

# An Appraisal of Executive Orders in Nigeria

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**Abstract:** *The President in a presidential system such as Nigeria may issue orders to agents and agencies of the executive branch. These orders may set out the plan and strategy of the government, issue directives or command action relating to functions of the executive arm. On March 18, 2025, President Bola Ahmed Tinubu, in a nationwide broadcast, declared a state of emergency in Rivers State, citing escalating insecurity and political instability. In an unprecedented move, he further announced the suspension of the Governor, Siminalayi Fubara, his Deputy, Mrs. Ngozi Odu, and all members of the Rivers State House of Assembly for a period of six months. This presidential proclamation has since generated widespread public discourse and legal scrutiny, particularly concerning the scope and limits of presidential powers under the emergency provisions of the 1999 Constitution of the Federal Republic of Nigeria (as amended). The paper also discusses the doctrine of separation of power and the constitutional validity of executive orders. The paper focused on the Challenges to the Application of Executive Orders: Presidential Executive Orders 6 (2018) and Presidential Executive order 10 as well as ways by which executive orders can be challenged. This paper also explored the advantages and disadvantages of the use of executive order, as well as stating the status of executive order in the hierarchy of laws. The paper briefly talked about the use of executive order by governors in Nigeria which goes to show that executive order is not only used by the president rather it can be used by the head of the Executive, both in government and in the private sector. It then ends with a conclusion that Executive orders are not statutory laws, Executive orders been made by the president pursuant to an existing Act or authority vested by the legislature on the president or governor as the case may be, is not the president making new laws rather such orders must derive from an existing legislation. There is a significant difference between law making and issuing of executive orders. As advantageous as Executive orders may look like, it is not devoid of disadvantages, it becomes disadvantageous if not done to achieve the good, peace and betterment of society where it (Executive order) intends to thrive. Finally, recommendations are made for transparency and accountability in the use of executive orders. The methodology adopted in arriving at the findings is doctrinal mainly relying on decided cases and existing literature on the subject or related subjects.*

**Keywords:** executive orders, presidential powers, state of emergency, constitutional validity, transparency and accountability.

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## INTRODUCTION

One of the most pressing challenges of governance in a democratic system is reconciling the need for swift executive action with the constitutional requirement of legislative oversight. Executive orders embody this tension. Unlike legislation, which must pass through lengthy parliamentary deliberations and formal enactment procedures, executive orders provide the executive arm with an immediate instrument to implement policy, direct administrative agencies, and respond to urgent matters of governance.

Executive orders are formal, written instructions issued by the president, governor, or head of the executive branch in a democratic system, such as those found in the United States and Nigeria. While these directives carry the weight of law, they do not constitute legislation in themselves, as they do not undergo the standard legislative process. In Nigerian jurisprudence, executive orders are a relatively new concept, which has led to considerable discussion among academics and legal professionals concerning their definition, scope, purpose, implementation, classification, and validity. Some scholars argue that executive orders represent an encroachment by the president into the legislative domain; however, a thorough understanding reveals that all executive orders must operate within the framework of the constitution. Any executive order that conflicts with constitutional provisions can be legally challenged and, if found inconsistent, will be invalidated by the courts.

it is mainly associated with a presidential system of government where there has to be separation of powers. A strict adherence to the doctrine of separation of powers in a presidential system has become almost impossible due to the over-lapping functions of each arm of government.<sup>1</sup> Under the constitution of the federal republic of Nigeria 1999 (as amended), executive power is vested in the president<sup>2</sup>. In carrying out executive functions, the president may issue orders to agents and agencies of the executive branch. These orders may serve as government policies, issue directives and command actions relating to functions of the executive arm. The concept of Executive Orders found its way into the Nigerian constitutional jurisprudence during the administration of President Muhammadu Buhari. Before President Muhammadu Buhari came to power, no civilian president had issued an Executive Order. His administration brought an avalanche of executive orders into Nigeria, issuing the country's very first executive order—Executive Order 1 (EO1)—on May 18, 2017. This order, titled “*The Promotion of Transparency and Efficiency in the Business Environment*,” marked the beginning of the use of executive orders in Nigeria and was subsequently followed by several others.

