



# **Understanding the 10th NASS Constitution Review Process: Enhancing Awareness Among Civil Society Organizations:**

*By*

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# ***INTRODUCTION***

- **Purpose of the Webinar:**

This webinar aims to enhance awareness among civil society organizations (CSOs) about the ongoing 10th National Assembly Constitution Review Process.

- **Overview of the Session:**

We will discuss the constitutional review process, amendments passed by the 9th National Assembly, and the outstanding/new amendment proposals before the 10th National Assembly.

- **Engagement:**

We encourage active participation and look forward to your questions and insights during the Q&A session.

# **CONSTITUTIONAL REVIEW PROCESS**

## **A. OVERVIEW:**

- The constitutional review process involves examination and amendment of the Constitution to address emerging issues, correct inconsistencies, and improve governance.
- The purpose of this amendment process is to ensure that the Constitution remains relevant and responsive to the needs of the society.

## **B. KEY STEPS IN THE PROCESS:**

The constitutional review process is a structured and systematic approach that involves multiple stages, from initiation to final approval. Each step plays a crucial role in shaping the amendments and ensuring they reflect the will of the people. The various stages are listed as follows:

- **Initiation:** The process is typically initiated by the National Assembly or through public petitions.
- **Committee Formation:** A review committee is formed, often comprising lawmakers, legal experts, and representatives from civil society.

- **Public Participation:** Public hearings and consultations are conducted to gather input from citizens and stakeholders.
- **Drafting Amendments:** Proposed amendments are drafted based on the feedback received.
- **Legislative Approval:** The proposed amendments are debated and must be approved by a two-thirds majority in both houses of the National Assembly.
- **Transmission of constitutional amendment bills** passed by the two national house of assembly to state assemblies for consideration and only bills passed by two thirds of the state assemblies will be sent for presidential assent
- **Presidential Assent:** Finally, the amendments require the President's assent to become law.

# ***ROLE OF THE NATIONAL ASSEMBLY: INITIATION STAGE OF THE REVIEW PROCESS***

## **Proposal Submission:**

- Members of the National Assembly proposes amendments to the Constitution through private member bills.
- The Executive could propose amendments to the National Assembly through executive communication.

## **Formation of Review Committees:**

- Special committees are formed to review proposed amendments.
- These committees include lawmakers, legal experts, and representatives from civil society

## ***Conducting Public Hearings and Consultations: Engagement with Stakeholders:***

- The National Assembly organizes public hearings to gather input from citizens and stakeholders.
- Consultations ensure that diverse perspectives are considered in the review process.

## ***Drafting and Debating Amendments: Drafting Proposals***

- Proposed amendments are drafted based on feedback from public consultations.
- The draft amendments are then debated in both houses of the National Assembly.

## ***Debate and Deliberation:***

- Lawmakers discuss the merits and implications of each proposed amendment.
- Debates ensure thorough examination and consideration of the amendments.

## ***Approval and Passage of Amendments: Legislative Approval***

- Amendments must be approved by a two-thirds majority in both the Senate and the House of Representatives.
- This high threshold ensures broad consensus and support for the changes.
- Two thirds of state assemblies debating and voting on bills received from National Assembly

### ***Presidential Assent:***

- Once approved by the National Assembly, the amendments require the President's assent to become law.

# 9<sup>TH</sup> NATIONAL ASSEMBLY AMMENDMENT

## Key amendments and their implications

The following are the thematic areas and issues addressed in the amendment process from the 9<sup>th</sup> National Assembly categorized as follows:

- A) **Local Government Autonomy and Administration**
- B) **The Legislature powers**
- C) **Judicial Reform**
- D) **Devolution of Powers**
- E) **Women and Vulnerable Groups**
- F) **Institution Strengthening**
- G) **Good Governance**



# CONSTITUTION REVIEW OF THE 9TH NASS ASSEMBLY (2013-2023)

Some Notable outcomes in the 9th National Assembly (2019–2023) are concisely summarized as follows:

a. *Name Changes for Local Government Areas*

b. *Financial Autonomy for State Legislatures and State Judiciary:*

Sections 121 and Part II of the Third Schedule were amended to ensure financial independence for State Houses of Assembly and the State Judiciary.

c. *Inauguration of Members-Elect:*

Sections 54, 96, and 311 were modified to regulate the first session and inauguration of members-elect of the National and State Houses of Assembly. The aim is to ensure a quorum of at least two-thirds of all members for the inaugural session.

