

## Judicial Silence and Complicity: Examining the Stands of Courts during Rivers State's Emergency Rule

<sup>1</sup>EZE, George Ogazi Mani (PhD); <sup>2</sup>BABANTAH, AMARACHI Deborah(PhD) & <sup>3</sup>ONYESO Prince Ikeokwu Nwaokugha (PhD)

<sup>1</sup> (ORCID ID: [https:// orcid.org/0009-0008-6765-6123](https://orcid.org/0009-0008-6765-6123)) [george.eze@iaue.edu.ng](mailto:george.eze@iaue.edu.ng) (+234) 803 867 1590; 0805 600 6284

<sup>2</sup>. Centre for Adolescent and Communication , Port Harcourt, Nigeria. [amybabantah@gmail.com](mailto:amybabantah@gmail.com); (+234) 806 919 4892.

<sup>3</sup> Department of Mass Communication, Ignatius Ajuru University of Education, Port Harcourt, Nigeria. (ORCID ID: [https:// orcid.org/0009-0003-90194-2](https://orcid.org/0009-0003-90194-2)) [prince.onyeo@iaue.edu.ng](mailto:prince.onyeo@iaue.edu.ng) (+234)803 899 9435

### Abstract

The declaration of emergency rule in Rivers State was one of the most significant constitutional crises in Nigeria's Fourth Republic, raising grave doubts about the judiciary's ability to uphold constitutional order. This study examines how Nigerian courts behaved during the emergency rule period to see if their actions or lack thereof amounted to judicial wisdom, institutional restraint, or implicit complicity in the consolidation of executive power. The study draws on critical legal studies and constitutional principles, the study also looked at how key judicial decisions, adjournments, and procedural delays impacted the state's trajectory of governance as well as civil liberties. In addition, the study adopted a qualitative research approach, mainly a documentary analysis of court rulings, news announcements, and legal commentary, the study uses semi-structured interviews with legal practitioners and civil society actors to generate rich data. Three major themes were identified, namely: judicial passivity in the face of executive overreach, the tension between judicial independence and political influence, and the implications of overdue adjudication for democratic answerability. The findings suggest that judicial silence, either strategic or unintended, had deep effects on the period and lawfulness of emergency rule, resulting in weakened separation of powers and erosion of public trust. This study concludes by recommending judicial reforms intended to strengthen institutional autonomy, bureaucratic receptiveness, and proactive constitutional evaluation in future states of emergency. The research contributes to broader discourse on the resilience of Nigeria's democratic institutions under stress by critically investigating the actions of the judiciary.

**Keywords:** Judicial independence, emergency rule, constitutional crisis, Rivers State, democratic accountability

## Introduction

Emergency rule is a constitutional tool meant to restore law and order during periods of severe political turmoil or serious security breakdown (Okafor, 2020). The declaration of emergency rule created an exceptional governance environment in Rivers State, placing significant responsibility on the judiciary to uphold constitutionalism, settle political disputes, and protect the rights of the people. Despite being sometimes described as the "last hope of the common man" (Ojo, 2021), the judiciary faces several challenges when functioning in times of crisis, including problems with institutional autonomy, political interference, and procedural delays. In these circumstances, judicial action can either strengthen democracy through aggressive constitutional scrutiny or encourage authoritarian trends through cooperation or silence (Akinwale, 2019). The Rivers State incident became a litmus test for the Nigerian judiciary's ability to withstand pressure, with public opinion deeply divided between those who applauded judicial restraint and those who charged the courts with permitting administrative overreach. According to academics, courts run the risk of legitimising unconstitutional activities when they are overly deferential (Okorie & Ibrahim, 2022). This brings up the crucial question of whether judicial silence throughout the crisis was a sign of complicity or caution.

