

CONSTITUTIONALITY OF PYTHON DANCE IN SOUTH EAST OF NIGERIA SEPTEMBER 2017 OR A DOCTRINE OF NECESSITY?

DR ANNE AMUCHE OBIORA*

Abstract

It is a notorious fact, Python Dance was carried out in the South Eastern part of Nigeria in September 2017. Abia State to be precise. Prior to this time the army informed the public via the media and stated that the President deployed the military under the powers conferred on him by section 218 of the 1999 constitution of the Federal Republic of Nigeria as amended. Under section 217 (2) (c) by the very wording of the law, the President and the National Assembly evidently share conjunctive powers and responsibilities with regard to the deployment of soldiers to suppress insurrection and act in aid of civil authorities to restore order when called upon to do so. Against this backdrop the President of Nigeria Mohammed Buhari deployed the army to at Abia State. But the question that begs for an answer is “Was there an insurrection in Abia for the Army to quell? Which answer is negative .again was the President applying the “Doctrine of Necessity ? Which is not applicable in the situation because constitutionally the President can as the Commander in Chief of the Army can deploy soldiers. Why then was the Python Dance carried out in Abia State which claimed the lives of thousands of people and mainly the youths. There have been cases of insurrections in Nigeria how were they addressed or handled? It is an established fact that the indigenous people of Biafra (IPOB) were the targeted group and consequently many of them were killed because they were expressing themselves by requesting for a referendum. The objective of this therefore will be to address the following questions: constitutionality of Python Dance the Doctrine of Necessity, Precedent on the suppression of insurrection in Nigeria, Freedom of expression in other jurisdictions. The work will be concluded by stating there was no need for the Python Dance in Abia State but rather a ploy to wrongly kill people. It is therefore recommended among other things that life is sacred and should be preserved and the President should always bear in mind that it is his responsibility to protect life and property of people under him.

KEYS WORDS: Python Dance, South-Easter Nigeria, Regional Suppression

Introduction

In September 2017 the army informed the public about operation “Python Dance” II and stated that the President deployed the military under the powers conferred on him by section 218 of the constitution¹ Under Section 217 (2) (c) by the very wording of the law, the president and the National Assembly evidently share conjunctive powers and responsibilities with regard to the deployment of soldiers to suppress insurrection and act in aid of civil authorities to restore order when called upon to do so. While the President gives the actual order for deployment directly or

*Dr Anne Amuche Obiora, Associate Professor of law, Lecturer faculty of law, Chukwuemeka Odumegwu University, Igbariam Anambra State. Head, Public and Private Law, phone number: 08035452310, Email: ucheoraha@yahoo.com.

¹ 1999 Constitution of the Federal Republic of Nigeria (As Amended)

through the Chiefs of Staff, he can only do so “subject to such conditions as may be prescribed by an act of the National Assembly. In case of section 35 (2) of the constitution² which prescribes for declaration of state of emergence, he can only do so after a resolution of the National Assembly approving the proclamation of a state of emergency. Also, under section 17, part 1 of the third schedule to the Constitution³ the president shares conjunctive powers with the National Defense Council, which is empowered to advise him on “matters relating to deployment of troops. Also Section 5 (5) of the Constitution⁴ further emphasizes this conjunctive powers between the President, the National Defense Council and the Senate when it states that notwithstanding the provisions of Section 5 (4)⁵ the President in consultation with the National Defense Council, may deploy members of the armed forces of the federation on a limited combat duty outside Nigeria if he is satisfied that the national security is under imminent threat or danger, provided that the President shall within seven days of actual combat engagement seek the consent of the senate, and the senate shall thereafter give or refuse the said consent within fourteen days:

