

## THOUGHTS AND PERSPECTIVES ON POLICE FEDERALISM: CASE FOR STATE POLICE IN NIGERIA

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### **Abstract**

*This paper reflects on the concept of police federalism and interrogates the need to completely overhaul the task of policing in Nigeria and modalities for states in the federation to have state police. Using largely documentary instrument and projectile technique for data generation and analysis respectively, the paper explores and appraises views canvassed for and against police federalism in Nigeria. It identifies the need for programmes in human development, sustainable re-equipment, social repositioning and administrative restructuring. Against the backdrop of the central focus of the discourse, the paper points to the urgent need to initiate and complete holistic restructuring of the task of policing within the context of the Nigerian federation. In addition, the paper posits that to make policing effective, or police function better, there is need to completely overhaul various aspects of policing in Nigeria particularly the inherited colonial structural framework. Accordingly, the paper recommends complete overhaul that must necessarily entail substantial decentralization and constitutional empowerment of the states of the federation to create and sustain own police service so as to ensure effective enforcement of laws and order in the respective states.*

**Key words:** Civil society, National Guard, Nigerian federation, Police federalism and Social contract theory.

### **Introduction**

Thomas Hobbes, an Englishman who lived in late sixteenth and early seventeenth century is one of the three most notable social contract theorists. Social contract theorists assume that human beings once lived in state of nature without law and government, but along the line realized the need for government. In a nutshell, the theory posits that “Being rational creatures, however, they [*human beings in state of nature*] came to realize that their lives could be improved, their security enhanced, and their human rights expanded through the process of organizing a civil society and establishing government” (Plano et al, 1973: 30).

The import of the foregoing is that social contract theory provides legal and logical explanation for the existence of government and society. In Hobbes analysis of human nature, particularly in his main work, the *Leviathan* (1651) Hobbes posited that human beings are essentially selfish; and that in state of nature life of man was 'solitary, poor, nasty, brutish and short'. Hobbes' political thought was largely influenced by violence and brutality, and the attendant waste of human life and property that accompanied the 1642 to 1648 English civil war. An essential import of Thomas Hobbes' social contract theory is the fact that it underlines the need for effective government – the Leviathan. A government that is equipped with necessary instruments of statecraft to ensure some semblance of peace and harmony.

Today's Nigeria is beset not only by fear and self-interest, but also by corruption, insecurity and divisive tendencies. The notion of *police federalism*, - as fact of and advocacy for extending federal principles in police and policing practice - offer veritable apparatus to address many of these challenges. In particular, as one of the necessary measures to be undertaken in order to tackle many of the problems presently confronting the nation, police federalism calls for the establishment of state police in Nigeria.

### **On Federal Policing**

In recent years arguments for and against the idea and practice of federal policing and police federalism have gained increasing prominence in the public space. In the main, advocates of federal policing argue that Nigeria is not ripe to have state police and that the present constitutional arrangement where the Nigeria Police Force is the sole and only police organization in the country should not be tampered with. Among the major protagonist of continued federal policing are the police hierarchy and establishment functionaries particularly at the federal level.

Particularly in the last one and half decades or so, pro-federal policing advocates also include Northern Governors Forum especially when it was under the leadership of Babangida Aliyu of Niger State (*The Guardian*, 05 August 2012); and a cross section of Nigerians who fear political expediency and possible abuse by present crop of Governors. The fear is based largely on accounts of previous abuses of regional police in Nigeria's pre-military era. But is the Nigeria Police Force, as presently constituted, not liable to abuse? As Ladigbolu (2012:5) points out, to say "that the image of the police in Nigeria is nothing to write home about is like stating the obvious". As a matter of fact, the wish of many Nigerians he points out is more or less:

Enough of police chiefs that would be jailed for embezzlement, as was the case of a former Inspector-General of Police, and police chiefs that would be indicted for killing innocent traders, as in the case of Apo Six, in Abuja, where

police officers were involved in vengeful killing of innocent civilians. We don't ever want a repeat of the case of George Iyamu, a deputy superintendent of police, DSP, who was aiding and abetting Lawrence Anini, the notorious criminal of Benin City. Nigerians desire a police force whose presence will tame *Boko Haram* and their sponsors hands down and an institution that will be willing to serve and protect the people without fear or favour.

