POLICING IN WEST AFRICA: AN OVERVIEW OF NIGERIA'S LEGAL RIGMAROLE FOR STATE POLICE

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ABSTRACT

Nigeria is one of the countries in West Africa and waging a war against itself with the immense shedding of innocent Nigerian blood through mass abductions and serial killings. Insecurity of lives and properties has become the order of the day. For more than a decade now, Nigeria has experienced maiming killings and gruesome torture by Boko-Haram, Fulani herdsmen, armed robbers, kidnappers, insurgents and violent agitations. Unfortunately, the conventional police structure has not been able to quench the killings and abductions owing to certain inherent social structural maladies. Alternatively, a new voice is resonating clamouring for the decentralization of the entire police force, one of which includes the amendment of the constitution to allow for states to create their police systems. This call has become paramount given the inability of the conventional federal police structure to tame the tide of insecurity in Nigeria. However, the opponents argue that Nigeria is not ripe for a state policing system. In this article, the contending issues lurking around state policing in Nigeria are thrashed. It argues that although state police may pose some challenges to state finances among other challenges, it has many advantages that are to be capitalized on. Drawing inspirations and references from the United States of America and other developed countries, this article makes a case for state police and community police in Nigeria. It concludes with policy recommendations, particularly the amendment to the 1999 Constitution to allow the institutionalization of State Policing and the

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hitherto revenue allocation formula to enhance state and community policing in Nigeria.

Keywords: Police, State Policing, Legal Framework, Nigeria, West Africa.

INTRODUCTION

Throughout the pre-colonial period in West Africa, the various kingdoms, empires, and societies did not have a universally accepted law enforcement organizations structure that was full-time but rather it was performed on a part-time basis. Such law enforcement organizations recruited on a volunteer and non-remuneration basis. This could be exemplified in the way in which designated vigilante Associations or organized men who are normally provided with arms are tasked with the enforcement of acceptable behaviours and actions of that community and judgments of courts are maintained by the centralized rulers (Ahire, 1991). Generally, non-written rules and case laws which were relied upon and communicated verbally were implemented by councils of elders and various pressure groups. However, with the invasion of most of the West African States in the late 19th century by the colonial powers, written laws which replaced extant regulations or laws were promulgated, hence security agents that later metamorphosed into a police system were established to enforce such laws (Hobson, 2011). Furthermore, the sequel to the attainment of independence by most of the West African States from the late 1950s, it became necessary that the national police system of the West African States should be Africanised and this culminated in innovations made in respect of recruitment of personnel by widening recruitment beyond certain tribes or ethnicities (Aleyomi, 2012).

In the West African States, each State has its national police as the principal law enforcement agency and Nigeria is not left behind. Sequel to the amendment of the 1999 Constitution of the Federal Republic of Nigeria, the Nigeria Police Force is saddled with the task of law enforcement and maintenance of order in the entire federation and has

exclusive jurisdiction throughout the country (The 1999 Constitution of the Federal Republic of Nigeria, Laws of Federation of Nigeria). Furthermore, due to the prevalence of insecurity in Nigeria which includes but is not limited to armed robbery, cybercrime, extrajudicial killings, herder-farmer conflicts, ritual killings, banditry, commercial crime, kidnapping, attacks by unknown gunmen, militancy, secessionist agitation and environmental agitation, there has been a lot of yearnings for state police, thereby requesting for decentralization of the national police while some individuals, corporate entities, state governments are against the creation of state police. Under the tenure of former Nigeria's President Dr Goodluck Jonathan, agitation for or against the creation of state police was one of the important issues that were on the front burner of the National Conference which in a tight agreement voted in favour of state police. However, contrary to this argument, the present administration under the leadership of President Muhammadu Buhari for now is not in support of state police and restructuring which has been tagged as "gambling with the survival and stability of Nigeria." The President is of the view that despite the incessant insecurity problems and challenges, Nigeria will bounce back without succumbing to the pressures of restructuring or the creation of state police (Ogbuenyi, 2022).

