



THE **CITIZEN'S GUIDE** TO THE **RECALL PROCESS**

UNDER THE CONSTITUTION OF THE
FEDERAL REPUBLIC OF NIGERIA 1999 (AMENDED)

VOL. 2

This guide is a publication of **Shine Your Eye (SYE)** - an online and mobile platform that lets you learn about your elected officials, follow their activities and engage them. The platform provides information (where available) on each official including: educational background, experience, policy interests, phone numbers, email addresses and constituency offices (where applicable). The platform also allows users to search for their representative using the Polling Unit number (PU#) on their voter's card.

Our goal is to **increase accountability** in governance by making it easier for Nigerians to engage elected office holders. Curating their activities also makes it easier to review track records at election time.

SYE is an initiative of **Enough is Enough Nigeria (EiE Nigeria)**. EiE Nigeria is a network of individuals and organizations committed to instituting a culture of good governance and public accountability in Nigeria through active citizenship.

Partners include News Central TV, Chocolate City Group, TASCK, Reclaim Naija, CO-Creation Hub (CcHub), BudgIT and The Cable.

Started in 2010, EiE Nigeria created the **RSVP (Register | Select | Vote | Protect)** campaign to leverage technology, especially social media to mobilize significant participation from citizens in the 18-35 age block in the 2011 elections and beyond.



National Prayer

O God of creation
Direct our noble cause
Guide our leaders right
Help our youth the truth to know
In love and honesty to grow
And living just and true
Great lofty heights attain
To build a nation where peace
And justice shall reign.

- 2nd Stanza of the Nigeria's Old National Anthem

TABLE OF CONTENTS

*“Of all the institutions of a democratic society,
there’s none as formidable as an awakened and
conscious citizenry.”*

- Shehu Sani

Glossary	3
Acknowledgements	3
Foreword – Professor Itse Sagay, SAN, Constitutional Law Expert	4
Tiers of Government	6
Engaging Legislators & Using Shine Your Eye	9
What is a Recall?	12
INEC RECALL GUIDELINES (2024 UPDATES)	16
CASE STUDY: Recalling Mr Lagbaja Tamedo (Wazobia Senatorial District)	17

GLOSSARY

EiE	Enough is Enough Nigeria, legally registered as <i>The EiE Project Ltd/Gte.</i>
INEC	Independent National Electoral Commission
LGA	Local Government Area
NASS	National Assembly
SYE	Shine Your Eye - an online and mobile platform to engage elected officials.

ACKNOWLEDGEMENTS

We would like to thank -

EiE Volunteer, **Odun Longe**, who did the initial background research for this document.

The **Independent National Electoral Commission (INEC)** under **Professor Attahiru Jega (Chairman, 2010 -2015)**, for its endorsement of the material.

Professor Itse Sagay, SAN for his foreword and the time spent reviewing the document.

Our reviewers: **Cheta Nwanze, Jude Ilo, Egghead Odewale** and **Chidi Odinkalu**.

Paul Lenz & the **mysociety** team for technical support on the SYE platform courtesy **Omidyar Network**.

FOREWORD

It is the popular belief that **the legislature is the greatest symbol of democratic governance**. That is why it is the only arm of government usually suspended during military take overs. Indeed, it is regarded as the first amongst three equals, hence, in the Constitution, the *legislature* and its powers come first, in Section 4, before the *executive*, Section 5 and the *judiciary*, Section 6.

Rather unfortunately, of the three arms of government in Nigeria, **the legislature appears to be the most problematic and most prone to misconduct**. It has been consistently guilty of corruption, self-service instead of self-less service, irresponsible behavior, and total lack of commitment to Nigeria and Nigerians. For example, there have been frequent and established cases of demand for bribes from persons appearing before the Senate for confirmation to executive positions.

They have been guilty of constant padding of appropriation bills. In the latest case, the 2016 Budget Bill, some leaders of the NASS, actually deleted the Lagos - Calabar Railway Project from the budget and diverted the N60 billion allocated to the project, to their personal constituency projects.

