

Grassroots Law Making and Law Execution in Comparative Perspective: Focus on Presidential System of Government in Kaduna State, Nigeria

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Abstract: Law Making and Law Execution are two important functions of the Legislative and the Executive arms of Local Government in Nigeria's Presidential System of Government which has been in practice since 1999. The former is in charge of law making which defines rights and obligations of the people and of various arms of government and also spelt out rules of conduct of various actions and functions affecting the wellbeing of the collective good of the society. The latter handles law implementation functions to enhance grassroots democracy and development. Data was gathered from secondary sources, including Local Government Annual Reports and other relevant resources. The paper concludes that, to achieve grassroots democracy and general economic growth requires a spreading of effort and cooperation between Legislative and Executive Arms (chairmen and councilors) so that local communities and individuals can participate to bring under ideal conditions, energy, enthusiasm and most important of all, local initiatives to the working out of local development activities. The paper recommends thus, laws at the grassroots level should be amended to improve conditions of service of local government personnel should be improved as this will enhance the quality of service of the councils at all times. Not only that, enacted laws on the autonomy of all local governments be guaranteed to avoid excessive federal and state government's interference which impacted adversely on some of the local government councils' operations and programmes.

Keywords: Law Making; Law Execution; Presidential System of Government; Grassroots Democracy.

1. Introduction

Bagi bangsa The legislative arm of government is in charge of law making which defines rights and obligations of the people and of various arms of government and defines rules of conduct of various actions and functions affecting the wellbeing of the collective good of the society. The executive arm on the other hand is charged with the responsibility of law implementation to enhance grassroots democracy and development. Governance at the grassroots level is imperative to the success of any nation. Hence, the need to have good governance at the local level which is closer to people becomes very important. Local government is an instrument that facilitates well-functioning of the federalism, where the governmental political power is usually shared

among the three components of government which are central, regional and local governments. It has been defined by various institutions and interest group (Manaf & Muslim, 2020; A. M. Shafiu et al., 2019).

Local government can simply be defined as government at the grassroots level. That is, the government being established at grassroots or local level as a sub-section of state government in order to draw government closer to people. The United Nations Office for Public Administration defined local government as a political subdivision of a country (in a federal system) or state, which is established by law and has substantial control of local affairs including the power to impose taxes to exert labour for prescribed purposes (HusainiUsman, 2023; Manaf & Muslim, 2020).

More so, the 1976 local government reforms define local government as government at the Local level exercised through representative council established by law to exercise specific powers within defined areas. These powers should give the council substantial control over local affairs as well as the institutional and financial powers to initiate and direct the provision of services and to determine and implement the activities of states and federal government in their areas.

The definitions above have shown unique features of local government which are:

- i. Local government existence is at the grassroots level. This implies that it is government operated at local level being a sub-section under a regional existence.
- ii. Specific powers are reserved for it. As local government is operated among the three tiers of government under a state with federal system of government, its power is clearly specified under a residual list particularly on its relationship with regional government.
- iii. It has its independent existence and endowed with a legal status most especially on how the powers of local government have been specified under the local government reforms of 1976.
- iv. Local government must provide authority over a given population particularly at the grassroots level based on how it has been specified in the constitution of a given federal state.
- v. Local government provides means for the promotion of the welfare of members of the community since the major aim of establishing local government is to draw government nearer to the citizens, where the needs of the people at local level can be maximally met.
- vi. Local government exists within a defined territory. As both regional and local governments are existing under authority of a state, it means it exists within the context of a given state boundary.

- vii. Local government is seen as a separate tier of government as it had been specified under the 1976 local government reforms that, local government should be made a third tier of government alter central and regional governments.
- viii. Local government can impose taxes on individuals, businesses and property as part of the way of generating her revenue and at the same time, it incurs expenses on the provision of the welfare needs of the citizens.

Data for this paper was derived mainly from secondary sources using Local Government Annual Reports and other related materials from reputable journals, magazines, paper presentations, government publications, published books and internet sources. The paper thus, paid greater attention to the above-mentioned documents thereby suggesting possible ways of ensuring the efficient and effective local government system not only in Nigeria in particular but Africa at large (Massey & Denning, 2023; Onwuazombe, 2023; Scheb & Sharma, 2023).

