



Deviance and Crisis of Development in Nigeria: An Analysis in Power Devolution and Police Federalism

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Abstract

The focus is on the practical dimensions of the challenges that confront appropriate framework for the formulation and enforcement of deviant control through state laws.

Keywords: *deviance control, criminality, materialist theory, law enforcement, policing, federal ascendancy, police federalism and state police.*

Introduction

The link between the individual, state and law has, over the years attracted and occupied the attention of eminent thinkers with varying theoretical and practical inclinations. While many subscribe to the aphorism that a state without law is inconceivable, the issue of the most appropriate structure and modus operandi for ensuring that the law or rules of the state are enforced continuously to be a terrain of constant disagreement and debate.

In response to the questions raised above, the primary tasks of this paper are two folds. In the first place, it explores the specificities of the Nigerian state and the extent the character of law enforcement structure in Nigeria is a factor of her post colonial status, inclinations and processes. Secondly, it examines how lack of political will by Nigeria's subsisting ruling class to frontally tackle the structural and other inherent problems of unitary police force in a federal Nigeria is affecting the state's effort at fighting deviance and criminality throughout the federation.

In doing these, the paper is divided into six interrelated parts. Following this brief introduction of the objects of the study is a discourse on some salient conceptual and contextual issues. The third is on deviant control and policing challenges and options, while the fourth centres on the character or specificities of state vis- á - vis policing in Nigeria. The fifth part is on law enforcement and how it is impacting on the future of the Nigerian federation. The last part, that is, the sixth part contains a brief summary and the conclusion.

Contextual and Conceptual Discourses

Over the years, a wide variety of literature on the nature and purpose of state social order and deviance control have been accumulated. This is against the backdrop of the fact that for social scientist particularly political scientists, economists, sociologists, psychologists and historians the institution of state attracts much more than a cursory interest. While the first use of the term state in scientific discourse is widely attributed to the Italian maverick political theorist, Niccolo Machiavelli, 1495-1527, for Aristotle, much earlier, the state as an institution is indispensable for the full moral development of human beings which came to be for the sake of life and continues for the sake of the best life. Following this trajectory, Aristotle (in Appadorai, 1975:39) further points out that

The ideal state is that which adds to adequate material advantages, the noblest



gifts of intellect and character and the will to live for their exercise in every relation of life, and whose education, institutions and laws are such as to develop these gifts and to call them into play.

Modern states are often characterized by their post Westphalian attributes such as population, territoriality, organized system of government and law. This characterization is however, a relatively recent phenomenon, for as Burnham (in McLean and McMillan, ed, 2003:512) rightly avers, archaeological remains now attest that forms of states existed since circa 6, 000 BC. If states existed several thousand years ago, obviously such states must share certain characteristics with the present states. For Weber (in Goldthorpe, 1974:176) the most unique characteristic that sets state apart from other institutions such as nation is that a state is a compulsory association. Along this part, Burnham (in McLean and McMillan, ed:512) usefully defines state broadly as " coercion- welding organization that exercise clear priority in decision- making and clear paramount in the application of naked force to social problems within territorial boundaries." The import of this definition view are many, we shall highlight two, which are germane to the study. The first is that a state must not only be characterized by system of law but also by structures or agencies responsible for the exercise or maintenance of coercion on behalf of the state. In other words, states constitute critical elements in deviant control and order maintenance. Secondly, the idea and practice of police and policing is not entirely strange to Africa or traditional social formation. It may be necessary to state from the onset that rather than the Greco- Romans as Allison (in McLean and McMillan, ed:413) opines, the rise and use of special men for the enforcement of law and order must be traced to the Ethio-Egyptian epoch, the cradle of state formation.

Important fallout from the foregoing is whether police and policing as a means or agent to deviant control is totally alien or strange to autochthonous African social formations. To address this creditably, the whole essence of policing must be appraised from the standpoint of the nature of human person and his deviant potential. Although Goldthorpe (1974:173) clearly of the rule of the general nature of crime or delinquency", the later connotes" any tendency on the part of some people to disagree with the rules and try to get them changed" respectively; the critical point to note is that policing or social control mechanisms are necessary because the human person is prone to deviance.

