

Local Government Autonomy and Grassroots Development in Nigeria: Constitutional Foundations, Judicial Developments and Emerging Prospects

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Abstract

Local Government occupies an unusual position in Nigerian constitutionalism. It is constitutionally guaranteed as a system of democratically elected councils, assigned functions that touch directly upon everyday community life, and recognised within the Federation Account structure, yet its institutional existence, finance and operation have historically remained substantially mediated by State Governments. The Supreme Court's decision in *Attorney-General of the Federation v Attorney-General of Abia State & 35 Others* reopened this longstanding constitutional problem by insisting upon democratically elected councils and authorising direct payment of Local Government allocations. Although the decision has generated considerable scholarship, the autonomy debate remains disproportionately concerned with freedom from State control, particularly fiscal control. This article approaches the question differently. Drawing upon political thought, Nigerian constitutional history, the 1976 Local Government reforms, Supreme Court jurisprudence and comparative constitutional experience from South Africa, India and Brazil, it asks what Local Government autonomy is ultimately intended to accomplish for citizens. It argues that autonomy is not an end in itself but an institutional means of bringing appropriate governmental authority sufficiently close to citizens to improve participation, responsiveness, observable performance and accountability. The article develops the Proximity Principle and the concept of constitutional capacity to distinguish mere institutional independence from the democratic, functional, fiscal and administrative ability to govern. It contends that the post-2024 constitutional task is therefore larger than direct allocation. Nigeria requires a framework in which democratic security, functional competence, predictable finance, administrative capacity and citizen accountability operate together. Autonomy reaches its constitutional destination only when governmental proximity produces capable and accountable government within the citizen's reach.

Keywords: Local Government; Autonomy; Constitutional Capacity; Grassroots Development; Federalism; Governmental Proximity; Nigeria; Supreme Court.

1. Introduction

The constitutional history of Local Government in Nigeria contains an enduring contradiction. Government at the local level has repeatedly been defended on the ground that it brings public authority closer to the people, encourages participation, responds to local needs and facilitates

development; yet the institutions expected to perform these purposes have frequently remained dependent upon political authorities situated farther away from the communities they govern. The contradiction is particularly striking under the Constitution of the Federal Republic of Nigeria 1999. Section 7(1) declares that the system of Local Government by democratically elected Local Government Councils is “guaranteed”,¹ but immediately entrusts State Governments with responsibility for ensuring their existence under laws providing for their establishment, structure, composition, finance and functions.² Section 162 recognises Local Government Councils within the Federation Account distribution architecture,³ yet historically routes their share through States and the State Joint Local Government Account.⁴ The Constitution therefore protects Local Government while simultaneously constructing relationships of dependence through which much of that protection must operate. This article describes the resulting condition as protected dependency: the constitutional recognition of an institution whose practical capacity to enjoy that recognition remains substantially mediated through another governmental level.

The contradiction has generated recurring litigation. In *Eze v Governor of Abia State*,⁵ *Governor of Ekiti State v Olubunmo*,⁶ *All Progressives Congress v Enugu State Independent Electoral Commission*,⁷ *Ajuwon v Governor of Oyo State*⁸ and *Friday v Governor of Ondo State*,⁹ the Supreme Court progressively rejected attempts to treat democratically elected Local Government Councils as institutions existing at gubernatorial pleasure. The cases transformed section 7 from what might otherwise have appeared an aspirational declaration into a source of judicially enforceable institutional protection. The constitutional controversy entered a new stage in July 2024 when the Supreme Court decided *Attorney-General of the Federation v Attorney-General of Abia State & 35 Others*.¹⁰ The litigation moved beyond premature dissolution of councils and confronted the financial conditions under which Local Government could function. The majority held, among other things, that allocations intended for Local Governments could be paid directly to democratically elected councils rather than continue to depend upon a State-mediated arrangement whose operation had frustrated the constitutional beneficiary. Yet the constitutional question is more complicated than the political slogan of “financial autonomy”. Abiru JSC's disagreement exposed a serious textual difficulty: section 162 expressly contemplates State participation in the transmission of Local Government funds. The case consequently raises a fundamental Public Law question concerning the limits of purposive constitutional interpretation.

The importance of the 2024 decision should not be exaggerated into a constitutional mythology in which Local Government autonomy suddenly began with that judgment. The modern search for effective Local Government is at least half a century old. The Guidelines for Local Government Reform published in 1976¹¹ constituted a decisive moment in that history.¹² The reform philosophy connected Local Government with responsiveness to local wishes, democratic self-government close to the grassroots, mobilisation of communities and reciprocal communication between government

¹ Constitution of the Federal Republic of Nigeria 1999 (as amended), s 7(1)

² Ibid.

³ Ibid. s 162(3).

⁴ Ibid., s 162(5)-(8).

⁵ *Eze v Governor of Abia State* [2014] 14 NWLR (Pt 1426) 192 (SC).

⁶ *Governor of Ekiti State v Olubunmo* [2017] 3 NWLR (Pt 1551) 1 (SC).

⁷ *All Progressives Congress v Enugu State Independent Electoral Commission* [2021] 16 NWLR (Pt 1801) 1 (SC).

⁸ *Ajuwon v Governor of Oyo State* [2021] 16 NWLR (Pt 1803) 485 (SC).

⁹ *Friday v Governor of Ondo State* [2022] 16 NWLR (Pt 1857) 585 (SC).

¹⁰ *Attorney-General of the Federation v Attorney-General of Abia State & 35 Others* [2024] 17 NWLR (Pt 1966) 1 (SC).

