no manoeuvre of some sort. In contrast to our position, the Supreme Court as highlighted earlier applied the use of the word "shall" in a liberal sense, such that it would not connote mandatoriness. The Supreme Court held[16] that:

> ***"In this case it is glaring that giving the word "Shall" a literal meaning would defeat the objective of the Constitution, result in unconstitutionalities or illegalities or cause injustice or unworkable situations. It should be purposively read as permissive or discretionary. Therefore, I understand that word as permissive and imposing a discretionary and not mandatory duty..***

[13] A Latin phrase that means "source and origin."
[14] (2008) LPELR-814(SC)
[15] See Ibrahim & Ors V. Akinrinsola (2022) LPELR-59633(SC); Amalgamated Trustees Ltd V. Associated Discount House Ltd (2007) LPELR-454(SC)
[16] Ibid (1), page 43.

> ***In the light of the foregoing, I hold that the Federation can pay Local Government allocations from the Federation Account to Local Government Councils directly or pay to them through States. In this case, since paying them through states has not worked, the justice of the case demands that the Local Government Council allocations from the Federation Account should henceforth be paid directly to the Local Government Councils."***

Having established previously that by our Constitution, the Local Governments are finely placed under the financial control of the State Governments, can we then safely conclude that the decision of the Supreme Court delivered on 13th July 2024 to the effect that funds standing to the credit of the Local Government Councils from the Federation account could be paid directly to them is a departure from the clear wordings of the Constitution?

A convenient place to engage this poser is the provision of **SECTION 1 (1) & (3) OF THE 1999 CONSTITUTION** which provides that: "This Constitution is supreme and its provisions shall have binding force on all authorities and persons throughout the Republic of Nigeria" and "if any law is inconsistent with the provision of the Constitution, this Constitution shall prevail, and that other law shall to the extent of the inconsistency be void". This position has received judicial blessing in a plethora of cases. In **TANKO V. STATE**[17], the Supreme Court held thus:

> ***"It cannot be denied that the CONSTITUTION (the GRUNDNORM) of this country, indeed, the Constitution of any country is supreme. It is by it (the Constitution) that the validity of any laws, rules or enactment for the governance of any part of the country will always be tested, It follows therefore, that all powers; be they legislative, executive and judicial, must ultimately be traced or predicated on the Constitution for the determination of their validity. All these three powers that I have mentioned must and indeed, cannot be exercised inconsistently with any provisions of the Constitution. Where any of them is so exercised, it is invalid to the extent of such inconsistency...".***

In a constitutional democracy such as ours in Nigeria, the roles of the various arms of government are well delineated in **SECTIONS 4, 5** and **6 OF THE 1999 CONSTITUTION.** In the case of **ALL PROGRESSIVES**

[17](2009) LPELR-3136(SC)

CONGRESS & ORS V. ENUGU STATE INDEPENDENT ELECTORAL COMMISSION & ORS,[18] the Supreme Court aptly captured this point when it held thus:

> ***"Fundamentally, the Constitution of the Federal Republic of Nigeria, 1999, as amended, has provided for three distinct branches of Government: (i) The Legislature; (ii) The Executive; and (iii) The Judiciary. And to each of the formidable arms of Government, the Constitution has assigned well defined, distinctive roles and responsibilities. To the Legislature, the distinguished role of enacting laws for the peace, order and good governance of the nation. To the Executive, the eminent responsibility and duty for execution and implementation of all laws enacted by the legislature and orders of Courts. While to the Judiciary, the Constitution has equally assigned the prestigious and most honourable judicial powers to thereby arbitrate and settle disputes vis-a-vis conflicts arising from the interplay of powers and forces between the Federal and State Governments, between the Government and the citizen, and between individuals and institutions vis-a-vis other feuding parties. See Sections 4, 5 and 6 of the 1999 Constitution."***

This arrangement embodies the whole hallmark of the doctrine of separation of powers.[19] In simple terms, neither the Legislature, the Executive, nor the judiciary should exercise the whole or part of another's power. The Constitution does not allow one out of the three to usurp the powers conferred on any of the other two. It is elementary that lawmaking (which includes an alteration to existing laws) is exclusively within the purview of the Legislature. As such, any alteration to the clear provisions of the Constitution must be made only by the Legislature. In fact, for the avoidance of doubt, this position is stipulated in certain terms in **SECTION 9 OF THE 1999 CONSTITUTION.** It follows therefore that, no other arm of government is allowed to exercise the powers conferred on the Legislature under any guise.

