



## Judicial Restraint and Local Government Fiscal Autonomy in Nigeria: Appraising the Jurisdiction of State High Courts to Restrain Access to Constitutionally Allocated Funds

Ademola Elufisoye ELUBODE; Olumide OGIDAN & Ebenezer Fikayo ADEOJO

Elizade University, Ilara-Mokin, Ondo State, Nigeria

Received: 11.01.2026 | Accepted: 11.02.2026 | Published: 14.02.2026

\*Corresponding Author: Ademola Elufisoye ELUBODE

DOI: [10.5281/zenodo.18639136](https://doi.org/10.5281/zenodo.18639136)

### Abstract

### Original Research Article

The Local Government Areas (LGAs) have a place in the Nigerian system of governance, which the constitution has guaranteed, but their financial independence has been weak and disputed. A common practice has been to obtain restraining orders from State High Courts that will freeze or impose restrictions on access to funds that are available to the credit of local governments within the Federation Account. The recent Supreme Court ruling on local government autonomy has revived controversies on judicial suitability and the constitutionality of such actions. The paper explores whether the State High Courts have jurisdiction to restrict the Local Government Areas from accessing their constitutionally allocated funds. It examines the local government finance structure established by the constitution, the extent and boundaries of the jurisdiction of the State High Court, as well as the consequences of the resurgence of local government autonomy by the Supreme Court. The paper states that, although the jurisdiction of the State High Courts is expansive in terms of civil jurisdiction, the exercise of these powers has to be guided by the supremacy of the Constitution and the principle of fiscal federalism. Freezing or withholding on LGA can be indirect executive control and judicial usurping of grassroots governance, which are usually orders. The paper makes a conclusion that judicial restraint, constitutional amendment, and stronger statutory protection are needed to safeguard local government fiscal autonomy and deter the misuse of court procedures in the management of local government funds in Nigeria.

**Keywords:** Local Government Autonomy, Supreme Court, Jurisdiction, State High Courts, Fiscal Federalism.

Copyright © 2026 The Author(s). This is an open-access article distributed under the terms of the Creative Commons Attribution-NonCommercial 4.0 International License (CC BY-NC 4.0).

### Introduction

Local government administration, being the most immediate level of administration, is best placed to respond to the local developmental needs of the grassroots citizens. The

administrative level is deeply rooted in the political and legal system of Nigeria, as it finds its legitimacy in the principles of the 1999 Constitution of the Federal Republic of Nigeria (as altered).<sup>1</sup> As the main point of contact

\*Ademola Elufisoye ELUBODE - LL.B (Hons) B.L LL.M

(OAU), Lecturer, Department of Private and Property



Elubode, A. E., Ogidan, O., & Adeojo, E. F. (2026). Judicial restraint and local government fiscal autonomy in Nigeria: Appraising the jurisdiction of State High Courts to restrain access to constitutionally allocated funds. *SSR Journal of Arts, Humanities and Social Sciences*, 3(2), 71-80.

between the citizens and the state, it becomes a necessary element of the democratic infrastructure of the country.<sup>2</sup>

The federal system's integrity is clearly stipulated in the 1999 Constitution of the Federal Republic of Nigeria (as altered), where the existence of democratically elected local government councils is explicitly required.<sup>3</sup> But this constitutional assurance has traditionally been compromised by an ongoing deficiency of real independence, especially in the dispensation of statutory distributions. As a result, the third level of government has frequently found itself unable to operate on its own because of the financial interference in the mechanisms of its work and administrative overcommunication of the state authorities.<sup>4</sup>

The most formidable challenge to good administration of the local government in Nigeria has been the issue of control and operation of funds that make the Federation Account.<sup>5</sup> Although the Constitution of 1999 provides a clear right to Local Government Areas to receive statutory allocations, the practical implementation of such disbursement

has in the past been full of systemic problems. This economic strangle has continued to hold back grassroots growth and a vicious circle of financial dependency which is the bane of the existence of the third tier of government.<sup>6</sup>

The State-Joint Local Government Account (SJLGA) institutional structure has accidentally given the legal space upon which the state players can impose excessive interference and manipulation on local funds.<sup>7</sup> It served as an obligatory middleman, which in many cases enabled the state governments to control the local councils, carving out or not delivering much-needed funds. As a result, a streamlined distribution channel turned into the weapon of political subordination and required the recent decisive judicial action by the Supreme Court.<sup>8</sup>

In reality, local government finances have emerged as a standing issue in the State High Courts due to the recurring nature of litigation. Different parties often resort to these courts in order to obtain interim or interlocutory injunctions aimed at ensuring that the councils could not collect the revenue that they were legally expected to collect by their constitution.<sup>9</sup>

Law, Faculty of Law, Elizade University, Ilara-Mokin, Ondo State. E-mail:

[ademola.elubode@elizadeuniversity.edu.ng](mailto:ademola.elubode@elizadeuniversity.edu.ng);

[lukoyechambers@gmail.com](mailto:lukoyechambers@gmail.com); +2348084628449.

