

# **STATE POLICE: A PROGRESSIVE APPROACH TO TACKLING INSECURITY IN NIGERIA**

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## **Abstract**

Nigeria has undoubtedly in recent times been confronted with a myriad of security challenges. These challenges have persisted and thus become a source of concern and worry to both the government and the citizenry. The security of lives and property of all nations including Nigeria should be of paramount importance to any government, the sustenance of which may be daunting without the role of the police in a given polity. The Police is one institution of the state that plays a pivotal role in any given society. Given the upsurge in security challenges and its abysmal management in Nigeria, it may be apt to state that the centralised system of policing and its attendant problems has failed. Also, the usurpation of the powers of state governors as chief security officers of their respective states has further intensified the call for state police. It is in view of the foregoing that the paper examines the need for state police which in the opinion of the paper will mitigate the current realities of insecurity in the country. It further argues that in order to achieve some semblance of security in Nigeria, there is need to decentralise the police force and empower State governments to have control over their security affairs which should however be done within the parameters of checks at the center to prevent abuse of power. Using the doctrinal approach of research, the paper discusses the meaning of state police, establishment and functions of the police, controversies trailing the creation of state police as well as the imperative of creating state police which is the core argument of the paper. The paper thereafter concludes with recommendations to ensure effective management of state police in Nigeria upon creation.

**Key Words:** State police, Decentralization, Centralization, Policing, Power

## **I. INTRODUCTION**

Security is the state of being safe from harm or danger, the defence, protection, preservation of values and the absence of threats to acquired values.<sup>1</sup> Also, security can be seen as freedom from danger, threats and the ability of a State to defend and develop itself, promote as well as improve the well-being of its people. All these can be attained through an internal security system. Internal security system in any society is very vital because it is utilised to prevent violence and criminal activities in different societies. It similarly guarantees freedom of people from criminal acts and reduces occurrence of crimes which are detrimental to internal cohesion and development.<sup>2</sup>

Where there is an absence of these indices, there is said to be insecurity. Nigeria has in recent times been confronted with a myriad of security challenges<sup>3</sup>

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Idoko Cletus Usman, Dasuma Arida Mathew, ‘Security Challenges in Nigeria and National Transformation’ <<https://www.arcjournals.org/pdfs/ijmsr/v2-i8/2.pdf>> accessed 15 February 2018.

<sup>2</sup> ibid.

<sup>3</sup> The year 2018 for instance, started on a bloody and sad note for Nigeria. 73 persons were killed in Benue State by persons alleged to be herdsmen with repeated incidents in Taraba, Adamawa, Kogi, Plateau etc. In southern Kaduna, Kaduna State, a traditional ruler and his pregnant wife were murdered in cold blood in their home. In Rivers State, over 20 innocent persons lost their lives to suspected

ranging from armed robbery, human trafficking, cultist killings, militancy in the south east and south south, political/electoral violence, unlawful proliferation of arms, kidnapping/abduction,<sup>4</sup> cattle rustling, terrorism,<sup>5</sup> farmers/herders clash<sup>6</sup> (which has resulted in the death and internal displacement of several people as well as wanton destruction of properties), etc. These challenges have persisted and thus become a source of concern and worry to both the government and the citizenry. Even more worrisome is the fact that even where such security threats are reported to the appropriate authorities to forestall or prevent their occurrence, next to nothing is done to avert them.<sup>7</sup>

The security of lives and property of all nations including Nigeria should be of paramount importance to any government.<sup>8</sup> What this means is that the security of lives and property of the people should not at any time be treated with levity; the sustenance of which may be daunting without the role of the police<sup>9</sup> in a given polity. The Police is one institution of the state that plays a pivotal role in any given society.

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cultists while returning from a church vigil on the 31<sup>st</sup> December, 2017. 14 worshippers were murdered in January at a mosque in Gamboru, Borno State while a suicide bombing attack in Maiduguri claimed 10 lives. For further reading, see ‘Speech: VP Osinbajo’s Address at the National Security Summit in Abuja’ <<http://statehouse.gov.ng/news/speech-vp-osinbajos-address-at-the-national-security-summit-in-abuja>> accessed 9 March 2017.

<sup>4</sup>This nefarious act of kidnapping has even cascaded to medical personnel in hospitals.

<sup>5</sup> The operations of the terrorist group known as the Boko Haram Sect (*Jama’atu, Ahlis sunna Lidda’ awati wal-Jihad*) which literally means ‘western education is forbidden’ has in the last six years been both a serious challenge and lingering threat to Nigerian’s security, existence and development. Their activities have led to the death and internal displacement of thousands of Nigerians, bombing of schools, office buildings, newspaper houses, churches, mosques, abduction of school children (the most recent being the abduction of one hundred and ten girls from Government Girls Science and Technical College, Dapchi in Yobe State some of whom have fortunately regained their freedom), etc. For further reading see, Adagba Okpaga and Ugwu Sam Chijioke and Okechukwu Innocent, ‘Activities of Boko Haram and Insecurity Question in Nigeria’

<[http://www.researchgate.net/publication/264849674\\_Activities\\_of\\_Boko\\_Haram\\_and\\_Insecurity\\_Question\\_in\\_Nigeria](http://www.researchgate.net/publication/264849674_Activities_of_Boko_Haram_and_Insecurity_Question_in_Nigeria)> accessed 5 March 2018.

<sup>6</sup> The violent clashes between herdsmen from the North and farming communities in the central and southern region have taken a different dimension (almost as deadly as the Boko haram insurgency in the Northeast). These conflicts led to the death of approximately 2,500 in 2016. Till date, government’s response at both federal and state level has been nothing short of satisfactory, thus intensifying the activities of these herdsmen without any decisive action on the part of Government. For further reading see, ‘Herders Against Farmers: Nigeria’s Expanding Deadly Conflict’ <<http://www.crisisgroup.org/africa/west-africa/nigeria/252-herders-against-farmers-nigerians-expanding-deadly-conflict>> accessed 5 March 2018.