Again, the **exact amount that legislators earn remains a great mystery**. Officially, their salaries are slightly under one million naira (N1million) a month. The reality, which has been revealed by investigating civil society groups and concerned individuals is that a Senator as at 2010 was earning not less than \$1.7 million per annum whilst a House of Representative member was earning not less than \$1.4 million per annum. If one considers the fact that a U.S. Senator earns \$ 174,000 per annum and the President of the United States earns \$ 400,000, then the enormity of the Nigerian problem hits one in the face.

Only recently, over 80 of the 109 members of Senate have been accompanying the Senate President, Dr Bukola Saraki, to his trial at the Code of Conduct Tribunal, thus suspending the activities of a whole arm of the 3 arms of government. Is this responsible behavior? Are they paid to engage in court solidarity trips with each other? This level of infantile misconduct is extremely disturbing.

I could go on endlessly without reference to any notes. The negative conduct of our law makers since 1999 has simply been overwhelming. **The only control and source of relief left to voters is the ability to recall a gravely erring legislator.** This little booklet provides a lucid road map effectively guiding the wronged and frustrated voter towards the exercise of his ultimate powers; **the removal of a legislator who is proven unfit for the high position he or she occupies.**

The simple analysis of the machinery of government which precedes the recall section is excellent for the layman activist. I hope that the publication and distribution of this booklet will rouse the Nigerian electorate from their sleep and galvanize them into holding their representatives to the **highest standards of representation** or have them **kicked out** for being unfit to be entrusted with such a major responsibility.

Itse Sagay, SAN

Professor of Constitutional Law
University of Benin, Edo State, Nigeria
June 2016

TIERS OF GOVERNMENT

The work of the government in Nigeria is divided into three levels:

A. LOCAL



A Local Government Council oversees each Local Government Area (LGA). The Local government is responsible for things like:



Construction and maintenance of roads and streets; street lights and drains;



Establishment, maintenance and regulation of markets, motor parks and public conveniences;



Registration of all births, deaths and marriages.

B. STATE



A state has 3 branches - executive, legislature and judiciary. A state's residents are governed by a Governor who executes law made by the State's **House of Assembly**.

The role of government at the state level, in collaboration with the local government, is to maintain:

1. primary, vocational and adult education,
2. health services and
3. basic infrastructure like state roads.

State governments share the following responsibilities with the federal government:



Facilitate industrial, commercial and agricultural development.



Facilitate developments in university and post-primary education.



Maintain law & order and guarantee public safety and security.



C. FEDERAL

The federal government is Nigeria's highest body in charge of running the country. It is also divided into three branches:



1. Executive

This branch consists of the President, Vice-President and Ministers, who are subject to the provisions of laws made by the National Assembly.

2. Judiciary

The judicial branch upholds the mandates of the Constitution and resolves disputes generally according to law. This branch works via a court system and has three main divisions:



- The **Supreme Court** is the highest court of appeal on all matters. It consists of the Chief Justice of Nigeria and Justices appointed to the Supreme Court.
- The **Court of Appeal** consists of the President and the Justices of the Court of Appeal among which at least three (3) must be learned in Islamic Law and three (3) in Customary Law.

It has exclusive jurisdiction to hear and determine appeals from the:

1. Federal High Court
2. High Court of the Federal Capital Territory
3. State High Court
4. Sharia Court of Appeal



5. Customary Court of Appeal
6. National Industrial Court
7. A court-martial or other tribunals prescribed by an act of the National Assembly.

The **Federal High Court** has exclusive jurisdiction in civil cases and matters relating to the revenue of the Government of the Federation such as taxation, customs, and excise duties, banking, copyright, admiralty, citizenship, etc.



3. Legislature

The National Assembly comprises the Senate and House of Representatives.

The National Assembly has 5 primary roles:



Appropriations – they pass the country's annual budget.



