Title page

THE ROLE OF NIGERIA POLICE FORCE IN THE ADMINISTRATION OF JUSTICE: ISSUES AND CHALLENGES

BY

BROWNSON, Benjamin Okereke
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DECLARATION

I hereby declare that this thesis was written by me in the Department of Public Law under the supervision of Professor K.S. Chukkol and Dr. Bala Babaji. The information derived from the literature has been duly acknowledged in the text and a list of references provided. No part of this thesis was previously presented for another degree or diploma at any institution.

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BROWNSON, Benjamin Okereke
LLM/LAW/11289/2007-2008

CERTIFICATION

This thesis entitled: "***The Role of Nigeria Police Force in the Administration of Justice : Issues and challenges"*** meets the regulations governing the award of the Master of Laws degree (LLM) of Ahmadu Bello University, Zaria and is approved for its contribution to knowledge and literary presentation.

_____ _____
Prof. K.S. Chukkol **Date**
Chairman, Supervisory Committee

_____ _____
Dr. B. Babaji **Date**
Member, Supervisory Committee

_____ _____
Dr. Yusuf Dankofa **Date**
Head, Dept. of Public Law

_____ _____
Prof. A.A Joshua **Date**
Dean Postgraduate School

DEDICATION

This thesis is dedicated to God Almighty who has been the strength and inspiration behind me throughout the period of the research.

ACKNOWLEDGEMENT

A research of this nature could not have been successfully carried out without the support and contributions of others. In this regard, I wish to thank in the first instance, Almighty God for all what He has been doing in my life. You have always being my inspiration and pillar.

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Similarly, am very grateful to Dr. B. Babaji who is my second supervisor. I must place on record that you read my thesis despite your administrative responsibilities as the Deputy Dean and Head of

department of Islamic Law. Sir, I cherish your humble disposition towards everything.

Special thanks to my darling wife, Mrs. Blessing Nwayioma Okereke who has always been loving, caring and patient throughout my study. You support and encouragement had made me to achieve my desire goal.

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C.C	-	Criminal Code
C.F.R.N	-	Constitution of Federal Republic of Nigeria
C.O.P	-	Commissioner of Police
C.P.C	-	Criminal Procedure Code
C.P.A	-	Criminal Procedure Act
E.F.C.C	-	Economic and Financial Crime Commission
I.C.P.C.	-	Independent Corrupt Practices Commission
I.G.P	-	Inspector General of Police
L.F.N.	-	Law of Federation of Nigeria
P.A	-	Police Act
P.C.	-	Penal Code

ABSTRACT

Crime has been a major subject of concern throughout human history. No society is free of crime and criminals. The Nigeria Police Force is an agency established by law to ensure preservation of public order and law enforcement as well as prevention and detection of crime. The police plays vital role in the administration of justice in any society. The police present the entry point into the criminal justice system either through reports from the public or its own investigation and surveillance. It is therefore a fact that an average citizen has contact with the police more than with any other agency for administration of criminal justice. This thesis examines the role of Nigeria police in the administration of justice. The main objectives of this thesis are to critically analyse the role of the police in the administration of justice; to identify challenges militating against the police in the areas of crime control and detection. The thesis observes that some legal provisions on the operation and function of police have negatively affected the operational capacity of the police for example, section 214(3) and 4 of the 1999 Constitution of Nigeria just to mention a few. The thesis equally observes that corruption in the Nigeria police has been exacerbated by poor working conditions, inadequate logistic and working facilities. These have greatly undermined the operational efficiency of the police to prevent and control crime in Nigeria. Consequently, the thesis recommends amongst other things the amendment of section 214(3) of the constitution to effect that a governor of a state being the Chief Security Officer can give lawful directives to commissioner of police. Similarly, the police must be properly trained, and adequately equipped and well remunerated. The police must also collaborate with other law enforcement agencies sharing intelligence to facilitate crime prevention and detection in Nigeria.

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CHAPTER ONE

General Introduction

1.1 Background of the study

The phenomenon, “crime” has been a major subject of private and public concern throughout human history. No society is free of crime. However, the question often asked is that even if crime is part of inevitable human behaviour, how much of it can a society tolerate? This question is linked to man’s natural instinct for survival, the ability to respond to any threat to his life and property. Crime poses such a threat, particularly in its violent form.

The recent upsurge in violent crimes in Nigeria has created enormous uncertainty in the security of lives and property of individuals and of social stability in general. The incidents of traditional crimes such as armed robbery, arson, drug trafficking and abuse, murder, kidnapping, rape, hired assassinations and ritual killings are examples of the most serious and violent crimes which have been on the increase in the recent past. Correspondingly, White Collar Crimes in the form of Advance Fee Fraud (popularly, known as 419), contract deals, embezzlement and mismanagement in both the public and private sectors are also on the increase. The aggregate of

the traditional crimes mostly committed by the less privileged and white collar crimes mostly committed by the highly placed call for a change in the strategies for the prevention and control of crime in Nigeria,

The existing patterns in criminal activities show that criminals are getting more organized, sophisticated and brutal in the manner they carry out their dastardly acts, either in the way they physically attack individuals with dangerous weapons or the method they use in taking advantage of their official positions to steal and stash away millions of public funds in foreign and domestic accounts. Equally worrisome is the new dimension in organized criminal behaviour in Nigeria involving acts of terrorism and sabotage against individuals and public places. Recent incidents, in which some individual were stalked and eventually trapped in the volley of bullets from assault weapons, depict the viciousness of violent criminals. These acts are usually well-planned, orchestrated, syndicated and organized in the mafia-type fashion. In addition to these new patterns of violent crimes against persons, there is also the equally disturbing criminal behaviour against the Nigerian economy leading to the collapse of financial institutions and government parastatals. In short, we are

witnessing the emergences of dangerous trends in the nation's social and economic well-being.

Three bodies are responsible for the administration of criminal justice in Nigeria. These bodies are: the Courts, the Police and Prisons. This research focuses on the police functions in the administration of justice and the manner in which such functions are carried out.

The primary functions of the police are detection and prevention of crime as well as preservation of law and order. The police has constitutional powers of ensuring the prevalence of law and order and the preservation of public peace.

The 1999 Constitution of the Federal Republic of Nigeria confer on the police force powers and duties for effective oversight and accountability[1]

Similarly, the Police Act charge the force with the general duties of:

i. The protection of life and property

ii. Detection and prevention of crime;

iii. Apprehension of offenders;

[1] Section 214(2)(b) of the 1999 Constitution of the Federal Republic of Nigeria with Amendments 2011.

iv. Preservation of law and order

v. The due enforcement of law regulations with which they are directly charged.

vi. Performance of such other military duties within and without Nigeria as may be required of them by or under the authority of any other Act. [2]

The law has clothed the Nigeria Police with enviable powers in the sphere of administration of justice, preservation of law, order and maintenance of national tranquility. The section from the 1999 Constitution provides that the Police shall be organized and administered in accordance with such provisions as may be prescribed by the Act of the National Assembly. In exercise of the constitutional powers conferred on the National Assembly, the National Assembly enacted the Police Act.

In the exercise of its primary powers, the Police also act in other spheres which are necessarily incidental to the exercise of the actual powers of the police. For instance, in the exercise of the primary duty of the police under section 4 of the Police Act, the Act

[2] Section 4 of the Police Act Cap 359 LFN, 2004.

gives the Police the power of public prosecution.[3] By these powers, the police can charge and prosecute any person suspected to have committed a crime before any court of law in Nigeria.[4]

In the bid to create a favourable condition for the discharge of the duty of the police; the Police Act has also given the police the power to arrest any person suspected to have committed a crime with or without warrants.[5] The Police by the provision of the Act is also empowered to detain any person reasonably suspected to be in possession or carrying stolen property, or property that is reasonably believed to be unlawfully obtained.[6] For the purpose of forensic investigation, the law empowers the police to take finger prints.[7] It should, however, be noted that the exercise of these numerous powers conferred on the police has to be discharged with due regards to reasonability and decorum. Any exercise of such powers in contravention of procedures accepted practice and the rights of individuals would be rendered ultra-vires null and void. This is

[3] Sections 23 Police Act. Cap. 359, LFN, 2004.
[4] In Superior Courts of Record; the prosecution of offenders is often done by the Police, through the instrumentality of state counsel in Ministry of Justice. Predominantly, police prosecution is done at Magistrate Courts and other lower courts.
[5] Section 24 Police Act. Cap. 359, LFN, 2004.
[6] Section 29, Ibid.
[7] Abegunde, B., "*The Nigerian Police and Human Rights Abuse*" in Abegunde, B. and Adebayo, W.A. (eds) Essays in Honour of Oba Emmanuel Adebawola Adebayo, Petroa Educational Publishers, Ado-Ekiti,, 2008, p. 28.

importantly so as individual rights are also fundamentally guaranteed by the same Constitution that confers powers on the police.

1.2 Statement of the Problem

The Nigeria Police is saddled with the responsibility of maintenance of law and order. It also protects, prevents and investigates criminal activities. In the discharge of these duties, the force has over the years failed. This is by virtue of certain inherent problems and challenges that has militated the force in its application of its powers as have been statutorily provided. Some of these problems are:

a. The abuse of human rights, collection of bribes, corruption in the force, flagrant shooting of suspects and fellow policemen, illiteracy and incompetence of certain police officers to the mounting of illegal road blocks.

b. Lack of respect for fundamental human rights of every citizen in the discharge of their duties. These rights and liberties take the forefront in the operation of the rule of law in all democracies of the world today. Sadly, even when the Nigerian Constitution of 1999, reserves an entire chapter (the famous chapter iv) declaring and

providing for the protection of these rights, the Police still continue to engage in their abuse from time to time.

c. There is police lawlessness which begins with small irregularities or illegalities such as the disquieting features of committing crime of falsifying crime records against accused persons. These sorts of events, actions or inactions indulged in by policemen show an open disregard for the principles of the rules of law and civilized conduct which adversely affect police discipline and make mockery of the Nigeria Police force generally.

d. There is also the problem of police extortion at road checkpoints, arbitrary arrest and detection, torture of detainees, administrative cover-ups are a few of the crimes committed by the police force in their pursuit for justice which they claim to uphold.

e. Again, the Nigerian Police in the modern age seem to be handicapped in the face of current realities. It has been noticed that despite the teeming police personnel, the force is still bereft of manpower in certain quotas. There have been situations in which the police complain of shortage of staff when issues are reported to them.

f. Another problem is the lack of scientific and technological equipment for detecting crimes by the police.

g. The police are handicap on the following aspects: Shortage of manpower

i) Inadequate transport facilities

ii) Lack of scientific equipments for detecting crime

1.3 Aims and Objectives

The aims and objectives of this research work are:

1) To examine the role of the Nigeria Police in the administration of justice.
2) To identify the inadequacies of the police in the discharge of their functions.
3) To proffer practical solutions for combating crimes in Nigeria.

1.4 Justification

The importance of this research work cannot be over emphasized. It analyses the role of Police in the Administration of Justice in Nigeria in order to give the public clearer views on police administration.

Also, the research is necessitated to show case the indiscriminate violations of human rights by the police and the gross increase of crime rate in the country which often leaves much to be desired.

With the above issues, this research will serve as a viable source of information to all and sundry. First, it will benefit the police, those engaged in the administration of justice, law enforcement agencies and the court. It will also provide relevant suggestions on how best to curb the increase of crimes; it is also of immense benefit to policy makers, government officials, academicians, students and anyone interested in the peaceful co-existence of the Nigerian populace.

1.5 Scope of the Research

This research is limited to the role of Nigeria Police in the administration of justice. It will also look into the issues of crimes prevention and mechanisms for control crimes in Nigeria. But, reference shall be made to the former colonial master (United Kingdom) who introduces police administration in Nigeria. Analysis was also made to other police organization to enhance more knowledge on this area.

1.6 Research Methodology

The methodology employed in this research is doctrinal. That is, both the primary and secondary sources shall be employed such

as the examination of statutes, Case laws, law reports, textbooks by renounced scholars. Other library materials such as journals, newspapers had been made reference to. Of course, internet sources were considered for current trends on crime detection and prevention. Encyclopedias, thesaurus and police diaries have been made reference to.

1.7 Literature Review

This work examines an institution of great historical and political interest and significance. Together with the judiciary, civil services and the military, the police constitute one of the key institutions of a modern state. In particular, the origins, development and role of the police have not only prevented, detected and crime, they have also maintained law and order, preserved public safety and generally buttressed the existing governments, which were at first British and later Nigerian.

Alcock, R.N. in his book, *"Police Instruction Book"*[8] discussed very fundamental issues on crime prevention and detection. His work is indepth on the role of police in the prevention of crime, but failed to address to the minute detail of issues of enforcement of law. Also, his

[8] Alcock, R.N., *Police Instruction Book*, (Worth Publishers, New York, 2005), p. 18.

work, though relevant for this research, it is not in tune with contemporary issues as they obtain in Nigeria.

Gerber, S.B. and Schroeder, O, also wrote on *Criminal Investigation and Interrogation, Cincinnati, 1962*[9], where they elucidated on Investigation and Interrogation in the Maintenance of Law and Order and of curbing the rising tide of crime, yet their work has its short comings as most of the investigatory and interrogatory methods do not address the issues of Cyber Crime in the contemporary world.

Jeffries, C. in his book: *'The Colonial Police, London, 1952*[10], only made reference to the function of the police in the colonial era. His work is relevant for this research only, in that it gives a historical background of the police, but is silent in contemporary role of the police.

Okonkwo, C.O, in his book: *'The Police and the Public in Nigeria'* [11] raised invaluable issues of the role of police in the prevention, detection and enforcement of crime. Though he addressed the Nigerian issue in his book, there are certain grey areas

[9] Gerber, S.B. and Schroeder, O., *Criminal Investigation and Interrogation*, Cincinnati, p. 102.
[10] Jeffries, C. Colonial Police, London, 1952
[11] Okonkwo, C.O., *The Police and the Public in Nigeria* (Sweet and Maxwell, Publication, London, 1966), p.18.

he failed to enunciate and examine, such as the role of the police as it relates to court proceedings.

Ibiziako, S.M. also in his book: '*Police Powers in Nigeria'* which is a London University Ph.D Thesis, 1963[12], addressed the scope of the powers of the police in the prevention and detection of crimes; an enhancement to the identification and appreciation of the powers of the police, but only relevant to a large extent in four decades, as there is little relevance to the present police institution in Nigeria.

Shirley[13] gave an outstanding historical antecedence of the Nigerian police. The work, in its class has addressed succinctly the emergence of the Nigeria police.

Ottenberg[14] gave very useful tips on police investigation. His work is relevant to the situation as it obtains in Nigeria in the past, and gave a clue to the present. Though, a foreign book, it enhanced the richness of this research.

Palmer,[15] discusses fundamental issues of the police in prevention of crime. The issues raised in this work are indispensable.

[12] Ibiziako, S.M., *Police Powers in Nigeria*, (Ph.D Thesis, London University, 1963), p.12.
[13] Shirley, W.R., *History of the Nigeria Police*, Lagos, 1948, p.19.
[14] Ottenberg, M., *The Federal Investigators*, New Jersey, 1962, p.40.
[15] Palmer, S., *The Prevention of Crime, Behavioral Publications*, (New York, 1973).

Other materials consulted include *Journals of Criminal Law, Criminology and Police Science 1948-1960, Federal estimates 1974/1975, Journal of the International Commission of Jurists, 1959-1967.* All discuss particular issues on crime and the Future in combating crime.

The internet was also consulted where the researcher got very useful information and update of the role of the police in the twenty first century. This source, gave an indepth description of the role of the police in the modern world and the rising tide of crimes and ways to put a halt to them.

It also raised issue of Cyber Crime that is now on the increase, and how to detect, prevent and even arrest offenders and make them face the law.

1.8 Organisational Layout

Chapter one deals with the general introductions. It consists of introduction, statement of the problems, aims and objectives, justification, scope of the study, methodology, literature review and organizational layout.

Chapter two deals with the history and development of the police force, organisation of the police force, the objectives of the

establishment of the police force, the statutory powers, duties, functions of the police and conclusion.

Chapter three focuses on the police in the administration of justice, the concept of crime and the role of the police in combating it, detection and prevention of crime, the power of arrest, legal seizure and use of force, prosecution and interrogation of suspects, informers and entrapment and conclusion

Chapter four examines the modern trends, issues and challenges in the police force, discipline in the police force, the Nigerian police and challenges of the modern world, cyber and computer crimes, modern equipment in crime detection and prevention, the police and quest for better services, the future of the police in Nigeria and conclusion.

