



## **RE-AWAKENING THE STATE POLICE CONTROVERSY IN NIGERIA: NEED FOR RETHINK**

**Olong Matthew Adefi<sup>†</sup>**

*Senior Lecturer, Kogi State University, Anyigba, Nigeria*

**Agbonika Josephine Aladi Achor**

*Lecturer, Kogi State University, Anyigba, Nigeria*

### **ABSTRACT**

*The most civilized of nations operate state police because of its attendant benefits. Moreover, a true federal setup should imbibe the idea of a state police. Nigeria as a country is part of the globe and cannot sheer away from the responsibility of decentralizing its police force. The article therefore sought to argue for the need for state police in all states of the federation of Nigeria. In arriving at such conclusion, case laws, statutes, published and unpublished legal materials, internet materials have been utilized. The articles position is that the Nigerian police as is presently structured with its over-centralized apparatus do not curb the incessant menace of insurgents, terrorists and terrorist groups as it is heavily centralized at the centre. It is suggested that Nigeria has become ripe not only for the devolution of powers and decentralization but equally that the authority of state governments to operate partial state police is more than ever needed to bring Nigeria in line with other civilized societies where state police have proved workable and most beneficial in curbing crime in the society.*

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### **1. INTRODUCTION**

The 1999 Constitution provides that, “there shall be a Police Force for Nigeria, which shall be known as the Nigeria Police Force”. The section prohibits in unequivocal terms the establishment of any other police for the Federation or any part thereof. There has been clamour for the establishment of State Police and the proponents predicated same on the features of Federalism. The demand for State Police became more pronounced from 1999 to date because of the spate of violent killings by armed robbers and of recent the menace of *Boko Haram*.

<sup>†</sup> Corresponding author  
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There was also the gruesome murder of prominent people in the country; Chief Bola Ige, the Attorney-General of the Federation was killed in December 2001 at Ibadan, Oyo State. Other prominent citizens killed include, Chief Layiwole Balogun (who was killed in Lagos); Hajia Rimi, (the wife of the former Governor of Kano State); Hon. Odunayo Olagbaju, (a legislator in Osun State); Chief Alfred Rewane (a NADECO Chieftain), etc. The argument is that the Police would be more efficient if the state is allowed to have its own police as obtained in advanced democracies like America, Canada and Australia. On the other hand, the opponents of State Police have reasoned that if the State Governments are allowed to establish their own Police Force, the Police will be politicized and used as an instrument for victimizing political opponents and parties in the State. (Tamuno, 1970; Oteh and Flora Ntunde Alexander, 2012), The command structure of the Nigeria Police Force should be decentralized, more so that state governments often provide assistance to the force in terms of logistics and equipment not necessarily a state owned police force.

The ultimate power of control over the Police in Nigeria resides with the President. The Commissioner of Police in charge of a State command is saddled with the responsibility of maintaining security within the State and in carrying out such duty, the Government of the State may give to the Commissioner of Police of that State such lawful directions for that purpose. The Commissioner of Police has discretion either to carry out the instruction immediately or seek the permission of the President or the Minister-in-Charge of Police Affairs in the country. The provision ensures that the ultimate control of the Police remain with the Federal Government.

Nigeria's nascent democracy should be nurtured to maturity through the various reforms of the Federal Government. It is the aspiration of the President that Nigeria should become an ideal democracy and stable polity. The reform should be extended to the Nigeria Police with a view of permitting the establishment of a State Police. The Police should be under the control of an independent body at the Federal level *vis-à-vis* the State level. The Police should be well trained with up-to-date equipment to be able to combat crime. The minimum qualification for joining the Police should be a school certificate with five credits in at most, two sittings. The supervising body both at the Federal and State level must emphasize discipline with a view to eradicating corruption in the Police. The minimum training period for recruits should be a period of twelve months.

The State Police is an ideal standard for a civilized democracy. For the Police to be able to operate as servant of a civilized polity, the condition of service of the Police must be improved. Their training should be focused towards being a friend rather than seeing themselves as terror in the society (Adebayo, 2006; Aluko, 2012).

One sad aspect of the Nigeria Police under the present dispensation is that the Police have become a tool for the perpetration of electoral malpractice and an instrument in the hand of the ruling Government to frustrate popular democracy. This article examines the surrounding controversies taken into cognizance practices from other jurisdictions, proffering necessary suggestions.