Oversight – ensure the executive arm of government is delivering on the projects monies have been appropriated for.



Representation – as elected officials, they represent their constituencies at the National Assembly.



Lawmaking – they make laws that promote peace, order and good government.



Consent to high level appointments e.g Ministers, Central Bank Governor etc.

Engaging Legislators & Using Shine Your Eye

ENGAGING LEGISLATORS

Modes of engagement include:



Write a letter to request an explanation about decisions(s) / opinion(s) taken with respect to a government policy; a bill under consideration or already passed into law or an action of government.



Request a dialogue – stating date, time & venue – between the legislator and members of his / her constituency. This can either be a one-off as the need arises or at regular intervals.



A constituency could commission a team to highlight and **submit a position paper** on a topical issue / action which may affect the constituency. They can then call on the legislator to take action to safeguard the constituency. The legislator's response can then be tracked & monitored.



Write a legislator to give a scorecard of his / her activities with verifiable evidence.

Recalling a legislator should be the **final option** in engaging members of the National Assembly.



SHINE YOUR EYE (SYE)

There are over 1,000 elected officials in the three arms of government.

Nigerian citizens, through their votes, directly influence only **seven (7) offices**. All 7 are in the executive and legislative arms of government and they are:

	OFFICE	TIER OF GOVERNMENT
1	President	Federal Executive
2	Senator	Federal Legislature
3	House of Representatives	Federal Legislature
4	State Governor	State Executive
5	State House of Assembly Member	State Legislature
6	Local Government Chairman	Local Government Executive
7	Local Government Councilor	Local Government Legislature

The SYE platform provides information (where available) on each elected official including:



Educational Background



Phone Numbers



Experience



Email Addresses



Policy Interests



Constituency offices
(where applicable)

The platform also allows users to search for their representative using the Polling Unit number (PU#) on their voter's card.

As an interested citizen, the SYE platform provides various ways to engage with elected officials. This includes:



Search for your representative via Polling Unit number (PU#), constituency, city, state, political party or name.



Contact officials via telephone, email, social media or office visit via the information provided.

The site is also an educational resource and provides information on the basic tenets of democracy, the role of government and its officials, in addition to pertinent electoral information.

Users can also share their thoughts via featured polls.

In the future, we hope to add the following features;

1. Ability to email officials directly from the platform
2. Legislator score cards
3. Community highlights on projects sponsored or pushed by legislators via our partnership with **BudgIT's Tracka** (www.tracka.ng).

WHAT IS A RECALL?

According to the 1999 Constitution, '**recall**' is the power of voters to remove members of the legislature before the expiration of their term. It is a **"we-put-you-there-we-can-remove-you-from-there"** sort of power. It is *"designed to ensure that a legislator will act in the interests of his constituency, rather than in the interests of his political party or according to his conscience."*¹

In other countries, this may, or may not extend to other elected officials. For example, in 2008, Thabo Mbeki, the former President of South Africa was recalled by his party. He then tendered his resignation as President of South Africa. In this case, the President of South Africa is also a member of parliament and it is on this strength that he is voted president. Obviously, this is not the same as voters recalling an elected official but it is the closest African example of a 'recall'.

Advantages



Acting as discipline/deterrence for elected officials.



Providing voters with continued opportunities to make democratic decisions about their elected officials outside of the 4-year voting cycle.

Disadvantages



It can be politically manipulated, but this can be checked with citizen engagement.



It is a very difficult process because the threshold set by the constitution is high. The process requires focus, commitment, tight organisation and a well-funded structure to drive the campaign.

¹ <http://www.britannica.com/EBchecked/topic/493351/recall-election>

WHO CAN BE RECALLED?