Chapter five concludes the research by way of observations, findings and recommendations.

CHAPTER TWO

Historical Development of the Nigeria Police Force

2.1 Introduction

Nigeria police began with a thirty-member consular guard formed in Lagos Colony in 1861.[1] In 1879 a 1,200 member armed parliamentary Hausa constabulary was formed.[2] In 1896, the Lagos Police was established.[3] A similar force for the Niger Coast constabulary was formed in Calabar in 1894 under the newly proclaimed Niger Coast Protectorate[4] in the North, the Royal Niger Company set up the Royal Niger Constabulary in 1888 with headquarters in Lokoja.[5]

The Police is a unit of armed forces established for the maintenance of law and order. It is a branch or department of government which is charged with preservation of public order and tranquility, enforcement of laws, the promotion of public health, safety and morals; the prevention, detection and prosecution of offenders.[6] The Nigeria Police, which is charged with these enormous responsibilities in the geo-political entity called "Nigeria", has been

[1] www.nigeriapolice.com. Accessed on 19/7/11, 3:02pm.
[2] Ibid.
[3] Ibid.
[4] Ibid.
[5] Ibid.
[6] Blacks Law Dictionary, (5th ed.), Minnesota: West Publishing Co., 1979, p.1041.

under intense public criticism in the last three decades over its apparent inability to effectively prevent and control crime[7]. In the words of Dambazau:

> "so many factors have been attributed to this failed situation. Firstly, there is the issue of lack of professionalism, generally attributed to recruitment policy, which has effect on the quality of manpower; the problem of poor training and general atmosphere of indiscipline. Secondly, corruption in the Nigeria Police is said to be endemic, and has eaten deep into the very fabric of the system"[8]

Okereke observed that, many Nigerians see the policeman as a "lazy, corrupt, inefficient, bribe-taking, money-extorting officer".[9]

Whatever the perceived inadequacies in the police system are, the Nigeria Police Force still remains the biggest, most viable and important sub-sector of the criminal justice system. The police present the entry point into the criminal justice system either through reports from the public or its own discovery.[10] The average citizen has contact with the police more, than with any other organ or agency for administration of criminal justice. The police, therefore, may form the basis for the evaluation of the entire criminal justice system. This

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[7] Dambazau, A.B., *Criminology and Criminal Justice*, (Spectrum Books Limited, Ibadan, Nigeria 2007), p.221.
[8] Ibid.
[9] Okereke O.G., "*Public Attitude towards the Police Force in Nigeria*" Police Studies Vol. 16, Bo. 3, 1993, pp.113-121.
[10] Dambazau, A.B., op. cit. 2, p. 178.

therefore, makes the operational policies and procedures of the police very crucial to the image of the entire criminal justice system.[11]

The importance of the police may however be the reason behind the police being the "bashing child" whenever a crime is committed against the citizen, notwithstanding the fact that the citizen may have contributed to his misfortune. This may be why Kuteyi and Ogunfola have the same reasoning when they said:

> *The Police Force everywhere are saddled with thankless jobs. Citizens take their security for granted until it is violated, they blame the police for ineffectiveness. The core problem of the police force is that they are expected to eliminate or cure a problem that can neither be cured nor eliminated.*[12]

The foregoing observation is a pointer to the reality of the fact that crime is inherent in man, and it cannot be totally eliminated. Crime is an integral part of the society. In fact, crime is one of the indicators of development. It follows therefore, that the primary duty of the police world over is to ensure the reduction of crime in a polity. This the Policeman can do within the framework of favorable policies.

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[11] Ladan, M.T., *Crime Prevention and Control and Human Right in Nigeria* (Ahmadu Bello University Press, Zaria, Nigeria 2009), p.187.

[12] Kuteyi, O.S. and Ogunfola., "*The Legal and Socio-Economic Implication of State Police in Nigeria*" a paper presented at the 23rd Annual Conference of Nigeria Association of Law Teachers held on 23rd – 26th April 2003 at Lagos State University Ojo, Lagos State – Nigeria. See proceedings of the Conference at p.190.

Therefore, criminality or high crimes wave should not only be seen as consequent upon the failure of the police system alone.

This chapter shall examine the Nigeria Police Force as a unified whole, with a bird's eye view on the historical evolution of the Nigeria Police, function of the Nigeria Police, corruption in the force and the problems militating against the smooth operation of the force.

2.2 History and Development of the Police Force

The word Police generally is derived from the Greek word Polis', meaning "that part of no ecclesiastical administration having to do within the safety, health and order of the state".[13] The Greek Politeria means the art of governing and regulating the welfare, security needs and order of the city-state in the interest of the public.[14]

According to Ehindero, even though Police is derived from Greeks, it was the Romans who perfected the system.[15] He further observed that the Roman Politia means the same as the Greek politeira is the symbol of power residing in the central authority.[16]

[13] Ehindero, S.G., *The Nigeria Police and Human Rights,(Ehindero Press, Jos, Nigria , 1998*), p.1.
[14] Ibid.
[15] Ibid.
[16] Ibid.

The history of the present Nigeria police dates back to 1881. Before this period, there were some features of police organisation amongst every tribal community in Nigeria.[17] Traditional rulers, therefore, had able-bodied men attached to them with the aim of guarding them, and in some instances assist in arresting wrong doers. This practice was common amongst the majority of tribes inhibiting the geographical areas now known as Nigeria.[18]

It has also been shown that, the traditional law enforcement institutions that were in place in most communities during the pre-colonial time or period discharged their responsibilities creditably in ensuring the existence of a lawful and orderly society[19]

It should, however, be noted that the observation of Oluyede to the effect that pre-colonial policing in Muslims areas of pre-colonial Nigeria and non-Muslim areas are different is instructive.[20] He observed that although 'Allah' is regarded as Supreme Lawmaker, Islamic law was and is still enforced by human agencies such as the member s of the 'Shurta" (Police). It is his further observation that policing in non-Muslim areas of pre-colonial Nigeria appealed to

[17] In Hausa States of Northern Nigeria, there were "dogarai" as the police and their leader, the "sarkin dogarai" i.e. the commander of the police the dogaris perform all the functions of the modern police. The safawa dynasty of Kanem- Bornu empire has Talba who was the head of police affairs.
[18] www.org/nigeriapolice Accessed on 3/7/11, 10:00am.
[19] www.cleen.org/polcing Accessed on 5/7/11, 12:00pm.
[20] Ibid.

supernatural beings by the priest; Juju practices, ancestral worship are all features of pre-colonial police machinery.[21]

As stated earlier, the modern and unified Nigeria Police started in 1861. It started as a consular guard of thirty men in Lagos, in 1963, the guard became known as the "Hausa Police".[22] The force was later reorganized in 1879 by an Ordinance creating the constabulary of Lagos[23] In 1894, the Niger constabulary was formed in Calabar.[24] The Royal Niger Company formed another constabulary was formed in 1888; landmark development in the history of Nigeria police came in 1930, when the northern and southern police were merged to form the Nigeria Police Force with Lagos as the force Headquarters.[25]

Upon attainment of independence in 1960, the independent Nigeria re-organized the Nigeria police force as a Federal Force under the 1960 Constitution The Constitution also set up two bodies, the Police Council and the Police Service Commission.[26] The Constitution of Nigeria 1963, 1979 and 1999 also empowers the

[21] www.cleen.org/polcing Accessed on 5/7/11, 12:00pm.
[22] Adebayo, W., "*Nigeria Police: Structure and Functions*" in T.F. Yerima and B. Abeghunde (eds). *Essays on Administrative Law in Nigeria,* Ado-Ekiti: (Peteo Educational Publishers, 2006), P.251.
[23] Ibid.
[24] Dambazau, A.B., op. cit. p.227.
[25] Ibid., p. 228.
[26] Adebayo W., op. cit. pp.251-252.

Nigeria police to operate as a single Federal Force.[27] The Constitution of Nigeria 1999, the grundnorm of the existing legal order in Nigeria,[28] clearly stipulates the existence of only one Police Force unless and until it is amended, the recent agitation for the creation of a state police cannot be achieved.

2.3 The Organisation of the Nigerian Police

Adebayo rightly observed that the structure of the Police is fashioned along the federal system in such a way that the unit of command at the federal, state and local level is placed under a police officer in order of seniority. The Inspector General (IGP) being the Head at the Federal level, the Commissioner of Police (CP) at the State level and the Divisional Police Officer (DPO) at the Local level.[29]

The Constitution provides that the Nigeria Police Force shall be organized and administered in accordance with such provisions as may be prescribed by the Act of the National Assembly in the exercise of the powers vested on it by the Constitution as afore-

[27] For instance Section 214 Constitution of the Federal Republic of Nigeria 1999, which provides that, there shall be a police for Nigeria … and no other police force shall be established for the federation or any part thereof.
[28] Although, there are divergent views as to the grundnorm of the Nigeria legal order, in my view, the Constitution of Nigeria 1999 is the grundnorm
[29] Adebayo W, op. cit. pp.152-153.

mentioned the National Assembly enacted the Police Act.[30] The Police Act clearly provides for the command structure of the force. This is to clearly identify flow of command and channel of discipline in the force. The Police Act creates the office of the Inspector General and that of a number of Deputy Inspector Generals and Assistant Inspector Generals as the Police Council may deem necessary.[31] The Police Act also vests the Inspector General with enormous powers over the command of the entire Nigeria Police Force.[32] For administrative convenience, the Nigeria Police Command structure is divided into three categories, as shown and illustrated below:

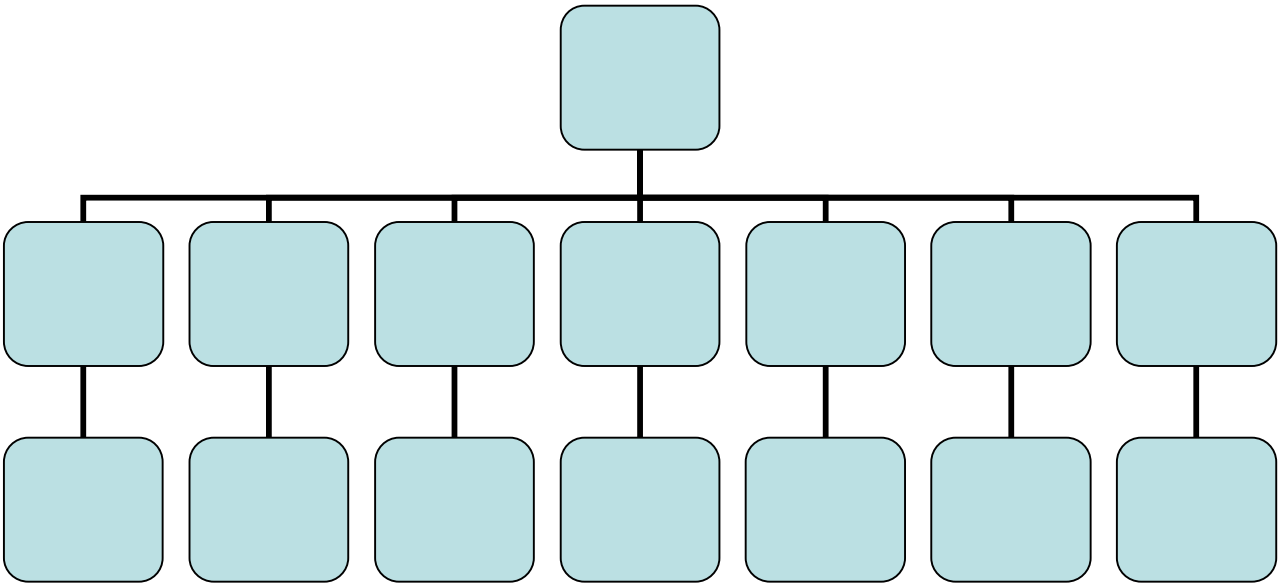
a. The Command structure at the Force Headquarters

b. The structure at the Zonal Command; and

c. The Structure at the State Command.

[30] Section 3 Police Act, L.F.N. 2004 which provides that, there shall be established for the Nigeria Police Force, the Nigeria Police Act.
[31] Section 5 Police Act Ibid.
[32] Section 6 Police Act. Ibid.

A.



Organisation of Force Headquarters[33]

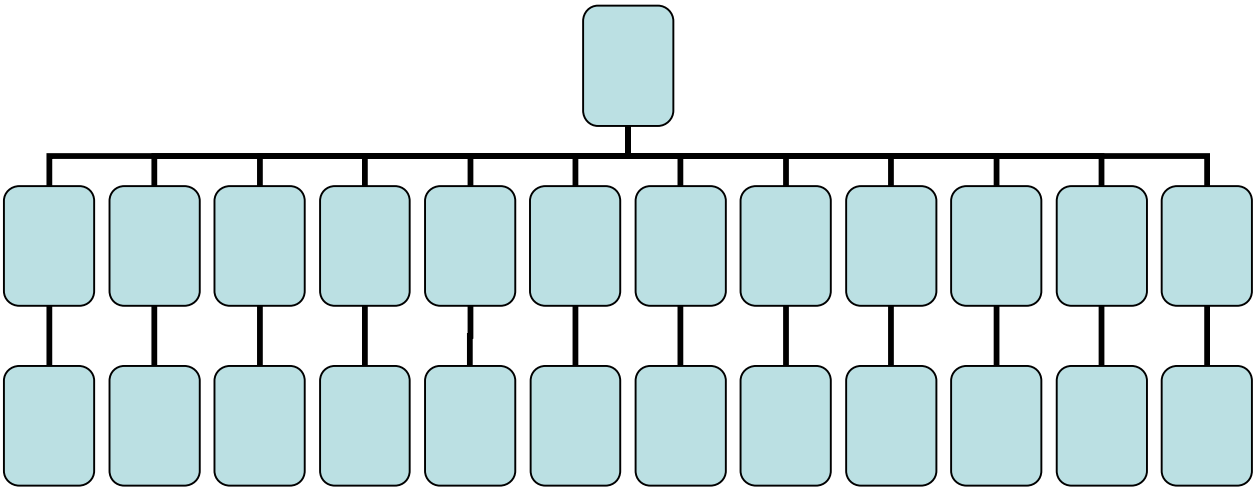
As stated earlier, at the helm of affairs, the chart shows the Inspector General of Police who is appointed by the President. Below the Inspector General of Police (IGP) are six specialized offices of the Deputy Inspector Generals (DIG) in charge of different specialized department. DIG "A" Department, is in charge of Finance and Administration of the Force. DIG "B" Department is in charge of operations. DIG "C" Department is in charge of Logistics and supply. DIG "D" Department is in charge of investigation and intelligence. DIG "F" Department is in charge of research and planning, and an AIG is

[33] Dambazzau, A.B., op cit. p.231.

the Force Secretary who is directly under the office of the IGP vested with the responsibility of attending to matters relating to appointment, promotion, discipline and posting of officers.

From the organisation at the Force Headquarters, the Force is further organized into twelve zones with each zone comprising of two to four State Commands under the leadership of AIG who is answerable directly to the IGP.

B.