***d. Deletion of References to Criminal Code and Related Laws:***

- Section 254F was deleted from the Constitution. This section previously made reference to the provisions of the Criminal Code, Penal Code, Criminal Procedure Act, Criminal Procedure Code, and Evidence Act. The deletion was necessary because the Industrial Court's criminal jurisdiction is limited to labor and employment issues.

***e. Provision for Intervening Events in Time Computation for Petitions and Appeals:***

- Section 285 was altered to exclude the period of intervening events (such as disasters or force majeure) when calculating time for pre-election petitions, election petitions, and appeals. This ensures flexibility in exceptional circumstances

***f. Appointment of Secretary of the National Judicial Council:***

- Part 1 of the Third Schedule 153.
- Specifies qualifications and post-call experience for the Secretary of the National Judicial Council.

***g. Devolution of Powers (Correctional Services, Railways, National Grid System):***

- Moved certain areas (e.g., correctional services, railways, electricity generation) from the Exclusive Legislative List to the Concurrent Legislative List, allowing State Houses of Assembly to make laws in these areas.

***h. Food Security:*** (Section 16).

- Requires government policies to ensure food accessibility, availability, affordability, and safeguarding against compromise.

***i. Uniform Retirement Age for Judicial Officers and Pension Rights:***  
(Section 291)

- Harmonized retirement age for judicial officers of superior courts at 70 years and reduced the service period required for pension determination.

***j. Membership of the National Security Council to Include Presiding Officers of the National Assembly:***

- Part I of the Third Schedule.
- Includes the President of the Senate and the Speaker of the House of Representatives in the National Security Council

## ***OBSERVATIONS OF THE CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA (FIFTH ALTERATION) BILL, 2023.***

- The Senate and the House of Representatives engaged in a plenary session on March 1, 2022, during which they voted on Sixty-Eight 5th Constitution Alteration Bills.
- These bills addressed critical issues related to governance, devolution of powers, local government autonomy, minority rights, judicial reforms, electoral reforms, public revenue, women’s inclusion in governance, and other national concerns.
- In the intricate tapestry of constitutional amendments, the “Fifth Alteration Bill” stands as a pivotal thread—a proposed transformation that seeks to weave new patterns into the fabric of Nigerian governance. These observations guides our understanding of the bill’s implications and they are classified as follows:

## **1. Bill on Legislative Summons (No. 7) :**

Purpose: To compel compliance with legislative summons.

Challenges: Clashes with immunity provisions for high-ranking officials.

## **2. Bill on Judicial Office Interpretation (No. 11):**

- Expansion for courts or tribunals created by Acts of the National Assembly or State Houses.
- It may impact the National Judicial Council and governance costs.

## **3. Bill on Revenue Mobilization (No. 18):**

- Empowerment resources to boost the Revenue Mobilization, Allocation, and Fiscal Commission.
- Challenges: Encroachment on the Federal Inland Revenue Service's domain.

#### **4. Bill on Regulatory Institutions (No. 19):**

- Benefits: Independence Quest enhances regulatory and oversight institutions.
- Creation of the National Assembly Service Commission.

#### **5. Bill on Transitional Law Making Powers (No. 20):**

- Formulation of an Executive Shift which Removes transitional law-making powers from the Executive.
- Challenges : Deletion of sections may leave relevant areas hanging.



