

ETHICS, HUMAN RIGHTS AND PROACTIVE FIGHT AGAINST CRIME IN NIGERIA

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Abstract

A crime free society has been a daunting task for the society right from the inception. Societies in the past were so preoccupied with innovating novel strategies to prevent and control activities of some societal members that go against the dictates or standard behaviour of the society. In our present day complex society, characterized by rapid socio-cultural changes, crime and its control measures seem to occupy a center stage. Crime fighting in a highly complex and democratic society is quite challenging such that several factors among which are ethics and human rights need to be considered in other to truly achieve a crime free and orderly society where democratic norms and rules of law remain paramount. It is on the foregoing that this paper becomes topical as it is set to highlight the proactive strategies in crime fighting and the ethical and human right questions involved.

Keywords: Crime, Ethics, Human Rights, Neighbourhood Project

Introduction

The concept of ethics involves standards of conduct. These standards help to distinguish between behaviors that are considered right and those which are considered wrong. As we all know, it is not always easy to distinguish between right and wrong, as there is no universal code of ethics.

Professional codes of behaviour, or ethical codes, are intended to elicit a set of desired attitudes and responses in each member of the group to which they are addressed. As guides to action, they serve to remind members of the group what is expected of them; they provide a common vocabulary for the discussion of difficult cases; they establish and reinforce shared values; and they militate against adverse aspects of the occupational culture and malign external influences. For instance, ethical codes for law enforcement agents as adopted by the General Assembly of the United Nations (the Code of Conduct for Law Enforcement Officials - on 17 December 1979), and the Committee of Ministers of the Council of Europe (The European Code of Police Ethics - on 19 September 2001) reads thus:

Article 1: Law enforcement officials shall at all times fulfill the duty imposed upon them by law, by serving the community and by protecting all persons against illegal acts, consistent with the high degree of responsibility required by their profession.

Article 2: In the performance of their duty, law enforcement officials shall respect and protect human dignity and maintain and uphold the human rights of all persons.

Article 3: Law enforcement officials may use force only when strictly necessary and to the extent required for the performance of their duty.

Article 4: Matters of a confidential nature in the possession of law enforcement officials shall be kept confidential, unless the performance of duty or the needs of

justice strictly require otherwise.

Article 5: No law enforcement official may inflict, instigate or tolerate any act of torture or other cruel, inhuman or degrading treatment or punishment, nor may any law enforcement official invoke superior orders or exceptional circumstances such as a state of war or a threat of war, a threat to national security, internal political instability or any other public emergency as a justification of torture or other cruel, inhuman or degrading treatment or punishment.

Article 6: Law enforcement officials shall ensure the full protection of the health of persons in their custody and, in particular, shall take immediate action to secure medical attention whenever required.

Article 7: Law enforcement officials shall not commit any act of corruption. They shall also rigorously oppose and combat all such acts.

Article 8: Law enforcement officials shall respect the law and the present Code. They shall also, to the best of their capability, prevent and rigorously oppose any violations of them. Law enforcement officials who have reason to believe that a violation of the present Code has occurred or is about to occur shall report the matter to their superior authorities and, where necessary, to other appropriate authorities or organs vested with reviewing or remedial power.

It follows therefore that the above ethical standard becomes binding on every law enforcement department of any country albeit with little modifications to suit the socio-cultural, economic and political atmosphere of the country. The extent to which this code guides the behaviours and activities of law enforcement agents as they carry out their constitutional duties remains the big question.

The Nature of Human Right

Human right derives from inherent dignity and worth of the human person, and they are universally indivisible and interdependent. They are best understood as those rights enshrined in international instruments such as the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, International Covenant on Economic, Social and Cultural Rights, etc and instruments dealing with specific aspects of human right protection such as protection from torture. These international treaties and agreements represent commitment entered by governments on behalf of people living within its jurisdiction.

Human rights therefore, concerns the relationship between the people and the state, they control and regulate the exercise of state power over individuals, endow individuals with freedoms in relation to the state and place requirements on the state to satisfy basic human needs of the individuals within their jurisdiction. It is expected that all the rights and freedom expressed in these international laws and treaties should influence objectives of policing and the way it is carried out.

Clearly, human rights cannot be realized without social order, and social order as characterized by tolerable level of criminality and low level of social tension or civil unrest is dependent in part in effective policing. In this sense, police through the performance of all of its functions can be seen as a positive factor in the protection of human rights as contained in the Universal Declaration of Human Rights, which embodies civil, political, economic, social and cultural rights. The big question still

remains, how possible has it been for the police to navigate through these numerous human rights as they perform their constitutional functions without their infringement?