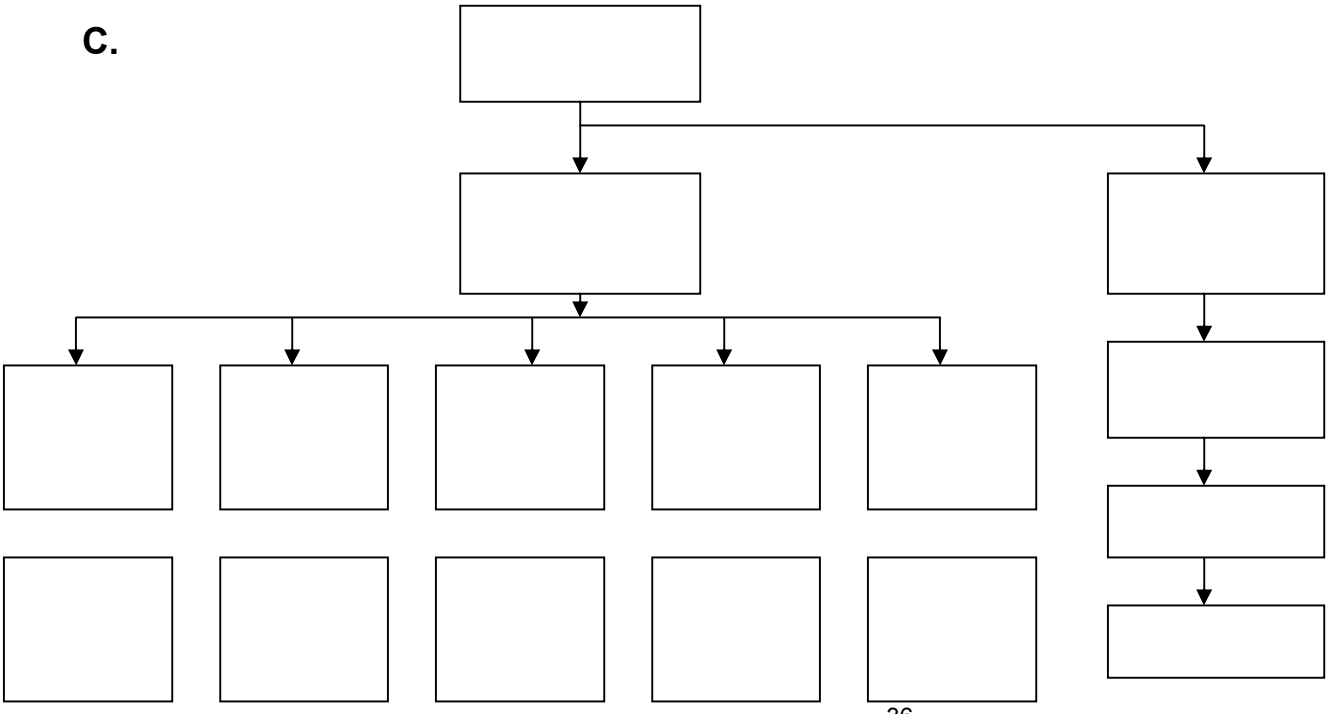
Organisation of Zonal Commands[34]

In all the thirty-six states of the federation and the Federal Capital, the Command structure of the force is headed by a Commissioner of Police (CP); followed by a deputy Commission of police who assists the CP in the day to day administration of the command.

[34] Dambazzau, A.B., op cit. p. 231.

Like the organisation at the Force Headquarters, the State Command has five Assistant Commissioner of Police (ACP),[35] heading specialized departments of the force and Assistant Commissioner of Police in charge of Area Commands. AC 'A' Department is in charge of finance and administration; 'B' department in charge of operations, 'C' department in charge of logistics and supply, 'D' department in charge of investigation and intelligence and 'F' department in charge of research and planning with other AIGs in charge of Area Commands.

C.



Organisational Structure of the State Commands[36]

[35] Assistant Commissioners of Police are often called A.C.
[36] Dambazau, A.B.,, op., cit. p. 232.

2.4.1 The Objective of the Establishment of the Police Force

The Nigeria Police Force is designated by the Constitution of the Federal Republic of Nigeria as the National Police of Nigeria with exclusive jurisdiction throughout the country[37]. Constitutional provisions also exist, however, for the establishment of separate Nigeria Police Force branches forming part of the armed forces of the federation or for the protection of harbours, waterways, railways and airfields. One of such branch was the Port Security Police.

The growth of the country was accompanied with the development of her police force. As already stated, by 1906, the Southern and Northern Protectorates of the force were merged together. That means by 1914 which was the year of amalgamation of the country, the police had already grown towards a central system of control. This was put clearly thus:

> "In April 1930, when the Nigeria Police Force was established, the government had encouraged the development of separate police forces in the colony and protectorates under its administrative control. Local conditions and the requirements of the separate administrations dictated the pace of police developments and the nature of their functions in these territories. Being that there must be a "Police System/Force" to keep the

[37] Section 194 of the 1999 Constitution of the Federal Republic of Nigeria with amendments, 2011.

> administration going, in consonance with this principle, the colonial master of Nigeria, the British Government introduced in this country a system of police force as already stated in 1943 however, the Police Ordinance[38] was promulgated and came into force on April 1 of that year."

It was an Ordinance which made provision for the organisation, discipline, powers and duties of the police. Section 3 of the ordinace, the Force was to be known as the Nigeria Police Force, section 4 also provides that the Police shall be employed for the preservation of Law and order, the protection of life and property and the due enforcement of all laws and regulations with which they are directly changed. With the centralization of the Nigeria Police Force, its command flow followed the same pattern. The Force consisted of an Inspector General who is in-charge and such other officers of such ranks as may from time to time be approved by the government according to section 5 of the Nigeria Police Ordinance. By the new formation a single force was intended, for the country, nonetheless, there were in both the defunct Western and Northern regions several local authority and native authority forces. For instance the Federal Territory of Lagos[39] was policed only by the Nigeria Police Force, the

[38] Now Chapter 154 of the Laws of the Federation of Nigeria and Lagos 1958.
[39] Section 105(5), (6) of the 1963 Constitution, though powers conferred not exercised.

Eastern Region of that time, had neither local nor native authority police though the 1963 Constitution[40] in its section 104(7) permitted the legislature of a region to make provision for the maintenance by any authority or local government authority established for a province or any part of a province a Police Force for employment within the province. Though the provision appear clearly to preclude a Regional Government from organizing a Police Force, on a regional basis, in ***Olajire v. Superintendent-General of Local Government Police Force[41],*** it was held that it did not prevent the creation by a Western Region law a superintendent-General of Local Government Police who had General supervisory functions over local forces.

Apart from these few exceptions, section 105(4) of the constitution[42] expressly forbade the establishment for Nigeria or any part thereof of any Police Force other than the Nigeria Police Force. In line with this provision of the 1963 Constitution, the 1979 Constitution[43] in section 194(1) established for the whole country a single police force, "the Nigeria Police Force, and specifically

[40] Regional Establishment of Police Force.
[41] (1961) ALL NLR 826. At this stage one can say that the 1960 and 1963 constitutions are essentially the same in this area of public law except the sections numbering.
[42] 1963 Constitution
[43] 1979 Constitution on the Establishment of a single police force for the federation of Nigeria.

prohibited the establishment of any other Police Force in the Federation.

To ensure efficiency and effectiveness of the Police Force, there are in place the vision and mission statements and strategies of the Force.

2.4.2 Vision Statement[44]

Making the country safer and secure for the attainment of National aspiration.

2.4.3 Mission Statement[45]

To deliver qualitative and efficient security and law enforcement services to the citizens of Nigeria.

2.4.4 Strategy[46]

1) Phased development of a three-point agenda that captures the essence of the vision and mission, through:

1. Implementation of government's white paper on police reforms and roadmap for taking Nigeria police to the next level.
2. Training and retraining as imperatives for professionalism and confidential building.

[44] www.psc.gov.gov.ng/files/combatingcorruption. Accessed on 5/8/2011, 12:00pm.
[45] Ibid.
[46] Ibid.

3. Building institutional and individual capabilities.
4. Re-invigoration of supervisory mechanisms.
5. Outward resource distribution

2) Renewed commitment to combating violent crimes and other forms of criminality through:

1. Intelligence led policing
2. Community policing
3. Consultative and strategic partnerships
4. Optimal utilization of resources: men and material.

3) Enhancing police image and improving personnel welfare by:

1. Developing the professional capacities of individual police personnel.
2. Zero tolerance for corruption and corrupt practices
3. Moral rearmament and ethical reorientation.
4. Recognition and reward for outstanding performances.
5. promotion and general welfare packages
6. Accommodation issues: barracks and owner occupier houses.

2.5 Statutory Powers, Duties and Functions of Police

The Constitution of the Federal Republic of Nigeria provides that "the members of the Nigeria Police Force shall have such powers and duties as may be conferred upon them by law[47]" that such powers and duties "may be prescribed by an Act of the National Assembly".[48]

Now in the furtherance of the above stipulation the Police Act (which is now an Act of the National Assembly) Cap 359 laws of the Federation of Nigeria provides in section 4 part 11 as follows:

> that the primary function of the police is the prevention and detection of crimes, the apprehension of offenders, the preservation of law and order, the protection of life and property and the due enforcement of all laws and regulations with which they are directly charged and shall perform such other military duties within or without Nigeria as may be required of them under the authority of this or any other Act.

An authoritative conclusion can be deduced from the provision above, that the prime functions of the police are the protection of lives, and property as well as the preservation of law, peace and order in and outside Nigeria.

[47] Section 214(1)(b) of the 1999 Constitution of the Federal Republic of Nigeria with amendments, 2004.
[48] Section 214(2)(A) Ibid.

The functions of the police were first outlined statutorily in the Police Act of 1967. However, corresponding adjustments have been made in the currently amended Act to stipulate police functions as follows[48]:

A. The prevention and detection of crime;

B. The protection of lives and property;

C. The preservation of law and order;

D. The due enforcement of law regulations;

E. Apprehension of offender; and

F. The performance of such other military duties within and without Nigeria as may be required of them by or under the authority of any other Act.

Now the relationship between the police and the society as well the system (that is, the law and the constitution) which are parties in this big social contract shall be clearly understood in a sequential elucidation of their functions as stipulated above.

A. The Prevention and Detection of Crimes[49]

Statutorily speaking, it is conclusive that most of our law enforcement laws tend to give priority to the prevention and detection

[48] Section 4 of the Police Act of 1976 Cap 3259 LFN.
[49] Section 153(i)(m) of the 1999 Constitution of the Federal Republic of Nigeria with amendments, 2004

of crime, this is because of the dire importance attached to “nipping a crime in the bud” rather than expending tireless efforts (usually in futility) investigating the crime afterwards. Furthermore “deterrence” mechanisms have proven more effective in the maintenance of law and order in highly civilized societies.

It is rather unfortunate that societal development in knowledge and technology is often greeted with a corresponding advancement in the pattern and mechanisms for perpetrating crimes. Consequently, insecurity of lives and property in a developing nation like Nigeria is always on a steady increase, hence the need for the police to be alert by taking several steps towards evolving policies, strategies and the technological know-how for suppressing the environment, as well as the possibilities of criminal intentions before they are outwardly manifested. And to that effect, section 53 of the Criminal Procedure Act (CPA)provides that every police officer may interpose for the purpose of preventing and shall to the best of his ability prevent the commission of any offence. A police officer may of his authority interpose to prevent any injury attempted to be committed in his view to any public property, moveable or immovable.

Furthermore, section 54 of the same Act provides that every police officer receiving information of a design to commit any offence, shall communicate such information to the police unit, to which he is subordinate an to any other police officer whose duty is to prevent or take cognizance of the commission if the offence cannot otherwise be prevented.

It can be deduced from the above cited sections that the law appears to give law enforcement officers (and the police in particular) the necessary legal backing to use all lawful means to avert or suppress the commission of crimes, in fact, beyond mere statutory provisions, the police have (for operational efficiency) institutions empowered to ensure state security through intelligence and investigation bureau (F.I.I.B) Alagbon; ably assisted by all the various state intelligence and investigation bureau (S.I.I.B), the Divisional Crime Offices (D.C. Os) in all the various local government areas of the federation. Also in the security web are the Special Anti-Robbery Squads, the Police Finger Prints Unit, the Photographic Unit, as well as the Handwriting Unit.

All these security intelligence agencies are highly specialized; and their establishment is calculated towards preventing and

suppressing of crimes and criminal activities, through intelligence information investigation, and operations.

B. Protection of Lives and Property[50]

The police are charged with the responsibility of protecting the lives and property of all the citizens within their respective precincts and jurisdiction. They are expected to discharge this responsibility by posting men on guard duties, giving special escorts to banks, parting orderlies to senior civil servants and judges, as well as to other important personalities and places.

Section 28(1) of the Police Act gives police officer the authority to break barriers in search of suspected illegally acquired property. It allows a police officer to enter any house, shop, warehouse or other premises in search of stolen property, search therein, seize and secure any such property he may reasonably believe to have been stolen. Thus he may do in the same manner, as he would be authorized to do it he had a search warrant, and the property seized, if any, corresponded to the property described in such search warrant. Similarly, sub sections (3) and (4) of the same section as well as all the subsections of section 31 of the Police Act, all give the

[50] Section 153 of the 1999 Constitution of the Federal Republic of Nigeria with amendments, 2004.

police the authority to retrieve stolen property and secure same for the legitimate owners.

C. Preservation of Law and Order[51]

Section 10 of the Police Act vests a duty on the police under the directive of the president to ensure public safety and public order. This may be executed in several ways such as enforcement of laws and regulations governing unlawful assemblies. Also by suppression, not of public meetings (as guaranteed by the constitution) nor of public processions as guaranteed by the public order decree of 1979; but rather, by ensuring order; through the apprehension and prosecution of offenders who intend to provoke civil unrest from such public processions.

Avory J. stressed the importance and value of the police to possess preventive powers in order to be able to preserve the peace.

D. Due Enforcement of all Laws and Regulations[52]

i) **Duties not directly Charged with**: The police do not just enforce any law; they enforce only those with which they are directly charged. For instance, the police do to enforce civil matters, agreements or contracts between individuals.

[51] Section 153 of the 1999 Constitution of the Federal Republic of Nigeria with amendments, 2004.
[52] Ibid.

Otherwise they would be exceeding the statutory limitations of their powers as stipulated by law.

ii) **Duties directly Charged with:** The police are mandated to enforce all crime laws as contained in both the criminal and penal codes, as well as all those contained in other subordinate criminal legislations such as traffic laws, Drug Law enforcement Decree and so on.

E. Performance of such Military Duties required of them[53]

The police shall perform such military duties within and without Nigeria as may be required of them, by or under the authority of any Act as part of their functions. Section 4 of the Police Act states that they… shall perform such military duties within or without Nigeria as may be required by them by or under the authority of this or any other Act …" Section 12 further states that "when required to perform military duties in accordance with the provisions of section 4 of this Act, such duties entailing service with the armed forces of Nigeria or any force for the time being attached there-to acting there-with, the police shall be under the command and subject to the orders of the officer in command of the forces in Nigeria…".

[53] Section 153 of the 1999 Constitution of the Federal Republic of Nigeria with amendments, 2004.

Therefore, apart from enforcing laws the police are also charged with the duty of performing military functions particularly during states of emergency, either nationally or internationally. Consequently, the Nigerian police force has on several occasions, in the past been deployed to serve in various nations particularly in Africa. In 1960 they assisted in the peacekeeping campaign in the Democratic Republic of Congo, later on in Angola, Namibia, and Cambodia.

The Nigeria police in the discharge of its constitutional duties through the instrumentality of officers and men of the force have in amount of cases violated the wordings and spirit of the constitution it was meant to protect. Most officers and men of the force had the orientation of brutality and corruption. This may not be unconnected with the colonial heritage of the force as it relates to brutality and poor welfare of the force.

CHAPTER THREE

The Role of Police in Arrest and Investigation of Crime in Nigeria

3.1 Introduction

The mention of law in any circumstance, the first among all its tenets that readily comes to mind is that of crime… At the 21st century, it is no longer a hidden agenda to assert that six of the ancient mosaic canons of human conduct ever known to history, i.e. the Ten Commandments[1], including Nigeria. Equally for the conferment of the law degree by any Law Faculty, the framework of the national and international criminal laws has remained one of the core subjects to be studied. It can be imagined of a lawyer who was not trained as an attorney in crimes.[2]

It is common knowledge however that, not all illegal acts nor all legal wrongs are crimes and punished as such; neither are they all civil wrongs which can be remedied by mere adjudication between the individuals concerned.[3]

The importance of the subject of crime in law cannot be overemphasized but an acceptable definition of the subject of crime

[1] Deuteronomy 5:6-21, Exodus 20:1-7
[2] Chukkol, K.S., *The Law of Crimes in Nigeria*, (Ahmadu Bello University Press, Zaria, 1988), p.3.
[3] Aguda A., and Okagbue I., *Principles of Criminal Liability in Nigeria* 2nd ed., (Heinemann Educational Books Nigeria Plc, Ibadan, 1990), p.3.

by scholars is difficult. The word has been described as "elusive".[4] The purpose of criminal sanctions of the state is to protect her citizens from offensive and injurious conducts and to provide sufficient safeguards against the exploitation and corruption of the less vulnerable, the state at the same time ensures an accused person is entitled to certain rights to guard against the possibility of an innocent being punished unjustly.