<sup>7</sup> In the case of Benue State for instance, Governor Samuel Ortom claimed that Security report of the planned attack by the leaders of Miyetti Allah Kautal Hore (an Association of Cattle Breeders) was received and communicated to the appropriate authority but nothing was done to avert it. For further reading, see, Samuel Ogundipe, ‘Benue Killings: Why we’re not going after Killer Herdsmen now-Police’ <<https://www.premiumtimesng.com>> accessed 20 April 2018.

<sup>8</sup> See section 14(2) of the 1999 Constitution which provides that the security and welfare of the people shall be the primary responsibility of government.

<sup>9</sup> The word, police is derived from the greek word ‘*polis*’ which means that part of non-ecclesiastical administration concerned with the safety, health and order of the State. For further reading see, ‘Nigeria Police Force Portal’ <<http://police.gov.ng>> accessed 17 April 2018.

It represents the civil power of government in contrast to military power and basically refers to a body of people structured to maintain civil order and public safety, enforce the law, and investigate commission of crimes.<sup>10</sup>

The Nigeria Police Force<sup>11</sup> is mandated by law to prevent and detect crimes, apprehend wrongdoers and generally maintain law and order in the country.<sup>12</sup> One may want to ask at this juncture whether the Nigerian Police (the only police force established for the entire Federation) have successfully and effectively carried out these duties or is clearly overwhelmed given the upsurge in security challenges highlighted above? Has it successfully policed the entire nation (with a population of over 190 million people)<sup>13</sup> from the centre? It may not be out of place to answer in the negative. Given the state of insecurity and its abysmal management, it can be said that the Nigeria Police has performed below expectations.<sup>14</sup> What can therefore be done? Is there a need to rehabilitate the institution or alternatively decentralize the central police force?

For some time now, decentralization of the police force or the creation of state police has become one of the most contentious issues dominating political discussions on restructuring and Federalism. This is so much so the position that even the Vice President, Professor Yemi Osinbajo at a recent security summit<sup>15</sup> held in February 2018 alluded to the fact that the entire country can no longer be policed from the center.

<sup>10</sup> Eme Okechukwu Innocent, Ogbochie, Andrew N, 'Limitations of State Police in Nigeria' *MJSS* 5 (15) (2014) <<http://www.mcser.org>> accessed 25 March 2018.

<sup>11</sup> In *Asheik v Borno State Government* (2012)9 NWLR (PT. 1304)1, the court described the Nigerian police as an organ of the Federal Government which is complete and comprehensive, with national institutions of its own.

<sup>12</sup> See section 4 of the Police Act CAP P19 LFN 2004. See also, J O Akande, *The Constitution of the Federal Republic of Nigeria 1999 with Annotations* (MJ Publishers 2000) 326. See also section 4 of the Police Act.

<sup>13</sup> According to United Nations estimates, Nigeria's current population as at 16 April 2018 is 194,785,847. For further reading see, 'Nigeria Population (2018)-Worldometers' <<http://www.worldometers.info>> accessed 17 April 2018.

<sup>14</sup> A case in point for instance will be the recent admission by the President that he was not aware that the Inspector General of Police did not relocate to Benue State as instructed following the farmers/herders clash that took place in January without any obvious consequence. For further reading, see 'Benue: Buhari 'Queries' IGP, Idris for Flouting his Order' <<https://www.vanguardngr.com>> accessed 10 April 2018. Also another example of the poor handling of a crisis situation will be the remarks made on national television (Channels TV) by the Police PRO (Jimoh Moshood) regarding the Benue State's Governor's stance on open grazing. He specifically described him as 'a drowning man'. The said comment was seen as unwarranted and insensitive in the face of the ongoing herders' crisis. For further reading see, Ameh Comrade Godwin, 'Benue Killings: Force PRO, Jimoh Moshood under Fire for Calling Ortom 'Drowning Man'' <<http://dailypost.ng>> accessed 10 April 2018.

<sup>15</sup> The Security Summit was organised by the Senate of the National Assembly to address the ongoing security challenges Nigeria is grappling with.

The foundation of the foregoing controversy on state police is undoubtedly linked to the provisions of section 214 of the 1999 Constitution of the Federal Republic of Nigeria.<sup>16</sup> The provision imposes the duty of policing the whole country on the federal government. It has been argued that this provision contradicts Nigeria's practice of federalism,<sup>17</sup> has escalated the security crises in most parts of the country and has more or less usurped the powers of state governor(s) as chief executive(s) of their respective state(s) as guaranteed under section 176 (2) of the same Constitution.<sup>18</sup> This is because ordinarily, the onerous task of maintaining law and order should be the sole responsibility of the state governor as the chief security officer of the state. This has nevertheless not been the case for Governors who are reduced to ceremonial chief security officers.<sup>19</sup>

It is against this backdrop that the paper analyses the need for state police which in the opinion of the researcher will go a long way in mitigating the current realities of insecurity in the country. The paper posits that in order to achieve some semblance of security in this country, there is need to decentralize the police force and empower State governments to have control over their security affairs. This should however be done within the parameters of checks at the center to prevent abuse of power. The paper is divided into six sections for ease of understanding and clarity. The second section after the introduction examines the meaning of state police. The third section looks at the establishment of the Police under the 1999 Constitution and its duties in Nigeria. The fourth section weighs in on the controversies trailing the creation of state police and also looks at the other side of the coin i.e. the imperative of creating state police which is the core argument of the paper. The fifth section of the paper makes recommendations to ensure effective management of state police in Nigeria upon creation while the last section features concluding remarks on the subject.

