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State Police an Imperative for True Federalism in Nigeria

Dr. Angela E. Obidimma

Faculty of Law, Nnamdi Azikiwe University, Awka, Anambra State, Nigeria

Dr. Emmanuel O. C. Obidimma

Faculty of Law, Nnamdi Azikiwe University, Awka, Anambra State, Nigeria

Abstract:

The centralized structure of the police under the 1999 Constitution of Nigeria vis a vis the constitutional provision on Nigerian federalism appear to be a contradiction in terms. Such symbol of unitary government as a central police force under the Nigerian democracy has been a subject of heated debate particularly since the inception of the current democratic dispensation in 1999, among those who insist that the practice of proper federalism is crucial for Nigeria's democratization process. This paper examines the need for the establishment of state police. A central factor in federalism is the relative autonomy enjoyed by the states in relation to the central government, but without its independent police a state cannot claim autonomy for the police is the coercive force on which a government stands. There is need for the establishment of state police as one of the key factors in enthroning true federalism in Nigeria whose practice of federalism is rocked with several abnormalities. The paper analyses the provisions of the 1999 Constitution of the Federal Republic of Nigeria, the Nigerian federal practices, the opinions of the stakeholders in the affairs of government, as well as the view of the common man on the subject of discuss. For an effective practice of federalism, each unit of the government needs its own independent security system which is represented by the police to effectively run the affairs of government.

Keywords: Federalism, the police, centralized, autonomy, practice, government

1. Introduction

The issue of states in Nigeria having their individual police forces has become one the most controversial issues with regards to the practice of federalism in Nigeria. The source of contention is section 214 of the 1999 Constitution of the Federal Republic of Nigeria (as amended in 2011) (herein after referred to as the 1999 Constitution) which places the task of the policing the entire nation on the shoulders of the federal government. The section provides that "there shall be a Police Force for Nigeria, which shall be known as the Nigeria Police Force, and subject to the provisions of this section, no other police force shall be established for the federation or any part thereof" (section 214(1) of the 1999 Constitution). This provision is contradictory for whereas the 1999 Constitution of Nigeria stands on the principle that Nigeria is a federation, some of its provisions such as this fit perfectly into the mould of unitary government. The corollary to this is the issue of the control of that single police force, and on this the 1999 Constitution of Nigeria is clear. Section 215 (1-3) in effect vests the authority for the control of the police force in the President, the Police Council and the Police Service Commission. The Inspector-General of Police is an appointee of the President and has the Nigeria Police Force under his command and since State Commissioners of Police also take directives from the Inspector-General of Police, all orders for police function in the federation derive from that central authority.

The provisions of sections 214 and 215 of the 1999 Constitution of Nigeria run contrary to the dictates of federalism which requires that in a federal system of government there should be autonomy among the various levels of government, with each level of government having its own apparatus of government and all the necessary paraphernalia to ensure autonomy and independence. It presupposes that the constituent parts of the federation such as the municipalities, states, and federal government all have autonomy for their daily affairs, while issues of a general nature like international affairs, defense, military etc. are vested in the federal government.

Some countries, such as Ghana, and Japan, like Nigeria adopt the centralized police system. This system ensures a central command of the police structure throughout the country, headed by the Inspector General with other subordinates who are answerable to him, while he is in turn answerable to the head of state or the president. With this centralized system follows a chain of command: the Inspector-General of Police is at the head; the various Deputy Inspector-Generals assist him, and a multiplicity of Assistant Inspector-Generals, who in turn head the zonal/regional police commands. The Inspector-General appoints State Commissioners, who also supervise

Assistant Commissioners. At local government levels, there are Divisional Police Officers heading the various local government area police structure (Ejiofor, 2012). However, in countries like United States of America (US) and Ethiopia with practice of true federalism, in line with the dictates of federalism, they have decentralized police systems. In the United States of America, for instance, the various municipalities (Towns) have their own police force answerable to the mayor and municipal tier of government. At state levels, every state operates its own state police (State Troopers). The state police confine itself to state properties and highways, the sheriff department is a county police and operates on county properties, roads, parks, etc. At the federal level, the federal police are federal government employees, whose sphere of jurisdiction relates only to protective services like custody of federal buildings and monuments, protecting veteran buildings. Agencies like FBI, CIA and federal marshal all have federal jurisdiction (Ejiofor, 2012)

