DOI: https://doi.org/10.67203/abulj.2025.z9yedd0s

ISSN: 3043-6958

VOL. 43 (1), 2025: 233 - 249

AHMADU BELLO UNIVERSITY LAW JOURNAL

FACULTY OF LAW

AHMADU BELLO UNIVERSITY, ZARIA - NIGERIA.

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AGF V AG ABIA STATE & 36 ORS (2024): DEMYSTIFYING THE PROS AND PITFALLS OF THE SUPREME COURT DECISION ON LOCAL GOVERNMENT AUTONOMY

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Abstract

The recent decision of the Supreme Court of Nigeria in Attorney General of the Federation v. Attorneys General of Abia State & 36 Others has sparked widespread debate, as it seemingly grants fiscal autonomy to Nigeria's 774 Local Governments, recognizing them as full third-tier governments. This article aims to examine the ruling through two key questions: (1) whether the decision aligns with the Constitution of the Federal Republic of Nigeria, (CFRN) 19999, and (2) whether the Supreme Court acted within the limits of its constitutional authority. While the judgment has been hailed as a victory for local government independence, concerns arise regarding its legal foundation, potential implications on Nigeria's federal structure, and its enforceability. The article highlights both the pros and pitfalls of the decision, offering insights into its long-term impact and recommending strategic steps for policymakers and the judiciary in light of this landmark ruling. Through the doctrinal research methodology the article finds that it is now difficult to predict outcome of cases either by reason of judicial precedence or clear provisions of statutes; the CFRN does not specifically mention LGC as a tier of government; and Section 162(6)&(8) of CFRN provide for State Joint Local Government Account from which amount standing to the credit of the councils are paid into from the federation account. The article made the following recommendations as a result of the findings: the Supreme Court should lead by example by respecting its previous decisions and give ordinary grammatical meanings to provisions of statutes as doing so can render the law predictable. Relevant provisions of the CFRN be amended and LGCs be included as third tiers of government; and Section 162(6) & (8) should be amended by removing the provision for State Joint Local Government Account so that the amount standing to the credit of the councils shall be paid to them directly from the federation account.

Keywords: Supreme Fiscal autonomy, local government, federalism, separation of powers.

1.1 Introduction

Federalism has been a prominent feature of Nigeria's political system since the colonial era.[1] Federalism has to do with the division of governmental powers of a country between a central government and component federating units. It is a system of government in which a country is controlled by two levels of government:[2] a national (or central) government and the federating units within a nation's boundaries, commonly referred to as states. It outlines the division of governmental powers and financial relationships between different governmental levels in a written constitution.[3] Both the national government and the federating units have the power to make laws and have a certain level of autonomy.[4] The division of power is formally established and entrenched in a written constitution that binds all the levels of government, and neither federal nor federating unit can unilaterally alter it.

It must be said that there is no single ideal or one-size-fits-all framework or model of federalism.[5] As a result, the federal setting differs due to distinct political peculiarities rooted in historical paths or economic circumstances in federal countries. Therefore, the federal structure of a country is defined by its unique colonial legacy and historical antecedents, ethnic diversity and political challenges. These local peculiarities dictate certain modifications seen indifferent federal systems, with multi-level power distribution, intergovernmental relations

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[1] Madubuegwu, C.E and Maduekwe, C.A (2022) "Federalism and Power-Sharing in Nigeria: A Theoretical Analysis." *IIJLPSA*, 6(5), p. 14.

[2] Davis, R. and Burnham, D.J (1989) 'The Role of the Federal Judiciary in the Development of Federalism in West Germany and the United States.' [1989], *BCICLR*, 12(1), p. 63.

[3] Othuke, A. A. (2024) "Local Government Autonomy and Federalism in Nigeria: Resolving the Tripartite Power- Sharing Conundrum through the Judiciary" *NAUJILJ* 15 (2) at 190.

[4] *KSIEC v PDP* [2005] 6 NWLR (Pt. 920) 25 at 50.

