

The law and the agitation for state police in Nigeria: Any point of convergence?

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Abstract

Introduction to the Problem: Every major security breach or threat to lives and property in any federating state of Nigeria renews the agitation for the creation of state police in Nigeria. The unitary command of the Nigeria Police Force (NPF) in a constitutional federalism such as Nigeria can at best be an aberration given the expansive unpoliced spaces within the country with their unavoidable security consequences.

Purpose/Study Objectives: This paper makes a constructive appraisal of the policing challenges in Nigeria, identifying the centralised command of the NPF as a major obstacle to effective policing in Nigeria.

Design/Methodology/Approach: Adopting the doctrinal research methodology, the paper evaluates the current policing structure and its effectiveness.

Findings: The paper finds that there is a need to unbundle the NPF, justifying the desirability for the establishment of autonomous state police as an ingredient of true federalism. It recommends the amendment of Sections 214 and 215(4) of the Constitution of the Federal Republic of Nigeria 1999 (CFRN) to align with the provisions of Section 176 of the CFRN and subsisting case-law authorities.

Paper Type: Research Article

Keyword: State Police; Federalism; Security; Constitution; Policing



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Introduction

Every state is an organised society. The human society has evolved with its unique norms and values which have developed into codes of conducts and behaviours prohibiting certain actions and inactions. These codes of conducts have been enacted as positive laws in modern societies. The state ensures effective compliance with law

and order by efficient policing arrangement and a virile criminal justice system ([Ikechukwu & Ozioma, 2021](#)). Policing is the state's constitutional prerogative response to deviant behaviours or crimes. The efficiency and effectiveness of the policing system in the administration of criminal justice underpins the status and performance of the justice system in a given state ([Akinsulore, 2020](#)). According to [Dambazzau \(2007\)](#), 'the police are the biggest, most visible important sub-system of the criminal justice system'. The police provide entry point into the criminal justice system either through crime reports from the public or its own discovery. [Onwudiwe \(2024\)](#) conceives that ineffective policing architecture has made it difficult for citizens to breathe and live peacefully in their in their respective states.

Policing duties, however, must be identified within the well-defined structure of a modern state. The Nigerian political structure is federal in constitution ([Taiwo & Orifowomo, 2020](#); CFRN, 1999). Federalism as conceived by [Wheare \(1963\)](#) is a political or governmental arrangement which emphasises clear and explicit division of powers and functions between a central government and some decentralised constituent governments in such a manner that no government can encroach on the powers and functions of the others. Federalism denotes the decentralisation or dispersal of political power by contract as a means of safeguarding local identities and individual liberties ([Ata-Agboni et al, 2023](#)). The foregoing meaning of federalism appears to have been widely misconstrued as the capacity of federal government to dominate every aspect of civil and political lives of citizens by legitimate force as evidenced in the regular restructuring of the institutions and huge concentration and deployment of force by federal government agencies in Nigeria ([Amah, 2017](#)). Wheare's concept of federalism, in its particularities, is widely practised in countries like the United States of America (US) and Ethiopia where the police architecture is decentralised ([Obidimma & Obidimma, 2015](#)). It therefore stands to reason that Nigeria's federalism is not absolute as the case of Ghana and Japan because of its negation of policing autonomy which should ordinarily accrue to the federating units of the federation. In contrast with ideal federalism ([Ata-Agboni et al, 2023](#)) such as exists in the US, Canada and Switzerland where states are semi-autonomous, Nigeria's federalism shows more of the features of unitarism.

The contemporary Nigerian system provides for a centralised police command from the Inspector-General of Police who is at the helm of affairs to the constable attached to the Divisional Police Offices at the Local Government levels ([Ejiofor, 2012](#)). Previous Nigerian constitutions (1960 and 1963) ([Alemika, 1993](#)) had allowed for a federal structure in which the native authority (NA) police system co-existed with the national police ([Awhefeada & Esavwede, 2022](#)). The incursion of the military into Nigerian politics with attendant military-type unified command abolished the gains of federalism recorded with the 1960 and 1963 Constitutions.

It is the basic responsibility of every government in all societies to guarantee security of lives and property of its citizenry (Police Act, 2020). Police powers, like all basic

powers of the government in democratic societies, are expressly enshrined in the Constitution. The powers should also be exercised legitimately by observing all constitutional safeguards such as human rights. *Madubuike-Ekwe and Obayemi (2019)* contend that promotion and protection of human rights is at the very core of policing which is the reason for statehood and modern government. It is the fundamental right of Nigerians to live their lives in safety and own their property without fear of danger (*Ehirim et al, 2024*). In the light of the foregoing, the current insecurity ravaging Nigeria according to *Olasupo (2020)* and *Ndujihe (2021)* has questioned the government's capacity to deliver on national security. The development challenges the logicity of the CFRN (1999) in making policing the exclusive affairs of the federal government (*Eze, 2020*). The overwhelming insecurity in Nigeria has made the renewed clamour for the creation of state police, to cater for the peculiar needs of the federating units, a worthwhile project despite doubts from some quarters stressing the fact that the concept of state police is incapable of accommodation under Nigerian laws.

Having stated the law and the critical function of policing in a constitutional democracy like Nigeria, it is obvious that the constitutional policing arrangement alone cannot deliver security of lives and property of citizens in Nigeria, without more. The federal structure of Nigeria confers powers on the governors of the constituent states as chief security officers of their various states which is irreconcilable with the centralised structure of the NPF. This paper aims to address two key objectives within the context of Nigeria's policing framework. First, it seeks to critically examine the challenges faced by law enforcement in Nigeria, analysing them through the lens of existing statutory provisions to uncover the gaps and limitations within the current system. Second, it explores the statutory and political justifications for the restructuring of the Nigerian Police Force (NPF), focusing on how unbundling the force could lead to more effective and efficient policing strategies tailored to Nigeria's unique needs and circumstances.