Consequently, even though the President can for the purposes of Section 217 (2) (4) and (6)⁶ deploy troops on a limited combat duty outside Nigeria, he can only do so after consultation with the National Defense Council and for not more than 21 days before receiving the senate’s approval. In fact, he cannot even deploy troops on a limited combat duty outside Nigeria “except with the prior approval of the senate” as stipulated by Section 5 (4) (b)⁷ of the Constitution. Therefore, the executive powers of President (including power to deploy troops) is exercised conjunctively with the National Assembly. From the foregoing therefore we can see clearly that at no point has the Constitution gives the President or the National Assembly sole power over military deployment whether for operation abroad or for internal security operations in Nigeria. The constitution gives each powers in certain cases with both acting in their designated area to achieve the common purpose. In effect we are questioning the power of the President under the law in this specific case of the deployment to the South-East, not in the general sense of the deployment of the military for operation python Dance II as stated by the military when announcing their mission, but in the specific sense of the operation culminating into one supposedly aimed at quelling insurrection in line with Section 217 (2) (c). We are therefore questioning the wisdom of deploying the military to Igboland when there is evidently no insurrection or a breakdown of laws and order⁸

It is a clear fact that the President and the military authorities at no time claimed that they were deploying the military to quell an insurrection. Every press release made by the military before and during the operation made no mention of insurrection nor did any of them state that they

² *Ibid.*

³ *Ibid*

⁴ Section 5(5) 1999 Constitution of the Federal Republic Nigeria Republic (As Amended)

⁵ *Ibid.*

⁶ Section 217 (2) (c) 1999 Constitution of the Federal Republic Nigeria Republic (As Amended)

⁷ Section 5 (4) (b) 1999 Constitution of the Federal Republic Nigeria Republic (As Amended)

⁸ Re: Operation Python Dance II in South Eastern Nigeria Is legal and Constitutional By Kennedy Emetulu: Sahara reporters.com/2017/29/re-operationpythondance-irsouth-eastern-nigeria-legal-and-constitutional. Accessed 20th April, 2019 by 2pm.

were involved in dealing with anything of the sort. As the name implies, operation python Dance II is presented to Nigerians as a continuation of operation Dance I. After the first “Python Dance” nobody expected subsequent ones⁹. But now the Army Chief of Staff Lieutenant-General Tukur Buratai has indicated that the operation will now be conducted annually. That means we are talking about routine year operations, and not an operation against insurrection, except we now want to maintain that insurrection in the South-East are permanent yearly occurrences that the Armed Forces must be attending to every year. It is instructive that at the height of the menaces of the Fulani herdsmen and after the uproar that followed the Global Terrorist index rating them the fourth deadliest terrorist group behind Boko Haram, ISIS and Al-Shabab, the Minister of Interior, Lieutenant-General Abdulhamam Dambazau (Ret) came on air to educate Nigerians on this matter. This was at a time the Middle Belt, Southern Kaduna and the entire South were in grip of fear of these marauders. When Dambazau was asked why the army have not been called to deal with these people, he gave the following reply;

We must protect the country which is the main function of the police. The Civil Defence are there to complement them too. This is a non-military issue that borders on law and order. It is not every security issue that you call in the military. It is the responsibility of the police to maintain peace. I believe that if we put the police in proper position in terms of discharging its functions, then there would be no need for military option. The police are equal to the task. If you have to deploy the army, then you are going above board. In any case, I do not even have the power to deploy the military for anything. It is only when the situation gets out of hand that you invite the military¹⁰.

Dambazau is right in his analysis of the role of the police as the appropriate agency to deal with issues of this nature, rather than the Armed Forces. And what exactly happened in the South East that we all missed that necessitated the Army coming in uninvited, bypassing the Abia State Police Command and marching straight to Nnamdi Kanu’s village to “show force” and show off their armoury? Where is the sense in a President who will not deploy the Army against the murderous Fulani herdsmen sending soldiers into Igboland to quell a non-existent insurrection?¹¹ Section 4 of the Police Act¹², talking about the general duties of the police plainly states:

“The police shall be employed for the prevention and detection of crime, the apprehension of offenders, the preservation of law and order, the protection of life and property and the due enforcement of all laws and regulations with which they are directly charged, and shall perform such military duties within or outside Nigeria as may be required of them by, or under the authority of this or any other Act”. It is precisely for situations that call for the police to perform military duties that led to the creation of the Mobile Police arm of the Force.

