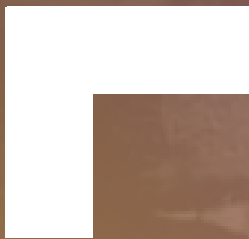


LEGALITY OF THE PRESIDENTIAL DECLARATION OF A STATE OF EMERGENCY IN NIGERIA AND THE SOCIAL AND ECONOMIC IMPLICATION



LEGALITY OF THE PRESIDENTIAL DECLARATION OF A STATE OF EMERGENCY IN NIGERIA AND THE SOCIAL AND ECONOMIC IMPLICATIONS

On the 18th day of March, 2025, President Bola Ahmed Tinubu in a nationwide television broadcast announced the declaration of a state of emergency in Rivers State as well as a suspension of Governor Siminalayi Fubara; his deputy Ngozi Odu; and all the members of the House of Assembly for an initial period of six months.

The declaration of a state of emergency is a significant governmental action, often implemented to address severe crises that threaten public order, safety, or the stability of a region. Thus, it comes as no surprise that this declaration has sparked a deluge of legal discourse and public commentaries over the legality and constitutionality of the announcement.

This paper seeks to examine some of the salient legal issues arising from the aforesaid March 18th declaration by President Bola Ahmed Tinubu and its social and economic implication on the state.

Background to the Declaration of a State of Emergency in Rivers State

Rivers State had in recent times been subject to conversations and concerns of constitutional breaches and growing political unrest. The state had experienced escalating political tensions, particularly between Governor Siminalayi Fubara and the state legislature. Lawmakers attempted to impeach Governor Fubara over allegations such as unauthorized budget presentations and issues related to the composition of the legislative body. These conflicts led to a governance impasse, hindering the state's administrative functions and contributing to a broader crisis within the opposition People's Democratic Party (PDP).¹

Furthermore, it was reported in a number of publications citing police reports that the Trans Niger Pipeline, one of Nigeria's biggest oil pipelines, located in Bodo Community in Gonna Local Government Area of Rivers

¹ Nigerian leader suspends the governor of an oil-rich state in rare emergency rule, DYEPKAZAH SHIBAYAN, <https://apnews.com/article/nigeria-tinubu-rivers-emergency-fubara-2c0384cc4ce3432e075c153a33eea144>

State had suffered an explosion on the 17th day of March 2025.² The explosion is reported to have caused significant damage to the infrastructure and caused a disruption in oil exports.

The President, in response to the aforementioned events proceeded to declare a state of emergency in River State. In his nationwide broadcast, he stated as follows:

“The latest security reports made available to me show that between yesterday and today there have been disturbing incidents of vandalism of pipelines by some militant without the governor taking any action to curtail them. I have, of course given stern order to the security agencies to ensure safety of lives of the good people of Rivers State and the oil pipelines.

With all these and many more, no good and responsible President will standby and allow the grave situation to continue without taking remedial steps prescribed by the Constitution to address the situation in the state, which no doubt requires extraordinary measures to restore good governance, peace, order and security.

In the circumstance, having soberly reflected on and evaluated the political situation in Rivers State and the Governor and Deputy Governor of Rivers State having failed to make a request to me as President to issue this proclamation as required by section 305(5) of the 1999 Constitution as amended, it has become inevitably compelling for me to invoke the provision of section 305 of the Constitution of the Federal Republic of Nigeria, 1999 as amended, to declare a state of emergency in Rivers State with effect from today, 18th March, 2025 and I so do.

By this declaration, the Governor of Rivers State, Mr Siminalayi Fubara, deputy, Mrs Ngozi Odu and all elected members of the House of Assembly of Rivers State are hereby suspended for an initial period of six months.