Previous works on police powers in Nigeria show the helplessness of advocates of state police in the face of statutory brick walls (*Aluko, 2019; Ogunlesi, 2019*). This is understandable because the police force is a creation of statute and any discussion bothering on police functions and administrations should necessarily begin with evaluation of the enabling statute. It becomes more challenging when the enabling statute is the constitution with a rigorous amendment procedure. The reality of unabated security breaches confronting Nigeria demand a second look at the laws which has solidified the centralised police structure in Nigeria despite the federal political structure. There is therefore a gap in the interpretation of the constitution which has tailored previous literature on the subject matter (*Akinsulore, 2020*). The need for the constitution to be given a liberal interpretation to reflect the true federal configuration of Nigeria has become exigent. This paper posits that the recognition of state governors as chief security officers of their various states by the CFRN resonates



with proper federalism requiring reconciliation between the powers of the state government and central command structure of the NPF.

In order to achieve the foregoing objectives, the paper is structured under three broad sections, excluding the abstract. The foregoing introduction, inclusive of the methodology, serves as section one, laying a contextual foundation for this paper. Section two dwells on the result and discussion of the paper. The section has ten sub-heads as follows: the evolution of the NPF, the structure and control of the Police under the CFRN (1999), the statutory duties of the NPF, the challenges of effective policing in Nigeria, the need for creation of state police (the crux of the discourse), the argument for and against the creation of state police in Nigeria, state police in select countries with federal political structure such as the US, Canada, India, Pakistan and Ethiopia; and recommendations. The third section is conclusion which explains the possible application of suggestions and findings in the paper. In this paper, state may be used interchangeably with federating unit.

Methodology

The doctrinal research methodology is adopted in this research to appraise extant laws, articles, books, law reports, policy statements and other documents relevant to the subject – matter. Both peer – reviewed and grey literature were consulted. Based on the literature analysis and the workings and philosophy of the Nigeria’s security institutions and the realities of the failure of the policing architecture in Nigeria, we recommend critical and pragmatic steps for better policing of the federation of Nigeria.

Result And Discussion

Evolution of the Nigeria Police

The indigenous communities in the present-day Nigeria had their unique, independent policing machineries for maintenance of law and order prior to the advent of the British. Most of these pre-colonial police outfits were in pits and pockets under the control of the local chiefs ([Mpamugo, 2009](#)) until organised policing in its contemporary sense was created by the British Colonial Government ([Tangban & Audu, 2020](#)). In 1861, the British annexed Lagos as a Crown Colony and thus arose the need to protect the lives and property and other interests of the colonial British ([Tangban & Audu, 2020](#)). [Adedeji \(2012\)](#) argues that the development prompted William McCaskrey to establish a thirty-man constabulary which became the foundation of the present-day Nigeria Police ([Madaki, 2012](#)). [Onyeozili et al, \(2021\)](#) on their part, argue that the Police Ordinance No. 10 of 1895 was enacted to establish a civil police force called ‘The Lagos Police’ as distinct from McCaskrey’s constabulary. By a further Police Ordinance No. 14 of 1897, the Lagos Police Force became an armed force whose mandate included the preservation of order and detection of crime, the repression of internal disturbances, the defence of the Colony and protection against aggression ([Obidimma & Obidimma, 2015](#)). The Lagos Police Force was the most

prominent of all security outfits of Colonial Nigeria ([Adedeji, 2012](#); [Rotimi, 2011](#)). The amalgamation of the Southern and Northern Protectorates of Nigeria in 1914 informed the translation of all the 'police' forces in Nigeria on 1st April 1930 (Nigeria Police Force Ordinance, 1930) into a force known as the 'the Nigeria Police' unified under the command of an Inspector-General whose office was at the Force Headquarters in Lagos ([Odinkalu, 2005](#)). Thus emerged the modern Nigeria Police which has continued to grow in strength and coverage, firmly collaborating with Native Authority Police which was under the control of the Native or Local Government Administration (Local Government Police Law, 1959; [Obidimma & Obidimma, 2015](#)). The Independence and Republican Constitutions of Nigeria further enhanced the stature of the Nigeria Police. Section 98 of the 1960 Constitution of Nigeria prohibits the establishment of alternative police force for Nigeria or any part thereof. Consequently, the Nigeria police under the 1963 Republican Constitution had regional trainings with civilian orientation though the regions were outlawed from forming regional police. The regional strength of Nigeria Police collapsed at the advent of the Military Government led by General Aguiyi Ironsi which fortified the centralised command of the Nigeria Police and set the template for the abolition of the native or local police forces ([Tangban & Audu, 2020](#)). The unitary structure and organisation of the Nigeria Police was retained by the 1979 and 1999 Constitutions of the Federal Republic of Nigeria. The command of the Nigeria Police is generally vested in the Inspector-General of Police ([Ikechukwu & Ozioma, 2021](#)). The CFRN (1999) states that, "the Nigeria Police Force (NPF) shall be under the command of the Inspector-General of Police and any contingents of the Nigeria Police Force stationed in a state shall subject to the authority of the Inspector-General of Police, be under the command of the Commissioner of Police of that state" (Police Act [PA], 2020).

The structure and Control of the Nigeria Police Force (NPF) under the CFRN

The CFRN (1999) establishes a police force for Nigeria to be known as the Nigeria Police Force. The NPF has a centralised command and does not countenance any police force for the federating units (PA, 2020). Obviously, the organisational structure of the NPF is designed to deal with the policing needs of the geographical units of Nigeria under a centripetal supervisory formation. The command structure of the NPF shows the IGP at the top of the pyramid with constables at the base ([Ofekezze, 2023](#)). The organisational or operational formation of the NPF shows the force headquarters at the Federal Capital Territory, Abuja, the Zonal Headquarters at the zones which are created for administrative needs to oversee state commands ([Nwezeh, 2021](#)). There is the State Command Headquarters at every state headquarters in Nigeria, the Divisional Police Headquarters at the Local Government level, the Police Stations and the Police Posts at the community levels ([Ofekezze, 2023](#); [Ikechukwu & Ozioma, 2021](#)). The CFRN (1999) lists police 'matters' in the Exclusive Legislative List thereby divesting federating units of any powers to create or control a police force ([Aina, 2014](#)). This implicates that the NPF is a federal government agency upon which no state governments can confer functions or impose duties

except as expressly provided for by the CFRN ([Obidimma & Obidimma, 2015](#)). *Ayua and Dakas* ([2005](#)) posit that the peculiar pattern of federalism obtainable in Nigeria prevents the exercise of legal control on federal agencies such as the NPF by any other governments, particularly the states. It is yet to be seen how the NPF may carry out orders or effectively enforce laws by a government from which it takes no orders and which has no modicum of control over it.

