



An Examination of Property Tax within the Context of Fiscal Federalism in Nigeria

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Abstract. This study critically examined the role of property tax in local government revenue generation and governance in Nigeria, particularly within the fiscal federalism framework. It highlighted the constitutional principles and challenges associated with property taxation, emphasizing the dichotomy between the constitutional empowerment of states to impose property tax and the delegated responsibility for assessment and collection to Local Government Councils (LGC). In this regard, the study adopted a doctrinal method of study, and descriptive and analytical methods were adopted in analyzing primary and secondary sources of material. The study identified the following challenges: centralization at the state level, the absence of a comprehensive database, tax evasion, legal exemptions, skill shortages, lack of political will, and corruption as major challenges of property tax and fiscal federalism in Nigeria. The study therefore concludes and recommends that there is a need for a recalibration within the federalist spirit, urging states to relinquish the unconstitutional centralization of property tax functions and empowering local governments for independent assessment and collection. Furthermore, the study also recommended the empowerment and support of local governments to independently execute these functions, thereby enabling them to generate revenue and effectively fulfill their constitutional obligations.

Keywords: Property Tax, Federalism, Fiscal Federalism, Local Governance, Revenue Generation.

1. Introduction

In the intricate tapestry of Nigeria's fiscal landscape, the nexus between property tax and fiscal federalism principles emerges as a compelling subject for legal scrutiny. As the nation grapples with the challenges of economic diversification (Usman, 2022, p.312), regional development, and the quest for sustainable revenue generation (Amasike, 2016), the role and impact of property taxation demand meticulous examination. As a foundational concept in Nigeria's constitutional order, fiscal federalism envisages a harmonious distribution of fiscal powers and responsibilities between the federal, state, and local governments (Ozo-Eson, 2005). Within this framework, property tax assumes a pivotal role, standing at the crossroads of revenue generation and decentralized governance. Against the backdrop of a diverse and dynamic nation, characterized by economic disparities among regions, the implementation and impact of property taxation acquire a nuanced legal significance.

As Nigeria's legal system grapples with the imperatives of decentralization and regional autonomy, the legal contours of property tax jurisdiction become subjects of both academic inquiry and practical import (Aidonojie et al., 2024; Aidonojie, 2024). The constitutional provisions delineating the powers of state and local government concerning property taxation demand meticulous analysis, offering insights into the delicate equilibrium envisioned by the framers of the 1999 Constitution as seen in Section 7(1); Second Schedule, Part II, Paragraph 9; Fourth Schedule, Paragraph 7(1)(j)

where the Legislative and administration powers are different.

Concerning the above, the study will delve into judicial cases that have significantly influenced the legal discourse surrounding property taxation and fiscal federalism in Nigeria. Through an examination of judicial decisions, the paper seeks to distill legal principles governing property tax in Nigeria, contributing to a broader understanding of fiscal federalism within the legal framework. Recognizing the dynamic interplay between property tax and broader issues of economic development, regional autonomy, and sustainable fiscal practices, this paper aims to transcend mere legal doctrine and impact the broader socio-economic landscape. Furthermore, the paper concludes with a discussion of the challenges confronting property tax administration, providing a platform to proffer practical solutions and reforms. By addressing these challenges, the paper aspires to contribute meaningfully to the ongoing discourse on the harmonization of fiscal powers within Nigeria's federal structure, fostering a more equitable and efficient system for property tax administration.

2. Constitutional and Legislative Power to Impose Property Taxation

Section 4(7) of the CFRN (1999), confers authority upon the State House of Assembly to enact laws aimed at ensuring peace, order, and good governance within the State. This authority extends to matters not explicitly covered in the Exclusive Legislative List outlined in part I of the Second Schedule, matters within the Concurrent List, and any other subject empowered by the Constitution for legislative action (Aidonojie et al., 2024; Mutawalli et al., 2024). A review of the Exclusive and Concurrent Legislative lists, makes it evident that property tax does not find explicit mention as a subject for exclusive or concurrent legislation by the National Assembly as provided in the Second Schedule, part I and II. Notably, the only tax-related matters included in the legislative lists pertain to stamp duties, taxation of incomes, profits, and capital gains. Given that property tax falls outside this purview, it resides outside the scope of the National Assembly's jurisdiction and falls within the scope of the State legislative house as a residual matter, as provided for by section 4 (7a) CFRN, (1999).

Furthermore, the Constitution in section 7(1), confers authority upon the State House of Assembly to legislate on the establishment, structure, composition, finance, and functions of the Local Government Council. This legislative power extends to the

formulation of laws governing the collection of taxes, fees, or rates, as well as the administration of laws facilitating such collections by the Councils. The CFRN (1999), in Paragraph 9, Part II of the Second Schedule, explicitly states that: "A House of Assembly may, subject to such conditions as it may prescribe, make provisions for the collection of any tax, fee or rate or for the administration of the law providing for such collection by a local government council."