## **II. Meaning of State Police**

State police refers to a police system maintained or controlled by a state as

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<sup>16</sup> Angela E Obidimma, Emmanuel O C Obidimma 'State Police an Imperative for True Federalism in Nigeria' <<http://www.ijird.com/index.php/ijird/article/viewFile/80338/62082>> accessed 12 February 2018. The section provides that "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".

<sup>17</sup> ibid.

<sup>18</sup> Eme Okechukwu Innocent, Nkechi O Anyadike, 'Security Challenges and the Imperatives of State Police' <<https://www.arabianibmr.com>> accessed 19 May 2018.

<sup>19</sup> ibid.

distinguished from those of a lower state sub-division (as a city or county) of the State Government.<sup>20</sup> In relation to Nigeria, state police could be seen as some sort of sub-national police formation which is established, organised, maintained and under the direct control and jurisdiction of a particular state government.<sup>21</sup> According to Mr. Sunday Ehindero,<sup>22</sup> state police means an absence of a national police force.<sup>23</sup> This means a locally controlled police force in the state which will not be under the supervision or control of the Inspector General of Police. It will rather become the responsibility of the Governors of states to maintain law and order without any intrusion from the Inspector General of Police or the President.

Furthermore, state police connotes a specially organised and highly trained body, acting under state rather than local authority, and constantly involved in the prevention of crime, apprehension of criminals, and the protection of life and property generally throughout the state and especially in the rural and sparsely settled districts. In most states, the state police force is organised on a military basis and dispersed in split groups all over the entire state for patrol duty, but quickly mobilised in larger units in an emergency.<sup>24</sup>

From the foregoing, it may be apt to conclude that state police is simply a police force arrangement in which the powers of control and management are vested in an individual or particular State government. This means that in the event of an impending danger or crisis situation which requires swift action of the police, the state government will not be constrained in acting or the Commissioner of police will not await directives from the centre or Inspector General of police which is usually the case in a centralised police force.<sup>25</sup>

### **III. The Police**

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<sup>20</sup> A A Egunjobi, ‘The Nigerian Federal Practice and the Call for State Police’ *IJAARSMS* Vol. 2(7) (2016) <<http://www.ijaar.org>> accessed 29 March 2018.

<sup>21</sup> *ibid.*

<sup>22</sup> ‘Wither Nigeria: National or State Police?’ <<https://www.vanguardngr.com>> accessed 16 April 2018.

<sup>23</sup> This definition in the opinion of the researcher is flawed because the creation of State Police does not in any way vitiate the existence or operation of a National or central Police force.

<sup>24</sup> Margaret Mary Corcoran, State Police in the United States

A Bibliography’ *JCLC* 14(4) (1924) <<https://www.scholarlycommons.law.northwestern.edu/jclc>> accessed 20 April 2018.

<sup>25</sup> For instance, the apparent helplessness of Governor Uguawnyi in ‘commanding’ the Police and other security personnel to tackle head on the plans of herdsmen to attack Nimbo in Uzo-Uwani Local government area in Enugu State is one of such situations where centralised policing has failed and led to the death of so many Nigerians. For further reading see, Gregory Austin Nwakunor, Odita Sunday, Sam Oluwalana and Iyabo Lawal, ‘State Police will solve Problem of Violence, but...’ <<https://www.guardian.ng/saturday-magazine/cover/state-police-will-solve-problem-of-violence-but/>> accessed 18 April 2018. See also section 215(2) of the 1999 Constitution

In laying the foundation for our discussion, it is important to examine the establishment, structure and duties of the Police given the crucial role they play in any society. In so doing, we shall make reference to the 1999 Constitution-the extant grundnorm as well as the Police Act.

### **1. Establishment and Structure of the Nigerian Police Force**

The 1999 Constitution establishes the Nigeria Police force in section 214(1).<sup>26</sup> It provides thus:

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.<sup>27</sup>

From the foregoing provision, it becomes obvious that the drafters of the Constitution intended the creation of a centralised police to be known as the Nigerian Police Force. The section forbids the establishment of any other police force for Nigeria or any part thereof. The 1999 Constitution by expressly prohibiting the establishment of any other police force followed the 1979 Constitution. The said provision is indeed a clear departure from the 1963 Constitution<sup>28</sup> which sanctioned the establishment of local police forces on regional basis.<sup>29</sup> Each Region at that time through its Legislature was empowered to make provisions for the purposes of maintaining a police force established by any authority or local government authority within that province.<sup>30</sup>

Furthermore, section 214(1)(a) provides that the Nigerian Police Force shall

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<sup>26</sup>The Nigeria Police was first established in 1820 with over one thousand members drawn from the armed paramilitary Hausa Constabulary in 1879. The Lagos Police was set up in 1896 while a similar force- the Niger Coast Constabulary was established in Calabar in 1894 under then newly created Niger Coast Protectorate. In the North, the Royal Niger Company Constabulary consequently became the Northern Nigeria Police while a component part of the Niger Coast Constabulary became the Southern Nigeria Police. Most of the police set ups were associated with local governments (Native Authorities) during the colonial period. Nevertheless, under the first Republic in the 1960s, these forces were first regionalised and then nationalised. The Nigeria Police (NP) was consequently designated under Section 194 of the 1979 Constitution as the national police of Nigeria and given exclusive jurisdiction to police the entire country. For further reading, see, Egunjobi, (n 20).

<sup>27</sup> The section further provides under paragraphs (a), (b) and (c) that the Nigeria Police Force shall be organized and administered in accordance with such provisions as may be prescribed by Act of the National Assembly, the members of the force shall have such powers and duties as may be conferred upon them by law and lastly the national Assembly is empowered to make provisions for branches of the Nigeria Police Force forming part of the armed Forces of the Federation or for the protection of harbours, waterways, railways and airfields. See also section 3 of the Police Act which contains similar provision on the establishment of the Nigerian Police Force.

