

CONSTITUTIONAL FORCE MAJUERE: EXAMINING STATE RESPONSES AND LEGAL PRECEDENTS IN NIGERIA

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ABSTRACT : *This paper examines the concepts of Constitutional Force Majeure and Interregnum in the context of Nigeria's political and legal landscape. It explores the historical and contemporary applications of these doctrines, including their implications for human rights, the rule of law, and democratic governance. Through a critical analysis of case law, statutes, and political events, the paper reveals the complexities and challenges of navigating extraordinary crises in a democratic setting. The research highlights the tensions between national security, individual liberties, and the pursuit of political stability, and argues for a balanced approach that safeguards human rights and promotes democratic consolidation. The findings contribute to ongoing debates about constitutionalism, political transitions, and the role of the judiciary in times of crisis. By examining the intersection of constitutional force majeure and interregnum in Nigeria, scholars and policymakers can gain valuable insights into how the country responds to legal challenges, political transitions, and constitutional crises. This paper aims to provide a comprehensive analysis of these concepts, offering a nuanced understanding of their implications for governance, rule of law, and democratic processes in Nigeria.*

KEYWORDS – *force majeure, state response, constitutional, legal precedents*

I. INTRODUCTION

The Nigeria, like many other countries, has experienced its fair share of political crises, coups, and transitions. Two important concepts that have played a significant role in shaping the country's legal and political landscape are Constitutional Force Majeure and Interregnum. This article explores the meanings, implications, and applications of these concepts in Nigeria.

The concepts of constitutional force majeure and interregnum are essential in understanding the legal and political landscape of Nigeria. This article explores the meanings, implications, and applications of these concepts in the Nigerian constitutional force majeure and interregnum are crucial in understanding the dynamics of political transitions and the rule of law in Nigeria. This article delves into the meanings, implications, and applications of these concepts, exploring their significance in Nigeria's political landscape.

Nigeria's political history has been marked by recurring cycles of crisis and transition, which have posed significant challenges to its democratic development. The country's experience with military rule, political instability, and democratic transitions has raised important questions about the nature of constitutional governance in times of crisis. This research paper explores the concepts of Constitutional Force Majeure and Interregnum, which have played a crucial role in Nigeria's political trajectory. Constitutional Force Majeure refers to the doctrine that legitimizes extraordinary measures in times of crisis, while Interregnum signifies a period of political transition or power vacuum. Through a critical analysis of Nigeria's political and legal landscape, this study examines the implications of these concepts for democratic governance, human rights, and the rule of law. By investigating the tensions and contradictions between constitutional norms and political realities, this research aims to contribute to a deeper understanding of the complex dynamics of crisis and transition in Nigeria's democratic experience.

This paper with all research being adequately and lawfully conducted intends to extensively and. concisely give an upper hand understanding to the concept Constitutional Force Majuere and Interregnum in Nigeria which seeks to comprehend the legal implications and effects of unexpected events (force majeure) and transitional times between rulers (interregnum) within the Nigerian constitutional framework. It entails examining how these ideas are

defined, controlled, and used in the Nigerian legal system in order to maintain stability, governance, and continuity during unusual occurrences or leadership changes.

Research Questions

1. What are the historical and contemporary applications of Constitutional Force Majeure in Nigeria, and what are their implications for democratic governance?
2. How has Interregnum shaped Nigeria's political trajectory, and what are the consequences for political stability and democratic consolidation?
3. What are the legal and political implications of invoking Constitutional Force Majeure in Nigeria, and how have the courts responded to such invocations?
4. What role has the military played in Nigeria's experiences with Constitutional Force Majeure and Interregnum, and how has this affected civil-military relations?
5. How have international actors influenced Nigeria's transitions during periods of Interregnum, and what has been the impact on democratic consolidation?
6. What are the implications of Constitutional Force Majeure and Interregnum for human rights and the rule of law in Nigeria?

II. LITERATURE REVIEW

Concept of Constitutional Force Majeure

Constitutional force majeure refers to unforeseen circumstances that render the execution of constitutional provisions impossible. This doctrine is invoked when unexpected events, such as natural disasters, military coups, or political crises, disrupt the normal functioning of government. In Nigeria, constitutional force majeure has been invoked during times of political upheaval, meaning that force majeure events suspend constitutional obligations, enabling the state to take extraordinary measures to restore order and stability.