With the unending series of vivid loopholes in Nigeria's security system, states like Katsina and Benue have been instructed by their governors to purchase arms and defend themselves. Does this mean that the security outfits established at the regional levels like Ebube Agu, Delta Hawks and Amotekun are more effective substitutes for the Nigerian Police Force (Ogbuenyi, 2022) These eye-catching regional security establishments all seem more grounded in terms of stabilising intrastate security. Does it mean that state policing is the way forward? Is state policing constitutionally provided for in the Nigerian Constitution? Are there roles to be played by the National Assembly, State Houses of Assembly, Federal Executive and States Executive for its smooth creation and enhancement.

What is State Police?

State police means a police formation that is owned, managed, mobilized and assessed solely by the state government and within a geographically defined state locality. It is an approach to policing that removes the power of central control from the federal government and gives it to state governments. The proponents of state policing often make their points with emphasis on the importance of community policing (Roberg, Novak, Cordner & Smith, 2012) writes that beyond ownership, state police promotes close police-community relationship, strong community partnerships and a broad view of police responsibility. According to Aleyomi (2013), state police is "sub-national policing of a specified territory in a federation." This simply means that the state governments of a federal system of government can have formidable state police that is empowered to maintain law and order. This implies decentralization of the current security operations structure which fused the authority of the police with the single authority of the Inspector General of Police as tenable in Nigeria. However, countries like the United States, Britain, Canada, Ethiopia, etc. that are practising modern democracies have affected innovation in their police structures by creating state or community police in the different levels of government (Owen, 2014).

THEORETICAL FRAMEWORK

In respect of the theoretical framework, the Social Conflict Theory is adopted in this paper. According to Coser (1957), social contract theory proposes that conflict within and between groups in a society can hinder peaceful co-existence amongst them and further hinder efforts as achieving the progressive development of such society. This implies that when there are clashes of values and interests, as well as the tension between what exists and what various groups expect, the conflict between "vested interest groups" or "special interests" may invariably result in the emergence of new groups demanding their share of power, wealth and status (Coser 1957). However, the roles of the police were explained by Bowden (1978) as including the repression of the poor and powerless to protect the interests of the rulers. In summary, the police

roles include but are not limited to standing as a shield between the elite and the masses. In Nigeria, this is not tenable because most times the police protect the elite more than the masses.

This shortcoming of the police is one of the main reasons why the masses are agitating for a state police that will be nearer to the masses in Nigeria. However the yearning for or against the creation of state police in present-day Nigeria is rooted in the collapse in general insecurity as manifested by the high level of armed robbery, rape, kidnapping, massacres, ritual murder, unresolved assassinations (politically motivated and other reasons), ethno-religious conflicts, urban terrorism, rural banditry, among others. These incidences of insecurity have generated untold anxiety and fear, especially in the inability of the federal-controlled Nigerian police to curb or curtail their occurrence to some reasonable degree.

HISTORICAL DEVELOPMENT OF NIGERIA POLICE FORCE

As a nationality is conquered, a British colonial presence is established by creating a police force for the territory. Second, the colonial authorities adopted violence and fraud as predominant tools in their conquest of the nationalities, and the police forces under various names were established and employed as an instrument for the perpetration of violence and oppression against the indigenous population. Third, given the character of colonial rule, police forces were the instrument used to sustain the domination of the indigenous population by the colonial elements. A detailed account of the use of colonial police forces to violently suppress Nigerian workers and citizens including but not limited to the Aba Women's Riot of 1929, communal riots in Kano (1953) and Tiv (1959 – 1960) which culminated in the loss of lives and property (Alemika & Chukwuma, 2000). However, the creation of the Nigerian Police Force (NPF) predates 1960 when the country gained independence. It started during the colonial era. However, NPF got footings with Section 194 of the 1979 Constitution. Its operational frameworks are further explicitly described in the 1999 Constitution. Later, there is the Nigeria Police Act 2020. With this, NPF has

exclusively centralized policing power over all 36 states and the Federal Capital Territory. Its power covers every part of the 923,768km 2 miles of the country (Felix & Mustapha, 2009). The Nigeria Police Force is organized under the control of a federally constituted Police Service Commission (PSC). Ithasa National Police Headquarters at Abuja,7 Zonal Commands, and one State Command Headquarters in each of the 36 states. There are also a series of Divisional Offices across the country. The Zonal Commands are an operational grouping of states and the State Commands Headquarters are direct subsidiaries of the National Headquarters; they are not owned or controlled by the state governments. The Inspector General of Police is the person designated to head, mobilize and command the entire physical system of policing in Nigeria and this is stated in Section 215 (2) of the 1999 Constitution of the Federal Republic of Nigeria and as follows:

The Nigeria Police Force shall be under the command of the Inspector-General of Police and any contingents of the Nigeria Police Force stationed in a State shall, subject to the authority of the Inspector-General of Police, be under the command of the Commissioner of Police of that State. (The 1999 Constitution of the Federal Republic of Nigeria as Amended).