2. History of the Establishment of the Police Force in Nigeria

Historically, organized policing in Nigeria was initiated in 1861 by the colonial masters in their bid to control trade in Lagos and the Yoruba hinterland. In that year, the Acting Governor of Lagos Colony William McCosky organized and established the nucleus of the first police force – a Hausa Constabulary of 30 men (Onyeozili, 2005). The Hausa constabulary was paramilitary in nature and performed essentially beat duties at trading depots of British merchants (ibid.). The strength of the constabulary was increased to 100 men in 1862 and 600 men in 1863. Further reorganization was carried out in 1879 resulting in a constabulary for the colony of Lagos (Opara, 1999). In 1895 the Police Ordinance No. 10 of 1895 was passed establishing a civil police force called “The Lagos Police” as a body distinct from the constabulary. By a further Police Ordinance No. 14, of 1897 the Lagos Police Force became an armed force, whose general duties included the prevention and detection of crime, the repression of internal disturbance, and the defense of the Colony and protection against aggression’ (Onyeozili, 2005). In the north, with the grant of approval in 1886 by the colonial government to the Royal Niger Company to establish a protective force for its business in the north, the Royal Niger constabulary was founded in 1888 with headquarters in Lokoja to protect the installations of the Royal Niger Company along the banks of the river Niger (Opara, 1999).

When the protectorates of the Northern and Southern Nigeria were proclaimed in 1900 the Royal Niger constabulary was split into the Northern Nigeria Police force and the Northern Nigeria Regiment. In the south, the Lagos Police Force, and part of the Niger Coast Constabulary formed the Southern Nigeria Regiment. After the amalgamation of the Northern and Southern Protectorates in 1914, the two police forces operated separately until 1930 when they merged to form the present Nigeria Police Force under Ordinance No. 3 of 1930 which brought together the various local police forces that existed in various parts of the country. The newly created force was administered on a regional basis under the overall command of an Inspector-General of Police, with headquarters in Lagos (Opara, 1999)

Under the colonial rule the Nigeria Police Force had civil companions in Native Authority Police which functioned under local government control. The Nigeria police had enhanced status under the Independence and Republican Constitutions of 1960 and 1963 which barred the regions from forming their own police organizations although the local authority police could still operate (Wilberforce Conference 1996). The 1960 Constitution of Nigeria (section 98) expressly outlawed the establishment of any alternative police force for Nigeria or “any part thereof.” However, regional assemblies were empowered in section 98 (7) of the 1960 Constitution of Nigeria to make legislations empowering native authorities or local government authorities to establish police forces, for employment “within the provinces.” Regional Commissioners of Police were to hold office as officers of public service of the federation (section 99, 1960 Constitution of Nigeria). Under that Constitution the Northern and Western regional government retained and expanded the local police force established and maintained by some of their native authorities under the Native Authority Ordinance of 1942. The Local Government Police Law, 1959 of the Western Region for example confirmed existing police forces in the region and authorized every local government with the approval of the minister of local government to establish a police force. The 1963 Constitution was a facsimile reproduction of the 1960 Constitution of Nigeria. Under the 1963 Constitution of Nigeria it was only the Eastern Region that did not utilize the power to establish local police force. The resulting Nigeria Police under the 1960 and 1963 Constitutions of Nigeria had regional training and had civilian orientation. However from 1966 when the military took over the reins of government in Nigeria following the overthrow of the civil order by the military the police force in Nigeria became totally centralized and militarized. The local police forces were abolished by the military government as they ignored the relevant provision of the 1963 Constitution. Furthermore the military inspired Constitutions of 1979 and 1999 that have since followed that of 1963 have consistently barred any police formations other than the single Nigeria Police Force.

3. The Nigeria Police Force under the 1999 Constitution

The 1999 Constitution 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 (section 214 (1)). Similarly, the Police Act, Cap P 19 Laws of the Federation of Nigeria (the Police Act) (section 3) provides that there shall be established for Nigeria a police to be known as the Nigeria Police Force. In prohibiting the establishment of any other police force, the 1999 Constitution followed the 1979 Constitution (section 194(1)) but differs from the 1963 Constitution (section 105(7)) which authorized the establishment of local police forces on regional basis.