This chapter will consider the concept of crime, especially the problem of definition of the concept, the post independence Nigerian constitutional concept of crime and the rights of a suspect under the Nigerian criminal justice administration.

3.2 Meaning of Crime

Under the Common Law, eminent learned writers on the Common Law have sought with varying results to postulate such definitions of a crime as "an act committed or omitted in violation of public law forbidding or commanding it and also a violation of the public rights and duties to the whole community considered as a community.[5]

[4] Karibi Whyte A.G., *Criminal Policy: Traditional and Modern Trends*, (Ademeyi Press Ltd., Ijebu Ife, 1988), p.7.
[5] Blackstone, Commentaries on the Laws of England, p. 5.

Stephen defines crime as acts which are both forbidden by law and revolting to the moral sentiments of the society and also acts forbidden by the law under pain of punishment.[6] Under the Common Law regime, Kenny, sees sanctions of the Criminal Law as enforced at the discretion of the sovereign alone.[7] Seton Pollock says "crimes are wrongs in respect of which execution of the court judgement thereon is undertaken without the crown being moved thereto or deflected there from by any other party.

One obvious limitation of the Common Law concept of crime from the above definitions is that it is in no way remissible by any private person or any law but remissible by the crown alone. The breach of a legal duty treated as the subject matter of a criminal proceeding.[8] Crime as distinguished from that of wrong or tort and from that of sin involves the idea of injury to the state or collective community.[9]

A crime is any antisocial behaviour, which falls within the general disapproval of the community. Mere disapproval, however, has never been sufficient. The disapproval must be supported by

[6] Stephen A., *General View of the Criminal Law of England*, (Sweet and Maxwell, London, 1998), pp. 3-4.
[7] Kenny, *Outlines of Criminal Law, 16th ed*. P. 530.
[8] Bryan A. Garner, (ed.) *Blacks Law Dictionary, 8th ed. U.S.A*. (Thomson West Publishing Co. 2004), p.399.
[9] Ibid p. 399.

punitive sanctions. This view is supported by some writers[10] in their definition of crime as "a legal wrong the remedy for which is the punishment of the offender at the instance of the state."

The procedure for criminal trial can be a distinguishing mark of crime and civil wrong. The actual prosecution of crimes is by the state and the state still controls them, even though individual may undertake them in some instances,[11] while the main object of civil cases is compensation of the plaintiff as far as possible, for the criminal trial has punishment as its main object, though it may provide for compensation and restitution in same cases.[12]

The difficulty of enunciating a satisfactory definition of a crime under the Common Law is not usually experienced under a codified system of criminal law, where the code itself usually defines the word. The Nigerian Criminal Code (applicable in Southern Nigeria)[13] and Penal Code (applicable in Northern Nigeria)[14] which contain the bulk of the offences do not define "crime" but "offence". Section 2 of the Criminal Code states that:

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[10] Cross and Jones, *Introduction to Criminal Law*, (6th ed.),(Butterworth's Publisher, London, 1980), p.3.
[11] Okonkwo and Naish, *Criminal law in Nigeria*,(Spectrum Books Limited, Ibadan, 1980), p.20.
[12] Ibid.
[13] Cap. C38, Laws of the Federation, 2004.
[14] Cap. P3, Laws of the Federation, 2004.

"An act or omission which renders the person doing the act or making in omission liable to punishment under this code or under any Order in Council, Act or Law or Statute, is called an offence."

The Penal Code[15], on the other hand states that:: *"Except where otherwise appears from the context, the word offense include an offender under any law for the time being in force."*

According to this definition an offence is what a particular law says is an offence. This will require an excursion into all the statutes in Nigeria to examine what each law will define as offence or a crime. That is not the intention in this research for now but some offences under some statutes are more pronounced under our current democratic experiment than ever, some of the statutes are examined here.

The Nigerian Economic and Financial Crimes Commission (Establishment) Act 2004,[16] defines Economic and Financial Crimes as:

> *The non-violent criminal and illicit activity committed with the objectives of earning wealthy illegally either individually or in a group or organized manner thereby violating existing legislation governing the economic activity of government and its administration and includes any form of fraud, narcotic drug trafficking, money laundering, embezzlement,*

[15] See Section 28 of the Penal Code Cap. 105, Laws of the Federation, 2004.
[16] See Cap. E1, Laws of the Federation, 2004.

> *bribery, looting and any form of corrupt malpractices, illegal arms deal, smuggling, human trafficking and child labour, illegal oil bunkering and illegal mining, tax evasion, foreign exchange malpractices including counterfeiting of currency, theft of intellectual property and piracy, open market abuse, dumping of toxic wastes and prohibited goods, etc.*

The Independent Corrupt Practices and other Related Offences Act[17] did not define corruption but stated certain conducts which promotes corruption as follows:

> accepting gratification by an official, giving or accepting gratification through an agent, corrupt demand by persons, fraudulent receipt of property, deliberate frustration of investigation by the commission, making false statement or returns in respect of money or property received, bribery of public officer in relation to voting or performance.

Section 34 of the Act further provided thus:

> … using office or position to gratify or confer unfair advantage on themselves, inflation of the price of goods and services, awards of contract without budget provisions, failure to report bribery transactions, dealing with, using, holding, receiving or concealing gratification, making false statements to the commission and willfully making false petitions.[18]

[17] Cap. C31, Laws of the Federation, 2004.
[18] Ibid..

3.3 Arrest and Investigation

3.3.1 Police Power to make Arrest

The police may sometimes, and which is often easier, make an arrest without warrant. In this context, we shall make a demarcation in respect of the various powers under the Criminal Procedure Act and lastly the Police Act.

Since offences are classified under the criminal code into Felony, Misdemeanor and Simple Offences, the issuance of warrant depends upon the nature of the offence. Felony according to section 3 of the Criminal Code

> *Is any offence which is declared by law to be a felony or which is punishable without proof of previous conviction with death or with imprisonment for 3 years or more, e.g. murder is a felony. Misdemeanor is an offence which is declared by law to be a misdemeanor or which is punishable by imprisonment for not less than 6 months, but less than 3 years. While a simple offence is an offence other than a felony or misdemeanor and which is punishable with imprisonment for less than 6 months.*[19]

Other classifications are in the Criminal Procedure Act which divides offences into indictable and non-indictable offences. It is necessary to state the Penal Code classification of offences here.

[19] Section 3 of the Criminal Procedure Code Cap. 77 LFN, 2004.

The Penal Code classifies offences into capital offences, bailable and non-bailable offences. There are also compoundable and non-compoundable offences.

The significance of the above classification is that it determines the police powers of arrest. But where the offence is committed in his presence, the above classifications become irrelevant. This is so because once an offence is committed in the presence of a police officer, whether warrant is needed or not, and whether it is a capital offence or felony, the police may never the less arrest without warrant.[20]

These classifications also determine the right to bail where an accused is charged with felony or capital offence, the judge may grant bail under section 118(2) of the CPA,[21] in other cases the accused must be granted bail unless there are sufficient reasons to the contrary provided the accused finds a reasonable surety.

The police powers of arrest without warrant are contained in section 10 of the CPA, section 26 of the CPC and section 20(1) of the Police Act. It is to be noted that in addition to these statutory enactments, there are other various enactments with specific

[20] Sections 10(2) Criminal Procedure Code Cap. 77 LFN, 2004.
[21] Section 341 of the CPC.

relevance to police powers of arrest without warrant. For example see the Fire Arms Act, Dogs Act, etc.

Under the Criminal Procedure Act,[22] the Police shall make the following arrest without warrant.

> *Any police officer may, without an order from the magistrate and without a warrant, arrest:*
> *a. Any person whom he suspects upon reasonable grounds of having committed an indictable offence against a Federal Law or against the law of the region or against the law of any region, unless the written law creating the offence provides that the offender cannot be arrested without a warrant.*
> *b. Any person who commits any offence in his presence.*
> *c. Any person who obstructs a police officer while in the execution of his duty, or who has escaped or attempts to escape from lawful offence custody.*
> *d. Any person in whose possession anything is found which may reasonably by suspected to be stolen property or who may reasonably by suspected of having committed an offence with reference to such thing.*
> *e. Any person whom he suspects up reasonable ground of having been concerned in any act committed at any place out of Nigeria, which if committed in Nigeria would have been punishable as an offence and for which he is under any written law or Act of Parliament extending*

[22] Section 10 of Criminal Procedure Code Cap. 77 LFN, 2004.

to Nigeria, liable to be apprehended and obtained in Nigeria.

f. *Any person whom he suspects upon reasonable grounds of being a deserter from Nigerian Navy, or Army or Airforce.*
g. *Any person having in his possession without lawful excuse, the burden of proving which excuse shall lie on such person, any implement of House breaking.*
h. *Any person for whom he has reasonable cause to believe a warrant of arrest has been issued by a court of competent jurisdiction in the region.*
i. *Any person who has ostensible means of subsistence and who cannot give a satisfactory account of himself.*
j. *Any person found in the region taking precautions to conceal his presence in circumstances which afford reason to believe that, he is taking such precautions with a view to committing an offence which is a felony or misdemeanor.*

Section 10(2) CPA provides that the authority given to a police officer to arrest a person who commits an offence in his presence shall be exercisable in respect of offences committed in such officer's presence not withstanding that the written law creating offence provides that the offender cannot be arrested without a warrant.

Section 55 CPA gives the police further powers of arrest to prevent offences and injury to public property; it provides that

> *Not withstanding the provisions of any written law, a police officer knowing of a design to commit any offence, may arrest, without orders from a magistrate and without a warrant, the person so designing, if it appears to such officer that the commission of the offence cannot other wise be prevented.*[23]

Police officers whether on duty or off duty and whether in uniform or not, can arrest without warrant. That is why section 10(1) of the CPA which provides that a police officer may arrest without warrant any person who obstructs him while in the execution of his duties or who has escaped or attempts to escape from lawful custody.[24] Thus it was held that a police officer need not be in uniform in order to act in the execution of his duty.[25] The use of overt force whether physical, implied or constructive is sufficient to constitute an obstruction.

The Criminal Procedure Code[26] provides for thirteen circumstances in which an arrest can be effected without a warrant. It reads

> *Any police officer may arrest:*
> *a. Any person who commits any offence in his presence not withstanding any provision in*

[23] Section 26(e) of the CPC.
[24] Section 26(i) and (j) of the CPC.
[25] *C.O.P. v. Aloysins Igwe and Ors (1957) WR NLR 106.*
[26] Section 26 of the Criminal Procedure Code [25] *C.O.P. v. Aloysins Igwe and Ors (1957) WR NLR 106.*
[26] Section 26 of the Criminal Procedure Code Cap. 77 LFN, 2004.

the 3rd column of Appendix A that an arrest may not be made without a warrant;

b. *Any person for whose arrest a warrant has been issued or whom he is directed to arrest by a justice of the peace or superior police officer under section 29 or section 30.*
c. *Any person who has been concerned in an offence for which, in accordance with the 3rd column of Appendix A, or under any other Act or law for the time being in force in any part of Nigeria, the police may arrest without, or against whom a reasonable suspicion exists of his having been so concerned or against whom, a reasonable complaint has been received.*
d. *Any person the order for whose discharge from prison has been cancelled by as judge of the high court under section 99.*
e. *Any person whom he reasonably suspected to be designing to commit an offence for which the police may arrest without warrant, if it appears to him that the commission of the offence cannot be otherwise prevented;*
f. *Any person required to appear by a public summons published under section 67 of the CPC.*
g. *Any person found taking precaution to conceal his presence in suspicious circumstances or who being found in suspicious circumstances has no ostensible circumstances has no means of subsistence or cannot give a satisfactory account of himself.*
h. *Any thing suspected to be stolen property in respect of which an offence has been committed under section 115. 116, 118, 119, 120, 121, 122, 168 and 169 of the PC, or who may reasonably be suspected of*

having committed an offence with reference to such property;

i. *Any person who has escaped or attempts to escape from lawful custody;*
j. *Any person who obstructs a police officer while in the execution.*
k. *Any person reasonably suspected of being a deserted from any military force for the time being serving in Nigeria.*
l. *Any person who in his presence has committed or has been according to the 3rd column of Appendix A, arrest without or warrant if no his demand such person refuses to give his name and address or give a name and address which he believes to be a false one.*

The Police Act gives additional powers of arrest without warrant to a police officer. Under this Act, it is lawful for any police officer to arrest without warrant[27], any person whom he finds committing any felony, misdemeanor or simple offence or whom he reasonably suspects of having committed or of being about to commit any felony, misdemeanor or breach of the peace, any person whom any other person charges with having committed a felony, or misdemeanor, any persons who charges another person he suspects of having committed a felony or misdemeanor or charges with having committed a simple offence, provided that such other person is willing

[27] Section 20 of the Police Act, 2004.

to accompany the police officer to the police station and enter into recognizance to prosecute such charge.

But section 20(2) of the Police Act does not apply to any offence with respect to which it is provided that any offender may not be arrested without warrant.

The Police Act[28] has completely reshaped the basis of power to arrest both by the police and ordinary citizens. Prior to the enactment of section 110 of the Police Act 2005, the Police arrest powers (and those relating to ordinary citizens) were based largely on the concept of arrestable (and serious arrestable) offences under section 24 and schedule 14 of the Police and Criminal Evidence Act (PACE) of 1984.

The Police also have powers to arrest under section 25 of PACE known as 'General Arrest Conditions'. This enabled them to make an arrest for virtually any offence if certain conditions were present. A number of police power of arrest also stemmed from other statutes.[29] In addition to statutory power to arrest, there was (and still is), the common law power to arrest in order to prevent ordeal with a breach of the peace.

[28] Section 110,111 and Schedule 7 of the Police Act, 2005.
[29] Public Order Act 1986, The Criminal Justice and Public Order Act, 1994 and the Criminal Justice and Police Act, 2001.

The police powers are contained in section 66 of the Code of Practice and Police and Criminal Evidence Act 1984 (as amended). However, PACE remains the starting point when looking at the powers of the police to stop, search, arrest, detain, interview and take sample from suspects.[30]

3.3.2 Police Power to Investigate

The police are the officers of the state who have the task of investigation of crime. Indeed, they see it as central to their job, even though, in reality, non-investigative work takes up most of the time.[31]

In carrying out this work, the police have a great deal of discretion. The basic powers of a police officer arise from the status of the office constable, and this mean that the police officer does not simply act as directed like a normal employee, but also lends itself to the exercise of discretion. Though the police are expected to investigate crime, not every crime which is detected is expected to result in formal action. In addition, a basic function of the police is to keep the peace, which again requires sensitivity and common sense rather than legalistic intervention at all times[32].

[30] www.howstuffworks.com/police. Accessed on 5/8/2011, 2:15pm
[31] www.leads.ac.uk/law/hamly/police.htm. Accessed on 5/8/2011, 2:15pm
[32] www.leads.ac.uk/law/hamly/police.htm. Accessed on 5/8/2011, 2:15pm.

When investigating crime, the main choice of strategies has been presented between reactive and proactive policing. The reactive approach involves the police in responding to public calls for help. It has the advantages that the police operate openly in response to real public demand and with the consent of the public. When not answering calls, the police are expected to be patrolling openly to deter wrongdoing. The police have traditionally approached policing in this way, and it is important to realize that most crimes are reported by and detected on the basis of information from members of the public.[33] The police are heavily dependent on public cooperation – it is far more important than any legal powers to detect crime.[34]

The proactive approach involves building up pictures of threats to the peace and potential; criminality through the targeting of potential criminals and the surveillance of them. Intelligence is vital so that threats can be identified and appropriate counter measures taken. But this information may or may not come from the general public. Rather, this form of policing tends to involve specialist squads (e.g. drugs and fraud squads) who are reliant on the analysis of crime

[33] Ibid.
[34] Ibid.

patterns and information from informants.[35] The dangers of this form of policing are that it is secretive and so less accountable and that the targets will be selected out of prejudice. In reality, both forms of policing are practiced at the same time and there is a compromise between them. On the one hand, patrolling and reactive policing is felt to have limited impact against serious or professional crime which must be the target of proactive policing. On the other hand, public tranquility and reassurance are important goals which can be addressed by strategies such as visible patrols.

3.4 Prevention and Detection of Crime

The role of law enforcement in the maintenance of peace and order in the society is a foregone conclusion. The place of the police in the scheme of things with respect to law enforcement cannot be over emphasized. Along sides, and a times above all others law enforcement agencies, the police provide and assure the internal security of the nation.