Additionally, Paragraph 7(1)(j) of the Fourth Schedule of the CFRN (1999), also provides that: "The main functions of the local government council are as follows: ... (j) assessment of privately owned houses or tenements for the purpose of levying such rates as may be prescribed by the House of Assembly of a State." An illustrative example of the exercise of this constitutional power is observed in the actions of the Lagos State House of Assembly. In 2001, the Assembly enacted the Land Use Charge Law (2001), imposing land use charges on all real properties within Lagos State. This law has now been repealed by the LUC Law (2018), with exemptions specified in section 12(1). The LUCL (2018) in section 2(1) and (2), designates each local government area in the State as the collecting authority, exclusively empowered to levy and collect tenement rates within its jurisdiction.

The implication is that the constitutional framework delineates the legislative authority for property tax, placing It within the jurisdiction of State Houses of Assembly and Local Government Councils. Hence, in the case of *AFDIN Ventures Ltd & 2 Ors. V. Chairman Abuja Municipal Area Council & 1 Or.* (2017), the plaintiff argued that paragraph (1)(j) of the Fourth Schedule of the Constitution (CFRN, 1999), should not be accorded constitutional effect until the relevant State House of Assembly enacts an enabling law. The plaintiff contended that paragraph (1)(j) is not self-executing and necessitates authorization or activation by the relevant State House of Assembly. In essence, the argument suggested that a local government council cannot assess and collect property tax unless the relevant State legislature has passed a law authorizing such action. This underscores the significance of an enabling law from the State legislature to empower local government councils to assess and collect property tax.

3. Relevant Legal Legislations

In Nigeria, the legislative landscape governing property tax is primarily shaped by the Land Use Act (1978) and the Land Use Charge Laws enacted by individual states. The Land Use Act, a pivotal legislation born out of a military regime, holds

significant sway over land tenure and property rights across the nation. Under this act, section (1) provides that all lands within a state's territory (Aidonjio et al., 2023; Imoisi and Aidonjio, 2023), except those expressly vested in the federal government, are exclusively vested in the state governor. The Land Use and Allocation Committee, established under section 2(2) Land Use Act (1978), plays a crucial role in allocating land within the state and determining the applicable ground rent.

Crucially, each state in Nigeria possesses the autonomy to enact its land-related laws, including those governing land use and taxation under Section 7(1); Paragraph 9, Part II of the Second Schedule (CFRN, 1999). While the Land Use Act of 1978 sets a federal framework, individual states can tailor their legislation to suit their specific needs and circumstances (Gunawan et al., 2023; Aidonjio, 2023). This interplay allows for a dynamic relationship between federal law and state-specific land use laws. Consequently, several states, recognizing this autonomy, have introduced Land Use Charge Laws as a property tax.

Among the states, Lagos stands out with its Land Use Charge Law (2018), a specific and noteworthy piece of legislation. This law, enacted by the Lagos State government, plays a pivotal role in regulating property tax within the state. In examining the legislative landscape influencing property tax in Nigeria, it becomes imperative to delve into the nuances of the Land Use Charge Law, particularly in Lagos.

However, the Land Use Charge Law in the different states of Nigeria are significant legal instrument that governs the imposition and collection of charges on the use of land and property within the country. The legislation typically applies at the state level, with individual states enacting their Land Use Charge Laws to address local peculiarities and administrative nuances. This Land Use Charge Law, serves as frameworks for the assessment and collection of charges on real estate in the different States. These laws empower the State government to levy charges on property owners based on the market value of their land and improvements, taking into consideration factors such as location, size, and permitted land use as seen in section 10 of Lagos Land Use Charge Law (2018).

According to Oyedele (2018), the primary objective of Land Use Charge Laws is revenue generation for state governments. The collected charges contribute to funding initiatives focused on enhancing public services and infrastructure development, thereby

elevating the overall living standards of residents. Furthermore, the law typically outlines mechanisms for assessment, payment, and dispute resolution to ensure transparency and accountability in the implementation of the land use charge system. Overall, the Land Use Charge Law represents a crucial aspect of fiscal policy at the state level, playing a pivotal role in sustainable urban development and resource mobilization at the local government. An example is the Lagos State Land Use Charge Law (2018), which serves as a comprehensive framework for the assessment and collection of charges on real estate in Lagos State. This Lagos LUCL (2018) shall be further considered.

The tenement rate did not achieve success in most local governments in Nigeria due to several factors including a lack of effective policy, and legal and administrative machinery (Ilobinso, 2018). In its determination to strengthen its revenue base, the Lagos state government introduced the Land Use Charge Law (2001) which consolidated the Land Rates Law (1994), the Neighborhood Improvement Charge Law (1994), and the Tenement Rate Law (1994) to form a new land-based charge, to be called Land Use Charge Law (2001). However, the Land Use Charge Law (2001) has been repealed and replaced with the Land Use Charge Law (2018).