The 1999 Constitution further provides that subject to the provisions of this Constitution – the Nigeria Police Force shall be organized and administered in accordance with such provisions as may be prescribed by an Act of the National Assembly (section 214 (2) (a)); the members of the Nigeria Police Force shall have such powers and duties as may be conferred upon them by law (section 214(2))

(b)); the National Assembly may make provisions for branches of the Nigeria Police Force forming part of the Armed Forces of the Federation or for the protection of harbors, waterways, railways and air fields (section 214 (2) (c)). The Police Act on its own part in legislating for the general duties of the police force, states that the police shall be employed for the prevention and detection of crimes, the apprehension of offenders, the preservation of law and order, the protection of lives and properties and due enforcement of all laws and regulations with which they are directly charged and shall perform such military duties within or outside Nigeria as may be required of them by and under the authority of the Act or any other law (section 4). The Constitution does not spell out the powers and duties of the police but rather states that they “shall have such powers and duties as may be conferred upon them by law”. The police is however listed as a matter within the exclusive legislative component (item 45, Exclusive Legislative List). It follows from this that the police being a federal agency, the state government cannot confer functions or impose duties on it nor can the federal government authorize it to enforce state laws, unless authority for that is provided in the Constitution.

In a true federal system, both the federal and state governments should have their own separate police outfits. This is consistent with the principle of decentralization of powers. Separate police will enable the states to effectively maintain law and order in their respective domains, especially during emergency situations. Furthermore, with regards to the autonomy of each government under a federal system, it is worthy of note that the existence or otherwise of a state and *ipso facto* a government is dependent on the coercive force it has, to compel obedience to its commands. A government therefore implies a coercive force at the disposal of such government for maintaining its authority and enforcing its laws. “A government not backed by such coercive force is a contradictory in ideas.” (Nwabueze, 2003).

The arrangement under the 1999 Constitution is made even more objectionable by the fact that the control of the police is unduly centralized in the federal government. This is unlike before when the Regional Governments were given a greater role in the control of the police force. Such role took the form partly of mandatory consultation with a Regional Premier in the appointment of a Police Commissioner for his region and partly in the establishment of a Police Council, with the Federal and Regional Premiers as members, charged with the general supervision of the organization and administration of the force. The command of the police force is generally vested in the Inspector-General of Police. Thus the Constitution provides that “The Nigeria Police 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 (section 215 (2)). On the other hand, the power to appoint this commanding officer of the force is given to the President, and section 215(1) establishing the office provides that “There shall be an Inspector-General of Police who, subject to section 216(2) of this Constitution shall be appointed by the President on the advice of the Nigeria Police Council from among serving members of the Nigeria Police Force.” Section 216(2) enjoins the President, before appointing the Inspector-General of Police or removing him from office, to consult the Nigeria Police Council.” The Nigeria Police Council is made up of the President as the Chairman, the State Governors of each of the state of the Federation, the Chairman of the Police Service Commission and the Inspector-General of Police as members (Third Schedule, part 1, paragraph L of the 1999 Constitution). Though it has one of its duties as advising the President on the appointment of the Inspector-General of Police, this does not have much impact on the power of appointment by the president as their advice is not binding on him.

The power of the President to appoint and remove the Inspector-General of Police at his discretion is incompatible with the constitutional provision of the police force as an agency common to both the federal and state governments, and designed to provide coercive support for the authority which each exercises as a government. Furthermore it nullifies the value of vesting the command of the police in a non partisan Inspector-General, since he cannot afford to be too independent of the federal government in the exercise of his functions, knowing that it might expose him to the sanction of removal. It is incompatible with the autonomy of a state government under a federal system that the police, the only organized coercive force on which it relies to maintain its authority as a government and to enforce its laws should be under the control of the federal government through its power to appoint and remove its head and commander and it is imperative that to secure the autonomy of the state governments the power of appointment and removal of the Inspector-General should be vested jointly on the federal and state, or in a non partisan body. It is only on this basis that the arrangement of a single police may be reconciled with. The Police Service Commission is given the power to appoint State Commissioners of Police and there is also no provision in the 1999 Constitution for the consultation of the State Governors by the Police Service Commission with respect to the appointment and removal of the Police Commissioners in their respective states. On the composition of the Police Service Commission the 1999 Constitution merely provides that it shall comprise of a Chairman and such other persons not less than seven but not more than nine, as may be prescribed by an Act of the National Assembly (Third Schedule, Part I, Paragraph M of the 1999 Constitution). The state governors being the chief security officers of their respective states should in a true federal state have a say in such an issue. The position of the state governors is further undermined by the proviso to section 215(4) to the effect that where the governor of a state or his representative gives the Commissioner of Police of the state such lawful direction on the maintenance and securing of public safety etc within the state, the Commissioner of Police shall comply with such directions, provided that before doing so he “may request the matter to be referred to the President or such Minister of the Government of the Federation as may be authorized in that behalf by the President for his directions”.