The President has exclusive powers to appoint the Inspector-General of Police in consultation with the Nigeria Police Council (CFRN, 1999). Whereas the Police Service Commission is empowered to appoint commissioners of police for the federating units, there is no statutory provision for such appointments to be made in consultation with State Governors (CFRN, 1999). In the same vein, the CFRN (1999) permits the State Governors to give directions to the state commissioners of police without any absolute obligation on such state commissioners of police to abide by the directions. Perhaps the most worrisome aspect of the control of the NPF at the state level is the ouster clause in the CFRN (1999, 215) which provides that, 'the question whether any, and if so, what directions have been given under this section shall not be inquired into in any court.'

Consequently, there seems to be a penchant for successive Inspectors-General of Police and State Commissioners of Police to execute diverse orders of the federal government and the ruling party big-wigs even against the security interests of state governments. The development has characteristically positioned the NPF as the federal government police rather than the Nigeria Police which it was conceived to be. Abati (2010) describes this constitutional provision as an invite to absolutism, imperialism, reminiscent of the totalitarianism of the ancient military order.

Statutory Duties of the NPF

The NPF is a creation of statute. It has its duties and powers spelt out by law. The Police Force (Establishment) Act 2020 (PA) is the principal law which regulates police affairs in Nigeria. Section 4 of the PA outlines duties or responsibilities of the NPF as follows:

1. Prevent and detect crimes and protect the rights and freedom of every person in Nigeria as provided in the CFRN (1999), the African Charter on Human and People's Rights (1981) and any other law;
2. Maintain public safety, law and order;
3. Protect the lives and property of all persons in Nigeria;
4. Enforce all laws and regulations without any prejudice to the enabling Acts of other security agencies;
5. Discharge such duties within and outside Nigeria as may be required of it under this Act or any other law;

6. Collaborate with other agencies to take any necessary action and provide the required assistance to support persons in distress, including victims of road accidents, fire disasters, earthquakes and floods;
7. Facilitate the free passage and movement on highways, roads and streets open to the public;
8. Adopt community partnership in the discharge of its responsibilities under this Act or under any other law; and
9. Vet and approve the registration of private detective schools and private investigative outfits ([Ofekeze, 2023](#)).

Greene (2010) conceives policing as law in action as opposed to black letter law as printed. It is legal realism giving life to the laws that are at once substantive, procedural and restorative, concerned with legality but also with due process and doing justice. To this end, Police functions may be compartmentalised into five broad headings to include: dramatising state power; legitimising state power; maintaining order; controlling crime and labelling criminality ([Ikechukwu & Ozioma, 2021](#)). The dramatisation of state power may be symbolic or real. The police officers' uniform, badge and weapons are symbols of state power demonstrating that aspect of state power delegated to the police. *Ikechukwu and Ozioma (2021)* put it more graphically in the following statement:

“When we allow ourselves to be directed in traffic by someone wearing police uniform or allow a stranger into our home because we are shown a police badge, we experience firsthand the real power of the state to command our lives. When we read or hear about someone who is being arrested by the police or perhaps injured or killed by the police in the process of arrest, we are presented with the very real and extraordinary power – including the exclusive right to use deadly force – delegated to the police by the political state.”

Obviously, as *Klockars and Mastrofski (1991)* concede, the police institution or officers have been given broad authority by the state to use coercive force within the state's municipality.

The ubiquitous role and nature of police functions make the police the natural first point of contact for citizens on issues of law enforcement ([Awhefeada & Esavwede, 2022](#)). There is scarcely any society where crime and criminality has been completely prevented or eradicated ([Anderson, 1979](#)). However, it is the ability of the police to contain the eventualities that defines its effectiveness ([Skogan, 1976](#)) and underlines the government's commitment to national security. The duties, functions and powers given to the police by law in the criminal justice system makes the police institution indispensable in any modern society, including Nigeria ([Akinsulore, 2020](#)).

Challenges to Effective Policing in Nigeria

The inability of the NPF to creditably discharge its statutory mandate is weighed on the challenges inherent in the institution, command structure and political will. [Ofekeze \(2023\)](#) identifies nine major obstacles to effective and efficient policing in

Nigeria. One of the major obstacles to effective policing in Nigeria is centralisation of the NPF in one command. With a land mass of 923.768 square kilometers and about 270 ethnic nationalities grouped into thirty-six states and six-geopolitical zones, a centralised police command may just confront crimes and criminality peripherally. Apart from organised crimes, most crimes are localised. A centralised NPF by its administrative organogram least considers the geography, culture and crime history of a police formation and its host-community before posting personnel to such formations. *Obidimma and Obidimma* (2015) conceive as 'incongruous' the posting of a police officer to a strange environment for example, natives and indigenes of Bayelsa State posted for police duties in Borno State. The cultural and language barriers which such personnel encounter leave them at the mercy of the criminals and impacts negatively on their maximum career output (*Bakare, 2021*).

Abdullahi (2019) suggests that poor funding is a major hindrance to policing in Nigeria. The perennial excuses of lack of funds to satisfy financial needs of the police institution or to upgrade NPF's operational capacities in line with best standards has become rather too familiar. NPF is unable to track the ever-evolving criminal enterprises with its obsolete equipment and analogue crime fighting techniques. Technologically-driven crime fighting equipment come at great cost which is most often not accommodated within the police meagre budgetary allocations. *Nnaji and Ojiego* (2019) argue that the 'lack of funds' mantra which has been deployed as a shield in defence of police inefficiency in Nigeria is a product of pervasive and systemic corruption. According to the authors, mismanagement and outright misappropriation of budgetary allocations which lends credence to massive corruption in the system gave rise to the semblance of poor funding of the NPF (*Nnaji & Ojiego, 2019*).