Indeed, the courts in interpreting our laws have firmly stated that the military cannot be deployed to take over the duties of the police. *In Yusuf v Obasanjo*¹³, the Court took time to explain what should be the overriding consideration in enforcing security in a democracy. It was ruling at a

⁹ *Ibid.*

¹⁰ *Ibid.*

¹¹ *Ibid*

¹² Police Act (Nigeria cap p.19 Laws of Federation, 2004 (As Amended)

¹³ *Yusuf v Obasanjo* (2005) 18 NWLR (Pt. 956) at 96

time General Olusegun Obasanjo had reduced our democracy to a “do-or-die” affair. According to the Court: “It is up to the police to protect our nascent democracy and not the military, otherwise the democracy might be wittingly or unwittingly militarized. This is not what the citizenry bargained for in wresting power from the military in 1999. Conscious step or steps should be taken to civilianize the polity to ensure the survival and sustenance of democracy.” In *Buhari v Obasanjo*¹⁴, Nsofor, JCA, was scathing in his condemnation of President Olusegun Obasanjo’s deployment of soldiers to Akwa Ibom, Benue, Enugu and Ebonyi States supposedly under powers granted him by section 217(2)(c) of the Constitution¹⁵. He declared the deployment unconstitutional based on the fact that there was no state of war in any of those states and no state of emergency declared in them before the deployment of soldiers. But decided to deploy the army because he was a soldier.

Constitutionality of Python Dance

The issue being addressed is not the constitutionality of deploying the army by the President, but was it necessary at the time? Consequently our Constitution¹⁴ provides thus;

217 (1) There shall be an armed forces for the Federation which shall consist of an Army, a Navy, an Air Forces and such other branches of the armed forces of the Federation as may be established by an Act of the National Assembly.

(2) The Federation shall, subject on Act of the National Assembly made in that behalf, equip and maintain the armed forces as may be considered adequate and effective for the purpose of-

- a. defending Nigeria from external aggression;
- b. maintain its territorial integrity and securing its borders from violation on land, sea or air;
- c. suppressing insurrection and acting in aid of civil authorities to restore order when called upon to do so by the president, but subject to such condition as may be prescribed by an Act of the National Assembly; and
- d. performing such other function as may be prescribed by an Act of the National Assembly.

(5) The composition of the officer corps and other ranks of the armed forces of the Federation shall reflect the federal character of Nigeria¹⁵.

Section 218 (1) of the same Constitution also provides as follows;

218 (1) The power of the President as at the Commander-in-chief of the Armed Forces of the federation shall include power to determine the operational use of the armed forces of the federation.

(2) The power conferred on the President by subsection (1) of this section shall include power to appoint the Chief of Defense Staff, the Chief of Army Staff, the Chief of Naval Staff, the Chief of Air Staff and Head of any other branches of the armed forces of the Federation as may be established by an Act of the National Assembly.

(3) The President may by directions in writing and subject to such conditions as he may think fit, delegate to any member of the armed forces of the Federation his powers relating to the operational use of the Armed Force of the Federation.

(4) The National Assembly shall have power to make laws for the regulation of-

¹⁴ *Buhari v Obasanjo* (2005) 18 NWLR (Pt. 956) at 96.

¹⁵ Section 217 (2) 1999 Constitution of the Federal Republic of Nigeria (As Amended).

- a. the powers exercisable by the President as Commander-in-Chief of the Armed Forces of the Federation; and
- b. the appointment, provision and disciplinary control of members of the armed forces of the federation¹⁶

Precedent on the Suppression of Insurrection in Nigeria

At this juncture, let us talk a little bit about insurrection and our national history with it. This might help some of us objectively compare and contrast what we have always known as insurrection with what happened in the South-East being described by as insurrection with a view to deciding for ourselves whether the deployment of soldiers to the South-East is necessary. More crucially, a history of insurrection under democratic rules in Nigeria will give us an idea of how democratic authorities have historically handled it in Nigeria, so we can see if President Buhari is following precedents¹⁷. an insurrection is a violent uprising that happens against or outside the national constitutional order. The first act of an insurrection is that it formally and violently rejects the laws and the government of the jurisdiction of the insurrection. Examples of insurrections in Nigeria are the 1964 Tiv riots, the Isaac Adaka Boro-led 12-day secessionist attempt in 1966 with the declaration of the Niger Delta Republic and the establishment of the armed Niger Delta Volunteer Force on the 23rd of February 1966, the 30th of May 1967 Biafran act of secession that ultimately resulted in the Nigerian Civil War, the Maitatsine riots of 1972, 1980, 1982 and 1984, the Niger-Delta militancy, the Boko Haram insurgency and the various military coups we have had in the country, except the successful ones. Once a coup succeeds, it becomes a revolution because it replaces the existing legal order.