Whatever constitutional guarantees there are for the government of a state with respect to the control of the police contingent in his state, it is somewhat limited, qualified, constrained and subject to the dictates of the State Commissioner of Police, the Inspector-General of Police, the President and a Minister acting under the authority of the President and not in accordance with the holders of such office acting in good faith or in the public interest. The reality, therefore, is that although state governors are described as the chief security officers of their states, they have no powers to direct the police or any security agency to act. This is a clear undermining of the federal status of the country, where states are autonomous and not under the president. 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 direction as he likes is certainly incompatible with the autonomy of the state government. The provisions of section 215(4) are completely at odds with section 193 of the Constitution which sets out the duties of the State Governors, which include "determining the general direction of the policies of the Government of the State" (Section 193(2)(b)). The general direction of the policies of the state government with respect to security, law enforcement and police powers are severally curtailed by section 215(4). In a truly federal state in which power is divided between a central authority and constituent political units the Governor should have superintending authority over the Commissioner of Police.

An even more problematic aspect of the control of the police as defined in the Constitution is to be found in the ouster clause in section 215(5) to wit: "the question whether any, and if so what, directions have been given under this section shall not be inquired into in any court." This provision is obviously unitary in nature as well as undemocratic and negates the working of true federalism. In the words of Abati (2010) the absolutism this ouster clause suggests is imperialist, and is reminiscent of the totalitarianism of the ancient military. What has been seen is the willingness of successive Inspector-General of Police and their Commissioners in the states to carry out all kinds of orders thus turning the Federal Government and the ruling party into absolute sovereigns.

4. Effects of Centralization of the Police Force in Nigeria

The major effect of centralization of the police in Nigeria is the eroding of the coercive force of government of the state governors. The provisions, especially sections 215(2) and (4) undermine the powers of the State Governors with respect to the police contingent in their states, thus making nonsense the appellation of the state governor as the Chief Security Officer of the state. This has led to several ugly scenario of the defiance of gubernatorial orders by State Police Commissioners. In the Second Republic for instance between 1980 and 1982, the Commissioner of Police in the then old Anambra State, Mr. Bishop Eytene had series of celebrated confrontations with the then Governor of the state Chief Jim Nwobodo (Chinenye, 2012). Such scenario have even been more rampant in the Fourth Republic resulting in situations whereby the police in a particular state has to take directives from a far-away President causing undue delays in operation process particularly in an emergency. This has been much demonstrated on many occasions in Plateau State when in 2008 and again twice in 2010 the state Governor was in no position to direct the police and other security agencies to put an end to ethno-religious violence before it went out of hand. It was on all the occasions difficult getting through to the President and by the time the President got back with the required directions much havoc had been created (Abati, 2010).

The vesting of the powers of appointment removal, control and discipline of these police officers on the President alone without the involvement of the federating units will lead to misuse of the powers by the President. Several instances of this abuse of power of control over the police force have been recorded in Nigeria especially in the Fourth Republic. A very common instance of abuse is that it allows the Federal Government controlled by a particular political party to use the police as an instrument of political oppression and intimidation. Some examples in this regard will include the case of former Governor Chris Ngige in Anambra State, who as a sitting Governor was chased out of his office in July 2003 by a contingent of policemen led by an Assistant Inspector-General of Police acting on orders from Abuja (the seat of the federal government). In Ekiti State, former Governor Ayo Fayose, also during his incumbency had to flee when his police guards were withdrawn and lorry loads of policemen acting on the presidential orders arrived in Ado Ekiti. In Oyo State with Rashidi Ladoja as Governor, a self styled commander of Oyo State politics with strong connections to the Presidency in Abuja, the late Chief Lamidi Adedibu had better access to the police in the state than the Governor of the state, and in the politics of impeaching the Governor, the police had no problems pitching their tent with the President's friend in Oyo State. In every election, men of the Nigeria Police Force have been used by influential politicians with access to the highest levels of government to snatch ballot boxes, rig elections or intimidate political opponents. In 2009 re-run gubernatorial election in Ekiti State for example policemen were openly used in this manner (Abati, 2010).