The truth is that NPF is not insulated from the endemic corruption that defines the modern Nigeria, particularly with hard evidence of the police personnel and decorated generals being indicted, sacked and convicted for high profile sleaze or indiscipline at various times (*Tafa Balogun v Federal Republic of Nigeria, 2021*). The NPF is a foremost corrupt agency of government in Nigeria (*Lenbang, 2019*). The agency is known for demanding and accepting bribes, aiding and abetting crimes, unauthorised disclosure of security information, indiscriminate and illegal arrests of citizens (*Awhefeada & Esavwede, 2022*), brutality and extortion of citizens and deliberate violation of human rights (*Ozulumba, 2021; Human Rights Watch, 2021*). Consequently, corruption is at the root of the NPF's recruitment with attendant promotion racketeering which has produced 'marginally' educated personnel for the institution and impacted negatively on its general service delivery capacity (*Ogunyemi, 2020*). Corruption permeates administrative decisions of the NPF resulting in nepotism. Primordial sentiments influence postings and promotions so much so that incompetent and unintelligent persons are recruited, promoted and posted to lead more qualified persons because of their ethno-religious affiliation with either the police high command or the presidency. The development has greatly

demoralised the NPF personnel leading to poor initiatives from such victims of nepotism with attendant poor public perception.

Under-policing has also been identified as an obstacle to efficient policing in Nigeria. With less than four hundred thousand (400,000) police personnel providing security for a population of about two hundred and twenty million (220,000,000), Nigeria is grossly under-policed ([Okemuyiwa, 2012](#)). The situation is exacerbated by the deployment of retinue of police personnel as security details to politicians which results in undue pressure on the depleted manpower. The corrupt nature of police recruitments and postings within the NPF exclude the most qualified and excellent officers resulting in concentration of police personnel in some areas against the backdrop of unpoliced spaces in Nigeria.

Furthermore, political interference in the affairs, command and control of the NPF poses great obstacles to policing efficiency in Nigeria ([Ojo, 2019](#)). With the President as the chairman of the Nigeria Police Council (CFRN, 1999) clothed with executive powers to hire and fire the Inspector-General of Police, the NPF cannot afford to be non-partisan. It is on record that successive administrations have converted the NPF to federal government Police Force which is administered singlehandedly by the President ([THIS DAY, 2020](#)). This development is worrisome in the light of judicial decisions insulating the NPF from partisanship. In *Mimiko v Agagu* ([2010](#)), the Court of Appeal descended heavily on security agencies for openly supporting the candidate of the ruling party in a general election. On the necessity for the NPF and the State Security Services (SSS) to maintain neutrality in the performance of their duties, the court held that:

“... public policy demands that the two institutions do not descend into the arena, and theirs is to tend the rope in the interest of peace and stability in the land, thus, they should learn to remain neutral and strive to attain the aura of neutrality bestowed on them by the Constitution of the Federal Republic of Nigeria.”

Similarly, the Apex Court advised the NPF to demonstrate neutrality at all times in the discharge of its statutory duties. In *Attorney-General of the Federation v Alhaji Atiku Abubakar* ([2007](#)), Aderemi, JSC stated the law rightly in the following words:

“The primary duty, indeed the most fundamental duty of the Nigeria Police Force is the maintenance and securing of public safety and public order within the country. In the performance of its duty, the Nigeria Police Force must manifestly demonstrate impartiality, it must not lean to one side against the other, it must be apolitical. It must not take part in any disputation which has political colouration. These qualities are *sine qua non* to the enhancement of public respectability to it ([Attorney-General of the Federation v Alhaji Atiku Abubakar, 2007](#)).”

In addition, low public confidence in the NPF affects its efficient service delivery. Most citizens have unpleasant experiences in their different encounters with the NPF ([Ehirim et al, 2024](#)). The civil populace views the NPF from the prism of incompetency, inefficiency and corruption ([Ofekeze, 2023](#)). There is widespread

caution in reporting suspicious activities to the NPF as there exists a high suspicion of involvement or connivance of the NPF in most crimes. The lack of synergy resulting from the lack of public confidence in the NPF has made intelligence gathering a daunting reality to the detriment of effective policing in Nigeria (Nwozor, 2013).

The identified obstacles to efficient policing have led to the near collapse of the policing architecture in Nigeria with consequent emergence of militancy in the South-South, mindless kidnappings and killings in the South-East, organised armed robbery and internet fraud in the South-West, Boko Haram Islamic terror and killer Fulani herdsmen resurgence in the North. Insecurity has hit an all-time high in Nigeria. The strategy accustomed to the Nigerian State to tackle insecurity consists of and is anchored on the deployment of superior power to contain what the state identifies as security threat which is often inseparable from the interest of the ruling class (Guichaoua, 2007). The NPF having been overwhelmed, the citizens turn to private security outfits and vigilante groups. Self-help propelled by self-preservation becomes rife as governors look helpless even in dire face of danger in their domains. The development has exacerbated the rather fragile security situation in Nigeria resulting in the clarion call for unbundling of the NPF structure and creation of state police. Oyetunji (2012) gave a picturesque account of the prevailing situation in Nigeria which has not abated till date in the following words:

“Today there is fear everywhere, churches are being burnt, mosques are being attacked, United Nations building bombed, motor parks are being bombed, people cannot go to motor parks again to travel for fear of being attacked; security installations such as police stations, prisons are being burnt down and inmates released at will, nobody knows the next target of attack.”

