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

PREPARED BY

OBARAKPO EMMANUEL CHUKWUEBUKA

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**Introduction**

**What is a lockdown?**

A lockdown is an emergency protocol that usually prevents people or information from leaving an area. The protocol can usually only be initiated by someone in a position of authority. Lockdowns can also be used to protect people inside a facility or, for example, a computing system, from a threat or other external event. Of buildings, a drill lockdown usually means that doors leading outside are locked such that no person may enter or exit. A full lockdown usually means that people must stay where they are and may not enter or exit a building or rooms within said building. If people are in a hallway, they should go to the nearest safe, enclosed room.

**Types:**

* **Preventive lockdown**

A **preventive lockdown** is a preemptive action plan implemented to address an unusual scenario or a weakness in system to preempt any danger to ensure the safety and security of people, organization and system. The focus for preventive actions is to avoid dangers and risks arising from the nonconformance to the normal circumstances, but also commonly includes improvements in efficiency.

Preventive lockdowns are preemptive lockdowns to mitigate risk. Most organizations plan for the emergency lockdowns but fail to plan for other situations which might quickly degrade to dangerous levels. These protocols must be based on the type of threat, and should be kept simple and short for quick learning and implementation, and flexible enough to handle several scenarios. This allows administrators more options to choose from which are easier to use in various scenarios. For example, in case of a loud scene by a parent or an unarmed petty thief being chased by the police through the school playground, this flexible procedure allows school administrators the flexibility to implement a more limited lockdown while teaching in school continues, this eliminating need for complete emergency lockdown, disruption and delays in resumption of teaching, etc. The consequences of not having procedures to implement such lockdowns is that the situation might quickly escalate where there could be loss of human lives

* **Emergency lockdown**

**Emergency lockdowns** are implemented when there is imminent threat to the lives or risk of injury to humans, for example, a School's Emergency lockdown procedures must be kept short and simple to make them easier to use under real life crisis conditions. Simple procedures can be easily taught with periodic lockdown drills instead of lengthy training.

**Typical scenarios:**

**Schools:** Lockdown procedures vary by school district. Generally, a lockdown means that interior and exterior doors are locked, and all students and staff must remain in their location from the time the lockdown is announced. Windows are covered, and students stand at the back of the classroom or away from windows.

Since the [Columbine Shooting in 1999](https://en.wikipedia.org/wiki/Columbine_High_School_massacre), lockdown procedures in schools have been constantly changing. Some schools direct teachers to continue with standard procedures while remaining quiet, while some recommend an active approach against threats.

**Prisons:** In its most common usage in corrections units, the term *lockdown* can be defined as a course of action to control the movement of inmates. Confining all prisoners, except workers, to their cells until the end of the day is an example of a "lockdown period" in a corrections schedule. However a "full lockdown" is used when all prisoners are locked in their cells to prevent [prison riots](https://en.wikipedia.org/wiki/Prison_riots) or unrest from spreading or during an emergency

**Hospitals:** In [US](https://en.wikipedia.org/wiki/United_States) guidelines, occasions for preventing entry into a hospital may include: [power failure](https://en.wikipedia.org/wiki/Power_failure), [earthquake](https://en.wikipedia.org/wiki/Earthquake), [flooding](https://en.wikipedia.org/wiki/Flooding), [fire](https://en.wikipedia.org/wiki/Fire), [bomb threat](https://en.wikipedia.org/wiki/Bomb_threat), [hostage crisis](https://en.wikipedia.org/wiki/Hostage_crisis) and [active shooter](https://en.wikipedia.org/wiki/Active_shooter). Occasions for preventing both entry and exit from a hospital may include: external contamination, [civil disturbance](https://en.wikipedia.org/wiki/Civil_disturbance) and [abduction of an infant or child](https://en.wikipedia.org/wiki/Child_abduction).