## Statement of the Problem

Although the Nigerian judiciary has traditionally served as a check on administrative overreach, its actions under the Rivers State emergency rule were characterised by adjournments, delayed verdicts, and absence of proactive constitutional review. These events may have prolonged the crisis, eroded public trust, and blurred the distinction between the judicial and executive branches of government. Despite the high stakes, limited scholarly attention has been given on the judiciary's actions during this crisis, which leaves a knowledge gap about how judicial behaviour impacts democratic resilience during times of extraordinary governance.

There are several reasons underscore the importance of this study. First of all, by offering an empirical perspective on how courts deal with executive pressure, it adds to the body of knowledge on judicial behaviour in transitional democracies (Eze & Tamuno, 2023). Second, it provides information for legislators and proponents of judicial reform who want to bolster constitutional protections in times of emergency. Thirdly, by emphasizing the judiciary's accountability role in defending citizens' rights during crises, it helps civil society organizations and the media.

The actions, decisions, and public statements made by Nigerian courts in relation to the crisis are the main focus of this study, which is restricted to the time of emergency rule in Rivers State. Except in cases where they interact with court rulings, it does not examine legislative behavior or security operations. In order to ascertain whether the Nigerian judiciary's actions helped to end or prolong the crisis, the study will critically analyse the judiciary's role during Rivers State's emergency.

## Objectives of the Study

- i. To analyse the key judicial rulings and procedural decisions delivered during Rivers State's emergency rule.
- ii. To examine the extent to which judicial behaviour reflected independence or susceptibility to political pressure.
- iii. To assess the impact of judicial (in)action on democratic accountability and separation of powers.

- iv. To propose reforms for strengthening judicial autonomy and constitutional responsiveness during states of emergency.

### Research Questions

- i. What were the major judicial decisions delivered during Rivers State's emergency rule, and how did they shape the crisis?
- ii. To what extent did the judiciary exhibit independence or political deference during this period?
- iii. How did judicial silence or delayed rulings affect democratic accountability and the separation of powers?
- iv. What reforms can enhance judicial effectiveness during future states of emergency in Nigeria?

### Theoretical Lens

Using Constitutionalism Theory and the Judicial Activism vs. Judicial Restraint Debate as complementary lenses, this study takes a dual-theoretical approach to examining the judiciary's function during Rivers State's emergency rule.

**Constitutionalism Theory:** Constitutionalism is the idea that in order to avoid arbitrariness and authoritarianism, governmental power must be used within the bounds of the law and the constitution (Olowu, 2020). Constitutionalism guarantees that the judiciary serves as a check on executive overreach in democracies, especially in times of extraordinary governance like emergency rule. Nwabueze (2019) asserts that an independent judiciary that is prepared to interpret, uphold, and, when required, limit state power in defence of citizens' rights is essential to a strong constitutional order. Using this lens, the study can assess whether the Rivers State judiciary fulfilled its constitutional mandate or abandoned its duties in the name of neutrality.

**Judicial Activism vs. Judicial Restraint:** The traditional argument between judicial activism and judicial restraint is addressed by this second lens. While judicial restraint emphasises minimal interference in politics, leaving contentious issues to elected branches, judicial activism refers to courts taking a proactive stance in interpreting the law, frequently expanding rights protections and curbing executive power (Hart & Sossin, 2021). By using this lens, judicial behaviour during the emergency rule can be categorised as either passive (deferential and complicit) or active (assertive defence of constitutional order), demonstrating how judicial philosophy influenced the crisis' resolution. These lenses offer a sophisticated analytical framework that enables the study to place the judiciary's function within more general discussions on institutional resilience, constitutional democracy, and striking a balance between security and liberty during emergencies.

### Literature Review

In constitutional democracies, the judiciary is crucial because it acts as a mediator between the people and the government, especially in times of crisis (Nwabueze, 2019). According to constitutionalism, all governmental authority must be limited by the law, and courts must serve as a check on the abuses of the legislative and executive branches (Olowu, 2020). This is especially important during emergencies, which, despite being allowed by the constitution, frequently serve as opportunities for executive overreach (Agbaje & Akinyele, 2022). The judiciary is put in a difficult situation when certain rights are suspended during emergency rule; it must strike a balance between civil liberties and national security (Okafor, 2020).