2. Conceptual and Theoretical Underpinnings

Secara etimologis It is pertinent at this juncture to explore the relevant concepts which underpin this study in what follows below. This is with a view to clearly demonstrating their referents in the paper.

a. Law Making

Law making is conceptualized as a process whereby an idea of a law is transformed into a law. Law has different forms which includes, acts of the legislative bodies, acts of the executive bodies, and judicial precedents. Parliaments worldwide perform three core functions: to represent citizens interests, to pass laws, and to monitor the actions of the government. They perform a legislative function because, in addition to introducing legislation on their own, they have the power to amend, approve or reject government draft laws (Dunoff et al., 2023; Harel & Shinar, 2023; SAAD, 2023; Siems, 2022).

b. Law Execution

Law Execution means the act of carrying out, performing, or completing, as in the execution of an order or decree, signing or completing all formalities necessary to make a decision, contract or document effective, such as signing, stamping, or delivering. It also signifies putting death according to a court rendered sentence. Law execution has to do with its implementation and actually making it happen or when it is being put into practice. Enforcement of new or existing laws is primarily the role of executive organ of local government. Agencies responsible for ensuring compliance with the law or regulations must allocate the necessary resources, develop procedures and protocols for enforcement, assign and train their staff and work to enforce the law safely, consistently and effectively (Mahmood & Hamid, 2022; Martschukat, 2022; Rochaeti, 2023).

c. Grassroots Democracy

Grassroots Democracy here refers to a democracy in which all democratic elements and tenants are strictly adhered to. It is a Limited Democracy in which majority of the population (usually representatives) make decisions and participate actively in the government of their own making. Many scholars argue that Grassroots Democracies are limited democracies that incorporate institutions which protect rights-both individual rights and the rights of local autonomy from being overridden by collective choice. It is a democracy that strictly observes the principles of the rule of law, guaranteeing fundamental human rights to all citizens as well as aiming at the welfare of all.

Local Government provides an opportunity for the citizens to practice the democratic form of government in their community. They learn the techniques and skills of politics, by campaigning and contesting elections to represent their wards in the local government council. The training at this level prepares them for greater political participation at the state and national levels (Lingard & Hursh, 2019; Oloka-Onyango, 2019; Redondo-Sama, 2020).

d. Good Governance

Generally, governance, according to the World Bank Report (1980) is the exercise of political power in the management of a nation's affairs (World Bank, 1980). This definition thus implies that governance encompasses the state's institutional and structural arrangements, decision-making processes and implementation capacity, and the relationship between the governing apparatus and the governed- that is the people in terms of their standard of living. In his analysis, Shafiu (2021), sees good governance as "a system of government based on good leadership, respect for the rule of law and due process, the accountability of the political leadership to the electorate as well as transparency in the operations of government." Transparency, Shafiu opined that it has to do with the leadership carrying out government business in an open, easy to understand and explicit manner, such that the rules made by government, the policies implemented by the government and the results of government activities are easy to verify by the ordinary citizens. Accountability as a component of good governance refers to the fact that those who occupy positions of leadership in the government must give account or subject themselves to the will and desire of the society and people they lead. Unfortunately, this is lacking in the public domain in Nigeria (R. M. Shafiu, 2021; Castro & Lopes, 2022; Kifordu, 2022; Kjaer, 2023; Nanda, 2006).

3. Comparison of Local Government Systems across the Globe

The organizational structure of local government differs from country to country but for the sake of better understanding, three types shall be examined in this paper. These are:

- i. **The French System:** The French type of local government is similar to what obtains in the United States of America. In the French system, the local government is an offshoot of the Federal government as all of its activities or operations are supervised by the ministry of interior. Therefore, local government staff is federal civil servants.

Local governments in France are called "communes" whether urban or rural. Except for the country's capital Paris, all local governments are similar in structure with each having an elected mayor and council. The communes meet on a regular basis to adopt annual budgets. However, other matters bordering on education and finance etc. are primarily controlled by the interior minister (Blondel & Godfrey Jr, 2023; French, Dawson, & Golijani-Moghaddam, 2023; Pickles, 2023a, 2023b).

- ii. **The English System:** The British system of local government is a representative type of government which has been adopted by many colonies including Nigeria. The English local government system is autonomous body marked with less central government interfere greater local budgetary authority.

