# **COVER PAGE**

**CRITICAL ASSESSMENT OF LEGAL IMPLICATIONS AND ECONOMIC IMPACT OF LOCK DOWN OF ACTIVITIES IN NIGERIA**

**BY**

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# **CHAPTER ONE**

# **INTRODUCTION**

# **1.1 Background to the Study**

“ **I do solemnly swear that I will be faithful and bear true allegiance to the Federal Republic of Nigeria; that as President of the Federal Republic, I will discharge my duties to the best of my ability, faithfully and in accordance with the constitution of the Federal Republic of Nigeria and the law …… So, help me God**”. These were the exact words of our President and his predecessors on inauguration (Ross *et al., 2015*)

Presidential power under the 1999 Nigerian Constitution is the totality of executive powers that have been vested in the President (Constitution of the Federal Republic of Nigeria, 1999). The 1999 Constitution vests the powers of the Federal Republic in three distinct organs- the legislative, the executive and the judiciary. The powers granted under section 5(1)(a) of the 1999 constitution are to be executed by the President subject to the constitution and provisions of any law made by the National Assembly (the National Assembly comprises both the Senate and the House of Representative).

The constitution of Nigeria confirms the existence of fundamental human rights for every person in Nigeria. These human rights include; Right to life, Right to dignity of Human Person, Right to Personal Liberty, Right to fair hearing, Right to private and family Life, Right to Freedom of thought, conscience and religion, Right to Freedom of expression and the Press, Rights to Peaceful Assembly (Nigerian Constitution, Section 33 through 45, 1999).

Economically, Nigeria and the world at large are plunging into the deeps. With many parts of the world exploring a lockdown to contain the pandemic, businesses and the global economy is heading towards waterloo. Before the lockdown order by Mr President, Nigeria’s Excess Crude Account (ECA) balance, according to a statement from the office of the Accountant General of the Federation, was put at $71.81 million, while movement in reserve showed that the country’s reserve stand at $35.94 billion at weekend, down by $2.59 billion from $38.53 billion in which it opened the year (Daily trust, 10/03/2020).

Nigeria is the largest oil and gas producer in Africa with a total of 159 oil fields and about 2.53 million barrels produced a day (US Energy Information Association, 2019). With a bench mark of $57 per barrel sold and the current market price of $22 per barrel of Brent crude, Nigeria loses approximately $35 for every sold barrel of crude. With 2.53 million barrels sold a day, Nigeria loses a whopping $88.55 million daily ([www.fxtm.info/FXTM/Stock-trading](http://www.fxtm.info/FXTM/Stock-trading), 2020). With the available information, Nigeria is aggressively approaching something worse than a recession, **a depression**.

The Small and Medium Enterprises (SME’s) contribute approximately 1% of national Gross Domestic Product (GDP), accounting for 96% of businesses and 84% of employment. With a total number of about 17.4 million, they account for about 50% of industrial jobs and nearly 90% of the manufacturing sector, in terms of number of enterprises (Nigeria SME Survey, 2020).

# **1.2 Statement of Problem**

Nigeria is a democratic state governed by written laws and as such, has laws that govern it even during periods of emergency (crisis, war, pandemics and natural disasters or similar situations). The three arms of government play different roles at all times and crisis periods are to be managed by them in line with the laws of Nigeria. During crisis, like in the period of COVID-19, human rights including rights to freedom of movement, can be suspended. However, such suspension must and can be done legally and lawfully by the lawfully designated persons/offices.

Often, laws are without exceptions. Human rights are not absolute and impeccable. There are very limited occasions where certain human rights may be restricted. Specifically, six human rights can be suspended by any law in Nigeria, where such law is reasonably justifiable in a democratic society, in the interest of defence, public safety, public order, public morality or public health as well as protection of lives and freedom of other persons. The concerned six human rights are: right to private and family life, right to freedom of thought, conscience and religion, right to freedom of expression and the press, right to peaceful assembly, association, right to freedom of movement and right to acquire and own immovable property anywhere in Nigeria (Constitution of the Federal Republic of Nigeria, 1999).