[5] Anderson, G. (2008) *Federalism: An Introduction,* Oxford University Press, Ontario, p. 2.

and the modalities in which financial resources are allocated.[6]

Generally speaking, federalism is intended to maintain the unity of many ethnic or religious groups inside a state while granting each group some degree of local autonomy.[7] Nigeria is a plural society of over two hundred and fifty (250) ethnic nationalities,[8] further reinforced by a mixture of Christianity, Islam, and other indigenous beliefs. With palpable fears, particularly by the minority groups, that the majority would dominate them, federalism was adopted to grant the various nationalities some degree of autonomy.[9] The adoption of a federal structure was popularly acknowledged as the solution that unites the separate ethnic nationalities within an all-encompassing national system in a way that allows each of the federating entities to maintain its autonomy and development.[10]

However, does the Nigerian version of federalism contemplate three tiers of government or two? In other words, does Nigerian federalism contemplate only the central and state governments? What is the status of local governments? Do they exist as autonomous tiers of governments or they are mere appendages of state governments?

Several definitions and explanations have been proffered to throw light on the true import of the term 'local government.' The Encyclopedia Americana defines local government as "a political subdivision of national government or in the case of Federal Systems, a subdivision of regional Government".[11] In like manner, the United Nations Office for Public Administration explains local

[6] *Olafisoye v FRN* [2004] 4 NWLR (864) 580, 647, 649.
[7] Okpanachi, E. and Garba, A. (2010) "Federalism and Constitutional Change in Nigeria." *FG,* 7(1), 1, 3.
[8] Madubuegwu, C.E and Maduekwe, C.A (2022) "Federalism and Power-Sharing in Nigeria: A Theoretical Analysis." *IIJLPSA*, 6(5), pp. 14-15.
[9] Othuke, *Op Cit* p. 190.
[10] Christopher, P. S and Obari, O. (2021) "Federalism in Nigeria: Evolution, Development and Practice." *IJAMSR,* (5)6, pp. 19-26.
[11] The Encyclopedia Americana, (1978) International Edition, volume 17

government as "a political division of a nation (in a Federal or State system) which is constituted by law and has substantial control of local affairs including the power to impose taxes to exact labour for prescribed purposes".[12] Under the 1976 Local Government Reforms in Nigeria, Local Government is portrayed as "government at local level exercised through representative councils established by law to exercise specific power within defined areas".[13] Robson defines local government as involving "the conception of a territorial, non-sovereign community possessing the legal right and the necessary organ to regulate its own affairs. This, in turn, presupposes the existence of a local authority with the power to act independently of external control as well as the participation of the local community in the administration of its affairs".[14]

Recently, in the case of *Attorney General of the Federation v. Attorneys General of Abia State & 36 Others,*[15] the Supreme Court of Nigeria ("SCN" or "Supreme Court" or the "Court") rendered a ground-breaking decision that has elicited mixed reactions across the country. The decision appears to have granted fiscal autonomy to the 774 Local Governments in Nigeria as third tiers of government. The questions that this article consider are: (1) whether the decision is in line with the letters of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) (CFRN") and (2) whether the SCN did not go beyond the scope of its powers under the CFRN. In the main, the Pros and pitfalls of the decision are reviewed to demonstrate the strengths and weaknesses of the SCN's decision so as to point to the direction(s) on how the Supreme Court should handle matters in future and the steps that need to be taken in the light of the decision.

[12] Quoted in Ola, F. R (1984) *Local Administration in Nigeria*, Kegan Paul International Plc., London.
[13] Guidelines for Local Government Reforms, 1976.
[14] Robson, W.A (1978) in *Encyclopedia of Social Sciences*, International Edition.
[15] *Attorney General of the Federation v. Attorneys General of Abia State & 36 Others* [2024] LPELR-62576(SC).