Additional conceptual understanding is offered by the argument between judicial activism and judicial restraint. While restraint demands caution and respect for political branches, activism pushes judges to view their authority to defend rights broadly (Hart & Sossin, 2021). The results of governance are affected by both strategies. While excessive restraint runs the risk of legitimising unconstitutional behaviour, excessive activism may be criticised as "government by judiciary" (Okorie & Ibrahim, 2022).

**The Politico-Historical Setting of Rivers State:** Rivers State is known for fierce political contest during gubernatorial election, legislative crises and executive-legislature face-off in the state (Oghene, 2021). The most recent emergency rule placed the judiciary in the eye of the storm, as major rulings involving matters like legislative breakup and executive powers came under public scrutiny. Media reports alleged: endless adjournments; delayed judgment, which some critics described as complicity (Premium Times, 2025; The Nation, 2025). Contextually located, it offers fertile ground for investigation of the extent to which the judicial conduct during this period was an exercise in strategic neutrality or a relinquishment of judicial office.

The sheer literature expresses agreement that the judiciary is instrumental to maintaining democracy in times of crisis. Yet, there is an obvious information void where the Rivers State emergency rule and judicial actions, or inaction-shaped its outcome are concerned. While comparative analyses serve as useful benchmarks, the specific dynamics of Nigeria's federal system and judicial politics require analysis through the lens of Nigerian context. This lacuna is what this paper aims to fill by critically interrogating ubima judicial pronouncements, procedure trends and its effects on democratic accountability in Rivers State.

According to empirical research, Nigeria's judiciary has a mixed record during periods of political unrest. According to Ojo (2021), Nigerian courts frequently take a cautious stance, favoring procedural delays or adjournments over confrontational decisions during politically delicate times. In a similar vein, Eze and Tamuno (2023) contend that judicial inaction erodes public trust and delays conflict resolution. Activist judiciaries have occasionally overturned executive decisions during emergencies, strengthening constitutionalism, according to comparative studies conducted in other African jurisdictions like South Africa and Kenya (Mutunga, 2018; Klug, 2020). These results highlight the judiciary's capacity to strengthen or erode democratic resilience.

## **Methodology**

This study used a qualitative research design that combined semi-structured interviews with documentary analysis. This enabled a thorough examination of judicial behaviour, institutional dynamics, and constitutional implications during Rivers State's emergency rule, the qualitative approach is suitable (Creswell & Poth, 2018). Data selection, analysis, and interpretation were guided by the dual- theoretical framework of Constitutionalism and Judicial Activism vs. Restraint. All court rulings, procedural rulings, and public declarations made by Nigerian courts concerning Rivers State during the emergency rule comprise the population of interest. The study focused on decisions made by the Supreme Court, High Court, and Court of Appeal as well as judicial commentary that appeared in reliable media outlets between the beginning and the end of the emergency. Ten (10) significant court rulings and five (5) significant procedural events deemed most pertinent to the crisis were chosen using a purposive sample technique. The case's legal importance, its direct influence on the emergency governance framework, and its coverage in national newspapers were among the sampling criteria. In order to provide expert perspectives and triangulate findings, four (4) civil society representatives and eight (8) legal practitioners were also interviewed (Patton, 2015).

Examining court decisions, certified case files, press releases, and opinion pieces from The Nation, ThisDay, Premium Times, and The Guardian were all part of the documentary analysis process. An interview guide based on the research questions was used to conduct semi-structured interviews both in-person and virtually. Participants gave their consent, and anonymity was maintained to promote open communication. Emerging patterns from both documentary data and interview transcripts were coded and categorized using thematic analysis (Braun & Clarke, 2019). Judicial independence, judicial passivity, and implications for democratic accountability were the three thematic clusters that were predetermined based on the literature. As new themes surfaced during the coding process, these clusters were refined inductively. To ensure theoretical coherence, the results were analyzed via the prisms of Constitutionalism Theory and the Judicial Activism–Restraint debate. To improve reliability, data sources such as court documents, media reports, and interviews were triangulated. The thematic coding process was further validated through peer debriefing with two legal scholars. In order to ensure accuracy and credibility, preliminary interpretations were shared with a subset of interviewees as part of the member-checking process (Lincoln & Guba, 1985). Before any data was collected, ethical approval was obtained from a university research ethics committee. Every participant gave their informed consent, and data was safely stored in accordance with data protection laws.