Simply stated, most of the fears or doubts expressed or that are being nursed against police federalism are really unfounded, misguided or exaggerated. Whatever the case may be, we are convinced that they are not insurmountable. Accordingly, it is important that we explore the reality on ground, and the possibility of state police in Nigeria.

### **On Police Federalism**

Those for police federalism call for the establishment of state police in Nigeria. In the main, protagonists of police federalism hinge their argument on functionality. Accordingly, they posit that Nigeria and her people will be better off, security wise - particularly against the activities of *Boko Haram* insurgency, kidnapping menace, and so on - if state police structures are created and properly positioned to operate alongside the federal police. Just as the state and federal judiciaries exist side by side, they argue that both federal and state police institutions can, and indeed do need to exist side by side in a co-ordinate manner.

A little above a decade ago, at the 2006 conference on politics and governance organized by the Nigerian Political Science Association, Southeast Chapter we called for a complete overhaul of policing in Nigeria. Titled "Federal Policing or Police Federalism: A Discourse on the Challenges of Post Colonial State, Politics of Law Enforcement and the Future of Nigerian Federalism" the paper also advocated for police federalism and the establishment of state police in Nigeria. Recent security challenges in different parts of the country, particularly since 2010 to date, appear to have helped to bring to the front burner the issue of police federalism in Nigeria. It is largely debated on the basis of whether or not there should be state police in Nigeria.

Chibuike Amechi, Governor of Rivers State, 2007 – 2015, especially as the Chairman of the Nigeria Governor's Forum, is among those who have in the not too distant past openly advocated for police federalism (*The Guardian*, 05 August 2012). Then, he was clearly at the forefront of constitutional amendment to allow states that wish to, to have their own police. Many members of the then Action Congress of Nigeria, ACN, and indeed the party itself have also had cause to clamour for state police (*Businessday*, 07 August 2012). Notable non-partisan advocates of state police include John Amoda, emeritus professor of political science and Alfred A. Martins, the Catholic

Archbishop of Lagos (*Tell news magazine*, 06 August 2012). Underlining the need to curb impunity among the political class and for governments at various levels to be more proactive, Martin (2012: 48) points to the fact that:

The states are also there; the chief executives of the states are also supposed to be the chief security officers of their states. I think we have reached a point in our nation where we should begin to reconcile with our situation in the past as far back as possible, and see where we were before all this issues began at a certain point in time, each level of government had its responsibility well laid out, such that the states had their own areas of responsibility that impacted directly on the people.

On the vexed issue of police federalism: the need for state police in Nigeria as well as the need to check possible shortcomings and abuses, the revered cleric said:

I'm talking about what is referred to as state police now. There is no doubt that the police at the regional level at that time were also abused and nobody wants those abuses to repeat themselves, but I think if we begin to talk much more seriously about the possibility of allowing state police to be established now, we also need to talk about the short comings of state police as we had had it then. If we remove the short comings we might be able to have a police that would serve our purpose better (Martin in *Tell news magazine*, 06 August, 2012: 48).

On the way forward, Alfred A. Martins, the Catholic Archbishop of Lagos, did not mince words. As he points out, what is required is that, we as Nigerians, need to “. . . trace our steps backwards. Before all of these issues started, where were we then? - in terms of the political structure, security structure, controls of governments at different levels of the resources that they had. I think all of these needs to be done before we can really move forward”. Let us now examine some critical issues that relate to effective policing.

### **Critical Challenges in Police Federalism**

There is no doubt that the idea and practice of police work in Nigeria throws up a number of options and challenges. Given the specific character of the Nigerian situation, these challenges are broadly concerned with appropriate structures and processes necessary for effective police and policing. In specific terms, they are focus on three critical issues, namely: accountability, level of control and extent of use of force. The three critical issues identified above bother on the challenges of appropriate

structures and processes necessary for effective police and policing in Nigeria. They are highlighted and discussed in greater detail below.

