

CENTRALISATION AND CONTROL OF THE NIGERIA POLICE FORCE: REVISITING THE DEBATE ON STATE POLICE

Abstract

Underlying the constitutional obligation of government to provide public safety and guarantee security of property is the social contractual relationship between the government and the people of Nigeria. In recent times, the type and extent of security threats facing the nation pose a challenge for political actors and the Police institution on the control of the Nigeria Police Force, especially, in view of its monolithic configuration and centralised system of control. Crime control and fear of crime have become a great concern to the public, and therefore, the question of the tier of government that is vested with powers to establish the Force and or determine its control makes a revisiting of the debate on establishment of State Police one of utmost constitutional and policy topicality. In view of the centralisation of the Nigeria Police Force by the Constitution, the paper examines the authority, Federal or State government, which has ultimate control over the Force. It will show the significance of the use of the authority of control of the Force, and contribute to the debate on the desirability or otherwise of a centralised monolithic Federal Government-run Police Force. To this end, the relevant historical antecedents to the development of the Nigeria Police Force, its structural

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and institutional control mechanism, and the currents of debate on State Police will also form this discourse.

Introduction

The security and welfare of the people are declared by the Constitution of the Federal Republic of Nigeria 1999 as amended (the Constitution) to be the primary purpose of government in Nigeria.¹ In order to achieve this function, the Constitution establishes the "Nigeria Police Force" as one of the functionaries of the Executive organ of government. Under section 214 (1) of the Constitution, this single Police Force is created. The implication of the constitutional provision is that neither the State nor the Local Government has the power to establish its own Police Force. Also, it means that only the Nigeria Police Force can exist in the country even at the federal level. Subject to the powers and duties as may be conferred upon members of the Force by law (an Act of the National Assembly) the force can perform the duties and exercise police powers under the Constitution and especially under section 4 of the Police Act.² The section provides for the specific functions and duties of the Nigeria Police Force as:

...the prevention and detection of crime, the apprehension of offenders, the preservation of law and order, the protection of life and property and the enforcement of all laws and regulations with which they are directly charged, and shall perform such military duties within and without Nigeria as may be required of them by or under the authority of this or any other Act.

Any assessment of how effectively the Nigeria Police Force has performed these duties cannot undermine the relevance of the issue of centralisation and control of the Force.

Historical Antecedents of Policing in Nigeria

Before the advent of European incursion into Nigeria and eventual colonisation of the country by the British, there were features of policing in the various ethnic and culture groups that inhabited what has later designated 'Nigeria'. Common features of the Police system of that era

¹ Section 14 (2) (b)

² Cap. P 19 Laws of the Federation of Nigeria, 2004.

included 'self-policing', community policing and decentralised method of policing.³

During the colonial period, the Colonial Authority attempted to replicate the British model of policing in colonised Nigeria. That model was one in which the police command was highly decentralised and there was a delegation of authority as against the "continental" model of State-controlled system of Police.⁴ The model was also characterised by the norms of community policing, efficiency and effectiveness, accountability and observance of rule of law. The colonial government provided for native authority, local government and regional police forces with responsibilities for the police duties in their area of jurisdiction. Between the commencement of colonial rule in 1861 and the proclamation of Ordinance 2 of 1930, the police was decentralised as multiplicity of police forces existed, in spite of the amalgamation of the Northern and Southern protectorates in 1914. A single Nigeria Police Force emerged under the command of an Inspector General of Police, C.W. Duncan only on 1st April, 1930. Even at that, parallel Police Forces continued to exist as Local Government and Native Authority Police Forces throughout the colonial period.

At independence, the 1960 Constitution established the Nigeria Police Force for maintenance of law and order, for the entire country. Provisions for multiple Police Forces were, however, made by section 109 (7) of the 1963 Constitution by empowering the Regions to make provision for the establishment and maintenance of Police Forces by any Native Authority. In fact, until the merger of all the Police Forces into one Nigeria police in 1972, the federal, regional and local authorities were allowed to establish Police Forces. It was not until 1968 that Local Government and Native Authority Police Forces were disbanded and merged with the Nigeria Police Force thereby ushering the era of centralisation of the Nigeria Police Force in the country. During the Second Republic, the Constitution of the Federal Republic of Nigeria 1979 established for the country a single Police Force, Nigeria Police Force and prohibited the establishment of any other Force in the country.⁵ The provisions of section 214 (1) of the 1999 Constitution as amended are *in pari materia* with section 194 (1) of the 1979 Constitution.

³ T.N. Tamuno, "Crime and Security in Pre-colonial Nigeria", in T.N. Tamuno, et al (eds) *Policing Nigeria Past, Present and Future*, Lagos: Malthouse Press, 1993, 129.

⁴ O.A. Obaro, "The Historical Role and Functions of the Nigeria Police" in V.T. Jike, (ed.), *The Nigeria Police and the Crisis of Law and Order: A Book of Readings*, Lagos: NISS Publications, 66-67.

⁵ See Section 194 (1) of the 1979 Constitution.