In contemporary traditional African societies, vestiges of some of the age long mechanisms of social control, though increasingly going into disuse are still significant at least in some sense. Among the Yorubas for example, a kind of police organization existed in each Oba Kingdom. They were recruited from all the lineages. In addition to the maintenance of law and order, they also acted as night guards. For the Igbos, the task of enforcing laws over a given time frame was in most Igbo village states the responsibility of a specified youth age grade (Nwanunobi, 2001). The practice of age-grade policing in other parts of Africa is collaborated by studies by Gulliver (1963) on Arusha of Tanzania, and Onwuejeogwu (1975) in the Nandi of Kenya. Usually a specific age-grade is assigned the task of law enforcement. Several methods are used to ensure that those so entrusted with position that do not take undue advantages. This includes open access to and frequent village meeting where issues are highlighted and discussed. Thus, a basic character of law enforcement and deviant control here is the inclusive or broad nature of the often federated village assemblies. This is because under the arrangement, it is fairly easy to track greedy and corrupt persons down and to bring offenders to justice. Among the Hausa-Fulani, particularly following the defeat of the former by the later, in the 1804 Jihad, a largely centralized administration was put in place in most parts of what constitutes present-day Northern Nigeria. This included a retinue of guards who performed the



task of enforcing both Islamic and state laws.

Despite the legend Roman legal system which gave impetus and distinction to not only criminal law but also the underlying need for law to be enforced, regular police in the sense we know them today as a body responsible for the enforcement of criminal laws did not really emerge in Europe until the post-Westphalia era. The reason for this is traceable to the fact that according to Nnoli (2003), medieval Europe was feudal and characteristically it, *inter alia*, lacked geographical territoriality, coupled with absence of monopoly of the legitimate force, it was immersed in long hostilities generated alliances between levels of two parallel hierarchies, the sacred and the temporal. The resolution of the conflict and with the treaty in place, modern state emerged giving rise to central bureaucracy with a given territorial area, loyalty to the centre of power and development of cohesion within territorial population. Against this backdrop, a truly modern police is traced to 1929, when a metropolitan police was established for London. Today, police or at least varieties of it, has become a dominant feature of state practice. At this stage, it is only appropriate that we look more closely at the meaning of police.

In line with Padfield and Baker (1983:3) the police are, strictly speaking, “public servants whose duty is the prevention and detection of crime and the prosecution of offenders before the courts of law.” In this same vein, the term policing simply denotes “the activity of enforcing the criminal law” (Allison, 2003). The implication of these definitions is that the chief concern of police is the enforcement of criminal law. This takes us to the meaning of criminal law. It refers to “that part of law which characterizes certain kinds of wrong doing as offences against the state...punishable by the state” (Padfield and Baker:3). In this sense, criminal law contrast with civil law whose main concern is the rights and duties of individuals towards each other. This distinction brings us to the issue of materialist theory of the state.

The materialist theory of the state is essential for a meaningful concrete analysis of the state behavior in Nigeria. This is because if we understand in whose interest the state emerged, exists and operates, especially the 'why' and 'how' of its operation we must have gone a long way in demystifying state actions and behavior, and the prevalent materialist theory of the state, Ziemann and Lanzendorfer (1977: 143-151) posit that the necessity for existence, the form and function, as well as the inner structure of the state in capitalist society is determined as an essential, integral element of the society by the economic and social reproduction of that society. The materialist theory does not only regard the state as an organic product and a necessary structural element in the society, it also sees it as the expression of the dominant contradictory social relations.

In the context of overall social reproduction process two features of the state can be focused. In the first place, the state is considered an “economic reproduction institution”, which is determined by the material reproduction process. The material reproduction and regards it as the contradictory representations of social unity. The state seen in this way is the social reproduction process. This leads to the transformation and institutionalization of class struggle but in such a way and in accordance with the specific “power” set-up and dynamics of the ruling class. This happens in such a way that the socially dominant or hegemonic class not only tries to justify and uphold their rule via the state, but also, and this is important, manage to maintain the effective consensus of the rule or dominated class. Thus, in its role as the institution of economic and political reproduction, the state monopolizes the extra economic power, which is the ultimate ration of bourgeoisie power. This is particularly true whenever the blind pressure of circumstances does not, does not yet, or no longer secures the social reproduction. This, as we shall see more clearly later, partly explains the structure and character of law enforcement in Nigeria.



