



**DECLARATION OF STATE OF EMERGENCY IN RIVERS STATE  
AND SUSPENSION OF THE GOVERNOR AND MEMBERS OF THE  
STATE HOUSE OF ASSEMBLY BY PRESIDENT AHMED BOLA  
TINUBU OF NIGERIA**

African Bar Association is in receipt of fact of Declaration of State of Emergency in Rivers State, South-South Nigeria and the additional suspension of the duly elected Governor and members of the State House of Assembly by President Ahmed Bola Tinubu of Nigeria.

African Bar Association having been fully briefed of the facts of the matter, wish to highlight the inherent danger of the unfortunate incident.

1. There is no doubt that by virtue of the provisions of section 305 of the constitution of Federal Republic of Nigeria, 1999 as amended, the President of Nigeria is imbued with right to proclaim a state of Emergency subject to meeting the outlined provisions in section 305 (1), (2), (3), (4) and (5) especially subsection (3).

African Bar Association is not challenging this power of the President of Nigeria.

2. African Bar Association is in disagreement with the President of Nigeria in adding Suspension of the Governor, Deputy Governor and members of the State House of Assembly, duly elected by the mandate of Rivers State electorate with a term certain.

African Bar Association has copiously gone through the Constitution of Federal Republic of Nigeria 1999 and cannot locate the powers of the President of Nigeria to so suspend elected officials of Rivers State Government and her Legislative wing and subsequent appointment of an unelected Administrator to preside over the affairs of Rivers State Government for an initial Six (6) months subject to re-appointment.

3. Section I (1) and (2) of the constitution of Federal Republic of Nigeria, 1999 provides thus:

I(1) This constitution is supreme and its provisions shall have binding force on all authorities and persons throughout the Federal Republic of Nigeria.

I(2) The Federal Republic of Nigeria shall not be governed, nor shall any persons or group of persons take control of the Government of Nigeria or any part thereof, except in accordance with the provisions of this constitution”.

The Supreme Court of Nigeria did rule in the case of A.G. Federation V.AG Lagos State (2013) LPELR-20974 (SC) that, “Under no circumstances shall the democratic structures be suspended or dissolved, even in a state of emergency”.

This ruling is in accord with the Supreme Court of Nigeria decision on the governance module of Local Government Councils in Nigeria.

The Constitution of Federal Republic of Nigeria 1999 as amended in Section 11(4) stipulates thus:

“At any time when any House of Assembly of a state is unable to perform its functions by reason of the situation prevailing in that state, The National Assembly may make such laws for the peace, order and good government of that state with respect to matters on which a House of Assembly may make laws as may appear to be necessary or expedient until such time as the House of Assembly is able to resume its functions; and any such laws enacted by the National Assembly pursuant to this section shall have effect as if they were laws enacted by the House of Assembly of the State:

Provided that nothing in this section shall be constituted as conferring on the National Assembly power to remove the Governor or the Deputy Governor of the State form Office”.

From the foregoing, the constitution has taken care of what is to be done if the state legislature is unable to function. Therefore the President of Nigeria instruction that the Administrator is free to "formulate regulations as may be found necessary to do his job, but such regulations will need to be considered and approved by the Federal Executive Council and promulgated by the President for the state" is patently illegal and unconstitutional.

The President of Nigeria should ruminate and have a rethink and follow the path of constitutionality.

4. African Bar Association is appalled and disheartened by the action of President of Nigeria. It is most unfortunate that the Constitution and case law in Nigeria is quite clear and unambiguous in outlawing what the President of Nigeria has done.

The President of Nigeria must mind the consequences of his unconstitutional and unlawful actions of dismantling democratic institutions, which is a kill joy to democracy.

The actions of the President of Nigeria is an aberration and an invitation to avoidable untoward negative happenings.

5. Africa, has myriad of problems, especially good governance deficit, which has visited her people with abject poverty, educational impediments, lack of affordable healthcare, unemployment, non-payment of living wages which ought to engage her leaders for quick fix solutions.
6. African governments must avoid the invitation of humanitarian problems to the governed by deliberate actions that are actuated by intended democracy harm.
7. African Bar Association notes the raging problems in the Sahel States and their exit from ECOWAS.
8. African Bar Association notes that the President of Nigeria had lead the fight against undemocratic governance in West Africa and Africa

and is therefore worried of his present action as it concerns Rivers State in South-South, Nigeria.

9. African Bar Association hereby calls on the President of Nigeria to restore the duly elected Governor, Deputy Governor and members of the Rivers State House of Assembly to their positions and follow the dictates of the Constitutions of Federal Republic of Nigeria in any action to remove them from office.
10. African Bar Association recognizes the competence with merit of Attorney General and Minister of Justice of Nigeria and do hope that he will do the needful in this matter.
11. Finally, African Bar Association calls for the reversal of the Six (6) months suspension of the Governor, Deputy Governor and members of the Rivers State House of Assembly same being illegal and unconstitutional.

Dated at Nairobi, Kenya, this 19<sup>th</sup> day of March 2025.



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African Bar Association