



Can A State House of Assembly Be Suspended by The President? A Constitutional Epignosis

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Abstract

The question of whether a State House of Assembly can be suspended by the President raises significant constitutional and democratic concerns. This work undertakes a critical constitutional epignosis, a deep, informed analysis of the legal framework governing the relationship between federal and state arms of government, particularly the autonomy of state legislatures. Examining relevant constitutional provisions, judicial precedents, and the principles of separation of powers and federalism, this work argues that such presidential action lacks constitutional validity. The key considerations include the doctrine of checks and balances, the supremacy of the constitution, and the implications for democracy and subnational governance. The work concludes that while the President may have limited intervention powers in extreme scenarios such as during a state of emergency, outright suspension of a legislative body without constitutional backing constitutes an overreach, undermining Nigeria's federal structure.

KEYWORDS: State House of Assembly, Presidential Powers, Constitutional Law, Federalism

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I. Introduction

In a country as politically dynamic and constitutionally complex as Nigeria, questions about power, who holds it, how it is used, and when it must be limited, are never far from public deliberations. One such pressing question is whether the President has the authority to suspend a State House of Assembly? A matter that recently surfaced in the hearts of Nigerians following a presidential declaration.¹ A cursory examination of the matter proves to be illuminating. In the weeks preceding the intervention, Rivers State had been gripped by a mix of political brinkmanship. A deep rift had open between the executive Governor, Mr. Siminalayi Fubara, and factions within the opposition-dominated State House of Assembly, with impeachment notices flying across the legislative floor. Parallel to this, reports of pipeline vandalism and sabotage of oil infrastructure raised security alarms. This standoff created a climate where neither executive authority nor legislative oversight could operate without obstruction.

Against the backdrop, on the 18th of March, 2025, President Bola Ahmed Tinubu, invoking the provisions of section 305 of the Constitution, proclaimed a state of emergency in Rivers State, suspending Governor Fubara, his deputy Ngozi Odu, and the entire State House of Assembly for an initial six-month period. Retired Vice Admiral Ibokette Ibas was appointed as Sole Administrator to assume full governance powers. The proclamation, formally gazetted and transmitted to the National Assembly, was endorsed by both chambers on 20 March 2025 via voice vote. At first glance, it may seem like a matter of executive necessity in times of crisis, but a closer look at the Constitution of the Federal Republic of Nigeria 1999 (as amended) tells a different story, one that demands clarity, caution, and constitutional depth. The legal framework of the Nigerian Constitution² is rooted in the

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¹ 'Tinubu Declares State of Emergency in Rivers, Suspends Fubara, Deputy' (Premium Times) <<https://www.premiumtimesng.com/regional/south-south-regional/781776-breaking-tinubu-declares-state-of-emergency-in-rivers-suspends-fubara-deputy.html>> Accessed on 15th August 2025

² The Constitution of the Federal Republic of Nigeria 1999 (as amended) will hereinafter be referred to as the

principles of federalism, separation of powers, and the rule of law.

The tenets of federalism support the apportionment of governmental authority between a central sovereign and its constituent units, each functioning in demarcated spheres of jurisdiction, stripped of unwarranted intrusion. Nwabueze³ holds that federalism is an arrangement whereby powers of government within a country are shared between a national (nation-wide) government and a number of regionalized governments in such a way that each exists as a government separately and independently from the others, operating directly on persons and property within its territorial area, with a will of its own, and its own apparatus for the conduct of its affairs and with an authority in some matters exclusive of all others. This structure balances powers between the central government and the autonomy of the federating units. However, this balance has occasionally been tested, especially when political tensions or perceived government breakdown arise at the state level.

It is pertinent to recall that such an episode of contention is by no means unprecedented in the Nigerian federal landscape, as tensions between the Federal Government and one or more state governments have manifested in history. Most prominently, the Nigerian Civil War arose from an acute clash over authority and sovereignty.⁴ Other recurring flashpoints include disputes over state policing and security control,⁵ controversies surrounding revenue allocation and oil derivation,⁶ conflicts over the regulation of open grazing,⁷ and debates concerning local government autonomy,⁸ among others. These instances reveal the persistent friction inherent in the allocation and exercise of powers within Nigeria's federal system.