A special feature of (the British system is its use of extensive committee system to supervise the administration of public services. The personnel of local government in the British System are employed directly by the local government or by the local government service commission. A classic example of the English System of Local government is the local government system practiced in Nigeria between 1950 and 1956 (SAAD, 2023).

- iii. **The Nigerian System:** Also referred to as the traditional system described as local government or institution this is an indigenous Nigeria person. The Nigerian or traditional system refers to the various traditional authorities which had been before the advent of the British. The traditional institutions include all the local authorities, the Emir in Northern Nigeria, the Oba and chiefs in Yoruba land, The Council of Elders in Eastern Nigeria. However, the influence of these traditional institutions has been reduced except for the advisory roles they play. The history of local government dates back to the colonial days. An attempt to establish British rule necessitated the adoption of indirect rule system of government. This requires that administration would be carried out through the traditional institutions (Ibrahim et al., 2023; Obisanya & Hassan, 2022; Wraith, 2023).

4. Nigeria's Local Government Administration in Historical Perspectives

i. Pre-1976 Local Government Reforms

Prior to 1976, Nigeria operated multiple local government councils based on the British, French and American models. The North experimented a system of local government known as the Native Authorities which consisted of a chief with a cot foil called either "Chief and Council" or "Chief-in-Council". This system was also known as the Lugardian Native Authority System. The Native Authority System preserved and restored the authority of the traditional rulers which made it easy to maintain law and order. The sizes of native authorities in the Northern in were large and that made them difficult to be administered from a particular centre (EZEJI, IHEANACHO, & AWAR; Schoeman & Chakwizira, 2023; Tongs, Fagbadebo, & Alabi, 2023).

The multiple nature of local government councils were more manifest in Southern Nigeria. There were as many as five different kinds of Local Government Councils in each of the Southern Regions of Nigeria and included; Local Councils, All Purpose District Councils, Divisional Councils and City Councils. These local government councils were not subordinate to each other and the instrument that created them specified their functions and powers and the areas of their jurisdiction. The structure of these Southern Nigeria local government councils fashioned in a way that the territory of Lagos had one-tier system; Eastern Region had two-tier system while Western and Mid-Western Regions had three-tier system (Ata-Agboni et al., 2023; Nnamani et al., 2023).

ii. 1976 Local Government Reforms in Nigeria

As a result of the shortcomings of the local government system in place, the Federal military Government in 1976 under the administration of Murtala/Obasanjo embarked on extensive nationwide reforms of the Local government system to facilitate well discharged of her responsibilities. These reforms among other things were:

i. The introduction of uniform system of local government throughout Nigeria with respect to structure, function and condition of service,

ii. Population criteria for the creation of local government was specified where population range for the granting of local government to an area was made to be between 100,00 and 800,000.

iii. There should be a complete democratization of local government membership. All members of the local government are democratically elected members.

iv. All past debts of local governments were ordered to be written off so that they will be able to take off effectively in their functions.

v. The chairman and supervisory councilors were made full time employees of local governments as this will afford them an opportunity to discharge their full expected responsibilities.

vi. All state governments were mandated to set up Local Government Service Board which was actually aimed at improving the quality of personnel of local governments in recruiting, posting, promoting and inculcating discipline on the senior staff of local government.

vii. Traditional rulers had no significant executive role to play in the local government throughout the federation to avoid unnecessary Interference on the affairs of local government.

viii. The Local government was made a semi-autonomous government tier not influenced by Federal or State governments, thereby, makes local government stronger and powerful than before.

ix. Both federal and state governments were mandated to give matching grants and loans to the newly established local governments so as to be able to discharge their responsibilities.

The reforms led to the creation of 307 local government councils in the country so as to meet the demands of the citizens at grassroots level (HusainiUsman, 2023; OKEREKE & Olewe, 2023; R. M. Shafiu & Salleh, 2020).

iii. Babangida's Local Government Reform (1988)

The Babangida's reform of the local government did not differ in substance from the 1976 reforms of the local government.