1.2 Facts of the Case and Argument of Counsel

The Attorney General of the Federation, as the plaintiff, invoked the original jurisdiction of the SCN by way of originating summons on 24th May 2024, seeking determination of 15 issues and 19 reliefs.[16] Summarily, the case of the plaintiff is that since the states have for decades persistently refused to pay to Local Government Councils (**"LGCs"**) the money standing to the credit of their LGCs in the Federation Account, the Federation can validly pay the said money directly to their owners to protect the intention or objective of the CFRN from being defeated. That the governance of LGCs by States using appointees or officers of States such as Local Government Caretaker Committees, Interim Councils, and administrators amounts to governing or taking control of the government of a Local Government, Area, a part of Nigeria, have endangered the continued existence of the Local Government as a third tier of the Federal Governance structure, as most of them are now virtually extinct.

The case of the defendants on the other had essentially argued that the Federation cannot validly pay the money standing to the credit of the Local Governments in the Federation Account directly to Local Government Councils, as to do so would be in violation of S.162(5) and (6) of the 1999 Constitution that require that it be paid directly to the States for the benefit of their Local Government Council and that each State pay same into a State Joint Local Government Account maintained by the State, that the States are entitled to retain the said allocation and use it for the benefit of Local Government Councils, that the failure of some of the States to organize the conduct of democratic elections of local government councils is not deliberate as there are subsisting orders of courts in pending suits restraining them from holding democratic elections of Local Government Councils in their States.

[16] Pages 2 - 17 of the leading Judgement delivered by Agim, JSC.

1.3 Decision of the Court

The SCN's decision, predominantly in favor of the plaintiff, had all justices concurring with the lead judge except Abiru JSC, who slightly disagreed on a particular aspect. The lead judgment granted most of the prayers of the plaintiff as will be seen *anon*.

On whether states are obligated to ensure democratic governance at the Local Government level and whether states can dissolve democratically elected Local Government Councils, the court held that the federal government is duty-bound to uphold constitutional provisions and ensure democratic governance at all levels. This includes preventing any tier of government from being undemocratically controlled or endangered.

Regarding whether states can control or disburse LGC allocations from the Federation Account, the court determined that the federal government could directly pay funds to Local Government Councils (LGCs) from the Federation Account. This decision was based on the persistent refusal of states to transfer the allocated funds to the LGCs in more than two decades. The court interpreted Sections 162(5) and (6) of the 1999 Constitution, which stipulate that allocations should be given to the states for the benefit of the LGCs, as a procedural guideline rather than an ownership provision.

The court[17] emphasized that Section 162(3) of the 1999 Constitution outlines that the amounts in the Federation Account are to be distributed among the Federal, State, and Local governments. The provision implies that each tier should independently manage its allocated funds without interference. The court underscored that states should act merely as agents to convey funds to the LGCs, not as owners with discretionary powers over the funds.

[17] Per Agim JSC at page 33.

The lead judgment criticized the states for exploiting their role to create an unconstitutional status quo that has deprived LGCs of their funds and hindered their autonomy. It declared that states retaining and using LGC funds was unconstitutional and illegal.

The court also reiterated that the constitution requires local government councils to be democratically elected, as specified in Section 7(1) of the 1999 Constitution. Thus, any local government administration not democratically elected—whether by the state government, caretaker committee, or otherwise—is unconstitutional and invalid.

1.4 The Pros of the Decision

The decision was received with jubilation by the majority of the populace and the apex court was applauded for taking a bold step to rescue LGCs from the pawns of state Governors. The decision underscores the constitution's role as an instrument for social betterment, ensuring that funds meant for LGCs are properly allocated and managed, thus promoting democratic governance and accountability. This judgment could enhance the autonomy of LGCs and protect them from undue interference by state governments.

Professor Mike Ozekhome, SAN described the decision as *"a victory for our wobbling democracy."*[18] *Because according to him, "what has been happening is that…the state governors, have been behaving like 'bandits' waylaying local governments funds along the way and thus impoverishing them leaving them with nothing to work, just a little for salary. And nothing to actually work for the people whom they represent."*[19]

[18] 'Ozekhome Calls LG Autonomy Verdict 'Victory For Wobbling Democracy,' Hails Court For Ending 'Bandit-Like' Behavior Of State Govs <https://thenigerialawyer.com/ozekhome-calls-lg-autonomy-verdict-victory-for-wobbling-democracy-hails-court-for-ending-bandit-like-behavior-of-state-govs/#google_vignette > accessed on 1 August 2024.
[19] Ibid.