Of all the above, only the Tiv riots of 1964 happened during the period of democratic rule in the First Republic. The Maitatsine riots of 1980 and 1982 happened in the Second Republic, while the Niger-Delta militancy and the Boko Haram insurgency are happening now during this Fourth Republic. As I implied earlier, each of these offers us an opportunity of seeing how the army is deployed under a democracy. We will see that in each case where the authorities have had to deploy soldiers to address an insurrection under a democratic dispensation, the police were first deployed and only after they have been overwhelmed before the armed forces were called in¹⁸. First, in the case of the Tiv riots, despite the very toxic political atmosphere surrounding the disturbances, Prime Minister Abubakar Tafawa Balewa's first instinct weren't to use the army. The riots were huge, but in the beginning, the government acted more to prevent a breakdown of law and order, rather than respond to actual breakdown of law and order. The police were fully in charge. Though the riots had been building up since 1960, it was in 1964 it became a full-blown insurrection when four policemen were killed following the murder of the clan head of

¹⁶ *Ibid.*

¹⁷ Re: Operation Python Dance II in South Eastern Nigeria Is legal and Constitutional By Kennedy Emetulu: Sahara reporters.com/2017/29/re-operationpythondance-irsouth-eastern-nigeria-legal-and-constitutional. Accessed 20th April, 2019 by 2pm..

¹⁸ Re: Operation Python Dance II in South Eastern Nigeria. Is legal and Constitutional By Kennedy Emetulu: Sahara reporters.com/2017/29/re-operationpythondance-irsouth-eastern-nigeria-legal-and-constitutional. Accessed 20th April, 2019 by 2pm.

Mbalagh in the Tiv Division. The police tried to beat back rioters, but the resistance was stiff and, in time, the flagging confidence of the police meant that the outgoing Inspector-General of Police, Mr. John Hodge had to visit police units in the Tiv Division in February 1964 to help raise their morale. In July 1964, four police riot units were deployed to join those already on the ground and police emergency operations were directed by an Assistant Commissioner of Police, Baba Jimeta.

But the uprising was popular with more than fifty thousand rioters involved. Their ranks were bolstered by the presence of Tiv ex-servicemen who just returned from the UN mission in Congo. Their military expertise became evident in the operations as they camouflaged effectively and used inventive tactics to lure the police into mistakes. For instance the rioters would use what they called Adoki (scarecrows) as baits. They would dress several of them up, wear them hats and helmets and station them in strategic places in large numbers. The police would shoot at these thinking them humans. While the police were expending their arms and ammunitions on these, the rioters would be collapsing the scarecrows and the police would think these were casualties. Upon exhausting their ammunitions, but confident they had overran the rioters, they would move forward to inspect the damage only to be surprised by the rioters¹⁹ lying in wait. The police lost several men in situations like this while it was a great morale booster for the rioters.

Soon it became clear that the police could not cope as the violence escalated. These were no longer mere riots and civil disturbances, but a full-blown guerrilla war by Tiv militias against the Northern Regional Government. It was at that point that the Prime Minister, Sir Abubakar Tafawa Balewa on November 18, 1964 invoked his powers under the Constitution to call in the Army (Nigerian Constitution Order in Council Supplement to Official Gazette Extraordinary, No. 61, Vol. 47, 30 September, 1960). It was the equivalence of section 217(2)(c). A whole Battalion of the Nigerian Army and the Reece Squadron were deployed there. The police formally admitted their failure and were withdrawn into reserve.