\*Olumide OGIDAN, LL.B (Hons) (AAUA); B.L; LL.M (OAU); Lecturer, Faculty of Law, Elizade University, Ilara-Mokin, Ondo State; E-mail: [olumide.ogidan@elizadeuniversity.edu.ng](mailto:olumide.ogidan@elizadeuniversity.edu.ng); +2347039188078.

\*Ebenezer Fikayo ADEOJO LLB (Hons) (Ife) B.L LLM, Lecturer, Faculty of Law, Elizade University, Ilara-Mokin, Ondo State. E-mail: [Ebenezer.adeojo@elizadeuniversity.edu.ng](mailto:Ebenezer.adeojo@elizadeuniversity.edu.ng). +2347067852405.

<sup>1</sup> EO Frank, 'The 1999 Constitution and the Local Government Administration in Nigeria: An Analysis', *International Journal of Social Sciences*, Vol. 13. No. 4, October – December, 2019, pp. 102-114.

<sup>2</sup> IA Jamo, 'LOCAL GOVERNMENT, DEMOCRACY AND DEVELOPMENT IN NIGERIA', [content](#) accessed 4<sup>th</sup> February 2026.

<sup>3</sup> See section 7 (1) of the 1999 Constitution of the Federal Republic of Nigeria (as altered).

<sup>4</sup> KO Lamidi, 'Local Govt Autonomy, Supreme Court Judgment and Emerging Challenges', (TheGuardian, 3<sup>rd</sup> of December 2025), [Local govt autonomy, Supreme Court judgment and emerging challenges](#) accessed 4<sup>th</sup> February 2026.

<sup>5</sup> OJ Diekola et al., 'Interrogating Governance and Constitutional Issues of Local Government System in Nigeria', *African Journal of Stability & Development*, Vol. 12 No. 1, 2019, <https://journals.abuad.edu.ng/index.php/ajsd/article/view/935> accessed 4th February 2026.

<sup>6</sup> D. Ekumankama, 'THE STATUS OF LOCAL GOVERNMENT UNDER THE 1999 CONSTITUTION OF NIGERIA: A CRITICAL APPRAISAL', *Journal of Legal Studies and Research*, Vol. 9 Issue 3, May-June 2023, [Dennis-Ekumankama-JLSR.pdf](#) accessed 4<sup>th</sup> February 2026.

<sup>7</sup> JC Okafor, 'Local Government Financial Autonomy in Nigeria: The State Joint Local Government Account', *Commonwealth Journal of Local Governance*, 6, pp. 127-131, <https://epress.lib.uts.edu.au/journals/index.php/cjlg/article/view/1621> accessed 4th February 2026.

<sup>8</sup> E. Oladesu, 'Supreme Court Judgment on LG Autonomy', (The Nation, 8<sup>th</sup> of December 2024), [Supreme Court judgment on LG autonomy - The Nation Newspaper](#) accessed 4<sup>th</sup> February 2026.

<sup>9</sup> JC Okafor, 'Constitutional Challenges of Creating New Local Government Areas in Nigeria', *Commonwealth Journal of Local Governance*, Issue 10: December 2011-June 2012, [https://www.researchgate.net/publication/276395643\\_Co](https://www.researchgate.net/publication/276395643_Co)



These are the legal gambles that usually lead to acts of freezing bank accounts or setting up high judicial restraints on the spending of local funds.

Although the courts have an inherent power to arbitrate disputes, the constitutionality of the issuance of orders that override statutory allocations is a highly controversial legal topic.<sup>10</sup> These judicial interventions frequently run into the compulsory language of the Constitution that protects the existence of the third level of government by these funds.<sup>11</sup> Therefore, the degree to which a High Court may invoke its discretionary jurisdiction to bar the flow of Federation Account funds is a bone of contention among academics and the legal community.

The recent declaration by the Supreme Court concerning the autonomy of the local governments has created a revolutionary thrust to the issue of fiscal federalism that has had a long history. The apex court has thus successfully redefined the legal horizons in grassroots financial management by asserting the right of local councils to be self-sufficient entities.<sup>12</sup> This decision stands out as significant because it establishes the notion that local governments are independent entities that do not act as administrative offshoots of the state, but rather are constituents of the Nigerian federation.<sup>13</sup>

Any judicial, executive, or legislative act, therefore, which acts to cripple this newfound autonomy must now be put under strict constitutional consideration.<sup>14</sup> According to the judgment, the days of state-sponsored intrusion into local matters have come legally to an end,

and all levels of government have to be realigned according to the mandate of the Supreme Court.<sup>15</sup> Going forward, the courts need to serve as a defence against any efforts made to undermine this financial autonomy through creative legal or administrative obstacles.