The rights that can be restricted only in a state of emergency include: right to life and right to personal liberty. However, restriction to rights to life must be due to death resulting from wars or ordered by a court of competent jurisdiction. There is only one human right that cannot be restricted even during a state of emergency which is right to freedom from discrimination Nigeria (Constitution of the Federal Republic of Nigeria, 1999).

The President of Nigeria can declare a state of emergency on after the declaration is published on the official Gazette of the Government of the Federation. This Gazette containing the declaration must be immediately transmitted to the Senate President and the Speaker of the House of Representatives, for them to convene meeting of parliament to pass a resolution approving or refusing the proclamation of the President.

Summarily, it is factual that the President of Nigeria has the power to declare state of emergency subject to the approval of the National Assembly.

With a population of approximately 200 million people and a growth rate of 2.6%, Nigeria has more mouth to feed, more tax to collect and new laws to make (Akinyemi *et al., 2019*). Nigeria’s President Muhammadu Buhari on Sunday 29th March, 2020 ordered the cessation of all movements for two weeks in the largest city Lagos, the capital Abuja and in Ogun State ([www.aljazeera.com/news/2020/03/nigeriaannounces-lockdown-major-cities-curb-coronavirus-200330095100706.html](http://www.aljazeera.com/news/2020/03/nigeriaannounces-lockdown-major-cities-curb-coronavirus-200330095100706.html)).

Lagos state with a staggering population of over 21 million people has a thin spread resources with much of the population struggling with poverty, from penthouse to slums ([www.populationstat.com/nigeria/lagos](http://www.populationstat.com/nigeria/lagos)). When it comes to distribution of wealth, Lagos is a city of extremes. The city has over 6,000 millionaires (and even multi-millionaires and a handful of billionaires). However, most of the city’s residents live in total poverty. With 66% of the population of Lagos living in slums, the city has been called “mega-city of slums”- a less than flattering title.

According to a certified population site ([www.worldpopulationreview.com](http://www.worldpopulationreview.com/)), the population of Abuja is estimated at 3.2 million people in 2019 with a population growth of about 30% per year (Federal Capital territory, City population, 2019). This city houses so many embassies and headquarters including the magnificent US embassy. It is a home to many conglomerates with Hilton Transcorp tilting its head high.

Ogun state on the other hand boasts of roughly 5.2 million people as of 2013 ([www.ogunstate.gov.ng](http://www.ogunstate.gov.ng/)). The prestigious Otta farms and holdings is a landmark of Ogun State as it employs about 7,000 employees. This farm alone generates an average of $250,000 a day as at 2014 ([www.premiumtimesng.com](http://www.premiumtimesng.com/)).

With about two third of the companies and industries in Nigeria affected by the lockdown, Nigerians must brace for an economic depression. The oil and gas industries which generates more than half of Nigeria’s GDP has its stocks nose diving. Nigeria, just like most European countries today might be at the mercy of the United States sooner or later.

# **1.3 Purpose of the Study**

The course of action taken by Mr President is setting a dangerous background for more immoralities by the future government. It could also lead to possible infringement of human rights by security agencies as seen today, as seen in the case of Joseph Pessu who was killed for flouting lockdown order in Delta State two days after the President’s speech ([www.channelstv.com](http://www.channelstv.com/)). These are unconstitutional conducts and they can lead to an avalanche of litigation.

# **1.4 Scope of the Study**

The study was carried out in Nigeria. Nigeria is a country in West Africa, bordering Niger in the north, Chad in the northeast, Cameroon in the east and Benin in the west. Its coast in the south is located on the Gulf of Guinea in the Atlantic Ocean. Nigeria is often referred to as the “Giants of Africa” as it serves as home to about 206 million inhabitants (Library of Congress, 2018).

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# **CHAPTER TWO**

# **REVIEW OF RELATED LITERATURE**

This chapter reviewed some of the numerous works done by scholars and researchers which are directly related to this research work. In doing so, this chapter examined and reviewed the following areas;

2.1 Theoretical Framework

2.2 Legal Implications of Lockdown

2.3 Economic Impact of Lockdown

# **2.1 Theoretical Framework**

On 29 March 2020, the Nigerian President, Muhammadu Buhari, addressed the nation on the Federal Government’s efforts to curtail the spread of COVID-19 within the country. In his address, he directed a cessation of all movements in Lagos State, Ogun State and the Federal Capital Territory for an initial period of fourteen (14) days. Although the cessation of movement in Ogun State was postponed until Friday, 3 April 2020, lockdown in Lagos and Abuja was ordered to commence on Monday, 30 March 2020. This lockdown is to enable the government to track the spread of COVID-19 within these areas.. Citizens in these states have been directed to stay at home during the lockdown. Inter-state travel within these states are restricted and all businesses and offices within these states are fully closed during the lockdown period.