Control of The Nigeria Police Force

The Nigeria Police Force is centralised at the level of the Federal Government and the central control is at that tier of government in the country. This view is supported by the provisions of sections 215 and 216 of the Constitution. Section 215(1) (a) of the Constitution empowers the President to appoint an Inspector-General of Police from among serving members of the Nigeria Police Force. In making such an appointment, he is however required to seek the advice of or consult⁶ the Nigeria Police Council.⁷ The President is the Chairman of the Council, other members are the Governor of each State of the Federation, the Chairman of the Police Service Commission and the Inspector-General of Police. At the level of advising the President or the President consulting the Nigeria Police Council, the Governors of the States, unlike in the 1979 Constitution, have an opportunity to make inputs into the appointment of an Inspector-General of Police. In reality, the President is not bound by the advice of the Nigeria Police Council. In essence, the President appoints the Inspector-General of Police.

Similarly, before removing the Inspector-General of Police from office the President shall consult the Nigeria Police Council.⁸ This means, like in the case of appointment, the President has to fulfill a condition precedent of consulting the Nigeria Police Council, but he is not bound by the outcome of the consultation before removing an Inspector-General of Police from office. Nwabueze puts it succinctly:

The Provision...that the 'President shall consult' the appropriate body, clearly imposes a peremptory obligation on him to consult. Any appointment or removal made without the necessary consultation is unconstitutional and void.

Consultation goes beyond merely giving information or announcing a decision already taken. It implies that an opportunity must be given to the person or body consulted to exercise an opinion, to criticise any proposal brought forward by the President and to offer an advice; and that the opinion, criticism or advice so offered should genuinely be taken into consideration by the President in arriving at a decision. Having done that, the President is free to decide as seems best to him, whether in accordance with or contrary to the advice. No obligation is cast on him to accept.⁹

⁶ Section 216 (2) of the Constitution.

⁷ Section 215 (1) (a) of the Constitution

⁸ Ibid.

⁹ B.O. Nwabueze, *The Presidential Constitution of Nigeria*, London: C. Hurst & Company, in association with Nwamife Publishers, Enugu and Lagos, 1982, 144-145

Under the Inspector-General of Police, there are Commissioners of Police who, by virtue of section 215 (1) (b) of the Constitution, are appointed by the Police Service Commission. 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".¹⁰

The argument that the ultimate control of the Nigeria Police Force resides with the Federal Government further derives its strength from the provisions of section 215 (3) and (4) of the Constitution.¹¹ In order to maintain and secure public safety and public order in the federation, the President or such other Minister of the Government as he may authorise in that behalf may give to the Inspector-General of Police such lawful directions as he may consider necessary.¹² The Inspector-General of Police shall comply with those directions.¹³ The Commissioner of Police of a State is similarly required to comply with or cause them to be complied with the lawful directions to them by the Governor of the State or such Commissioner of the Government of the State as he may authorise in that behalf.¹⁴ In the latter case, the Commissioner of Police may request that the matter be referred to the President or such Minister of the Government of the Federation as may be authorised in that behalf by the President for his directions.¹⁵ In both cases, the courts may not inquire into whether or what directions have been given.¹⁶

It follows that the Nigeria Police Force, by and large, is under the control of the President who is the head of the Federal Government. The President appoints and removes the Inspector-General of Police without any mechanism that can obligatorily change his choice of action. The Inspector-General of Police is responsible to the President whose lawful directions he must comply with. Where such lawful directions are given by a Minister, he must be "such other Minister as he may authorise in that behalf". In any case, such Minister is appointed by the President. Though appointment of Ministers is subject to the confirmation of the

¹⁰ Section 215 (2) of the Constitution.

¹¹ D.O. Ijalaye, *The Imperatives of Federal/State Relations in a Fledgling Democracy Implications for Nigeria*, Lagos: Nigerian Institute of Advanced Legal, 2001, p. 10, also subscribes to this view.

¹² Section 215 (3) of the Constitution

¹³ Ibid

¹⁴ Section 215 (4) of the Constitution

¹⁵ Proviso to section 215 (4) of the Constitution

¹⁶ Section 215 (5) of the Constitution

Senate, their removal is not so subject. The same argument holds with equal force where the Governor of a State or such Commissioner of the Government of the State as he may authorise in that behalf gives lawful instructions to the Commissioner of Police of a State. Even in that case, there is diminutive power of control by the Governor over the police. This is because before deciding whether or not to comply with the lawful direction of the Governor or that of the Commissioner authorised by the Governor in that behalf, in exercise of the constitutional discretion conferred on the Commissioner of Police, the latter may request that the matter be referred to the President or such Minister of the Government of the Federation as may be authorised in that behalf by the President for his directions. By this, the Governor is merely at the mercy of the President in security matters affecting his State in which he is regarded as the Chief Security Officer. With the way partisan politics is taken to colossal subterranean level, maintenance of public safety and public order, and indeed law enforcement generally could be hampered, and security jeopardised.

Structure of the Nigeria Police Force and issue of control

The Nigeria Police Force is structured by the Constitution, the Police Act, Police Regulations and Administrative Regulations. Leha¹⁷ gives three categories of the structure, namely, command (authority) structure, administrative structure and organisational structure, while Amadi¹⁸ identifies the control structure and command structure. Ehindero's approach discusses the organisation of the Nigeria Police Force showing a command chart, and another illustration which he calls the organisation structure of the Force.¹⁹ Within the enabling Constitution, other legislative and administrative regulatory provisions, four interrelated and interwoven structures will be discussed for the purpose of this discourse. These are control structure, command structure, organisational structure and administrative structure. In doing so, it will be shown how the different but interrelated and interwoven structures relate to the control of the Nigeria Police Force and police duties in the country.