## 2. Conceptual and Theoretical Framework of Local Government Autonomy

Autonomy in the light of modern-day governance greatly implies the substantive ability of an institution to conduct its internal business without external forces that are debilitating. This principle is held in the local government system, which is tripartite and incorporates the political, administrative, and monetary aspects of independence.<sup>16</sup>

Nevertheless, fiscal independence is the most important pillar, as the financial autonomy failure to regulate the financial assets makes the political and administrative powers largely performative.<sup>17</sup> The structural independence of the local governments is diminished to a mere artificial creation that is not powerful enough to bring meaningful social change. Although the Nigerian Constitution gives the local governments a formal acknowledgement, they still find themselves in a structural dependency trap.

The Constitution of the Federal Republic of Nigeria 1999 (as amended) provides that a system of elected councils at the grassroots should be in place to represent the people.<sup>18</sup> Until this is found to be untrue, the state governments have been systematically diluting this

[nstitutional Challenges of Creating New Local Government Areas in Nigeria#read](#) accessed 4<sup>th</sup> February 2026.

<sup>10</sup> See AG Lagos State v. AG Federation (2004) 18 NWLR (Pt. 904) 1.

<sup>11</sup> See Section 162(5) & (6) of the CFRN 1999 (as altered).

<sup>12</sup> F. Ajogwu, 'Supreme Court Judgment on the Autonomy of Local Government Council – A Triumph For Fiscal Federalism', (The Nigeria Lawyer, 12<sup>th</sup> of July 2024), [Supreme Court Judgment On The Autonomy Of Local Government Council- A Triumph For Fiscal Federalism - TheNigeriaLawyer](#) accessed 5<sup>th</sup> February 2026.

<sup>13</sup> *Ibid.*

<sup>14</sup> O. Ogunsanya, 'Explainer: Supreme Court Judgement on Financial Autonomy to Local Government Areas In

Nigeria', [Explainer: Supreme Court Judgement on Financial Autonomy to Local Government Areas In Nigeria - Fact Check Africa](#) accessed 5<sup>th</sup> February 2026.

<sup>15</sup> A. Oladimeji, 'LG Financial Autonomy: What the Supreme Court Held in AG Federation v AG Abia State & Ors. SC/CV/343/2024', (BarristerNG.com, 23<sup>rd</sup> July 2024), [LG Financial Autonomy: What the Supreme Court held in AG Federation V AG Abia State & ORS. SC/CV/343/2024 -By Akinola Oladimeji - BarristerNG.com](#) accessed 5<sup>th</sup> February 2026.

<sup>16</sup> See KO Lamidi, (n4) *supra*.

<sup>17</sup> The Supreme Court's July 2024 ruling directly addressed this by abolishing state control of local government funds.

<sup>18</sup> See Section 7 (1) CFRN 1999 (as altered).



constitutional assurance by overshadowing the local governments, especially by dominating the sources of revenue.

This distribution of power is the opposite of the theoretical principles of fiscal federalism, which advances the decentralised separation of taxing and spending powers to allow institutional efficiency and accountability.<sup>19</sup> The practical situation of most Nigerian local councils is that of extensive dependence on statutory allocations made through the Federation Account, as the role of Internally Generated Revenue (IGR) is mostly peripheral. Such federal payments act as the blood of local government, and as such, the councils become susceptible to any financial inconvenience.

The resort to judicial orders to prevent access to such funds is therefore not just a procedural case in the legal context but an intrusion on a great scale into the constitutional order.<sup>20</sup> These restrictions themselves betray independence and effectiveness of the third level of government, which is ultimately detrimental to the effectiveness of the whole of the federal government.

## 2.1 Constitutional Architecture of Local Government Finance in Nigeria

Nigeria's local government financial architecture is largely based on Section 162 of the Constitution of 1999 (as amended).<sup>21</sup> The provision creates a clear constitutional right, which guarantees that the third level of government has a valid claim on national revenue. This is a direct right that is meant to

protect the economic sustainability of local government to avoid the whims of superior forces.<sup>22</sup>

But with the establishment of the State-Joint Local Government Account (SJLGA) under Section 162(6), a complicated intermediary step was added to this fiscal mechanism. Although that was the initial purpose of the Joint Account as a simple administrative tool that enabled transferring funds in an organised way, the history of the tool being transformed into a means of state domination has happened.<sup>23</sup> This structural arrangement has been widely abused by the state executives who seek to influence the local government allocations to avoid the diversion or withholding of the required resources. This real-life perversion of the constitutional system has been a subject of legal contention as to the actual scope of local government financial autonomy.<sup>24</sup> The judiciary has always attempted to defend the sanctity of Federation Accounts, which has strengthened the idea that its resources are the property of every level of the government.