With a grasp of constitutional *epignosis*, which is a fundamental, deeply ingrained, and precise knowledge of the very nature of the Constitution, this research seeks to uncover, with precision and depth, whether the Constitution permits the President to unilaterally suspend a state legislature in a constitutional-backed federalism or whether such an act would amount to executive overreach. Although the executive members of the state were similarly suspended, this research is confined in scope to the removal of the members of the State House of Assembly. Through a critical exploration of constitutional provisions, judicial decisions, and democratic principles, this work aims to provide a clear and compelling answer to a question that sits at the heart of Nigeria's constitutional democracy.

1.1 Recent Developments and Reasons for the Epignosis

President Bola Ahmed Tinubu's declaration of a state of emergency in Rivers State on 28th March, leading to the reported suspension of Governor Siminalayi Fubara, his deputy, and the State House of Assembly, ignited a fierce constitutional debate among legal experts. The core of the disagreement lies in whether the President possesses the constitutional power to suspend elected state officials during an emergency.

Legal scholars and prominent legal personalities, including Mazi Afam Osigwe, SAN (President of the Nigerian Bar Association), and Femi Falana, SAN, firmly argue that Section 305 of the 1999 Constitution of the Federal Republic of Nigeria (as amended)⁹, which empowers the President to declare a state of emergency, does not explicitly grant the power to suspend elected officials or dissolve legislative bodies. They contend that the absence of such explicit power means it does not exist. The Nigerian Bar Association (NBA) maintains that a

CFRN1999(as amended)

³ O. B. C. Nwabueze, *Federalism in Nigeria under the Presidential Constitution* (London: Sweet & Maxwell, 2005) 1

⁴ P. O. Okolo, *The Nigerian Civil War: Its Causes and Lessons for the Future* (El Mercy Publishers, 2010) 27

⁵ S. G. Wakili and I. Adamu, "Contemporary Security Challenges and Agitation for State Police in Nigeria: Issues and Perspectives' *International Journal of Research and Innovation in Social Science* (2022) 6 (6) 632-637 <<https://ideas.repec.org/a/bcp/journal/v6y2022i6p632-637.html>> Accessed 13 August 2025

⁶ S. Tunji and N. Shaibu, 'Oil-producing states battle N1.3tn despite N2.8tn derivation allocation' *The Punch* (2025) <<https://punchng.com/oil-producing-states-battle-n1-3tn-despite-n2-8tn-derivation-allocation/#:~:text=8tn%20derivation%20allocation,-12th%20February%202025&text=Oil%2Dproducing%20states%20in%20Nigeria,for%20the%20period%20under%20review.>> Accessed 13 August 2025

⁷ K. E. Nnamani, D. C. Ononogbu, N. I. Okafor, J. Ohabuenyi, and O. J. Anichebe, 'Open grazing prohibition law, political economy of centralized law enforcement mechanism, and nomadic pastoralist-sedentary farmer relations in Nigeria' *Politics and International Relations* (2024) 10 (1) <<https://doi.org/10.1080/23311886.2024.2414869>> Accessed 13 August 2025

⁸ E. I. Amah, 'Devolution of Power to Local Government: Appraising Local Government Autonomy under Nigerian Federation' *Beijing Law Review* (2018) 9 (2) 275-293 <<https://doi.org/10.4236/blr.2018.92018>> Accessed 13 August 2025

⁹ 'State of Emergency in Rivers State: Illegality of Dissolution of Elected Democratic Structure' *Vanguard* <<https://www.vanguardngr.com/2025/03/state-of-emergency-in-rivers-state-illegality-of-dissolution-of-elected-democratic-structure/>> Accessed on 12 August 2025

declaration of emergency "does not automatically dissolve or suspend elected State Governments" and that the President's actions in unilaterally removing or replacing elected officials amount to an unconstitutional usurpation of power, and a fundamental breach of Nigeria's Federal structure.