The various schemes and practices of crime prevention and detection strategies being used and that may be used by the police in

[35] www.leads.ac.uk/law/hamly/police.htm. Accessed on 5/8/2011, 2:15pm.

furtherance of their responsibilities under the Police Act[36]. The strategies the police employ in detection of crime are[37]:

1. **NA Fingerprinting:** This is the scientific examination of someone's DNA to find out whether they are someone's father, whether they have committed a crime etc.
2. **E-Fit:** A picture of the face of someone who police think committed a crime, created using software and someone's description of the person.
3. **Electronic Tagging:** A system in which a small piece of electronic equipment is attached to a person, animal or object to always know where they are.
4. **Entrapment:** A process in which the police or other official trick someone into committing a crime.
5. **Fingerprint**: a mark left showing pattern of line son the skin which help to identify the criminal.
6. **Forensic**: A scientific method used to solve crimes and to find out who committed them.
7. **Frisk:** To search someone with hands to see whether they are carrying anything illegal such as guns or drugs.

[36] papers.ssrn.com/sol3/papers.cfm. Accessed on 5/8/2011, 2:20pm.
[37] www.macmillandictionary.comthesaur. Accessed on 5/8/2011, 2:39pm.

8. **Genetic Profiling:** Scientific examination of DNA from body cells to find out who committed a crime.
9. **Mug Shot:** A photograph of someone's face, taken by the police for their records.
10. **Neighbourhood Watch:** Attempts to reduce crime by encouraging people who live in the same area to watch their neighbour's houses and tell the police if they see anything unusual.

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The various schemes and practices of crime prevention and detection strategies being used and that may be used by the police in furtherance of their responsibilities under the Police Act[38] are briefly

[38] papers.ssrn.com/sol3/papers.cfm. Accessed on 5/8/2011, 2:20pm.

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[39] www.macillandictionary.comthesaur. Accessed on 5/8/2011, 2:39pm.

CHAPTER FOUR

Modern Trends, and Challenges in the Administration of Justice by the Police Force

4.1 Introduction

The primary duties of a modern police force lie in the prevention, detection and prosecution of crime. In this research, the role of the NPF in the fight against crime will be more closely examined.

The official records[1] of the NPF between 1930 and 1965 showed that despite difficulties in the fight against crime, satisfactory results were attained, but the record has to be examined in the light of the prevailing conditions of the period.

In the first place, there was the period of severe economic strain and stress during the depression. In this era illicit distillation of spirits, counterfeiting, child stealing, peddling of Indian hemp (cannabis sativa) and armed robbery were rife in parts of Nigeria; the most troublesome areas being the Warri and Owerri provinces and the Agege district near Lagos.[2]

[1] Particularly Appendixes C and C(i)
[2] Crime Reports Activities, Nigeria, 1934, pp. 81-82.

In the Agege district, armed gangs, carefully disguised, seized upon the inadequate police protection in the area to terrorize people during the early 1930's. Using the secret organisation known as the Egbe Enumenu (Makoya) with its binding oaths as a further cover, these gangs raided the homes of their victims, besides robbery they committed murder and rape.[3] The criminal activities of the Agege armed gangs were so serious that E.O. Moore and C.C. Adeniyi Jones, the two elected members for Lagos in the Legislative Council, called for government action in July 1933 and June 1934.[4]

The government responded to such pressure. Before long the NPF detective unit sent to Agege succeeded in infiltrating the Egbe Enumenu. In the end its leaders were arrested; tried and punished.[5] As a precaution against the resumption of such activities the NPF covered the district with "bicycle patrols" and strengthened its detachment there.

It however, appeared that the activities of the Agege gangs were copied by other bands of brigands in the nearby Abeokuta province in 1937. Once more, the NPF strengthened the police

[3] CSO, 26, File 2868, Report by C.H. Ward, 23 July 1934.
[4] LCD, 10 July 1933, p. 8.
[5] Ibid.

establishment for that province and so checked such criminal activities.[6]

To deal with the other serious offence of illicit distillation of spirits, which occurred in the Warri and Owerri provinces during the early 1930's, the NPF set up "special squads" there, but whatever success these squads made between 1933 and 1934 is considered "temporary".[7]

The second major external factor which significantly affected problems of crime control and law enforcement in Nigeria was World War II. The war partly eased unemployment as many hitherto jobless people volunteered for active service but it also intensified such problems as racketeering and inflation. This period of social and economic distress led to a higher crime-rate and general restlessness.

During the period 1939-49 the yearly total of "true cases" of crime exceeded that recorded for the preceding decade. The false cases included offences against persons, receiving, fraud, false pretences, breaking and entering, stealing and other crimes and contraventions.[8]

[6] ARNPF, 1937, p. 22.
[7] CRA, Nigeria, 1934, p. 81.,
[8] Arbpf, 1948 P. 27, ARNPF, 1949-50, p. 38.

The Lagos area had its particular difficulties during World War II. The Lagos Harbour Police, the new branch of the NPF established in 1942, was entrusted with the special duty of port security menaced during the 1940's by the "bad characters who pester and annoyed sailors, merchant seamen and visitors."[9] From the official viewpoint, the members of the Harbour Police were so successful in their campaign that Lagos port was described in March 1944 as one of the "cleanest" on the West Coast of Africa.[10] But Commissioner King's later comments on gangsters and prostitution in Lagos in December 1944 cast doubts on the degree of permanent "cleanliness" attained by Lagos.

At the end of World War II, the government re-organised the Harbor Police to allow close co-operation between it and the passport and immigration branches of the NPF. Together, they controlled shipping and passenger traffic and protected property along the Lagos waterfront.[11]

The immediate post-war era gave such NPF officials as commissioner Finlay observed much concern. Writing in April 1947, Finlay observed that the more violent type of crime and cases

[9] GALC, 13 March 1944, p. 36.
[10] Ibid.
[11] GALC, 18 March 1946, p. 87.

affecting persons and property had increased. In particular, he was disturbed by the increase in such crimes as murder, manslaughter, counterfeiting, illicit distillation, child stealing, theft by breaking in and illegal and gold mining.[12] In fact, the strict import controls of goods resulting in the shortage of spare-parts at the end of World War II became a major factor in the "epidemic" of bicycle and clock stealing from the Western Provinces into Dahomey.[13]

The development of air transport in Nigeria from 1936 constituted the third major factor which seriously affected crime control. Even before the end of the World War II the government had learnt of a vast complex ring which dealt illegally by air in raw gold and gold bars obtained from Nigeria. Following intensive inquiries by the Criminal Investigation Department (CID), an NPF officer visited Egypt and Palestine and secured the conviction of the principal figure in the gold ring who was sentenced to pay a fine of £2,700.[14] Encouraged by such results, Governor Richards in March 1945 "hoped that the day is not far distant when an aeroplane will be at the disposal of the Commissioner of Police for speedy transport and

[12] ARNPF., 1946, p. 15.
[13] Ibid.
[14] LCD, 13 March, 1944, p. 99.

emergency action".[15] During the Richard's administration, the CID used internal air services in Nigeria to investigate "important cases" in such areas as Kano, Maiduguri, Port Harcourt and Calabar.[16]

However, the NPF did not fully exploit the immense possibilities offered by the development of air transport in Nigeria. For a country of Nigeria's size, a speedy inspection of regional and provincial units of the NPF by its senior officers would have been ideal. Indeed, A. Saunders entertained such high hopes after his tour of January-July, 1937, part of which was covered by air."[17]

It is true that from the 1950's the head of the NPF had a helicopter available for rapid surveillance and emergency duties, but the NPF did not develop an air section similar to Kenya Police Reserve Air Wing begun in 1949.[18]

From the 1950's the crime position in Nigeria was largely affected by internal factors. The earlier agitation for higher wages and better working conditions resulting in strikes and demonstrations was compounded by political factors resulting from hooliganism and other offences connected with the conduct of regional and federal

[15] GALC, 5 March 1945, pp. 63-64.
[16] GALC, 18 March, 1946 p. 85.
[17] ARNPF, 1937, p. 14.
[18] NPM, vol. no. 4 Dec., 1955, p. 25.

elections. As the latter offences had strong political overtones, they will be better discussed in a later chapter dealing with the NPF's role in peace-keeping.

The other major internal factor arose from the operations of secret societies or cult organisation and the detection of such pre-colonial practices as ordeals in dealing with accusations of witchcraft and the like. As bastard forms of the pre-colonial models, some of these colonial and early post-independence variants of secret societies or cults clashed with the NPF for patently criminal activities.

4.2 Challenges of the Nigerian Police in the Modern World

In manning station in the various parts of the country as well as the prevention and detection of crime and for the preservation of life and property, the Nigeria Police Force (NPF) adopts various categories of police stations. They are, for examples:

ii) Police Headquarters, which are mainly in state capitals and are headed by the Police Commissioners;

iii) Divisional Police Stations, which are mostly in big cities and are headed by Superintendents of Police or above;

iv) Police Stations, which are usually found in town or districts of a big city and are usually headed by Deputy

Superintendents of Police or Assistant Superintendent of police;

v) A Police Post, which is usually situated in smaller towns or at the country's border and it is usually headed by an Inspector of Police or a Senior Police;

vi) A Village Post - as its name implies, is usually situated in village and it is headed by a Corporal or a Police Constable with at least 5 years experience.

Undoubtedly these various Police Stations perform their duties in their respective spheres. It seems, however, that some of these stations are sometimes handicapped when it comes to discharging their duties. It is noticed that some of the factors that contribute to such handicaps are:

iii) Lack of scientific equipments for detecting crime

iv) Shortage of manpower

v) Military intervention in government

a. Lack of Equipment

Lack of equipment for the police has remained a contentious issue in the national discourse on efficient and human law enforcement. An analysis of newspaper stories and articles in recent

times shows that majority of Nigerians believe that one of the biggest problems confronting the Nigerian Police Force (NPF) is that of lack of equipment occasioned by inadequate funding. Although over the years budgetary allocations to the police have increased. This has failed to match the clear needs of the police. A visit to any police station will reveal the magnitude of the problem. From such basic things as buildings, office space within the building, furniture down to even uniforms and kits, the Nigeria Police Force appear ill equipped for its tasks. It is a different matter altogether when the consideration shifts to patrol vehicles, communication facilities and computers. Many police stations cannot even boast of a telephone! Apart from inadequacy, the police lack the modern weapons needed to combat violent crimes, such that very often, criminals boast of superior weapons. It is commonplace that the police frequently decline to respond to a distress call on the ground that there are not funds or that there are no vehicles to convey them to the scene of crime! When they do respond, they arrive late after the robbery or other crime has been completed and the suspects long disappeared. An editorial in the National Concord[19] of 2 June, 1999, opined that: *"The*

[19] 2nd June, 1999

police are acutely under-funded; its men ill motivated, and in terms of enabling infrastructure it is ill equipped to cope with the rising crime profile in the country".[20]

Successive Inspectors General of Police in the country have consistently complained of inadequate funding. Former Inspector General, Aliyu Attah, once said that over the years, the problem of under-funding and under establishment of the force has culminated in a situation whereby the police are unable to cope with routine responsibilities, hence the justification for such ad hoc measures as represented by the phenomenon of Operation Sweep.

The Inspector-General, Mr. Musliu Smith a one time Inspector-General, told officers of the Zone Two Command at Onikan, shortly after he assumed office, that the new civilian government is very much interested in improving the welfare of the officers and men of the police force, and providing logistics and equipment for the efficient and effective discharge of its duties. On the challenges facing his men, the Assistant Inspector General, in charge of the zone, Mr. Muktar Alkali, spoke of the need to pay salaries of officers and men promptly. According to him,

[20] Ibid

> *"Stationeries, police books, forms and records are in acute short supply, paving way for member of the force to source these (necessary) materials from civilians who hawk these supposed classified materials. This area if looked into would help to reduce corruption, enhance the efficiency of personnel and early dispensation of criminal cases*[21]

The then former civilian governor of Lagos State, Ahmed Bola Tinubu, has said that the state spends N100 million to equip the police, a revelation that has left people wondering where all the money goes.[22]

In his article, "*Crime Wave and the Challenge of Policing the Nation"* Ben Akparanta in the Guardian Newspaper of August 6, 1999 said a lot of people are asking questions about the money said to be spent by the Lagos State Government when the police in the state parades a lot of obsolete disoriented personnel.[19] He however quoted a police insider who says that monies meant for the police appear to be misappropriated or put to uses that make no positive impact on the welfare of the ordinary policeman. While finding a solution to the problems of funding for the police, government must also devise ways of dealing with the corrupt tendencies of the leadership of the organisation, the insider said.

[21] Nigerian Police bulleting no. 9th April, 2000
[22] The Vanguard, 20th, 1999
[19] The Guardian Newspaper, August 6, 1999.

It would be recalled that a senior police officer, Sunday Iyamu, was executed alongside a dreaded armed robbery kingpin, Lawrence Anini and his cohorts in Benin sometime ago. He was found to be the main supplier of the arms used by Anini and his gang.

Clement Nwankwo et al[20] and Anthony Opara[21] also identified poor salaries as one of the factors responsible for delay in the prosecution of criminal suspects. They trace a link between poor salary and corruption in the force. In Law and Order Question in Nigeria, Lai Olurode[22] asserts that the poor pay of members of the police force does not reflect a commitment by governments to the law and order question but that it shows the State as wanting to police the society without the police itself. Besides the matter of poor salaries, which many policemen say is not commensurate with the work they do and the risk involved, what is even more appalling is the fact that they are owed these miserable salaries sometimes for months on end! The National Concord editorial referred to above also went further to observe as follows:*"Certainly it must be acknowledged that like most public institutions in Nigeria the police is acutely under-*

[20] Clement Nwakwo et al 1996 Ibid.
[21] Anthony Opara., *An Appraisal of the Problems of Prosecuting Criminals in Lagos State*,. Unpublished Masters thesis submitted to the Department of Sociology of the University of Lagos, 1998.
[22] Lai Olurode, *The Law and Order question in Nigeria*, Nigerian Law Publications Limited, Lagos, 1991.

funded, its men ill motivated, and in terms of enabling infrastructure, it is ill-equipped to cope with the elevated crime profile in the country.[23]

The paper suggested that one of the ways of restoring the dignity of the force is to motivate its men through the provision of a better welfare package and modern facilities.

b. Inadequate Training

In his biography[23], former Inspector-General Alliyu Attah states the obvious when he said that for an effective and efficient police force in Nigeria, good training is very necessary. He says that from inception, the leadership of the police force had emphasized the training and retraining of its officers and men. He claims that during his tenure, training was given a pride of place in the scheme of things. Going down memory lane, Attah said that in the early years of the force, training was limited to criminal police duties. Later, physical fitness and self-defense were added. He recalled that in 1921, a Police Training Depot was opened in Obalende. In the following year, a police school was established in Kaduna and in 1932 another one opened in Enugu. More training schools were opened in the 1970s during the tenure of Kam Salem. It was also Kam Salem who

[23] June 12th, 1999
[23] Service at Kam Salem House (1999)

introduced the Police Staff College for the training of officers. Later, a Police Academy was added to the list of training institutions. The first sets of Cadet Inspectors and Cadet Assistant Superintendents of police started their courses in August, 1993.

Apart from the Police Colleges, Staff Schools, and Academy, State Police Commands were allowed to organize training, up to a certain level, for their officers and men. Policemen also received training abroad but opportunities for this were later limited to a few officers. Over the years, there has also been an improvement in the syllabus of training of police officers. In line with the changing needs of the society, more courses have been added; Public Relations, Geography, Psychology, Computer Science and French Language. Others are History, Sociology, Statistics, and Criminal Laws. The decision to improve the syllabus, a police source said signified renewed efforts by the police authorities to improve its efficiency. On the surface, it appears that the police force has the necessary structure to ensure that officers and men are well trained.

c. Military Intervention in Government

The military had been in power for 29 out of 39 years of Nigeria's existence as an independent nation. Beginning from 1966,

Nigeria has witnessed a harvest of military coups. Former Inspector General, Aliyu Attah, described the system of government under the military as a change from democracy to dictatorship where the order of procedure changed in line with martial orders of the military.[24] Another former top police big wig, Deputy Inspector-General Chris Omeben, said a complex exists in the forces.[25] All the services, he said, have the police as their grandmother. But while the police are older than all the other forces, it is treated as a girlfriend that can be used and discarded at any time. Going into history, Omeben explains that before the regime of General Gowon, police officers earned better salaries than military officers did. But this was reversed with the advent of coups.[26] He added that as soon as the army got into power they relegated the police to the background. The panacea to the problem, according to him, is to ensure that both policemen and soldiers have a common training and bear similar ranks. This system, he said, has been adopted in some other parts of the world, like Thailand and South Africa, with success. The society, he maintains, cannot do without the police, as there would be anarchy. To emphasize this point, a police spokesman in Ibadan, Oyo State,

[24] Vanguard 4th June, 1998
[25] Ibid
[26] Ibid

posits that the country cannot afford just one day without the police as even traffic would become uncontrollable not to mention the havoc hoodlums would let loose.