The single police force in Nigeria has over the years been found to be inefficient due to several reasons among which are poor funding, mismanagement and corruption. The inefficiency of the Nigeria police force has resulted in high level of insecurity in Nigeria with the crime rate increasing daily at an alarming rate. It is not an overstatement to say that since the Nigerian civil war, Nigeria has never faced a more devastating collapse of the insecurity apparatus than we are experiencing presently. With the re-emergence of militancy in the South-South, heinous armed robbery in the South-West, mindless killings and kidnapping in the South-East, and the intractable Islamic terror group – Boko Haram in the North, it requires no further proof that Nigeria is indeed going through rough times (Obidimma, 2013). The situation is depicted in the statement of Alhaji Bamanga Tukur, the National Chairman of the People Democratic Party, thus;

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 at attack. (Oyetunji, 2013)

As a result of the incapability of the police to deal with situation, the Federal Government had to draft the military to deal with the situation. It is believed that this problem of insecurity in the country as a result of the inefficiency of the police force is made worse by the fact that the police is centralized. Where the states own their police forces, an inefficient central police or any of the states, will not result in total insecurity in the entire nation.

Another effect of centralization of the police force in Nigeria is the proliferation of private security agencies and vigilante groups. Faced with the rise in the tide of insecurity in Nigeria and police inefficiency many Nigerians having lost confidence in the national security system resort to self help. This has further resulted in the growing market for private security agencies. Thus rather than seek police protection institutions, companies and private individuals engage the services of private security agencies. There is also the rise,

activism and proliferation of vigilante groups beginning in the early 1990s, such as the Oodua People's Congress (OPC) in South-West, The Bakassi Boys in the South-East, the Egbesu boys and the Meinbutsu in the South-South, the APC, Yandaba, the Almajir and the Sharia Implementation Task Forces in the North (Abati 2010). Many of these groups took off originally as self-determination groups engaged in ideological argument about the Nigerian state, but they soon mutated into militias providing security and acting as alternate law enforcement agencies. The proliferation of these ethnic militias brought about much conflict with the police and further problem of insecurity, yet these groups are openly courted and patronized by the people. On the other hand these militias or alternative security apparatuses though have been able to meet the security needs and aspirations of the people better than the Nigeria Police Force have exhibited certain limitations and excesses which have further jeopardized the security situation in Nigeria. This has been shown in cases of such armed groups in the North which became instruments of religious terror and human right abuses, there were mob executions of people accused of crime. The worst consequence perhaps is the impact which this unwholesome trend has on our fragile and existing inter-ethnic relations in cosmopolitan Lagos, Kaduna, Kano and Port Harcourt among other cities. Ethnic militias have in many cases embarked on inter-ethnic cleansing agenda of their own. By and large they expose the failure of the police force and draw attention to the need for state police.

5. A Case for State Police

Arguments abound in support of the establishment of state police in Nigeria, particularly with the rapid increase in security problems in the country. The security of the country is becoming more and more porous thereby giving room for increase in criminality. On this nagging issue of internal security, there is a genuine claim by state governors, and the general public that the Nigeria Police Force particularly in the Fourth Republic has shown a glaring inability to secure the lives and properties of Nigerians against the resurgent onslaught of armed robbery, kidnapping, ethno-religious violence, financial fraud and more recently the ceaseless violent attacks by the militant Islamic group, Boko Haram. Many prominent Nigerians including the former military president, Ibrahim Babangida have joined the group agitating for state police. On the occasion of his seventy-first birthday celebrations, Babangida advocated for the restoration of state police in Nigeria. He argued that the fact that state police in the North and the local constabulary in the South were roundly abused in the past during the First Republic does not detract from the merit of its resuscitation (Obafemi, 2012). It is believed that the existence of state police in the various states of the country will help in combating the rising insecurity in the country. It will also negate the wanton imposition on the states by the federal authorities and other agents in the state. The failure of the police in this area has been attributed to factors such as that Nigeria is grossly under policed. There are less than 400,000 policemen and women providing security for a population of over 150 million people. In addition the Nigeria Police is under-funded, ill equipped and poorly motivated. In 2007, Sunday Ehindero, former Inspector-General of Police, admitted in a newspaper interview that less than five percent of policemen 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 above statement is further a justification of police inefficiency and with such a statement coming from an Inspector-General of Police it removes every possible hope that the ordinary Nigeria can get the expected security from the police. It is therefore not surprising that what obtains in Nigeria are cases of unresolved murders, kidnap of innocent citizens, brazen armed robbery on the highway on broad day light for several hours, and general wide spread of impunity in the land. It is often said that many policemen are likely to take to their heels when confronted by criminals with superior arms, and as is the case almost always that the criminals seem to be better armed.