It is the primary duty of the President in conjunction with minimal input from the Police Service Commission and the National Assembly to appoint the Inspector General of Police (Odeyemi, & Obayan 2018). Generally, personnel of the Nigeria Police are categorized into Officers, Ranks and Files.

JUSTIFICATION FOR THE NEED OF STATE POLICE IN NIGERIA

State policing plays an important role in the realm of security sector governance.

However, it is glaring that most of the West African State police have several shortcomings that are direct results of their historical linkage with the colonial powers which are characterized by violence, brutality, corruption and politicization. As security institutions, West Africa's

national police forces still tap their root from the colonial established structures and conduct, which are characterized by mistrust by the very people for whom they are intended to ensure adequate security and safety.

When police in West Africa decline to implement their authorization adequately, the entire security system is crumbled and police security is endangered. To fully achieve their mandate and play their role, national police need to be improved, modified, revamped and piloted by a new philosophy with human security as its key, to bringing a suitable response to assure citizens' security and safety.

Nigeria which is the most populous nation in West Africa has been submerged in insecurity, terrorism, kidnapping, killing between farmers and herders, cybercrimes, ritual killing, banditry, armed robbery and other heinous crimes. These crimes are within the scope of the primary duties of the Nigeria Police Force (NPF) to curtail or eradicate, however, this has not been achievable by NPF hence the clamour for alternative security outfits such as the state police. Furthermore, despite the signing into law of the Nigeria Police Act of 2020, which repealed the Police Act Cap.P.19 Laws of the Federation 2004 (Nigeria Police Act, 2020) by President Muhammadu Buhari and which made transformations and provided among other things for a more effective and well-organized police force, driven by principles of transparency, accountability and equity in its operations and management of its resources it still did not mitigate the insecurity issues (Nigeria Police Act 2020, Wikipedia). Sequel to the abhorring security situation confronting Nigeria currently, some proponents of state police are of the view that it is only decentralization of the force as practised in most developed countries can liberate Nigeria from the escarpment (Odoshimokhe, 2017). According to Odoshimokhe (2017), state policing is "the police serving more effectively and efficiently and closer to the policing community who understand their languages, geographical terrain and security challenges of the policing community". Further to that, as insiders, they will work diligently with the serving community

for effective policing within their constitutional confines to enforce criminal laws made by the peripheral/state legislatures for the maintenance of law and order.

On the contrary, the call for the creation of state police has continued receiving criticism and renowned Nigerian citizens such as Retired Inspectors-General of police, Ibrahim Idris and Sunday Ehindero and many of the northern governors have championed the criticism. It is also important to note the opinion of the Nigerian Former President Goodluck Jonathan stated that "the idea of state police is theoretically good for the country but giving the political environment in the country, it could be abused" (Nwogwugwu & Kupoliyi, 2015).

Furthermore, Kasali and Odetola (2016) in criticism of state policing in Nigeria stated that "many State governments cannot promptly pay the salary of their civil servants i.e. teachers and health workers for months, and police funding is a capital intensive, if teachers and health workers could be owed salaries by state governments, how could the state fund police organization and its technologically driven equipment? If the state police go on strike for six hours as teachers frequently experienced, the state will collapse (Kasali & Odetola, 2016).

As a country, Nigeria has never been on a fragile thread of existence in recent times as it currently is. The nation is presently immersed in a chaotic state as what began as a peaceful protest has now given way to massive loss of lives and properties. Even though present grievances by the populace are directed at the government on all levels, it is important to note that initial agitations, through the #EndSars movement, were police-centric.