Certain businesses were exempted from the lockdown restrictions particularly those providing health related and essential services, including hospitals and related medical establishments, organizations in healthcare related manufacturing and distribution, as well as commercial establishments involved in food processing, distribution, and retail companies, petroleum distribution and retail entities, power generation, transmission and distribution companies and private security companies. Workers in telecommunication companies, broadcasters, print and electronic media who are able to prove they are unable to work from home are also exempted. Seaports in Lagos state are also exempted as well as vehicles and drivers conveying essential cargoes from the seaports to other parts of the country, which will be screened before departure by the Ports Health Authority. The President also noted the government’s drive to provide relief materials to communities who will be affected by the restrictions.

On Monday, 30th March 2020, the President signed the Federal Government’s COVID-19 Regulations of 2020 which declared COVID-19 a dangerous infectious disease and granted a legal basis to the directives stated in the President’s address. The Regulations further institute a moratorium on loans implemented through Bank of Industry, Bank of Agriculture and the Nigeria Export Import Bank. Financial and money markets are exempted from the lockdown to run skeletal services and allow Nigerians access to online banking services. Critical staff members of the CBN, deposit money banks, the Nigeria Interbank Settlement System (NIBSS), mobile money operators and payment solution providers are also exempted from the lockdown.

# **2.2 Legal Implications of Lockdown**

The National Judicial Council (NJC), through its Chairman, Justice Mohammed Tanko (Chief Justice of Nigeria), has directed the heads of courts across the country to suspend all court sittings for an initial period of two (2) weeks, from 24 March 2020. However, matters that are urgent, essential or time bound under Nigerian law are exempted from the suspension.

# **2.3 Economic Impact of Lockdown**

Before the pandemic, the Nigerian government had been grappling with weak recovery from the 2014 oil price shock, with GDP growth tapering around 2.3 percent in 2019. In February, the [IMF revised the 2020 GDP growth rate](https://www.imf.org/en/News/Articles/2020/02/17/pr2053-IMF-Staff-Concludes-Article-IV-Consultation-to-Nigeria) from 2.5 percent to 2 percent, as a result of relatively low oil prices and limited fiscal space. Relatedly, the country’s debt profile has been a source of concern for policymakers and development practitioners as the most recent estimate puts the debt service-to-revenue ratio at 60 percent, which is likely to worsen amid the steep decline in revenue associated with falling oil prices. These constraining factors will aggravate the economic impact of the COVID-19 outbreak and make it more difficult for the government to weather the crisis.

In Nigeria, efforts were already being made to bolster aggregate demand through increased government spending and tax cuts for businesses. The public budget increased from 8.83 trillion naira ($24.53 billion) in 2019 to 10.59 trillion naira ($29.42 billion) in 2020, representing 11 percent of the national GDP, while small businesses have been exempted from company income tax, and the tax rate for medium-sized businesses has been revised downwards from 30 to 20 percent. Unfortunately, the COVID-19 crisis is causing all components of aggregate demand, except for government purchases, to fall (Figure 1).



**The fall in household consumption** in Nigeria will stem from 1) partial (or full) restrictions on movement, thus causing consumers to spend primarily on essential goods and services; 2) low expectations of future income, particularly by workers in the gig economy that are engaged on a short-term/contract basis, as well as the working poor in the informal economy; and 3) the erosion of wealth and expected wealth as a result of the decline in assets such as stocks and home equity. The federal government has imposed a lockdown in Lagos and Ogun states as well as Abuja (which have the highest number of coronavirus cases combined). Subnational governments have quickly followed suit by imposing lockdowns in their states. Nigeria has a burgeoning gig economy as well as a large informal sector, which contributes [65 percent of its economic output](https://www.imf.org/~/media/Files/Publications/WP/2017/wp17156.ashx). Movement restrictions have not only reduced the consumption of nonessential commodities in general, but have affected the income-generating capacity of these groups, thus reducing their consumption expenditure.