States having and controlling their own police forces will help to abate this ugly trend. The advantages of establishing state police in Nigeria are numerous. The state police will be under the firm and effective control of the State Governor, chief executive of the state. The State Commissioner of Police shall in this context be appointed by the State Governor to whom he shall be fully responsible. This will obviate the necessity of reference to the President or such Minister of the Government of the Federation which has resulted in lots of security failure in many states in Nigeria. The State Governor will become truly the Chief Security Officer of his state. The officers, rank and file of the formations will be drawn from the local areas where they will operate and crimes will be better controlled by local communities because it will be easy for the people to know the geography, culture and crime history of the community. It is obviously incongruous to bring somebody from far away to police a strange environment, as obtains with the Nigeria Police Force with central control from Abuja. Their intimacy with the populace will enhance confidence and efficiency. The integration of the police into the cultural milieu will fortify their morals and morale as the dread of failure or professional misconduct will constantly inspire them to excel in order to earn love, support and appreciation of those they serve. Corruption will be minimized and so will resort to brutality and brigand. The different formations will be accountable to their various authorities and so will be more effective in maintaining the much desired law and order in the state which will in turn bring about better governance and overall development of the state. It will also boost job creation and employment for the ever increasing number of unemployed Nigerians.

A major argument in support of the establishment of state police in relation to this paper is that it is line with the principles of federalism which Nigeria operates under the extant Constitution, (section 2 (2) of the 1999 Constitution). Nigeria as a federation deserves state police in line with the spirit of true and more effective federalism as is in practice in other countries that operate federalism, and also according to the attributes of federalism. Federalism presupposes the autonomy of each government; the central government and the governments of the federating units, which necessarily presupposes its separate existence and independence from the control of the other government. The autonomy of each government requires the legal and physical existence of an apparatus of government – a legislative assembly, governor, courts, ministers, and departments etc. Furthermore, autonomy of the state governments is the defining principle of true federalism, its foundation or bedrock, as aptly described by Hon. Justice Kayode Eso,

formerly of the Supreme Court of Nigeria (Attorney-General of Ogun State and others v. Attorney-General of the Federation, 1982). The absence of state police under the Nigerian federalism is a contradiction in terms and detracts from a true practice of federalism as operational in other notable federal states. As argued in some quarters, the Nigerian federation is very dysfunctional with a concentration of powers and resources at the centre and requires urgent restructuring. The creation of state police is one of the fundamental requirements for the operation of true federalism in Nigeria.

Also in line with the dictates of federalism the establishment of state police will enhance the proper functioning of the state justice system for without any power of control over law enforcement the states in Nigeria cannot be said to have a complete and effective justice system as is the case at the federal level. For the justice system operates on the basis of a value chain, the starting point of which is policing. The police conduct investigations for offences committed, on the basis of which there is prosecution and trial in courts etc. In Nigeria both the federal and state governments have their legislature, the power to operate the executive arm of government and to operate independent judiciary (sections 4, 5 & 6 of the 1999 Constitution). The federal government has authority over law enforcements, but the states do not. This is an anomaly, because the states cannot operate effectively in a federal state with legislative, executive and judicial arms of government, without building a consensus on how such states will enforce their laws, detect and investigate crimes, apprehend offenders for the purpose of prosecution and generally police their territories. Furthermore, the requirement of federalism as enshrined in the 1999 Constitution requires that each constituent unit of the Nigerian federalism is meant to be a complete government on its own with powers to make laws, enforce them and punish offenders through the judicial arm. However in Nigeria today the only institution saddled with the responsibility of enforcing law is the Nigeria Police Force, a federal agency, under section 214 of the 1999 Constitution (Aleyomi, 2013).

Under the Nigerian federalism the state Governors pursuant to section 176 (2) of the 1999 Constitution, are the Chief Security Officers of their states. It is however a contradiction in terms to call the state Governors the Chief Security Officers of their states when they do not have control over the instrumentalities of security control. In a recent statement, Jonah Jang, governor of Plateau State lamented that he was being called the Chief Security Officer of the state despite the fact that he is not in control of the security of the state. He argued that this anomaly could have been responsible for the premeditated attack and massacre that was carried out on some hapless villagers in the state (Kehinde, 2013). To be truly the Chief Security Officers of their states the state Governors should be allowed to be in control of their own police which will take orders directly from them. That way security issues in the states can be expediently tackled rather than the present position under section 215 (2) and (4) of the 1999 Constitution where the State Commissioner of Police will have wait for orders from the seat of the federal government before taking necessary actions to tackle security issues, which usually result in the escalation of the problems and in some cases by the time the order to act arrives there would not be need for any action any longer as the harm that would have been prevented by the police would have already taken place. In line with this argument, a political and social commentator using the River State crises of 2013 as a spring board in criticizing the above constitutional provision posited as follows:

A state Governor, as the Chief Security Officer of his state, in an ideal setting, ought to have control of the police stationed in his state. The current trend where the Police Commissioner in a state will have to take orders from Abuja concerning security issues in a state, is to say the least, quite pathetic and unfortunate (Ibiroga, 2013).