In the case of the Maitatsine riots of 1980 in Kano, at first these were politicized by the National Party of Nigeria (NPN) central government in Lagos because they thought these were going to clip the wings of the People's Redemption Party (PRP) governor of the state, Abubakar Rimi. Rimi did not have a great relationship with the central government, he had fallen out with the Emir of Kano, Ado Bayero and also the leader of his party, Mallam Aminu Kano. But everybody knew the leader of the Maitatsine sect, Mohammed Marwa was an old customer who had been a security threat for more than two decades before then. Marwa and his followers took on the police, but when the Kano State Commissioner of Police asked for reinforcement from Lagos to deal with the insurgency, Sunday Adewusi, the Inspector-General of Police and a known NPN lackey refused to provide men. He was clearly acting the script of his NPN political overlords in their mission to teach Governor Rimi a lesson. Even the Nigerian Security Organization (NSO) operatives attached to Kano and in the headquarters in Lagos refused to share intelligence with Rimi and the Kano State government²⁰.

¹⁹ *Ibid.*

²⁰ *Ibid.*

After calling on his followers nationwide to come and defend his base in Yan Awaki quarters in Kano where he was involved in seizing private land and constructing illegal structures, something that had already put him at loggerheads with the state government, Marwa soon began a takeover bid of the Fagge Market and the Kano Central Mosque with the aim of installing his followers as Imams. To begin to put this plan in place, on the 8th of December 1980, he organized a campaign at the Shahuci prayer ground near the Central Mosque and the Emir's Palace. The police were forced to confront him. In the ensuing melee, four police officers were killed, thirteen police vehicles burned and several police weapons seized. The police were forced into a retreat. This emboldened the Maitatsine followers who went on rampage in the city for the next 20 days, leaving death and destruction in their wake. At this point, due to national and international pressure, the Shehu Shagari government at the centre had to act. On the 28th of December 1980, the army was called in and under Colonel Yohanna Kure they were able to bring the situation under control, killing several sect members, destroying their abodes in Yan Awaki, with huge collateral damage as well.

In October 1982, the nation witnessed some more Maitatsine-inspired riots in Bulumkutu and Maiduguri in Borno State and in Rigasa in Kaduna State. Followers of Maitatsine who had fled the Kano clampdown instigated these riots. They set up communes around some of the towns they settled, encroaching on other people's property and building against local planning laws. They frequently clashed with mainstream Muslims and Christians whom they harassed in their attempt to forcibly convert them to their beliefs. After several reports to the police, the authorities ordered a raid of their abode in Bulumkutu on the outskirts of Maiduguri. But they soon overwhelmed the police and the Shagari government had to call in the military. The task was given to the Major-General Muhammadu Buhari-led 3rd Armoured Division, Jos. The resulting skirmishes, which spread to other parts of the North where other fanatics went on rampage, saw the death of about three thousand persons. The fanatics set fire to their quarters in Bulumkutu and fled to other parts of the North and also into Chad Republic²¹.

Though what most people remember most about the origins of the Boko Haram insurgency were the Thursday, 30th of July, 2009 extrajudicial killings of their leader, Mohammed Yusuf and some of their members, this was after the sect had began a violent campaign against the authorities with attacks on police stations and killing of policemen all over the North. This came to a head with the Sunday, 26th of July, 2009 attack on a police station in Bauchi which triggered a wave of militant violence across three other states in the North. This was why the Umaru Yar'Adua government called in the Army.

In the case of the Niger Delta militancy, it was more a guerrilla warfare. There were many police actions before soldiers were called in, but casualties weren't many because it mostly consisted of sabotage of oil installations after warnings had usually been given in advance. But because of the grave effect on the national economy, there was soon a negotiated settlement that led to the Amnesty programme. Though we still witness some of these sabotage actions now and again and

²¹ *Ibid.*

we do hear militant sabre-rattling now and again (as we are hearing now), the peace is largely holding²².

So, the Tiv riots, the Maitatsine riots, the Boko Haram insurgency and the Niger-Delta militancy have presented us the opportunities of seeing how civilian authorities deploy the military in a democracy in the situation of an insurrection. The most important thing to note for our purpose is that in each case, until it becomes an armed conflict initiated by the insurrectionists and until it is clear that the police are unable to handle the insurrection before the military is deployed. We can also extrapolate from the way our laws treat insurrection the very nature of it. For instance, the Criminal Code has no offence known as insurrection, but acts of insurrection are treated as acts of levying war against the state under section 37. In other words, an act of insurrection is a treasonable offence.