The Phenomenon of Crime and Crime Control

The phenomenon of crime and its preventive mechanisms are as old as man. In almost all known societies, man has exhibited the tendency to deviate from established norms guiding the generality of the society and therefore, social control measures to check man's excesses also existed alongside social norms. The evolution of this mechanism has taken different shapes in different settings, depending on the political, social and economic stages of development of the people concerned (Carney, 1977:2). Criminal acts as we have them today originated from wrongs and revenge revolving around individuals, i.e. the offender and the offended.

Jones (1981) looks at crime from a legalistic angle and states that "Crime is a legal wrong, the remedy for which is the punishment of the offender, at the instance of the state." Justice Fakayode, retired Chief Justice of Oyo State of Nigeria, trailing the legalistic path, dissects crime in its component parts by stating that crime is an act or omission proscribed by the state and has a punishment for its occurrence (Fakayode, 1985). Section 2 of the Criminal Code of Nigeria defines a crime or offence as an act or omission which renders the person doing the act or making the omission liable to punishment. From a sociological perspective, crime can be elaborately defined as act or omission resulting from human conduct which is considered in itself or in its outcome to be harmful and which the state wishes to prevent which renders the person responsible liable to some kind of punishment as a result of proceedings which are usually initiated on behalf of the state and which are designed to ascertain the nature, extent and legal consequences of that persons responsibility (Curzon 1973:11). Tappan (1960:10) aptly defines crime as an intentional act or omission in violation of criminal law, committed without defense or justification and sanctioned by the state as a felony or misdemeanour. It simply means any act or conduct of an individual or a group in violation of criminal law.

The Nigerian Police Force has been entrusted with duties of protecting life and properties as well as maintenance of law and order in Nigeria. Their general duties as listed in Section 4 of the Police Act (1964) are as follows:

- the prevention and detection of crime
- the apprehension of offenders
- the preservation of law and order
- the protection of property
- the enforcement of all laws and regulation with which they are directly charged.
- performance of such military duties within and outside Nigeria as may be required of them under the authority of the police act or any other relevant law.

Apart from these general duties for maintenance of law and order, there are other adjunct duties under the Act and other laws and regulations operating in the country. By section 23 of the Police Act, the police are empowered to conduct prosecution of crimes, though subject to the power of the Attorney General of the State or Federation as the case may be. Other provision enlarging or elaborating on the general powers of the police include, power of arrest without warrant in given situations, power to serve summons, general powers to search and detain suspects and power to take and record for purposes of identification and measurements, photographs and finger print

impressions of all persons in lawful custody.

The Nigeria Police Force are also involved in escort services to individuals, banks, and other finance houses transferring large amount of money from one location to another and maintenance of surveillance in banks, offices housing sensitive equipments as well as residential houses of notable public figures such as judges and top politicians (Igbo, 1999). They check vehicle particulars and driving license of motorists, regulates and controls the flow of traffic in big cities, suppress occasional riots and demonstrations and take part in ceremonial parades and music carnivals for public entertainment. This clearly shows that the function of the Nigeria Police is many and varied but all are geared towards crime prevention and control.

Nigeria is prone to many kinds of crimes and new ones are emerging everyday because of rapid socio-cultural changes occasioned by developments in electronic and communication technology as well as globalization of the world economy. Nigerian Police Force is faced with the tremendous task of combating both known crimes and emerging ones. Because of development in technology, criminal acts have become so skillful and professionalized making its detection and prevention more challenging. Nigerian Police Force in its effort to meet up with this challenging task has continued to adopt several strategies to tackle the multifaceted ways through which crime occurs. Some of which are; beat patrol, anti-vice squad, periodic raid, stop, search and detain, police check points, Escorts, Static Guards, National (Internal) Security, the Supervisee System, curfew, etc. The facilities and resources within their disposal have been so stretched almost beyond elastic limits in their effort to contain the volume of crime within the Nigerian society in recent times. This however calls for more proactive measures which will emphasis bringing the community members into mainstream policing characterized by greater cooperation and understanding between the formal police and the community people.

Proactive Measures in Crime Fighting

Emphasis is tilting towards 'community policing' as an alternative proactive means of detecting and preventing crime with a view to complimenting the effort of the police. This is also in recognition of the fact that the ratio of the Nigerian police to individuals in the society is nothing short of one to one thousand which falls short of United Nations minimum requirement.

In recognition of the serious threat of crime to development and in keeping with the Millennium Development Goals and the Guidelines for the Prevention of Crimes, nations and governments are encouraged to consider the following proactive measures to crime control:

Local Jobs for Local People – Crime is often linked to poverty, hunger and a feeling of despair. Therefore, job creation is essential to combat crime. Initiating economic projects and creating partnerships with local businesses as well as other initiatives such as skills and adult education training, and creating specific sites to pick up casual labour will help cushion the effect of poverty and hunger and keep idle minds busy.