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<sup>1</sup> Karl Loewenstein, *Political power and the government process*. (The University of Chicago Press 1957) page 4-37

<sup>2</sup> Section 4, 5, 6. Constitution of the Federal Republic of Nigeria 1999 (as amended)

### ***Theoretical framework***

The expression, “Executive Orders” is neither defined in the Nigerian constitution nor is it interpreted in any legislation of the national assembly or house of assembly of any state.

According to the Black’s law dictionary Executive Order is defined as

*“An order issued by or on behalf of the president intended to direct or instruct the actions of executive agencies or government officials or to set policies for the executive branch to follow”.*<sup>3</sup>

Molo’s Plain English Law Dictionary defines Executive Order as a declaration by the president or governor which has the force of law, usually based on existing statutory powers and requiring no action by the congress or state legislature.<sup>4</sup>

To Barack Obama, executive order is viewed as an administrative tool for a president like him. He described executive order as having a pen to give effect to orders and take actions (administrative actions) that will move the ball forward.<sup>5</sup>

Under the provisions of *section 5(1)(a) of the 1999 Constitution of the Federal Republic of Nigeria* states that the powers “may be exercised by the President directly, or through the vice-president and ministers of the Government of the Federation or officers in the public service of the Federation<sup>6</sup>”

The very few Acts of the legislature in Nigeria that contain the expression “Executive Orders” do not define or interpret it. For example. Section 5, Appropriation Act No 4, 2006 and section 5 Appropriation Act No 3, 2007 expressly mentioned Executive Orders, but do not contain any interpretation or explanatory provisions as to the meaning of the word. The interpretation Act also does not contain any definition of the term.<sup>7</sup>

However, they are numbered consecutively, so executive orders may be referenced by their assigned number, or their topic.<sup>8</sup> It can be said that an Executive Order is a command directly issued or given by the president or governor to an executive agency, class of persons or body under the executive arm of government. Such a command is in furtherance of government policies or Acts of the legislature. The executive order may require the implementation of an action, set out parameters for carrying out specific duties, define the scope of existing legislation or be a subsidiary instrument within the contemplation of section 37 of the Interpretation Act<sup>9</sup>

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<sup>3</sup> Blacks law dictionary, (8<sup>th</sup>), page 610

<sup>4</sup> ‘Executive Order’, *Cornell Law School* [www.law.cornell.edu/wex/executive\\_order](http://www.law.cornell.edu/wex/executive_order) accessed 3 May 2023.

<sup>5</sup> ‘Barack Obama Quotes’, [www.brainyquote.com/quotes/barack\\_obama\\_634666](http://www.brainyquote.com/quotes/barack_obama_634666) 3 May 2023.

<sup>6</sup> Constitution of the Federal Republic of Nigeria 1999 (as amended), s 5(1)(a)

<sup>7</sup> Interpretation Act cap 123 LFN 2004

<sup>8</sup> ‘Executive Orders’, *CIO Council* <https://www.cio.gov/handbook/other-it-authorities/executive-orders/> 20 April 2025.

<sup>9</sup> Interpretation act cap 123 LFN 2004.

### ***History of Executive Orders***

Executive Orders have their origin in the United States of America. The first Executive Order was issued by George Washington on the 8<sup>th</sup> of June 1789. The executive order was addressed to the heads of the federal departments, instructing them to “impress him with a full, precise and distinct general idea of the affairs of the United States in their fields”. Franklin D Roosevelt, the only president to serve more than two terms in the history of the United States, signed by far the most Executive Orders (3721) many of which established key parts of his sweeping New Deal Reform. President Adams, Madison and Monroe issued one Executive Order each.<sup>10</sup>

The concept of Executive Orders found its way into the Nigerian constitutional jurisprudence during the administration of President Muhammadu Buhari and of course, this has caused a little transformation in the Nigerian constitutional jurisprudence. During President Buhari’s administration from 2015 to 2023, a total of 14 Executive Orders were signed by the President. Here’s a rundown highlighting them;

#### ***Executive Order (EO) Number 1:***

While Buhari was on his record-breaking 103-day medical leave in London in 2017, his Vice President, Yemi Osinbajo, signed the administration’s first four Executive Orders, while he was acting President. He signed the first three Executive Orders on May 18th 2017. The Executive Order (EO) Number 1 addressed the promotion of transparency and efficiency in the Nigerian business environment. It was designed to facilitate the ease of doing business in the country.