¹¹ Federal Republic of Nigeria, *Guidelines for Local Government Reform* (Government Printer, Kaduna, 1976).

¹² Kayode Asaju, 'Local Government Autonomy in Nigeria: Politics and Challenges of the 1999 Constitution' (2010) 1(1) *International Journal of Advanced Legal Studies and Governance* 98; Augustine Nduka Eneanya, 'Fiscal Federalism and Local Government Autonomy in Nigeria' (2014) 4(2) *Nnamdi Azikiwe Journal of Political Science* 78.

and governed. The 1979 Constitution subsequently transformed democratic Local Government from reform policy into an express constitutional guarantee. The 1999 Constitution preserved that guarantee. The Supreme Court's modern jurisprudence should therefore be understood as part of a much longer struggle to convert the philosophy of locally responsive government into durable constitutional practice.

The literature on that struggle is extensive. Earlier scholarship examined the design of the 1976 reforms, intergovernmental relations, fiscal dependence, uniformity, State domination and the disputed notion of Nigerian “three-tier federalism”. Dele Olowu's early comparison of Nigeria and Brazil is especially important because it shows that comparative institutional thinking was present close to the birth of the modern Nigerian system.¹³ Victor Ayeni later questioned the coherence of “three-tier federalism” and warned that reforms presented as decentralisation could coexist with powerful centralising tendencies.¹⁴ More recent scholarship now addresses the 2024 judgment itself. Worugji and Worugji conclude that the judgment has been more symbolic than transformative and argue that constitutional alteration remains necessary to clarify Local Government status and functions.¹⁵ The gap can therefore no longer credibly be described as the absence of scholarship on Local Government autonomy or even the absence of scholarship on the 2024 judgment.

The unresolved problem is more conceptual. Much of the autonomy debate begins with the institution and asks how independent Local Government should be from State Government. This article begins instead with the citizen and asks why governmental authority should be located locally in the first place. That reversal matters. If Local Government is valuable because proximity can make public power more participatory, responsive, observable and accountable, autonomy becomes instrumental rather than self-justifying. The central constitutional inquiry becomes not simply whether Local Government is free from another government's control but whether it possesses sufficient democratic security, functional competence, fiscal capability and administrative capacity to perform the governmental purposes for which its independence is protected. This article therefore develops two principal ideas: governmental proximity and constitutional capacity. It argues that Local Government autonomy is constitutionally valuable not as a privilege belonging to Local Government officials, but because appropriately decentralised democratic authority can bring government within the citizen's reach.

2. From Autonomy to Constitutional Capacity

Autonomy is one of those constitutional expressions whose apparent simplicity conceals considerable disagreement. In its strongest ordinary sense, autonomy suggests the ability of an institution to govern its affairs without external control. Applied literally to Nigerian Local Government, however, this understanding immediately encounters constitutional difficulty. Local Government Councils are not sovereign entities. They do not possess an original constitutional competence equivalent to that of the Federation or the States, nor does the Constitution completely insulate them from State legislation. Section 7 itself places State law at the centre of Local Government establishment, structure, composition, finance and functions, while the Fourth Schedule identifies Local Government functions and contemplates State involvement in several fields.¹⁶ Any theory of autonomy that begins from complete institutional independence therefore asks the Nigerian Constitution to produce an institution it does not presently create.

Yet the opposite conclusion, that Local Governments are merely State administrative agencies, is equally difficult to reconcile with the constitutional text. Section 7 does not guarantee State field offices. It guarantees a system of Local Government “by democratically elected local government

¹³ Dele Olowu, 'Local Government Innovation in Nigeria and Brazil: A Comparative Discussion of Innovational Transfers and Intergovernmental Relations' (1982) 2(4) Public Administration and Development 345.

¹⁴ Victor Ayeni, 'The Illusion of Three-tier Federalism: Rethinking the Nigerian Local Government System' (1994) 7(5) International Journal of Public Sector Management 52.

¹⁵ Israel N Eme Worugji and Nheoma Eme Worugji, 'The Supreme Court Affirmation of the Status and Autonomy of Local Governments under the 1999 Nigerian Constitution' (2026) 70(2) Journal of African Law 235.

¹⁶ Constitution of the Federal Republic of Nigeria 1999 (as amended), s 7 and Fourth Schedule.

councils”.¹⁷ Election creates a source of legitimacy distinguishable from gubernatorial appointment. The elected council's democratic mandate comes immediately from the local electorate rather than as a delegation of political confidence from the Governor. This explains why the Supreme Court has repeatedly treated caretaker substitution and premature dissolution as constitutionally objectionable. Autonomy is therefore better understood as constitutionally protected decisional space: a sphere within which a council can perform genuinely local responsibilities, deploy resources lawfully assigned to it and remain accountable to its electorate without arbitrary substitution by another political institution.

The distinction between territorial proximity and governmental proximity is central to this argument. Territorial proximity describes physical distance between an institution and a population. Governmental proximity concerns the practical distance separating citizens from decisions, information, participation, governmental performance and mechanisms of accountability. A caretaker committee sitting a few kilometres from a community may be territorially close while remaining politically distant if its authority depends principally upon a Governor. Government has moved geographically towards the citizen without necessarily moving democratically towards the citizen. Governmental proximity instead asks whether residents can identify who made a local decision, influence local priorities, determine what resources were received, observe how those resources were spent, and replace those responsible through credible elections.