**On Accountability** The first issue of concern in effective policing 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 custodies*, 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 Western Europe, shows that attempt at ensuring accountability by tackling challenges thereof, has in part led to either a heavily "regulated police" or "more than one police" 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 in McLean and McMillan, 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 United States. With this option, it is possible to segment United States police both territorially and along with crimes dealt with. Thus, while serving as the sole police for the whole of United States, the Federal Bureau of Investigation, FBI "deals with crimes of inter-state nature or those beyond the capacity of more local forces; necessarily, its job must be 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 and effectiveness. Let us now look at level of control as a necessary tool for effective police and policing in Nigeria.

**On the Level of Control** The second challenge is the 'level of control'. Here, the main issue is what level of government should appropriately control the activities of the police force. In the United Kingdom for instance, the vogue Robertson (1993:278) 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".

There could be danger in this. Possible danger may 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.

***Extent of the Use of Force*** The third contentious issue confronting the idea and practice of effective police 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 force? Generally speaking, in the United Kingdom, the police are unarmed, although new challenges are forcing the United Kingdom police to experiment with new technique.

In contrast, however, the police in countries such as USA, France, and Nigeria allow their police to be armed, sometimes to the level of paramilitary force. In Nigeria in particular, the quest to use the police as instrument of coercion 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 the fight against contemporary criminality, it is a different ball game.

### **On the Origin and Evolution**

Although law enforcement in Nigeria dates back to the pre-colonial era, today's police 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 later partitioned to Britain when about half a dozen competing European powers gathered in Berlin 1884-5 to share out African territories and her inhabitants among themselves. Following this, it was also necessary for the British imperial authority to create and maintain outfits to enable her sustain a coercive and hegemonic hold on Nigeria.

The police in Nigeria came into being on two accounts. On this Jemibewon (2001) points out that the primary reason for the establishment of "an organized body of men called the police 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". From a somewhat maritime police to make the Atlantic Ocean safe for the British authority, a civil police came into being through the police ordinance of 1895. The establishment of police force thus dates back to 1861 when the British government, after so much pressure by Macosky, then acting governor, finally gave approval for its establishment. It was, however, police ordinance 10 of 1895 that fully established the civil police force in Nigeria.

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 'indirect rule'. The import of the foregoing statements 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 go-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 Nigeria Police Force. In particular, section 214 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* [emphasis mine]. The clear implication of this provision is that presently there is one and only one sole police for all the levels of government in contemporary Nigeria.

### **Statutory Provisions, Structure and Functions**

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 of Police 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 17 ranks and levels throughout the country. While the headquarters and the zonal (regional) centres are manned by the most senior officers notably Assistant Inspectors-General and Deputy Inspectors-General; the state is manned by a Commissioner of Police. Below this, we also find Area, Divisional, Station and Post levels in that order.

The chief functions 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 breakers 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, violent crimes, suicide bombing, assassinations, kidnapping, inter-group conflicts, ethno-religious insurgences, robbery, electoral offences, etc are statutorily for the police. As can be seen, there is strictly speaking nothing ‘federal’ about these tasks. As a matter of fact, common sense indicates, indeed dictates that they are largely assignments which localized or decentralized outfits are better fitted to handle effectively. Before we explore what needs to be done,

it is important that we examine the interface between police behaviour and the Nigerian society.

### **The Police and the Nigerian Society**

The quality of security in a society is by and large related to the quality of internal security operatives in such society. The police in Nigeria have come a long way. There is no doubt that Nigerians are continually concerned about the operations and behaviour of their police. In his incisive cover story titled “Nigeria: The Burden of Insecurity”, for instance, Johnson (2004) argues that Nigeria is reeling under “a labyrinth insecurity”. Other notable Nigerians have also aired their views on the interface between the Police and the Nigerian society. They include Chris Omeben, a former Deputy Inspector-General of Police and Pat Utomi, a professor at the Lagos Business School. In the main, it is possible to identify a number of issues and challenges confronting the police in Nigeria.

The factors that affect the police operations within the context of the Nigerian society include, though not limited to: Widespread disenchantment of the people from the performance of many governments in the federation. This has often given rise to general disillusionment within the polity; Incessant communal: intra and inter conflicts; Bloody attacks and easy assassinations with unending investigation; Armed breakers and armed robbery; Kidnapping for ransom; Protests against perceived injustice; Cultism and gang warfare; Influx of sophisticated arms; Inadequate police fighting power; Militarization of many communities; High place complicity in criminality; Slow police response to crimes and criminality; Lack of investigative support to victims; Politically motivated killings; The police is ill-funded; The police is ill-equipped; The police is poorly motivated; Undue recognition for dubious riches; Widespread corruption and injustice; Crises of value and deterioration of Nigerian value system; Celebration of corruption; Politics of winner takes all; etc.