#### ***Executive Order (EO) Number 2***

This Executive Order mandated the timely submission of annual budgetary estimates by all government agencies.

#### ***Executive Order (EO) Number 3***

This Executive Order addressed support for local content in public procurement. All Ministries, Departments and Agencies (MDAs) of the government were directed to grant preference to local manufacturers of goods and service providers.

#### ***Executive Order (EO) Number 4***

This Executive Order addressed the Federal Government’s Voluntary Assets and Income Declaration Scheme (VAIDS). The government offered tax amnesty to taxpayers who had not been fulfilling their tax obligations. Defaulters were asked to regularize their tax affairs before March 2018. This is the fourth and final Executive Order signed by Osinbajo, as Acting President on June 29th 2017.

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<sup>10</sup> J.P. John, M.P. Richard & A.R. Donald, *The Oxford Guide to the United States Government* (Oxford University Press, 2002).

### ***Executive Order (EO) Number 5***

This Executive Order was Buhari's debut, signed on February 6th 2018. With Executive Order 5, Buhari ordered government agencies to give preference to Nigerian companies and firms over foreigners when awarding contracts. The order also stopped the Ministry of Interior from giving visas to foreign workers whose skills are readily available in Nigeria.

### ***Executive Order (EO) Number 6***

This Executive Order addressed the preservation of suspicious assets connected with corruption. The order allowed the government to assume control of assets linked to ongoing criminal investigations and trials. Buhari signed the order on July 5th 2018.

### ***Executive Order (EO) Number 7***

This Executive Order enabled private sector entities to construct and refurbish roads across Nigeria in exchange for tax benefits, from the government. Buhari signed the order on January 25th, 2019.

### ***Executive Order (EO) Number 8***

This Executive Order provided a 12-month period of grace for Nigerian taxpayers to voluntarily declare and pay tax on their offshore assets through the Voluntary Offshore Assets Regularisation Scheme (VOARS). In exchange, they wouldn't be prosecuted for tax offences and offences related to offshore assets.

### ***Executive Order (EO) Number 9***

Buhari used this Executive Order to mandate that Nigeria must become open defecation-free by 2025. The Executive Order directed that all public places including schools, fuel stations, and places of worship, market places and hospitals must have accessible toilets within their premises. Buhari signed the order on November 20th 2019. ***Executive Order (EO) Number: 10*** With this Executive Order, Buhari directed the financial independence of the state legislature and judiciary whose purse strings are controlled by their Governors. The President signed the order on May 22nd 2020, but the Supreme Court nullified it on February 11th 2022. The Court ruled that the order violated the principles of the separation of powers set by the constitution.

### ***Executive Order (EO) Number 11***

This Executive Order addressed the maintenance of national public buildings. Buhari directed all Ministries, Departments and Agencies of government (MDAs) to set up maintenance departments and make them functional to preserve government assets. Buhari signed the order on April 6th 2022.

### ***Executive Order (EO) Number 12***

This Executive Order is on improving the performance management, coordination and implementation of the presidential priorities, targeted at institutionalizing a culture of accountability and transparency, in the pursuit of good governance, in Nigeria. It was signed on 18th October, 2022

### ***Executive Order 13***

On Improving Performance Management, Coordination and Implementation of Presidential Priorities of the Federal Government of Nigeria (2022)