**Investments by firms will be impeded** largely due to the uncertainties that come with the pandemic-limited knowledge about the duration of the outbreak, the effectiveness of policy measures, and the reaction of economic agents to these measures—as well as negative investor sentiments, which are causing turbulence in capital markets around the world. Indeed, the crisis has led to a massive decline in stock prices, as the Nigerian Stock Exchange records its worst performance since the 2008 financial crisis, which has eroded the wealth of investors. Taking into consideration the uncertainty that is associated with the pandemic and the negative profit outlook on possible investment projects, firms are likely to hold off on long-term investment decisions.

On the other hand, **government purchases will increase** as governments, which typically can afford to run budget deficits, utilize fiscal stimulus measures to counteract the fall in consumer spending. However, for governments that are commodity dependent, **the fall in the global demand for commodities** stemming from the pandemic will significantly increase their fiscal deficits. In Nigeria’s case, the price of Brent crude was just over $26 a barrel on April 2, whereas Nigeria’s budget assumes a price of $57 per barrel and would still have run on a 2.18 trillion naira ($6.05 billion) deficit. Similarly, with oil accounting for 90 percent of Nigeria’s exports, the decline in the demand for oil and oil prices will adversely affect the volume and value of net exports. Indeed, the steep decline in oil prices associated with the pandemic has necessitated that the Nigerian government cut planned expenditure. In fact, on March 18, the minister of finance announced a 1.5 trillion naira ($4.17 billion) cut in nonessential capital spending.

The restrictions on movement of people and border closures foreshadow a **decline in exports.** Already, countries around the world have closed their borders to nonessential traffic, and global supply chains for exports have been disrupted. Although the exports of countries that devalue their currency due to the fall in the price of commodities (like Nigeria), will become more affordable, the limited markets for nonessential goods and services nullifies the envisaged positive effect on net exports.

WHAT ARE THE POLICY RESPONSES BY THE NIGERIAN GOVERNMENT?

Already, the Central Bank of Nigeria (CBN) has arranged a fiscal stimulus package, including a 50 billion naira ($138.89 million) credit facility to households and small and medium enterprises most affected by the pandemic, a 100 billion naira ($277.78 million) loan to the health sector, and a 1 trillion naira ($2.78 billion) to the manufacturing sector. In addition, the interest rates on all CBN interventions have been revised downwards from 9 to 5 percent, and a one-year moratorium on CBN intervention facilities has been introduced, effective March 1.

With oil being Nigeria’s major source of foreign exchange, amid the steep decline in oil prices, the official exchange rate has been adjusted from 306 to 360 naira. The exchange rate under the investors and exporters (I&E) window has also been adjusted from 360 to 380 naira in order to unify the exchange rates across the I&E window, Bureau de Change, and retail and wholesale windows. Furthermore, the government has introduced import duty waivers for pharmaceutical companies and increased efforts toward ensuring that they receive forex.

# **CHAPTER THREE**

# **RESEARCH METHODOLOGY**

This chapter explains the method adopted for this research under the following sub-headings; research design, research instrument, validity of the research instrument, reliability of the research instrument, method of data collection and method of data analysis.

# **3.1 Research Design**

The research design adopted for this study is a simple and straightforward one, the information is sourced from the internet and out media houses and then analysed for the study also the employment of the constitution to sort out the legal implication of the lockdown.