<sup>28</sup> See section 105(7) of the 1963 Constitution.

<sup>29</sup> Obidimma, (n 16). See also section 194(1) of the 1979 Constitution which is *in pari materia* with section 214(1) of the 1999 Constitution.

<sup>30</sup>Akande, (n 12) 327. See also section 105(7) of the 1963 Constitution.

be organised and administered in accordance with such provisions as may be prescribed by an Act of the National Assembly.<sup>31</sup> This provision is a clear indication of the intent of the Constitution which is to make National Assembly the sole body empowered to make laws regarding the police. What this means is that the State Houses of Assembly of the various States are excluded or cannot competently legislate on such matters because they fall under the exclusive legislative list which is the exclusive preserve of the National Assembly.<sup>32</sup> Herein also lies the problem for states who are more or less handicapped when it comes to the subject of establishing a state police or legislating on police related matters.

The Nigeria Police Force is an institution of the federal government with a centralised command structure which is headed by the Inspector General of police (IGP).<sup>33</sup> Section 6 of the Police Act which is *in pari materia* with section 215(2) of the Constitution provides that “the Force shall be commanded by the Inspector-General of Police”. This connotes that orders, directives and instructions to perform police duties flows from the Inspector-General of Police-issued through a chain of Command to any officer in the position to carry out such order. Disobedience or failure to carry out such instruction, directive or order, attract punitive sanctions<sup>34</sup> which could be disciplinary action, outright dismissal, suspension, etc. Subsection (2) of section 215 also provides that any contingents of the Nigeria Police force stationed in a state shall, subject to the authority of the Inspector General of the police, be under the command of the Commissioner of police<sup>35</sup> appointed for that state by the Police Service Commission.<sup>36</sup> This means that a Commissioner of police cannot take any decisions

<sup>31</sup> ‘Nigeria Police Force’ <[http://www.npf.gov.ng/Force\\_Structure.php](http://www.npf.gov.ng/Force_Structure.php)> accessed 23 April 2018.

<sup>32</sup> See item 45 of Part I to the Second Schedule of the Constitution.

<sup>33</sup> ‘About the Nigeria Police’ <<http://www.nigeriapolicewatch.com/resources/about-the-nigeria-police/>> accessed 27 April 2018. The Inspector General of Police is appointed from among serving members of the Nigeria Police force by the president on whose authority he acts. It is important to note that such appointment or removal as that case maybe is usually on the advice of the Nigeria Police Council. See Akande, (n 12) 329. Sections 153 of the 1999 Constitution and 9 of the Police Act provides for the establishment of Nigeria Police Council (NPC) to amongst other things be responsible for the organisation and administration of the Nigeria Police Force, general supervision of the Nigeria Police Force, to advise the President on appointment of the Inspector General of Police, etc. The NPC consists of the President who shall be chairman, the Governor of each State of the Federation, the chairman of the Police Service Commission and the Inspector-General of Police. See also item 27, Part I of the third Schedule of the Constitution.

<sup>34</sup> ‘Nigeria Police Force’ ( n 31).

<sup>35</sup> Pursuant to the provisions of section 215 (2) of the 1999 Constitution, section 5 of the Police Act provides for the office and rank of a Commissioner of Police.

<sup>36</sup> See section 215(1)(b). Section 153 of the 1999 Constitution establishes the Police Service Commission (PSC) to be an independent body saddled with the responsibility of appointing, promoting, and disciplining all members of the police force except the IGP. Item 29, Part I of the third Schedule of the Constitution provides for its composition which shall be 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

regarding the security of a state under his command without the consent of the Inspector General first had and obtained.

With respect to maintaining and securing public safety and public order, section 215(3) provides that the President or the Minister of the Government of the Federation authorised for that purpose, may give lawful directions to the Inspector General of police who must comply with them or cause them to be complied with. Subsection (4) contains similar provisions with respect to the Governor of a state or Commissioner of the Government of the state giving such lawful directions to the Commissioner of police for the purpose of maintaining and securing public safety and public order. This however has a *proviso*, the effect of which is that the Commissioner of police may before carrying out the directions, request that the matter be referred to the President or relevant Minister of the Government of the Federation.

This ensures that the absolute control of the police remains with the Federal Government which has however been a cause of displeasure amongst most Governors. The reason being that by virtue of their positions, they are responsible for the maintenance of peace and security within their province and there are occasions where crisis situations could be curtailed as result of prompt and decisive action.<sup>37</sup> The reverse is nevertheless the case where the Commissioner of police has to get clearance from the Inspector General of police (acting under the authority of the President or Minister) before carrying out the instructions of the Governor.

By virtue of the provisions of section 7 (1) of the Police Act, the next in line to the Inspector General of Police is the Deputy Inspector General of Police. Even though this position is not specifically mentioned in the Constitution, it has statutory backing. This is because the Police Act is a law made by the National Assembly in accordance with the Constitution.<sup>38</sup> Accordingly, the Deputy Inspector General of Police (DIG) is the second in command of the Force who acts in the Inspector-General's absence. Section 5 of the Police Act makes provision for the appointment of as many DIGs as the Nigeria Police Council considers appropriate. Every other rank<sup>39</sup> below the IGP, takes order of command from him in the performance of their lawful duties.<sup>40</sup>

The structure of the Nigeria police is such that each State including the

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National Assembly. For further reading, see, ‘About the Nigeria Police’, (n 33).

<sup>37</sup> Akande, (n 12) 329.

<sup>38</sup> See section 214(1)(a).

<sup>39</sup> Every other rank in the Force is legally provided for by section 5 of the Police Act.

<sup>40</sup> ‘Nigeria Police Force’ (n 31).