The foregoing has consequences and far reaching implications for the country. For example, it discourages investment including decline in domestic and foreign domestic tourism. It is possible to also identify the remedies to the above factors confronting police operation in Nigeria. Alongside the views articulated by Omeben, Utomi and Johnson (in Johnson, 2004) the considered remedial measures include, though not limited to: Increased respect for work; Societal reformation; Complete re-orientation of the police; Provision of logistics to police; Provision of training to police; Compulsory military training for all Nigerians during National Youth Service Corp; Shared responsibility on security; Vital information sharing; Effective use of ICT; Security education, etc.

In this paper, the pre-occupation so far has been on the exploration and appraisal of the policing within the context of Nigeria. It is also necessary to address the issue of



what needs to be done to actualize or make the quest for state police in Nigeria a reality.

### **What is to be Done?**

As identified and argued in an earlier work, there is need to completely overhaul the task of policing in Nigeria. This will necessarily involve programmes in human development, sustainable re-equipment, social repositioning and administrative restructuring. Against the backdrop of the central focus of the discourse, it is only appropriate to dwell here on administrative restructuring.

There is urgent need to initiate and complete holistic restructuring of the task of policing within the context of the Nigerian federation. In doing this, some points must be borne in mind. The points are identified and discussed below.

- The present structure where the police is the sole police for the whole federation is simply defective, a carryover from colonial notion of governance for the colonized. It is now counterproductive and must be discarded.
- There should be a federal police better styled National Guard with substantial presence in each of the six geopolitical zones. The federal police should also have offices or bases in each of the state capitals. Whatever happens, the emphasis of National Guard's job frame should be on federal laws while the administrative layout should take advantage of federal constituencies in the federation.
- Every state should be assisted to raise its own police service with the powers to enforce state laws.
- The federal police, better still National Guard, should work hand-in-hand with the federal judicial system while the state police work hand-in-hand with state judiciary. This necessarily involves the strengthening of various levels of the judicial arm.
- It is important that officers and men of both federal and state police are given training by same police colleges styled National Police Training Colleges.
- The two levels of police can collaborate in matters relating to criminal law, counter terrorism, etc; such that cases can be transferred from one level to the other depending on the nature and extent of law infringement.

The main trend in our argument or thesis in this paper is that Nigeria is characteristically a post-colonial state, whose law enforcement structures and processes – particularly the police – are still dominated by colonial statutes, ethos and imperatives. To make policing effective, or police function better, there is need to completely overhaul various aspects of policing in Nigeria particularly the inherited

structural framework. Part of the overhaul must necessarily entail substantial decentralization and constitutional empowerment of the states of the federation to create police as to ensure effective enforcement of laws and order in the respective states.

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 policing effective in Nigeria, it is time to discard sole or mono federal policing. Let us embrace police federalism. It is the most viable option available in the quest for Nigeria's political development. This necessarily entails embracing police federalism, which is federal system of policing such that each constituent unit is empowered to establish and manage their own police.

**Appreciation:** This "Thoughts and Perspectives on Police Federalism: Case for State Police in Nigeria" benefitted substantially from three earlier studies titled "Epilogue on State Police in Nigeria" chapter nine in Biereenu-Nnabugwu, M. (2012) *Between Machiavelli and Nigeria*. Enugu: Abic Books; "Federal Policing or Police Federalism: A Discourse on the Challenges of Post-Colonial State, Politics of Law Enforcement and the Future of Nigerian Federalism" A paper presented at 2006 Zonal Conference on *Politics and Governance in the Southeast Today* organized by The Nigerian Political Science Association held at Nnamdi Azikiwe University, Awka, November 22-24, and "Policing, Law Enforcement and the Future of Nigerian Federalism: An Analysis in Precepts and Practices" in Onu G, Umezuruike C, Biereenu-Nnabugwu, M. and OBC Nwankwo (2009) *Issues in Politics and Governance in Nigeria*. Enugu; NPSA-Southeast / Quintagon Publishers

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