Life After Prison – Offenders often experience great difficulties in being accepted back into the community, which may lead them back to crime. Programmes developed to address the training and preparation of former offenders for reintegration into the community should be made effective.

Anti-Crime News – It is important to gain the support and understanding of the community. Therefore, it is essential to publicize the efforts of the police and other agencies charged with crime prevention through the various media in order to encourage people to have faith on the crime prevention agencies and lend their support to the various strategies geared towards safe-guarding life and properties in communities and cities.

Operation Safety – This includes community police forum programmes to encourage people to report crimes through a toll-free call system that are easily accessible.

Ethics and Human Right Question in Crime Fighting

Respect for human rights lies at the heart of good governance. In a democratic society, it is the responsibility of the State to protect and promote man rights. All State institutions whether they are the police department, the army, the judiciary or civil administration have a duty to respect human rights, prevent human rights violations, and take active steps for the promotion of human rights.

The role of the police is especially significant in this respect. The police is charged with the responsibility of fighting crime, maintaining order and enforcing laws. Therefore, the onus of bringing those who break the law, including laws which protect fundamentals human rights before the criminal justice system lies on the police.

Good policing involves respecting human rights and upholding the *Rule of Law*. As protectors of people's rights, police officers are expected to display integrity, transparency, accountability and most of all respect for human dignity. *Rule of Law* requires that the police, an integral part of the criminal justice system, must respect and uphold the rights and liberty of individuals as they strive to combat crime, maintain order and enforce laws.

In a democratic society, the police serve to protect, rather than impede, freedoms. The very purpose of the police is to provide a safe, orderly environment in which these freedoms can be exercised. A democratic police force is not concerned with people's beliefs or associates, their movements or conformity to state ideology. It is not even primarily concerned with the enforcement of regulations or bureaucratic regimens. Instead, the police force of a democracy is concerned strictly with the preservation of safe communities and the application of criminal law equally to all people, without fear or favour. (United Nations International Police Task Force, 1986)

Unfortunately, many a time, while discharging these duties, actions of the police conflict with human rights. Despite the current democracy and fifty years of independence, there still is a lot of distrust between the public and the police. People see the police as an authoritarian organisation, removed from society, with little or no respect for the rights of the ordinary person. However, today we live in a democratic country and the police as a vital component of the State should operate according to democratic norms. Individual rights occupy a pride of place in our constitutional culture. Any encroachment upon them, whether it is in form of launching of a malicious investigation, illegally detaining suspected persons or their families, carrying out an improper arrest, using excessive force, or torturing suspects to extract confessions, goes against the basic ethics of democratic policing and amounts to human right abuses.

As state officials, charged with responsibility for 'law enforcement and order maintenance' in society, the police are empowered to use moderate force or violence but National constitutions and statutes, international conventions and rules, police departmental orders and professional ethics, are in place to regulate the use of force or violence by the police. But despite these provisions, the police in most societies use force and violence beyond the limits permissible by law.

Police violence which breaches several fundamental human rights of individuals, is generally conceived in terms of police brutality, torture and homicide, unnecessary use of excessive force, lethal use of firearms including extra-judicial executions of suspects, and sometimes-innocent citizens. In Nigeria, human rights violation by the police is widespread. Its manifestations include beating and kicking citizens, unnecessary use of restraints such as handcuffs and leg chains, unnecessary use of lethal firearms against suspects and members of the public, torture of suspects in order to extract confession or extort gratification etc. Police violence is therefore conceived as a product of social, political and economic structures of society. This is because a society with authoritarian political structures and an economic system characterized by widespread exploitation and inequalities generates social conflicts. Police violence is often a response by a dictatorial government to repress such conflicts.

Unfortunately, even though human rights are protected by law and any limitations which can be placed on rights and freedom are set in law, police officials who are described as law enforcement officials break the laws designed to protect human rights when enforcing other laws. They are pressured to get quick results, often with unofficial guarantees that they may use any means possible to accomplish the task at hand. This is often a paradox because when they act in this way, they are not reducing criminality and disorder, they are adding to it. The paradox exist because a readiness to violate human rights law persists as part of powerful police sub-culture which regard human rights as incompatible with the process of policing (Crawshaw, Devlin & Williamson, 1998).

This brings to question the ethical responsibilities of the formal agent of social control (police) to the public for which they are responsible. The activities of the Nigeria police in the bid to discharging their constitutional duties have been found to be at variance with the stipulations of their statutorily prescribed ethics as contained in the police act that:

1. In the individual exercise of his powers as a police officer, every police officer shall be personally liable for any misuse of his powers, or any act done in excess of his authority.
2. Every police officer is required to use his best endeavour to uphold the good name of the force, and to further good relations with the public.
3. Be determined and incorruptible in the exercise of his police duties" and shall "have a strict regard to the correctness of his general behaviour.