In the words of the Learned Silk, Mr Afam Osigwe, SAN, 'the 1999 Constitution does not grant the president the power to remove an elected governor, deputy governor, or members of a state's legislature under the guise of a state of emergency. Such actions amount to an unconstitutional usurpation of power and a fundamental breach of Nigeria's federal structure.'¹⁰ In the opinion of Mike Ozekhome, SAN,¹¹ 'a state of emergency does not and cannot translate to a *civilian coup d'état* executed through executive fiat in a national broadcast that torpedoes elected structures and whimsically imposes a sole administrator to receive Rivers State allocations in violation of Section 162 of the Constitution and contrary to the Supreme Court judgment that President Bola Ahmed Tinubu claimed to uphold.'

2.1 Powers of the President under the 1999 Constitution

The 1999 Nigerian Constitution embraces a presidential system of government, in contrast to the parliamentary frameworks established under the 1960 Independence and 1963 Republican Constitutions. In a parliamentary system, executive authority is derived from the legislative branch, with the government retaining office only so long as it commands the confidence of the parliament. Conversely, under a presidential system, the president serves as the chief executive and is elected directly by the electorate, thereby establishing a clear separation between the executive and legislative branches and ensuring that the executive's tenure is not contingent upon legislative confidence.

The 1999 Constitution is like the 1979 Constitution in this regard. Speaking about the design of the 1979 Constitution, Africa's leading constitutional law scholar, Professor Ben Nwabueze, argues that it was the exigency of rapid economic development that suggested the need for a presidential system of government with an executive president rather than the parliamentary system with a ceremonial president.¹² Economic development was a national imperative that "calls for effective leadership, a leadership that would be able to mobilize the nation and its resources and to provide purposeful direction for its people".¹³ Hence, such leadership requires the organization of power around a single individual in the name of the president.¹⁴

The Nigerian President does not embody the sovereignty as the British Monarch does. By the Constitution, the sovereignty belongs to the Nigerian people and the Constitution is supreme".¹⁵ In practical terms, the 1999 Constitution follows the US Constitution in separating the executive power from the legislative and judicial powers. The provision of section 5 of the Constitution vests the executive powers of the Nigerian federation on the President personally. This is very significant. Whereas the legislative powers are vested in an institution- the National Assembly.¹⁶ The judicial powers are vested in the Superior Courts of Record.¹⁷ The Executive Power is vested on the President, who may exercise it by himself or through his Vice President or any other official.

It is difficult to fully comprehend the extent and scope of the presidential powers under section 5 of the constitution. The language of the Section places the President in a situation that enables him to act as the 'elected monarch' as well as 'a delegated representative of the people'. Nwabueze himself agrees that the executive power is difficult of precise delineation. Its limits are obscure.¹⁸

First, the executive power of the federation is donated to the President singularly and personally (not together with the ministers as is wrongly conveyed by the several approvals by Federal Executive Council), his power is wide-ranging. It goes to the "execution and maintenance of the constitution, all laws made by the National Assembly and to all matters concerning which the National Assembly has, for the time being, the power to make

¹⁰ E. Agbom 'Emergency Rule: NBA condemns Tinubu's suspension of Rivers governor, elected officials' Premium Times (2025) <<https://www.premiumtimesng.com/news/781870-emergency-rule-nba-condemns-tinubus-suspension-of-rivers-governor-elected-officials.html?tztc=1>> Accessed 13 August 2025

¹¹ D. Musa, "It's civilian coup d'état,' Ozekhome condemns Rivers emergency rule' The Punch (2025) <<https://punchng.com/its-civilian-coup-detat-ozekhome-condemns-rivers-emergency-rule/>> Accessed 13 August 2025

¹² B.O. Nwabueze, *Constitutional Law of Nigerian Republic* (Butterworths 1964).