## 2. THE CLAMOUR FOR STATE POLICING IN NIGERIA

The Nigeria Police Force graduated from colonial policing machinery to a national security outfit. What hindered police operations in the 1<sup>st</sup> Republic was whether State Police commands

directly under the control of the State Governments or a nationally controlled Nigeria Police Force would better reflect the Nigerian contemporary circumstance that is, bearing in mind the socio-economic and political environment peculiar to a country like Nigeria. The Lyttleton Constitution made the Nigeria Police Force a Federal Police Force with regional commands. It also made the responsibility of the maintenance of law and orders a shared responsibility between the regional and federal governments. Hitherto, there were multiple police systems existing with the Nigeria Police Force including the Local Government Authority Police and the Native Authority Police of the Western and Northern regions respectively, though the Constitution, made no mention of these local police forces. The contention therefore arose after the adoption of the Lyttleton Constitution on whether the Nigeria Police Force should be a federally controlled one or if the regions should share in the control.

The fact that a regionally controlled police force could be used to suppress political opponents and ethnic minorities was a serious argument against the clamour for regionally controlled police. Proponents of a Federal Nigeria Police Force also argued that “the Nigeria Police Force” ought to be a symbol of hope and a principal bond of national unity as well as the custodian of the fundamental rights of the people. (Jemibewon, 2001) This would be better achieved through a federally controlled Police Force. It was argued by the proponents of regionally controlled police force, on the other hand, that the peculiarities of each region and the Federal Constitution make it tenable to have a regional police. The recommendations from the Willinks Commission (Owemena, 2006) and the Constitutional Conference in London of 1958 marked the beginning of the resolution of this argument and formed the framework with which the 1960 and 1963 constitutional provisions on the police were developed.

Some canvassed views included that a federal police force would be in a better position than a regional police force to allay the fears of the ethnic minorities but the regional government be allowed to make adequate input on the use and operational control of the force to discharge their constitutional duty of maintaining law and order. Irrespective of their individual positions, the delegates recommendations which formed the constitutional provisions of both the Independent and Republican Constitutions, made provision for the federal control of the force and provided for a Police Council and a Police Service Commission but made no mention of the local police forces. The Police Service Commission was given the powers under the constitution to appoint and dismiss the Inspector General of Police and the Regional Commissioner of Police and this was a constitutional weakness as these offices were not insulated from political pressures since the members of the commission were political nominees who could be pressurized to carry out the wishes of the Prime Minister and Regional Premiers as it used to be. The Police Council was similarly exploited during this period to promote political patronage and objectives thus leading to negligence to professional course of policy.

The issues recalled above do not necessarily tally with the view that a state run police or the re-enactment of the powers of the Governor to direct the police in a state would better serve the duty of providing an effective, thoroughly professional and apolitical police force but is intended to illustrate per example how the long this power tussle over who controls the police has been going on in Nigeria.

### 3. COMPARATIVE STUDY OF OTHER JURISDICTIONS

It has been repeatedly reiterated that the idea of State Police being canvassed by some State Governors is a dangerous proposition at this stage of Nigeria's development (Balogun, 2004) which will not solve the nation's security problems but would instead create chaos that might lead to the balkanization of the country. (Habeeb, 2004).

Taking stock from policing systems existing in other parts of the world, it is noteworthy that both Federal and State Governments run Police have operated successfully in different countries. From this, it can be deduced that none of the policing systems is inherently ineffective but peculiarities of each country – size, population, political development, ethnic make-up and so on determine what system would work better in a particular jurisdiction. In the United States of America for example, police organization and structure is decentralized(<http://faculty.nwec.edu/toconnor>,2009) with approximately 18,760 total police agencies, approximately 940,275 employees and a combined annual budget-going by year, 2000 data, 51 billion dollars. It is definitely higher now. These police agencies are divided into Federal Police Agencies, State Agencies, Highway Patrol, Sheriff's Department and Municipal Police Departments.

Federal Agencies are specialized, having specific mandate to enforce certain types of Federal Law and to deal with the growing problems of trans-national crime. By 1925, each state formed either a state police force (centralized all purpose policing) or a highway patrol department with separate bureaus of investigation, identification, crime laboratories, alcohol and drug control, drivers license examination. Before then, the state police were the personal tool of governors, but evolved into general all-purpose law enforcement. These state agencies were created to assist local law enforcement, investigate cross-county crime, and provide for law enforcement in areas that have no local county presence and to break strikes and control labour movements.