The Supreme Court in the *AG Federation v AG Abia State and 35 Ors.*<sup>25</sup> made it clear that no form of government can be allowed to violate or intrude into the funds distributed to another. In addition, the invalidity of any law or administrative practice which conflicts with such fiscal provisions is void to any degree that such law or practice is contradictory.<sup>26</sup> Any act of the executive or judiciary, therefore, such as issuing injunctions, which disrupts the circulation of these constitutionally vested funds, must be

<sup>19</sup> See KO Lamidi, (n4) *supra*.

<sup>20</sup> See A. Olademeji, (n15) *supra*.

<sup>21</sup> Particularly, Section 162(3) requires that any credit available to the local government councils in the Federation Account has to be allocated to them directly.

<sup>22</sup> ODM Domitilla et al, 'THE SUPREME COURT JUDGEMENT ON LOCAL GOVERNMENT AUTONOMY AND ABOLITION OF STALE-LOCAL GOVERNMENT JOINT ACCOUNT: AN EVALUATION OF ISSUES, PERFORMANCE AND TRENDS',

[https://www.researchgate.net/publication/391572924\\_THE\\_SUPREME\\_COURT\\_JUDGEMENT\\_ON\\_LOCAL\\_GOVERNMENT\\_AUTONOMY\\_AND\\_ABOLITION\\_OF\\_STALE-](https://www.researchgate.net/publication/391572924_THE_SUPREME_COURT_JUDGEMENT_ON_LOCAL_GOVERNMENT_AUTONOMY_AND_ABOLITION_OF_STALE-)

[LOCAL GOVERNMENT JOINT ACCOUNT AN EVALUATION OF ISSUES PERFORMANCE AND TRENDS? cf ch1 rt tk= .loQubBn0Hqy3k.YlhqegQNWI ArytpiOK1LYWGmnul-1770338702-1.0.1.1-CXPRCoDEUKUSOUHckY5MkIEMsripj2WoPdIY96Cx y4E](https://www.researchgate.net/publication/391572924_THE_SUPREME_COURT_JUDGEMENT_ON_LOCAL_GOVERNMENT_AUTONOMY_AND_ABOLITION_OF_STALE-) accessed 5<sup>th</sup> February 2026.

<sup>23</sup> S. Aluya, 'Autonomy of Local Government in Nigeria: Issues and Way Forward', [https://www.researchgate.net/publication/398680595\\_Autonomy\\_of\\_Local\\_Governments\\_in\\_Nigeria\\_Issues\\_and\\_Way\\_Foward](https://www.researchgate.net/publication/398680595_Autonomy_of_Local_Governments_in_Nigeria_Issues_and_Way_Foward) accessed 5<sup>th</sup> February 2026.

<sup>24</sup> See ODM Domitilla et al, (n22) *supra*.

<sup>25</sup> (2024) LPELR-62576 (SC).

<sup>26</sup> See section 1(3) of the CFRN 1999 (as altered).



considered as a direct attack on the highest law of the land.

### 3. Judicial Scope and Limits

#### 3.1 Role of State High Courts

The Constitution of the Federal Republic of Nigeria 1999 (as amended) gives a broad jurisdiction to State High Courts in civil proceedings on matters relating to the nature or extent of a legal right.<sup>27</sup> This judicial mandate automatically swallows the Local Government Area disputes, state agencies, and private conflicts, making the court a major adjudicator of local cases. Therefore, High Courts of the State have an undoubted ability to accept a case where councils are the parties and provide diverse remedies, such as declaratory reliefs or injunctions.

Although the jurisdictional power of the State High Court is definitely wide, it is not operating in black and white; instead, it is tightly controlled by the general constitutional structure of the federation.<sup>28</sup> This implies that any judicial discretion should not be allowed to override the constitutional principles under the CFRN 1999, which emphasise the separation of powers and the financial autonomy of the levels of government.<sup>29</sup> Moreover, the substantive law has additional limitations on such power in the form of an express prohibition on the use of procedural devices, such as injunctions, to subordinate or to invalidate obvious statutory rights of Local Government Areas.