Professor Fabian Ajogwu, SAN, also hailed the decision and described it as "triumph for physical federalism".[20] The decision is a significant step forward towards deepening democracy and bringing governance closer to the people. With the apex court's judgment, it is believed that citizens can now hold their LGC leaders accountable, which could ultimately translate to better governance and accountability.

1.5 Pitfalls of the Judgement

At a glance, the decision of the SCN on this matter looks sound – especially to the advocates of fiscal autonomy for LGCs; but a critical review of it reveals the loopholes below:

(a) Direct Allocation to LGCs

The major pitfall of the SCN decision is the holding that allocation can be made directly to the LGCs thereby turning the constitution upside down. Without a doubt, the crippling of LGCs by state Governors is condemnable. However, the manner in which the Supreme Court addressed the issue is disturbing, and with profound respect, erroneous.

Section 162(5) of the CFRN provides that the amount due to local governments from the Federation Account ***"shall be allocated to the State*** *for the benefit of their Local Government Councils."* By section 165(6) thereof: *"Each State shall maintain a special account to be called 'State Joint Local Government Account' into which shall be paid all allocations to the Local Government from the Federation Account and from the Government of the State."* Then, section 162(8) of the CFRN instructs that: *"The amount standing to the credit of the Local*

[20] 'Supreme Court's July 11, 2024, Landmark Judgment Affirming the Autonomy of Local Government Councils – A Triumph for Fiscal Federalism' < https://dailytrust.com/supreme-courts-july-11-2024-landmark-judgment-affirming-the-autonomy-of-local-government-councils-a-triumph-for-fiscal-federalism/ > accessed on 1 August 2024.

Government Councils of a State shall be distributed among the Local Government Councils of that State on such terms and in such manner as may be prescribed by the House of Assembly of the State."

The three provisions above are clear and unambiguous, and the law is settled that in such circumstances the words should be given their ordinary grammatical meaning as the intention of the lawmakers is not obscured.[21] The intention of lawmakers in the three provisions of the CFRN above is that the lawmakers should maintain a special account to be called "State Joint Local Government Account" into which shall be paid all allocations to the Local Government and the payment shall be done in accordance with the manner prescribed by a law enacted by a state House of Assembly. The implication is that the states are trustees of the funds for the benefit of the states.[22] It is not the business of the National Assembly, President, Attorney General of the Federation, and Courts to interfere on how the monies are shared between the LGCs in a given state. How the funds are to be allocated to LGCs are to be determined by the House of Assembly of the state. This submission is justified by the apparent use of the word "shall" in the provisions which the Supreme Court ignored and gave it a different interpretation without clear bases.[23]

While it is admitted that state governors have abused their positions as trustees of the funds by refusing to pass on the federal allocations *"for the benefit of their local governments",* the Supreme Court should have played its role of interpreting the constitution the way it is and advised the legislature to make necessary amendments of the CFRN for the achievement of the objectives of the constitution. Instead of doing that, the Supreme Court disregarded the above

[21] *Saraki v. FRN* (2016) LPELR-40013(SC).
[22] *AG Lagos State & Ors v. AG Federation* [2004] LPELR-10(SC).
[23] Hon. Justice Agim and the other concurring judgements interpreted the word "shall" as "may". While no doubt such interpretation could be done in deserving circumstances, there is nothing to show that the interpretation is applicable to the present case, given that the intention of the lawmakers is not obscured.

provisions of the constitution and adopted an expansive interpretation of the Constitution, saying that: *"Demands of justice require a progressive"* interpretation of the constitution adding that: *"Since paying [the local government allocations] through states has not worked, justice of this case demands that local government allocations from the Federation Account should henceforth be paid directly to the Local Government Councils."*[24]