The Need for Creation of State Police

The concept of state policing, like other legal concepts lacks precise definition. Agwamwo (2014) defined state police as ‘policing in federal system in which the federating units employ police officers for the purpose of policing their various states.’ This definition tends to imply that state police does not exist except within a federal system of government which is not always the case. Bringing the Nigeria Police structure to bear, Egunjobi (2016) considers that ‘state police is a kind of sub-national police formation which is established, organised, maintained and under the direct control and jurisdiction of a federating unit (sub-national unit) government.’ According to Tangban and Audu (2020), Egunjobi’s definition of state police from the Nigerian prism, failed to consider the fact that in some countries where state police is practised, such as the US and Canada, the counties and municipalities also have their own independent policing forces. The truth is that a broader definition of state police goes beyond the two divides of federal and federating units. Consequently, Aremu (2014) conceives state policing operationally as “when policing and all its operations and logistics are controlled by other governments other than the national or federal government.” Aremu’s definition is apt as it captures the very essence of state policing, that is, to serve a sub-division of the country such as state, local government, province

or any other smaller unit with emphasis on decentralisation of the policing architecture.

The importance of efficient policing and internal security of a country such as Nigeria cannot be over-emphasised. To this end, the need for creation of state police has become a major national discourse. There has been a meteoric rise in the general argument in support of state police by scholars and opinion leaders alike. In a policy statement, Yemi Osinbajo, former Vice President of Nigeria, makes a case for state police when he stated that:

“We cannot realistically police a country the size of Nigeria centrally from Abuja. State police and other community policing methods are clearly the way to go. The nature of our security challenges is complex and known. Securing Nigeria’s over 900,000sq km and its 180 million people requires far more men and material than we have at the moment ... it also requires a continuous reengineering of our security architecture and strategy ... for a country of our size to meet the ‘one policeman to 400 persons’ prescribed by the United Nations would require triple our current police force, far more funding of the police force and far more funding of our military and other security agencies.” (Ojiabor, 2018)

The foregoing statement has brought to the fore the following arguments in favour of state policing in a most concise form, that is,

1. The size of Nigeria is too large for a singular police outfit
2. The centralised police command at Abuja, the federating capital, has less efficiency in securing the federation. It contradicts the concept of a federalism as practised elsewhere ([Attorney-General of Ogun State v Attorney-General of the Federation, 1982](#); [Obidimma & Obidimma, 2015](#)).
3. State police and community policing are required to salvage Nigeria’s current security quagmire.
4. Nigeria’s land mass and population requires more police personnel and sophisticated weapons for effective policing ([Ofekeze, 2023](#); [Obidimma & Obidimma, 2015](#); [Kimani, 2009](#)).
5. A radical re-configuration of the current security arrangement is required.
6. More funding is required for effective policing of Nigeria.

The CFRN (1999) is the *grundnorm* in Nigeria. Section 5(1) of the CFRN (1999) vests executive powers of the federation in the President while that of the states are vested in the Governors. The CFRN (1999) makes Nigeria a federation. The idea of a federation aligns with the autonomy of the central government and governments of the federating units which implicates separate existence and independence from control of one government by the other. The autonomy of state government is the *desideratum* of true federalism, its foundation and bedrock ([Attorney-General of Ogun State v Attorney-General of the Federation, 1982](#)). However, under Nigeria’s federal arrangement, the federal government and the governments of the federating units have the powers to and do actually operate independent legislature, executive and judiciary (CFRN, 1999). A government is competent where and when it possesses the

capacity to make laws and enforce such laws for the benefit of its citizens. Law enforcement connotes the powers to detect and investigate crimes, apprehend offenders of the law for the purpose of prosecution and generally, police the governed territory for safety of lives and property. The powers of the federating units in Nigeria to enact laws within their competence and operate a competent judiciary has not been impugned and so, taken for granted. The CFRN (1999, s. 176) provides, “there shall be for each federating unit of the federation a Governor. The Governor of a state shall be the Chief Executive of that state.”

To be the chief executive of a state presupposes the powers to enforce laws made by the legislature or as interpreted by the judiciary in that state (CFRN, 1999). Section 193 of the CFRN (1999, s. 193) stipulates the duties of the State Governor to include determining the general direction of the policies of the government of the state. The policies of a state government include, but not limited to security of lives and property within the state by the enforcement of law and order. Sadly, this power granted to the State Governors is curtailed by Section 215(4). It is therefore an aberration for a chief executive to be divested of the most fundamental element of his office, that is, the power to enforce laws.

The power to enforce laws in the Nigerian federation is encapsulated in the police powers which state governors do not possess under the extant arrangement. The monopoly of policing powers by the NPF in Nigeria is unequivocal (CFRN, 1999 s. 214). By Section 215(4) a state police commissioner is not bound to obey the directives of the governor no matter how expedient. The express discretion of the police commissioner to refer the directives of the state governor to the President, most often for veto, leaves no doubt as to who the ultimate police chief in Nigeria is. Successive Presidents have exercised this privileged position to undermine the states for political vendetta in such a manner that *Ibirogbu (2013)* describes as pathetic and unfortunate. Thus, the centralisation of police powers, particularly the incapacitation of the governors to police their respective federating units has resulted in abuses that have questioned the sustenance of the current policing architecture. A few examples would suffice.

A typical instance of abuse of policing powers under the current dispensation in Nigeria is the murder trial of Teslim Folarin, Nigeria’s former senate majority leader in 2011. The police had arrested the suspect, a well-known politician and charged him with murder. He was remanded in custody pending the Lagos State Attorney-General’s legal advice. Following the directives from ‘Abuja’, the police prosecuting counsel withdrew the charges from court before the legal advice was proffered (*Tangban & Audu, 2020*). This development is a compliment to the inability of the police to unravel culprits in glaring cases of political assassinations (*Taiwo & Orifowomo, 2020*). In further abuse of monopolised police powers, *Dauda (2011)* narrates how the federal government under the control of the National Party of Nigeria (NPN) used police powers to destabilise the federating units controlled by the

opposition parties in the second republic. NPF was used by some politicians with federal might to kidnap and compel the governor of Anambra State to resign his office in July 2003 ([Kumolu, 2014](#)). The police played active roles in the illegal impeachment of other governors perceived to be 'enemies' of the President ([Kumolu, 2014](#)). Abati (2010) Chronicles the case of Rashidi Ladoja, the Governor of Oyo State whose security details were threatened and his impeachment masterminded by Chief Lamidi Adedibu, the self-styled commander of Oyo State Politics who had more influential access to the NPF. Also, Ayodele Fayose, the former Governor of Ekiti State had to flee his state despite his political power of incumbency when his police guards were recalled to Abuja and a strange contingent of policemen from Abuja arrived the State without notice to him ([Abati, 2010](#)).