As a result, the discretion of a judge to interfere with local affairs has no license, but a command, which ought to be operated with surgical care and constitutional faithfulness. The power of jurisdiction of the court is derivative and thus cannot be employed to present a result that is

directly aimed at by the Constitution, like financially strangling the third level of government.<sup>30</sup> Thus, in case of a clash between the overall authority of the court to issue orders and a particular constitutional guarantee of independence, the latter has to be valid to ensure the purity of the justice system. This, in practice, entails a judicial philosophy of jurisdiction as an instrument of maintaining the rule of law instead of a means of administrative intervention.<sup>31</sup>

The basic principles of such authority are based on the classic example of *Madukolu v Nkemdilim*,<sup>32</sup> stating that a court should be duly constituted and the matter of the case should be within the competence of that court. Jurisdiction thus is a two-pronged concept, under which the procedural conformance is necessary, as well as the substantive conformance within the legal limits of the court. By passing a decree by a State High Court that an LGA may not gain access to its statutory allocation, it runs the risk of overstepping its adjudicatory powers and venturing further into the specialised area of the administration of public finances. The courts are essentially created to provide dispute resolution, but not fiscal operations administration on behalf of constitutionally established levels of government.

Additionally, the use of interim and interlocutory injunctions as practical solutions to freeze council accounts frequently leads to the interlocutory injunctions acting as final solutions.<sup>33</sup> Under the Nigerian law, these orders may continue to linger for months or even years in a system that constitutes effective stagnation of the administrative capacity of the local government before the final decision on the merits. Such freezing of funds annuls

<sup>27</sup> See section 272 (1), *ibid*.

<sup>28</sup> *Ademola v Adetayo & Ors.* (2004) LPELR-12487 (CA).

<sup>29</sup> Attorney General of Anambra State v. Attorney General of the Federation (2007) 12 NWLR (Pt. 1047) 4.

<sup>30</sup> Section 6 vests judicial powers in the courts, but Section 1(1) establishes that the Constitution is supreme. Therefore, judicial power is **derivative** of the Constitution; a judge cannot use the power granted by the Constitution to destroy the very structure (the three-tier federation) that the Constitution creates.

<sup>31</sup> In *Military Governor of Lagos State v Ojukwu (1986) 1 NWLR (Pt. 18) 621*, it was held that the Rule of Law means that no authority (executive or judicial) can act outside the bounds of the law.

<sup>32</sup> (1962) 1 All NLR 587.

<sup>33</sup> See *Afolabi v Alaremu (2011) LPELR-8894 (CA)*, where the Court of Appeal warned that interlocutory injunctions should not be used to determine the substantive suit at an interlocutory stage.



constitutional rights and derails the services to the grassroots people.

### 3.2 The Supreme Court's Reaffirmation

The recent ruling of the Supreme Court on the autonomy of local governments is a watershed in the constitutional jurisprudence in Nigeria.<sup>34</sup> The Apex Court scorned the systemic practices that have stifled local governments in an endless dependency on the state authorities in the past. The Court made it clear that local governments are not administrative appendages or extensions of the state executive branch, but are constitutionally recognised entities with an independent mandate that they must be permitted to exercise.<sup>35</sup> This judicial intervention is aimed at correcting decades of fiscal imbalance by establishing the fact that allocations to Local Government Areas (LGAs) are rights but not privileges at the will of the state. The judgment thus creates a new legal precedent, which puts emphasis on the financial integrity of the third arm of government as an ingredient of the Nigerian federation, which is beyond negotiation.

The Supreme Court also stated that the constitutional means, like the State-Joint Local Government Account, could not have been used as a means to override the autonomy that was assured under Section 7 of the Constitution.<sup>36</sup> All the executive/administrative practices, which attempt to distract, deprive, or arbitrarily exercise local government monies, are now clearly understood to be a breach of the ideals of federalism and decentralisation.<sup>37</sup>

The purposive interpretation of the Constitution by the Court was an indication that the time of considering the use of the so-called Joint Account as a predatory fiscal tool has indeed

ended.<sup>38</sup> Such a change requires a complete rebalancing of relationships between governments to make sure that the purpose of the framers of having governance at the grassroots is eventually fulfilled. The decision in effect forms a shielding layer around the revenue of the local governments, and hence they are no longer susceptible to the creative back-door policies that were used by the state governors to suppress the local government.<sup>39</sup> The fostering ramifications of this radical ruling not only stretch to the executive practice but also have a wide range of consequences on the modern judicial practice in Nigeria. Courts now have the duty of making sure that their orders do not unwillingly sanction or support unconstitutional interference into the finances of the third level of government.<sup>40</sup>

Courts should exercise their judicial power strictly in conformity with this new constitutional purpose, and not as an instrumentality to compromise the economic viability of local councils. The post-autonomy jurisprudence thus requires an increased sense of restraint and discrimination in the approach of the State High Courts when they are considering a petition to prevent LGAs access to their statutory funds.

## 4. Challenging Judicial Power and Fiscal Limits

### 4.1 Restraining Orders and the Problem of Judicial Overreach

The introduction of restraining orders against the Local Government Areas (LGAs) is not only a constitutional issue that undermines the principles of federalism in Nigeria, but it is also an issue that leaves profound questions regarding the practicality of the whole issue. To begin with, these judicial orders go a long way in eroding the

<sup>34</sup> See (n25) *supra*.