From this distinction follows the Proximity Principle advanced in this article. Where a public responsibility principally affects a particular locality, depends materially upon knowledge of conditions within that locality and produces outcomes directly observable there, responsibility should presumptively be placed sufficiently close to the affected population to permit responsiveness and accountability. The presumption is rebuttable. Localism is not intrinsically virtuous. Economies of scale, specialised technical requirements, inter-jurisdictional effects, national minimum standards and constitutional rights may require State or Federal involvement. The argument is not that every governmental function should descend to the lowest conceivable level, but that governmental responsibility should not be made more remote than its nature reasonably requires.

The more complete objective is constitutional capacity. An institution has constitutional capacity when democratic legitimacy, security of lawful institutional existence, meaningful competence over appropriate functions, sufficient and predictable financial resources, administrative ability, and mechanisms of public accountability operate together. Removing State interference strengthens one part of this architecture but cannot substitute for the remainder. Direct receipt of allocation can strengthen fiscal capability; it does not automatically create administrative competence, transparent procurement, credible Local Government elections or developmental performance. Conversely, a State may provide indispensable engineering, planning or technical assistance without thereby destroying Local Government autonomy. The constitutional problem must therefore be framed more carefully than the binary choice between control and independence. Nigeria requires capable Local Government embedded within cooperative intergovernmental relations.

3. Why Local Government Matters: Government within the Citizen's Reach

The case for effective Local Government does not begin with section 7 of the 1999 Constitution. It begins with an older problem in political thought: how close should governmental authority stand to the people upon whom it acts? Alexis de Tocqueville gave one of the most memorable answers in his account of the New England township. He wrote that “local assemblies of citizens constitute the strength of free nations” and compared town meetings to primary schools because they brought liberty “within the people's reach”.¹⁸ The point was not merely administrative. Tocqueville saw local institutions as schools of citizenship. Democratic government becomes durable when citizens repeatedly encounter institutions in which public choices are visible, contestable and capable of being influenced. A constitutional order may hold national elections and protect formal liberties, yet leave ordinary citizens politically distant from decisions that shape their daily environment. Local Government potentially narrows that distance.

¹⁷ Ibid., s 7(1).

¹⁸ Alexis de Tocqueville, *Democracy in America*, Henry Reeve (trans), vol 1 (Saunders and Otley, London, 1835) 73.

John Stuart Mill supplied the functional counterpart. In *Considerations on Representative Government*, he argued that only a small portion of a country's public business could be well done by central authorities and that matters "purely local" should ordinarily devolve upon local authorities. His examples included paving, lighting, cleansing and drainage.¹⁹ Their apparent mundanity is precisely the point. Public Law often concentrates upon dramatic struggles among Presidents, Governors, legislatures and courts, but citizens experience government equally through the road outside the house, the refuse beside the market, the drain that floods during rainfall, the primary health facility that opens or remains closed, and the local market whose organisation either supports or obstructs livelihoods. These are not constitutionally trivial because they are locally experienced. They form the infrastructure of ordinary life.

The aggregation of local failures produces national consequences. A neglected feeder road may appear to be a village problem until thousands of such roads prevent agricultural produce from reaching markets efficiently. A blocked drain may appear local until recurrent flooding destroys homes, spreads disease and imposes public expenditure elsewhere. Poorly organised markets, weak sanitation and deficient primary services accumulate into national developmental indicators. Local Government therefore occupies the point at which apparently small responsibilities combine into national welfare. This is why a serious constitutional theory of decentralisation cannot measure importance solely by the prestige of the institution performing the function.

There is also an epistemic reason for proximity. Governmental knowledge is distributed. A State ministry may possess engineers and technical standards that a small council lacks, but residents know which road becomes impassable during the rains, which culvert repeatedly collapses, which settlement has no functioning water point and which market requires urgent sanitation. Effective government requires technical expertise and experiential knowledge. Centralisation can preserve expertise while losing immediacy; unassisted localism can preserve immediacy while lacking expertise. The constitutional objective should therefore be a structure in which higher-level capacity supports local knowledge without displacing the institution politically accountable for the local function.

This produces a conception of cooperative federalism that is neither hierarchical nor romantic. The State has a legitimate interest in standards, coordination, audit, planning and the protection of rights. Local Government has a legitimate interest in democratic continuity, meaningful functions, resources and decisional space. The problem begins when supervision becomes substitution, coordination becomes command, stewardship becomes appropriation or temporary capacity support becomes permanent institutional dependency. The constitutional task is not to eliminate intergovernmental relations but to discipline them.

4. Historical Foundations: From Native Authority to the 1976 Reform

Nigeria's historical experience demonstrates that proximity without representation is insufficient. Colonial indirect rule brought administration physically closer to communities because the colonial state could not govern the entire territory through a dense direct bureaucracy. Native Authorities became important instruments of local administration, especially where existing political structures could be adapted to colonial purposes. Yet this should not be mistaken for democratic Local Government. The decisive chain of authority remained colonial. Administrative institutions could therefore stand within a community while political accountability travelled upward. The historical lesson is important: territorial proximity can facilitate administration without producing self-government.

The regional period gradually formalised Local Government through legislation, but it also revealed the enduring tension between local institutional existence and superior-government supervision. The Eastern Region Local Government Law 1960, for example, provided for councils and their corporate existence while preserving extensive ministerial supervisory powers.²⁰ This is significant because it shows that the contemporary Nigerian problem was not invented by the 1999 Constitution. The recurring question has long been how a local institution can possess meaningful governmental

¹⁹ John Stuart Mill, *Considerations on Representative Government* (Parker, Son, and Bourn, London, 1861) ch 15.