¹⁷ P.I. Leha, *Policing and Leadership in Democratic Nigeria*, Lagos: DSV Global Concepts, 2014, 20-49.

¹⁸ G.O.S. Amadi, *Police Powers in Nigeria*, Nsukka: Afro-Orbis Pub., Nsukka, 2000, 2-10.

¹⁹ S.G. Ehindero, *Police and the Law in Nigeria*, Jos: Ehindero (Nig.), 1986, 6-7.

a. Control Structure

The control structure is a design built by the Constitution, the Police Act, Police Regulations and Administrative Regulations. At the apex of that structure is the Nigeria Police Council (NPC) whose Chairman is the President. The Nigeria Police Council is one of the Federal executive bodies established by section 153 (1) (1) of the Constitution. The composition and powers (functions) of the NPC are contained in part 1 (1) paragraphs 27 and 28 respectively of the Third schedule of the Constitution. Other members of the NPC are the Governor of each State of the Federation, the Chairman of the Police Service Commission and the Inspector-General of Police.²⁰ Section 9 (3) of the Police Act makes the Permanent Secretary in the Police Affairs Office in the Presidency, the Secretary of the Council. The Secretariat of the Council is the Police Affairs office, in the presidency. The functions of the NPC are stated to include:

- (a) The organisation and administration of the Nigeria Police Force and all other matters relating thereto (not being matters relating to the use and operational control of the Force or the appointment, disciplinary control and dismissal of members of the Force);
- (b) the general provision of the Nigeria Police Force; and
- (c) advising the president on the appointment of the Inspector-General of Police.²¹

As has been pointed out, under section 216 (2) of the Constitution, the NPC shall be consulted by the President before removing from office an

²⁰ Section 9 (1) of the Police Act contains the same provisions on establishment of the Nigeria Police Council

²¹ See also section 9 (2) of the Police Act

Inspector-General of Police. The powers of the NPC are delegatable under section 216 (1) of the Constitution. That sub-section reads:

Subject to the provisions of this Constitution, the Nigeria Police Council may, with the approval of the President and subject to such conditions as it may think fit, delegate any of the powers conferred upon it by this Constitution to any of its members or to the Inspector-General of Police or any other member of the Nigeria Police Force.

By the Governors' membership of the NPC there is fair representation of all the States. Moreover, the Governors of the States have the opportunity to participate in the deliberations of the NPC and possibly influence its decisions. The major challenge is whether the Governors can eschew partisan politics. The Chairman of the Police Service Commission who is also a member of the NPC, like the Inspector-General of Police, is an appointee of the President. While the appointment of the former may often be as a result of partisan political consideration which demands of the appointee allegiance to the appointer, the appointment of Inspector-General of Police among serving members of the Nigeria Police Force, is *ipso facto*, less political. However, one cannot rule out that "the nature of his appointment may have some subterranean influence on the performance of his constitutional functions as a police officer" and tilt his unalloyed loyalty to his appointer.²² The fact remains that the Inspector-General of Police is a professional and an expert on his own right and should make informed inputs into the proceedings and decisions of the NPC, and he should brief the President appropriately from time to time. The ideas and knowledge possessed by the President as well as his readiness to establish an effective Police Service system devoid of deep-seated partisan political considerations are critical factors in enhancing performance of police functions.

From the standpoint of the functions of the NPC, it can be argued that the NPC has some measure of control over the structure of the Nigeria Police Force. These functions include organisation and administration of the Nigeria Police Force and all other matters relating thereto (other than those relating to the use and operational control of the Force or the appointment, disciplinary control and dismissal of members of the Force),

²² Amadi, op. cit., p. 7.

the general supervision of the Nigeria Police Force and the advising of the President on the appointment of the Inspector-General of Police. The use of the word "includes" by the Constitution to define the functions of the NPC connotes the natural sense of the functions listed and enlarges those functions.²³ The functions of the NPC are therefore not limited to the Council's functions that are listed in the Constitution.

By vesting organisational, administrative and supervisory functions in the NPC, the Constitution, in effect, charges the Council to formulate policies and manage the Nigeria Police Force in all matters except the use and operational control, appointment, disciplinary control and dismissal of members of the Force. To organise and administer requires the NPC to put in place arrangements or system for achieving, in this context, the purpose for setting up the Nigeria Police Force. In a literal sense, it entails arrangements and tasks needed to control the operation of the Force, but this particular function is expressly excluded from the jurisdiction of the NPC. The supervisory functions of the NPC entitle the NPC to watch the Nigeria Police Force to make certain that it carries out its duties correctly, safely and in accordance with the relevant laws and regulations.