## **6. Bill on Treaty Presentation (No. 21):**

- **Benefits:** Specifies when treaties should face National Assembly scrutiny.
- **Challenges:** it reduces Executive discretion but may hinder vital areas of consideration.

## **7. Bill on Presidential Summons (No. 24):**

- **Challenges:** Violates the delicate separation of powers.



## **8. Bill on Fund Withdrawal Period (No. 25)**

- This Bill Shrinks the window for authorizing withdrawals from the Consolidated Revenue Funds in the absence of an appropriation act .
- Challenges: Governance Quandary may overlook force majeure events and disrupt administration.

## **9. Bills on Accountant-General Offices (Nos. 26 and 27)**

- Benefits: This bill Proposes distinct offices for the Federal Government and State Accountant-Generals.
- Double-Edged Ledger: Efficiency might be diverse from administrative costs

## **10. Bill on Attorney-General Offices (No. 28)**

- This bill establishes separate realms for the Attorney-General and Minister of Justice.
- Checks and Balances.

# ***STATUS OF THE CONSTITUTION (FIFTTH ALTERATION BILL 2023)***

- The National Assembly (both the Senate and the House of Representatives) voted on Sixty-Eight (5th Constitution Alteration) Bills. These bills covered various aspects of governance, including devolution of powers, local government autonomy, minority rights, judicial reforms, electoral reforms, public revenue, women's inclusion in governance, and other national interest issues.
- 44 bills were approved by the National Assembly.
- 35 bills received approval from at least 24 States and were transmitted for presidential assent.
- The Remaining bills did not proceed to the presidential assent stage.
- These amendments touch upon critical aspects of governance, and their impact reverberates through various sectors. Here are some key examples of the implications from the status of constitutional alteration:

## **I. Bill for Local Government Financial Autonomy:**

- Abolished the State Joint Local Government Account.
- Created a special account for local government councils to receive allocations directly from the Federation Account and internally generated revenue.
- Shared responsibility for paying teaching and non-teaching staff of the Universal Basic Education Scheme among the Federal, States, and Local Government Councils.

## **II. A Bill for Special Seats for Women:**

- Introduced temporary special measures to create additional seats for women in the Senate, House of Representatives, and State Houses of Assembly.

# **Local Government Autonomy: Recent Supreme Court Decisions and Constitutional Implications**

## **INTRODUCTION**

Local government autonomy is a fundamental aspect of democratic governance which ensures that local councils have the authority and resources to manage their affairs independently. In Nigeria, the struggle for genuine local government autonomy has been ongoing, often challenged by state government interference and financial dependence.

On July 11, 2024, the Supreme Court of Nigeria delivered a landmark judgment affirming the financial autonomy of the 774 local government councils in the country. This ruling, delivered by Justice Emmanuel Agim and supported by a seven-justice panel, marks a significant milestone in promoting grassroots development, good governance, and democratic decentralization.

The Honourable Minister of State for Defence, Dr. Bello Muhammed Matawalle, praised the judgment, highlighting its potential to enhance service delivery and accountability at the local level. By allowing local governments to manage their own funds, make independent decisions, and allocate resources without state government interference, this ruling empowers local councils to focus on delivering essential services and development projects tailored to their communities' needs.

This section will delve into the Constitutional provisions, and the implications of this Supreme Court ruling on local government autonomy in Nigeria. We will explore how this decision can transform local governance, promote regional economic development, and improve the quality of life at the grassroots level.

# KEY POINTS FROM THE SUPREME COURT JUDGMENT

A) ***Financial Autonomy***: The Supreme Court ruled that the 774 local government councils in Nigeria should manage their own funds independently.

- Funds from the Federation Account must be paid directly to the local governments' bank accounts.
- Local governments can now manage their finances, collect revenues, and allocate resources without state government interference.

B) ***Independence***: Local governments can make decisions and take actions without needing approval from state governments.

C) ***Accountability***: This autonomy boosts the independence of local governments and ensures direct accountability to the electorates.