The main goal, as stated by the Lagos State Government, is to generate additional revenue essential for the development of the state, in response to its rapidly growing population, without any corresponding increase or improvement in its physical and social infrastructure (Lagos State Government Ministry of Finance, 2016). Furthermore, they stated that the Lagos Land Use Charge Law (2018) aims to streamline the tax landscape by serving as a single property charge, replacing all other State and Local Government taxes on real property. Section 2 (1) LUCL (2018) provides that it was intended to levy a land-based charge on all real properties in Lagos.

However, crucially, the scope of the LUCL (2018) as provided in Section 12, does not encompass all properties in Lagos State. Exemptions are granted to government-owned properties and those used for public, religious, and charitable activities. However, it further provides that the exemption is subject to the submission of an exemption application to the Commissioner for Finance, Lagos State. This nuanced approach ensures that the LUCL (2018) aligns with the broader objectives of revenue generation while accommodating specific exemptions based on the nature and purpose of properties within the state.

4. Property Tax and Fiscal Federalism

According to Dang (2013), fiscal federalism, as a concept, delineates the intricate relationship between revenue generation and expenditure control among the various tiers of government within a nation, encompassing the national government, state government, and local government. At its core, fiscal federalism accentuates the nuanced processes by which revenues are garnered and then allocated to different government echelons for development (Dang, 2013). Nyong (1999), highlights that fiscal federalism, within the context of a federation, is inherently concerned with distributing national resources, delegating functions, and apportioning tax powers to constituent units.

In the Nigerian context, section 7(1) of the constitution (CFRN, 1999), positions local governments as the third tier of government, entrusted with the mandate to provide public goods and services whose impact is localized. Therefore, local government councils in Nigeria play a distinctive role as agents of grassroots mobilization and governance participation, serving as catalysts for rural transformation and development. Notably, the constitutional framework in Paragraph 9, Part II of the Second Schedule and Paragraph 7(1)(j) of the Fourth Schedule (CFRN, 1999), designates the legislative jurisdiction of property tax to state governments, while the administrative jurisdiction is vested in local governments.

The rationale behind conferring the administrative jurisdiction to levy property tax on local governments lies in its potential to empower them financially for the effective execution of their responsibilities. Property tax, within this framework, is envisioned as a viable means for local governments to generate internal revenue, thereby mitigating over-dependence on financial allocations from state and federal governments. This underscores a crucial aspect of fiscal federalism, where local autonomy in revenue generation becomes instrumental in fostering self-sufficiency and sustainability at the grassroots level.

However, Nigeria's fiscal federalism still grapples with significant challenges, particularly in the local governments where their revenue-raising power faces a myriad of challenges (Coker et al., 2015). Local governments consistently voice concerns about the inadequacy of their resource base in comparison to their fiscal responsibilities. While considerable attention has been given to discussions on intergovernmental fiscal relations and the imperative for enhanced allocations to local governments from the Federation Account (Shiyanbade, 2017), little

regard is paid to the persistent inability of local governments to leverage their available tax resource base. The Local governments must break free from the perpetual dependence on federal allocations and bailouts.

Taxation emerges as a linchpin for the economic wellbeing of local governments and their constituents, an aspect often underestimated. (Compaoré, et al., 2020) emphasizes the pivotal role of tax revenue as a promising, long-term source of funds for development, presenting a politically attractive avenue for addressing revenue shortfalls. The infusion of tax revenue plays a crucial role in alleviating the fiscal challenges faced by local governments. In this context, the significance of property tax cannot be overstated in the pursuit of fiscal autonomy for local governments.

Given these considerations, local governments must proactively establish effective tax administration mechanisms to harness the latent potential within property tax. This strategic approach becomes paramount in their pursuit of an expanded revenue base and fiscal independence, steering away from dependence on oil-related revenues (Aidonojie et al., 2022; Aidonojie et al., 2022; Majekudumi et al., 2022). By embracing property tax as a potent revenue generator, local governments can chart a course toward increased financial self-sufficiency, thereby enhancing their ability to meet diverse fiscal obligations and contribute meaningfully to the developmental trajectory of the nation (Awasthi, et al., 2020).

Therefore, Property tax plays a pivotal role in decentralization by strengthening the autonomy of local government by serving as a primary revenue source. It grants local governments the authority and opportunity to generate funds independently and allocate them within their legal boundaries (Oladele et al., 2022; Aidonojie et al., 2021; Aidonojie et al., 2020). However, practical autonomy is often limited due to the need for central government grants to fulfill local duties, which compromises independence. Nevertheless, enhancing self-sufficiency by empowering local governments with greater revenue-raising capabilities through property taxes is essential. This shift would promote financial autonomy, enabling local authorities to fulfill their responsibilities more independently and contribute significantly to local development.