² Nigeria’s biggest oil pipeline restarts amid Rivers’ crisis Dipo Oladehinde, Godsgift Onyedinefu & Taofeek Oyedokun March 19, 2025 https://businessday.ng/news/article/nigerias-biggest-oil-pipeline-restarts-amid-rivers-crisis/#google_vignette

In the meantime, I hereby nominate Vice Admiral Ibokette Ibas (Rtd) as Administrator to take charge of the affairs of the state in the interest of the good people of Rivers State.”³

Whereas some have viewed this as a timely intervention, to the persisting state of unrest in Rivers State, many others opine this move to be draconian and contrary to the democratic nature of Nigeria

Legality of the Declaration

Unsurprisingly, the question now stands as to whether the political situation in Rivers State warranted the declaration of a state of emergency. To start with, this section shall explore constitutional interpretations to “state of emergency”.

The 1999 Constitution does not expressly state the meaning of a state of emergency. Its meaning can however, be gleaned from a combined reading of some sections of the Constitution. Particularly **Section 45(3)** which provides thus:

In this section, a period of emergency means any period during which there is in force a proclamation of a state of emergency declared by the president in exercise of the powers conferred on him under section 305 of this Constitution.

Section 305 however does not also expressly spell out the meaning of the expression ‘state of emergency’. The section only quite extensively provides for the procedure for declaration of a state of emergency, the conditions that will engender such a declaration, when it will cease to have effect, and the role of the National Assembly, the governors of the states and its legislative house in the process.

The procedure for the declaration of a state of emergency was outlined in Section 305 thus:

³ Tinubu Declares State Of Emergency In Rivers, Suspends Fubara, Kayode Oyero
<https://www.channelstv.com/2025/03/18/breaking-tinubu-declares-state-of-emergency-in-rivers/>

1. Subject to the provisions of this Constitution, the President may by instrument published in the Official Gazette of the Government of the Federation issue a Proclamation of a state of emergency in the Federation or any part thereof.
2. The President shall immediately after the publication, transmit copies of the Official Gazette of the Government of the Federation containing the proclamation including the details of the emergency to the President of the Senate and the Speaker of the House of Representatives, each of whom shall forthwith convene or arrange for a meeting of the House of which he is President or Speaker, as the case may be, to consider the situation and decide whether or not to pass a resolution approving the Proclamation.

Additionally, in **Section 305 (3)** the conditions necessary for the declaration of a state of emergency were stated as follows:

The President shall have power to issue a Proclamation of a state of emergency only when

- a. the Federation is at war;
- b. the Federation is in imminent danger of invasion or involvement in a state of war;
- c. there is actual breakdown of public order and public safety in the Federation or any part thereof to such extent as to require extraordinary measures to restore peace and security;
- d. there is a clear and present danger of an actual breakdown of public order and public safety in the Federation or any part thereof requiring extraordinary measures to avert such danger;
- e. there is an occurrence or imminent danger, or the occurrence of any disaster or natural calamity, affecting the community or a section of the community in the Federation;
- f. there is any other public danger which clearly constitutes a threat to the existence of the Federation; or
- g. the President receives a request to do so in accordance with the provisions of subsection (4) of this section.

As can be gleaned from the above, regardless of the President's authority, the provisions of the Constitution does not render the President's power absolute. The Constitution expressly provides a limitation to the President's power of proclamation of a state of emergency.

Under **Section 305(4)**, it is stated that a request for an emergency declaration must be initiated by the Governor, supported by a resolution from the State House of Assembly. This provision clearly reflects the drafters' intent to preserve democratic governance even in times of crisis, ensuring that the decision to invoke emergency powers is subject to local political oversight. Only when such a request is not submitted within a reasonable timeframe may the President unilaterally declare a state of emergency.

In the application of these constitutional provisions to the instant case, can it truly then be said that Rivers State meets the criteria for a state of emergency?

Firstly, it is not farfetched to opine that the crisis in Rivers State was mainly political, involving a dispute between Governor Siminalayi Fubara and the State House of Assembly over governance issues, including an impeachment attempt. While political tensions can affect governance, the situation had not escalated into an actual breakdown of law and order requiring extraordinary measures. There were no widespread violent protests, rebellion, or civil war-like conditions that posed an immediate national threat.

Thus, under **Section 305(3)(c)**, a mere governance dispute does not qualify as a "breakdown of public order and public safety" to warrant emergency rule.