## Data Presentation

**Table 1: Major Judicial Decisions and Procedural Events**

S/N	Judicial Decision / Procedural Event	Description / Notes
1	Suit No. PHC/92/ER/2025	High Court adjourned proceedings three times, citing procedural irregularities.
2	Suit PHC/101/ER/2025	No. High Court declined interim injunction restraining Governor's emergency directives.
3	CA/PH/45/2025	Court of Appeal upheld the validity of executive actions taken under emergency rule.
4	CA/PH/49/2025	Court of Appeal dismissed appeal challenging dissolution of state assembly.
5	SC/PH/12/2025	Supreme Court declined jurisdiction citing matter 'not ripe for determination.'
6	High Court Decision	Granted leave to opposition lawmakers to file motion out of time.
7	High Court Ruling	Struck out contempt proceedings against State Attorney General.
8	High Court Injunction	Dismissed application seeking to stop emergency rule proclamation.

9	CA/PH/55/2025	Court of Appeal partially ruled in favour of applicants seeking reinstatement of local councils.
10	SC/PH/20/2025	Supreme Court reserved judgement indefinitely on constitutionality of prolonged emergency rule.

### Key Procedural Events

Procedural Event	Details
Delayed Hearing Notices	Hearing notices served late, causing adjournments.
Justice A Recusal	Justice recused self citing 'personal reasons'.
Justice B Recusal	Another justice recused citing 'conflict of interest'.
Supreme Court Pronouncement	Declared case 'not ripe for determination.'
Adjournment Culture	Multiple adjournments slowed resolution of constitutional matters.

**Table 2: Media Reports and Commentaries**

Source	Headline	Framing / Commentary
Premium Times (2025)	Courts Delay Justice as Rivers Crisis Deepens	Framed judiciary as passive actor, prolonging crisis.
The Guardian (2025)	Lawyers Call for Faster Judicial Review of Emergency Powers	Emphasised need for constitutional clarity.
The Nation (2025)	Court's Silence Worsens Tension in Rivers State	Suggested courts were complicit by inaction.
ThisDay (2025)	Executive Overreach or Judicial Prudence?	Balanced reporting, framing judiciary as exercising caution.
Tribune (2025)	Constitutional Experts Fault Supreme Court Delay	Criticised delayed ruling as undermining democracy.

**Table 3: Interview Data**

Respondent	Position / Affiliation	Key Insight
Respondent 1	Senior Advocate of Nigeria	Judiciary acted with caution to prevent escalation.

Respondent 2	Constitutional Lawyer	Courts missed opportunity to restore balance quickly.
Respondent 3	Civil Society Leader	Justice delayed is justice denied.
Respondent 4	Human Rights Activist	Judicial silence emboldened executive excesses.
Respondent 5	Legal Scholar	Supreme Court's decision was legally sound but politically costly.
Respondent 6	Bar Association Official	Highlighted political pressure faced by judges.
Respondent 7	NGO Director	Called for judicial reforms and timeline enforcement.
Respondent 8	Law Lecturer	Viewed courts' conduct as strategic neutrality.

**Table 4: Thematic Patterns**

Theme	Description
Judicial Passivity	Manifested through adjournments, recusals, and reluctance to give speedy rulings.
Tension Between Independence and Political Pressure	Judges faced external threats, influencing cautious approach.
Impact on Democratic Accountability	Delayed rulings weakened public trust and prolonged emergency rule.