Adopting this decentralized system into Nigeria has been acclaimed on the grounds that state and local police forces will be thoroughly familiar with the people, their terrain, culture, religion, etc. and will confer on the police and policing, the appearance of being part of these communities instead of being seen as contemptuous occupying forces from the outside. (Olong, 2012)(<file:///a:/Amana%20online.htn>,2008).

Perhaps however, those who point to the United States as a model of police ownership for Nigeria are overlooking an important difference between that country and Nigeria. In the USA, apart from the occasional bias against black people, Hispanics and so on, ethnicity is not much of an issue. In practice, an American met in the state of Texas or Chicago, for example, will most likely say that he's an American when asked, while one asked in Lagos will either answer that he is Yoruba, Hausa or Igbo as the case may be. Also, unlike Nigeria's democracy which is still at an embryonic stage, America's democracy is full fledged and devoid of the kind of problems facing Nigeria and which have resurrected, perhaps for the wrong reasons, the call for State Police (Oke, 2004).

In Britain, the policing system is also decentralized, though in a slightly different form from what exists in the United States of America. Here, the police system is locally administered but subject to strong central government influences. Funding is borne substantially by the central government and it is thereby in a position to influence decisions and enforce standards but lacks

operational control over the local administration thereby leaving them with some level of autonomy. The home secretary has the overall responsibility for the police force, but their role is as supervisor and coordinator. The direction and control of each regional force falls to the chief constables, with the police authorities overseeing their work to ensure that adequate and efficient work is carried out by all police forces. This “tripartite” system avoids political interference in policing and does not give any single organization or individual, power over the activities or functions of the police force. There also exists a national (metropolitan) police and the city of London police which are directly administered by the home office. Countries such as Germany, Denmark and Belgium also run decentralized policing systems with Germany having separate state forces for each of its sixteen states and Belgium running a municipal system with two main forces (<http://www.bbc.co.uk/crime/fighters/policeforce.shtml>).

On the other side, speaking for countries that have a highly centralized National Police, France stands out. Here, policing is provided by two National Police Forces while a third much smaller Force is employed directly by local authorities to perform the duties of local town majors, including traffic control and enforcement of bye-laws.

#### **4. OPTIONS FOR CHANGE?**

There have been arguments for and against the call for state-controlled police. It has been argued by proponents of state police that it is overdue for the National Assembly and civil society to commence debate on the real status of the police in the light of Nigeria’s Federal system of government. Questions have been raised as to whether federalism does not entail control by the states of policing in their areas and whether the 1999 Constitution, while upholding the federalism principle in relevant sections, withholds the other aspect as to who controls security and at which level? It has been asserted that the pressing need by the British Colonialists to maintain a central controlling authority evolved on matters of police routine and discipline and that since the Constitution cannot create a responsibility without intending that the means to carry it out should be feasible, and then it assumes the possibility of a state police.

Events have also shown that despite the fact that the police, being under the central government, are supposed to be a central government responsibility, most states still invest a substantial amount of their revenue to the upkeep of the police within their jurisdiction. Many state governors have provided vehicles and logistic support to the police in their states. Even the burden of building or rehabilitation of Police Stations has been carried by some State Governors. Naturally, as Chief Security Officers/Chief Executives of the states, it would be foolhardy for them to take a hard stand not to release funds if it would avert a security breakdown in their states. This would only backfire against them as citizens of their states would only lose confidence in them, mostly not being privy to the logistics involved (Bamigbetan, 2004).

Thus, funding by the states, it is claimed is inequitable without any parallel control over the police. With the creation of state police, states can constitutionally appropriate funds for the police force under their jurisdiction and the citizens would know where the funds went. Whilst these cries about police inefficiency at the federal level cannot be overlooked and the complaints by some state governors on the low standards of policing in the states may be substantiated, in the final analysis, what every Nigerian wants is an efficient, professional and apolitical force. This could be achieved

through reconciling conflicting interests and thereby finding a middle-point which would maintain the status quo of the police as a national outfit but allow the state governors some measure of influence and control over police affairs within their individual states. It has become very clear that the federal government alone cannot solve the problems weighing the police down today, given their urgency, quantum and nature – “Community partnership will help solve these problems especially manpower shortage, inadequate and obsolete equipment, poor and inadequate accommodation, poor public image, sagging morale, poor and inadequate communication facilities. Even the immediate past Inspector General of Police, while taking the position that the creation of state police as an antidote to the rising crime wave if implemented would dismember the country, so the active involvement of the people in policing the society has become imperative, as the police alone cannot handle the enormous responsibility which internal security entails.