Secondly stated, the main thrust of the argument so far has focused on grasping the character of state and law enforcement in Nigeria. It is also important to focus on the relation between the state and society. In doing this, the articulation of the capitalist social relations in a proto neo- colonial formation must be appropriately analyzed and interpreted vis-à-vis the use of the primary duty of enforcement. Conventionally, the primary duty of the police is to prevent and detect crimes and to prosecute offenders before the courts of law. According, our task is to figure out the role the state and its character play in this process. Differently posed, how useful can specificity of the state be in explaining the policies and dynamics of policing in Nigeria? Taking cognizance of the view canvassed on the critical issues of the state, politics and law enforcement foregoing, our next concern in this study is to formulate a proposition to guide our explanation, interpretation and propositions on policing framework or process of policing in Nigeria. Consequently, our hypothesis is that the specificity of state in Nigeria is a significant factor in understanding and the explication of policing in Nigeria. In line with this, it is only appropriate that we highlight and discuss the general character of policing.

Deviant Control, Policing Options and Policing Challenges

The idea and practice of police work throws up a number of options and inherent challenges. These challenges are mostly concerned with appropriate structures and processes necessary for effective police and policing deviance. The first is accountability, that is, how should the police be made accountable. This is a critical issue, often summed up by the Latin maxim *Quis custodiet ipsos custodiet*, that is, who will guard the guards. Vividly stated;” given the capacities and force of arms, which the police must have to do their job, to whom are they accountable and how can they be prevented from abusing their position” (Allison, in McLean and McMillan, ed 2003:411).

Experience particularly in contemporary West, shows that attempt at tackling accountability has in part led to either a heavily “regulated police” or “more than one place” solutions. For the British, the preferred way of tackling the problem of accountability has been the regulation of police involving heavy emphasis on training, standardization and in particular having local police forces which are heavily regulated and partly funded by the central government (Allison, 2003 ed:412). What all these came up to is professionalization of the police as a form of internally built mechanism of accountability. On the other hand, the option of “more than one police” solution is clearly more fashionable in the USA. With this, it is possible to segment US police both territorially and along with crimes dealt with. Thus, while serving as the crimes of interstates nature or those beyond the capacity of more local forces, necessarily, its job must to some extent, to police the police’ (Allison in McLean and McMillan, ed:412). As the two experiences show, strengthening structural or institutional mechanisms are necessary instruments for police accountability an effectiveness.

The second challenge is the 'level of control'. The main issue here is what level of government should appropriately control the activities of the police force. In United Kingdom for instance, the vogue Robertson (1993:378) observes, has been to place responsibility for the police in the local authorities. The implication of this is that the police is structurally closer to the people since the source of control is “around the corner”. The possible danger may, however, come from the abuse, which local authorities may subject the force such as using the police to deal with dissenters rather than deviants. This appears to have taken into consideration in the United Kingdom. Here although the central government does not control the police directly, it has responsibility for their training and recruitment. In this way the local context and content is balanced up with standardized central training.

The third contentious issue confronting the idea and practice is the extent of the use of



force by the police. Simply stated, to what extent should the ideals of civil liberties and the rule of law constitute a constraint to the use of force by the members of the police? Generally speaking, in the United Kingdom, the police are unarmed, although new challenges are forcing the United Kingdom police to experiment with new techniques. To contrast, however, the police authorities in countries such as USA, France, and Nigeria allow the police to be armed, sometimes to the level of paramilitary force. In Nigeria in particular, the quest to use the police as instrument of coercing and sometimes intimidation has been sharpened by the creation and use of mobile police as a subset of the Nigerian police force. When it comes to fighting complex social crimes such as kidnapping and armed robbery, which are often localized, it is different ball game.

1. Evolution and Character of policing in Nigeria

Although law enforcement in Nigeria dates back to the pre-colonial era, today's police-type and style owe its origin to Nigeria's colonial experience. This is because the Nigerian state is itself a colonial creation, having grown from one of the territories subdued and state partitioned to Britain when about half a dozen competing European powers gathered in Berlin 1884-55 to share out African territories and her inhabitants among themselves. Following this, it was also necessary for the British imperial authorities to create and maintain outfits to enable them sustain a coercive and hegemonic hold on Nigeria.

The police in Nigeria came into being on two accounts. On this Jemibewon (2011) observes that the primary reason for the establishment of “an organized body of men called the force” by the British in this sub-region was to deal with, “troublesome natives coupled with the cut throat competition among the European powers for jurisdiction over the emerging colonial state”. Formal colonialism did not, however, start in the vast area until 1900. Hitherto, Royal Niger Company had charter to administer the entire area on behalf of the British government. Following the amalgamation of the North and South Protectorates in 1914, it was convenient for the colonialists to take advantage of existing local administrative structures and processes in what is now widely known as 'indirectly rule'. The import of this was that, particularly in the Northern part, the native authority police became an instrument for the enforcement of colonial laws. In the South, court messengers variously called 'Kotma' became not only the instrument of law enforcement but also the geo-between of a sort, between the colonizers and the local population.