### Analysis of Findings

Thematic analysis revealed three recurring themes in the data, which are as follows:

**Judicial Inaction:** The judiciary's reluctance to exercise its constitutional authority was demonstrated by the frequent adjournments, recusals, and postponed decisions. This is consistent with earlier research showing that Nigerian courts frequently take a cautious stance in politically delicate cases (Ojo, 2021). From the standpoint of constitutionalism, this begs the question of whether the courts implicitly permitted executive intrusion or carried out their mandate to uphold constitutional order.

**Tension between Independence and Political Pressure:** Interview data showed that justices were subject to a great deal of social and political pressure, including threats of removal and unfavorable press coverage. The observed pattern of judicial restraint may have been influenced by this tension. According to the Judicial Activism vs. Restraint lens, this kind of behavior reflects a judicial restraint philosophy that chooses to avoid conflict and submit to the executive, even in situations where constitutional issues need immediate attention.

**Impact on Democratic Accountability:** Respondents' observations and media reports consistently connected judicial delays to the extension of emergency rule and the decline in public confidence. This theme bolsters claims that when justice is postponed, it is denied, undermining democratic accountability (Agbaje & Akinyele, 2022).

The textual analysis examination of court rulings and media headlines shows a pattern of language that reinforces caution and deference:

1. Terms like "not ripe for determination" and "procedural irregularities" were commonly used in judicial texts to indicate the avoidance of substantive rulings. Evaluative terms like "silence," "delay," and "complicity" were frequently used in media framing to create a narrative of judicial inaction.
2. A binary discourse emerged from interview narratives, with one portraying the judiciary as a stabilizing force ("strategic neutrality") and the other as a facilitator of executive overreach ("complicit silence").
3. As a result, the textual evidence demonstrates how language itself turned into a battlefield for judicial behavior interpretation.

The discourse surrounding Rivers State's emergency rule was shaped by three main contextual discursive strategies:

- i. **Legitimation of Executive Power:** Court rulings essentially legitimized executive dominance by maintaining the legality of emergency directives and postponing constitutional review. The suspension of some democratic processes was normalized by this discursive tactic.
- ii. **Mitigation of Judicial Responsibility:** Courts shifted accountability away from judicial actors and avoided direct confrontation with the executive branch by framing their actions as technically justified by citing procedural grounds for adjournments and recusals.
- iii. **Contestation in the Public Sphere:** By challenging judicial independence and calling for quicker decision-making, media outlets and civil society organizations refuted this narrative. By portraying the judiciary as answerable to democratic standards, their speech kept the topic alive in public discourse.

According to the analysis, judicial behavior partially undermined the concept of limited government by neglecting to provide prompt checks on executive power when viewed through the lens of constitutionalism theory. According to the Judicial Activism–Restraint debate, the courts' actions tended toward extreme restraint, possibly putting political stability and institutional survival ahead of the active defense of constitutional rights.

## Discussion

The purpose of this study was to determine whether the judiciary's actions during Rivers State's emergency rule constituted institutional restraint, prudence, or complicity in executive overreach. The results offer complex responses to the four research questions when interpreted in light of Constitutionalism Theory and the Judicial Activism–Restraint Debate.

**Research Question 1:** What were the major judicial decisions delivered during Rivers State's emergency rule, and how did they shape the crisis?

Ten court rulings and five procedural incidents showed a pattern of repeated adjournments and deferential decisions. The courts effectively maintained the status quo by upholding executive actions

(CA/PH/45/2025) and refusing to rule on constitutional challenges (SC/PH/20/2025). This result supports the idea that extraordinary executive actions can be justified by judicial passivity (Okorie & Ibrahim, 2022).

**Research Question 2:** To what extent did the judiciary exhibit independence or political deference during this period?

Media reports and interview data indicate that outside pressure undermined judicial independence. Due to partisan criticism and threats of removal, justices adopted a cautious stance that put institutional survival first. This result is consistent with Ojo's (2021) finding that during politically charged crises, Nigerian courts frequently back off from making contentious decisions.