¹³ Ibid

¹⁴ Ben Nwabueze, *Presidential Constitution of Nigeria* (C. Hurst & Co, 1984) 29

¹⁵ Sam Amadi, 'Is the President A Policeman? Analyzing Presidential Power in Criminal Investigation of Presidential Aides'[2017] (1) Baze University Law Journal, 62

¹⁶ s. 4 of the Constitution

¹⁷ s. 6 of the Constitution

¹⁸ Ibid

laws".¹⁹ In comparison, the provision of section 5 of the Nigerian Constitution is like Article 2 of the US Constitution, which denotes executive power singularly and personally on the President. It also empowers the President to take care that the law is faithfully maintained.

It is pertinent to note that Constitutional law theory has extracted three offices in the constitutional language.²⁰ Analytically, we can argue that first, the President is the Chief Executive of the Federation. As Chief Executive, the President has the responsibility to manage and administer the federal government. Furthermore, the President hires and fires and coordinates the national economy. The second position is as Commander-in-Chief. As Commander-in-Chief, the President has the responsibility to secure the Federation and marshal the Armed Forces of the Federation to protect its territorial integrity. The third office is the Sole Organ. The President, as Sole Organ, represents the federation in foreign relations. Exercising the functions of this office, the President negotiates with foreign entities and signs treaties that create external obligations for the country. Each of these offices has its incidents and limitations.

The Nigerian Constitution also follows this matrix. The executive power defined in Section 5 of the Constitution is further elaborated in the Constitution. The President, as Chief Executive, has the power to enforce the law and manage the national economy. In this wise, the provision of section 154 grants the President the power to appoint the members of certain executive agencies called 'Federal Executive Bodies'. These include the Code of Conduct Bureau, the National Judicial Council, the National Population Commission and the Independent National Electoral Commission (INEC). The provision of section 170 establishes the Civil Service of the Federation and section 171 vests in the President the power to appoint and remove heads of the ministries, departments and agencies of the federal government, including ambassadors and other foreign representatives. The power of the President as the Commander-in-Chief is reflected in Section 218, which is defined as the power to appoint armed forces chiefs and "determine the operational use of the armed forces of the federation". Again, the President has unrestrained power to conduct foreign policy which is expressed in the power to appoint diplomatic and consular officers and to enter into treaty obligations on behalf of the country (although such must be approved by the National Assembly to become domestic law).²¹

It is important to bear in mind that even as Section 5 (2) grants the President wide power to maintain the constitution and the laws and to attend to all matters which the National Assembly has the power to make law (which is basically everything under our expansive federal jurisdiction), subsection (1) limits the exercise of this wide power. The executive power of the federation vested in the President is to be exercised subject to 'the provisions of this constitution' and 'to the provisions of any law made by the National Assembly'. The President can only exercise the awesome power of his office strictly following the provisions of the Constitution or laws made by the National Assembly. Even though he is the Chief Executive who has the responsibility to superintend the wellbeing of the federation he cannot act, even in national interests, except such action can be justified by the provisions of the constitution or any law made by the National Assembly.

2. 2 Specific Constitutional Procedures for Removal and Emergency Powers

The provision of section 305 of the CFRN 1999 (as amended) empowers the President to declare a state of emergency in the Federation or any part thereof. However, subsection 3 provides that the President has the power to issue a proclamation of a state of emergency only when:

The Federation is at war.

The Federation is in imminent danger of invasion or involvement in a state of war.

There is an actual breakdown of public order and public safety in the Federation or any part thereof which is a measure to restore peace and security.

There is a clear and present danger of an actual breakdown of public order and public safety in the Federation which is also a measure to avert such danger.

There is an occurrence or imminent danger, disaster, or natural calamity affecting the community or a section of the community.

There is any other public danger which clearly constitutes a threat to the existence of the Federation.

Subsection (4) provides that the proclamation must be laid before the National Assembly, and a two-thirds majority must approve the resolution of both the Senate and the House of Representatives.