Criticism of the centralised policing system in Nigeria is not a recent phenomenon. Chief Obafemi Awolowo had sometimes in 1958 protested against the police architecture in the country. He criticised the situation and practice where a regional government vested with power and authority to maintain law and order is bereft of the means of discharging its responsibilities ([Onyeozili, 2005](#)). Similarly, Jona Jang, a two-term governor of Plateau State described the responsibility and appellation of the Chief Security Officer of the State bestowed on him despite the fact that he was not in control of the state's security apparatus as 'unfortunate' ([Kehinde, 2013](#)). He opined that the premeditated attacks and mindless killings on the Plateau could have been nipped in the bud if he could act on security reports available to him with the swiftness 'required in the circumstances' ([Opara, 1999](#)). But the governor's control neither the police nor the military. To this end, [Nwabueze \(2000\)](#) rightly stated the law in the following words:

"In a situation of danger to public safety and public order in a state, liberty on the part of the Police Commissioner to comply or not to comply with the Governor's directions as he likes is incompatible with the autonomy of the state government and is a recipe for trouble and eventual collapse of the system."

The author had hitherto identified the root cause of the conflict between State Governors and their police commissioners which has persisted since 1979 Constitution postulating no end in view for as long as governors had no say in the appointment and removal of their state police commissioners ([Nwabueze, 1983](#)).

Another argument in support of the creation of state police is the inefficiency of the NPF excused on poor funding. Sunday Ehindero, in a press interview excused the poor performance of the NPF on inadequate funding. According to him, 'less than five percent of police stations have walkie-talkie sets while less than five percent of police stations have telephones. The take home pay of a sergeant is less than N10,000 per month. Yet the society expects the same police to perform wonders' ([Abati, 2010](#)). The truth is that the federal government is already over-burdened with responsibilities which weigh heavily on the scarce resources. Creation of state police would give governors good reasons to fund security in their individual domains. State

governors already have humongous funds tagged as 'security votes' which *Kumolu (2013)* describes as unconstitutionally appropriated by government at all levels for purposes of security. According to *Dada (2015)*, these security votes are sufficient to fund a state police. The Lagos State government had intervened with funding at some point in order to shore-up NPF's capacity to deliver stable policing in Lagos State. The state governor expended four billion naira to purchase 100 saloon cars, 55 pick-up vans, 10 land cruisers, 115 power bikes, 3 helicopters, 2 gun-boats, vehicular radio communication, bullet proof vests, siren and public address systems, handcuffs and sundry security kits (*Ekpu, 2016*). One wonders if the state would do less should the governor himself be in control of the state security apparatus and in position to oversee the security equipment so purchase for the NPF by the state. The case is the same with other states which had to commit funds 'unconstitutionally' to finance a force over which they have no control. The establishment of quasi-police outfits in different states of the federation with adequate funding by the states is a pointer to the fact that creation of state police would help the states to channel their security votes appropriately.

The arrival of non-state-actor groups with security objects and the condonation of their existence by residents in unpoliced spaces demonstrates the frustration of Nigerians with the monumental failures of the NPF. These groups (by whatever appellations) engage in informal policing and have on their own shown understanding of the local dynamics necessary for effective maintenance of law and order, without the governors having absolute control of the groups. Nwafor et al., (2018) conceive that the efficacy of such locally-inspired groups as the Oodua Peoples' Congress, Bakassi Boys, Egbesu Boys, Eastern Security Network, which sprang up in response to peculiar security challenges, lend credence to the fact that security is a local problem which can be adequately handled by those who understand the terrain, culture and language of the locals. The manner of posting of officers in the current NPF structure challenges efficiency. In order to reflect the federal and national outlook of the NPF, any officer may be posted to serve anywhere in Nigeria irrespective of language and cultural barriers. This has made intelligence gathering almost impossible (*White & Escobar, 2008*). The development has given postings in the NPF a tribal colouration to such extent that in crisis period, police commissioners have been alleged to indulge in special protection of particular tribes or sect to the detriment of the rest members of the state. Religious and ethnic violence become inevitable in the circumstances as certain sects or tribes become endangered species. With state police, the police commissioner is a native of the state, a situation that builds confidence of the people in the ability of the state to protect lives and property and to be fair to all.

Furthermore, it has been argued in favour of creation of state police that crimes are localised and so, effective policing should be a local function. Thus, contemporary political parties in Nigeria, including the ruling All Peoples' Congress (APC), have included the creation of state police in their manifesto but none has shown capacity

to accomplish the promise ([Alechenu, 2021](#)). Yemi Osinbajo reiterated the position of the ruling party when he stated that:

“We have argued repeatedly, and we believe it is the position of our party, that you cannot police a country of this size, with a police command that functions out of Abuja. It is just impossible, we must have a state police, community police. The reason why it is so obvious is that policing is always a local function.” ([Ojiabor, 2018](#))

Arguments in Opposition to State Police

The main opposition to state police is anchored on the high probability of its abuse by the governors of the federating units ([Obidimma & Obidimma, 2015](#)). Proponents of this argument conceive that some power-drunk politicians may deploy the local police under their control to settle political scores. As probable as this proposition might be, experience has shown that the NPF as presently constituted has been worse abused by vindictive presidents. The truth is that the President’s fear that governors would stand up to them at critical times when such governors are required to submit to the president’s whims and caprices. However, with hindsight, it has been of great concern that the abuse to which native police was subjected may repeat itself if states were allowed to have independent police commands without constitutional safeguards. [Nwabueze \(1992\)](#) noted that the local police forces became a symbol of absolute power used recklessly for selfish gains, like local army of the parties in power. The arbitrariness with which Gbenga Daniel, the Governor of Ogun State, shut the state House of Assembly over a disagreement without being in perfect control of the police points to what would have happened if he were in possession of full police powers in the state ([Egunjobi, 2016](#); [Taiwo & Orifowomo, 2020](#)). Again, state governors have shown in the way and manner they dominate the local government administration and council elections that abuse of policing powers, if put under their control, is inevitable ([Ndah-Isaiah, 2018](#); [Jemibewon, 2001](#)).