If one goes by the foregoing, it is pertinent to reconcile the supervisory power of the NPC with the President's power to give lawful directions to the Inspector-General of Police under section 215 (3) of the Constitution. The President's power is aimed at controlling the operation of the Nigeria Police Force. This view is supported by the provisions of section 9 (4) and (5) of the Police Act which charged the President with operational control of the Force under the command of the Inspector-General of Police, subject to the directions of the President. It is therefore difficult to agree with the argument that the Presidential directions could be subsumed under the Council's function of general supervision of the Nigeria Police Force.²⁴ In the same vein, the control structure is not under the hand of the NPC but in those of the President.²⁵

Next to the NPC at the lower level of the control structure is the Minister of Police Affairs. By the combined effect of sections 147 and 148 of the Constitution, the President is empowered to appoint Ministers and be

²³ A.D. Badaiki, *Interpretation of Statutes*, Lagos: Tiken Publishers, 1996, 87.

²⁴ Amadi, *op. cit.*, p. 8.

²⁵ *Op. cit.*, p. 7.

assigned responsibility for any business of the Government of the Federation. In accordance with these provisions there is appointed Minister of Police Affairs. Such a Minister may be authorised by the President to give to Inspector-General of Police such lawful directions for the purpose of maintaining and securing public safety and public order under section 215 (3) of the Constitution. It is submitted that this delegated power cannot be delegated.

The Police Service Commission (PSC) is on the next lower rung of the control structure. The PSC is created by section 153 (1) (m) of the Constitution. Part 1 (1) paragraph 29 of the Third schedule to the Constitution provides for the composition of the Commission, while paragraph 30 of the same schedule state the powers of the Commission. The membership of the PSC are "(a) a Chairman, and such number of other persons, not less than seven but not more than nine, as may be prescribed by an Act of the National Assembly". Paragraph 30 of the same schedule provides for the powers of the PSC as follows:

The commission shall have power to-

- (a) appoint persons to offices (other than the office of the Inspector-General of Police) in the Nigeria Police Force; and
- (b) dismiss and exercise disciplinary control over

persons holding any office referred to in sub-paragraph (a) of this paragraph.

The functions of the PSC are in the nature of managing police human resources in terms of the exercise of authority over appointment, dismissal and disciplinary control over police officers with the exception of the Inspector-General of Police. By the effective performance of these functions, the PSC will add value to the quality of policing, but does not directly control the use of the Force. Under section 154 (1) of the Constitution except in the case of *ex officio* members or where other provisions are made in the Constitution, the Chairman and members of the PSC shall be appointed by the President and the appointment shall be subject to confirmation by the Senate. Apart from the Inspector-General of Police who is an *ex-officio* member of the PSC, all others including the

Chairman are always likely to be politicians with all the vagaries of partisan politics in the country. In this respect, the PSC owes allegiance to the President and is not likely to ignore the directions of the President.

Below the PSC is the Inspector-General of Police, a member of the National Security Council. From the foregoing discussion, the Inspector-General of Police is a member of the control structure headed by the President. Section 9 (5) of the Police Act provides that "the Inspector-General shall be charged with the command of the Force subject to the directive of the President." While the Nigeria Police Force is placed at the command of the Inspector-General of Police, he is a subordinate of the President under the control structure. He is also bound by the directive of the President. In the command of the Nigeria Police Force the Inspector-General of Police is not independent.

Under the control of the Inspector-General of Police are seven Directorates²⁶ each headed by Deputy Inspector-General of Police, twelve zonal commands²⁷ each headed by Assistant Inspector-General of Police, Force Intelligence Bureau (FIB) headed by an Assistant Inspector-General of Police, a Force Secretary²⁸ who is an Assistant Inspector-General of Police, Police Training Institutions comprising the Police Academy and Colleges, State Police Commands each headed by a Commissioner of Police, Divisional Police Offices and Police posts.

Command Structure

The command structure of the Nigeria Police Force is based on the regimented nature of the Police Force and conducted along the force badges or ranks.²⁹ The constitution of ranks in the Nigeria Police Force is provided for in section 5 of the Police Act. It reads:

²⁶ 'A' Department (Finance and Administration), 'B' Department (Operations), 'C' Department (Logistics and Supplies) 'D' Department (Criminal Investigation Department), 'E' Department (Training and General Policy on Manpower Development), 'F' Department (Research and Planning) and 'G' Department (Information Communication Technology).

²⁷ Zone 1 (Jigawa, Kano and Katsina), Zone 2 (Lagos and Ogun), Zone 3 (Adamawa, Gombe and Taraba), Zone 4 (Benue, Nasarawa and Plateau), Zone 5 (Bayelsa, Edo and Delta), Zone 6 (Akwa Ibom, Cross River, Ebonyi and Rivers), Zone 7 (Federal Capital Territory, Abuja, Kaduna and Niger) Zone 8 (Ekiti, Kogi and K'Wara), Zone 9 (Abia, Anambra, Enugu and Imo), Zone 10 (Kebbi, Sokoto and Zamfara), Zone 11 (Ondo, Osun and Oyo) and zone 12 (Bauchi, Borno and Yobe).

²⁸ He is in charge of matters relating to appointment, promotion, discipline, posting and transfer of senior officers.

²⁹ Leha, op. cit., 20.

There shall be an Inspector-General of the Nigeria Police, such number of Deputy Inspectors-General, Assistant Inspectors-General as the Nigeria Police Council considers appropriate, a Commissioner for each State of the Federation and such ranks as may, from time to time, be appointed by the Nigeria Police Council.