Crucially, this section allows the President to declare a state of emergency but does not give him the power to suspend or dissolve a State House of Assembly. Even during a state of emergency, legislative functions remain protected, unless the National Assembly assumes such functions under Section 11(4)-(5) of the Constitution. The provision of section 11(4) of the 1999 Constitution allows the National Assembly to make laws for a state when

¹⁹ Section 5, CFRN, 1999

²⁰ A. Adegami and A.A. Ganiyu, 'Constitutional and Administrative Law in Nigeria: Are they Instruments of Governance?' *Public Governance, Administration and Finances Law Review*, (2023) 8(1) 55–71

²¹ 1999 Constitution of the Federal Republic of Nigeria

its House of Assembly is unable to function due to prevailing circumstances. However, it explicitly includes a proviso: "Provided that nothing in this section shall be construed as conferring on the National Assembly power to remove the Governor or the Deputy Governor of the State from office." Legal experts argue that if the National Assembly, in its legislative capacity, cannot remove these officials even during an emergency, the President, a part of the executive arm, certainly cannot. This principle is extended to the State House of Assembly members. The President's powers remain subject to constitutional limits and legislative oversight. In the case of *A.G. Plateau State v. A.G. Federation*,²² the Supreme Court ruled that the federal government cannot intervene in the affairs of a state government except as allowed by the Constitution. The reason being that executive intervention in state matters is tightly limited, and any breach—like suspending a legislature—is *ultra vires* (beyond legal power). On this premise, the Nigerian Constitution, through its clear delineation of powers, principles of federalism and separation of powers, and specific provisions for states of emergency, does not grant the President the authority to suspend a State House of Assembly. Hence, such an act would be an executive overreach, undermining the democratic foundations of Nigeria and violating the autonomy of the federating units. The consistent stance of the judiciary and the opinions of leading legal minds reinforce the principle that elected state officials derive their mandate from the people and the Constitution, not from presidential fiat. Any attempt to bypass constitutional procedures for removal or dissolution would be a grave threat to Nigeria's constitutional democracy.

2.3 Examination of the Roles and Powers of the State House of Assembly under the 1999 Constitutional

The State House of Assembly, by virtue of the Nigerian Constitution, is not conceived as a ceremonial appendage of the government but a constitutional body with sovereign legislative mandates within its sphere. Notably, section 90 of the Constitution states, in no uncertain terms, that there shall be a House of Assembly for each State, vested with the power to make laws for the peace, order, and good governance of the State. This legislative jurisdiction is further affirmed by section 4 (6), which provides for the establishment of the legislative power of the state to be vested in the House of Assemblies of the State. Perhaps most explicitly, Section 7 delineates the scope of these powers, stating in clear and authoritative terms;

The House of Assembly of a State shall have power to make laws for the peace, order and good government of the State or any part thereof with respect to matters not included in the Exclusive Legislative List, matters included in the Concurrent Legislative List, and any other matter with respect to which it is empowered to make laws in accordance with the provisions of this Constitution.

In effect, the House of Assembly is the political voice-box of the State, translating the people's wills into enforceable laws.

Beyond law-making, the State House of Assembly wields constitutional oversight over the executive arm at the State level. The provision of section 128 empowers it to investigate the conduct of State public officers and the administration of ministries, departments, and agencies, ensuring that public governance does not degenerate into personal fiefdom. Through Section 129, it possesses the summon individuals, require the production of documents, and compel testimony in aid of its legislative inquiries. Most notably, under Section 188, the Assembly holds the constitutional key to the removal of a State Governor or Deputy Governor via impeachment.

2.4 Whether the Suspension of the State House of Assembly by the President Derogates the Principle of Federalism

The Constitution of the Federal Republic of Nigeria²³ is the supreme law that governs the relationship between the federal and state governments. Hence, where there is a contravention between the constitution and other laws in the country, then such a law is rendered nullity to the extent of its inconsistencies.²⁴ However, judging by other provisions of the Nigerian constitution and its interpretation by the Supreme Court it is arguable that the President issuing executive orders is exercising a legislative function and such actions are authorized by the constitution. The provisions of sections 315 and 317 grant the President and Governor the power to amend existing law to bring it into conformity with the Constitution. This section implies that the President or the Governor can, in the guise of altering an existing law, make the law to the extent that he or she can create a legal effect.