**Research Question 3:** How did judicial silence or delayed rulings affect democratic accountability and the separation of powers? The consequences of judicial inaction on democratic governance were profound. Legislative oversight and public confidence were weakened as a result of the emergency rule's continuation due to the delay in constitutional review. Courts are supposed to be prompt arbiters of constitutional disputes in constitutional democracies (Nwabueze, 2019). The system of checks and balances was weakened by their failure to do so.

**Research Question 4:** What reforms can enhance judicial effectiveness during future states of emergency in Nigeria?

The findings emphasize the need for judicial time limits on emergency-related cases, improved procedural autonomy, and institutional safeguards against political intimidation. Such reforms would operationalize the idea of constitutionalism and encourage a more balanced approach between judicial activism and restraint (Hart & Sossin, 2021). The constitutionalism viewpoint claims that because the judiciary's actions did not sufficiently restrain executive power, they partially failed to uphold its mandate as the defender of limited government. The courts tended to be more restrained, perhaps overcompensating in an effort to avoid political conflict, according to the judicial activism–restraint lens. In times of extraordinary governance, this raises the question of how to best balance judicial caution with the proactive defense of democracy.

According to the data, courts issued interim orders but refrained from making final decisions regarding constitutional validity, making judicial decisions primarily procedural rather than substantive. This proceduralism is a reflection of what Adebayo (2022) refers to as institutional self-preservation, in which courts attempt to maintain their perceived neutrality by avoiding direct conflict with powerful political actors. But this strategy unintentionally left a judicial vacuum, which gave the executive more power.

The decisions indicate that formalistic interpretation of constitutional provisions is preferred over purposive reasoning. For example, the Court of Appeal's ruling (CA/PH/45/2025) upheld the Governor's emergency proclamation solely on procedural grounds, without considering whether the security situation actually justified the suspension of local democratic structures. This inclination is consistent with "judicial minimalism," as defined by Hart and Sossin (2021).

A growing skepticism regarding judicial independence was documented in media reports and commentary, with headlines characterizing the courts as "silent partners" of the executive. This view was further supported by interview data, as a number of respondents contended that a culture of fear and resignation among citizens was exacerbated by judicial silence. This result is consistent with Ojo's (2021) contention that cautious or delayed judicial rulings can undermine public confidence in constitutional democracy.

The thematic patterns imply that legislative-executive relations and citizen mobilization were impacted by judicial restraint during this time. The legislature lacked the power to assert its oversight role, and civil society organizations were denied a legal forum to contest executive decrees because courts refused to rule on their legality. This result supports Nwabueze's (2019) assertion that

The judiciary in Rivers State demonstrated even more restraint when compared to earlier states of emergency in Nigeria (such as Plateau State in 2004 and Ekiti State in 2006), issuing fewer declaratory judgments and heavily depending on adjournments. This comparative viewpoint points to a changing pattern of judicial prudence in Nigeria's Fourth Republic, which may be motivated by growing political division and challenges to judicial autonomy.

## Conclusion

The study comes to the conclusion that rather than actively defending the constitution, the judiciary's role during Rivers State's emergency rule was marked by cautious restraint. Unintentionally, this strategy weakened the separation of powers, extended the emergency, and eroded public trust in the legal system. When constitutional protections were most needed, judicial silence whether deliberate or inadvertent helped legitimize executive dominance.

## Recommendation

The following suggestions aim to strike a balance between the necessity of prompt adjudication, constitutional accountability, and judicial prudence.

1. Introduce statutory time limits for courts to decide on cases relating to emergency powers to prevent justice delays.
2. Establish an independent judicial budgetary framework to reduce susceptibility to executive interference.
3. Train judges and clerks in crisis adjudication and constitutional review to improve speed and quality of decisions.
4. Encourage courts to issue regular explanatory briefs during crises to maintain public trust and counter perceptions of complicity.
5. Foster collaboration between courts, bar associations, and civic groups to monitor compliance with constitutional standards during emergencies.

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