### ***Executive Order (EO) Number 14***

This Executive Order is on the establishment of a Presidential Transition Council (PTC) to facilitate and manage the 2023 transition programme. The Executive Order was to ensure the facilitation and management of the Presidential Transitions and a key feature of this Executive Order is the institutionalization of a legal framework that would enable a seamless transition of power from one Presidential Administration to another which is part of President Buhari's legacy. It was signed on February, 9 2023. It may interest many here to know that, since 1999, none of Nigeria's three presidents before Buhari ever signed an Executive Order, but, President Muhammad Buhari so far signed 14 Executive Orders, since 2015.<sup>11</sup>

More recently, the introduction of Executive Orders into the Nigeria constitutional jurisprudence has rubbed off on the state governors. In recent times state governors have started issuing executive orders. Example of governors who have issued Executive Orders are Governor Nyensom Wike of Rivers State, Governor David Umahi of Ebonyi State, governor of Nassarawa state. These governors have signed various executive orders during the Buhari's administration.

Following the need to address the concerns of the masses (businesses and individuals) concerning recent changes to taxes & duties introduced by the Finance Act 2023 and the Fiscal Policy Measures 2023, the President of the Federal Republic of Nigeria, Bola Ahmed Tinubu, on Thursday, 6 July 2023, signed four (4) executive orders. These orders signify the President's commitment to implementing key reforms, easing the tax burden on businesses, and addressing critical issues affecting the nation's tax space. On 28th February 2024, his Excellency, President Bola Ahmed Tinubu, GCFR, signed three Executive Orders as part of the Federal Government of Nigeria's (FGN) commitment to improve the investment climate and position Nigeria as the preferred investment destination for the Petroleum Sector in Africa. The Executive Orders which became effective 28th February 2024, are as follows:

1. Oil and Gas Companies (Tax Incentives, Exemption, Remission, etc.) Order, 2024

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<sup>11</sup> Kabiru E. R., *Executive Orders (EOs) Signed by President Muhammad Buhari* (Ibadan: Centre for Local Government and Rural Development Studies, 2023), cited in Balarabe A.B., 'Executive Order and the Doctrine of Executive Supremacy: The Nigerian Experience' (2023) 1(3) *Journal of Political Discourse*

2. Presidential Directive on Local Content Compliance Requirements, 2024
3. Presidential Directive on Reduction of Petroleum Sector Contracting Costs and Timelines, 2024<sup>12</sup>

It is pertinent to state that, before now the closest Nigeria has ever come to Executive Order before the coming of the Muhammadu Buhari's administration were the so called "general circulars" issued by the secretary to the government of the federation. The major difference between Executive Orders and these service wide circulars is that, the later do not derive from section 5<sup>13</sup> of powers conferred on the president. Again, these circulars were signed by the secretary to the government of the federation and not the president. These circulars thus had doubtful legal effect and are not readily enforceable by the court.<sup>14</sup>

### *Nature of Executive Orders*

Characteristically, Executive Orders do not give room for the choice to obey or not. They are therefore not normally directed at individuals in situations where the individual can lawfully exercise a choice of refusal. They affect the right of private citizens only indirectly, and they have the force of law. When validly issued, an Executive Order commands compliance from all relevant government agencies and, when applicable, the general public. Although they may not be as strict as a "case of emergency" as issued on March 18, 2025<sup>15</sup>, where President Bola Ahmed Tinubu, in a nationwide broadcast, declared a state of emergency in Rivers State, citing escalating insecurity and political instability. In an unprecedented move, he further announced the suspension of the Governor, Siminalayi Fubara, his Deputy, Mrs. Ngozi Odu, and all members of the Rivers State House of Assembly for a period of six months. This presidential proclamation has since generated widespread public discourse and legal scrutiny, particularly concerning the scope and limits of presidential powers under the emergency provisions of the 1999 Constitution of the Federal Republic of Nigeria (as amended)

Thus, Executive Order can also be said to be a tool which the executive uses to bypass the challenges of legislature as well as deciding how and to what degree legislation will be enforced, dealing with emergencies, waging wars and in general fine-tuning policy choices in the implementation of broad statutes. It is important to state that the court can invalidate and make void an Executive Order where it is against public policy or it is inconsistent with the provisions of the constitution. Also, legislature can invalidate or revoke an executive order by passing a new legislation.