The movement which began in 2017, and was revitalized in October 2020, demanded an end to the Special Anti-Robbery Squad (SARS), a controversial unit of the Nigerian Police with a long record of abuse of due process. In part response, the government considered and worked towards a rejigging of the erstwhile Police Act 2004 to make it more

relevant as present circumstances demanded. On Thursday, 17 September 2020, President Muhammadu Buhari signed the new harmonized Nigeria Police Force Establishment Bill into law. The Presidency stated that the Act among other things, established a fit-for-purpose funding framework for the Nigerian Police Force (the "Force") to bring it in line with what obtains in other key federal institutions. They also expressed optimism that the Act would amplify police professionalism through increased training opportunities, creating a proper template for symbiotic relations between the Force and local communities.

Based on the foregoing, it is submitted that decentralization of the national police in Nigeria by empowering states to establish the state counterpart of the police force is a result of the prevalence of insecurity challenges in Nigeria which is overwhelming for the Nigeria Police Force to handle.

IMPLEMENTATION CHALLENGES

Aspirations for urgent devolution of the powers of the central police structure in Nigeria and the creation of state police in different states are ascribable to the prevalence of hostilities, crimes and animosity among the diverse nationalities in Nigeria. A cursory look at Section 214(1) of the 1999 Constitution of the Federal Republic of Nigeria as Amended portrays the critical issue that is inhibiting the creation of state police in Nigeria. Section 214(1) provides as follows "there shall be a police force for Nigeria, which shall be known as the Nigeria Police Force, and subject to the provisions of this section, no other police force shall be established for the federation or any part thereof" (The 1999 Constitution of the Federal Republic of Nigeria, as Amended). This simply means that no state government in Nigeria has the constitutional powers to create a state police force.

Furthermore, 215(2) of the 1999 Constitution empowers the Inspector-General of Police as the supreme authority of the police force shows that the section is at variance with Section 215(4) of the 1999 Constitution

which empowers the state governors to give directives to the state commissioner of police on issues about maintenance of law and order in the state. Further to that, in the same section, the constitution states that "state governors may give the state commissioner of police lawful directives in respect to maintenance of law and order for public safety within the state when necessary and the commissioner of police shall comply with the directives" (Constitution of the Federal Republic of Nigeria, 1999 as Amended).

Additionally, section 176(2) of the 1999 constitution empowers state governors as the chief executive officers of their respective states it states "the state governors shall be chief executive officers of their respective states" (Constitution of the Federal Republic of Nigeria, 1999 as Amended). This implies that the state governors are concurrently the chief executive officers and chief security officers of their various states. However, in reality, the powers of the state governors are subjugated by Section 214 of the constitution which consolidates the Nigeria Police Force under the control or command of the Inspector-General of Police. This connotes that the state governors are just mere formal heads, without any firm authority in respect of security issues and it is glaring that Section 214(2) is inconsistent with Section 176(2). Another grey area in the 1999 Constitution which needs to be amended by the National Assembly is the sharing formula of the fiscal revenue. The sharing formula is lopsided, whereby the federal government**.**

The independence of the local governments in Nigeria is an issue and it is one of the challenges inhibiting the realization of the establishment of state police in Nigeria. It is pertinent to note that the state governors are not in support of the local governments acquiring an independent status and also they are not interested in the amendment of Section 162 (c) of the Constitution for a joint account for both the state and the local government. There is an urgent task for the National Assembly to amend that section (Ojo, 2022). Juxtapose this with the view that state police could be abused by state governors. What is the implication of state governors being mere stooges with little or no firm authority with

respect to security issues? Does this explain the protracted insecurity besetting the states and Nigeria as a whole?

THE ROLE OF THE NATIONAL ASSEMBLY

The National Assembly which is composed of the House of Representatives and the Senate is saddled with the task of amending the constitution to give life to the realization of the evolution of state police in Nigeria. It is pertinent to note that Section 214 of the 1999 Constitution which fused all the powers of the police in Nigeria into the authority of the Inspector-General of Police should be amended. Consequently, on issues about public safety, the concurrent authority and directive power of the President or Minister should be amended by the National Assembly by withdrawing such (Section 215(3) of the 1999 Constitution of the Federal Republic of Nigeria as Amended). Also, Section 214(4) of the Constitution should be amended by the National Assembly by deleting the said section because it also brings down the powers and authority of state governors. Section 214(4) provides that on issues of public safety, the President can direct the state governors through the commissioner of police in the states. This implies that the powers of the state governors on issues about public safety have been subjugated.