²⁰ Eastern Region of Nigeria, Eastern Region Local Government Law 1960, No 17 of 1960, pts II-III.

authority while remaining within a larger constitutional order that retains legitimate oversight. The answer cannot be the abolition of supervision; it must be the identification of the point at which supervision ceases to preserve standards and begins to substitute one government for another.

The 1976 reform marked a decisive conceptual shift. Its enduring importance lies not simply in nationwide uniformity but in the philosophy it articulated. Contemporary official materials describing the reform emphasised the importance of Local Government to the day-to-day well-being of Nigerians and reproduced objectives centred upon responsiveness to local wishes, democratic self-government close to the grassroots, mobilisation of local resources through public involvement, and a two-way channel of communication between communities and government.²¹ These objectives reveal a theory of Local Government more sophisticated than a mere administrative rearrangement. Responsiveness required that public action be informed by locally experienced needs. Democratic self-government distinguished elected institutions from appointed agents. Public involvement treated communities as participants rather than passive recipients of development. Two-way communication required information to travel upward as well as instructions downward.

The 1976 philosophy consequently provides an indigenous Nigerian foundation for the Proximity Principle. The reformers were not merely trying to create smaller offices. They were seeking a governmental relationship in which local wishes and initiatives could affect public action. This distinction is fundamental. A decentralised bureaucracy can deliver decisions made elsewhere. Local self-government requires some meaningful power to make decisions locally. The reform's emphasis upon democratic self-government also helps explain why later constitutional guarantees cannot comfortably coexist with indefinite caretaker administration. If the local institution derives part of its value from participation and reciprocal communication, gubernatorial appointment changes the direction of political accountability.

The reform also understood that Local Government required functions, not simply funds. Contemporary accounts of the reform emphasised decentralisation of significant responsibilities to the local level.²² This supports an important proposition: money follows governmental purpose; governmental purpose does not originate in money. A council requires resources because it has responsibilities. It does not become meaningful government merely because it receives an allocation. The correct sequence is therefore function, capacity and finance. Nigeria's contemporary fixation on direct allocation risks reversing that sequence if financial autonomy is treated as the destination rather than one condition of effective local government.

The historical arc can thus be expressed as an incomplete transition. Native Authority represented administrative proximity without democratic self-government. Regional systems created more formal local institutions but retained extensive superior supervision. The 1976 reform articulated democratic and developmental proximity. The 1979 Constitution constitutionalised elected Local Government, and the 1999 Constitution retained that guarantee while preserving substantial State mediation. The modern Supreme Court cases have progressively defended the institution against political extinction and fiscal incapacity. The history of Nigerian Local Government is therefore not a story of continuous progress, but it is intelligible as a recurring attempt to transform administration near the people into government answerable to the people.

5. The Literature: From Institutional Independence to Capacity

The literature on Nigerian Local Government is substantial enough to make exaggerated claims of novelty hazardous. Dele Olowu's 1982 comparison of Nigeria and Brazil examined institutional innovation and intergovernmental relations close to the 1976 reform and showed the importance of comparative learning in the development of the Nigerian system.²³ Victor Ayeni's later critique challenged the rhetoric of "three-tier federalism" and questioned whether reforms presented as

²¹ Federal Republic of Nigeria, *Guidelines for Local Government Reform* (Government Printer, Kaduna, 1976).

²² Federal Republic of Nigeria, *Guidelines for Local Government Reform* (Government Printer, Kaduna, 1976).

²³ Dele Olowu, 'Local Government Innovation in Nigeria and Brazil: A Comparative Discussion of Innovational Transfers and Intergovernmental Relations' (1982) 2(4) *Public Administration and Development* 345.

decentralising could in practice strengthen centralising tendencies.²⁴ Adeyemo's historical treatment located autonomy within the longer evolution of Nigerian Local Government,²⁵ while Okafor's work focused directly upon the State Joint Local Government Account and its consequences for fiscal independence.²⁶ These works demonstrate that the contemporary controversy has deep institutional roots.

Ayeni's objection deserves to be taken seriously. The phrase "third tier" is frequently repeated as though it settles the constitutional status of Local Government. It does not. The Constitution distributes powers between the Federation and States in a manner different from the treatment of Local Government. Section 7 guarantees democratic councils while leaving significant matters to State law; section 162 recognises Local Government within the revenue architecture while historically interposing the States. It is therefore safer to describe Nigerian Local Government as a constitutionally protected sub-federal sphere than to rely upon a slogan whose implications remain contested. The more useful legal inquiry is functional: whether the institution possesses sufficient authority, security and resources to perform the purposes for which it is constitutionally preserved.

A further strand of scholarship questions uniformity. Ikeanyibe's work draws attention to the tension between a highly uniform Local Government structure and the diversity of Nigerian communities.²⁷ The point strengthens the Proximity Principle. If proximity is valuable because government can respond to local circumstances, excessive uniformity may itself become a form of remoteness. A metropolitan council, a rural agrarian council, a riverine council and a border council need not have identical administrative arrangements merely because each is a Local Government. Minimum democratic guarantees should be national, but institutional design should permit sufficient flexibility to respond to genuine differences in function, revenue base, geography and population.

The post-2024 literature creates a different challenge to originality. Worugji and Worugji directly analyse the Supreme Court's affirmation of Local Government status and autonomy and conclude that the decision alone cannot resolve the deeper constitutional ambiguity.²⁸ Recent policy scholarship also shows that the political debate increasingly connects autonomy with developmental consequences rather than constitutional structure alone.²⁹ The present article therefore cannot plausibly claim originality merely by analysing the 2024 case or by arguing that State control has weakened Local Government. Its contribution lies in integrating historical reform philosophy, constitutional doctrine, fiscal relations, democratic continuity, comparative constitutionalism and developmental performance within a citizen-centred framework.