We posit that, since the provisions of the 1999 Constitution on the financial autonomy of the Local Government especially as to payment of their allocations into a special account known as the "State Joint Local Government Account" is already clearly stated, it is not open to the Judiciary to alter this provision by declaring that, despite the use of the word "shall" in the Constitution, the said monies can be paid directly to the Local Government. It may appear, as the court found, that the literal interpretation of the constitutional provision in the light of its

[18](2021) LPELR-55337(SC)
[19]See His Royal Highness Lamidi Olayiwola Adeyemi (Alafin Of Oyo) & Ors Vs Ag Oyo State & Ors (1984) LPELR- 169(SC); Ugwuanyi V. Nicon Insurance Plc (2013) LPELR-20092(SC)

object would occasion some inconvenience, as exemplified by the alleged refusal of some State Governors to release local government allocations to them. However, the difficulty to implement statutory prescriptions or indeed refusal to strictly adhere to statutory obligations does not, without more, necessitate a change of attitude in judicial interpretation of the statute. This we argue is tantamount to the Judiciary exercising the powers of the Legislature. Curiously, the Supreme Court has over time consistently reiterated that ***"The duty of the judiciary is to interprete the provisions of the relevant laws and Constitution, not to amend, add to or subtract from the provisions enacted by the legislature"***[20]. Recently, the Supreme Court in ***Alagbaoso v. I.N.E.C.***[21] held that ***"No court has the jurisdiction to twist the meaning of the words used in a statute in order to fit into its own wishes or that of the parties. Even where the law appears strict, it is not for the court to embark on what is commonly referred to as "judicial legislation" by stretching the meanings of the words used and giving them an entirely different colouration from what was intended by the legislature. The duty to make laws or amend them rests squarely and solely with the legislature. The judicial arm of government has no such duty".***

Granted the Supreme Court as the apex court in the land (which is a policy court) and indeed all courts, in interpreting the constitution ought to give it a benevolent, broad, liberal and purposive interpretation and avoid a narrow, strict, technical and legalistic interpretation to promote its underlying policy and purpose,[22] caution ought to be applied not to supplant the opinion of the court with the intention of the lawmakers. In the words of Tobi JSC in **ABUBAKAR & ORS V. YAR'ADUA & ORS**,[23] ***"I should say that the purposive rule of interpretation will not avail a Judge where the intention of the lawmaker is clear, precise and unequivocal, so much so that, a person can say "Yes this is what the lawmaker has in his mind." The purposive rule does not allow the Judge to destroy the intention of the lawmaker, in the language of Lord Denning, "the Judge must not alter the material at which it is woven, but he can and should iron out the creases".*** The provisions of the 1999 Constitution ought to be given their ordinary meaning unless where this would lead to absurdity or be in conflict with other provisions of the Constitution.[24] The ordinary meaning on the issue of payment of Local Government allocations as per Section 162 (6) of the Constitution has been well discussed earlier and there is no absurdity in same. In the words of the Supreme Court in the case of **FAWEHINMI V. I.G.P & ORS**[25]

[20] Action Congress & Anor V. Independent National Electoral Commission (2007) LPELR-66(SC) Per Onnoghen, JSC at Pp. 41-42, paras. G-A.
[21] (2023) 8 NWLR (Pt. 1885) 115
[22] Abubakar Atiku & Anor V. Independent National Electoral Commission & Ors (2023) LPELR-61556(SC)
[23] (2008) LPELR-51(SC) at Pp. 113 paras. D
[24] See Abegunde V. Ondo State House Of Assembly & Ors (2015) LPELR-24588(SC)
[25] (2002) LPELR-1258(SC), per UWAIFO, JSC at P. 29, paras. A-E

"It cannot be suggested that clear and unambiguous terms of our Constitution may be rewritten or construed beyond what they mean in the guise of liberal or broad interpretation".

In **AG LAGOS STATE V. AG FEDERATION & ORS.,**[26] **NIKI TOBI JSC** (*of blessed memory who was known for his legal erudition and wide knowledge of legal principles*) while espousing on whether courts have the power to amend the Constitution held that:

> ***"The Nigerian Constitution is called a Federal Constitution. But where there are unitary provisions contained therein, it is not the role of the Judge to expunge or jettison the provisions. That will be a clear interference with the role of the National Assembly under Section 9 of the Constitution. It is elementary law that a Judge has no jurisdiction to amend the Constitution by his pronouncements however learned they may be. The function clearly belongs to the National Assembly."***