The Supreme Court has been asked to determine the constitutionality of the 'executive legislation' in *Abia State and Ors. v Attorney General of the Federation*,²⁵ the Supreme Court accepted that the President can validly alter the law to bring it into conformity with the Constitution. Reacting to the claim that such exercise violates the separation of powers, Eso JSC argues that:

"It is true that "separation of powers" is essential to a healthy democracy, the power given the president

²² (2006) 3 NWLR (Pt. 967) 346

²³ Herein referred to as "The Constitution"

²⁴ S. 1 (3) of the 1999 Constitution

²⁵ (2003) 4 NWLR (Pt. 809) 124

and also to state governors in existing law of the state by the Constitution is not an abuse of the principle or doctrine of separation of powers, it is essential to giving meaning to an existing law so that the Constitution itself is not abused.”²⁶

In many other cases, the Supreme Court validated the power of the President or Governor of a state to amend existing law to bring it into conformity with the Constitution.²⁷ The provision of section 315 seems to pose a challenge to the doctrine of separation of powers in Nigeria’s constitutional democracy, which implies the legislation by the president.

Apart from the instance of reshaping of the doctrine of separation of powers in the context of administrative law, where an administrative agency exercises the power of rulemaking, the notion that the president can make law is strange to the rule of law in a constitutional democracy.²⁸ Therefore, as long as executive orders create legal relations, their constitutionality in the context of the rule of law and separation of powers is arguable.

However, it is pertinent to note that this argument leans on quasi legislative function by the President and not the suspension of the state house of assembly by the president, which is clearly, an arbitrary misuse of constitutional power as has been argued in this work. Therefore, it is important that both situations need to be distinguished and differentiated from each other within the context of this work.

3.1 The Principle of Federalism and State Autonomy under the 1999 Constitution

The Constitution explicitly defines the country as a federation consisting of thirty-six states and a Federal Capital Territory.²⁹ While the provision of section 2(3)³⁰ lists the 36 states within the federation, it establishes the core principle of federalism, where power is shared between the central government and its constituent states. Furthermore, section 4(6) of the Constitution provides that: *“The legislative powers of a State of the Federation shall be vested in the House of Assembly of the State.”* This provision ensures that each State House of Assembly is a sovereign legislative body with legislative competence. Therefore, any suspension or interference by the federal executive, that is, the President, would violate this constitutional allocation of powers.

The Governor and members of the State House of Assembly are democratically elected by the people of that state. Their authority and legitimacy come directly from the Constitution and the electorate, not from the President. Therefore, only constitutional procedures, like impeachment or lawful dissolution following due process, can remove or suspend them, not executive fiat. It is important to distinguish the President's power to appoint and remove certain federal officials from the President's lack of power over elected state officials. The President, indisputably, has the power to appoint and remove federal officers,³¹ among which are the Secretary to the Government of the Federation, the Head of the Civil Service of the Federation, Ambassador, High Commissioner or other Principal Representative of Nigeria abroad, Permanent Secretary in any Ministry, or Head of any Extra Ministerial Department of the Government of the Federation, howsoever designated, and any office on the personal staff of the President.

3.2 The Principle of Separation of Powers under the 1999 Constitution

As Montesquieu rightly observed centuries ago, the only way to guarantee the liberty and freedom of the people is to ensure that power is not concentrated in one person or organ. If the entire power of government is concentrated in one person or organ, then there is a strong possibility of abuse and tyranny.³² As Ben Nwabueze rightly noted, “concentration of government powers in the hands of one individual is the very definition of dictatorship, and absolute power is by its very nature arbitrary, capricious and despotic”.³³ Today, constitutional democracies have settled on the separation of powers as a fundamental cornerstone of the rule of law, and Nigeria is not exempt.