Secondly, on the issue of the Trans-Niger Pipeline vandalism, while pipeline vandalism is a serious security and economic issue, it still cannot be said to be such as to warrant a declaration of emergency. In fact, Nigeria has historically dealt with similar incidents without declaring a state of emergency. Moreso, there was no clear evidence that oil vandalism in Rivers State had escalated to a level that directly threatened the entire state's governance or security.

Under **Section 305(3)(e)**, a state of emergency can only be declared if the situation presents a public danger to the existence of the Federation. Given

that oil pipeline attacks have occurred in other Niger Delta states without emergency rule being declared, this justification appears weak.

Finally, one of the most controversial aspects of the declaration was the suspension of Governor Fubara, his deputy, and the State Assembly members.

Section 188 of the 1999 Constitution sets out the only procedure for removing a governor, which involves an impeachment process by the State House of Assembly. The President does not have the power to unilaterally remove a governor or dissolve the State Assembly.

Even in cases where a state of emergency has been declared in the past (e.g., Adamawa, Borno and Yobe States in 2013), the governors were not summarily removed; they were merely placed under supervision.

Thus, the suspension of Rivers State's elected officials **violates Section 188 of the Constitution**, making it unconstitutional.

In light of the above, it is concluded and submitted that the declaration on the 18th day of March, 2025 does not meet the constitutional requirements for legality.

Social and Economic Effect of the State of Emergency

Social Effects:

1. **Erosion of Democratic Processes:** The suspension of elected officials disrupts the democratic governance structure, potentially leading to public disillusionment and decreased trust in political institutions. Citizens may feel disenfranchised, as their elected representatives are removed from office without direct input from the electorate.
2. **Civil Liberties Concerns:** States of emergency often grant expanded powers to security forces, which can result in the curtailment of civil liberties. In Rivers State, the deployment of security personnel to maintain order raises concerns about potential human rights violations, restrictions on freedom of movement, assembly, and expression.

3. **Public Anxiety and Uncertainty:** The abrupt change in governance and the presence of military administration can create an atmosphere of uncertainty and fear among residents. This environment may lead to increased stress and anxiety, affecting the overall well-being of the populace.

Economic Effects:

1. **Disruption of Economic Activities:** Rivers State is a vital hub for Nigeria's oil production. The declaration of a state of emergency, coupled with incidents of pipeline vandalism, disrupts oil production and export activities. Such disruptions can lead to significant revenue losses for both the state and federal governments, given that oil revenue constitutes a substantial portion of Nigeria's income.
2. **Investor Confidence:** Political instability and the imposition of emergency rule can deter both domestic and international investors. The uncertainty surrounding governance and security may lead investors to withdraw existing investments or reconsider future projects in the region, hindering economic growth and development.
3. **Impact on Local Businesses:** The heightened security measures and potential curfews associated with a state of emergency can adversely affect local businesses. Restricted movement and reduced operating hours may lead to decreased sales, financial losses, and potential layoffs, exacerbating unemployment rates in the region.
4. **Allocation of Resources:** The federal government's intervention involves deploying resources to manage the crisis in Rivers State. While necessary for restoring order, this reallocation may divert funds from other critical areas such as education, healthcare, and infrastructure development, impacting long-term socio-economic progress.

Conclusion

This declaration raises serious concerns about executive overreach and the undermining of Nigeria's democratic institutions. The event brings to the fore the delicate balance between national security and constitutional democracy. While the government has a duty to maintain law and order, it must do so within the confines of the Constitution to preserve democratic principles, public trust, and economic stability.



Queen Minenibebh Jim-Ogbolo

ASSOCIATE

📞 (234) 903 544 2265
(234) 703 374 0393

🌐 qm.jim-ogbolo@mjnuma.com
www.mjnuma.com

📍 Flat 1, Tripple A Villas, 495 Adegboyega
Atanda Street, Mabushi 900108, Abuja


M. J. Numa & Partners LLP
Trial Attorneys & Transaction Advisors