It is submitted that what the Supreme Court has done in this decision is to engage in lawmaking and in fact repealing provisions of the constitution, particularly section 162(5, 6, & 8) thereof. Indeed, the court admitted doing this by saying that it adopted *"a progressive interpretation of the law"* to address an *"injustice".* Is it the contemplation of the sections 6 and 132 of the Constitution, which establish the Supreme Court, that the court should have the power to amend the CFRN which is its enabling law? The Supreme Court has completely silenced section 162(5, 6, & 8) and rendered them inoperative and useless because the Supreme Court says they don't mean what they literally mean. So, there's no more State Joint Local Government Account; there's no more role for the State House of Assembly in prescribing how federal allocations are distributed among local governments in the state. These are departures of humongous magnitude that is dangerous to rule of law. The Supreme Court should have just declared the intentions of the drafters of the Constitution and order state governors to adhere to them. Instead, the court replaced the words of the Constitution with its own.

The position of Abiru JSC's dissenting judgement is quite apt and best represents the law as follows:

> "The second sub-question arising from Questions 11,13 and 14 on the Originating Summons is whether the States can spend the funds on behalf of the Local Councils for the benefit of the Local Government Councils or they must hand over the funds en bloc to the Local Government Councils. Honestly, this is not, and should

[24] Justice Agim p. 41 of the LPELR.

> not be, the business of the Plaintiff, neither is it, and it should not be, the business of the Court. It is, and should be, a matter strictly between the States and the democratically elected members of the Local Government Councils."[25]

The above position is a confirmation of the SCN in its earlier decision in the case of *Attorney General of Abia State Vs Attorney General of the Federation*[26] that:

> "The intendment of the provisions in the 1999 Constitution is to grant power and autonomy to a State Government in its relationship with Local Government Councils in a State and to subordinate Local Government Councils to a State Government. That explains why sections 7(6) and162(5) of the Constitution only give the power to allocate funds from the federation account to a Local Government Council to the National Assembly through a State, and to leave the distribution of such funds to the State Government while confining the National Assembly only to allocation of funds. Under the Nigerian Constitution, the Federal and State Governments are sovereign when acting within the limits of the power granted them by the Constitution. The notion that allocation of funds from the federation account in a Constitution fashioned on federalism can be construed to confer a right on the National Assembly to ascertain whether or not a State Government has transmitted the funds sent through it to a Local Government is untenable. The National Assembly ought to leave the Local Government Councils, which if they feel shortchanged by a State Government, to themselves, and can bring an action to compel a State Government concerned to pay over to them their entitlements. The Constitution as it stands enables Local Government Councils on their own to fight for their entitlements. In the instant case, the National Assembly by enacting the 2005 Act into law in relation to States had unwittingly engaged in a cause that is a hindrance to the autonomy granted a State

[25] Page 59 of the judgement.

[26] *Attorney General of Abia State Vs Attorney General of the Federation* (2006) 16 NWLR (Pt 1005) 265.

> Government in its power to control the Local Government Council."

Interpreting section 162(3)&(5), the same Supreme Court had also confirmed the position in the case of *AG Lagos v AG Federation*[27] 1 that *"It does not appear to me that there is any power conferred on the President to decide to withhold any allocation on the basis of a conceived breach of the Constitution by any of the three tiers."*[28] In this case President Obasanjo had directed the Minister of Finance not to release statutory allocations from the Federation Account to the States which created new local government areas or held elections into the new local government councils or failed to maintain a special account called "State Joint Local Government Account" as provided by Section 162 Subsection (6) of the Constitution in the guise that the President by virtue of the "Oath of Office," which he took in assumption of office, is bound "to protect and defend the Constitution". The Court held that *"nowhere in the Constitution is the President expressly or impliedly authorised to suspend or withhold the statutory allocation payable to Lagos State pursuant to Section 162(5) of the Constitution on the ground of the complaints made against Lagos State by the Federal Government in this action or any ground at all. If the President has any grievance against any tier of Government, he should go to Court. He cannot kill them by withholding their statutory allocations."*[29]

Even as recent as 2022 in the case of *A.G. Abia State & Ors v. A.G. of the Federation*[30]the Supreme Court restated the positions in the preceding two cases.