<sup>35</sup> IN Eme Worugi and N. Eme Worugi, 'The Supreme Court Affirmation of the Status and Autonomy of Local Governments under the 1999 Nigerian Constitution', <https://www.cambridge.org/core/journals/journal-of-african-law/article/supreme-court-affirmation-of-the-status-and-autonomy-of-local-governments-under-the-1999-nigerian-constitution/682851606CD39A472570384B742A5F0E> accessed 5th February 2026.

<sup>36</sup> See (n25) *supra*.

<sup>37</sup> *Ibid.*

<sup>38</sup> *Ibid.*

<sup>39</sup> E. Agbo, 'UPDATED: Supreme Court Affirms Local Governments' Financial Autonomy, Declares Caretaker Committees Illegal', (Premium Times, 11<sup>th</sup> of July 2024), <https://www.premiumtimesng.com/news/top-news/711923-supreme-court-affirms-local-governments-financial-autonomy.html?tztc=1> accessed 5<sup>th</sup> February 2026.

<sup>40</sup> See ODM Domitilla et al, (n22) *supra*.



constitutional supremacy principle.<sup>41</sup> Where the allocation of funds within the constitution to the third tier of government is subject to the order to restrain the access, these vested rights are technically suspended by temporary interlocutory processes. The decision is that the constitutional powers conferred on the courts are to interpret the Constitution, but not to use their discretionary means to undermine the express provisions of the Constitution.<sup>42</sup>

Thus, judicial discretion to prevent statutory revenue is a dangerous usurpation that puts more emphasis on the procedural gambits than the substantive constitutional requirements.<sup>43</sup> Moreover, these restraining orders are often used as a tool of indirect executive control by the state actors who had to avoid the autonomy ruling of the Supreme Court. Essentially, state governments, which are no longer allowed to lawfully withhold LGA funds by administrative fiat, tend to turn to litigation as an effective political instrument of fiscal restraint. The court process in the case is turned in that regard, unwillingly, into a tool for accomplishing unconstitutional ends behind the false pretences of the legal formality veil.<sup>44</sup>

The manipulation of the judiciary allows governments to exert indirect control over LG funds, which may need to be distributed directly. The judiciary should therefore be on its guard to make sure it is not a silent partner in the loss of independence of the local government. Other than the legal consequences, restricting LGAs

from tapping into their financial lifelines directly cripples the governance at the grass-roots level and prevents the delivery of the much-needed social services.<sup>45</sup>

The local governments have to take care of such vital areas as primary healthcare, rural infrastructure, sanitation, and local market management. Such freezing of these funds is a punishment to the citizens since it stalls developmental projects and the provision of basic services based on institutional or political differences between the levels of government. As observed in the spirit of *AG Ondo State v AG Ekiti State*,<sup>46</sup> the court should not engage in acts that create disequilibrium in the constitution or excessive centralisation of powers in the hands of the states. Although the courts have their inherent powers to keep the *res* of a suit preserved, they should not do so in a way that will kill the working capacity of a government that is constitutionally established.<sup>47</sup>

#### 4.2 Fiscal Federalism and Institutional Competence

The federal system of government in Nigeria is aimed at distributing governmental power among three different levels to guarantee the equality of development and administration.<sup>48</sup> Local governments, although they are not federated entities in the traditional meaning of that term relative to states, are price-inscribed in the constitution and practically irreplaceable by the Nigerian polity. They exist because the

<sup>41</sup> See section 1 (3) CFRN 1999 (as altered).

<sup>42</sup> *Okumagba v Egbe* (1965) 1 All NLR 62.

<sup>43</sup> AM Kucici and HA Buratai, 'ASSESSING THE ROLE OF LOCAL GOVERNMENT AUTONOMY IN NIGERIA'S FEDERAL SYSTEM: CHALLENGES AND PROSPECT', [https://www.researchgate.net/publication/390916013\\_AS\\_SESSING\\_THE\\_ROLE\\_OF\\_LOCAL\\_GOVERNMENT\\_AUTONOMY\\_IN\\_NIGERIA'S\\_FEDERAL\\_SYSTEM\\_CHALLENGES\\_AND\\_PROSPECT](https://www.researchgate.net/publication/390916013_AS_SESSING_THE_ROLE_OF_LOCAL_GOVERNMENT_AUTONOMY_IN_NIGERIA'S_FEDERAL_SYSTEM_CHALLENGES_AND_PROSPECT) accessed 5th February 2026.