The Nigerian Constitution gives an elaborate expression to this fundamental idea by separating the legislative, executive, and judicial powers and vesting each in each of the three different organs whose personnel should not be comingled. The provision of Section 4 of the Constitution vests the legislative powers of the Federal Republic of Nigeria in a National Assembly for the Federation, comprising the Senate and the House of

²⁶ Kayode Eso, JSC, [1993] NWLR (Pt.309) 58

²⁷ Awoyemi v Adekoya [2003] 18 NWLR (Pt. 852) 307; Alhaji v Umanka [2011] 4 NWLR (Pt 1236) p 148; Ajakaye v Idehai [1994] 8 NWLR (Pt. 364) 504

²⁸ For constitutionality and legality of rulemaking, see A Ojo, ‘Constitutionality of Delegated Legislation’ [1970] (4) Nigeria Law Journal, 99

²⁹ See section 2(2) of the CFRN1999(as amended)

³⁰ Of the CFRN1999(as amended)

³¹ S. 171, CFRN 1999 (As amended)

³² Baron de Montesquieu, The Spirit of the Law Book X1, Chapter 6(1748)

³³ Ben Nwabueze, The Presidential Constitution of Nigeria, (Palgrave Macmillan, 1981) 32

Representatives, which together form the bicameral legislature at the federal level. In a similar vein, the Constitution, by virtue of its provisions,³⁴ vests the executive powers of the Federation in the President, who may exercise such powers either directly or through the Vice-President, Ministers, or officers within the public service of the Federation. The provision of section 6 further entrusts the judicial powers of the Federation to the courts established under the Constitution, thereby ensuring the adjudication of disputes and the interpretation of laws. Of course, this strict separation is moderated by checks and balances that allow different branches of government to support one another for effective administration.³⁵

However, fundamentally, the law-making function is clearly defined as the responsibility of the legislature. The provision of section 58 of the Constitution states clearly the law-making process in Nigeria. It is the National Assembly that has the power to make laws. This power must be exercised by concurrent votes of both houses and signed by the President. Where this process is not strictly followed, the Supreme Court has held such an exercise as unconstitutional. This was the case in *Attorney General of Bendel v Attorney General of the Federation & Ors*,³⁶ where the Supreme Court nullified a purported passage of the Appropriation Act by a committee of the National Assembly without a concurrent vote of two-thirds of members of both houses. This judgment relates to the nature of the legislative function. Until the National Assembly passes the bill in the manner prescribed in the constitution, the bill is not yet passed. Therefore, any national budget implemented by the executive will be unconstitutional.

These constitutional arrangements apply mutatis mutandis to their state-level counterparts, with each tier possessing distinct mandates and functions within the executive, legislative, and judicial branches. At the state level, legislative authority is vested in the House of Assembly, executive powers reside in the Governor, and judicial authority is exercised by state courts established under the Constitution. In this respect, the Nigerian Constitution operates as a formidable guarantor of the doctrine of separation of powers, delineating the boundaries and responsibilities of each arm of government with precision.

4.1 Examination of Case Laws in View of Suspension

In the case of *Inakoju v. Adeleke*³⁷ the Supreme Court upheld the importance of due process in legislative proceedings and warned against arbitrary interference, even from within the legislature itself. This indirectly reinforces the idea that external interference (especially from the executive) is even more constitutionally suspect. Also, in *Attorney-General of the Federation v. Attorney-General of Abia State*,³⁸ the Supreme Court upheld the autonomy of state governments in matters constitutionally assigned to them, thereby affirming the boundaries between federal and state powers.

Similarly, in *Attorney-General of Lagos State v. Attorney-General of the Federation*³⁹ the plaintiff who is the Attorney General of Lagos State challenged the constitutionality of the Urban and Regional Planning Decree No. 88 of 1992, arguing that urban and regional planning falls within the residual legislative list and thus lies exclusively within the legislative competence of the States. In a narrow majority decision of 4:3, the Supreme Court held that the Decree was unconstitutional to the extent that it purported to confer urban and regional planning powers on the Federal Government. This decision stands as yet another affirmation of the judiciary's willingness to uphold the autonomy of constituent States whenever the Constitution so prescribes.⁴⁰

Per Uwaifo, JSC;