**Lean manufacturing process:** In [manufacturing](https://en.wikipedia.org/wiki/Manufacturing), the term *lockdown event* refers to a [continuous improvement](https://en.wikipedia.org/wiki/Continuous_improvement) initiative in which manufacturing in a specific area (typically a cell or specific piece of machinery) is halted in order to contain, and determine, what are the issues that are preventing the manufacture of goods from meeting the [quality](https://en.wikipedia.org/wiki/Quality_%28business%29) specifications. During the *lockdown event* a multi-disciplinary team reviews the specific area [manufacturing](https://en.wikipedia.org/wiki/Manufacturing) processes, tooling and machine condition, to find the root cause(s) of the problem(s). Once changes to the process, or machine repairs that may include adjustments and/or replacement are effected, a sample run is initiated and evaluated. If the results of the [validation](https://en.wikipedia.org/wiki/Verification_and_validation) are within the required specifications, the area lockdown is lifted and production is resumed. Follow up sampling is conducted subsequently to ensure continuity of the lockdown results.

During the 2019–20 coronavirus pandemic, the term lockdown was used for actions related to mass quarantines. Lockdowns can limit movements or activities in a community while allowing most organizations to function normally, or limit movements or activities such that only organizations supplying basic needs and services can function normally. During this, numerous governments responded to the disease with lockdowns of international borders and public spaces.

**Coronavirus**

Coronaviruses are a type of virus. There are many different kinds, and some cause disease. A newly identified type has caused a recent outbreak of respiratory illness now called COVID-19.

As of now, researchers know that the new coronavirus is spread through droplets released into the air when an infected person coughs or sneezes. The droplets generally do not travel more than a few feet, and they fall to the ground (or onto surfaces) in a few seconds — this is why social and physical distancing is effective in preventing the spread.

COVID-19 appeared in Wuhan, a city in China, in December 2019. Although health officials are still tracing the exact source of this new coronavirus, early hypotheses thought it may be linked to a seafood market in Wuhan, China. Some people who visited the market developed viral pneumonia caused by the new coronavirus. A study that came out on Jan. 25, 2020, notes that the individual with the first reported case became ill on Dec. 1, 2019, and had no link to the seafood market. Investigations are ongoing as to how this virus originated and spread.

It appears that symptoms are showing up in people within 14 days of exposure to the virus. COVID-19 symptoms include cough, fever, shortness of breath, muscle aches, sore throat, unexplained loss of taste or smell, diarrhea and headache. COVID-19 can be severe, and some cases have caused death.

**ECONOMIC IMPACT OF LOCK DOWN OF ACTIVITIES IN NIGERIA**

Nigeria has announced a lockdown of three major states, Lagos, Ogun and Abuja, to curb the coronavirus pandemic. Those that will be affected the hardest will be households that rely on the day to day activities of self-employed individuals for consumption.

Lagos is the country’s major economic center as well as its financial capital. Ogun state borders Lagos state to the south and is notable for having a high concentration of industrial estates and being a major manufacturing hub. Abuja is the seat of government.

Nigeria is one of many countries to shut down economic activities to prevent the rapid spread of the coronavirus pandemic. Most, especially developed nations, have implemented economic support measures to mitigate the impact of lockdowns on their economies.

In his speech to the nation, the Nigerian President Muhammadu Buhari, acknowledged that the restrictions may make it hard for people to feed themselves and so “relief materials” would be distributed to communities around the states affected.

But the Nigerian government will have to take into account the country’s peculiar economic circumstances when it implements its mitigating measures. In particular, it must bear in mind the millions of Nigerian households whose livelihoods depend on the self-employed and small scale entrepreneurs.

**Economic circumstances in households**

Nigeria has a very high self-employment rate. In terms of occupational proportions from a household perspective, research showed that 41.4% of household members reported being own account self-employment, 26.5% in paid employment, 2.8% reported that they were employers of labour, 15.7% indicted that they were unemployed, while 13.6% reported being non-active in the labour force.

This generally agrees with the figures from the National Bureau of Statistics, although it should be noted that the unemployment rate in Nigeria has recently gotten worse and the national unemployment rate doesn’t reflect the situation in individual states.

Own account self-employment occurs where a self-employed individual essentially works for himself or herself with no employees. It is possible that many are in this category because of the scarcity of paid work. This means that the true unemployment figure might be higher.

At least, however, these individuals are engaged in some sort of economic activity.

Own account self-employed workers and employers usually work in the agricultural, services, and manufacturing sectors. Some of them have formalized businesses but a majority of them work in the informal sector.

Research also showed that occupational status had implications for household consumption. Employers were typically the greatest contributors to household consumption – anywhere from 12% to 66%.

Paid workers were typically the second-highest contributors to household consumption especially for wealthier households, while poorer households tended to rely more on the activities of own account self-employed individuals.