The literature gap can consequently be stated with precision. Existing scholarship has extensively investigated what Local Government autonomy requires freedom from: gubernatorial dissolution, caretaker administration, fiscal interference, constitutional ambiguity, excessive State control and, in some accounts, federal centralisation. Less developed is the complementary Public Law question: what should autonomy give citizens access to? The answer advanced here is governmental proximity backed by constitutional capacity. This reversal changes the beneficiary of the autonomy argument. If autonomy is conceived principally as an entitlement belonging to Local Government officials, the debate can degenerate into a struggle among political office-holders over money and power. If it is

²⁴ Victor Ayeni, 'The Illusion of Three-tier Federalism: Rethinking the Nigerian Local Government System' (1994) 7(5) *International Journal of Public Sector Management* 52.

²⁵ D O Adeyemo, 'Local Government Autonomy in Nigeria: A Historical Perspective' (2005) 10(2) *Journal of Social Sciences* 77.

²⁶ Jude Okafor, 'Local Government Financial Autonomy in Nigeria: The State Joint Local Government Account' (2010) 6 *Commonwealth Journal of Local Governance*.

²⁷ Okey Marcellus Ikeanyibe, 'Uniformity in Local Government System and the Governance Model in Nigeria' (2018) 53(1) *Journal of Asian and African Studies* 147.

²⁸ Israel N Eme Worugji and Nheoma Eme Worugji, 'The Supreme Court Affirmation of the Status and Autonomy of Local Governments under the 1999 Nigerian Constitution' (2026) 70(2) *Journal of African Law* 235.

²⁹ Ene Ikpebe, Emily Boykin, Alex Osei-Kojo and Bukola Usidame Peters, 'An Advocacy Coalition Framework Analysis of Local Government Autonomy in Nigeria' (2026) 59(2) *Policy Sciences* 417 <<https://doi.org/10.1007/s11077-026-09608-w>> accessed 28 August 2026.

understood as an institutional arrangement ultimately justified by citizen welfare, autonomy must be judged by participation, transparency, responsiveness, service delivery and accountability.

6. The Constitutional Architecture and the Judiciary's Defence of Elected Local Government

Section 7(1) of the 1999 Constitution contains both the promise and the tension of Nigerian Local Government. It guarantees democratically elected councils, yet requires States to ensure their existence under State laws dealing with structure, composition, finance and functions.³⁰ The Fourth Schedule assigns important functions, including markets, motor parks, refuse disposal, roads and streets, registration of births and deaths, and participation in primary education, agriculture and health services.³¹ Section 162 places Local Government within the distribution of Federation Account revenue but historically channels its allocation through the State for the benefit of councils and requires the State Joint Local Government Account.³² Read together, these provisions produce neither complete autonomy nor simple subordination.

The Supreme Court's pre-2024 jurisprudence progressively supplied content to the democratic guarantee. In *Eze v Governor of Abia State* the Court, rejected the premature dissolution of elected councils.³³ In *Governor of Ekiti State v Olubunmo*, the Court again treated the constitutional guarantee as incompatible with gubernatorial termination of elected councils before the expiry of their lawful tenure.³⁴ The line of reasoning continued through later cases and reached an especially important expression in *Ajuwon v Governor of Oyo State*, where the Court restored the legal consequences of the elected councils' tenure and reinforced the principle that State power cannot be used to convert constitutionally guaranteed councils into institutions existing merely at executive pleasure.³⁵

These cases can be understood through the idea of existential autonomy. Before an institution can perform its functions, it must be allowed to exist in the constitutional form prescribed for it. An elected council that can be dissolved whenever political control changes possesses only conditional democracy. The jurisprudence therefore protects more than office-holders. It protects the electorate's decision for the constitutionally contemplated period. The constitutional injury in premature dissolution is suffered not only by the Chairman and councillors but by citizens whose votes are displaced by appointment.

This point also explains why caretaker administration cannot be defended merely by reference to administrative convenience. A caretaker may keep offices open and authorise expenditure, but administrative continuity is not democratic continuity. Where section 7 insists upon elected councils, an appointed substitute changes the source of authority. The council becomes answerable primarily to the appointing power rather than the electorate. Territorial proximity survives while governmental proximity is weakened.

The judicial line is nevertheless not a complete theory of Local Government. Protecting tenure answers who may govern and for how long; it does not answer whether the institution has the resources, competence or administrative capability to govern effectively. The jurisprudence before 2024 therefore secured the constitutional existence of Local Government more successfully than its functional conditions. That distinction is essential to understanding the significance, and the limits, of the 2024 case.

7. The 2024 Supreme Court Judgment: From Existence To Fiscal Functionality

*Attorney-General of the Federation v Attorney-General of Abia State & 35 Others*³⁶ should not be reduced to the statement that the Supreme Court “granted Local Government financial autonomy”. Such a description captures the political consequence but understates the constitutional problem. The

³⁰ Constitution of the Federal Republic of Nigeria 1999 (as amended), s 7(1).

³¹ Ibid, Fourth Schedule.

³² Ibid., s 162(3), (5)-(8).

³³ *Eze v Governor of Abia State* [2014] 14 NWLR (Pt 1426) 192 (SC).

³⁴ *Governor of Ekiti State v Olubunmo* [2017] 3 NWLR (Pt 1551) 1 (SC).

³⁵ *Ajuwon v Governor of Oyo State* [2021] 16 NWLR (Pt 1803) 485 (SC).