Very much like the post-independence constitution before it, section 214 to 216 of the 1999 constitution of Nigeria makes provision for a Nigerian Police Force. In particular, section 214 provides that “there shall be a police force for Nigeria which shall be known as the Nigerian Police Force and subject to the provisions of this section to other police force shall be established for the federation or any part thereof.” The clear implication of this provision is that there is one and only one sole police for all the levels of governance in contemporary Nigeria. Is this the best for the country, particularly when it comes to tackling localized social crimes particularly kidnapping and armed robbery?

The Ministry of Police Affairs, as the name suggests, oversees police matters in



Nigeria. There is also a Police Service Commission, which technically speaking is in charge of the recruitment, discipline and promotion of the members of the Nigeria Police. Besides, the force is headed by an Inspector general, who is answerable to the President and Commander-in-Chief. The Inspector General is assisted in the day-to-day running of the police duties by men and officers segmented into ranks and levels throughout the federation. While the headquarters and the zonal (regional) centres are manned by the most senior officers notably Assistant Inspector General and Deputy Inspector General respectively; the state is manned by a Commissioner of Police. Below this, we also police at area, divisional, station and post levels in the order.

The chief function of the police according to section 401 of Police Act can be summarized as the maintenance of internal security. Along this part, Akinola (in Egbeson, ed, 2001: 108) identifies the six specific functions of the police. They are:

- Prevention and detection of crimes
- Apprehension of offenders
- Maintenance of law and order
- Protection of property
- Regulation and control of traffic
- Due enforcement of laws and regulations.

Further still, Akinola (2001) also observes that the main responsibility of the police is “to detect crime and arrest criminals for punishment by the law courts”. The import of this is that the task of apprehending law breaking or those who breach the law, particularly criminal law, lies squarely within the ambit of the police. Thus, within the Nigerian state, the structure assigned the duty of detecting crimes and the arrest of criminals, including; of course, kidnapping and armed robbery is statutorily that of the police.

2. Law Enforcement and the Future of Nigeria

As argued in our earlier works on related issue, particularly in Biereenu-Nnabugwu (2009), there is need to completely overhaul the task of policing and law enforcement in Nigeria. This will necessarily involve programme in human development, sustainable re-equipment, social repositioning and administrative restructuring. Against the backdrop of the central focus of this discourse, it is only appropriate to here on administrative or organizational restructuring policing in Nigeria.

To ensure that policing is better organized to address various issues of crime fighting in the Nigerian federation, there is urgent need to proffer complete restructuring of the task of policing within the context of Nigerian federation. Accordingly, we point out as follows

- Present structure is defective
The present police structure where the federal police is the sole police for the whole federation is simply defective. It is now counter-productive and must be discarded. A carry over from colonial notion of governance for the colonized, it is now sustained by lack of political will to take the bull by the horn and federal ascendancy syndrome.
- There should be a federal police better styled federal guard with substantial



presence in each of the six geopolitical zones. The federal police should also have field offices or bases in each of the state capitals.

- Every state should be assisted to raise its own police service with the powers to enforce state law.
- The federal police should work hand in hand with the federal judicial system while the state police work hand in hand with state judiciary. This necessarily involves strengthening of various levels of the judicial arm.
- It is important that both federal and state police receive training and be trained by the police colleges styled National Police training Colleges.
- The two levels of police can collaborate in matters relating to criminal law etc such that cases can be transferred from one level to the other depending on the nature of the deviant control.

3. Conclusion

The main trend in our argument or thesis in this paper is that Nigeria is characteristically a post-colonial state whose deviant control and law enforcement- structures and processes- particularly the police are still dominated by colonial ethos and imperatives. Despite fact that state governors are dubbed 'chief security officers' of their respective states the fact of the matter is that the constitution does not place any security or law enforcement structure under their superintendence of state governors.

To make policing effective or police function better, there is need to completely overhaul various aspect of policing in Nigeria particularly the inherited structural framework.

The task is urgent for not only is a state without laws inconceivable, laws without due framework for implementation is worse than no laws. To make deviant control and policing effective in Nigeria, it is time to discard sole/mono or federal policing. Let us embrace police federalism. It may not tackle all the problems, for now however, it is the most viable option available.

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