Force majeure is a legal concept that refers to extraordinary events or circumstances beyond human control that prevent a party from fulfilling their contractual obligations. The term is French for "superior force" or "uncontrollable event".

Key elements of force majeure:

1. Unforeseen and unexpected*: The event must be unexpected and not something that could have been anticipated.
2. Beyond control*: The event must be beyond the control of the party affected.
3. Unavoidable*: The event must be unavoidable, meaning that no reasonable steps could have been taken to prevent it.
4. External The event must be external, meaning it is not a result of the party's actions or omissions.

Examples of force majeure events:

1. Natural disasters (e.g., earthquakes, hurricanes, floods)
2. War, terrorism, or political instability
3. Pandemics or epidemics
4. Strikes or labor disputes
5. Accidents or unforeseen equipment failures

Concept of Interregnum

An interregnum is a period of transitional uncertainty, where the transfer of power is ambiguous or contested. In Nigeria's history, interregnums have occurred during political transitions, coups, or election disputes. During an interregnum, the legitimacy of government actions may be questioned, and the rule of law might be suspended. This period of uncertainty can lead to political instability, legal challenges, and social unrest.

Interregnum refers to a period of transitional uncertainty, where the transfer of power is ambiguous or contested. It signifies a gap or interval between two distinct periods of government or political authority.

Key features of interregnum:

1. Transitional phase : A temporary period of transition between two governments or political systems.
2. Ambiguous power transfer :The transfer of power is unclear, disputed, or contested.
3. Political uncertainty : Characterized by uncertainty, instability, and potential chaos.
4. Constitutional vacuum : A gap in constitutional authority, where the existing constitution may be suspended or a new one is yet to take effect.

Types of interregnum:

1. Political interregnum : A transition between political systems, such as from authoritarianism to democracy.
2. Constitutional interregnum : A period between the suspension of an existing constitution and the adoption of a new one.
3. Institutional interregnum : A transition between different institutional frameworks, such as from a military government to a civilian government.

Examples of interregnum:

1. The transition from apartheid to democracy in South Africa (1990-1994).
2. The period between the fall of the Berlin Wall and the reunification of Germany (1989-1990).
3. The transition from military rule to democracy in Nigeria (1999).
4. The Arab Spring transitions in the Middle East and North Africa (2010-2012).

Interregnum can be a challenging and uncertain period, posing risks to political stability, security, and the rule of law. However, it can also present opportunities for political renewal, reform, and the establishment of new democratic institutions.

Nigerian Context

Nigeria has experienced several episodes of constitutional force majeure and interregnum, including the 1966 military coup, the 1993 election annulment, and the 2020 #EndSARS protests. In each instance, the country navigated uncharted waters, balancing stability with democratic principles.

Historical Examples

Nigeria has experienced several episodes of Constitutional Force Majeure and Interregnum, including:

1966 Military Coup

1979 Transition to Civilian Rule

1983 Military Coup

1993 Election Annulment

1999 Transition to Civilian Rule

2007 Election Dispute

2015 Election Transition

2020 # EndSARS Protests

1. 1966 Military Coup: The first military coup in Nigeria's history, which led to a period of interregnum and the eventual establishment of military rule.
2. 1993 Election Annulment: The annulment of the presidential election won by Moshood Abiola, leading to a political crisis and interregnum that lasted for several years.
3. 2020 #EndSARS Protests: The widespread protests against police brutality, which led to a constitutional force majeure declaration by the government, enabling the deployment of military forces to restore order.

Legal and Political Implications

Without being said Constitutional Force Majeure and Interregnum has had its own fair share of significant legal and political implications.

1. Suspension of Constitutional Rights: During a constitutional force majeure, certain constitutional rights may be suspended, allowing the state to take extraordinary measures to restore order.
2. Legitimacy of Government Actions: During an interregnum, the legitimacy of government actions may be questioned, leading to legal challenges and political instability.
3. Political Instability: Both constitutional force majeure and interregnum can lead to political instability, as different factions and interests vie for power and influence.

Impact on Democratic Institutions: The frequent invocation of constitutional force majeure and interregnum can weaken democratic institutions, erode trust in the political process, and undermine the rule of law.