<sup>44</sup> E. Ikhilae, 'S'Court to FG: Implement Judgment on Direct Allocations to LGs', (The Nation, 6<sup>th</sup> of December 2025), <https://thenationonlineng.net/scourt-to-fg-implement-judgment-on-direct-allocations-to-lgs/> accessed 6<sup>th</sup> February 2026.

<sup>45</sup> CA Igwe and BO Igwenyi, 'Protecting Judicial Independence, Autonomy and Accountability in the States

of the Federation', *Redeemer's University Nigeria Journal of Jurisprudence & International Law* (RUNJIL), Vol. 3 (1) 2023, pp. 142-159, <https://www.runlawjournals.com/index.php/runjil/article/view/56> accessed 6th February 2026.

<sup>46</sup> (2001) LPELR-622 (SC).

<sup>47</sup> NJ Udombana, 'Restoring Public Confidence in the Nigerian Judiciary', [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3745022](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3745022) accessed 6<sup>th</sup> February 2026.

<sup>48</sup> CC Egugbo, 'Federalism and the Agitation for Restructuring in Nigeria', *AKSU Journal of Administration and Corporate Governance*, Volume 5, Issue 5, 2025, pp. 41-50, [https://aksujacog.org.ng/articles/25/11/federalism-and-the-agitation-for-restructuring-in-nigeria/aksujacog\\_05\\_05\\_03.pdf](https://aksujacog.org.ng/articles/25/11/federalism-and-the-agitation-for-restructuring-in-nigeria/aksujacog_05_05_03.pdf) 6<sup>th</sup> February 2026.



supreme law of the land dictates this, putting them as an essential stratum of democratic government and not a matter of administrative outposts.<sup>49</sup> Such a legal arrangement or judicial application should, therefore, provide them with special status as a secured part of the federal edifice.

Fiscal federalism principles dictate that every level of the government has enough financial capability and autonomy to execute its constitutional roles. Local Government Area (LGA) funds that are restrained by orders of State High Courts are effectively derailing the fiscal balance that the Constitution was supposed to achieve and transforming the independent into state dependents.<sup>50</sup> This economic suffocation makes local councils unable to perform their mandate to the grassroots, thus compromising the decentralisation of the Nigerian state. After all, a government without a reliable and predictable stream of revenues will be incapable of achieving its democratic mandate as well as ensuring the integrity of its institutions.<sup>51</sup>

The institutional competence is also very significant in ensuring the separation of powers in the federal structure. Although courts have the constitutional right to hear matters of legal rights, they are not a regulatory body of the administration and management of budgets and fiscal activities of the populace.<sup>52</sup> By intriguing the courts into deciding whether an LGA has access to its statutory funding, and how, the courts informally take on the roles of the executive that are not within its historical jurisdiction. Such confusion of functions contravenes the doctrine of separation of powers since the judiciary is not supposed to be used to

<sup>49</sup> See *AG Abia State v AG Federation* (2002) 6 NWLR (Pt. 763) 264.

<sup>50</sup> See *AG Lagos State v AG Federation* (2004) 18 NWLR (Pt. 904) 1.

<sup>51</sup> See ODM Domitilla et al, (n22) *supra*.

<sup>52</sup> See Section 6 (6)(b) of the CFRN 1999 (as altered).

<sup>53</sup> See *AG Bendel State v AG Federation* (1981) 10 SC 1, where the Supreme Court held that the judiciary's role is to ensure the *validity* of fiscal laws, but not to perform the administrative task of distributing funds.

<sup>54</sup> See Constitution of India, Part IX (The Panchayats) & Article 243-H, which is similar to Nigeria's Section 7. India's 73rd and 74th Amendments constitutionalised local governments. Indian courts have historically held that the

administer the day-to-day financial running of a level of government.<sup>53</sup>

### 4.3 Comparative Insight and Policy Implications

Local government finance in other well-established federations is normally safeguarded by unwarranted intervention by the judicial system to maintain continuity of governance at the ground level.<sup>54</sup> The jurisdictions of these courts have not been keen on freezing constitutionally guaranteed transfers because they know that such extreme actions may result in an overall collapse of the delivery of public services.<sup>55</sup> The courts are not applied as a means to control, but to deal with cases of established illegality or corruption. This is a best practice that is practised globally and focuses on the need to have fiscal stability as a precondition for the existence of any decentralised political system.

In the Nigerian context, a mixture of feeble autonomy and politicised litigation has encouraged a broad routine of interlocutory orders against local councils. The result of such a trend in the courts has been a culture of financial restraint orders as a commonplace way of crippling local institutions and halting their statutory business.<sup>56</sup> Because the third tier is most of the time forced into a state-initiated litigation process by the actors in control, the court process is often the stage of political subordination. This is a deviant practice that is a stark contrast to the constitutional protection of the finances of the local government, which is meant to be and weakens the rule of law.

flow of funds to these bodies is a "governance necessity." The courts rarely grant injunctions that freeze the accounts of Panchayats (local councils) because the "continuity of governance" is viewed as a superior public interest.