5. The Contending issue in Property Tax and fiscal federalism

The central point in the realm of property tax and fiscal federalism in Nigeria revolves around its potential to bolster local government fiscal autonomy. An emerging issue, however, is the centralization of property tax systems by various state governments as seen in section 2(3) LUCL (2018). This entails consolidating the collection and assessment functions at the state level, sidelining the roles of individual Local Government (LGs). Despite legal frameworks designating LGs as the exclusive entities empowered to levy and collect property tax under section 2(3) of the LUCL (2018), similar provisions in other states such as Enugu and Edo allow LGs to choose the state government as their agent for assessment and collection. This provision contradicts the fiscal autonomy principles outlined in the fourth schedule of the Constitution (CFRN, 1999), thereby eroding the intended independence of LGs.

As a result of this centralization, there is a challenge to the envisioned decentralization of fiscal powers, raising concerns about the genuine exercise of local government autonomy in property tax administration. This underscores the need for a careful examination of the interplay between property tax, fiscal autonomy, and the broader principles of federalism in Nigeria.

6. Does it matter which level of government collects Property tax?

The determination of the entity responsible for collecting property tax in Nigeria holds significant constitutional implications, particularly within the context of fiscal federalism in our federated constitutional structure. In such a system, each tier of government must operate within the boundaries of its prescribed powers and functions. In the case of *AGF v AG Lagos* (2010), the Supreme Court ruled that any actions exceeding specific limits are considered ultra vires, leading to their nullification. The case of *AGF v Abubakar* (2007) emphasized the paramount importance of this issue in a democratic society governed by a written constitution, where any deviation from constitutional provisions, regardless of good intentions, cannot be accepted. Furthermore, in the case of *Bamidele & ors. v. Commissioner for Local Government and Community Development* (1994), the court held that allowing such transgressions to go unchallenged sets a dangerous precedent, creating fertile ground for more severe constitutional violations.

Therefore, unchecked constitutional breaches pose a direct threat to the relevance of the Constitution,

potentially leading to a shift towards authoritarianism. This negative trend occurs when legal and constitutional norms are disregarded and allowed to persist without challenge. Therefore, the examination of the appropriate level of government responsible for property tax collection goes beyond procedural considerations; it acts as a safeguard against the erosion of constitutional principles and the potential weakening of the federal structure. It emphasizes the crucial role of upholding legal frameworks to prevent any deviation from the democratic ideals upon which Nigerian society is firmly grounded.

In essence, determining the jurisdiction for property tax collection is not just an administrative or procedural exercise; it is a safeguard against the erosion of constitutional principles and a defense against potential deviations from the democratic foundations on which our society is built. This underscores the critical importance of upholding legal frameworks and constitutional provisions to maintain the integrity of our federal structure and prevent any dilution of the democratic ideals that form the bedrock of Nigerian governance.

7. Argument in favour and against delegation of Property Tax

The argument stems from the delegation-friendly approach outlined in Section 1(3) LUCL (2018), where conditions for local government authorities to collect LUC can be set. Section 1(3) of the LUCL (2018) specifically allows local government authorities to delegate their collection functions. Advocates for the delegation of property tax highlight the constitutional support provided in Item 9, Part B of the Second Schedule (CFRN, 1999). Osibajo (2003) argued that this provision empowers the House of Assembly to enact laws imposing taxes within the state, subject to conditions it may prescribe. Furthermore, Osibajo (2003) argues that Section 1(3) of the LUCL (2001) is harmless, merely providing statutory authorization for local government authorities to delegate as they see fit. This delegation, they contend, is a flexible arrangement, allowing for revocation at any time (Osibajo, 2003). He argued that the envisioned result is a mutually beneficial scenario, to ensure the fulfillment of constitutional purposes while optimizing operational efficiency and cost-effectiveness (Osibajo, 2003). This argument positions delegation as a pragmatic approach, aligning with constitutional provisions and fostering a system that achieves its objectives without unnecessary impediments.

The argument against the delegation of property tax posits a critical examination of a notable omission regarding sections 1(3) and 7(5) CFRN (1999) that would have provided clarity on the legal stance. It is submitted that the delegation authorized by section 1(3) of the LUCL (2018) contradicts the explicit provisions of section 7(5) of the CFRN (1999), rendering it null and void to the extent of the inconsistency as stipulated in section 1(3) of the CFRN (1999)

While acknowledging the authority granted to the House of Assembly to legislate on tax collection in Item 9, Part B of the Second Schedule, CFRN (1999), it is contended that this power does not extend to prescribing conditions in conflict with express constitutional provisions. It is emphasized that unchecked power granted to the House of Assembly in condition-setting for tax collection could lead to limitless authority, a scenario incompatible with the constitutional framework. Section 1(1) CFRN (1999) underscores the supremacy of the Constitution, asserting that any law inconsistent with constitutional provisions shall be null and void to the extent of its inconsistency as provided in Section 1(3) CFRN (1999). An explicit limitation on the power of the House of Assembly in this context is evident in the combination of section 7(5) and Paragraph 1(j) of the Fourth Schedule of the CFRN (1999). These provisions stipulate that the functions conferred by law (by the House of Assembly) must align with those outlined in the Fourth Schedule to the Constitution. Specifically, Paragraph 1(j) of the Fourth Schedule outlines the main functions of a local government council, which include "assessment of privately owned houses or tenements for the purpose of levying such rates as may be prescribed by the House of Assembly."