Chapter 5, Section 69 of the Constitution of the Federal Republic of Nigeria 1999 (amended) states as follows:

*A member of the **Senate or of the House of Representatives** may be recalled as such a member if –*

*(a) There is presented to the Chairman of **INEC** a petition in that behalf signed by **more than one-half** of the persons registered to vote in that member's constituency alleging their **loss of confidence** in that member; and*

*(b) The petition is thereafter, in a referendum conducted by the **INEC** within **ninety days** of the receipt of the petition, approved by **a simple majority** of the votes of the persons registered to vote in that member's constituency.*

Section 110 states as follows:

*A member of the **House of Assembly** may be recalled as such a member if –*

*(a) there is presented to the Chairman of the **Independent National Electoral Commission** a petition in that behalf signed by **more than one-half** of the persons registered to vote in that member's constituency alleging **their loss of confidence** in that member; and*

*(b) the petition is thereafter, in a referendum conducted by the **Independent National Electoral Commission** within **ninety days** of the date of the receipt of the petition, approved by **a simple majority** of the votes of the persons registered to vote in that member's constituency.*

It is important to note that the Constitution **only** allows recall for the legislative arm. There is no such provision for the executive (President, Governor) arm of government. Local government officials cannot be recalled either. The closest equivalent for such officials in the 1999 Constitution is the **impeachment process** which does not directly involve citizens.

HOW IS A RECALL DONE?

The Constitution's recall provisions have been tested several times, but **unsuccessful each time**.

From the sections quoted above, sections 160 of the Constitution of The Federal Republic of Nigeria, 1999(as amended), Sections 2(c) and 113 of the Electoral Act 2022 that establish INEC's Regulations and Guidelines 2024, there are 6 steps to recalling a federal legislator. They are as follows:

1. **Submit a Petition**

A petition alleging a loss of confidence in the member which is signed by **more than half of the registered voters** (50%+1) within the legislator's constituency is submitted to the INEC Chairman. This petition must be accompanied by a covering letter with the contact address, telephone numbers, and email addresses of the petitioners. The signing of the petition may be by signatures or thumbprints.

Publication of Notice

2. Upon receipt of the petition, INEC will notify the legislator facing recall in writing at their official address, copy the presiding officer of the legislature, and post the notification on the Commission's website.

3. **Verification**

INEC verifies that the signatures/thumbprints in the petition are by registered voters in the constituency **through a two-step process**. First, there is an initial manual screening to confirm that the submitted signatures are complete and appear to be valid. Once this is done, **INEC proceeds to field verification, which is carried out at the polling units using the Register of Petitioners (Form EC 41) and the Bimodal Voter Accreditation System (BVAS) along with the voter's card**. Both the legislator and the petitioners may appoint Verification Agents (who must be registered voters in the constituency). Individual observers can also apply to INEC to monitor the process. The legislator must upload their agents' names, addresses, photos, and signatures to the Commission's portal no later than one (1) week before verification.

4. **Referendum by INEC**

If the petition meets the required threshold of **50% + 1** petitioners, INEC must conduct a referendum in the legislator's constituency within 90 days.

5. **Affirmative Votes**

An affirmative vote by a simple majority of the total registered voters in the constituency would deem such a member recalled. The process is to verify the true intent of the signatures/thumbprints received. Voting is done using Open Secret Ballots following the Election Commission's current Regulations and Guidelines and, no person shall be permitted to vote at any Polling Unit other than the one where he/she is registered.

6. **By-Election**

If the recall is successful, INEC conducts a by-election to replace the recalled legislator.

2024 UPDATE

INEC RECALL GUIDELINES

This booklet was launched in April 2018. This March 2025 edition is updated to reflect changes from the **Regulations and Guidelines for the Recall of a member of the National Assembly, House of Assembly of a state or Area Council of the Federal Capital Territory (2024)**.

Key changes include:



Petition Requirements

A recall petition must include a covering letter and contact details of petitioners.



Appointment of Agents

Both the lawmaker and petitioners can appoint Verification and Polling Agents.



Voting Procedure

The recall referendum follows INEC's Open Secret Ballot method.