<sup>55</sup> *Ibid.*

<sup>56</sup> C. Jude, 'Local government financial autonomy in Nigeria: The State Joint Local Government Account', *Commonwealth Journal of Local Governance*, Issue 6, 2010,

[https://www.researchgate.net/publication/276395721\\_Loc al\\_government\\_financial\\_autonomy\\_in\\_Nigeria\\_The\\_ Sta te\\_Joint\\_Local\\_Government\\_Account](https://www.researchgate.net/publication/276395721_Loc al_government_financial_autonomy_in_Nigeria_The_ Sta te_Joint_Local_Government_Account) accessed 6th February 2026.



The policy implication of such a trend is obvious: it is the constitutional changes that will not be good enough to achieve real local government autonomy unless a serious change in the judicial culture occurs. Unless the court internalises the developmental role of the local governments, changes to the methods of funding will be circumvented by establishing legislative changes under the guise of ingenious legal workmanship. The judges need to be purposive when interpreting the constitution and ensuring that they promote the functional independence of councils rather than technical procedural arguments.<sup>57</sup>

## 5. Conclusion

The recent Supreme Court ruling *AG Federation v AG Abia State & 35 Ors.*<sup>58</sup> has fundamentally rebalanced the legal environment of Nigerian federalism by destroying financial frameworks that put local governments in a state of constant subservience. This observation has proven that, as much as State High Courts have original jurisdiction under Section 272 of the Constitution, it is not a blank check to cut the fiscal lifeline of the third level of government.

The custom of interlocutory injunction to freeze council accounts or bar access to statutory allocations is a subversion of the mandate of the apex court of the first order and a blatant threat to the delivery of the necessary services at the grassroots level. To propel the principle of local government autonomy from a judicial statement to an effective fact, the lower courts need to change into being not only the place of probable executive intrusion but also the supreme protector of decentralisation. Finally, the Nigerian federation can be stabilised only on a judicial philosophy that does not place its emphasis on procedural gambits more than on constitutional entitlements, so that no judicial decree can serve as a kind of a backdoor through which fiscal autonomy can be undermined.

### 5.1 Recommendations

In a bid to make sure that the spirit of the historic ruling of the Supreme Court is never lost and that

the jurisdictional limits of State High Courts are well demarcated, the following reforms are advisable:

#### 5.1.1 Amendment of Section 162 in the Constitution

The National Assembly ought to end the current constitutional provision to clearly direct that funds be directly disbursed to Local Government Areas. This reform should eliminate the obscurity of the State-Local Government Joint Account to make sure that it is not used as a legal pretence to manipulate or freeze at the state level.

#### 5.1.2 NJC Practice Directions on Fiscal Restraint

The National Judicial Council (NJC) is advised to issue immediate practice directions to all Heads of Courts, asking State High Court judges to exercise utter caution when receiving ex parte or interlocutory applications that seek to restrain LGA funds. Orders of the kind can only be awarded in extraordinary situations when the *res* of the suit can be secured without bringing the whole administrative power of the local authority to a standstill.

#### 5.1.3 Change in Doctrine to Protect Financial Rights

The Nigerian judiciary ought to come up with strong jurisprudence that embraces statutory allocations as constitutionally guaranteed financial rights and not administrative gifts. By enhancing the rank of these funds, the courts will put in place a greater burden of evidence for any litigant who wishes to break the stream of revenue to the third level of government.

#### 5.1.4 Professional Protection

The local government should pass a law to protect local government allocations, which should enact a Local Government Fiscal Protection Act to offer legislative immunity to some percentage of local government allocations. This would guarantee that, amidst the intensity of the litigation process, there would be at least a minimum amount of funds available

<sup>57</sup> See *Nafiu Rabiu v The State* (1980) 8-11 SC 130.

<sup>58</sup> See (n25) *supra*.



to the councils to facilitate the complete closure of primary healthcare and rural infrastructure.

### 5.1.5 Institutionalised Judicial Education

The National Judicial Institute (NJI) ought to institutionalise expert training of the High Court judges on the developmental function of the local governments in a federalist system. Such education will assist in creating a culture of judges who understand the socioeconomic impact of freezing council accounts to promote a judicial culture in which grassroots stability is

considered equally important as procedural justice.

### 5.1.6 Faster Hearing of Local Government Litigation

The courts, in any case where the issue of local government finances is an issue, should be required to have an expedited hearing schedule. This eliminates the recent tendency of having interlocutory injunctions stay in place for years, virtually killing the constitutional autonomy of the council by judicial procrastination.