6. Arguments against State Police

The major argument against state police is the likelihood of abuse by the state governors. The native administration, native authority and local government police forces of old were abused by local politicians of Nigeria's First Republic, and it is argued that nothing has changed in the country in the conditions that led to the demise of local police forces in the First Republic (Adedeji, 2012). These local police forces of Nigeria's First Republic symbolized absolute powers by the local authorities, and this power was used recklessly by politicians for selfish gains. In the same vein it is believed that the state executives of contemporary Nigeria will use the state police in the same manner to harass political opponents, rig elections and generally muzzle any opposition within their states. In support this line of thinking is the fact that though states and local governments are not permitted under the extant Nigerian laws to establish any police force, yet they recourse to the use of ethnic militia like the Bakassi boys, Egbesu boys and the OPC to wreck havoc on their political opponents, and on the people generally. This state of affairs foretells the danger of legally allowing states to have control over any police force. Though one may argue that the role of the police under the present dispensation is being abused by the federal government, who has constantly used it against the opposition, but given what has taken place in the activities of other parastatals owned by the state it is likely that the abuse by the state will be more serious. An example can be given with a view of the two electoral agencies in the country – the Independent National Electoral Commission (INEC) and the State Independent Electoral Commission (SIEC). SIEC was created through an amendment of the Electoral Act of 2002 and is given the power to conduct elections into local government which had been previously handled by the INEC. Since its creation SIEC had been abused by the state governments and used against the opposition, simply because it is under the control of state governors. For instance since the creation of SIEC no state in Nigeria has had up to two local government chairmen voted from opposition parties. SIEC always declared the ruling political parties in the states as winners of all the contested seats in local government elections. This is certainly different from what obtains with INEC at the federal level. For though INEC may be biased in favor of the federal government yet opposition political parties still win elections in states and have many members in the National Assembly. Surprisingly in the last presidential elections conducted in the country we saw a defeat of the ruling political party by the opposition. One may therefore safely conclude that the current abuse of the federal police force by the federal government may be mere child's play compared to what will ensue if state governors have state police forces under their control.

The cost of maintaining state police force may be too enormous for the state governments in Nigeria to bear. Given the difficulty the federal government is facing in funding and running the Nigeria Police Force today, the situation may be worse when the states are saddled with the responsibility of funding their own police forces. This belief stems from the fact that virtually all the states in Nigeria today depend totally on the allocation from the federal account which is unable to meet their expenditure. For instance, many states today are unable to pay the salaries of their workers. According to a recent newspaper report, eighteen states out of the thirty six states of the federation are technically bankrupt. This is because they have mortgaged their federal account allocations... As a result payment to contractors and other debt instruments are deducted at source and have become first line charge on their lean resources. The internally generated revenues of these states are also not enough to meet their obligations so they owe workers several months' unpaid salaries (Vanguard Newspaper 2015). To add the responsibility of funding state police to the already overburdened finances of the state government would certainly be unbearable for many states of the federation and the fate of the state police in such states will be better imagined. Furthermore lack of uniformity in financing may pose further problem. Some states are obviously more financially buoyant than others and a situation when the pay in a particular state is much better than what obtains in another may result in inefficiency and corruption of the police in the state and will further escalate security problems in the states resulting from a shift of criminals from states where the police is better maintained to the states where the situation is otherwise

There is also a likelihood of conflict of interest and challenges resulting from the existence of multiple security agents. Nigerians are presently battling with a single police force that is besieged with a lot of problems, their suffering will be multiplied where there are additional police forces with possibly similar deficiencies with the existing one, and both operating in a given area. There will also be problem of conflict of jurisdiction between states arising from multiple police forces, especially where the conflicting states are run by different political parties. Nigerian politicians are unlikely to have the temperament to resolve such jurisdictional conflicts amicably. For instance Lagos and Ogun states have been at loggerheads since 2003 simply because the governors of the states are from different political parties. The two states have argued on petty issues especially on land related matters. Supposing the two states had their respective police forces, one can imagine what would have become of the states. It would be possible for a person loyal to one party to commit a crime in one state and then run to another state where he knows it would be very difficult to arrest him because of the shield he is going to get from the state (Kehinde, 2013)