The police force operates under the law, and is, thus, answerable to the law. But under a military, a conscious policy of the armed forces, including the police, being above the law is laid down and reinforced by the actions of the regime.

In April 1998, a one time Inspector General of Police, Ibrahim Coomassie, took a swipe at the military when he stated that “men and women of the (police) force have been serving under a harsh political environment, torn in between military authoritarianism and civil society so much so that they have lost their civil traditions”.

This loss of civil traditions, according to Chukwuma[24] can be gauged from the activities of the various ad hoc security task forces and the human rights record of law enforcement agencies in general. The lamentations of Coomassie have to be taken, however, with a pinch of salt, considering the prominent role the police have played in every military government. The Inspector General, as already seen, sits in the inner sanctum of power and is, in fact, placed above

[24] Innocent C., The Guardian 12th, Febuary, 2000 at p. 10.

ministers and the Chief Justice of Nigeria in the military's order of protocol. It can therefore be safely argued that the leadership of the police force has been complicit in the loss of civil traditions that Coomassie so ostensibly bemoans.

Most respondents pointed to the fact that the military pays scant regards for the rights of the citizen. Under the military, the rule of law gives way to the rule of force as backed by decrees, most of which make the police unaccountable for their actions. The police on their own part have sought to use the decrees to explain away their gross violation of human rights. In Human Rights Practices in the Nigerian Police, Nwankwo et al[25] observe that over time, the perception of the police force by the public has been that of an unfriendly, brutal force. The result is that the expression "the police is your friend" is at best seen by the members of the public as a wicked irony.

Under the military, the police gradually deteriorated. It became possible to cite them for the most heinous to the most trivial acts that violate the rights of the very citizens whose friend they purported to

[25] Clement N., *Police Diary in Tell Magazine of 5th October, 2001*. at pp. 10-15.

be. The police was involved in innumerable cases of extra-judicial killings of innocent citizens. A few examples will suffice.

On 15 May, 1991, Dr. Nwogu Okere, General Manager of Klinsite Nigeria Limited, an advertising company in Lagos, was shot dead by policemen at a petrol station in Gbagada, a suburb of Lagos. The police in a statement said he was shot for refusing to stop at a checkpoint. Eyewitness accounts said that Okere was shot at point-black range after his car had pulled up at a police station. Investigation by the Civil Liberties Organisation established that his police assailants trailed Okere's car over a distance of three kilometers before he was cornered and shot in cold blood.[26]

On the night of 6, September, 1992, policemen at a checkpoint in Yaba, Lagos, killed Colonel Israel Rindam of the Army's Training and Doctrine Command. Rindam, dressed in mufti, had come down for his car to find out what was holding up traffic when he was shot. On discovering the identity of Rindam as a military officer, the policemen at checkpoint took to their heels.[27]

In February, 1992, Mr. Yekini Ganiyu, a commercial bus driver, was shot dead following an argument over N10 bribe. Gbenga Otinn,

[26] Clement N., op. cit. at p. 10-8
[27] Ibid.

another driver, met with a similar fate for refusing to drop the demanded "toll" in the outstretched hand of a policeman.[28]

On 27 May 1991, three persons were shot dead by policemen at a checkpoint near Ota, a boundary town between Lagos and Ogun States. They were Andrew Esiri, a hotel proprietor and his two friends, Dele Ojo, and Kayode Oladimejo, a nurse. They were traveling in Esiri's Peugeot 504 saloon car when they were stopped at a checkpoint by policemen who opened fire on them killing all three instantly.[29]

On 20 September 1996, Fidelia Oguonu, a 52 year old widow was shot dead by a police constable at a checkpoint at Oba junction in Anambra.[30]

The phenomenon of ad hoc task forces such as Operation Sweep, as seen above, added a more sinister dimension to the negative impact of military rule on police practices. The justification for their existence has been that the worrisome levels of violent crimes and the increased sophistication of criminals required a drastic, unusual response. In the result, the establishment of task forces only acted to worsen the image of the police as an

[28] Clement N., op. cit. at p. 28.
[29] Ibid.
[30] Ibid.

incompetent and inefficient agency with the primary responsibility of controlling and preventing crime. What is not also disclosed is the fact that huge sums denied the police are voted for these task forces to do the job that the police might have been in a position to do were the money given to them to procure needed equipment and improve logistics.

As it is often the case, several of the task forces are established without legal backing. Where they are backed by law, they are given immunity against legal proceedings through the ouster of the jurisdiction of courts to inquire into anything done or purported to be done by them.[27] The Rivers State Internal Security Task Force created at the height of the Ogoni Struggle for minority rights and against environmental degradation through oil exploration, carried out massive and horrendous human rights abuses without the government doing anything to sanction its operatives despite the several cases made public. On the contrary, its first commander, Major Paul Okunmtimo, was promoted lieutenant Colonel in reward.

The task forces usually had some policeman as members. This was one other way in which the police learnt bad habits as they very

[27] Police Special Powers Degree No 19 of 1996

quickly imbibed the culture of impunity which solders vaunt as a mark of bravery or good soldiery.

4.3 Police and Quest for Better Services

The functions and powers of the police are well stated in the Police Act, 1943. Section 4 of the Act lists the general duties of the police as:

- Prevention and detection of crimes,
- Apprehension of offenders,
- Preservation of law and order,
- Due enforcement of all laws and regulations with which they are directly charged, and
- The performance of such other military duties within or outside Nigeria as may be required of them by or under the authority of the Act or any other Act.

Other provisions elaborating the general powers of the police in the Act include:

- Power to conduct prosecutions in any court subject to constitutional provision relating to the power of the Attorney-General of the Federation and of a state,[31]

[31] S. 25 of the Police Act. Cap.; 359, Laws of the Federation of Nigeria, (LFN) 2004.

- Power to arrest without warrant in possession,[32]
- Power to serve summons,[33]
- Power to grant bail to a person arrested without warrant,[34]
- Power to issue search warrant by a superior officer,[35]
- Power to take and record for purpose of identification and measurement, photographs and finger prints, impression of all persons in lawful custody.[36]

These and other provisions clearly show that the police have enough legal empowerment to discharge their statutory duties. What is more, they enjoy discretionary powers in the general duty of detecting and preventing crime under the Act and as may be seen in provisions of sections 298-300 of the Criminal Code Act.

The wide powers of the police under the law are, however, not without responsibilities. Nigerian criminal law holds Police Officers individually liable for any excesses or abuse of power. Section 298 of the Criminal Procedure Code states that “any person authorized by law to use force is criminally responsible for any excess according to the nature and quality of the act which is the excess”.

[32] S. 25 of the Police Act. Cap. 359, LFN, 2004.
[33] S. 26. Ibid.
[34] S. 27. Ibid.
[35] S. 28. Ibid.
[36] S. 30. Ibid.

Section 374 (a, b) of the Police Regulations also state that nothing in the regulations shall affect or diminish the liability of any member of the force to face prosecution before courts of summary jurisdiction for any offence against the Police Act or face prosecution before any court of justice.

There is also a civil aspect to the responsibility of the police. The Nigerian Constitution sections 30-31entitles a person unlawfully detained to a compensation and public apology. However, for such a compensation order to be enforced, the fiat of the Attorney General has to be obtained. The Sheriffs and Civil Process Act of 1987 gave power to the Attorney General against any person who has been adjudged as a threat to the independence of the judiciary.

As Chukwuma observes,[37] it empowers officials of the executive arm to veto court orders. It also makes the Attorney General a party and judge in Nigeria's otherwise adversarial system of justice. That section, Chukwuma further argues, is a violation of the International Convention on Civil and Political Rights. Article 2 (1) of that Convention calls on member states to ensure that victims of human rights abuse have an enforceable, effective remedy

[37] Innocent C., op. cit. at p. 12.

determined by competent judicial, administrative or legislative authority.

The Police Regulations of 1968 contains a Code of Conduct for policemen in Nigeria. However, it stresses internal discipline over and above external relations. Among other things, it contains a complaint procedure for any policeman who feels wronged by another, guidelines for carrying out police duties and prohibitions as to receiving of gifts (except from close friends or relations). The definition of police duties in section 4 of the Act goes beyond the detection, prevention and control of crime to include the protection of lives and property, especially during emergencies and disasters. Their role in this regard has been seen in different rescue operations during natural disasters, train derailment, and inter-ethnic violence etc.

Changes in the structure of the Nigerian federation affected the command structure of the police. In 1966, the government created twelve states out of the existing four regions. In line with this change, the police created twelve area commands. When in 1976 seven more states were created, an additional seven area commands were also created. In 1986, General Ibrahim Babangida's regime introduced

zonal commands headed by Assistant Inspectors-General (AIGs). In 1992, 11 more states were created, bringing the total number of states to 30. More commands were created to conform to the new structure. Several other minor changes in the organisation of the police took place over the years. In 1986, there was a major reorganization in the force the main aim of which was to decentralize authority and command to create room for speedy and effective policing. It focused on the setting up of dynamic machinery for combating the rising wave of violent crime, particularly, armed robbery. In 1989, the police force saw a further restructuring. Five Directorates were created. A Deputy Inspector General headed each Directorate; they were:

A. Department - Operations

B.Department - Finance and Administration

C.Department - Criminal Investigation

D.Department - Logistics and Supplies, and

E.Department - Training

Zonal Commands were also created. As at 1991, they were:

Zone	Headquarters	State Commands
Zone 1	Kano	Kano, Kaduna, Sokoto
Zone 2	Abeokuta	Lagos, Ogun, Oyo
Zone 3	Yola	Borno, Bauchi, Gongola
Zone 4	makurdi	Benue, Plateau, Anambra
Zone 5	Benin	Ondo and Bendel
Zone 6	Calabar	Croiss River, Imo, Akwa Ibom, Abia
Zone 7	Abuja	Niger, Kwara, FCT Abuja.

In the view of a former Inspector General, Aliyu Atta, administrative and structural changes is the way by which the police seek to respond to the rapid social, political and economic changes in the country which pose challenges to the force. At independence in 1960, the strength of the force was 12,000 under the command of an Inspector General, a Deputy and a Commissioner of Police. There were also the provinces commanded by provincial Police Officers. When in 1971 the local government and native authority police forces were absorbed into the Nigeria Police, the strength of the force increased to 30,000. Now, with a thirty-six state structure, there are

about 144,000 men and women in the force. The Provincial Police was abolished in 1978 with the local government reforms of that year. The expansion of the force brought about by rapid economic and general development in the country in the seventies necessitated the administrative and structural changes.

Zonal commanders represent the Inspector General in their zones and, consequently, carry out some of the responsibilities of the Inspector General, such as supervision of the state commissioners in the discharge of their duties. They also assist in coordinating the activities of state commissioners within their zones, ensuring the due enforcement of all policies, instructions and circulars in their zones among others. The zonal commands are also generally responsible for disbursement of funds to the states, distribution of stores equipment to the states, submission of monthly intelligence reports to the Inspector General and establishment of a provost unit for receiving and investigating public complaints. The commissioners of police in the states are directly answerable to the zonal commanders who in turn are answerable to the force headquarters directors. In an emergency, the Zonal Commanders can report directly to the Inspector General.

A further reorganization in 1997 abolished the offices of Deputy Inspectors-General (DIGs) for the Directorates but the AIG's were left. The force is now administered under, A,B,C,D,E and F departments with Assistant Inspectors General (AIGs) in command. There is now also only one DIG. With the creation of six new states in 1996, the zonal command structure changed as follows:

Zone	**State Command**	**Headquarters**
Zone 1	Kano, Kaduna, Katsina	Kano
Zone 2	Lagos, Ogun, Oyo	Lagos
Zone 3	Adamawa, Borno, Yola, Bauchi,	Yola
Zone 4	Benue, Plateau, Taraba , Enugu, Nasarawa	Makurdi
Zone 5	Edo, Delta, Rivers, Anambra, Bayelsa	Benin
Zone 6	Imo, Abia, Ebonyi, C/Rivers, Akwa Ibom	Calabar
Zone 7	Niger, Sokoto, Zamfara, Kebbi, FCT	Abuja
Zone 8	Kogi, Kwara, Ondo, Ekiti, Osun	Lokoja

The departments and their responsibilities are as follows:

Department A

a. Administration

b. Personnel – promotion, Dismissal, Transfer and Positing.

c. Welfare

d. Budgeting, Finance, Pay and accounts

e. Establishment

f. Medical

g. Public Relations/Printing

h. Computers

i. Central band

j. Cooperative

k. Force Provost

l. Central Motor Registry

m. Supernumerary constable, special constabulary

Department B

1) Operation – Joint Operation; Highway patrol, Motor, traffic warden service, Motor Traffic Control and policies.

2) Airport: Railway and Ports Authority Police

3) Centered Motor Registry

4) Force Armament – Arms and Ammunition, Musketry, Bomb Disposal; Anti Terrorism

5) Police Mobile Force and Training College

6) Transport: Air-wing

7) Signals – communication.

8) Force Animals – Mounted Section, Dogs and Veterinary

Department C

1) Works, Building, Engineering and Maintenance
2) Supplies/Stores Stationary, Office Equipment, Kits and Accoutrements.
3) Procurement/Tender Boards.
4) Board of Survey for vehicle and Unserviceable Store

Department D

1) General Investigation
2) International Police
3) Antiquities.
4) Crime Prevention
5) Technical aid to criminal investigation, forensic laboratory, criminal records, central arms registry, photography and etching sections.
6) Legal section – legal advice, criminal prosecution, civil litigation, library and administration.
7) Criminal Intelligence Bureau
8) Security Intelligence Bureau
9) Squad

10) Special Fraud Unit/Failed Bank Inquiries

11) Special Anti-Robbery Squad

12) Homicide

Department E

1) Training
2) Police Academy
3) Police Staff College
4) Police Colleges at Ikeja, Kaduna, Maiduguri Oji River, and Detective College Enugu.
5) Education – local and overseas.

Department F

1) Research
2) Planning
3) Inspectorate Division
4) Management Information
5) Organisation and Method

4.3.1 Police under the Military

The preceding chapter has dealt with some aspects of the police under the military. There seems to be a consensus of opinion that the involvement of the military in government has been

unfavourable to the development of the Nigeria police. The major reason for this is perhaps the military's lack of respect for the rule of law. The police, in a democracy, are subject to democratic control, and thus constrained to obey the rule of law in carrying out its enforcement duties. The police can be sued by an aggrieved citizen, and if found guilty, ordered to pay whatever penalty pronounced by the court. But under military regimes, however, the police are place above the law. Decree 2 of 1984, first promulgated by General Muhammadu Buhari, gave wide powers to the Inspector-General to detain people beyond constitutional limits without charging them to court for renewable period of six months.

The military first appeared on the political scene in 1966. Under the regime that emerged, headed by Major-General Johnson Aguiyi-Ironsi, the Inspector General and his deputy were members of the Federal Executive Council and were also members of the Supreme Military Council in the regime of General Yakubu Gowon. During this period, two police officers were appointed Governors – one for the then North-Western State and the other for the then Benue-Plateau State. The argument in defence of their membership of the law- and policy-making bodies of the military-in-power was that police officers

were needed to help the soldiers to establish the authority of military government throughout the federation. This is especially in recognition of the fact that the strength of the military then was quite small compared to the population and it was only the police that had presence all over the nation. According to Asemota[38] the police played a very significant role after the counter-coup in which the head of state, General Aguiyi-Ironsi was killed. The police Headquarters became, for a short time, the command headquarters of the new head of state, Colonel Yakubu Gowon. An additional reason for co-opting the police into military governance was the fact that only the communications system of the police covered the entire country at the time. Thus the marriage of the military and the police was the most logical given the circumstances.