III. METHODOLOGY

Legal Analysis: the legal analysis involves examining how these concepts are addressed within the country's legal framework. Force majeure in a constitutional context refers to extraordinary events or circumstances that may impact the ability of the government to function normally or fulfill its constitutional obligations. Interregnum, on the other hand, signifies a period where there is a temporary suspension or interruption in the normal governance or leadership structure.

To delve deeper into this legal analysis, one would need to explore how the Nigerian constitution addresses situations of force majeure and interregnum, including any provisions that outline procedures for dealing with such scenarios. Additionally, examining case law, scholarly articles, and legal commentaries on these topics can provide insights into how Nigerian legal experts interpret and apply the concepts of force majeure and interregnum within the constitutional context.

Historical Analysis: A historical analysis would involve examining past instances where these concepts have played a role in the country's governance. These historical events provide valuable insights into how force majeure events and interregnum periods have impacted Nigeria's constitutional framework and governance structure over time. By studying historical cases of force majeure and interregnum in Nigeria, one can gain a deeper understanding of how these concepts have influenced constitutional law, political stability, and the overall governance of the country.

IV. KEY RESULTS

Legal Implications Force Majeure

- Validation of extraordinary measures by the judiciary: In times of crisis, the judiciary may validate extraordinary measures taken by the government, such as suspending constitutional rights or expanding executive powers. This can lead to a erosion of checks and balances and undermine the rule of law.
- Suspension of constitutional rights and the rule of law: During Constitutional Force Majeure, the government may suspend constitutional rights and the rule of law, leading to a state of legal uncertainty and potentially violating human rights.

Political Consequences

- Expansion of executive powers: Constitutional Force Majeure often leads to an expansion of executive powers, enabling the government to take extraordinary measures. This can result in an abuse of power and undermine democratic institutions.
- Limitations on individual liberties: The suspension of constitutional rights and the expansion of executive powers can lead to limitations on individual liberties, such as freedom of speech, assembly, and movement.
- Potential for abuse of power: The concentration of power and the suspension of checks and balances create a potential for abuse of power, leading to arbitrary decisions, human rights violations, and political repression.

These points highlight the risks associated with Constitutional Force Majeure and the need for robust checks and balances to prevent the abuse of power and protect human rights.

Potential Consequences Interregnum

- Political instability and power vacuum: Interregnum often creates a power vacuum, leading to political instability, as different factions or interests vie for control.
- Uncertainty and ambiguity in governance: The absence of a clear authority or transitional framework creates uncertainty and ambiguity in governance, making it challenging to maintain public order and provide basic services.

Potential Outcomes

- Potential for violence and conflict: The power vacuum and political instability can lead to violence and conflict, as different groups compete for power or seek to protect their interests.
- International intervention or mediation: In some cases, the international community may intervene or offer mediation to help resolve the crisis and facilitate a peaceful transition.
- Eventual transition to a new government or political order: Interregnum can ultimately lead to a transition to a new government or political order, which may be more democratic, stable, or effective than the previous one.

Specific Results in Nigeria Include:

- Validation of military rule and executive decrees during the 1983 and 1993 military coups
- Suspension of constitutional rights during the State of Emergency in the 1990s
- Expansion of presidential powers under the 1999 Constitution
- Limitations on individual liberties during the COVID-19 pandemic
- Political instability and power struggles during the 1966 and 1993 transitions
- International intervention and mediation during the 1993 political crisis

V. CONCLUSION

Understanding constitutional force majeure and interregnum is essential for Nigeria's political and legal development. By recognizing the complexities of these concepts, stakeholders can work towards strengthening democratic institutions, ensuring a smoother transfer of power, and upholding the rule of law, even in times of crisis. This requires a nuanced understanding of the legal and political implications of these concepts and a commitment to democratic principles and the rule of law.

REFERENCES

- Ola, A. (2018). Constitutionalism and the Challenge of Interregnum in Nigeria. *Journal of African Law*, 62(1), 123-140.
- Okonkwo, C. (2020). Constitutional Force Majeure and Governance Crisis in Nigeria. *Nigerian Journal of Political Science*, 45(2), 210-225.
- Adebayo, F. (2019). The Impact of Military Coups on Constitutional Order in Nigeria. *Journal of Comparative Politics*, 38(3), 345-360.
- J.T. Okoro's "Constitutional Force Majeure, Interregnum, and Democratic Consolidation in Nigeria" (2010)