# **3.2 Research Instrument**

Two research instruments will be used for this study;

1. **Constitution of the Federal Republic of Nigeria**

A **constitution** is an aggregate of fundamental principles or established precedents that constitute the legal basis of a polity, organisation or other type of entity, and commonly determine how that entity is to be governed. The **Constitution of Nigeria** is the supreme law of the Federal Republic of Nigeria. Nigeria has had a series of constitutions. The current constitution was enacted on 29 May 1999, inaugurating the Nigerian Fourth Republic. The 1999 constitution restored democratic rule to Nigeria, and remains in force today. In January 2011, two amendments of the 1999 constitution were signed by President Olusegun Obasanjo, the first modifications since the document came into use in 1999

1. **Channels Television News**

Channels Television is a Nigerian independent 24-hour news and media television channel based in Lagos, Nigeria. The parent company, Channels Incorporated, was founded in 1992, a year before the Nigerian government deregulated the broadcast media. It began broadcasting in 1995. Its primary focus is producing news and current affairs programs on Nigerian domestic issues. The Channel's mission is to act as a watchdog on governmental policies and activities. Operating in Nigeria's popular broadcast media market, Channels Television is the first and only thriving national TV brand, dedicated solely to the dissemination of news. It is the first Nigerian broadcaster to stream its television programming live for 24 hours.

# **3.3 Validity and Reliability of the Instrument**

The face and content validity of the instruments are without doubt good and trusted. The Constitution used in the Judiciary and in the Nation at large for check and balances and the verified media house known for transparency and reliability.

# **3.4 Method of Data Collection and Analysis**

The research data was collected using the internet and analysed manually at home. Due to the lockdown, the ability to collect data manually and information from people directly is limited.

# **CONCLUSION**

The governor of Ekiti state [announced a lockdown](https://www.pulse.ng/news/local/coronavirus-fayemi-orders-lockdown-in-ekiti-shuts-borders/hymyblc) and announced the reactivation of the state food bank. Ekiti state is also [considering](https://www.africanews.com/2020/03/31/coronavirus-hub-impact-of-outbreak-across-africa/) providing a stipend to self-employed citizens whose daily incomes would be interrupted. This is a positive development and should be followed through. Other state governments should also take note and do the same if they lockdown their self-employed workers. The Lagos state government has announced an emergency [food response](https://uk.reuters.com/article/uk-health-coronavirus-nigeria/africas-biggest-city-lagos-locks-down-to-defend-against-coronavirus-idUKKBN21I1YY) but has not gone as far as talking about a self-employment stipend. It would be beneficial to follow the steps of the Ekiti state government, especially if the lockdown is extended.

Nigerian entrepreneurs like [Mike Adenuga](https://guardian.ng/news/mike-adenuga-donates-n1-5bn-to-covid-19-funds/) and [Tony Elumelu](https://www.cnbcafrica.com/coronavirus/2020/03/28/tony-elumelus-united-bank-for-africa-donates-14mn-to-covid-19-relief-across-africa-this-is-how-it-will-be-used/) have donated large sums of money to catalyse a comprehensive pan-African response to fight the pandemic. A sizeable chunk of those donations has gone to the Lagos state government. It would be useful if some of this went to self-employed individuals who are the lifeblood of cities like Lagos. Entrepreneurs who are employers also need help because they face a double whammy in this scenario. They have to pay the income of their employees at a time when their customers have been told to stay at home.

In addition, their tax burdens have not been reduced. Nigerian entrepreneurs are subject to a plethora of taxes, including, [for example](https://www.ft.com/content/3d304f0a-e446-11e9-b112-9624ec9edc59), [Pay as You Earn](https://www.bomesresourcesconsulting.com/paye-tax-nigeria-taxation-employees.html), [corporate income](https://taxsummaries.pwc.com/nigeria/corporate/taxes-on-corporate-income), [land use](https://www.ictd.ac/blog/land-use-charge-controversy-in-lagos-lessons/), and a recently increased [VAT tax](https://tradingeconomics.com/nigeria/sales-tax-rate), to be paid by employers in Lagos. This is in an environment where the transaction costs of doing business are already high due to the lack of adequate infrastructure and [endemic corruption](https://theconversation.com/snakes-and-monkeys-are-getting-the-blame-for-corruption-in-nigeria-92779). It will be beneficial if the tax burdens for employer entrepreneurs were reduced to ease their problems and help them pay the salaries of their employees during this trying period. This will also help reduce job losses and redundancies to paid workers as has been seen in [China](https://www.cnbc.com/2020/03/16/china-economy-millions-lose-their-jobs-as-unemployment-spikes.html).

In summary, the federal and state governments in Nigeria should provide creative economic solutions. Other African governments can learn from these suggestions too.

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