Federal Capital Territory is served by an administrative unit known as a state command. The state commands are grouped into 12 zonal commands with two to four states in each zone. Each zone is supervised by an Assistant Inspector General of police (AIG)<sup>41</sup> while each state command is headed by a commissioner of police (CP) who is directly accountable to the AIG in the respective zone. State commands are further split into smaller area commands, police divisions (headed by a divisional police officer, or DPO), police stations, police posts, and village police posts.<sup>42</sup>

## 2. Duties of the Police

The Government of every nation has the responsibility of protecting lives, liberties and properties of its citizens. Through its law, the society gives its government wide powers for the purpose of efficient and effective maintenance of law and order, and protection of citizens from crime and violent conflicts. The police as an agent of the state is the most visible symbol of any government's power and authority primarily established to enforce laws.<sup>43</sup>

Section 4 of the Police Act clearly defines the duties as well as powers of the police. This has consequently received judicial pronouncement in the cases of *Olatinwo v State*<sup>44</sup> and *IGP & Anor v Ubah & Ors.*<sup>45</sup> In fact, the court of Appeal in *Chukwuma v Commissioner of Police*<sup>46</sup> reiterated the provisions of section 4 thus:

By virtue of section 4 of the Police Act, Cap 359, laws of the Federation of Nigeria, 1990, the duties of the police include amongst others the prevention and detection of crime, the apprehension of offenders, the preservation of law and order, the protection of life and property and the due enforcement of all laws and regulations with which they are directly charged, and they shall perform such military duties within or without Nigeria as may be required of them by, or under the authority of the Police Act or any other Act. In the instant case, the action of the Police in frustrating the meeting of the

<sup>41</sup> The office of the AIG of Police is provided for by sections 5 and 8 of the Police Act. He acts for the Inspector-General of Police in the absence of the IGP and DIG of Police.

<sup>42</sup> 'About the Nigeria Police' (n 33).

<sup>43</sup> Ogaga Ayemo Obaro, 'The Nigeria Police Force and the Crisis of Legitimacy: Re-defining the Structure and Function of the Nigeria Police' *European Scientific Journal* 10 (8) (2014). For further reading see, Ogadimma Chukwubueze Arisukwu, 'Policing Trends in Nigeria since Independence (1960–2012)' <<http://journals.sagepub.com/doi/pdf/10.1350/pojo.2012.85.2.582>> accessed 5 May 2018.

<sup>44</sup> [2013] LPELR-19979 (SC).

<sup>45</sup> [2014] LPELR-23968(CA).

<sup>46</sup> [2005] 8 LWLR (Pt – 927) 278.

association was to maintain law and order and their action was justifiable.

These duties will now be discussed under subheads.

**a. Prevention and Detection of Crimes**

This is one of the most important statutory functions of the Nigerian Police Force. The police in carrying out this duty are expected to do everything within their power to combat crime and rid the society of violence and every threat to life or property.<sup>47</sup> Because of insecurity of lives and property of people within Nigeria and the surge in criminal activities, the Nigerian Police Force has to always be alert and alive to its statutory responsibility of ensuring that necessary steps (such as formulation of policies and strategies as well as technological mechanisms) are taken to suppress crime. The Nigerian Police Force patrol teams, sting operations are for instance, empowered to uncover attempts to commit crime.<sup>48</sup>

**b. Apprehension of Offenders**

In line with the provisions of the Police Act, the police can with or without warrant, arrest any person alleged to have committed an offence or in the course of committing an offence. Such arrest is deemed lawful as long as the alleged offence committed is against the provisions of the Constitution or any other law of the land.<sup>49</sup>

**c. Protection of lives and property**

This is another function of the Nigerian Police Force which is considered crucial to the existence of any nation. The Nigerian Police as the law enforcement agency is saddled with the responsibility of ensuring that the lives and properties of the citizenry are protected.<sup>50</sup>

**d. Maintenance of law and order**

The Nigerian Police is mandated to ensure that citizens obey law and order. In so doing, they consequently maintain peace. In fact, all other duties are subsumed in this specific duty of the Nigerian police which entails maintaining law and order in the society.<sup>51</sup>

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<sup>47</sup> Joseph Athanasius, '5 Major functions of the Nigerian Police Force' <<https://www.infoguidenigeria.com/functions-nigerian-police/>> accessed 12 May 2018.

<sup>48</sup> ibid.

<sup>49</sup> Jide Webmaster, 'Duties of the Nigerian Police Force (Constitutional Duties)' <<https://www.nigerianinfopedia.com/duties-nigerian-police-force/>> accessed 5 May 2018. In *Sadiq v State* (1982) 2 N.C.R.142, it was held that there must be actual touching or confinement of the body of the person to be arrested.

<sup>50</sup> Joseph Athanasius, (n 47).

<sup>51</sup> Jide Webmaster, (n 49).

### **e. Due Enforcement of Laws and Regulations**

It suffices to say that the police are not obliged to enforce every law except where it is directly charged to act under such a law. For instance, the police are not expected to ordinarily interfere or enforce laws bothering on civil matters or laws that define contracts between individuals or agreement between or among individuals. The police is however duty bound to enforce any crime related law.<sup>52</sup>

### **f. Performance of Military Duties**

Apart from enforcing laws, the Nigerian Police is furthermore under the Act expected to undertake some military duties which in most situations occur where there is a state of emergency. More so, on several occasions police officers have in the past been ordered to serve in different peacekeeping missions in different countries.<sup>53</sup>

## **IV. Creation of State Police in Nigeria**

Recall that we mentioned in the introduction section of this paper that the issue of state police has overtime dominated discussions on restructuring, federalism and has for a long time been subjected to a lot of debate as to whether it should be adopted or not. This section of the paper will now look at some of the arguments advanced against the establishment of state police and also make a case for its creation which is the core argument of the paper.