On the issues of funding, the fact that the states have been partly financing the police force in their states does not mean that they will be able to afford the huge amount of funding required to run the force single-handedly. This concern arises from the fact that many states are unable to pay their worker’s salaries and this additional burden on the states to maintain an already epileptic Police Force may not be the realistic solution to the reduction of crime in the country.

## 5. CONCLUSION & RECOMMENDATIONS

Having taken all the arguments for and against call for state police into consideration, it is obvious that the Nigeria Police needs some form of decentralization. Since human beings are not static and therefore matters relating to human beings cannot be static, a decentralized form of policing cannot continuously be ignored. However, we cannot feign ignorance of the “Nigerian factor” i.e. the fear and apprehension that some state governors may misuse the powers if given to them, thereby further complicating the problems facing the police already being complained about by the populace. Notwithstanding this, our position is that a compromise be reached, so that the state governors as well as local government chairmen and other stakeholders have a greater say on how police issues are handled under their respective jurisdictions without having to create a separate force for each state.

The state government ought to be able to make adequate input on the use and operational control of the Nigeria Police Force in order to discharge their constitutional responsibility of maintaining law and order. The earlier creation of zonal police command is commendable as by and large, every now and again, urgent issues crop up and this sort of decentralization enhances efficiency and speed. However, by the provisions of the 1999 Constitution, contingents of the Nigeria Police Force stationed in a state shall be under the command of the Commissioner of Police of that state (Tamuno, 1989) and this may cause hardship for the state governors in a clash of interests as the Commissioner of Police may ignore to take orders issued by the governors.

An example of such an occurrence happened under the ShehuShagari administration where the issuance of orders by the then Governor of old Anambra State, Chief Jim Nwobodo to the Commissioner of Police in his state was ignored. In order to forestall situations such as this, it is proposed therefore that the state governors constitute the highest hierarchy within their zones at each given time. Since the zones are comprised of governors of the states within the zone and other members, the governor who is at the hierarchy would not be able to abuse the position bearing in

mind that he is at par with the other governors making up the zone. Besides, as the constitution already makes the governors the chief security officers of their states, this will be a good way of actually giving them a say as to how security matters are handled in their states, without allowing room for the abuse of such power for political gain. The Supreme Court by its judgment in the case of *A.G Anambra v. A.G Federation (2005,9NWLR PT 391)* finally laid to rest major legal issues arising from the earlier on mentioned abduction and attempted sack of governor Ngige of Anambra State. One of the highlights of the verdict was the court's declaration that as chief security officers of their states, governors have the power to give orders to commissioners of police on security matters. Delivering the lead judgment, Katsina-alu J.S.C (as he then was) stated that the declaration by the plaintiff that the governor of a state including Anambra state represents and embodies the public of the state and has the power to give direction to the commissioner of police on security matters without the interference of the federal government or the president only restates what the constitution provides. In terms of implementation however, the position is still, as it was before, a potential source of confusion for the polity. Since the police still owe official allegiance to the Inspector General of Police who in turn reports to the President. Where there is any inconsistency or areas of conflict between the order given by the governor and that given by the Inspector General of Police, the Commissioners of Police would most likely obey the order of the Inspector General.

To ensure that all stakeholders have a say on how the Nigeria Police Force carries out its duties, the Nigeria Police Council provided for under section 153 of the 1999 Nigerian constitution, which has been accused of being political and has been relegated to the background in the past could be revamped. Certainly, this will create a forum where views can be aired by all parties concerned on matters relating to police affairs under their jurisdiction.

The functions of the Nigeria Police Council include: the organization and administration of the Nigeria police force and all 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), the general supervision of the Nigeria police force, and advising the president on the appointment of the Inspector General of Police. This means that even though the functions do not include issues of operational control, the constitution does provide for an opportunity for the governors to state their grievances about general police issues in their states. The problem here is that if, as has been the case in recent times, such grievances are against actions of the Inspector General of Police or President himself, and the president might not convene such a meeting. It is our view however, that a President under a democratically elected government cannot continuously refuse to heed to the complaints of members of his government. To eliminate this possibility however, it may be wise to insert between section 153 and section 161 of the 1999 constitution, a provision which requires the convening of such a meeting either quarterly or twice a year as may be necessary to avoid it being entirely at the discretion of the president.

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