There will be significant consequences for household consumption in the cities that are under lockdown. Loss of income will be the immediate concern for individuals who have been contributing to household consumption through their entrepreneurial activities and engaged in hand-to-mouth self-employment.

It will be hard for such individuals to participate in the lockdown when their households depend on them for consumption.

**THE IMPACT ON THE NIGERIAN ECONOMY**

Before the outbreak, the outlook for the world economy—and especially developing countries like Nigeria—was fragile, as global GDP growth was estimated to be only 2.5 percent in 2020.

Before this 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 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.

**AGGREGATE DEMAND WILL FALL, BUT GOVERNMENT EXPENDITURE WILL RISE**

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. 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.

**Bribes and banks**

In theory food supplies should be exempt from most of the restrictions in place against the coronavirus and free to be transported.But in a country eaten away by corruption, officers at checkpoints have often manipulated the situation to rake in money from bribes.

Other vital supplies like fertilizers fall into a grey zone and there could be a serious knock-on impact if these do not get through for the upcoming planting season. “Our members have been arrested in some states while trying to deliver their products to farmers," Kabiru Fara of the Nigerian Agro-Inputs Dealers Association told AFP.

Importers are also facing major hurdles that have seen the volumes of goods coming into Lagos through its clogged port dwindle. "The banks are in fact closed and though theoretically it is possible to pay customs duties online, not all importers are able to do so," said one employee at a major importer. "As a result volume of deliveries of cargo is probably down 50%."

**LEGAL IMPLICATIONS**

President Muhammadu Buhari made a televised broadcast on Sunday , March 29, on measures being taken by his administration to contain the spread of the coronavirus disease in Nigeria. Since then some concerns have been raised about the legality and constitutionality of certain aspects of his pronouncements and actions, especially as they relate to restriction of movement and imposition of curfew in Lagos and Ogun States, and in the Federal Capital Territory, Abuja, for 14 days.

Paragraphs 34-45, and 49-54, and 57 of the Presidential Broadcast contain clear and far-reaching orders and directives that do not only suspend constitutionally guaranteed rights to liberty and freedom of movement, but also shut down businesses and economic activities for a fortnight, all in a bid to contain the spread of the deadly coronavirus.

The concerns that have been raised are whether the President could give these orders and directives outside the invocation of, and compliance with the provisions of Section 305 of the Constitution of the Federal Republic of Nigeria, 1999, governing the declaration of a state of emergency. Under the provisions, the President, subject to the provisions of the Constitution, may by instrument published in the Official Gazette of the Government of the Federation issue a Proclamation of a state of emergency in the Federation or any part thereof. Section 318 of the Constitution (the interpretation section ) defines the “ Federation” as “ the Federal Republic of Nigeria “.

It has been contended that the President can only lawfully exercise emergency powers regarding the enumerated situations, under Section 305 (3) of the Constitution, if there is a proclamation to that effect and if there is a concurring passage of a resolution by the two Houses of the National Assembly approving the proclamation and details of the emergency. Under Section 305(4) of the Constitution, “the Governor of a State may, with the sanction of a resolution supported by two-thirds majority of the House of Assembly, request the President to issue a Proclamation of a State of Emergency in the State when there is in existence within the State any of the situations specified in subsection 3 (c; d & e) of Section 305, and such situation does not extend beyond the boundaries of the State.”

Be it noted that coronavirus infections in Nigeria do not only extend beyond Lagos State or Ogun State; and the Federal Capital Territory, but also beyond Nigeria. It is a global pandemic. This implies that since coronavirus spread is national, if a proclamation of a state of emergency envisaged and stipulated by the Constitution is required to tame it, such proclamation, albeit could be in consultation with the affected states in the Federation, may not originate from or requested by the States, as a sine qua non (condition precedent) before the President and the National Assembly can act and exercise the powers that are conferred on them by Section 305.

It has also been argued that brand new legislation on the subject is needed for the Federation and for the affected states. And in this connection, Lagos State has passed one. This may well be so. However, quite apart from the untidiness of each of the States in the Federation which may be affected passing their respective laws, thereby risking lack of uniformity, it is submitted that non-amendment of an existing law, no matter how old or the absence of a new law to replace and reenact the old law, is not a valid argument for no recourse to the old law, when occasion do clearly demands and the situation so manifestly warrants.