Since the command structure is all about the legal powers and duties of the police, it is relevant in understanding the performance of the Nigeria Police Force in maintaining public order and public safety.³⁰ It is derived from the Constitution, the Police Act and Police Regulations. Section 215 (2)³¹ of the Constitution provides:

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 that State.

Section 9 (5) of the Police Act also provides: "The Inspector-General shall be charged with the command of the force subject to the directive of the President." The purport of section 215 (2) of the Constitution and section 9 (5) of the Police Act is that generally the Nigeria Police Force shall be commanded by the Inspector-General of Police who is at the apex of the Force, but answerable to the President. Consequently, failure to carry out orders, directives and instructions of the Inspector-General of Police attract punitive sanctions.³²

All other police officers are under the Inspector-General of Police according to ranks with attendant authority. The second in command to the Inspector-General of Police is the Deputy Inspector-General of Police. Under section 7 of the Police Act, his duties are to act for the Inspector-General in the absence of the Inspector-General from Force Headquarters. When so acting, all matters involving any change in Force policy shall be held in abeyance pending the return of the Inspector-General of Police, or if the matter is urgent, referred directly to

³⁰ Amadi, op. cit., 10.

³¹ Section 6 of the Police Act contains the same provisions.

³² Leah, op. cit., 20.

the Inspector-General for his instructions. According to section 8 of the Police Act, an Assistant Inspector-General of Police shall be subordinate to the Deputy Inspector-General but shall be senior to all Commissioners. The section also provides that an Assistant Inspector-General shall act for the Inspector-General and when so acting, he should be guided by the provisions of sub-section 7 (2) (a) and (b) of the Police Act. By the tenor of section 215 (2) of the Constitution and section 5 of the Police Act, a Commissioner of Police is the next rank in the chain of command and shall be in control of contingents of the Police Force stationed in a State. All the other subordinate ranks from the Deputy Commissioner of Police down to constable are provided for by virtue of section 5 of the Police Act and Regulation 273 of the Police Regulations.

Two factors are likely to affect the performance of police duties under the command structure. The first is the political control of the Inspector-General of Police by the President. The second is the use and operational control of the Force by the President especially in view of the provisions of section 9 (4) of the Police Act that the "President shall be charged with operational control of the Force" in a manner as to make the President the Commander-in-Chief of the Armed and Police Forces. It is suggested that section 9 (4) of the Police Act should be expunged to enable the Inspector-General of Police truly command the force from a position of professionalism and impartiality.

Organisational Structure

The Nigeria Police Force is organised structurally at the levels of the Force Headquarters where the office of the Inspector-General of Police is located, the level of zonal headquarters under the leadership of the Assistant Inspector-General of Police and at the level of State commands headed by a Commissioner of Police. The Force Headquarters is in the Federal Capital Territory (FCT), Abuja. In the Force Headquarters are stationed the seven Deputy Inspectors-General of Police (DIGS) in charge of the Seven Departments (A-G), the Force Secretary's office headed by an Assistant Inspector-General of Police (AIG) and the head of the Force Intelligence Bureau, an Assistant Inspector-General of Police (AIG), discussed under the command structure.

In line with the six geo-political structure of the country there are twelve zonal Headquarters which serve as supervising formations. As previously pointed out, each zone consists of combination of between two and four states under the command of an Assistant Inspector-General of Police (AIG).

There is a police command headed by a Commissioner of Police (CP) in each of the thirty six states and the Federal Capital Territory (FCT), Abuja. Five departments exist in the State Headquarters.³³ A Deputy Commissioner of Police (DC) assists the Commissioner of Police in running the affairs of the command. An Area Commander of the rank of Assistant Commissioner of Police (ACP) is directly under the Commissioner of Police and is in charge of all the Divisional Police Officers (DPOs), Station officers and the Police posts are under the Divisional Police Officers.

Administrative Structure

Closely related to the command and organisational structure is the administrative structure. This structure was identified under the discussion of command structure as having seven departments, "A" - "G" with each Department charged with specific, peculiar and distinguishable, but interrelated duties. The 'A' Department (Finance and Administration) is responsible for the finance and administration of the Nigeria Police Force. The 'B' Department (Operations) is in charge of operational activities in Nigeria especially in the areas of crime prevention, detection and maintenance of law and order. The 'C' Department (Logistics and Supply) controls the administration of logistics and supply of items to the Nigeria Police Force. A very important Department is the "D" Department (Criminal Investigation Department). It is the highest investigating unit of the Nigeria Police Force. The department is charged among others, with investigation and prosecution of criminal cases within and outside the country. In charge of assisting the training and staff development needs of the Force is the 'E' Department (Training). A sixth department is the 'F' Department (Research and Planning). The last department is "G" Department (Information Communication Technology). This is charged with sharing and management of information and communication technology within the Nigeria Police Force.

Centralisation of the Nigeria Police Force: The Debate on State Police

The centralised structure of the Nigeria Police Force as established by the Constitution resulting in the ultimate control of the Force by the Federal Government ignites an unending debate on whether there should be a single police or a parallel one by each of the States of the Federation.

³³ These are 'A' Department (Finance and Administration), 'B' Department (Operations), 'C' Department (Logistics and Supplies), 'D' Department (Investigation and Intelligence) and 'E' Department (Research and Planning).