However, what we have in this IPOB case are some members of the Igbo community in the South-East under the banner of IPOB agitating for a referendum on the question of secession. We cannot by any stretch of the imagination say such civil agitation is insurrection. Or do members of IPOB not have a right to free speech and freedom of assembly, even though a lot of us are robustly against their message and some of their antics? Truth is no matter our personal views about Nnamdi Kanu's comments and personal conduct, an agitation for self-determination based on the laws of the land, even if opposed to the government, is not an insurrection, because citizens are allowed to be opposed to the government in exercise of their right to self-determination, right to free speech, freedom to hold opinion and freedom of assembly²³.

Doctrine of necessity

The doctrine of necessity is a rarely used political concept or utilitarian idea and is used to define and validate extra-constitutional issues that fall outside the purview of the constitution but are necessary to preserve political stability. The fundamental objective of the doctrine is to satisfy the exigencies which have been created by certain situations outside the contemplation of the constitution or the rule of law; and its significant feature is the deliberate circumvention of the constitution or some aspects of the rule of law in order to get out of political quagmire²⁴.

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²² Re: Operation Python Dance II in South Eastern Nigeria Is legal and Constitutional By Kennedy Emetulu: Sahara reporters.com/2017/29/re-operationpythondance-irsouth-eastern-nigeria-legal-and-constitutional. Accessed 20th April, 2019 by 2pm.

²³ Re: Operation Python Dance II in South Eastern Nigeria Is legal and Constitutional By Kennedy Emetulu: Sahara reporters.com/2017/29/re-operationpythondance-irsouth-eastern-nigeria-legal-and-constitutional. Accessed 20th April, 2019 by 2pm.

²⁴ <http://saharareporters.com/2010/02/13/doctrine-necessity-perspective>. Accessed on 30th September, 2019 by 10.00am

It is also a situation where the rule of law and constitution has to be adulterated by extra-legal civil means in the short term in order to preserve the constitutional, the rule of law, the government and democracy in the long term. Simply put: to save the country, the constitution has to be dumped and the rule of law has to be slanted. In addition, the doctrine is not a legal theory but a concession to human weakness. It is also a political arrangement that has garnered some form of legal validation and global support²⁵.

Even though, the doctrine which is sometimes referred to as the “necessity defense” or “choice of evils defense” may be old and predates the common law, the first time it was ever invoked to legalize a government action was in 1954 in Pakistan just seven years after the creation of Pakistan when the Pakistani Supreme Court gave legal support to the extra judicial action of the country’s Governor-General who used extra constitutional mean of emergency power to dissolve the country’s constituent assembly and appointed a new council of ministers on the ground that the constituent assembly no longer represented the people. In an action that followed, the then Pakistani Supreme Court Chief Justice not only validated the extra-constitutional action of the Governor-General but used the maxim: “ that which is otherwise not lawful is made lawful by necessity”. The Chief Judge further postulated that in certain situations such as it was created in Pakistan at the time, it was necessary to go beyond the constitution because the well being of the people is more important than the constitution and this well being must be regarded as the supreme law of the land thereby providing legal teeth for the unconstitutional action of the Governor-General. To this day, the maxim has been attached to the doctrine as its hallmark.

Another recorded instance of the political use of the doctrine to justify an extra constitutional act was in 1985 when the High Court of Granada used the theory to give legal backing to the existence of a special court trying the people who had conducted a coup against the ex-leader, Maurice Bishop. The Court was established under what the government called the “people’s law” after the country’s constitution was abrogated. In the trial which took place after the country’s constitution was restored, the coup plotters who were being tried for murder objected to the legal jurisdiction of the Court under the restored constitution and argued that the Court had no jurisdiction over them by virtue of the restoration of the country’s constitution. They further argued that the Court was not established by law but came into existence by fiat and extra-legal method. In its ruling, the High Court agreed with the submission of the Defendants that the Court was created outside the provision of the Constitution but held that the Court was validly established by government having been created at the time due to the doctrine of necessity and the exigency of the situation that prevailed at the time it was created²⁶.