The highlights of the reforms as contained in the 1989 constitution amendment and the handbook on local government (1992) are as follows:

i. Additional creation of local government increasing its number from 307 to 589.

ii. The statutory allocation of local government was increased from 10% to 15%

iii. The local government ordinance was incorporated into the constitution.

iv. The minimum entry requirement for local government staff was set.

v. The system of local government which involve checks and balances was introduced (Adamu, Shaka, & Rasheed, 2016; Azumah, Davies, & Ogele, 2021; Mukoro, 2003; Onuegbu, 2023).

iv. Structure of Local Government under the 1999 Constitution

The local government structure as prescribed by the 1999 constitution is fundamentally presidential in nature as it incorporates the executive and the legislative arms of government.

a) The Executive Arm

It is made up of the Chairman, Vice Chairman, Supervisors and Secretary of the council. The Chairman being the chief executive of the council. The appointment of the Secretary is the responsibility of the Chairman.

b) The Legislative Arm in the Local Government

The Legislative arm of the Local government council consists of councilors and council leaders. They perform various legislative functions and act as check

on the executive arm. The functions of the council among other things include the following:

- i. Vetting and monitoring the implementation of programmes in the annual budget of the local government council.
- ii. Debating, amending and approving the annual budget of the council.
- iii. Advise and co-operate with the executive arm of the council.
- iv. Performs other functions as may be necessary in the interest of the Local areas (Asaju, 2010; Awotokun, 2005; Ibe, 2019; Okorie et al., 2022).

V. Law Making and Law Execution at the Local Government Level under Presidential System of Government in Nigeria: A Comparison

a. Law Making Powers and Functions of Legislative Council of Local Government

The Legislative Powers of the Local Government are vested in the Legislative Council. Part II (S.13-18) provides that there shall be a legislative council at the local government council which comprises all councillors representing all the political wards in the local government.

The Legislative Council shall for each local government have a Speaker, Majority Leader and Minority Leader (if any) elected by members from among themselves. The members of the legislative council too are expected to declare their assets in accordance with the code of conduct for public officers.

Section 13-18 of Kaduna State Law 2018 provides that the LG. Legislative Council shall stand dissolved at the expiration of the period of three years commencing from the date of the first session of the council.

A Councillor may be recalled by one third (1/3) of the voters in his/her political ward on alleged loss of confidence and such case is presented to the chairman of the State Independent Electoral Commission (SIECOM) and if same is approved in a referendum by simple majority votes of the electorates.

A Speaker shall take the chair on every legislative proceedings within the council. He should examine the votes and proceedings of every sitting and approve same thereby announcing his approval to the members. He preserves the order and decorum in case of disturbances or disorderly conduct council. He shall have the general control except as provided by law, of the chamber of the legislative council and of the corridors and passages. In the absence Mr. Speaker, Speaker Protempore may be elected by the members to chair the meeting and acts on behalf of Mr. Speaker (Alex, 2018).

Majority Leader is a member nominated from the majority party with the highest number of members. He/she leads the business of the legislative council by liaising with committee chairman and other functionaries. He moves all business of the house and present major motions and bills. He consults Mr. Speaker generally on specific issues to create a bilateral relationship between the executive and the legislative arm of the local government.

Minority Leader is a member of the legislative council nominated from the minority party by the majority of its members who liaises with the majority party leadership and functionaries. He seconds the motions for formal and non-partisan business of the legislative council and also performs other duties as the speaker may allocate to him.

A Clerk of the Legislative Council is a career administrative officer with expert knowledge on legislative practice and procedure. He is a chief administrative and accounting officer of the legislative council. The clerk is not elected but appointed by the Governor.

Section 16 (1) and (2) of Kaduna State Local Government Reform Law, 2018 provides that, there shall be a Clerk for the Legislative Council of a Local Government Area, who shall be appointed by the Governor.

A Sergeant-at-Arms is charged with the responsibility of attending the legislative council's sittings to maintain order under the directives of Mr. Speaker or Chairman. He serves as the Chief Security Officer of the legislative council whose functions include; enforcing strictly rules relating to privileges of the chamber. He allows no person to enter rooms reserved for members of legislative council during its sittings and that, 15 minutes before the time of the meeting, he shall see that the floor has been cleared of all persons to make sure that no member or visitor enters the chamber with any type of walking stick or any offensive and dangerous weapon (Abdullahi, 2021; Adamu et al., 2016; Bello & Matthew, 2013; Mahmood & Hamid, 2022; A. M. Shafiu et al., 2019).

b. Law Execution Powers and Functions of the Executive Council of Local Government

The Kaduna State Local Government Law, 2018 made concretized for the establishment of 23 local government councils and provides for each local government an Executive Council comprising the Chairman, Vice Chairman, Secretary and supervisors.