(b) Unpredictability

Another pitfall of the Supreme Court decision is that it has rendered predictability of the law difficult. The court's decision to allow LGCs to receive funds directly

[27] *AG Lagos v AG Federation* (2004) 18 NWLR (Pt 904)
[28] Per Samson Odemwingie Uwaifo, JSC (Pp 70 - 74 Paras C - D).
[29] Page 55.
[30] *A.G. Abia State & Ors v. A.G. of the Federation* [2022] LPELR-57010(SC)

from the federal government, when the constitution clearly mandated, by the use of 'shall', for the federal government to pay the LGC revenue into the Sate-Local government joint account poses a danger to the predictability of the law. Otherwise, it is difficult to explain why clear provisions of the constitution are totally abandoned and totally different interpretation given. Definitely, henceforth one cannot be too sure of the position that the court will take even in cases where provisions of statutes are clear and unambiguous.

(c) Nigeria constitution does not envisage autonomy for local government

M. A. A. Adumein JSC argued strenuously that *"Local Government Areas in Nigeria, unlike branches of incorporated bodies or entities, are constitutionally the third tier of government of the Federation, having their political and financial independence guaranteed by the Constitution of the Federal Republic of Nigeria…"*[31] My Lord relied on sections 2(2) and 3(6) of the CFRN but forgot to aver his mind to the fact that section 2 (2) of the CFRN provides for the constituents of Nigeria as follows; *"Nigeria shall be a Federation consisting of States and a Federal Capital Territory."* LGC was not cited in the provision. The effect of the provision of section 2(2) of the CFRN above is that the framers of the 1999 Constitution did not intend to make LGC an independent and autonomous tier of government in the real sense. That is why the LGC was not mentioned while highlighting the governmental components of Nigeria.

Again, section 4 (1) and (6) of the CFRN provides for the legislative powers of the Federal Republic of Nigeria and of states but no mention was made of the LGC. The framers of the CFRN failed to state the legislative powers of the LGCs in Part 11 of the CFRN because they wanted LGCs' administration to be strictly state governments affairs as seen in section 7 (1) of the CFRN. Section 7(1) of the CFRN provides for the establishment of a democratically elected LGC. The said

[31] Last paragraph of Page 14 of the concurring judgement. Similar argument was made my Lord in page 21.

section 7(1) of the CFRN provides thus: "*The system of local government by a democratically elected local government councils is under this Constitution guaranteed; and accordingly, the Government of every State shall, subject to section 8 of this Constitution, ensure their existence under a law which provides for the establishment, structure, composition, finance and functions of such councils.*"

The implication is that the states supervise the LGCs via laws, most especially with respect to elections, tenure of LGC members, allocation of finances, etc.

(d) Refusal to follow precedence

The Supreme Court of Nigeria turned blind eye to its precedent in the case of A*ttorney General of Abia State Vs Attorney General of the Federation,*[32] even when the Plaintiff called its attention to it for possible departure. According to the Plaintiff,[33] the *"decision has aggravated the already existing ugly situation in the various Local Government Areas/Councils, as Governors use arm-twisting tactics to allocate ridiculously low sums of money to various Councils within their domain from the sums of money allocated for the benefit of those Councils, thereby asphyxiating them."* The Plaintiff stated that the questions posed on the Originating Summons *"therefore seek a review of the wide discretion enjoyed by the States through their various Governors in the sharing formula of funds allocated to the States for the benefit of the Local Government Council."*

Surprisingly, the Supreme Court did not react to the submission of the Plaintiff neither did it comment on the precedent. It should be noted that the precedent clearly prohibits the interference with the allocation of funds to the state for the

[32] A*ttorney General of Abia State Vs Attorney General of the Federation* [2006] 16 NWLR (Pt 1005) 265

[33] Paragraph 11.10 of its written arguments on the Originating Summons.

benefit of LGCs thereby rendering the current suit academic. But why the Supreme Court turned blind eye to the case is still a mystery.