We opine therefore that, it is not open to the Court with the greatest respect (or any arm of the government) to exercise its powers inconsistently with the provisions of the Constitution, the same document from where it derives its powers in the first place. Where this is done as in the instant case (the Supreme Court judgment), the decisions so reached would in line with the provisions of **SECTION 1 (3) OF THE 1999 CONSTITUTION** be invalid to the extent of such inconsistency. This is moreso as ***"...there is nothing like the principle of equity, fairness, social justice and equality in the conduct of judicial affairs as canons of interpretation of the Constitution".***[27]

PRACTICALITY OF LOCAL GOVERNMENTS' FINANCIAL AUTONOMY

Beyond law, there are concerns about the practical implications of financial autonomy for Local Governments while they are still technically under the supervision of State Houses of Assembly who by the provision of Section 7 (1) of the 1999 Constitution are to make laws for their establishment, structure, composition, FINANCE and functions.

The core issue is not the inadequacy of Constitutional provisions regarding the payment of allocations to Local Governments, which the Supreme Court sought to address in its judgment, but the lack of political will to enforce it. The Supreme Court's decision to incorporate direct payment of allocations from the Federation Account to Local Governments into the provisions of Section 162 of the Constitution, as sought by the Attorney General of the Federation in the aforementioned suit,

[26](2003) LPELR-620(SC) (Pp. 291-292, paras. G-B)
[27]Global Excellence Communications Ltd & Ors v. Duke (2007) LPELR-1323(SC) Per Onnoghen ,JSC at P. 19, paras. E-F

constitutes a significant departure from its traditional role. It is tantamount to throwing away the baby with the bath water. So many questions abound from a practical stand point. Does it mean all the 774 local government councils in Nigeria would now maintain accounts with the CBN? Would the idea of representatives of the 774 local government councils running to abuja every month to ensure they collect their allocations not affect implementation or be at variance with what the Supreme Court is seeking to engender? Who would bear the cost of this monthly trips to Abuja?

Strengthening existing institutions to ensure compliance with constitutional provisions may be a more sustainable solution than creating parallel systems. To ensure that State Governments fulfill their constitutional obligation to (as against retaining) give the funds allocated to Local Governments to these councils, declaratory and mandatory orders of court enforcing these provisions of the Constitution could suffice to address the inefficiencies without deviating from the established legal framework. This is moreso as there is no actual proof that the entire monies to be paid directly to the Local Governments (as directed by the Supreme Court) would be effectively utilised by the local government councils for the purpose for which they were so allocated,

which is the development of the grassroot government.

CONCLUSION

The Supreme Court's judgment on local governments' financial autonomy especially as touching the direct payments of their allocation to their accounts is a landmark decision with far-reaching implications for Nigeria's governance and development. While it strengthens the principles of autonomy and fiscal responsibility, it raises significant constitutional and practical questions, which we have addressed in this article. In interpreting the Constitution in a manner that mandates direct payments of the allocation belonging to the Local Government Councils to their accounts, the Supreme Court may have effectively or implicitly amended the provisions of Section 162 outside the legislative arm of government. This raises concerns about the risk that it

portends considering the constitutional doctrine of separation of powers. The power to amend or alter the Constitution is vested solely in the legislative branch, specifically through the National Assembly, as outlined in Section 9 of the Constitution. The Supreme Court's role is to interpret and uphold the Constitution, not to change its provisions under any guise. If this happens, it may be tantamount to an unjustifiable usurpation, trespass and invasion of the exclusive constitutional territory of the legislature. The primary duty/function of the Court is *jus dicere, non jus dare,* i.e., to declare what the law is and not to formulate one.

To do otherwise, (though it could be argued for a good cause), will not be a reflection of the intent of the lawmakers. Whereas one may say full financial autonomy for local governments is now the law and has come to stay, for afterall, Oliver Wendell Holmes once said *"the prophecies of what the courts will do in fact, and nothing more pretentious, are what I mean by the law*[28]*"*, this law is in direct conflict with the Constitution and as a result ought to be a nullity.

Notwithstanding, we posit that ensuring effective governance at the local level requires not only judicial interventions but also a concerted effort to strengthen political will and institutional capacity. As Nigeria continues to navigate its path toward democratic consolidation and sustainable development, the implementation of this Supreme Court must be carefully considered to ensure it aligns with constitutional provisions and promotes inclusive growth for all Nigerians. In this regard, it is recommended that the Constitution be amended to expressly bring it in line with the current decision of the Supreme Court on the issue. At least, the argument as to the intent of the drafters of the constitution on allocation of monies accruing to the local government councils from the federation account will be finally put to bed.

[28]Oliver Wendell Holmes, Jr., The Path of the Law, 10 Harvard Law Review 460-61 (1897)

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