There have been agitations by some States to establish and organise their Police Forces in their States.³⁴ According to Ijalaye, one of the reasons for these agitations is the dissatisfaction amongst some State Governors over ultimate control of the Nigeria Police Force being vested in the Federal Government.³⁵ In his words:

*...being responsible for the maintenance of peace and stability in their sphere of jurisdiction, there may be occasions when prompt enforcement actions may be necessary or expedient. Should the Commissioner of Police in such circumstances, insist on getting approval from the Inspector-General of Police, great damage may have been done before any action is taken.*³⁶

From the above premise is the view that the State Governors have no sufficient control of the Nigeria Police Force. Another reason is the fear and sometimes actual abuse of the use of Nigeria Police Force by the Federal Government. Akande advances the point that there is a possibility of using the Police power by the Federal Government to negatively affect governance in a State.³⁷ Nwabueze's rationale finds expression in the incompatibility of the liberty of the State Commissioner of Police to comply or not to comply with the Governor's direction with true federalism as it amounts to erosion of the autonomy of the State.³⁸ Idowu puts his own view thus: "In depriving states of the right to establish their own police forces, or have operational command of the Nigeria Police in their States the Governors are given responsibility without power."³⁹

Agitations for State Police and in some cases even local Government Police, are also anchored on the historical development of the present Nigeria Police Force which was a child of multiple police forces in the country. Under the Native Authority Ordinance of 1943, Native Authorities especially in the Northern and Eastern parts of the country established Native Authority Police Forces. It is cited that under the 1954 Constitution, the Regions were empowered to establish local government police

³⁴ C.I. Nmerole, *Police Interrogation in Criminal Investigation (Historical, Legal & Comparative Analysis)*, Minna: Halygraph Nig. Ltd., 2008, 14.

³⁵ Op. cit., 10

³⁶ Ibid

³⁷ J.O. Akande, *Introduction to the Constitution of the Federal Republic of Nigeria*, 1999, 329.

³⁸ B.O. Nwabueze, "Reflections on the 1999 Constitution: A Unitary Constitution for a Federal System of Government," being a paper delivered at a seminar organized by the International Commission of Jurists," in Abuja 14-16 February 2000, p. 35 in Ijalaye, op. cit., 11.

³⁹ A.A. Idowu, "The 1999 Constitution and the problems of Federalism in Nigeria", *The Constitution: A Journal of Constitutional Development*, vol. 3, No. 1, September, 2002, 55

authorities by reason of which the Northern and Western Regions established and maintained their respective Police Forces. In addition, section 105 (7) of the 1963 Constitution authorised the establishment of regional police forces, thereby enabling the Northern and Western Regional Governments to retain and expand the local police forces under the Native Authority Ordinance of 1943⁴⁰ and the 1954 Constitution.

Two divergent views on the argument for the establishment of State Police under the present constitutional arrangement have been put forward. The first school of thought representing the argument for State Police argues that by virtue of the provisions of section 214 of the Constitution, the Nigeria Police Force is under the full and exclusive control of the Federal Government contrary to the tenets of federalism.⁴¹ Accordingly, allowing states to establish and maintain their police forces will reflect Nigeria as a true federated country. In this respect, the example of the United States is often cited as a justification for true federal practice. According to Idowu, even in the United Kingdom "which is not a federated country, the countries have their own police establishments."⁴² One should, nevertheless, lose sight of the fact that these two countries have long history of practice of democracy that has grown into maturity.

Another argument in support of State Police is that the State Governors (Chief Executives) as Chief Security Officers of their respective States "cannot wield power to control the security agents in their domain", to enable them effectively maintain law and order especially in situations of security challenges such as riots, ethnic militancy, inter-communal conflicts, youth restiveness and in the face of prevalence of violent crimes.⁴³ This is because, it is argued, they have to seek permission from their superior boss in Abuja, leaving the States in dilemma in the event of an unforeseen conflict."⁴⁴ This is in view of section 215 of the Constitution which is said to establish clearly that the Nigeria Police Force is "owned and controlled exclusively by the Federal Government, but that the authority and powers of the Force extend to the whole country."⁴⁵

By the nature of the relationship between the States Governors and the Nigeria Police Force, the States Commissioners of Police are supposed to

⁴⁰ Ijalaye, op. cit., 9.

⁴¹ Idowu, op. cit., 55

⁴² Ibid.

⁴³ *The Comet*, Tuesday, August 24, 1999, pp. 24-25 on Chidi Nnadi's Reports and Interview with Badaiki, Falana and Adesanya, titled "Case for decentralizing Police Security Matters".

⁴⁴ Op.cit.

⁴⁵ Idowu, op. cit.

be part and parcel of the States in which they serve even though they are not bound to take all directions from the Governors before carrying out such directions unless sometimes referred to the President or such Minister as may be authorised in that behalf by the President. In practical terms, it is only in rare cases where there are conflicts (especially of political nature) between the Executives at the Federal and State levels that it may warrant a Police Commissioner refusing orders from the State Governor. While recognising the limitations of the States Governors when it comes to the States Commissioners of Police carrying out the Governors' directions, it is too wide a generalisation the argument that there is "total impotence of States regarding the control and operation and discipline of the police force at present is confirmed by powers given the Nigeria Police Council of which the State Governors are members."⁴⁶ As members of the Nigeria Police Council, the Governors claim a measure of organisational, administrative and general supervisory control over the Nigeria Police Force.