³⁶ *Attorney-General of the Federation v Attorney-General of Abia State & 35 Others* [2024] 17 NWLR (Pt 1966) 1 (SC).

earlier cases had protected elected councils against arbitrary extinction. The 2024 litigation asked the Court to confront the next question: what value does protection of an elected institution possess if the financial arrangements through which it is expected to perform its functions can be operated in a manner that deprives it of effective governing capacity? The case therefore moved the jurisprudence from existential autonomy towards functional constitutional autonomy.

The difficulty arose from the text itself. Section 162(3) contemplates distribution from the Federation Account among the Federal, State and Local Government Councils.³⁷ Section 162(5), however, provides that the amount standing to the credit of Local Government Councils shall be allocated to the States for their benefit, while section 162(6) requires each State to maintain the State Joint Local Government Account.³⁸ The Court was therefore not dealing with silence. It confronted a constitutional arrangement that recognised Local Government as beneficiary while inserting the State into the transmission route.

The majority adopted a purposive approach. Agim JSC reasoned that a constitutional mechanism designed to facilitate enjoyment of a constitutional entitlement should not be interpreted so as to defeat the entitlement itself. The judgment states that procedure should not “override and even extinguish the very right created by the Constitution”.³⁹ This reasoning supports what this article calls the Constitutional Facilitation Principle: a constitutional mechanism created to facilitate enjoyment of a protected entitlement should not, so far as the constitutional text reasonably permits, be administered or interpreted as authority for destroying the substantive beneficiary it exists to serve.

The phrase “for the benefit of their Local Government Councils” in section 162(5)⁴⁰ is crucial. It distinguishes intermediation from beneficial ownership. State receipt does not transform Local Government money into State revenue. The State's constitutional position is more plausibly characterised as stewardship than ownership. Where the intermediary relationship becomes a mechanism for frustrating the beneficiary, the majority's concern is understandable: constitutional form should not be preserved in a manner that destroys constitutional substance.

Yet Abiru JSC's disagreement must be confronted seriously. His Lordship regarded the Constitution as having expressly selected the State-mediated route and objected that bypassing it risked “judicial legislation”.⁴¹ The objection is powerful because purposive interpretation cannot become an unlimited judicial licence to replace inconvenient constitutional text. Section 162(5) and (6) are not accidental words. If the constitutional mechanism has become dysfunctional, the orthodox long-term remedy is constitutional alteration. The strongest assessment of the case is therefore that the majority supplied an immediately consequential remedy to institutional failure, but did so across text that remains sufficiently uncomfortable to make amendment desirable.

Recognising this difficulty strengthens rather than weakens the argument for Local Government. A serious autonomy thesis should not depend upon pretending that hard constitutional text does not exist. If direct allocation is functionally necessary and democratically desirable, its strongest future foundation is express constitutional text. The judgment can therefore be understood as a constitutional bridge rather than a final settlement. It protects the beneficiary in the face of institutional dysfunction while placing renewed pressure upon the amendment process to state the intended fiscal relationship unambiguously.

The decision's democratic holding is less textually controversial. Section 7 expressly guarantees democratically elected councils, and the Court's rejection of caretaker, interim or administrator arrangements continues the jurisprudential line already developed in Eze, Olubunmo and Ajuwon. The interaction between the electoral and fiscal holdings is revealing. A council must possess democratic legitimacy, but democratic legitimacy without resources can be empty; resources without democratic legitimacy can be dangerous. Functional autonomy therefore requires both.

³⁷ Constitution of the Federal Republic of Nigeria 1999 (as amended), s 162(3).

³⁸ *Ibid.*, s 162(5)-(6).

³⁹ *Attorney-General of the Federation v Attorney-General of Abia State & 35 Others* [2024] 17 NWLR (Pt 1966) 1, 118 (SC) (Agim JSC).

⁴⁰ Constitution of the Federal Republic of Nigeria 1999 (as amended), s 162(5).

⁴¹ *Attorney-General of the Federation v Attorney-General of Abia State & 35 Others* [2024] 17 NWLR (Pt 1966) 1, 261 (SC) (Abiru JSC).

The judgment must not, however, be burdened with expectations it cannot fulfil. Direct payment does not build a road, clear a drain, prevent procurement fraud, transform an incompetent Chairman into a competent administrator, or make an uncompetitive Local Government election genuinely democratic. Courts can remove constitutional obstacles and discipline governmental relationships. They cannot administer 774 Local Government Areas. The post-2024 question therefore changes from whether States will permit Local Government to govern to whether Local Government, once constitutionally enabled, will govern effectively.

8. Beyond Fiscal Autonomy: Accountability, Capacity and Development

The constitutional liberation of Local Government from excessive State control cannot become the constitutional liberation of Local Government officials from accountability. The citizen who previously asked what a Governor did with Local Government allocations should not, after direct payment, merely redirect the same unanswered question to a Chairman. Autonomy that changes the custodian of opaque public money without changing the transparency of its use constitutes institutional relocation rather than democratic reform. The article therefore proposes an Autonomy-Accountability Corollary: every material increase in Local Government discretion should be accompanied by a corresponding increase in the transparency and accountability mechanisms through which citizens can scrutinise the exercise of that discretion.

The practical implications are concrete. Councils should publish allocations received, internally generated revenue, approved budgets, procurement awards, project locations, contractor identities, implementation status and audited accounts in forms reasonably accessible to residents. Council proceedings should be open subject to lawful exceptions. Audit institutions should possess both independence and enforcement capacity. These measures are not administrative decoration. They are the institutional means through which fiscal autonomy becomes citizen-centred rather than office-holder-centred.