The Chairman is empowered to appoint the three supervisors in accordance with the section 14 (4) of the constitution. All members of the executive council are expected to declare their assets and liabilities as prescribed

by the code of conduct of public officers. They should also declare same on vacation of office (Alex, 2018).

The tenure of office of the chairman is three (3) years and by this, the chairman should vacate his/her office at the expiration of the period of three (3) years commencing from the date he/she took the oath of office subject to the provision of Kaduna State Law No. 3 of 2018, the executive powers of local government was vested in the executive chairman of the local government council.

The Secretary of the local government is appointed by the executive chairman and his/her duties includes among other things arranging meetings, preparing agenda and minutes of meetings, conveying the decisions of executive council to members and other administrative staff and discharging other functions as may be assigned by the executive council. The Supervisors appointed by the chairman are to monitor the activities of finance and administration sector, works and agric department.

The Kaduna State Local Government Law 2018 however provides that, the chairman or vice chairman may be removed from office in accordance with the provision of this law. One of the grounds of removal is if the holder of the office acts in a way as to amount to misconduct in the performance of the functions of his/her office.

Misconduct here is defined by the law to include any breach of the Oath Allegiance of Oath of Office of the Chairman or Vice Chairman or a breach of the provisions of the law or a breach of such nature as fraud, dishonesty, bribery, corruption or false declaration of assets and liabilities or conviction for treasonable felony.

Another reason for which the Chairman or Vice Chairman shall cease to hold office on permanent incapacity to discharge the functions of their office. The said incapacity must have been certified by a panel of three (3) medical practitioners appointed by the secretary (Ebeku, 1992; Smith & Owojaiye, 1981; Wuam & Jatau, 2022).

c. Importance of Effective and Efficient Local Government System

The importance of Local government system cannot be over emphasized. Many justification necessitated the creation of local government as elaborately discussed below;

- i. Successful Implementation of Policies:

Effective Local Government system enables the efficient implementation of policy guidelines and objectives of both the federal and state governments. It also allows for the successful implementation of government programmes according to specifications and guidelines (Bello & Matthew, 2013).

ii. Promotes Economic Development;

The effective and efficient local government system promotes economic development by keeping our members informed and include them whenever possible in decision making and marketing of the community. By this, the growth of all economic sectors in the community will be promoted and enhanced thereby encouraging sustainable business practices within the local government (Bello & Matthew, 2013; Shafiu & Salleh, 2021).

iii. Provision of high standard essential services:

As agents of development, local governments are to use the funds made available to them by Federal, State and internally generated funds to improve the lives of the people within their area of operations by provision of meaningful essential and infrastructural services and facilities. This can only be possible when there is an effective as well as efficient services within the local government council. With the closeness of local governments to the people, they are expected to complement the various efforts of Federal and State government by effective services which will meet the aspiration of the people (Bello & Matthew, 2013; hyun Shafiu & Salleh, 2020).

iv. Decentralization of governance for popular participation

The effective and efficient Local government system will help in simplifying governance since government is established at grassroots level instead of the whole orders and control to be resided on the central government alone, where citizens' welfare needs may not be well understood. Local government can translate the general goals of the country into specific goals of a community so as to serve citizens better. The effective local government system brings governance to the doorsteps of citizens at the grassroots level since the welfare needs of the citizens are better understood and provided through the existence of the local government (Shafiu et al., 2019; Shafiu & Salleh, 2020).

v. Mobilization of resources for the attainment of people's needs

The local government acts as an agent of development by coordinating human and material resources for various objectives of government. They muster the resources available to them to meeting the needs of the people and developing goals of the country.

Most central and regional governments do not have general scope of its areas, as most policies rarely affect citizens at the grassroots level. Therefore, the effective and efficient local government system will help in streamlining government activities to the grassroots level; hence the state is well administered. Local government system brings together people of the same heritage so as to further their interest as a political unit and participate in government activities

vi. Training ground for future politicians:

Local government serves as a training ground for building future politicians. It helps in teaching the intricacies of governance, politics and public management which will eventually take them to a higher level in the nearest future (Bello & Matthew, 2013; Shafiu et al., 2019; Shafiu & Salleh, 2020).