By this constitutional arrangement which allocates legislative jurisdiction between the National Assembly and the House of Assembly of a State, it is recognized that any matter not mentioned either in the Exclusive or Concurrent Legislative List becomes a residual matter exclusively for the State House of Assembly by virtue of section 47(a)

The principle of state autonomy from federal control, to the extent permitted by the Constitution, was further reinforced in *Attorney-General of Lagos State v. Attorney-General of the Federation*.⁴¹ In that case, the President, acting through the Minister of State, issued a directive to withhold statutory allocations from certain states, namely Ebonyi, Katsina, Lagos, Nasarawa, and Niger, on the ground that their local councils had not been properly named by the National Assembly. The plaintiff argued that the President lacked the constitutional authority to withhold funds due to Local Government Councils from the Federation Account under Section 162(5)

³⁴ S. 5, CFRN (as amended)

³⁵ Abiola Ojo, 'Separation of Power in a Presidential Government' [1981] Public Law Journal, 105

³⁶ [1983] ANLR 208; Cornelius M Kerwin and Scott R Furlong, Rulemaking: How Government Agencies Write Law and Make Policy (CQ Press, 2011)

³⁷ 2007 NWLR [Pt 1025] 423

³⁸ (2002) 6 NWLR (Pt. 764) 542

³⁹ (2003) 12 NWLR (Pt. 833) 1

⁴⁰ A-G. Ondo State v. A-G. of the Federation (2002) 9 NWLR (pt. 772) 222

⁴¹ (2004) 18 NWLR (Pt. 904) 1

of the Constitution, submitting that the powers conferred on the President by that section are strictly executive in character, not legislative or judicial. The Supreme Court held that the President indeed had no power to withhold allocations due to Lagos State's local governments; however, it also ruled that newly created local councils could not access the Federation Account until they attained constitutional recognition. This pronouncement against the withholding of funds stands as a firm judicial reaffirmation of state and fiscal autonomy in the face of unilateral federal executive action.

The above is closely in tandem with *Attorney-General of the Federation v. Attorney-General of Lagos State (Hotel Licensing case)*,⁴² in which the Supreme Court held that the regulation, registration, and classification of hotels and other hospitality establishments do not fall within the Exclusive Legislative List but lie within the residual legislative competence of the States. Consequently, the Court dismissed the Federal Government's suit, marking yet another decisive judicial affirmation of State autonomy within the Nigerian federal framework. Arguably, the judiciary is also not left behind in the enforcement of state autonomy in instances where the constitution so requires. Therefore, in relation to the subject of discourse, in several instances have the president intend to delve into matters of the state, wherewith the judiciary has consistently played its role of interpreting the law as it is to the executive. Hence, in line with purported removal of the state house of assembly, which extend beyond just executive overreach by the President, but a distortion of federal structure.

5.1 Conclusion

In retrospect, this work has examined the contours surrounding the question of whether a State House of Assembly can be suspended by the President, peeling back the layers of law and principle to reveal an answer grounded in authorities and democratic principles. From an exploration of the Nigerian Constitution and judicial cases, it becomes evident that the President's powers, though wide-ranging, are neither limitless nor immune from constitutional constraint; the executive cannot, under the guise of a state of emergency, unilaterally dissolve or suspend a legislative body whose mandate derives directly from the people and the Constitution. The work stressed the fact that the State House of Assembly is not a ceremonial appendage but a sovereign organ, vested with law-making, oversight, and impeachment powers essential to the preservation of state autonomy and the equilibrium of Nigeria's federal system.

It is also necessary to note that judicial precedents affirm that attempts to concentrate power in the executive at the expense of constitutionally protected state structures constitute legal overreach and a threat to the very fabric of democratic governance and the rule of law. This research conveys a simple but profound truth: while the President may act to preserve the federation in exceptional circumstances, such actions must always respect the autonomy of states, the integrity of legislative institutions, and the enduring supremacy of the Constitution; any deviation from this balance risks undermining not only legal order but the trust, voice, and dignity of the people whom democracy is designed to serve.

⁴² (2013) 16 NWLR (Pt. 1380) 249