**D) *Direct Allocation from the Federation Account:***

- Local governments will receive their allocation directly from the Federation Account, ensuring financial independence.

**E ) *Democratic Governance at the Local Level***

- The 774 local governments must be governed by democratically elected officials, not caretaker committees.
- State governors are obligated to ensure democratic governance at the local government level.

**F) *Political Participation:*** This empowerment enhances political participation and engagement at the regional level.

**G) *Strengthening Local Governance:*** By legitimizing local councils, the ruling strengthens local governance structures and promotes democratic principles at the grassroots level

# IMPLICATIONS OF THE COURTS' VERDICT

The Supreme Court's decision is expected to have far-reaching implications for local governance in Nigeria:

- **Enhanced Service Delivery with financial and administrative autonomy:** local governments can focus on delivering services and development projects that meet the specific needs of their communities.
- **Grassroots Development:** The ruling is anticipated to boost grassroots development by empowering local governments to act independently and efficiently.
- **Good Governance:** By decentralizing power and ensuring direct accountability, it will promote good governance and democratic principles at the local level.



# Consequential Amendment and INEC's Readiness to Conduct Local Government Elections in Nigeria

- The recent Supreme Court ruling granting financial autonomy to local governments has sparked discussions about the need for consequential amendments to the Nigerian Constitution. One significant amendment under consideration is empowering the Independent National Electoral Commission (INEC) to conduct local government elections, which are currently overseen by State Independent Electoral Commissions (SIECs).



# INEC'S READINESS AND CAPACITY

The Independent National Electoral Commission (INEC) has expressed its readiness and capacity to handle local government elections across Nigeria. Here are the key points:

## a) **Capacity and Competence**

- INEC Chairman, Prof. Mahmood Yakubu, assured that the commission has the capacity, competence, human resources, and adequate experience to conduct local government elections.
- INEC has successfully conducted elections at the federal and state levels, as well as local government elections in the Federal Capital Territory (FCT), demonstrating its capability

## **b) Experience in Local Government Elections**

- INEC has a track record of conducting local government elections in the FCT, where it has managed elections for six area councils and 62 wards.
- These elections have been conducted regularly, ensuring stability and security of tenure for elected officials.

## **c) Call for Constitutional Amendment**

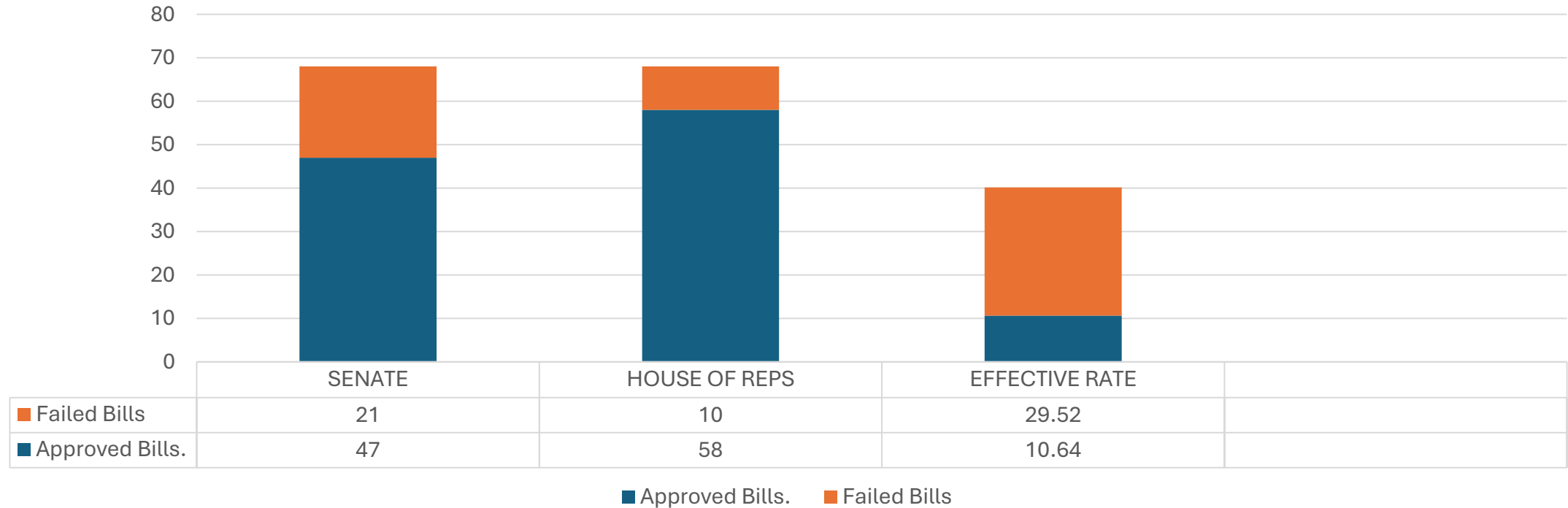
- For INEC to take over the conduct of local government elections nationwide, a constitutional amendment is required. This amendment would transfer the responsibility from State Independent Electoral Commissions to INEC.
- The National Assembly has been urged to consider this amendment to ensure uniformity and transparency in the conduct of local government elections