7. Conclusion

The establishment of state police will accord with the principles of federalism which Nigeria avers to practice (section 2 of the 1999 Constitution). Countries practicing federal system of government ensure that there is autonomy amongst the various tiers of government such that there is independence of the executive from the legislature as well as the judiciary at the various levels of government. An idealist and proper meaning of the terminology federal system presupposes that each constituent part of the federation such as counties, municipalities, states and federal governments all have their autonomy for their daily affairs while issues of national concern are vested with the federal government. The federal police in other jurisdictions especially in a place like the US that is operating the same type of federalism like Nigeria has full authority to enforce federal laws at all levels and there are several agencies that have national mandates for enforcement of federal laws and matters that are within the exclusive powers of the federal government. Similarly states in the US have wide-state organizations that provide law enforcement in the states. Law enforcement in the counties or what we call local governments is provided by Sheriffs' Department or county police. There are also the municipal police which range from one town marshal to large organizations like the New York City Police Department. In the US most cities and towns have dedicated police departments. If the system is effective in other jurisdictions, there is likelihood that it will also have similar impact in Nigeria and so Nigeria should reflect on that. As a matter of fact, the presidential system of government that is practiced in Nigeria draws largely from the US model. For an effective federal system of government in Nigeria therefore there is need to break from the centralized system of police force.

Furthermore on the issue of state police in the Nigerian federation the question that arises is what is the philosophy of policing that is best suited for the Nigerian society? Being a heterogeneous society a decentralized policing is most suitable such that the different groups may deploy officers who are familiar with the terrain, culture, religion and general way of life of the people in the area. Officers will be familiar with the areas they are policing and so will have less difficulty locating criminals, get necessary information from the people and be more accountable to the people.

There is also the need for a proper determination of what the role of the police should be. Should the police be a tool for securing law and order or should it be a tool in the hand of an absolute Leviathan? In Nigeria the single police force as well as the centralized system of control of the police place certain individuals above the law and turn just one man in the person of the president into an overlord.

The question of internal security is also a nagging issue that calls for an urgent reconsideration of the structure of the Nigerian police and law and order system. The current system has shown persistent result of overwhelm of the Nigeria Police Force by the snowballing incidence of crime in the country particularly in the light of the rising cases of high brow-crimes such as kidnapping, murders, assassinations, ethno religious violence and insurgency for which the police have proven to be helpless and overwhelmed. Today in Nigeria the police force is one of the most unpopular institutions and is distrusted by the people whose lives and property it is meant to protect.

It is on this background that the clarion call for the establishment of state police is hinged. Though there is the argument that the creation of state police may not work well in Nigeria, based on the arguments that have already been proffered against the establishment of state police, it is believed that the advantages of establishing state police far outweigh them. With particular reference

to the argument that the state governments will abuse the state police and use it to suit their whims and caprices especially for political witch hunting and for muzzling the people, it is important to point out that in Nigeria it would appear that the police at all times have been an instrument of control and coercion regardless of the nature of government and that it is this ideological orientation that must be changed. The 1999 Constitution (section 214 (2) (c)) and the Police Act (section 4) both outline the general duties of the police which are mainly the prevention of and detection of crime, the apprehension of offenders, the preservation of law and order, protection of life and property, due enforcement of all laws with which they are directly charged, to perform such military duties within and outside Nigeria as may be required of the etc. Section 14 (2) (b) of the 1999 Constitution under the title of Fundamental Objectives of State Policy further provides that “the security and welfare of the people shall be the primary purpose of government.” One can conclude that whatever detracts from the provisions of these laws such as the engagement of the police in thuggery, oppression, crime etc. “is an aberration that does not deserve elevations to a normative status” (Abati, 2010). Therefore if one is going to base the argument on the excesses of state governors as a reason why Nigeria should not adopt a system that will best enhance its federal status as well as advance the democracy and generally take care of problems of insecurity in the country, one must realize that the existing laws in Nigeria if properly implemented should take care of these, and if need be more laws should be promulgated to effectively take care of the challenges.

We will conclude by aligning our arguments with some of the resolutions of the recently concluded National Conference on the amendment of the 1999 Constitution on the question of state police in Nigeria:

- Any state of the federation desirous of having a state police should be allowed to fund and control it.
- The state police when established by the states are to complement the efforts of the Nigeria police force.
- The area of jurisdiction of the federal police will cover the entire country on clearly spelt out matters and offences while the jurisdiction of the state police will cover the state and operate within the laws enacted by the State Assembly.

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