6. Obstacles to Local Government Councils in Nigeria Today

According to (Azelama, Oviasuyi, & Alimi, 2008; IBOK, 2014; Khalil & Salihu, 2011; Wunsch & Olowu, 1996), the obstacles to local government in Nigeria today includes but not limited to the following factors;

i. Financial Problem: Inadequate funds are one of the major problems facing local government authorities. Grants from both the federal and state governments tend to be inadequate vis-a-vis with the numerous functions they are meant to perform. The most unfortunate aspect of this problem is that many of these councils are not in a position to generate enough revenue internally.

ii. Shortage of Trained Personnel: Shortage of trained administrative, technical and professional personnel render local governments ineffective and inefficient and the performance of their constitutional functions,

iii. Partisan Politics: Involvement in local politics by council officials is a big problem that confronts local governments. These council officials instead of performing their duties involve in partisan politics which polarize them into antagonistic factions. These political council officials engage in political wrangling at the expense of their constitutional council duties.

iv. Political Interference: Frequent and unnecessary political interference from state governments is one of the constant problems plaguing local government authorities. As a result of this problem, square pegs are put in round holes in the appointment to peels which is mainly based on political party patronage. Not only that, constant interference

by traditional rulers as a result of their unclearly defined roles results in clash of interest between them and local government officials thereby hampering the smooth performance of the functions by these councils.

v. Inadequate Infrastructure: Local governments lack the necessary infrastructure that facilitate their functions like housing for their workers, electricity, pipe borne, water, good roads, etc.

vi. Embezzlement: The financial problems of local governments are exacerbated by high rate of embezzlement and misappropriation of funds. The corrupt officials of these councils divert money meant for some projects to their personal purse.

vii. Bribery and Corruption: Rampant cases of bribery and corruption among the officials of local government authorities hamper the effective performance of these councils. There are cases of misuse of power, wrong award of contracts and their execution, etc all caused by bribery and corruption.

viii. The Size of Local Government Councils: Some of the local government areas are too large in size which prevents them from being relatively economically viable.

ix. Favouritism and Nepotism: Appointments into sensitive posts and award of contracts in the local governments are based on favouritism and nepotism rather than merits thereby enthrone mediocrity at the expense of meritocracy.

x. Inadequate Political Education: The electorate lacks political education that would have raised their consciousness and awareness to enable them mount pressure on the council officials so that they can perform their constitutional functions.

xi. Poor Method of Collection of Taxes: The local governments still use crude method instead of modern method of assessment and collection of taxes. This crude method creates loopholes for people to dodge payment of taxes and accountability by the tax collectors.

xii. Poor communication System: Poor communication system creates communication gap between local government authorities and the people. As a result, the people do not know the problems and the happenings in governments and therefore, do not contribute in the running of the council..

7. Conclusion

As stated earlier, Local Government constitutes the most critical level of government at which the momentum to sustain national development can be created. This level of government has posed perennial problems to successive governments in Nigeria. Consequently, various reform measures, aimed at creating a framework within which local human and material resources could be harnessed for national development have been initiated in the country- None of them has provided the Answer to the problems. We must therefore first ask ourselves what role we want Local Governments to take, on.

To achieve grassroots democracy and general economic growth requires a spreading of effort and cooperation between chairmen and councillors so that local communities and individuals can participate to bring under ideal conditions, energy, enthusiasm and most important of all, local initiative to the working out of local development activities. Local government councils should provide the opportunity for local people to participate in local decisions and local schemes within the general national policies and to act above all, as local centres of initiative and activity conducive to development. Such arguments gave birth to the whole notion of development from below as against the erstwhile centralist orientation of development; from above.

For policy implementation purpose therefore we recommend the following;

i. Condition of service of local government personnel should be improved and that, if enough encouragement is given, the quality of service of the councils will be enhanced.

ii. Availability of funds: Adequate provision of funds will help local government execute some of its laudable programmes which are capable of improving the welfare of the people.

iii. Autonomy: Excessive Federal and State government's interference impacted adversely on some of the local government council programmes.

iv. Recruitment of quality staff: Human resources drives the development of a nation - therefore, the appointment of qualified personnel will help to improve the service delivery of the local government.

v. The salary and other remunerations of the local government staff should also be enhanced..

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