This infers that the main functions of a local government council, include the assessment of privately-owned houses to levy prescribed rates by the House of Assembly. A community reading of these provisions makes it evident that the Constitution mandates states to confer specific functions, such as the assessment of tenements, on local governments, without granting discretionary power to prescribe conditions that undermine this purpose. The implication of section 1(3) of the LUCL (2018) thus attempts to circumvent the constitutional provisions by allowing the delegation of property tax through the back door. This is perceived as an encroachment on the constitutional mandate, raising concerns about the potential erosion of the constitutional framework in favor of delegated powers that could compromise the intended functions of local governments. This

argument is in line with the statement of Uwaifo (JCA) in the case of *Bamidele & ors. v. Commissioner for Local Government and Community Development* (1994). Here, Uwaifo asserts that it would be unconstitutional for any entity other than the Local Government to exercise functions assigned to it by law and that the Local Government possesses an inherent duty to perform these functions, either directly or through lawful delegation, with an explicit emphasis that it cannot be deprived of or surrender these duties. The essence of this statement lies in the unequivocal assertion that local governments are safeguarded from deprivation or relinquishment of their functions outlined in the Fourth Schedule. Moreover, as explained by Sanni (2003), the qualifier "by lawful delegation" implies that local governments have the authority to delegate the performance of their functions to agencies, officials, private agents, or contractors. Notably, this delegation is logically interpreted as flowing from a higher authority to a lower one, reinforcing the autonomy and hierarchical structure (Sanni, 2003). The contextual interpretation of Uwaifo's statement is essential in the case of *Bamidele & ors. v. Commissioner for Local Government and Community Development* (1994). Here, the Lagos State Government sought to regulate the day-to-day operations of the Alayabiagba Market within the Lagos Island Local Government, prompting the Court of Appeal to declare the action unconstitutional. This underscores the specific context within which the statement was made – addressing an attempt by a higher level of government to intervene in the affairs of a local government. Therefore, the logical inference is that lawful delegation pertains to entities or agents within the purview of the local government, excluding higher levels of government such as the State and Federal Governments. The overarching principle is the preservation of local government autonomy and the constitutional integrity of its functions.

The Court of Appeal declared the action as unconstitutional and held, inter alia: "By the Local Government Edict No. 16 of 1976 of Lagos State Section 63(a) thereof, Local Governments were given exclusive responsibility and power to make bye-laws for markets and motor vehicle Section 7(5) of the 1979 Constitution provides for the functions Local Government Council in the 4th Schedule of the Constitution, among which as stated in paragraph 1(e) thereof, is the establishment, maintenance and regulation of markets, motor parks and public toilets. It will be unconstitutional for any person or authority to purport to exercise that function on the state of the Law. The function has been given to the Local Government. It has the duty to perform it. It may do so

directly or by lawful delegation. It cannot be deprived of it nor can it surrender it. Any person who shows sufficient interest can take action to ensure that only the local government and no other continues to do or take responsibility for that duty” (*Bamidele & ors.*, 1994, p. 220).

The Supreme Court has consistently defended the exclusive jurisdiction of local governments, as exemplified in *Knight, Frank and Rutley (Nig.) Ltd. v Attorney-General of Kano State* (1990). In this instance, the Kano State Government engaged the estate valuation firm of the appellants to assess the ratable value of private residences in the State for tenement rates, without recognizing that, under the 1979 Constitution and Kano State Local Government Edict No.5 (1977), only local governments held the power to levy such rates. As a consequence, after the appellants had initiated the survey and assessment, receiving an initial payment of N100,000, the Respondent identified the legal error and repudiated the contract. Despite contesting the matter in the High Court, the appellants faced successive defeats at the Court of Appeal and ultimately at the Supreme Court, which declared the contract void. Mohammed J.C.A.(as he then was) emphasized in the lead judgment that when state legislation designates the local government as the entity responsible for valuing tenement rates, only the Local Government Council possesses the authority to address the subject matter. The crucial assertion was that the State lacks the power to intervene in this area, and even if the Local Government Council desires to do so, it cannot divest itself of these constitutionally conferred powers. The voluntariness of a local government's acceptance of the delegation becomes immaterial in light of this constitutional constraint.