### **a. Examining the Controversies against State Police in Nigeria**

The most common conceived argument against state police is the likelihood of abuse by the state governors.<sup>54</sup> The opinion on this is that it could impact not only politicians but also affect public security when utilised as an instrument of intimidation to oppress political opponents by the government in power.<sup>55</sup> Also, this is hinged on the fact that the defunct native authority and local government police forces

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<sup>52</sup> Jide Webmaster, (n 49).

<sup>53</sup> ibid

<sup>54</sup> Obidimma, (n 16).

<sup>55</sup> Valentine B Ashi, *Fundamental Constitutional Doctrines and Concepts*, 2<sup>nd</sup> ed (Legalpoint Publishers Ltd 2013) 226.

were abused by local politicians of Nigeria's First Republic, and that nothing has changed in the country in the conditions leading up to the demise of local police forces in that Republic.<sup>56</sup> It is therefore believed that history will repeat itself if state governors are allowed to have operational control of their police affairs.

While not disputing the fact that issues of abuse may possibly arise, the paper however posits that the trend of political intimidations/assassinations which has overtime dominated Nigeria's power play still prevails in the absence of state police. It should consequently not be utilised as an excuse to discourage the creation of state police in Nigeria which when put in place with the right strategy may prove to be a useful tool for maintenance of law and order especially during emergencies. That notwithstanding, the paper is of the opinion that such cases of abuse could be reduced to the barest minimum where there are clear guidelines at the centre to check such abuses.

The Control mechanism in the United Kingdom for instance, ensures that there is a substantial degree of uniformity of police practice and condition of service throughout Britain.<sup>57</sup> By way of modification, Nigeria can adopt a system which ensures that each state police force submits quarterly reports of its activities to the central Police force and also establish a secured hotline or emergency line where such cases of abuse can be reported as has been done regarding certain offences such as gender based violence or whistleblowing with regard to corruption cases. Such acts of abuse should be treated with utmost seriousness and penalties imposed for such violations.

While this may not totally eradicate incidents of abuse, it is believed that proactive implementation will reduce such incidents. Also at the state level, to curb such cases of abuse when operational control of the police is given to state governors, Commissioners of police should be able to distill which order from the governor is legal or not for the good of the society as opposed to the whims of the state governors. Constant training and re-orientation of police officers (to reform their mindset and operations) is also key to prevent abuse of state police.

Another argument advanced by opponents of state police has to do with the problem of conflict of interest or the possibility of fallout of multiple security agents. Even

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<sup>56</sup> These local police forces of Nigeria's First Republic emptomised absolute powers by the local authorities and this power was utilised with reckless abandon by politicians for selfish motives. See n 54 above.

<sup>57</sup> Egunjobi, (n 20).

though the police as is currently structured maybe guilty of most or all the allegations leveled against the defunct local police, the nagging issue is whether or not Nigeria should squarely face the challenge of a single police force rather than resolving the squabbles that could emanate from operating a decentralised police system.

The capability of Nigerian politicians to handle the jurisdictional problems that are likely to arise from operation of multiple police forces is also in doubt.<sup>58</sup> The problem here is whether there will be interference or a clash of duties in operation of the police forces and what happens in the event of such clashes. The paper recommends that an under study of other jurisdictions where state police is successfully operational be done to find out how these issues of conflict are resolved. Countries such as America, Canada, Britain, Australia or even Ethiopia could become case studies, findings of which should however be modified to suit our local circumstances.

Furthermore, the establishment of state police in Nigeria may not be a practical option given the problem of funding. This is because most of the states depend on allocation from federation account to run the affairs of their respective states and such allocations are hardly enough to meet their expenditure.<sup>59</sup> The burden and cost of maintaining state police force even with the security votes allocated to them may thus be too enormous for the State Governments in Nigeria to bear. Given the difficulty the Federal Government is facing in funding and running the Nigeria Police Force today, the situation may be more precarious if states are left to fund their own police forces.

For instance, many states today are unable to pay the salaries of their workers<sup>60</sup> and consequently have to rely on bailouts from the federal government. It will therefore be an onerous burden on the part of state governors to add police responsibility to the affairs of states, most of who are still grappling with issues of payment of salaries, minimum wage, etc.<sup>61</sup>

On the foregoing note, the paper suggests that States which are financially self-sufficient i.e. oil producing states such as Akwa Ibom, Delta, Edo and other non-oil

<sup>58</sup> Okemuyiwa Akeem Adedeji, 'State Police in Nigeria: {Issues and Challenges}' <<https://www.researchgate.net/publication/292965357>> accessed 17 May 2017.

<sup>59</sup>

ibid.

<sup>60</sup> Obidimma, (n 16).

<sup>61</sup> ibid. Even Lagos state which has been supportive in the funding of policemen deployed to the state has been doing so through a trust fund specifically set up for that purpose. For further reading, see Obidinma, (n 16).

producing states e.g. Anambra, Abia, etc. and don't really depend on funds from federation accounts should take the giant stride of creating and funding their own State police. This may serve as a 'test run' period for the entire nation to ascertain whether state police is the way to go. It is interesting to point out here that this recommendation is in consonance with one of the resolutions of the National Conference (CONFAB), 2014 which recommended the establishment of state police for any state that requires it; to be funded and controlled by the said state.<sup>62</sup>

## V. State Police as an Imperative to Security in Nigeria

One of the strongest arguments in support of the establishment of a state police is that it is in line with the principle of Federalism upon which Nigeria's Constitution is fashioned. As a Federal State, the power of the Federal Republic of Nigeria is shared between the central government which is known as the federal government and the 36 states of the federation (federating units).<sup>63</sup> The power of Law making at the centre is vested on the National Assembly<sup>64</sup> while the State Houses of Assembly also make laws subject to the limits imposed by the legislative list contained in the second Schedule to the Constitution.<sup>65</sup> There is an extension of the principle of federalism to the Federal and state courts in which their powers and jurisdiction are clearly spelt out by the Constitution.<sup>66</sup>