The form Executive Orders take is sometimes dictated by the enabling law. The legislature may require that a particular order must be published in the federal gazette.<sup>16</sup> Where the legislature stipulate the

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<sup>12</sup><https://kpmg.com/ng/en/home/insights/2024/03/president-signs-three-executive-orders-on-oil-and-gas-reforms.html>  
accessed 15 April 2025.

<sup>13</sup> Constitution of the Federal republic of Nigeria as amended.

<sup>14</sup> S.amadi. *op.cit.* note 12

<sup>15</sup> Tinubu's Declaration of State of Emergency in Rivers State" (2025) Premium Times (online), 18th March.

<sup>16</sup> Section 34 commodity board CAP C17 LFN 2004; section 13 (3) customs excise tariff etc(consolidation) ACT. CAP C49 LFN 2004; section 2 (2) Federal Capital Territory ACT. CAP F 6 LFN 2004; section 3 (2) Federal Government

manner in which an order is to be carried out, the president can not deviate from the stipulated form. However, where there is no such stipulation; the order may take any reasonable form.<sup>17</sup>

In the case of *Abubakar v AGF*,<sup>18</sup> the supreme court relied on and quoted with approval its earlier decision in *cooperative commerce bank Nig Ltd v Anambra State*, where it was held that “it is the law that were a statute provide for a particular method of performing a duty, that method, and no other must have to be adopted.”<sup>19</sup>

Executive Orders are product of the exercise of presidential power under the constitution. They have legal force when they are based on the president constitutional or statutory authority. Executive Orders are employed by the president to facilitate the administration of the constitution and implementation of legislative enactment and government order. The constitutional justification of Executive Orders is hinged upon the president constitutional mandate to coordinate and control the activities of the executive arm of government. Effective administration must permit the exercise of discretion by the president. Hence Executive Orders can be said to be instrument by which the president exercises his discretion over administration derived from his inherent constitutional powers.

### ***Challenging Executive Orders***

Usually, the courts are the main source of redress against an Executive Order which is perceived to be unlawful. Both private citizens, groups and the legislature can approach the court to challenge Executive Order. The court will however not lightly invalidate executive orders and the legislature cannot impose a general prohibition on the use of executive orders. As noted by the Supreme Court in *AGF v Abubakar*,<sup>20</sup> the principle of separation of powers, is to the effect that the legislative organ cannot take away from the president or confer on others functions of a strictly executive nature.

One of the most important cases on presidential Executive Orders is that of *A.G Abia v A.G Federation*.<sup>21</sup> In this case the Supreme Court considered the validity of the promulgation of the revenue allocation (federal account, Etc) (Modification) order<sup>22</sup> and held that the president acted pursuant to section 315 of the 1999 constitution. Thus, the promulgated order was held to be consistent with the constitution and therefore valid. The order in issue came into force retrospectively with effect from 29<sup>th</sup> May, 1999. More recently, Executive order 10 was challenged by the 36 state governors, this led to the Executive order despite all its good intent, been adjured null and void by the Supreme Court.

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Staff Housing Board. CAP F !! LFN 2004; Marriage ACT, CAP M 6 LFN 2004; section 5 mutual assistance in criminal matters within the commonwealth (enactment and enforcement) ACT. CAP M 24 LFN 2004.

<sup>17</sup> Section 11 (4) 20 (2) company income tax ACT. CAP C21 LFN 2004; section 12 (1), 24, 42 (2), 48, 66 customs and excise management Act. Cap C 45 LFN 2004.

<sup>18</sup> *Abubakar v AGF* (2007) 3 NWLR (pt) 1022, p.601 at 643h.

<sup>19</sup> *Cooperative commerce bank Nig.Ltd v Anambra state* (1992) 8 NWLR (pt 261) 528,556.

<sup>20</sup> *AGF v Abubakar* (2007) 10 NWLR (PT 1041) P. 1 at 85 para-D.

<sup>21</sup> *A.G Abia v A.G Federation*. supra

<sup>22</sup> Statutory Instrument No.9 of 2022

The Supreme Court stated that the federal government or rather the president exceeded his scope of power and the federal government cannot legislate for the state in a federal setting.