Also, in *Grinaker v. Attorney General of Rivers State* (2010), the court deemed the Rivers State Property Tax null and void. It held that a state law granting the state authority over functions reserved for local governments conflicted with the constitution, deeming it unconstitutional to strip local governments of their constitutionally recognized functions. In essence, all these collectively establish a formidable precedent, safeguarding the constitutional autonomy of local governments in matters of fiscal jurisdiction. These rulings affirm that the constitutional assignment of specific functions to local governments cannot be circumvented, ensuring the preservation of their exclusive authority over tenement rates and preventing any unwarranted encroachments by higher levels of government to enable their fiscal autonomy.

8. Challenges in Property Taxation in Nigeria

The challenges confronting property taxation in Nigeria are multifaceted, encompassing a range of issues that impede the effective implementation of the Land Use Charge Law (LUCL) or property tax at the local government level. These challenges include the absence of a comprehensive database, widespread tax evasion and avoidance, centralization of the tax system at the state government level, numerous legal exemptions, a dearth of specialized skills such as qualified valuers, a lack of political will, complex tax rates, as well as instances of bribery and corruption involving both taxpayers and tax collectors (Massajuwa and Aidonojie, 2020; Imoisi, 2023). The primary challenge arises from the dearth of a comprehensive database containing information on taxable properties. Data collation and storage present significant hurdles to efficient tax administration across Nigeria's component states. While the law empowers taxing authorities to acquire information for tax administration purposes, the lack of readily available data hampers the effective execution of this mandate.

The Nigerian Supreme Court, in the case of *Attorney General Ogun State v. Aberuagba*, (1985), identified this absence as the crux of taxation challenges in Nigeria. Justice Bello, J.S.C. (as he then was) held that: “In developed countries where retail trade is carried on in departmental stores, supermarkets, drug stores and shops where all sales are accounted for and the business address registered, it is convenient and safe for any government to appoint retailers as its agents for the collection of sales tax. Every penny collected will ordinarily reach the government. The position is entirely different in Nigeria. It is a notorious fact that except in few departmental stores, shops and drug-stores where accounts of sales are kept, the bulk of retail trade is carried on by a swarm of amorphous traders in the market places and in their homes, on our streets and highways, under our bridges and trees. They do not keep record or account of their business dealings and they cannot be reached by any Government.” (*Attorney General Ogun State v. Aberuagba*, 1985, p. 427, para. F-H)

Furthermore, tax evasion poses a considerable threat to the effectiveness of property tax in bolstering the fiscal autonomy of Nigeria's component states. Tax evasion, characterized as a deliberate misrepresentation or concealment of a taxpayer's true financial status to reduce tax liability, is viewed as both immoral and illegal. Dishonest tax reporting, false invoicing, and manipulating transaction costs are

common tactics employed in tax evasion (Odenyi, 2011). On the other hand, tax avoidance, while not considered illegal or immoral, involves exploiting legal loopholes to reduce or eliminate tax liability. The English court, in *Ayrshire Pullman Motor Services v. IRS* (1929), affirmed the right of taxpayers to arrange their financial affairs within the bounds of the law to minimize tax liability. The intricate nature of property valuation and charge rates further complicates the landscape. A clearer, more streamlined system would facilitate compliance.

The prevalence of bribery and corruption among taxpayers and tax collectors exacerbates the challenges to the success of property tax in Nigeria, adversely affecting the efficiency of tax administration. Corruption, broadly defined as any reciprocal behavior or transaction where power/office holders initiate inducements to each other for preferential treatment against the principles and interests of specific organizations or public institutions, has far-reaching consequences in the realm of taxation (Aluko, 2002). On the part of the taxpayer, corruption manifests as tax evasion, where individuals either pay lower taxes or evade payment altogether. Simultaneously, tax authorities, influenced by the complexity of tax laws, low salaries, the absence of professional ethics, and a predisposition to corrupt practices, engage in illicit activities to augment their income through their official positions. Exploiting the intricate tax laws, tax authorities may inflate the tax assessment of a taxpayer, often ignorant of tax regulations, compelling the taxpayer to negotiate the assessed tax liability downward. This manipulation creates a façade of collaboration between the tax authority and the taxpayer, fostering an illusion of shared interests (Massajuwa and Aidonjio, 2020). Consequently, the taxpayer, acknowledging this supposed partnership, is coerced into parting with money, and a subsequent review results in a reduced tax liability. Moreover, corrupt collusion between taxpayers and tax collectors allows for the manipulation of assessments, enabling the evasion of appropriate taxes.