The Quarantine Act, Cap Q2, Laws of the Federation of Nigeria, 2004 is, no doubt an archaic colonial legislation. But it is an existing law deemed to have been made by the National Assembly (See Section 315 of the Constitution).

Under Section 3 of the Act, “the President may, by notice, declare any place whether within or without Nigeria to be an infected local area and thereupon such place shall be an infected local area within the meaning of the Act”.

The provisions governing the declaration of a state of emergency in the Constitution are enumerated powers. And although the provisions of the Constitution must be interpreted as a whole, liberally and without stultifying narrowness, care must always be taken to construe enumerated statutory or constitutional provisions containing penal clauses which abridge or suspend constitutionally guaranteed liberties or legal rights, strictly and narrowly, lest they unwittingly become a cover or license for executive arbitrariness or despotism.

* Declaration of a state of emergency under the Constitution is made when:

The Federation is at war.

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

There is actual breakdown of public order and public safety in the Federation or any part thereof to such extent as to require extraordinary measures to restore peace and security;

There is a clear and present danger of an actual breakdown of public order and public safety in the Federation or any part thereof requiring extraordinary measures to avert such danger;

There is an occurrence of imminent danger, or the occurrence of any disaster or natural calamity affecting the community or a section of the community in the Federation;

There is any other public danger which clearly constitutes a threat to the existence of the Federation; or the President receives a request to do so in accordance with the provisions of subsection 4 of Section 305 of the Constitution “

It is plain from the above enumerated situations that the focus of the declaration of a state of emergency provisions in the Constitution is war, imminent war or invasion of Nigeria or involvement of Nigeria in a war; preservation of public order and safety and restoration of peace and security; actual breakdown of public order and public safety and averting such danger; occurrence of any disaster or natural calamity, affecting the community or a section of the community in the Federation; or any other public danger which clearly constitutes a threat to the existence of Nigeria.

It is submitted that the Quarantine Act is a special legislation, containing special provisions which empower the President to make regulations to contain and manage infectious diseases. It is a specific public health and safety legislation. Section 305 governing declaration of a state of emergency, on the other hand, is a general provision dealing with a state of emergency of many kinds.

**Conclusion**

**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.

**WHAT OTHER POLICY RESPONSES CAN BE IMPLEMENTED?**

Given the size and scope of the economic impact of the pandemic, there is the need to implement other recovery strategies to stimulate demand. Thus, we recommend the following fiscal and monetary policy measures:

* Although there is a [cash transfer program](https://guardian.ng/news/nigeria-government-begins-distribution-of-n20000-relief-fund-to-homes/) in place, the federal government should improve efforts towards enhancing the efficiency and effectiveness of the distributive mechanisms to reach households that are worst-hit by the pandemic.
* The Federal Inland Revenue Service (FIRS) as well as State Inland Revenue Services (SIRS) should waive payments on personal and corporate income tax for the second quarter of 2020, considering that the shock has affected the income and profits of households and businesses.
* The CBN’s decision to increase the cash reserve ratio (CRR) from 22.5 percent to 27.5 percent in January 2020 should be revisited to provide liquidity for banks so that banks can, in turn, create credit to the private sector.
* FIRS and SIRS should delay tax collection for the worse-hit sectors including tourism, the airline industry, and hoteliers in order to enable them recover from the steep decline in demand.
* To provide additional liquidity in the forex market, the CBN should establish a swap facility with the U.S. Federal Reserve and/or the People’s Bank of China, as was done in 2018, to provide dollar and yen liquidity to financial institutions, investors, and exporters. This move would ease up forex shortage in the financial market and economy.
* While the naira has been adjusted as a result of the forex shortage, it is important that the CBN maintains exchange rate stability by deploying external reserves in order to avoid investors selling off naira-denominated assets.

The COVID-19 pandemic is a wake-up call to policymakers as the unusual and unprecedented nature of the crisis has made it impossible for citizens to rely on foreign health care services and more difficult to solicit for international support given the competing demand for medical supplies and equipment. A more integrated response spanning several sectors—including the health, finance, and trade sectors—is required to address structural issues that make the country less resilient to shocks and limit its range of policy responses. In the long term, tougher decisions need to be made, including but not limited to diversifying the country’s revenue base away from oil exports and improving investments in the health care sector in ensuring that the economy is able to recover quickly from difficult conditions in the future.