The states’ financial statements reveal that a state police would be a financial over-kill ([Adetumbi, 2020](#); [Jemibewon, 2001](#)). With many states struggling to pay salaries of the bureaucrats, states would be unable to sustain the cost of state policing. The foregoing argument flies in the face of the humongous budget by states in the name of security votes. The truth is that a state should get the kind of police it deserves. Priorities of the state and its peculiar security needs would determine its ability to fund its police. This is analogous to the justice delivery system where every state despite paucity of funds has shown independence from the federal government. There should be no uniformity in state policing as to validate any comparison between one state and another. Besides, the NPF will be available to complement any deficiencies of state police architecture when eventually state policing takes off. Thus, the argument that all states are not equally financially capable is a display of a convoluted understanding of the workings of governance in a federation. This is so because the federating states are naturally meant to be unequal in financial capacity but equal in political equation.



State Police in Select Countries

A number of countries across the globe operates state police with varying structural configurations. Some of these selected for mention have evidence of good policing and stable internal security network.

1. United States of America (US) and Canada

Policing in the US is a reference point critical to this article because the current Nigerian federation and presidential system of government is patterned after the US. *Mitrani (2013)* states that there is synergy in the policing architecture of the US with policing powers exercised by the states, counties and municipal governments (*Mitrani, 2013; Roche, 2011*). The fifty-two states comprised in the US run and maintain distinct police outfits for the enforcement of state laws, rules and regulations. States carry out their policing functions without interference from federal law enforcement except in special circumstances requiring supremacy of federal forces (*Eme & Anyadike, 2018*). The state of Hawaii, however, does not maintain a standing police or highway patrol force but the state laws are widely enforced by the Sheriff Division of the Hawaii Department of Public Safety (*Eme & Anyadike, 2018*). The US federal government does not have a named police force but a variety of law enforcement (agencies) which includes the Federal Bureau of Investigation (FBI) (*Tangban & Audu, 2020*). The FBI has a nation-wide jurisdiction while the state police is limited within state domain. Das and Otwin (2000). suggest that the capacity and size of the state, county or municipal police depends on the peculiar needs and abilities of such state, county or local government concerned. Consequently, while some municipal police departments have one officer, the New York City has over forty-thousand officers which make for effective policing of the city. The Governors are the chief security officers in their states. Governors control the state police within the bounds of the law.

The Canadian police arrangement has shared values with the US. Policing responsibilities in Canada is statutorily allocated to the Federal, Provincial and Municipal governments (*Council of Canadian Academies, 2014*). The federal police apparatus is the Royal Canadian Mounted Police (RP) (Royal Canadian Mounted Police Act, 1985; *Roth, 1998*). There exists collaboration between the RP and the other Police institutions controlled by the provinces and municipalities. The Provincial Police Act governs the operations of the provincial or state police. The burden of policing rests more on the Provinces and Municipalities which bear greater percentage of police running costs (*Tangban & Audu, 2020*). The Provinces of Quebec and Ontario have well established independent police services. It is, nonetheless, not mandatory for every province to establish its own police as provinces are at liberty to contract the RP for such security operations as the provinces may require with such contracting provinces bearing the cost and control of the RP's operations while the contract lasts.

2. *India and Pakistan*

India operates a federal system of government with each federating unit being responsible for establishing and controlling its independent police system. India maintains a central police service known as India Police Service (IPS) managed and financed by the Central, Union or Federal Government (Bureau of Police Research and Development). Federating states finance their police institutions independently with periodic supports from the federal government. Article 355 of the Indian Constitution of 1949 provides for the recruitment of superior police officers from the rank of Superintendent of Police (SP) to be done by the IPS in order to ensure stability and quality control. The IPS recruits superior police officers and posts them to the states headed by a Director-General of Police (DGP). Once posted to the states, the states take charge of their promotions, remunerations and other welfare packages. Such officers upon arrival at the states of their posting or primary assignment remain under the management and control of such state government. The police duties between the Central Government and the federating units are well defined in the Indian Police Act ([Tangban & Audu, 2020](#)). The Indian Constitution (1949) authorises the union or central government to have overriding police powers in the event of emergencies. These overriding police power was abused in the 1970s against states governed by the opposition ([Fiseha, 2022](#)). However, the Indian Supreme Court has intervened at such times to checkmate the union government's inordinate exercise of police powers. Thus, in *Bommai v Union of India* (1994), the Supreme Court upheld the sacrosanct principle of federalism in Indian Constitution when it declared the Union Government emergency police powers unconstitutional. The decision set a limit to the overlapping policing mandates of the Union Government over the autonomy of state police which has the primary responsibility to police the states ([Taylor, 2007](#)).

Similarly, there are two sets of law enforcement organisations in Pakistan. The first category operates under the federal government and the provincial police organisations ([Abbas, 2011](#)). Generally, most police institutions of the Pakistani federal government are under the ministry of interior ([Abbas, 2011](#)). The responsibilities, jurisdictions and chains of command of these police organisations are well streamlined, all being under the control of the federal government. The second set of law enforcement institutions comprise the provincial police organisations. [Abbas \(2011\)](#) argue that these provincial and regional police outfits are all organised with uniformity and regulated by the same set of laws and rules. Accordingly, the Police Act 2002 (Pakistan) as amended in 2004 remarkably improved the laws and rules governing policing in Pakistan to ensure control and oversight of the police by both elected and appointed members or civilians at local, provincial and national levels. The Act gave the police express operational autonomy in administrative and investigative matters. Despite the statutory policing autonomy of the states or provinces ([Ali, 2010](#)), the Police Service of Pakistan (PSP), a federal agency, provides a significant number of superior or senior supervisory officers for

quality assurances (Warraich, 2004). Like the arrangement in India, once an officer is posted to any of the provinces, such superior police officer becomes subject to the control of the provincial government or the *Nazim* who would then take responsibility for the officer's welfare (Abbas, 2011). Thus, there is visible devolution arrangement in the policing architecture in Pakistan, based upon the democratic principles of local participation in governance (Warraich, 2004).