Accountability must also be electoral. The constitutional guarantee of elected Local Government loses much of its democratic content if the institutions conducting local elections are unable to command public confidence. The legal prohibition of caretaker committees solves only one part of the democratic problem. Elections that are formally conducted but effectively predetermined by the political machinery controlling the electoral institution can reproduce dependency through a different mechanism. A mature post-2024 reform agenda must therefore address the credibility, independence and transparency of Local Government elections alongside finance.

Capacity presents another challenge. Nigeria's councils vary enormously in population, revenue base, geography, infrastructure and professional staffing. Some can sustain substantial administrative establishments; others cannot. A constitutional model that simply transfers functions and funds without building professional capacity may reproduce failure locally. Yet the answer cannot be permanent State substitution, because an institution whose functions are continuously performed by another level never develops the capability autonomy presupposes. Capacity support should therefore be capacity-preserving: higher governments may provide technical assistance, shared services, training and standards, but such intervention should be designed to strengthen the council's ability to perform rather than normalise its displacement.

Developmental legitimacy follows. Local Government autonomy should ultimately be judged by whether citizens can see public value. This does not reduce constitutionalism to road construction or service statistics; rights, participation and lawful government matter independently. But an institution justified partly by its proximity to everyday needs cannot remain indifferent to performance. The constitutional case for autonomy becomes strongest when democratic proximity and developmental capacity reinforce one another. A council that listens but cannot act frustrates participation. A council that acts without listening becomes technocratic. A council that receives money without accounting for it becomes merely another site of public power. Constitutional capacity requires the combination. This is why the post-2024 moment is potentially more demanding for Local Government officials than the previous arrangement. Dependence supplied an explanation for failure: the State controlled the money, dissolved councils, dictated priorities or withheld authority. As those constraints are reduced, the burden of explanation shifts. Autonomy relocates not merely money but responsibility. The Chairman who receives resources directly must increasingly answer the question that autonomy itself makes possible: what did the council do with the power it demanded?

9. Comparative Analysis: South Africa, India and Brazil

Comparison is useful only if it illuminates institutional choices rather than supplying decorative foreign examples. Nigeria should therefore not ask which foreign federation it should copy. It should ask how different constitutional systems combine democratic security, functional competence, fiscal capacity, institutional protection, accountability and higher-government support. South Africa, India and Brazil are particularly useful because they represent different answers to these questions.

South Africa offers perhaps the clearest constitutional statement of the relationship between municipal autonomy and supportive intergovernmental government. Section 151(4) of the Constitution provides that national or provincial government “may not compromise or impede a municipality's ability or right to exercise its powers or perform its functions”.⁴² Yet section 154(1) simultaneously requires national and provincial governments, through legislative and other measures, to “support and strengthen the capacity of municipalities to manage their own affairs, to exercise their powers and to perform their functions”.⁴³ These provisions together make an important point: non-interference and capacity-building are not opposites. A higher government can be constitutionally required to strengthen a municipality while being prohibited from undermining its ability to govern.

This distinction is especially valuable for Nigeria. The autonomy debate often oscillates between State domination and an unrealistic image of isolated councils. South Africa demonstrates a third possibility: protected local governmental authority combined with affirmative capacity support. The lesson is not that Nigeria should transplant South African municipal law wholesale. South Africa's constitutional structure, fiscal arrangements and political history differ substantially. The transferable insight is conceptual: assistance should enlarge the local institution's ability to act, not replace it.

India offers a different lesson. The Seventy-Third Constitutional Amendment constitutionalised Panchayats, and article 243G authorises State legislatures to endow them with powers and authority necessary to function as “institutions of self-government”, including responsibilities for economic development and social justice.⁴⁴ The formulation is powerful, but actual devolution remains substantially dependent upon State legislation. India's experience therefore illustrates both the value and the limitation of constitutional recognition. A Constitution can establish democratic local institutions while leaving the depth of functional devolution uneven. Nigeria should note the warning: constitutional language matters, but institutional practice depends upon the distribution of real functions, finance and administrative capability.

Brazil presents the strongest contrast in formal constitutional status. Article 18 of the 1988 Constitution includes municipalities within the political-administrative organisation of the Federative Republic and declares the Union, States, Federal District and Municipalities autonomous within constitutional terms.⁴⁵ Articles 29 and 30 provide municipal governmental foundations and competence over matters of local interest.⁴⁶ This clearer constitutional identification reduces some of the ambiguity that characterises the Nigerian arrangement. Yet Brazil also demonstrates that formal autonomy does not eliminate inequality among municipalities or the need for intergovernmental transfers and cooperation. Constitutional strength is therefore necessary but not sufficient.

The comparative conclusion is not that one model is universally superior. South Africa shows how autonomy can coexist with a constitutional duty of capacity support. India shows how constitutionalised self-government can remain uneven where devolution depends heavily upon States. Brazil shows the value of clearer constitutional status and municipal competence while reminding us that autonomy cannot abolish fiscal and regional inequality. Nigeria's reform task is to combine the most relevant institutional lessons without pretending that foreign constitutional language can substitute for domestic political and administrative reform.

The comparison also strengthens the argument for constitutional capacity. Direct allocation is only one variable. A council with money but uncertain functions may still fail. A council with functions but weak democratic security may be captured. A council with democratic security and functions but no professional staff may be ineffective. A council with all three but opaque finance may become

⁴² Constitution of the Republic of South Africa 1996, s 151(4).

⁴³ Ibid., s 154(1).

⁴⁴ Constitution of India, art 243G.