CASE STUDY:

Recalling Mr Lagbaja Tamedo (Wazobia Senatorial District)

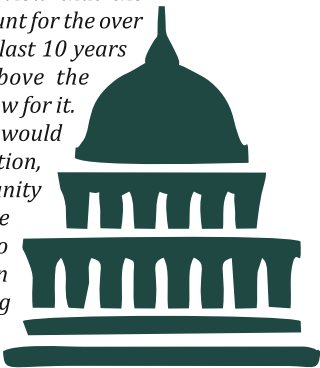
"There's a place for talking and criticism. But there's also a place to let our actions do the talking."

- Fela Durotoye

Mr Lagbaja Tamedo is an elected Senator representing Wazobia District of Airegin State. Recently, Mr Tamedo was one of the Senators who voted to increase the allocation of the National Assembly from N150 billion per year to N250 billion per year. While the members of the National Assembly usually voice vote, this particular issue was voted on electronically, so it was possible to know how each Senator voted.

The people of Wazobia are of the view that the National Assembly has failed to account for the over N1 trillion they have spent over the last 10 years and their salaries are far and above the minimum wage with very little to show for it.

They are very angry that Mr Tamedo would support such an increase. In addition, news has also filtered to the community that Mr Tamedo was one of the proponents leading the campaign to dismiss the probe into the corruption allegations against one of the serving ministers. He has also neglected contributing towards the development of his constituency and he has not visited his constituency in 19 months!



The last time he visited, the people of Wazobia had communicated their displeasure to Mr Tamedo, and he had given the constituency residents who summoned him money (N1,000 each) promising to change his ways.

When news of the outcome of the vote to increase their allocations became public, some of his constituency members got very angry and a group of unemployed graduates, led by a young lawyer, Gafa, decided to organize a town hall meeting to determine if others in the community were willing to take action besides complain. The town hall meeting was organized at the community centre which had about 450 people in attendance. At the meeting, the following steps were agreed upon:

- 1. There was a unanimous decision to recall Mr Tamedo since he was not representing the wishes of his people.*
- 2. As a community, they would write a letter to INEC to request for the list of registered voters – name, address and phone number - in their senatorial district, explaining that they want to begin a recall process.*
- 3. Distribute fliers listing the allegations against Mr Tamedo & the proposed action.*
- 4. Once the voters' register is received from INEC, begin a door to door campaign in the various wards to educate residents about Mr Tamedo's actions and obtain signatures of registered voters on the petition recalling Mr Tamedo.*

Outcome

- 1. Gafa and his team were able to gather signatures from 50.5% of the registered voters** in Wazobia and submitted the petition to INEC.
- INEC conducted a two-step verification exercise. First, a manual screening of the petition was done to ensure the signatures were complete and appeared valid. This was followed by a physical verification at designated centers, where signatories were required to appear in person with their voter's card to confirm their support for the recall.
- After the verification, INEC confirmed that the threshold was met, and Mr. Tamedo was recalled.
- A by-election was held, and Mrs. Nag Gbage was elected as the new Senator representing Wazobia.
- Mrs. Gbage's first action was to set up a team to plan her bi-monthly town hall constituency meetings in Wazobia.



Become an EiE Enabler!

"The world is not dangerous because of those who do harm but because of those who look at it without doing anything,"

- Albert Einstein

We invite you to influence Nigeria's trajectory by supporting our work to ensure that Nigerians are engaged and aware of how to make governance work for the benefit of all.

Would you like to donate to support our work?

If yes, please fill out the following information:

- **Name** *(First name, Last name)*
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- **City, State, Country**
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- **Pledge Amount**

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You are welcome to donate anonymously without giving us your contact information.

"We need to organise voice, not 'noise', to activate change in a sustainable way. Voice isn't anecdotal, it's empirical."

- Oby Ezekwesili

"What we think, or what we know, or what we believe, is in the end, of little consequence. The only consequence is what we do."

- John Ruskin

"Politicians and diapers have one thing in common; they should be changed regularly - and for the same reason."

- José Maria de Eça de Queirós



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