This is further complicated by the complexity of tax rates and classifications within property tax laws. Section 10 of the LUCL (2018) stipulates a formula for calculating the annual Land Use Charge while the applicable charge rates are contained in the schedule of the LUCL (2018). Furthermore, discretionary power is granted to the commissioner of finance to determine the annual tax rate subject to the approval of the House, published in the State Gazette and published in at least one newspaper. Therefore, the LUCL (2018) does not explicitly prescribe what the

rates are in Section 10(4). It does not also connect the provision to the schedule where the LUC Annual rates are listed. The ambiguity in the charge rate leaves property owners uncertain about the expected charge for the year. Another prominent challenge is the local government's heavy reliance on federal revenue and funds from the state government, indicating a pervasive lack of commitment to developing an effective tax regime as a viable alternative. Many LGs within the federation struggle to sustain themselves without substantial federal allocations and funds from the state government, raising concerns about the sustainability of their economies and fiscal independence (Coker et al., 2015). LGs must recognize the potential of looking inward, particularly through avenues like property tax, as a means to secure economic sustainability and fiscal autonomy. By enhancing the effective collection of property taxes, local governments can reduce their dependence on monthly allocations, thereby fortifying their financial resilience. Another significant obstacle to the efficient collection and administration of property taxes in Nigeria is the scarcity of qualified valuers, leading to assessment and valuation inconsistencies. The determination of appropriate tax rates often necessitates expert opinion, a resource that is frequently unavailable. The deficiency in skilled personnel significantly impacts the accuracy of collected data. As highlighted by Olusegun (2003), the absence of qualified manpower results in undervaluation, diminishing government revenue, while over-assessment leads to disputes that may impede the timely payment of property taxes. This predicament aligns with the findings of Fjeldstad and Heggstad (2012), who identified the lack of qualified valuers as a hindrance to property tax as a local revenue source in Anglophone Africa, emphasizing the importance of skilled professionals in establishing and maintaining valuation rolls.

The repercussions of relying on non-experts for property value assessments are evident in the arbitrary and exorbitant Land Use Charge. Such discrepancies in valuation contribute to unjust tax burdens on property owners. This issue mirrors the findings of Babawale and Nubi (2011), who exposed administrative challenges in the implementation of the Lagos State LUC, including the imposition of outrageous charges. Dale and McLaughlin (1999), advocate for property taxes to be assessed on a more objective and robust basis to achieve equitable assessment, reinforcing the importance of professionalism in the valuation process. The effective collection and administration of property tax in Nigeria also face a significant challenge stemming from the attitudes of both the taxpayer and the taxing

authority. This challenge is rooted in a prevalent reluctance among taxpayers to fulfill their tax obligations, often citing a lack of knowledge about how the tax funds are utilized by the government. Paradoxically, while individuals protest against tax payments, they still require public facilities and services supplied by the government (Salihu & Bala, 2013). This situation highlights the need for a more serious consideration of tax matters, emphasizing accountability and transparency at both the collection point and in the utilization of tax revenue.

Another significant obstacle to effective property tax collection and administration in Nigeria is the lack of political will. Despite the substantial potential of property tax as a lucrative local revenue source for the government, it is often subject to political interference and corruption. There are numerous exemptions in the law that provide opportunities for manipulation, which can erode the revenue base of the tax. For instance, sections like section 12 of the Lagos LUCL (2018) and section 9 of the Land Use Charge Law in Enugu (2017) reduce the tax base, thereby limiting the effectiveness of property tax as a revenue-generating mechanism. An illustrative example is the exemption of official residences of traditional rulers from Section 12 (f) LUCL (2018), which appears to be against social fairness and equity. The expectation is that both political and traditional leaders should set an example by paying property tax, thereby motivating other property owners to fulfill their tax obligations. Consequently, establishing strong political commitment and providing capacity-building for key political functionaries are imperative for ensuring public credibility in the implementation of property tax (Tomori, undated). The principal challenge is that several state governments have opted to centralize the LUCL, turning the property tax system into a state-level function. This involves delegating the collection and assessment responsibilities of each LG to the state government through written agreements as exemplified in section 1(3) LUCL (2018). While the law explicitly grants LGs the authority to levy and collect the Land Use Charge, it paradoxically allows each LGs to voluntarily designate the State government as its agent for assessment and collection. This dual provision undermines the fiscal autonomy enshrined in the fourth schedule of the CFRN (1999).

Moreover, most states have adopted the LUC model pioneered by Lagos State in light of usurping the fiscal powers of the LGAs, further complicating the landscape (Sanni 2017). This adoption has hampered the intended role of property tax in enhancing the fiscal capacity of local governments. Many state governments persist in actively participating in the

levy, collection, and assessment of property tax, to the detriment of local governments. This departure from the original intent of decentralizing property tax administration impedes the autonomy of LGs and hinders their ability to independently manage fiscal matters, as envisaged by the constitutional framework. The challenges confronting property tax collection and administration in Nigeria encompass a range of interconnected issues. Addressing these challenges requires a comprehensive and integrated approach. It is essential to foster collaboration between local and state governments, taxpayers, and relevant stakeholders, emphasizing the importance of property tax in achieving fiscal autonomy, fairness, and transparency in Nigeria's taxation landscape.