3. Ethiopia

Ethiopia is organised under a federal structure like Nigeria and India. It has one federal government and ten regional/federating units (Fiseha, 2022). Articles 51 and 52 of the Ethiopian Constitution (1994) devolve policing powers between the two levels of government in accordance with the finest principles of federalism. The Federal Government is empowered to administer and organise national defence, public security, and federal police forces as well as to enact laws regulating the bearing of arms. The regional / federating units are empowered to establish and administer state police forces and to maintain public order and peace within the regions (Ethiopian Constitution 1994). Fiseha (2022) posits that although each regional state has its independent Police Force Establishment Proclamation, none of the laws provide details or mention the special police force by name as a separate regional security apparatus. A recent policy document of the federal government centralises the recruitment exercise of regional state police by subjecting it to federal control (Abdu, 2021). It is doubtful whether the federal government has the capacity to enforce the policy document as Oromia, Amhara and Somali regional states have continued with the training and recruitment of special police forces in their individual states (Fiseha, 2022). This is because the move is viewed as a design to subject the regional states to the politically manipulated insecurity of the federal forces. The Somali regional state police have shown great success in peculiar security concerns in which the federal army faced challenges in understanding local conflict dynamics (Fitz-Gerald, 2019).

Justification for State Police in Nigeria: The Point of Convergence

The argument for the creation of state police leverages on the extant laws of Nigeria and the practice of federalism as a system of government. Section 14(2) of the CFRN declares that the security and welfare of the people shall be the primary purpose of government. In *Amushima v State* (2011), the Court defined the word 'government' as used in Section 14(2)(b) of the CFRN to include state and local governments. To this end, Section 11(2) of the CFRN acknowledges the powers of the state Houses of Assembly to make laws for the maintenance and security of public order and safety in the various states. The creation of state police would therefore empower the state to effectively maintain law and order as well as address emergency security challenges in individual state domains.

In a constitutional democracy with operational federalism, the existence of a state or a government is dependent on the ability of such state or government to compel

compliance with its commands by use of legitimate, coercive force. Modern government in the strict sense implicates the state's capacity to deploy coercion at its disposal for maintaining its authority and executing its laws. *Nwabueze (2003)* conceives a government that is not backed by such coercive force as contradictory in ideals. Such police structure as the current arrangement produces docility and frustration in elected governors. The picture of frustration and handicap of state governments as they observe state laws being breached with impunity while the NPF looks the other way is painted by a former army general in these words:

"We have a federal system and the states have a form of autonomy. It is a stupid governor who believes that he has to depend on the federal government for security in his state ... I mean it is a stupid governor that will be waiting on the federal government to secure his state" (*Williams, 2019*).

According to Section 176(2) of the CFRN (1999), the state governor is the 'Chief Security Officer' of his state. Consequently, by virtue of Section 193(2)(a) of the CFRN (1999) the state governor has the duty to determine the general direction of the policies of the government of the state which includes security for preservation of law and order. To be able to determine general direction of state policies on security, a state governor should have the control of the police stationed in his state as obtains in India, Pakistan and Ethiopia. A community reading of Sections 215(4), 176(2) and 193(2)(a) of the CFRN shows that although governors are decorated as chief security officers of their respective states, they are stripped of such powers to execute laws which invariably places them on the unedifying and unenviable position of Generals without troops. *Bulus (2012)* sees the proviso in Section 215(4) of the CFRN as an express usurpation of state government's authority. An over-bearing centralism of the NPF has, therefore, become a suffocating albatross around Nigeria's neck. The presumption that the law does not command impossibility properly describes the provisions of 176(2) and 193(6) of the CFRN in respect of police powers of the state governor in the face of the proviso in Section 215(4). The resistance against the establishment of independent police for the federating units which in its pragmatism resonates with the federal system of government, is a twisted approach for perpetual emasculation of the governments of the federating units in flagrant violation of the Nigeria's article of faith.

In light of the argument supporting the establishment of state police in Nigeria, several recommendations are proposed to align the legal and structural framework with this goal. Firstly, the CFRN should be amended by deleting Section 215(4) to harmonize it with Section 176 of the CFRN and uphold the Supreme Court's ruling in *Attorney-General of Anambra State v Attorney-General of the Federation (2005)*. Secondly, Nigeria could adopt a policing model similar to that of India and Pakistan, where federating units maintain independent police forces, while the federal government focuses on training and deploying senior officers solely for quality assurance. This approach necessitates amending Sections 214(1) and 215(2) of the CFRN. Lastly, the jurisdiction of the Nigeria Police Force (NPF) should be confined to



the entire nation for statutorily defined federal offences, whereas regional or state police forces should operate within their respective regions or states and enforce state laws.

Conclusion

The argument for establishment of state police in Nigeria resonates with the law and fact of Nigeria's federal political arrangement. It is a recipe for efficient policing, particularly of the unpoliced spaces where non-state actors ply their illicit trade of insecurity and unleash terror on the public. The paper has reviewed the policing challenges in Nigeria identifying a centralised command of the NPF as a major hindrance to effective policing in Nigeria. The current structure has been justified by paucity of funds and propensity for abuse in the event of decentralisation. The creation and constitutional autonomy of police architecture under the firm control of the federating units are canvassed as befitting structures of a constitutional federalism. The point has been made that police contingent under the control of the federating units would function to complement the strength of the NPF as presently constituted thereby bridging the deficit gap in the United Nations (UN) recommendation for efficient policing in terms of personnel, efficiency and quality. Countries such as the US, Canada, India, Pakistan and Ethiopia which have implemented autonomous police structure for the federating units or ideal federalism show better stability and swifter responses to security challenges. Nigeria should borrow a leaf from Pakistan and Ethiopia. Arguments against creation of independent police commands for the federating units is sentimental and fly in the face of current realities of the security challenges facing Nigeria. For Nigeria to fix its current insecurity quagmire, a decentralised police architectural arrangement is the way to go.

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