

March 19, 2025

Press Release

Mr. President: Recall the Declaration of a State of Emergency in Rivers State

Centre for Social Justice (CSJ) notes with regret President Bola Ahmed Tinubu's declaration of a state of emergency in Rivers State, thereby suspending the executive and legislative arms of government for six months and appointing a sole administrator. This raises fundamental constitutional questions.

By the enabling S.305 (3) of the Constitution of the Federal Republic of Nigeria 1999 as amended, the President's power to declare a state of emergency is contingent on the following: (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.

The first point of departure is that wording of the provisions in the above scenarios did not begin with "in the opinion of the President" or any other public officer. Therefore, these circumstances are not subjective but must be manifest, founded on credible evidence and can be clearly seen and perceived by all right-thinking persons. Nigerians are yet to see the circumstances warranting this extreme step.

The second point is that none of the above conditions have emerged in the case of Rivers State considering the judgement of the Supreme court which the parties were in the process of obeying through implementation. The unfolding scenario in Rivers State was not beyond what the courts and ordinary law enforcement agents could handle. The rush to short-circuit the implementation of the decision of the Supreme Court is not a democratic step. It is not in the interest of the rule of law, due process and democratic consolidation.

The third point is that the Constitution did not provide for the declaration of a state of emergency as a first step intervention in circumstances bordering or getting close to the above scenarios. It was provided as a matter of last resort when all other reasonable steps have been taken and probably failed to provide a meaningful solution. Pray, what steps did the President take beyond this declaration? If the President insists that he had intervened before the declaration, Nigerians would love to see the terms of the resolution of the parties based on his intervention. For the sake of transparency, the President should be bold enough to publish the terms of the resolution.

The fourth point is that the express provisions of S.305 or any other provision of the Constitution did not give the President powers to remove an elected governor or an elected legislature. So, the action of President Bola Ahmed Tinubu is clearly unconstitutional and an affront of unimaginable proportions on the rule of law and democracy.

Do we call on the National Assembly not to approve Mr. President's declaration of a state of emergency? It will be a great wonder and miracle if the National Assembly votes against the declaration considering the well-known rubber stamp disposition of the National Assembly.

Mr. President, it is still within your power to recall and withdraw this declaration of a state of emergency and allow the letter and spirit of the Constitution to prevail.

Finally, Mr. President, the architect of the present confusion in Rivers State is Nyesom Wike, your appointee and the Minister of the Federal Capital Territory who insists on having political control of Rivers State after leaving office as governor. You should sanction him and call him to order. Otherwise, the confusion will continue.



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