Nigeria practices democratic system of government, particularly the representative form of it. Since 1999, her democracy seems stable and get more organized. In it, the weight and spread of governance are codified in Exclusive, Concurrent and Residual Legislative Lists of the 1999 Constitution. The federal tier however exercises greatest of authorities that are contained as Executive List of responsibilities. Second in authority is the State Government. This is followed by Local Governments (LG) authorities. Under each tier government, duties are carried out via the doctrine of separation of powers which is the legislature, executive and judiciary. However, these arrangements are obtainable in the 36 states and 774 Local Government Areas (LGA) of the country. With its central status and authority, the Federal tier regulates almost everything, including security. It solely holds on to

issues of national security under which the Nigeria Police functions. There is a need for the National Assembly to amend the Constitution by including issues of security on the legislative concurrent to enable states to legislate on state policing.

The Federal Government's oppressive disposition in respect of revenue allocation especially toward state governments by interfering in their fiscal allocation commencement and revenue allocation should be curbed by the National Assembly through amendment of the constitution.

Furthermore, Section 162 of the 1999 constitution needs to be reviewed by the National Assembly to inculcate other revenues accruing to the federal account such as revenues from excess crude oil and privatization accounts. This will invariably enhance the smooth operation of the state police by governors. Nigeria operates a three-tier type of federal system of government which encompasses the local, state and federal governments. Each of these tiers of government is empowered with its responsibilities and a certain amount of fiscal allocation is designated for that purpose. However, there is an urgent need for the National Assembly to amend the percentage of allocation due to each tier by making it to be commensurate with the constitutional responsibilities of that tier of government.

CONCLUSION

The alarming rate of insecurity in Nigeria has given reasons to question the fusion of the powers of the police force into one authority or command in Nigeria. The idea of diffusing the police force which is national into fragmented State police is not new to Nigeria as it has been recommended as a measure or means to tackle Nigeria's insecurity issues. State Policing is a having a police force directly under State authority, rather than under the authority of a federal government in the state. Here, the police force is created, maintained and controlled by the State Government as opposed to the Federal Government. State Policing is in concordance with democracy which embraces the idea of the tenets of federalism, separation and decentralization of powers.

State Policing would do a great job of reducing the fast-rising rate of insecurity in Nigeria. It would reduce unwarranted attacks such as abductions and killings, and the state police can localize and confine criminal activities to their area of origin. The core mission of the police is to control crime and crime-fighting enjoys public support. As much as professional crime-fighting enjoys public support, the role of easy and speedy access to the crime scene and information cannot be over-emphasized. In a country where State Policing exists, the police are familiar with the citizens and they know which group, association or person stands as a potential threat to the peace of that state and they know their target. It will also reduce the error percentage. This way, law and order can be maintained in a state.

Another interesting benefit of State Policing is the creation of employment opportunities for Nigerian citizens. State Policing in Nigeria simply means that each Nigerian state will have its Police Force, thereby creating the need to recruit more people into the Police Force. Once the need to recruit more people arises, the State Government wants to employ citizens of that state, which means employment opportunities have been created for the state's citizens. The creation of employment opportunities will in turn keep citizens busy and reduce crime rates like pick-pocketing in that state. The taxes, rates and levies paid by these newly employed people will also serve as a source of revenue for both the Federal and State governments.

State Policing can also serve as a means of checking corrupt activities within the Police Force. In State Policing, every citizen knows the Police officer up to his descent. Also, the attitude of policemen shielding their states' identity and working in other states which are not their states of origin and using that medium as a way of extorting money from innocent citizens over "fake charges" will be mitigated.

The reduction of the financial burden on the Federal Government is yet another need for State Policing. The Police Force will no longer seek funding from the Federal Government but from the State Government,

so the Federal Government will not be obliged to fund the activities of the Federal Government. Also, payments such as pensions, Mechanized Salary Section (MSS), and National Housing and Pay Office will now be funded by the State Government. There is a pressing need for the creation of State Police. The Federal Police does not have to be displaced as they can attend to cross-border crimes and high-profile crimes like treason, drug trafficking and human trafficking amongst many others. But creating a State Police is consistent with Federalism, and also accords with modern trends and common reasoning. The State Police will also make citizens more involved with security matters.

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