Furthermore, the Act requires Nigerian police officers to develop the following attributes:

1. Efficiency and thoroughness through meticulous attention to details in the performance of his duties.
2. Courtesy, forbearance and helpfulness in his dealings with members of the

public.

3. Tact, patience and tolerance, and the control of his temper in trying situations.
4. Integrity in refusing to allow religious, racial, political or personal feelings or other considerations to influence him in the exercise of his duties.
5. Impartiality and the avoidance of feelings of vindictiveness towards offenders.
6. Strict and truthfulness in his handling of investigations and in the giving of evidence.

The literature on police conduct and performance in Nigeria indicates that these statutory provisions are violated by majority of police officers due to political, economic, institutional, individual and situational factors. Because of this, there are wide spread and unrestrained human right abuses which include the following:

1. Right to life, human dignity (freedom from inhuman and degrading treatment, torture) personal liberty, and privacy.
2. Right to be presumed innocent until proven guilty.
3. Right to remain silent during criminal investigation and trial processes.
4. Right to notice of charges within a reasonable period.
5. Right to be arraigned before a court or tribunal, and to a judicial proceeding in language(s) understood by the suspect (including interpretation of proceeding in language understood by suspect).
6. Right to be arraigned before a court within a reasonable period.
7. Right to be represented by a counsel of one's own choice provided one is able to pay for the services (and to state legal aid for indigent persons in cases of capital offences)
8. Right to bail
9. Right to cross-examine prosecution's witnesses and to present witnesses
10. Right to speedy trial
11. Right against self-incrimination and compulsion to testify against or for oneself
12. Right to a fair, open and impartial judicial process
13. Right against unduly long detention without trial
14. Right against retroactive laws

Notwithstanding these provisions, these rights are frequently breached at all phases of criminal justice administration in the country. This is due to several factors, including a legacy of colonial arbitrariness, excesses of politicians and their manipulation of the judiciary and police, as well as police and judicial corruption. The most important source of the infringement of these rights is protracted military rule. Under previous military regimes, the Constitutions were suspended, retroactive legislation and ouster clauses were introduced. Special (military) Tribunals which composition, processes and rule of evidence fall below the standard prescribed by these rights were established. This generally resulted in atmosphere of persecution and repression. Police violence, brutality, and corruption were more common under the military regimes, which promoted or condoned them.

Policing can be extremely difficult and demanding, emotionally, intellectually and physically. In practicing their 'craft' and profession, police can experience personal danger and discomfort, and severe trauma and anxiety. Crawshaw (1982) noted that police is required to respond with restraint to physical attacks on their persons and apply minimal force when required, but this cannot be done without violating the right to life and from ill treatment and from excessive use of force by the police. They are required to arrest and detain, yet in doing this they are likely to violate the right to liberty. This is because, people under detention are vulnerable to ill treatment and torture. The right from torture is also prohibited and there are no circumstances under which torture may be practiced lawfully or in any way justifiable. However it has remained widely used around the world and in Nigeria. The investigative right of the police in the discharge of their duties may also violates the fundamental human rights of fair and speedy trial and the right to be presumed innocent until proven guilty when unethically carried out. The right to be free from arbitrary arrest and detention are also mostly violated by the police in cases of civil unrest.

All these are ethical dilemma faced by the police in the discharge of their duties. This makes them experience the frustrations of being unable to deliver to justice the authors of shocking crimes as they are subject to pressure from society, the news media, and from politicians to obtain results. In the case of really atrocious crimes; or where there is serious public concern about levels of criminality; or where law and order has become or has been made an issue of party politics, this pressure can be such that police feel they are entitled, or perhaps even required, to adopt unlawful and inhumane methods. Furthermore, people who engage in organised crime, or certain types of financial criminality, have at their disposal vast sums of money which can be, and is, used to corrupt police. Working under this condition can be so frustrating and police has no choice than to deliver result by whatever means possible.

Conclusion

These are some of the factors that combine to confront individual police officials with a variety of ethical problems and dilemmas. All these ethical and human rights infringements can be nipped on the bud if the aforementioned proactive measures are seriously considered. In order to do their job effectively, the police needs the support of the local communities in particular and that of the agency that represents them. This was reflected in the 8-point agenda adopted by the Nigeria Police Force under the headship of former Inspector General of Police, Tafa Balogun which stated among others that "police is ready to work in partnership with the communities they serve to enhance performance and quality services. The idea is to institute a people's police that will work with the people and for the people (Balogun in *Rugbere, 2004*). This according to the agenda will foster better social relations between the police and community members in the area of crime information sharing between the police and the local people, increase knowledge of the policing needs of the communities, and through these collaborative efforts raise performance level of the police. Already, a number of police officers have been trained in London and the U.S. on how to adapt and apply community policing concept to our environment (Balogun in *Rugbere, 2004*).

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