A further elaborative ground for the desirability of State Governors control, while recognising their limitations is put thus: "Delays in getting approval from the Presidency in Abuja coupled with the refusal of the head of the police in the State to answer the State Governor"⁴⁷ can escalate internal feud in a State.⁴⁸ The Sagamu riot (ethnic clash between Yorubas and Hausas in Sagamu) in 1999 is cited as an example. Opponents of this point of argument, however maintain that the need for State Commissioners of Police to get direction from the Inspector-General of Police is intended to check abuses.⁴⁹

The third reason canvassed for the decentralisation of the Nigeria Police Force and allowing each State to establish its police is that the Nigeria Police Force as a centralised force cannot cope with the high crime rate in the country. The high incidents of kidnapping, armed robbery, terrorism and electoral offences, for examples, are said to be beyond the control of the Nigeria Police Force. Sometime in 2000 the Governor of Lagos State is credited to have stated that "the increasing incidents of armed/ethnic violence and armed robbery in the State was compounded by the fact that whilst the Governor is invested with responsibility for security in the State, the police, is exclusively under the control of Federal Government."⁵⁰

⁴⁶ Ibid.

⁴⁷ See *The Comet*, above n. 43.

⁴⁸ Femi Falana and late Abraham Adesanya are some of the proponents of this view. See above n 43.

⁴⁹ Idowu, op. cit.

Nwabueze, however, alluded to the view that since the maintenance of public order and safety is the primary duty of any government, the Police and the armed forces should be centralized.⁵¹ It should be recognised that the prevalence of violent crimes, religious and ethnic clashes is a function of multifarious factors including unemployment, political suspicion, poor governance, extremism, lack of strategic partnership and the weaknesses in the policing system in the country. Undeniably, the need for self-help and ethnic hegemony, among other factors, led to the emergence of ethnic militia (non state actors) in the name of vigilante groups such as the Odua People's Congress (OPC) Bakassi Boys and Egbesu Boys. Section 227 of the Constitution prohibits such quasi-military organisations. Therefore, the uncontrolled and blatant use of them contrary to the Constitution and all norms of crime control, leave much to be desired of the call for decentralisation of the Nigeria Police Force.

The last in the argument in favour of State Police is the rather spurious point that the establishment of State Police would provide employment. Certainly, State Police would need personnel which can be recruited from the teeming unemployed population in the country. While the publicly announced proposed additional recruitment of 10,000 personnel into the Nigeria Police Force is a far cry from the number that States Police Forces will recruit, it has been argued that employment will be created in the respective States by developing the industrial sector, and not just by creating State Police Forces. "When State Police is created without putting in place corresponding industries and facilities to match what the policemen will police, we will only be creating a holocaust, a security holocaust which will only be there to harass and oppress the citizens within the Nigerian State."⁵²

On the other hand, antagonists of the establishment of State Police express the fear that some of the State Governors may turn their States Police Forces to agents of oppression, harassment, intimidation, electoral fraud and destabilization. Risk of oppression in the use of the Nigeria Police Force by the Federal Government is undeniable, but the present single police force has less risk of oppression than allowing each State Government to have autonomous control of its own Police Force.⁵³ The breakdown of law and order in the First Republic is evidence of the abusive use to which the State Police could be put.

⁵⁰ B.O. Nwabueze, *The presidential Constitution of Nigeria*, 57.

⁵¹ Badaiki, above n. 43

⁵² B.O. Nwabueze, "Reflections on the 1999 Constitution: A Unitary Constitution for a Federal System of Government," being a paper delivered at a seminar organised by the International Commission of Jurists, Abuja, 14-16 February, 2000, p. 35, in Ijalaye, op. cit., 11.

There were widespread reports of the ills of the local police forces that they were corrupt and agents of political vendetta, favouritism and brutalisation as well as oppression of political opponents from 1960 to 1966 especially during the 1964 - 1965 elections. They were for these purposes used by traditional rulers and politicians in Northern Nigeria and by government and politicians in the Northern and Western regions⁵⁴. The local police forces were also poorly trained.⁵⁵ Ajomo and Okagbue stated that the native authority and Local Government Police failed in performing their complementary role of enforcement of law and order as a result of which the public demanded that they should be disbanded.⁵⁶ In the light of the above reasons, the government, though trained Local Government Police in some parts of the country from 1966 onward, Local Government and Native Authority Police forces were disbanded in 1968 and merged the Police with the Nigeria Police Force thereby ushering centralisation of the Police in the country.

To the opponents of State Police, the argument for the establishment of State Police, therefore, is borne largely out of selfish interest by some Governors who want to arrogate more powers to themselves as well as hijack the machinery of security which they would later turn to an instrument of oppression. It is further argued that since indigenes of the States establishing State Police Force are likely to be recruited into such force, from the antecedents of primordial sentiments associated with indigeneship consideration, creation of State Police will further create an avalanche of discrimination and a gulf among the different peoples in the country. In the absence of National Policing Framework, Standards and Operational Guidelines, issue of standardization of police services under multiple policies system will pose intractable challenges to the establishment and maintenance of State Police. Moreover, economic realities in the country portend that many States cannot fund autonomous police forces.