In the two major recorded instances, when the doctrine of necessity was used, it was the judiciary that validated the extra constitutional acts of government and both instances involved developing countries. However, this is not to say that the doctrine has not been used in the developed countries to justify some actions of government that seemingly fall outside the constitutional arrangements or the rule of law particularly, after the September 11, 2001 terrorists attack in the United States. Since then, the principle of necessity has been used in one form or another by the U.S, United Kingdom, Canada and several EU countries to adopt measures aimed

²⁵ *Ibid.*

²⁶ *Ibid.*

at safeguarding national security and preservation of life even while those measures have the tendency to infringe on the rule of law and fundamental human rights.

The recent Nigerian experience in which the National assembly of Nigeria had to resort to extra constitutional procedure to empower the vice president due to the failure of the president to transmit a letter to the National Assembly informing the National Assembly that he was otherwise unable to discharge the functions of the office in which case and until he transmits to the National Assembly a declaration to the contrary, the functions of the president would be discharged by the vice-president as acting president in accordance with Section 145 of the 1999 Constitution of Nigeria is another classic example of the use of the doctrine of necessity to justify a hitherto unconstitutional process²⁷.

On February 9, 2010, the National Assembly of Nigeria by a resolution adopted by both Chambers of the National Assembly following a request by the Governors' Forum empowered the Vice-President of Nigeria to act as the President and Commander-in-Chief of the Nigerian Armed Forces following the protracted illness of the substantive president who may not be able to discharge the function of the office as required by the constitution. The doctrine of necessity was adopted by the National Assembly as a political solution to the constitutional logjam created by the failure of the president to follow the constitutional process and to avoid the lacuna created by his long absence from office. The doctrine was also used as a necessary measure to save Nigeria from imminent collapse in the face of the constitutional blockage and human contributions to the constitutional flaws.

The doctrine of necessity though, politically necessary in some situation, it should not be seen or regarded as the best solutions to all problems; hence politicians will always see it as the most convenient way to abandon the constitution an action that may escalate into the violation of the rule of law and human rights. For instance, the doctrine has been shoddily used and flagrantly abused in Pakistan as every government has used it as a political weapon to either intimidate their opponents or repress the rule of law using extra constitutional means. Unfortunately, they always have a good allies in the judiciary to validate such actions as necessary to save Pakistan from collapsing. To this effect, the Pakistani experience should not be considered as a good model and legitimate precedent²⁸.

In conclusion, the doctrine of necessity is noble when properly used and valuable when rarely applied. Even though, there is a common belief that all human endeavors are controlled by law and every human act determined by law, it must not be assumed that all acts of man are contemplated by law. Therefore, certain conducts though, harmful and seemingly unconstitutional are necessary in order to avert a greater harm. In the words of Granville Williams : “[S]ome acts that would otherwise be wrong are rendered rightful by a good purpose, or by the necessity of choosing the lesser of two evils²⁹.”

²⁷ *Ibid.*

²⁸ *Ibid.*

²⁹ *Ibid.*

Conclusion

How can anyone propose to us that in democracy the President's power over the Armed Forces is so absolute that we cannot do anything when he abuses it? Is our democracy that fragile? Did we fight against military rule and lost great citizens in doing so, only to denote that politics? Did we fight for democracy, going through that hellish struggle only to denote our rights and freedom to an absolute ruler masquerading as our democratic president? Are the framers of our constitution so clueless as to make us prisoners of one elected man? Certainly, the Constitution does not create a political system that is a slave to the whims and caprices of one man. It is a document that empowers institution against egregious exercise of power. This is the great value of a constitution in a democracy. Having established the constitutionality of Python Dance, it will be also be appropriate to state that the President was not applying the doctrine of Necessity which is used to define and validate extra constitutional issues that fall outside the purview of the constitution but are necessary to justify the action of the President. Political stability was not applicable in the present situation. This is because the President can call for Python Dance. This work also tried to trace the history of insurrection in Nigeria and on how each of them was handled. In all of them the police was involved first and when it became too much for them, the army will take over. But in the case of "Python Dance" in Abia State, the State was calm and peaceful but the army was invited just to torture and kill people mainly the youth.

It is therefore the recommendation of this piece of work that the President be reminded that his main duty and responsibility is to protect life and property. When he fails and as in the case under review the National Assembly should start the process of impeachment because he has failed.