Traditionally, the court allows the president's wide latitude in the use of Executive Orders and cannot act for the president. In *Ohaji v Umamka*<sup>23</sup> the court quoted with approval *Ajakaiye v Idehai*.<sup>24</sup> Where the Supreme Court held that

“where there is a statutory provision for making an order ... and the making of same is reposed in...the president of the republic or governor of a state, such function cannot be usurped by the court. The furthest can go is to declare as to validity or otherwise of that order...but the court has not got the jurisdiction to take over the functions ... by making its own order.”<sup>25</sup>

The court, however, do not hesitate to invalidate unlawful or unconstitutional Executive Orders.

As pointed by the supreme court in *INEC v Musa*, “all powers, legislative, executive and judicial must ultimately be traced to the constitution,”<sup>26</sup>

In principle, sovereignty in Nigeria's constitutional democracy resides in the people as noted in *Fawehinmi v Babangida*,<sup>27</sup> the supremacy of the constitution is the hallmark of constitutional democratic governance because it is a reflection of the powers granted by the people to meet their aspirations. Despite the idea that sovereignty lies in the people, a citizen in his private capacity can seek judicial review of an Executive Order only if he/she has the requisite standing to maintain the action. It would seem from *Adesanya v The President*<sup>28</sup> that citizen's resident and persons subject to Nigeria law may challenge executive orders. In the above-mentioned case, the Supreme Court per Fatai-Williams CJN held that “any person weather he is a citizen of Nigeria or not who is resident in Nigeria or who is subject to the law in force in Nigeria, has an obligation to see to it that he is governed by a law which is consistent with the provisions of the Nigeria constitution. Indeed, it is his civil right to see that this is so.”<sup>29</sup>

In practice however, the litigant has to demonstrate how he or she is directly affected by the executive order. In *SPDCN v Nwaka*,<sup>30</sup> the supreme court noted that, whether or not there is standing, may differ where there is an infringement of individual right and where there is none.

The president does not have to wait for the judicial intervention before correcting an erroneous order. An Executive Order may be terminated or suspended by the president that made it or overturned by

<sup>23</sup> *Ohaji v Umamka* (2011) 4 NWLR (pt 1236) P. 148 at 164 para. C

<sup>24</sup> (1948) 8 NWLR (Pt 364) 504 at 525

<sup>25</sup> *Ajakaiye v idehai* (1994). 8 NWLR, (pt. 364) 504at 525-526.

<sup>26</sup> *INEC v Musa*. (2003) 3NWLR (pt 806) p. 72 at 157 paragraph E

<sup>27</sup> *Fawehinmi v Babangida*, (2003) 3 NWLR (pt 808) p. 604 at 651 paras. F-G.

<sup>28</sup> *Adesanya v The President* (1981) 12 NSCC 146, 159-160

<sup>29</sup> *Adesanya v The President*. Supra.

<sup>30</sup> *SPDCN v Nwaka* (2003) 6 NWLR (pt 815) p. 184 at 205-207 particularly at 206 para-D

subsequent presidents. For instance, upon assumption of office in 2001, George W Bush overturned several key Clinton era Orders.<sup>31</sup> The president cannot defend an unconstitutional order on the ground that it was made and followed before s/he came to office. In *AG Abia v AGF*,<sup>32</sup> the Supreme Court stated that estoppel is an equitable defence and cannot avail a defendant in a case of breach of the constitution.

### ***Advantages of Executive Order***

Executive Orders are product of the exercise of Presidential power under the 1999 constitutions as well as constitutions of states/countries that practices constitutional democracies. The use of executive powers over the years has been advantageous in a number of ways which includes:

1. Executive orders are used by presidents to play a regulatory role in the management of key sectors of the nation's existence, such as Security, Economy, Education, Banking, Agriculture, Industrialization, etc., to maintain economic stability.
2. Executive orders are also needed to fill in the gaps in legislations creating executive agencies. Because of the interest bargaining implicit in law-making, laws creating executive agencies leave gaps that militates against the effectiveness of these agencies and their ability to meet legislative mandate. Executive orders help to fill the legislative gaps by authorizing procedures that enables agencies achieve legislative mandate better. A good example of such executive order is Executive Order 5 issued by the President Buhari administration relating chiefly to promotion of Nigerian content in public procurement of goods and services.
3. Executive orders are also used by president or executive arm to carry out oversight functions. The president can issue Executive orders that mandate some form of review process before a regulatory intervention can be issued.
4. Executive orders are used by the president as the head of state in carrying out foreign policy, including negotiating treatise.
5. Executive orders are also used by the president as head of the executive branch in order to appoint officers, delegate authority and organize administration without going through the hurdle of decision-making that can slow down the whole process.

When we take a look at recent Executive Orders in Nigeria, no one can deny that many of them are good policies signed by the president with the best intention. In a nutshell, it will not be wrong to say that Executive Orders are instruments of management of the national economy and other domestic affairs of nations such as Nigeria, by a president acting as chief executive. ***Disadvantages of***

### ***Executive Orders***

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<sup>31</sup> K.R. Mayer and K. Price, 'Unilateral Presidential Power: Significant Executive Orders, 1949–1999' (2002) 32 *Presidential Studies Quarterly* 367–386 at 369.

<sup>32</sup> *AG Abia v AGF* (2006) 16 NWLR (pt 1005) p. 265 at 379 para-D

Executive orders have numerous disadvantages where:

- i. The President or executive could become an instrument of self-aggrandizement who wants to exercise more power than the constitution has granted him.<sup>33</sup>
- ii. it can be a threat to modern day democracy jeopardizing the principle of separation of power when abused.
- iii. Executive order can bring about frequent friction between arms of government where it does not have any constitutional backing or is not in conformance with the constitution.<sup>34</sup>

## CONCLUSION

Executive orders, particularly in times of emergency, can serve as important tools of governance, but their legitimacy must always be measured against constitutional provisions, democratic principles, and the rule of law. The recent declaration of a state of emergency in Rivers State by President Bola Ahmed Tinubu, coupled with the suspension of the Governor, Deputy Governor, and members of the State House of Assembly, highlights the urgent need for clarity on the scope of executive authority during emergencies. Doctrines of statutory interpretation including *ejusdem generis* and *expressio unius est exclusio alterius* further support a restrictive construction of presidential powers in emergency contexts to prevent arbitrary governance. These principles caution against expansive readings of constitutional provisions that would effectively allow the executive to sidestep legislative and judicial safeguards

The 1999 Constitution (as amended) does not expressly empower the President to suspend or dissolve democratic institutions at the state level, even in emergency situations. Such actions, if unchecked, risk undermining federalism, eroding state autonomy, and enabling executive overreach. Judicial precedent consistently affirms that emergency powers cannot be used as substitutes for constitutionally prescribed processes such as impeachment or recall. To interpret otherwise would amount to a breach of the constitutional order.

## Recommendations

Based on the experience and knowledge gathered as a result of this research, the following will be recommended:

- i. The concept of Executive Order should be introduced quickly as a topic in the subject “Government” in our secondary schools and also as a topic in the course “introduction to law or constitutional law, in the law faculties of our universities.
- ii. It is also recommended that more research work should be done on this concept especially as it pertains to the Nigeria jurisprudence, this is so because successive governments might use executive orders and it will be good for such government to understand the concept and how it can be effectively used to further the course of governance.

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<sup>33</sup> *A.G Abia State & Ors v A.G Federation* (2003) LPELR-610 (SC)

<sup>34</sup> G L Bliley. *Op.cit.*

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- iii. It is recommended that more research should be done on the concept of Executive Order to expose areas where perhaps we could not penetrate or areas where this work was not detailed enough and also to expose the academic community to new views on this interesting concept.
- iv. Crimes must and can be fought with the aid of the court in a civilized manner in such a way that the court would not negate public policies but enhance it by pronouncement that cover the public good and do not submerge human rights. To submerge human right on the altar of public policy would be counterproductive and unhealthy for Nigeria's democracy