9. Recommendations and Conclusion.

The Constitution of the Federal Republic of Nigeria establishes a federal system of government, wherein local governments are positioned as a third level of government tasked with providing public goods and services with localized benefits and impacts. As the closest tier of government to the people, local government councils play a crucial role in grassroots mobilization, governance participation, and rural transformation. To fulfill their constitutional functions, local governments are granted the authority to raise funds internally, and one such provision is property tax, aligning with the principles of fiscal federalism. Property tax is recognized as one of the most lucrative taxes globally, offering significant revenue potential for local governments. However, the effective administration and collection of property tax require a concerted effort from both the state, which holds legislative power, and the local government, responsible for administrative functions. This collaboration is essential to reduce overdependence on the Federation Account Allocation Committee (FAAC) disbursements.

Identified challenges in property tax administration include a lack of political will, tax avoidance and evasion, insufficient data, corruption in tax administration, complex tax rates, overreliance on federal and state funds, a shortage of qualified valuers, taxpayer and taxing authority attitudes, and centralization of property tax at the state level. These challenges have resulted in paralyzed property tax systems in many local governments, leading to poor revenue generation and dependence on fluctuating federal and state allocations, posing a threat to their survival, especially with the declining income from crude oil. To address these challenges comprehensively, several recommendations are proposed. Firstly, there is a need for substantial

investment in robust data collation and storage systems to enhance property tax administration. Legal loopholes enabling tax avoidance should be closed, and collaboration between state and local government tax authorities must be improved to detect and prevent evasion and avoidance. Also, Corruption within the tax administration system requires attention, necessitating the strengthening of anti-corruption measures, strict penalties for corrupt practices, and comprehensive training and oversight to instill professional ethics and transparency. The complexity of land use charge rates can be mitigated through a transparent and fair review of the formula, potentially shifting to a more straightforward and objective approach. It is recommended that the rates and reliefs should be specified and enumerated in the schedule and the relevant provision should make reference to the schedule. This would enhance clarity for property owners and align with global best standards. Furthermore, the shortage of qualified valuers contributing to assessment inconsistencies calls for deliberate efforts to invest in training and developing skilled personnel in property valuation. Local governments should prioritize investing in qualified valuers and fostering collaborations with relevant professional bodies to ensure the availability of skilled personnel for accurate property assessments. Additionally, legislative reforms would be required to establish standardized and transparent processes for property tax assessments, reducing inconsistencies, under-valuation and disputes thus fostering trust in the system

Addressing the challenge of taxpayer attitudes requires a comprehensive approach that involves fostering awareness about the essential role taxes play in supporting public infrastructure and services. Public campaigns and education initiatives can elucidate the tangible benefits derived from tax contributions, thereby encouraging a sense of responsibility among taxpayers. Additionally, the taxing authority must prioritize transparency in communicating how tax revenues are utilized, instilling confidence in the public that their contributions are allocated for the betterment of society. Interference and corruption in property tax administration necessitate a strong political commitment to property tax. Therefore, to overcome the hindrance posed by the lack of political will, there is a need for legislative reforms that reduce opportunities for political interference and enhance the equity of property tax implementation. Capacity-building programs for political functionaries should emphasize the importance of property tax in local revenue generation and the positive impact it can have on community development. Exemptions, particularly those benefiting political elites and traditional leaders,

should also be reevaluated for fairness and equity in the property tax system. Simultaneously, tax authorities must uphold accountability and transparency in the collection and utilization of tax revenue. The over-reliance of local governments on federal and state funds, rather than developing effective tax regimes, hampers fiscal autonomy. Recognizing property tax as a viable alternative revenue source and investing in its effective collection can shift the mindset, reducing dependency on monthly allocations and ensuring local economic sustainability.

Most importantly, the centralizing of the property tax system at the state level, contradicts constitutional provisions for local government fiscal autonomy. It is advised that the LUCL (2018) and other State land use charge laws with such provisions be amended to ensure that state governments do not usurp the constitutional function of local governments in assessing, levying, and collecting property tax. This would empower local governments to generate income and perform their functions satisfactorily. The policy behind constitutional provisions mandating local governments to assess tenements remains logical. Unless the constitutional framework changes, state governments should enact laws to enhance the fiscal autonomy of local government councils rather than usurping their revenue base.

In conclusion, the challenges in property taxation in Nigeria are intricate but surmountable. Addressing these challenges necessitates coordinated legal reforms, capacity building, and a paradigm shift in property tax administration. Implementation of the proposed recommendations can pave the way for a more effective and equitable property tax system, contributing to the fiscal autonomy and development of local governments in Nigeria.

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