At the end of the civil war in 1970, it became obvious that the military would not need the police in governing the country. The strength of the military had by this time increased following massive recruitment to prosecute the war. When General Yakubu Gowon was overthrown in 1975, none of the new military governors appointed was a police officer. This period could also be described as the

[38] Asemota I., op. cit at p. 397

beginning of the neglect of the police force by the military. While the military embarked on the improvement of all facets of the military including training, the police force was left to itself. Asemota[39] argues that one of the effects of the involvement of the police in government was the reduction in its efficiencies. Their participation in government made them to perform legislative, executive and judicial functions, the result was that rather than provide adequate manpower and equipment to enhance their performance "short cut" methods were employed and in the process standards were lowered. The police gradually adopted the attitude of disobeying court orders, which is the hallmark of military governments.

4.4 Recruitment Process

Recruitment is a process of attracting and accepting potential applications for placement into specific job in an organisation. It is part of the employment process that encourages potential applicants to apply for existing or anticipated job openings.

The police force at inception did not attract the best in the society. During the colonial period, it attracted the dregs of the society who found succor in the force. These were men who lived by their

[39] Asemota I., op. cit at p. 397.

wits and were ready for hire, for any cause, and found work in the various inter-tribal wars that were the order of the day at the time. Retired and demobilized soldiers were some of the earliest recruits into the police force. Over the years however, recruitment into the force has witnessed a kind of revolution. A few years ago, for instance, all that was needed for one to join the force was primary school certificate. Later, the minimum entry qualification became a secondary school certificate. During this period, the force did not attract a lot of highly educated people, such that, when graduates appeared on the scene their colleagues resented them. It was the downturn in the economy together with the attendant hardship and unemployment that drew graduates to the police force at the initial stages.

The recruitment of police personnel is guided by the Nigerian Police Regulations of 1968, which in section 38 and 97 states its policy on the recruitment of policemen. Qualification criteria for the various ranks as well as the conditions of service are well articulated in the regulations. It has been the practice in the police force to recruit from both within and outside the civil service. The recruitment of applicants for the positions of constable, cadet inspectors, cadet

assistant superintendents, or for specialist positions such a doctors, artisans, other technical personnel and transferred officers from the civil service, come from outside. Personnel from within the force are re-deployed to fill positions in the Cadet Inspectors, Assistant Superintendent, and sometimes, Specialist Cadres

The Nigeria Police Force as presently structured is a federal institution and has a centralized organisation under the command of the Inspector General. Recruitment, training and posting to various parts of the country are done centrally. Certain policies have been laid down to ensure that every state of the federation is represented in the force. Aspiring policemen present themselves to their state police command where they take a qualifying examination into the Police Colleges. Those who pass are then admitted to the college nearest to their home state. On successful completion of their course, they are posted. The lowest rank in the force is that of the Recruit Constable.

One of the criticisms leveled against the police is that its men are poorly educated and that this poor education is perhaps responsible for their wanton violation of the rights of the citizens. This, perhaps, may be responsible for the force's new policy of recruiting

graduate holders of the Ordinary National Diploma (OND) and the National Certificate of Education (NCE) as recruit constables. The Assistant Inspector-General, E Department, Alhaji Liman Shettima, explained that the new policy was all part of the efforts to give the people a quality force that will hold its head high anywhere in the world, however.

4.5 Accountability to the Civil Population

It has been noted that police operation, over the years, became so militarized that the police lost their civil traditions. There seems to be agreement on this even among top police officers, Ibrahim Coomassie, former Inspector General, said as much in his acceptance speech while receiving an honorary doctorate degree from the Federal University of Technology, Owerri. Interview sessions showed that a majority of policemen do not consider the question of accountability a serious issue. For them, the police as presently constituted, are an accountable force in that they answer to the government in power. It does appear, however, that accountability to which ever government is in power, irrespective of its nature and its attitude to the rights of the people, is at the center of the problem between the police and civil society. Although the decrees that

emasculated the rights of citizens emanated from the military authorities (with the police having little representation in the law-making body, albeit) it is the police that is blamed. The reason for this is not far fetched. It is the police that make the majority of arrests and detain the highest number of people. It is the police that are sent to quell demonstrations however legitimate and peaceful they may be, in furtherance of the aims of the military-in-power. Under the government of Shehu Shagari (1979-1983) a Police Affairs Commission controlled police operations. Most of the police respondents described the era as the best in the history of the force. Understandably, most of them clamored for the return of the Commission. Under the civilian government of General Obasanjo (rtd.), a Ministry was created for the police with a retired solider, Major-General David Jemibewon, heading it.

4.6 Improvement of Police/Community Relations

In his inaugural address on 2 January, 1990 as Inspector General, Aliyu Attah among other things, announced that the Police-Community Relations Committee would be reinvigorated and made effective at the grassroots. He said that selected member from all over the country would meet with him once in a month. Zonal AIGs,

he said, would meet with members of the Committee once every three months, while Police Commissioners would meet with the Committee once a month. He said that the Area Command level, Assistant Police Commissioners and Divisional Police Officers would meet with the Committee twice a month. Membership of the Committee was to be expanded to include student leaders, drivers and market women.

The idea of a Police Community Relations Committee is to establish a bridge between the Police and the Community within which they operate. This is based on calls for such a Committee and the realization by the Police that the success of its operations largely depends upon co-operation of members of the public. They further realized that a good rapport between the Police and its Community would make the job of policing easier. Committees were thus established at different levels including community leaders. In March 1998, the FESTAC[40] Police Community Relations Committee embarked on a N10 million fund raising campaigns to support the police in its battle against crime in the area. The money realized was to be used in procuring basic equipment for police operations such as

[40] A residential estate in the suburbs of Lagos which take sits name from the huge housing complex built to accommodate participants in the 2nd African Festival of Arts and Culture (FESTAC 770 that took place in Lagos in 1997.

patrol vehicles, motorcycles, walkie-talkies, etc. Several other Committees have embarked on similar projects to support the police.

There are some people who contend that through these Committees a sort of civilian oversight should be maintained. The Committee, according to these people, should be used as a kind of Complaint Commission where people can report the misdeeds of policemen. The Committee would then take up the matter on behalf of aggrieved citizens. Yet others are of the view that the Committees should be scrapped as they may be used to pervert the course of justice. These people reason that some influential members of society who usually constitute the membership of the Committees use them to compromise policemen, intimidate them and in the process pervert the course of justice.

4.7 The Nigerian Police and the Pursuit of Crime

As has been noted earlier, one of the more worrisome features of military rule in the area of law enforcement was the practice of creating ad-hoc military-styled Task Forces to assume ordinary policing duties. In Lagos State, a Task Force code-named Operation Sweep was established ostensibly in response to the rise in violent crime and the apparent inability of the police to cope with the

development. Colonel Buba Marwa, who inherited the Task Force from his predecessor, Colonel Olagunsoye Oyinloa, popularized the outfit by equipping and funding it enough to lead to an appreciable fall in the crime level. Consequently, other states emulated the Lagos state model and a rash of operations burst out:

Ogun State	Operation Wedge
Borno State	Operation Zaki
Oyo State	Operation Gbale
Imo State	Operation Storm
Rivers State	Operation Flush
Edo State	Operation Wipe
Kebbi State	Operation Keep Away Criminals
Adamawa State	Operation Kunama
Kwara State	Operation Watch
Bauchi State	Operation Kwanta Kwanta
Anambra State	Operation Nkpochapa
Niger State	Opertaion Zuma

These Task Forces were comprised of men of the Army, Navy, Airforce and Police. In Lagos State, Colonel Marwa injected so much funds into the task force that it was no surprise that it succeeded to a

large extent in making Lagos State hot for armed robbers and other criminal elements. Lagosians were, however, sharply divided on the question of whether the task force was a success or a failure. Some applauded the crime fighting abilities of the force while so many others accused the Force of gross violations of human rights. There were yet others who argued that the Police would have performed better with the incentive and logistic support provided for the Task Force.

Chris Omeben, a former DIG, now a Pastor described the Task Forces as "a duplication of what the Police stands for". In his recent biography, '*In Thy Hands Oh God'*,[41] Omeben said:

> … the formation of the Task Force was to spite the police, noting, however, that the police fell into the trap of their detractors by not performing well. The former Police boss was of the view that the Police would have done equally well were the support given to these Task Forces given to them. According to Olurode[42] there is apathy by the authorities towards officers and men who are injured in the course of maintaining law and order. There were cases of Police Officers that are abandoned to their fate when they are injured on active duty. It is, therefore, not surprising that most policemen are reluctant to risk their

[41] Asemota I., op. cit at p. 397
[42] Ibid. at. p. 43.

lives in fighting violent crimes, especially, armed robbery and assassinations.

The working conditions of the Police are deplorable. A good number of Police Stations lack such basic working tools as tables chairs and stationery. According to Ibrahim Coomassie, the former Inspector General of Police, an average Police Division (Police formation in a local council) requires four lorries, two land Rovers Jeeps, two Saloon cars, four motorcycles, one set of wireless communication equipment, stationery, including books, bail forms and registers, to function effectively.[43] But what is available is a far cry from what is required. If a police division suffers such neglect, it can only be imagined what the situation would be at a Police Station. A Policeman at Abeokuta said that Policemen were the most patriotic of Nigerian citizens considering the near-absolute lack of logistic support they face in the performance of their job.

[43] Alhaji Ibrahim Coomassie, Former Inspector General of Police quoted in the Punch Newspaper of November 1, 1998, page 9.

4.8 The Quest for the Establishment of State Police Force

One issue that has continued to generate controversy and heated debate with regard to the practice of federalism in Nigeria is the issue of state's having their individual police forces or departments.

With regard to the issue of state police forces, it was the former governor of Lagos State, Asiwaju Bola Tinubu who first flew the kite during his first term as governor[44]. He posited that the security of the state was porous thereby giving room for criminality and that there was need for a State Police Force to effectively combat the ugly trend of crime in Lagos state.[45] Also, two events recently happened in Nigeria that again renewed this call. The massacre that took place in Dogon Nahawa, a small village in Plateau State and the bombs that rocked a meeting that was going on in Warri, Delta State[46]. The challenge for enthronement of popular democratic control of the country's Police and to enhance police efficiency and Police, Public Partnership in the promotion of security, justice and human rights, that spurns several claims and agitations for State Police Forces in the country. Historically, local Police Forces existed in Nigeria throughout the era of colonial rule and up to 1966. Thus, section 105 of the 1963 Constitution of the Federal Republic of Nigeria provided for the establishment of Nigeria Police Force and other Forces. Accordingly, section 105 sub-sections 4-7 provided thus:

(4) Subject to the provision of this section, no

[44] Thelawyerschornicle.com>hoime>constitutionallaw, Accessed on 10/9/12, 4:30pm.
[45] www.vanguardngr.om, Accessed on 10/9/12, 4:26pm,.
[46] Ibid.

police forces other than the Nigerian police force shall be established for Nigeria or any part thereof.

(5) Parliament may make provision for Police Forces forming part of the armed forces of the Federation or for the protection of harbours, waterways, railways and airfields.
(6) Parliament may make provision for the maintenance by any local authority within the Federal territory.
(7) Nothing in this section shall prevent the legislature of a Region from making provision for the maintenance by any authority or local government authority established for a province or any part of a province of a police for employment within that province.
Section 105 of the 1963 therefore established:

(I) A Central Police Forces with Jurisdiction over the entire country'.
(II) Specialized police forces for securing safety over specific areas.
(III) A Police for the Federal Capital territory and
(IV) Local government police forces established by regional parliaments.

The belief which the agitators of State Police have is that Federalism which Nigeria practices requires that each level of government should establish its own Police Force. This is not necessarily so. Consequently the historical background of the federation will determine the devolution and division of powers. The pattern and manner of devolution and division of powers will depend

on what the federating units agree to be of common and local concerns and consequently reflected in the division of powers in the various lists. The relevance of the idea of Federalism as a method of organizing a government in a rural society was stated by Prof. Nwabueze, BO in his definition of Federalism. The learned scholar defined Federalism as:

> ...An arrangement whereby powers of government within a country comprising a large territory and/or diverse nationalities, are shared between a national, country like government and a number of regionally based governments in such a way that each exists as a government separately and independently from the others operating directly on persons and property within its territory area, with a will of its own and its own apparatus for the conduct of its affairs, and within an authority in some matters exclusive of the other's. [28]

Prominent Nigerian advocates of federalism who insist on the multiplicity of political institutions at the various levels of government often cite the United States of America as an example of the ideal or true Federalism not minding that America's federalism was a product of its own history. Thus, commenting on the multiplicity of the police

[28] Nwabueze, 'The Federal System and the Constitution of Nigeria" (Sweet and Maxwell Publishers, 1988).p.225

forces in the United States of America, Geller and Morris observed that the American police structure is a captive of the nation's history. Thus, they argued that:

> …The Justification usually offered for the hodgepodge of American police forces is that freedom and a healthy system of checks and balances arising out of inter agency competition precludes the creation of a national police force. This is a deeply, one might say passionately held belief, and it is for the time being politically assailable. Other federal systems of government, Australian, Canadian, German, Swiss seem no less free, their citizens no more threatened by police power and their more centralized police more prone to corruption, excessive force or other improprieties.[29]

There is no doubt that the need for a rational and thorough examination of the appropriate and optional police structure for Nigeria's is desirable but the answer does not lie with the multiplicity of the police forces because there are range of problems associated with multiplicity of Police Forces such as inefficiency, poor coordination, cooperation and communication among other problems.

Commenting on the negative aspects of multiplicity police forces, Geller and Morris observed that:

[29] Geller, W.A & Morris S, "*Relation between Federal and Local Police"(University of Chicago Press, U.S.A 1992) p. 233*

> …Potential inefficiency — squandering scarce resources that are desperately needed for other societal problems besides crime and disorder — is not the only cause for concern about the untidy pattern of federal, state and local police jurisdiction in the United States. Effectiveness considerations arise as well, for poor husbanding of resources and deficient coordination of anti crime and order maintenance assets may make for weak strategic and tactical planning and ineffectual.[30]

Bayley undertook a comparative analysis of the police forces and observed that:

> *…Neither the number of autonomous forces nor the extent of command centralization/decentralization within forces has any effect on human rights and political freedom.*
>
> *Australian, Britain, Canada, India, and the United States are all vibrant democracies but they vary considerably in the multiplicity of forces as well as command organization within them Furthermore, authoritarians' polities sometimes have decentralized police systems For example, Prussia, The Soviet Union, and American South before the rights movements, while notable democratic countries have centralized ones such*

[30] Ibid

as Denmark, Inland, Sweden, New Zealand and France.[31]

Inefficiency, corruption, police brutality and incivility of the Nigerian Police are among the many reasons that have spurned several claims for State Police but how valid can the argument that state police forces will be more sensitive, effective, accountable and less corrupt than the Federal Police in a society riddled with inter-regional distrust and conflicts as well as religious bigotry? How will the rights of the minorities and non-indigenes be guaranteed against the use of State Police Forces to harass, oppress and eliminate them?

4.8.1 Legal Implications of State Police

Section 214 of the 1999 Constitution of the Federal Republic of Nigeria provides for establishment of Nigeria police force in the follow manner:

> (1) 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.

[31] "*Comparative Organization of the Police in English speaking Countries*" University of Chicago Press,1992. p.539

(2) Section 215 (2) of the said constitution provides that:
The Nigeria police force shall be under the command of the Inspector General of Police and any contingents of the Nigeria Police forces stationed in a State shall, subject to the authority of the Inspector General of Police, be under the Commissioner of Police of that, state.
(3) The President or such other Minister of the government of the Federation as he may authorize in that behalf may give to the Inspector General of Police such lawful direction with respect to the maintenance and securing of public safety and public order as he may consider necessary and the Inspector General of Police shall comply with those directions or cause them to be complied with.
(4) Subject to the provision of this section, the Governor of a state or such commissioner of the government of the state as he may authorize in that behalf may give to the commissioner of police of that state such lawful directions with respect to the maintenance and securing of public safety and public order within the state as he may consider necessary and the commissioner of police shall comply with those directions or cause them to be complied with.

Provided that before carrying out any such directions under the foregoing provisions of this subsection, the commissioner of police may request that the matter be referred to the President or such Minister of the Federation as may be authorized in that behalf by the President for his directions.
5. The question whether any, and if so what, directions have been given under this section shall not be inquired into in any court.