The same goes for Executive powers of the Federation which pursuant to section 5(1) are vested in the President while that of the States are vested in the Governors.<sup>67</sup> The argument here is that from these provisions, it will be clearly revealed that each of the States that make up Nigeria ought to be a complete government on its own with requisite powers to make laws, administer them and punish offenders through the Judiciary. The reverse is however the case as the only

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<sup>62</sup> See specifically Resolution 5.11.2 of the Report. The conference which was inaugurated by the former President Goodluck Jonathan as part of the efforts to strengthen national unity and consolidate democratic governance in Nigeria as part of the efforts to strengthen national unity and consolidate democratic governance in Nigeria made far reaching recommendations on restructuring, resource control, power sharing/rotation, creation of more states, etc. For further reading see, 'Key National Conference Recommendations You Need to Know' <<https://www.premiumtimesng.com/national-conference/key-national-conference-recommendations-need-know/>> accessed 18 March 2019.

<sup>63</sup> Adedeji, (n 58).

<sup>64</sup> See section 4 of the 1999 Constitution.

<sup>65</sup> See section 4(6) & (7) of the Constitution.

<sup>66</sup> See section 6 for judicial powers of the courts.

<sup>67</sup> Adedeji, (n 58) The exercise of these executive powers in both situations extend to the execution and maintenance of the Constitution and all laws made either by the national or state houses of assembly, as may be appropriate.

agency responsible for enforcing laws is the Nigeria police force-a federal agency.<sup>68</sup> It has therefore been opined that a State without coercive power is just like any other organised society regardless of its status. It may consequently be able to bark but can certainly not bite.<sup>69</sup>

Given the deplorable state of security, some proponents of state police are convinced that it is only a decentralised police force which is practiced in most developed countries that can rescue Nigeria from this quagmire. They have stressed that the adoption of state police will afford the central police the opportunity of focusing on issues of recruitment and training of highly professional police officers at the centre who may from time to time be deployed as the need arises.<sup>70</sup> As at 2016, the total number of police personnel in the country was estimated to be 370,000 which approximately places the ratio thus; 1 policeman to 459 Nigerians.<sup>71</sup> This is quite disheartening when compared with Nigeria's population of over 190 million and is grossly insufficient by the United Nations Standard which is 400 to 1 ratio. If a state police structure is put in place, the states would be able to ascertain their security needs, recruit and train enough manpower to meet them.<sup>72</sup>

Also, the federal government's role towards effective policing is greatly undermined by politicking. The Constitution categorically imposes controlling powers of the Nigeria police force on the President and the IGP.<sup>73</sup> For instance, pursuant to the provisions of section 215 (4) of 1999 Constitution, a State Commissioner of police is obliged to refer a directive given by a State Governor to the President or Minister so authorised before acting on them. It will therefore be typical for a Governor's directive to the State Commissioner of police to be subjected to constant veto in Nigeria where several government decisions are politically influenced.<sup>74</sup>

<sup>68</sup> ibid.

<sup>69</sup> ibid.

<sup>70</sup> Innocent, (n 10).

<sup>71</sup> M U Ndagi, 'Nigeria's Under-staffed Police Force' <

[>](https://www.dailytrust.com.ng/news/philosofaith/nigeria-s-under-staffed-police-force/139543.html)

accessed 1 June 2018.

<sup>72</sup> ibid.

<sup>73</sup> See section 215.

<sup>74</sup> Michael B Aleyomi, 'Is State Police a Panacea to Security Threat in Nigeria?' *AAJSS* 4 (4.2) (2013) <[https://www.researchgate.net.../256429569\\_Is\\_State\\_Police\\_a\\_Panacea\\_to\\_Security...](https://www.researchgate.net.../256429569_Is_State_Police_a_Panacea_to_Security...)> accessed 30 April 2018. An example of where presidential power was utilised to undermine the state would be the murder trial of Nigeria former senate majority leader, Teslim Folarin in 2011. Without waiting for legal advice to be issued on the murder charge against him, the police, believed to be acting the script of the federal government of Nigeria, unilaterally withdrew the charge against the accused person. Another clear example was the abduction of Governor Chris Ngige in Anambra State in 2003. The act was carried out by some policemen (led by the late Assistant Inspector-General of police, Raphael Ige) in collaboration with the Federal government and some thugs. It was intended to intimidate and unseat a democratically elected governor. Here, through the federal might, the State Commissioner of police

In addition, it is erroneous to assign the sole management of a sensitive institution as the police force to a particular tier of government in Nigeria. It has thus become expedient to revisit the issue of state police. The decision to completely cede policing to the federal government in Nigeria was predicated on the erroneous assumption that the federating states in Nigeria lack the means to maintain and sustain a force given the experience of the first republic as discussed earlier. Experience has however shown that federal police are not immune to the allegations of abuse against the local police.<sup>75</sup> All the factors that led to the demise of the local police such as corruption, indiscipline, oppression, etc. still impede federal police from effectively discharging their constitutional duties.<sup>76</sup>

Furthermore is the issue of funding of the police by the states. Notwithstanding that the police as a federal agency ought to primarily be the responsibility of the federal government, there have been cases where several states make and still make huge financial investments to maintain the police within their jurisdiction. These they have done by providing vehicles and logistic support, building or rehabilitating police stations within their states.<sup>77</sup> As Chief Security Officers/Chief Executives of the states, it would be deemed irresponsible of them not to release funds which could possibly avert a crisis situation in their states. This is because it could send the wrong signals to their citizens who would in turn only lose confidence in them without knowledge of the logistics involved.