The positions canvassed by both proponents and opponents of the desirability and viability or otherwise of allowing States to establish their respective Police Forces have their merits and demerits. It is against this backdrop that it is pertinent to re-echo an earlier view that once Nigerian

⁵⁴ T.N. Tamuno, *Police in Modern Nigeria: 1861-1965*, Ibadan: Ibadan Univ. Press; P.T. Ahire, "Native Authority Police in Northern Nigeria: End of an Era", in T.N. Tamuno, et al (eds.), *Policing Nigeria: Present, Past and Future*, Lagos: Malthouse Press, 1993, 238-261, K. Rotimi, "Local Police in Western Nigeria: End of an Era", Tamuno, T.N. et al (eds.), op.cit.187-237.

⁵⁵ Ibid

⁵⁶ M.A. Ajomo, and J.E. Okagbue, *Human Rights and Administration of Criminal Justice in Nigeria*, Lagos: NIALS, 1999, 90

people mature politically and in security matters, after experimenting the nation's democracy, States can begin to think about how they can establish their own police in order to reflect a true federalism.⁵⁷ Steering a middle course, the argument was put poetically:

...we would rather not put the cart before the horse. Let us first experiment very well the strength of our democracy. Let us mature. Let us know very well the rules and constitutional framework that are supposed to be put in place. Thereafter by way of learning and amendment, we can start to look into the possibility of establishing a State Police, and by then all the purposes which a State Police would serve should have existed and everything put in place.⁵⁸

Times have changed. Nigerian democracy has fairly matured. The concern should transcend focusing on how to assist the Nigeria Police Force overcome such herculean challenges as proper funding, training and retraining, adequately equipping it, ridding it of corruption, human rights abuse and incivility.⁵⁹ The issue is not only one of re-orientation, re-organisation and repositioning of the Nigeria Police Force, but also of allowing states to establish and maintain their police forces.⁶⁰

Conclusion

Security correlates with good governance and development. In recognition of the importance of security to a nation and the welfare of her people, the Constitution sets the maintenance of law and order as one of the primary purposes of government and establishes the Nigeria Police Force to maintain and secure public safety and public order, ensure internal stability and prevent threats to security of the country. Government authorities at all levels seek to achieve this constitutionally set purpose in their respective domains. Where the Police as an executive authority is

⁵⁷ Badaiki, above n. 43.

⁵⁸ Ibid.

⁵⁹ Overcoming these challenges formed the kernel of the position of Ijalaye, op. cit., 12 on how to make Nigeria Police function properly and serve Nigerians more effectively.

⁶⁰ These were the three-prong recommendation of the Presidential Committee on Review of the 1999 Constitution which Ijalaye agrees with. See Ijalaye, op. cit., 13.

monolithic and centralised as it is in the country, there arises inevitably the question as to who controls the Force. This is because the effectiveness of the Force in discharging its duties depends not only on such factors as availability of equipment, facilities, occupational culture and intolerance to corruption, but also on the level of control that all the tiers of government have in bringing police services to their aid in time of security needs. This underscores the debate whether States should be allowed to establish and maintain their separate Police Forces.

Credence is led in support of the two divergent views on whether or not States should be allowed to establish separate Police Forces. Historically, the weight of evidence is heavily in favour of multiplicity of Police Forces, but the fear, from historical antecedents in the First Republic, that such Forces can be used by the States as instruments of oppression provides a counterweight. The reality of the age is that a single Police Force, Federal Government-controlled and from the centre, with little or no control by the States Governors, is out of tune with meeting the enormous security challenges of the country. Furthermore, the once fledgling democracy has enjoyed fair maturity in time and practice. Moreover, a constitutional provision allowing establishment and maintenance of State Police is also the quintessence of true federalism in Federal-State relations. On these matrixes lies the proposal for multiplicity of Police Forces and States, but not Local Governments, should be allowed to establish and maintain their Police Forces.

It is recommended that towards decentralisation of the Police, there should be both Nigeria Federal Police and State Police. The former should have jurisdiction in specified matters and offences covering the entire country and maintain law and order at the Federal level including the Federal Capital Territory, Abuja, and inter-state levels. The former should have jurisdiction in their respective States and in matters not covered by the Nigeria Federal Police. Secondly, there should be amendment of the relevant sections of the Constitution including sections 153, 154, 214, 215, 216 and the Third Schedule. There should also be an amendment of all statutes and Regulations relating to Police affairs, policing and national security. States Houses of Assemblies should enact their respective State Police Laws and Regulations. The Constitutional and other statutory amendments should incorporate Federal Police-State Police relationship. Provisions should also be made for transitional period of the proposed

re-organisation of the Police system. In order to ensure standard of policing in the country, National Policing Standards, Regulatory Laws and Operational Guidelines should be formulated. There should be a framework under which the Inspector-General of Police should be appointed and removed by the Nigeria Police Council on the recommendation of the Police Service Commission at the Federal level. A similar framework should be established at the State level. Funding of the Police Forces should be adequately provided for and a Police Trust Fund should be established.