⁴⁵ Constitution of the Federative Republic of Brazil 1988, art 18.

⁴⁶ Ibid., arts 29-30.

unaccountable. The relevant constitutional unit of analysis is therefore the bundle of conditions that permits local government to operate as government.

10. Towards a Citizen-Centred Constitutional Model

Nigeria's next reform should begin by clarifying genuinely local functions. The present constitutional structure mixes enumerated Local Government responsibilities with State legislative mediation and shared responsibilities. Ambiguity encourages both duplication and blame shifting. A constitutional or legislative settlement should identify a protected core of genuinely local functions while preserving cooperative arrangements where scale or expertise requires shared performance. The objective is not to create watertight compartments but to make responsibility sufficiently clear that citizens can know which institution to praise, pressure or replace.

Second, democratic security must become non-negotiable. The Supreme Court's jurisprudence already supplies the doctrinal foundation: elected councils cannot constitutionally be treated as temporary conveniences. The practical reform is to make periodic, credible Local Government elections structurally unavoidable. Tenure should be clear, dissolution tightly controlled by law, and any exceptional temporary administration limited to circumstances and periods incapable of becoming a substitute for election. The electorate's mandate should be understood as a constitutional interest, not merely the private tenure interest of office-holders.

Third, fiscal reform should align resources with functions. If direct payment remains the governing arrangement after the 2024 judgment, constitutional amendment should remove avoidable textual uncertainty. But fiscal autonomy should not be reduced to Federation Account transfers. Sustainable Local Government requires lawful own-source revenue, predictable transfers, transparent budgeting and protection against predatory local taxation. The constitutional goal is not simply more money at the local level but sufficient, lawful and accountable resources for assigned responsibilities.

Fourth, transparency should be designed into autonomy. A national minimum framework could require every council to publish a standard monthly fiscal statement showing receipts, major expenditures, procurement commitments and project status. Technology makes such disclosure increasingly inexpensive, but digital publication should not become an excuse for excluding communities with weak internet access. Notice boards, ward meetings, radio and other locally appropriate means should complement online disclosure. Governmental proximity requires information to be practically accessible, not merely technically public.

Fifth, intergovernmental support should be governed by a capacity-preserving principle. States and the Federation should be able to provide training, technical standards, shared procurement platforms, professional secondments and emergency assistance. But support should ordinarily contain a pathway by which the council acquires or recovers the ability to perform the function itself. Permanent substitution can convert assistance into dependency. South Africa's constitutional combination of non-impairment and capacity strengthening offers a useful conceptual model here, even though the institutional details must remain Nigerian.

These reforms can be evaluated through a Citizen Proximity Test. Does the reform bring decision-making closer to citizens? Does it clarify responsibility? Does it provide sufficient resources for the responsibility assigned? Does it strengthen rather than substitute local capacity? Does it permit citizens to obtain intelligible information about decisions and expenditure? Does it make officials more electorally and legally accountable? Does it create an institution capable of responding to locally experienced problems? A proposal failing these questions should not automatically be described as strengthening Local Government merely because it transfers money or authority.

The test also guards against a false choice between autonomy and national standards. Local Government should not become a constitutional enclave in which rights, anti-corruption rules, audit requirements or minimum service standards cease to apply. Governmental proximity is valuable precisely because it can make power more visible and answerable. Where local power violates rights or becomes predatory, higher-level constitutional institutions retain legitimate roles. The purpose of decentralisation is not to move arbitrary power closer to citizens; it is to move accountable government closer to citizens.

11. Conclusion: The Unfinished Promise of 1976

Nigeria does not lack a philosophy of Local Government. The 1976 reform articulated one with remarkable clarity: responsiveness to local wishes and initiatives, democratic self-government close to the grassroots, mobilisation of local resources through public involvement, and reciprocal communication between communities and government. The subsequent constitutional history can be read as an incomplete attempt to institutionalise that philosophy. The 1979 Constitution constitutionalised elected Local Government. The 1999 Constitution preserved the guarantee but combined it with substantial State mediation. The Supreme Court progressively defended elected councils against arbitrary extinction, and the 2024 judgment confronted fiscal arrangements capable of frustrating the institution's ability to function.

The 2024 decision is therefore important, but it is not the end of the autonomy question. It removes or weakens one structural obstacle while exposing the next set of problems. A council that receives money directly must still possess clear functions, competent administration, credible democratic legitimacy and effective accountability. Direct allocation without these conditions can merely decentralise dysfunction. The constitutional destination is not a Local Government Council that receives money independently. It is a Local Government Council that governs effectively and answers to the people whose daily lives give its functions meaning.

The strongest long-term response remains constitutional clarification. The fiscal relationship should be stated expressly rather than left indefinitely dependent upon an exceptional judicial accommodation of sections 162(5) and (6). The democratic guarantee should be reinforced by electoral arrangements capable of producing genuine local accountability. Functions should be sufficiently clear to prevent permanent intergovernmental blame shifting. Capacity support should strengthen councils without replacing them. Transparency should travel with discretion.

The test will not ultimately be whether the expression "Local Government autonomy" appears more frequently in constitutional discourse. It will be whether the community road is maintained; whether the drain is cleared; whether the market functions; whether public money acquires a visible destination; whether the councillor returns to the ward; and whether the citizen confronting governmental failure can identify the official responsible and possess a realistic means of demanding an answer. Only then will territorial proximity become governmental proximity. Only then will autonomy become constitutional capacity. And only then will the constitutional promise of Local Government become what it was always meant to be: a promise that government itself can be brought within the citizen's reach.