## **d) Support For Inec's Role:**

- Many stakeholders, including the Senate President and various civil society organizations, support the idea of INEC conducting local government elections to eliminate the influence of state governors over SIECs. This move is seen as a way to enhance the credibility and integrity of local government elections, ensuring that they are free, fair, and transparent.
- Empowering INEC to conduct local government elections is expected to strengthen local governance by ensuring that elected officials are truly representative of their communities. It would also promote accountability and reduce the manipulation of election outcomes by state governments

- The readiness and capacity of INEC to conduct local government elections, coupled with the call for a constitutional amendment, represent significant steps towards enhancing local governance in Nigeria. By transferring this responsibility to INEC, Nigeria can ensure more transparent, credible, and democratic local government elections, ultimately promoting grassroots development and good governance

## ANALYSIS OF LEGISLATIVE IMPACT ON CONSTITUTION ALTERATION BILLS: EFFECTIVE RATES FOR APPROVED AND FAILED BILLS



The Blue Bar shows the effective rate for approved bills. Approximately 10.64% of the bills that passed experienced positive changes. These could be amendments, enhancements, or modifications that improved their impact.

The orange bar represents the effective rate for failed bills. Roughly 29.52% of the bills did not pass. These faced challenges or lacked sufficient support. Our analysis highlights areas for improvement and success. As lawmakers, understanding these rates helps us refine our legislative strategies.

# CONCLUSION

- In the ongoing quest to reform Nigeria’s constitutional framework, we find ourselves at a crucial juncture, The 1999 Constitution, while serving as our fundamental law, has faced criticism for its origins. Over the years, various National Assemblies have attempted amendments, yet the clamor for a truly people-driven constitution persists. As we deliberate on issues like federal restructuring, local government autonomy, state police, Gender Empowerment and national security, we must remember that this process isn’t merely about legal provisions; it’s about legitimacy and genuine public engagement remains paramount.
- Our Grundnorm being the bedrock of our legal system deserves the collective wisdom and aspirations of all Nigerians. The 9th National Assembly’s amendments and the ongoing efforts of the 10th National Assembly converge to shape the very fabric of our democracy.
- In these various process of amendments, we write our nation’s destiny. Our constitution should be a compass, pointing toward justice, unity, and hope. As citizens, we wield the pen as architects of tomorrow as we craft a grundnorm that echoes through generations: ‘We, the people’.
- Let us move forward with a commitment to inclusivity, transparency, and the realization that this fragile time demands constitutional reforms that reflect our shared values and aspirations. Together, we can shape a constitution that truly represents the hopes and dreams of our diverse nation.

THANK YOU.