It has therefore been argued that funding by the states is inequitable without any corresponding control over the police. With the creation of state police, states can constitutionally appropriate funds for the police force under their respective jurisdictions and the citizens would know how these funds are expended.<sup>78</sup> While allegations of police inefficiency at the Federal level cannot be ignored and complaints by some State Governors about the low standards of policing in the states may be proven, on the whole, what every Nigerian wants is an efficient, professional

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was prevented from taking lawful directives from the embattled Governor. What this means is that State Governors are constitutionally handicapped when it comes to maintenance of security and protection of lives in their territory and this definitely makes a caricature of the principle of true federalism. For further reading see, I T Akomoolede, ‘Good Governance, Rule of Law and Constitutionalism in Nigeria’ *EJBSS* 1 (2012) <<http://www.ejbss.com/recent.aspx>> accessed 1 June 2018.

<sup>75</sup> Adedeji, (n 58).

<sup>76</sup> ibid.

<sup>77</sup> Olong Matthew Adefi, Josephine Aladi Achor Agbonika, Re-awakening the State Police Controversy in Nigeria: Need for Rethink’ *IJASS* 3(11) (2013) <http://www.aessweb.com/journal-detail.php?id=5007> accessed 23 May 2018.

<sup>78</sup> ibid.

and an apolitical force. This could be attained through reconciliation of conflicting interests, striking a balance which would ensure the maintenance of the status quo of the police as a national outfit while allowing State Governors some degree of control over police affairs within their respective States.<sup>79</sup> It has become quite glaring that the Federal Government alone cannot solve the problems associated with policing due to their urgency, quantum and nature. In resolving these challenges, community partnership is required especially with respect to manpower shortage, inadequate and obsolete equipment, poor and inadequate accommodation, poor public image, sagging morale, poor and inadequate communication facilities.<sup>80</sup>

Yet another contention in support of state police is hinged on the fact that Nigeria is too enormous a country and also heterogeneous for its security matters to be over centralised. In situations of emergencies where swift and decisive action is required to quell violence by deploying troops, time is often wasted on issues of administrative bottlenecks and needless bureaucracies.<sup>81</sup> The effectiveness and efficiency of local militias like the *Oodua* People's Congress (OPC), *Bakassi* boys, *Egbesu* boys, Vigilante Groups etc. have lent credence to the conviction by many that security is a local problem which can only be effectively managed by those who understand the terrain.<sup>82</sup>

The last issue to be discussed in this paper which buttresses the foregoing point is that the establishment of state police is predicated on the need to reduce crime to the barest minimum. Crime occurs in every “community” and is often carried out by persons who come from that community or locality. In order to deal with crime, it has become expedient to ensure that locals are absorbed and posted to their various localities to apprehend the criminals. This is because according to them, a place would be better policed by people from that area who speak the language.<sup>83</sup> Also, the

<sup>79</sup> Adefi, (n 77).

<sup>80</sup> ibid.

<sup>81</sup> ibid.

<sup>82</sup> ibid.

<sup>83</sup> Destiny Eze Agwanwo, ‘State Policing and Police Efficiency in Nigeria’ *RHSS* 4(25) (2014) <<http://www.iiste.org>> accessed 20 May 2018. For instance in America, the following factors informed the decision to establish state police as early as 1865 and 1870: 1.the movement responded primarily to the increasing consciousness on the part of dwellers in rural and suburban districts of a need for a greater degree of police protection. The invention of the automobile and improved road networks widened the range of crime and rendered its control more difficult, 2. Local sheriffs and constables were not adequate nor especially fitted for the work, 3.state militia was a clumsy and extremely expensive agency and was not trained for police duty. Rather it was designed to primarily supplement the standing army for national defence, 4.state police was therefore perceived as a movement toward centralisation of government for the purpose of economy and efficiency. For further reading see, Corcoran, (n 24).

paper believes that state police will enhance intelligence gathering at both state and local level.

## **VI. Recommendations**

In order to achieve successful enthronement of state police in Nigeria, the paper thus recommends the following:

- a. The provisions of section 215(2) of the 1999 Constitution and section 6 of the Police Act which vests control of the police force on the IGP should be amended and open to devolution of powers.
- b. With respect to section 215(4) which provides that directions given by a State Governor to the Commissioner of police must be referred to the President or relevant Minister of the federal government should be reviewed by making it more flexible and empowering State Governors to control their security affairs especially in crisis situations.
- c. Section 214(1)(a) of the 1999 Constitution which provides that the Nigeria Police force is to be organised and administered in accordance with an Act of the National Assembly should be reviewed. Item 45 of Part I of the Second Schedule to the Constitution (found in the exclusive legislative list) which is on police matters should be moved to the concurrent legislative list. This will give both the National Assembly and state Houses of Assembly powers to legislate on it.
- d. In order to reduce incidents of abuse of state police by State Governors, it is recommended that clear guidelines should be put in place at the centre. This will include submission of quarterly reports of the activities of the various state police forces to the central police force and also the establishment of a secured hotline or emergency line where such cases of abuse can be reported as has been done with respect to gender based violence offences or whistleblowing in corruption cases.
- e. There should also be constant training and re-orientation of police officers to prevent or check incidents of abuse.

## **VII. Conclusion**

The paper examined the notion of state police which it argues will go a long way in mitigating Nigeria's current security challenges with the proper control mechanisms put in place. It established that Nigeria operates a centralised police system in which operational control is vested in the IGP, who in turn is answerable to the president of the federal republic of Nigeria or Minister acting in that behalf. The paper in aligning its argument with the proponents of state police, posited that the said system not only contradicts the practice of federalism but also greatly undermines the authority of State Governors to effectively handle their security affairs and should thus be decentralised. Nigeria should explore state policing as the next available option, given the apparent failure of the central police force to effectively manage the security challenges.