The judgments of the Supreme Court are binding on the Supreme Court itself and they cannot be discountenanced with where facts are similar to the present case. This is to aid predictability of outcomes. Similar cases with similar facts (or law) should be decided similarly to produce similar and a predictable outcome. Once a rule of law has been established for the first time by a superior Court, it becomes binding and ought to be followed by all Courts. Judges are obliged to respect the precedent already established by previous decisions, and to stand by what has previously been decided and not to deport therefrom.[34]

This is more so because there should be no arbitrary shifting of the goal posts after the game has commenced. Indeed, certainty and predictability are essential components of the law. The law remains what it is, that is, the law. The Court or tribunal for whatever reasons does not enjoy the liberal levity, license or luxury of ameliorating the harshness of the law or its outcome. Until it is amended, the law remains valid, binding and subsisting on all parties who invoke it. In the construction of statues, the necessary intendment of the legislature must be given effect and reckoned with at all times.[35]

1.6 Conclusion

This article has thus far looked into the controversial decision of the SCN and seen that the local government system under the CFRN has no iota of autonomy and rather under the control of the state governments. The states are contemplated by the CFRN to manage the councils' affairs, control the elections and manage finances of the council. The decision of the Supreme is anything but the representation of the intention of the framers of the constitution, because it went beyond boundaries to the point of obliterating clear provisions of the constitution

[34] *Jigawa State House of Assembly & Anor v. SDP & Ors* (2020) LPELR-51102(CA)
[35] *Akpanudoedehe & Ors v. Akpabio & Ors* [2011] LPELR-4944(CA)

in the guise of "justice" and in disregard of various precedents by the same court. If this trend is allowed, it will culminate into the taking up of legislative functions by the court in the guise of judicial interpretation. This has therefore rendered prediction of court decisions impossible. It is worth noting, however, that Abiru JSC's dissenting judgement is bold and a clear representation of the intention of framers of the constitution. Justice Abiru's dissent highlighted the complexities of constitutional interpretation and the need to balance respect for legislative intent with judicial enforcement of constitutional rights. He partially supported the lead judgment, agreeing with Justice Agim on certain points but diverging significantly on others.

Based on the foregoing, the paper has made the following findings:

1. Judicial precedence and clear provisions of statutes are some of the foremost ways of predicting how a new situation that has arisen will be resolved. In other words, it is easy to predict the outcome of a case in court having regards to how a similar matter was previously decided or how plain and unambiguous the words of a statute are. However, with the Supreme Court decision under review, it is now difficult to predict outcome of cases.

2. The provisions of the CFRN are clear and unambiguous and did not specifically mention LGC as a tier of government. The tiers of government mentioned are the federal government and state governments.

3. Section 162(6)&(8) of CFRN provide for State Joint Local Government Account from which amount standing to the credit of the councils are paid into from the federation account.

In view of the above findings, it is thus recommended as follows:

1. The Supreme Court should lead by example by respecting its previous decisions as doing so can render the law predictable. If at all there is a reason for departure in a given case, same should be done expressly by a full court

and reasons be advanced as to why the departue. Furthermore, where provisions of the CFRN and/or any other statute is clear, ordinary grammatical meanings should be ascribed to such provisions as doing otherwise will amount to encroaching into the role of the legislature which is the institution established specifically to amend and or repeal laws.

2. Amendment of the following provisions of the CFRN is hereby recommended: Section 2(2) of the CFRN be amended and LGCs be included in the provision as opposed to just mentioning the federation and states; Section 4 of the CFRN be amended and legislative powers be specifically given to LGCs; Section 5 be amended and Chairmen of LGCs be vested with executive powers; Section 6 of the CFRN be amended to give LGCs power to create their own courts; Section 7(1) thereof be amended so that elections to local government will be conducted by INEC and issues of councils' affairs taken away from the state.

3. Section 162(6) & (8) should be amended by removing the provision for State Joint Local Government Account so that the amount standing to the credit of the councils shall be paid to them directly from the federation account.