The 1999 constitution established the Nigeria Police Council and the Police Service Commission. The Nigeria Police Council shall comprise the following members:

(a) The President who shall be the Chairman

(b) The Governor of each state of the federation

(c) The chairman of the police service commission

(d) The Inspector General of Police.

The functions of the Nigeria Police Council are clearly spelt out in the constitution as follows-

a. The organization and administration of the Nigeria Police Force and other matters relating there to

b. The general supervision of the Nigeria Police Force

c. advising the President on the appointment of the Inspector-General of Police.

The 1999 Constitution of the Federal Republic of Nigeria also established the Police Service Commission with the following members:

(a) Chairman

(b) Such number of other persons not less than seven but not more than nine as may be prescribed by an Act of the National Assembly.

The Police Service Commission shall have power to-

(a) Appoint persons to offices, - other than the office of Inspector-General of Police in the Nigeria Police Force.

(b) Dismiss and exercise disciplinary control over persons holding any office referred to in sub-paragraph (a) of this paragraph.

Unlike the 1999 Constitution, the 1963 Constitution provided for consultation and participation of regional governments in the control of the Nigeria Police Force. In this regard, section 106 of the 1963 Republican Constitution provided that:

> (1) There shall be an Inspector General of Police and a Commissioner of Police for each Region, whose offices shall be offices in the public service of the federation.
> (2) The Nigerian police force shall be under the command of the Inspector General of the Nigeria Police and any contingents of the Nigeria Police Force stationed in a region shall subject to the authority of the Inspector General of the Nigeria Police, be under the command of the commissioner of police of that Region.
> (3) The Prime Minister or such other Minister of the Government of the Federation as may he authorized in that behalf by the prime minister may give to the Inspector General of the Nigeria Police such directions with respect to maintaining and securing of public safety and public order as he may consider necessary and the Inspector General shall comply with those directions or cause them to be complied with.

> (4) Subject to the provision of subsection (3) of this section, the commissioner of Police of a region shall comply with the direction of the premier of the Region or such other minister of government of the Region or such other Minister of government as may be authorised in that behalf by the premier with respect to the maintaining and securing public safety and public order within the Region or cause them to be complied with.
>
> Provided that before carrying out any such directions the commissioner may request that the matter should be referred to the prime minister or such other minister of the government of the federation in that behalf by the prime minister for his directions.
>
> (5) The question whether any, and if so what, directions have been given under subsection (3) of this section shall not be enquired into in any court.

The relevance of section 215 (3) and (5) should be appreciated in the light of the provision of subsection (4) in that the said subsections entrench the powers of the Federal Government regarding the control of the police relative to the state governments. These provisions have been a source of controversy as well as conflicts between the governors and the Federal Police Authority. In this regard, the state governments contend that they ought to be able to establish their own Police Forces and argue that Federalism calls for it. They further contend that being chief security officers for their

respective states, they should be able to give directives to the Commissioner of Police in their states and such directives be promptly carried out without reference to the provision in section 215(3) and (5) of the 1999 Constitution.

Thus, the provision of section 215(4) of the said Constitution is seen as undermining the power and integrity of the state governors relative to the management of the Nigeria Police Force.

In comparison to the 1963 Republic Constitution, the 1999 Constitution does not provide as much opportunity for co-operation between the federal and state governments in the management of the Nigeria police force. However, the contention of the state governors is that key lack control of police in their state is not correct.

This is because:

(i) the Constitution provides that the Commissioner of Police should receive bad carry out orders from the state governors.[32]

(ii) The Constitution established the Police Council whose membership shall include the President and Governors among others. The Council is the highest policy making body on police affairs in the country.

[32] See section 215(4) of the 1999 constitution

The Police Act provides for establishment of Police Force to be known as the Nigeria Police Force. The Act confers on the Police the following general duties:

(i) Prevention and detection of crimes

(ii) Apprehension of offenders.

(iii) The preservation of law and order

(iv) The protection of life and property

(v) The due enforcement of all laws and regulations with which they are directly charged.

Neither the 1999 Constitution, nor the Police Act and its regulations provide a legal framework for the mechanisms that can guarantee formal and operational cooperation and coordination between the Federal and State Police Forces should the need to establish Federal and State Police Forces arise.

4.8.2 Socio-Economic and political Implications of State Police in Nigeria

Considering the fragility of the present democratic governance as well as the state of the nation, Nigeria for now cannot afford any

drastic politically induced institutional change by way of establishment of dual police forces.

Thus, when we talk of transformation whether of economy, government, or social and moral values, we are referring to action within the framework of the Nigerian state. Those dramatics, which we may note concerning the Nigerian state and its efficacy, are concerned with the following:

(1) Its colonial origins, which even though the civil war affected it, remains as yet unconsolidated and not yet matured. Universal doctrines such as democracy, the rule of law, fundamental freedoms and issues of human rights are as yet undomesticated and insufficiently internalized in our psychology.

(2) The Nigerian state evolved out of several compromises which have allowed other competing claims for loyalty much greater pull on the moral and psychological attitudes of the people e.g. tribalism and corruption or materialism. Thus, action by the state is evaded, undermined or vitiated by appeal to such sentiments.

(3) The Nigerian state lacks a moral dimension and has yet to inculcate within subjects that sense of sacredness which makes it almost a religious duty to subordinate one's sell to its demands.

(4) Nigeria as a state is not backed by any philosophy of common identity and community and has failed to protect the citizen and his property from massacre, arson and armed assault.

(5) Nigeria is yet to achieve full organic identity, coordination and unity in that there are unnecessary and meaningless disputes as to who becomes the President of Nigeria.

(6) Nigeria lacks a philosophical foundation beyond the general platitudes and remains as vague a disappointing specter and a materially exploitable entity not something to which loyalty, duty and obligations are owed.

Given that the State, as we have observed, expresses itself through the activities of the political class, the shortcomings in the characteristics of the political class are as follows:

(i) The political class is unconsolidated as a class; relations purely mechanical, under-educated about the state and uncommitted to it, conduct very individualistic, egotistical and over concerned with fight for office.

(ii) Subservient to environmental factors inimical to the consolidation of the state, viral and ambivalent about principles, rules and

procedures which become subordinated to the material gain and tribal loyalty.

(iii) Violates rules and regulations with ease in electoral competition as well as in office, no commitment to the community and insensitive to the problems of the masses.

(iv) Hypocritical about institutions, concepts and ideas which it adopts without clear understanding of the philosophy, and origins and so breaks rules or withhold enforcement with ease.

(v) Intellectually barren, disdain for ideas and intellectuals and generally does not inspire society to higher ideals or to ultimate goals beyond materialism highly hedonistic, uncreative and more concerned with ego expansion and personal adulation.

(vi) Shipwrecked currently by total loss of credibility and so, deeply involved in tribal pursuits and nowadays; religious manipulation of institutions and office.

(vii) Has lost the confidence of nearly all and the public views it only as an instrument for the personal material aggrandizement of officials especially due to flagrant display of livid material evidence of corruption.

Nigeria is characterized by diversity in religion, ethnicity and language as well as in the level of social and economic development. One of the major crises confronting the contemporary Nigerian nation state is how to manage and mobilize its diversity, in the light of crisis of legitimacy of the state and deteriorating socio economic conditions in the country.

The enthronement of democratic rule has resulted in the emergence of social formations in the country in response to issues of minorities and internal diversity.

The pressures manifested themselves in a variety of forms. Thus, in the Niger Delta region of the country we have had agitations and violent campaigns resulting in significant loss of life and a measure of insecurity for the oil industry. In parts of the country, especially the Southwest zone, we have had calls and demonstrations for a sovereign National Conference with the aim of looking for a new basis for the co-existence of the country's different nationalities. In the South-East zone and now also in the North-West and North East zones there are reports of complaints of all alleged marginalization by the Federal Government. More recently, the states of the entire Southern Nigeria joining their counter parts in Northern

Nigeria in holding their own meeting to discuss views on the sitUation in the country and how individual states and the wider regions should relate to the Nigerian nation. Additionally, we have had communal riots resulting in significant loss of lives in several parts of the country including Jos, Lagos, Shagamu, Kano, Kaduna, Nassarawa State, Benue State,Taraba State, Ife, Aba and Bauchi State. These trends go to show that there is need to recognize and face the challenge of managing our pluralism it w are to achieve our desire for a stable, strong and United country offering to all its component parts the maximum opportunity for self-fulfillment.

The conduct of the police at present is not merely typical but is a reflection of the training and dictatorial tradition imbibed under the military. The Police Force, indeed after many years under the military government has become a victim of military creation.

Thus, the Nigeria Police Force embodies, as some say, a criticism of Nigerian experiences not really of manners, but of the basic altitudinal approach to life. It touches on the country's withering of collective dreams, visions and values.

Like the Nigerian politicians, the Police are yet to come to terms with the reality of our democracy. With the military back to the

barracks, the Police will not just man the polity and polling booths, but they will ensure orderliness in the conduct of the exercise. Thus, in the Nation's search for an enduring democracy, the greatest challenge thrust upon the police is how to manage the dynamics of change. However, experiences in the past and even the present do not give a picture of an outfit capable of performing the role. Nigerian politicians, especially those in government are always inclined to use the police beyond their constitutional role to ensure that their personal objectives of winning at all cost are achieved. This is understandable. The socialization process that the politicians had undergone under colonial rule prepares them for this kind of activities. The colonial state was an authoritarian one largely intolerant of opposition. The same are the Politicians and the Police of modern Nigeria. The Nigerian Politicians inherited the state along with the spirit of the age.

Thus, in both the First and Second Republics, the Police were used to show off power and intimidate the supporters of the opposition. In the First Republic, the Western Region and the Northern Region maintained Local Police Units and as expected, the Local Police Units became instruments of victimization, political

operation and vendetta. Thus, the Local Police Units then obeyed the commands and directives of the Premiers.

In the case of the American systems, Hawley, D.F. observed in relation to the management of Police Force that: "*Police administrators are always concerned about the degree and intensity of political influence and pressure on their administrative and operational decisions in managing the police force.''*[33]

Thus, in the United States of America, the importance and sensitivity of the relationship between a chief municipal executive and his chief police officer was summed up in an internal memorandum by an aide and it read as follows:

> *…Loyalty to, or political compatibility with, the mayor. This is most fundamental. It combines your sense that you can work together with your perception that the man has political antennae alerting him to issues of sensitivity to you and that he would inform you of major policy issues and in all cases defer to your decision. The critical point here is your feeling that the political relationship between you is relatively free from risk. The respect and allegiance he has for you, his integrity, good judgment and self-confidence means he will surface only those issues for your consideration over which you shared a sense of political relevance.*[34]

[33] "*The future of Policing*" Sage Publication Inc., 1978, p.42
[34] Kelly, M., *"A handbook for local govt.,(Washington Police foundation Press, 1975)*, p.305

Democracy in the contemporary world according to Philip B. Heyman is sustained by two primary forces. First and foremost, it can be the result of the rather powerful demand of the population. Secondly, it can also be largely the result of international pressures.' When democratic transition is driven by a strong national movement for change, it could be described as a strong democratization process, whereas when it depends essentially on external support from powerful countries, it could be called a weak democratization process because, most of its activities are monitored and directed by their foreign collaborators.

In this regard, the fragility of the nature of the Nigerian democratization process as well as the heavy dependence on external forces, the question is, how long can these external forces sustain the country's democratic experiment without the cultivation of a home base and what are the implications for a state police. Since we are considering the socio-economic implications of a state police in Nigeria, we shall concern ourselves with the later part of the question and David H. Bayley offers an insight. According to him, during transition to democracy, democratic reform at the police is

likely to be less important to emerging democratic government than security. Explaining why this tends to be the case, he stated that:

> *…Democracy requires stability and order, yet transition to it, are often accompanied by violence and disorder. Threats to regimes always take priority over threats to public. At the same time, the legitimacy of government requires providing internal order for the population.*[35]

The Nigerian situation not only offers a good example of Bayley's thesis but also shows how the management of security and reform dilemma faced by transitional democracies can lead to the growth or stagnation of the democratic process. The existence of the police is necessary in all complex and modern societies, though the nature and scope of their functions and performances in specific situations may either facilitate security or enforce insecurity and repression for the majority of the citizens. In this regard, police as well as the police culture that prevail in a society at a particular time is a reflection of the nature, dynamics, scope and intensity of social, political and economic tensions or stability in society. Also, the extent of policing problems in a nation depends on the scale, duration and intensity of such tensions and conflicts. Thus, participatory democracy, social justice, national development and integration and

[35] H. Balley, op.cit p. 108

self-reliance must be nurtured and sustained in Nigeria through viable and sustainable economic and socio-political planning involving the mobilization of the will, energy and creativity of the people at all levels of the country's social formation. This will reduce social, political and economics tensions and promote consensus, involvement, attachment and commitment to the society. The conflicts between the rulers and citizens which often lead to the deployment of police against the citizens will be, minimized while public support for the police will increase.

Perhaps the most dangerous trends towards the realization of democracy in Nigeria is the emergence of ethno-regional and religious militias that have become laws unto themselves. These militias go by different names such as the "Odu'a People's Congress", "Egbesu Boys" and the "Bakassi Boys". Beside these, there are various ad-hoc concerned groups or association of regions, religions and ethnicities established to defend corrupt politicians, top bureaucrats and political appointees. These militias have their roots in the endemic corruption, political intolerance and social prejudice in Nigerian society. They are also products of repressive governments that have failed to guarantee every citizen the opportunity to obtain

the necessary resources to meet his basic needs. Their roles are for a fee or position or promotion to embark on violent protest and resistance against popular demand for accountability by such individuals or disciplinary actions against them for corruption, mismanagement and oppression. The development is a great danger to the prospect of democracy, accountability and good governance.

The Police in Nigeria are generally perceived to be very corrupt. Thus, Police corruption has been a major factor undermining the security and rights of the citizens in Nigeria.

The extent, pattern and trend of corruption are determined by the political and socio-economic conditions in society. Meny, Y. identified he causes of corruption as:

> *…The causes of corruption are sought in wholly different directions, depending on the ideological stance and the preferences of the seeker. The neo-liberal school (which has contributed to the analysis of the phenomenon) considers corruption to be one of effects of the black market caused by excessive state intervention. The more the state intervenes, the more it legislates, and the more it develops interfering bureaucracies, the greater the risks of parallel procedures and market spawning unlawful conduct. On the other hand, those who are not convince of the state's intrinsic perversity or the market's unquestionable merits stress another aspect: the erosion of public ethics, the loss of state's legitimate status as the incarnation of the general interest, and the dilution of communal*

values through the pursuit of profit and the defence of selfish private interest.[36]

From this broad consideration of the general concept and sources of corruption, Police Corruption has been defined as: *…the misuse of authority by a Police officer in a manner designed to produce personal gain for him or for others.*[37]

Police corruption may be in the form of improper political influence and acceptance of bribe in exchange for non-enforcement of laws. In Nigeria, Police Corruption which invariably has serious consequences for the security of Nigeria, include:

- Receiving bribe to alter evidence
- Receiving gratuities for returning stolen property.
- Stealing from suspects or accident victims.
- Receiving bribe in order not to effect arrest of crime suspects.
- Receiving bribe in order to arrest an innocent citizen as a form of intimidation or harassment.
- Supply of police arms and uniforms to armed robbers for a fee.
- Divulging information about complainants to criminals.
- Stealing from crime scene or burglarised premises.

[36] "*Corruption change, Crises and Shifting Values" Freeedom Press(1996) P.309*
[37] Goldstein H., "*Police Corruption"(Washington Police foundationPress, U.S.A*, 1975) p.3

- Receiving bribe and failing to search vehicles that may be carrying prohibited item

Police Corruption in Nigeria has been exacerbated by poor working conditions, low pay, poor training, inadequate pre-recruitment screening, non-compliance with merit in promotion, inadequate supervision, weak leadership, inadequate logistic and facilities and institutional tolerance for corruption. The Nigeria's political economic structures have proved to be fertile grounds for corruption. Thus, in the history of the Nigeria Police Force, for the first time, the National Union of Policemen comprise of the rank and file went on a nation wide spike on the 1st day of the February 2002. Considering the problems that the present Nigeria Police Force is facing, the idea of multiplicity of police forces for now can only further exacerbate the problems. Corruption is therefore entrenched at all levels of the Nigeria Police with serious implications for police efficiency and public security.

Nigeria has experienced serious problems of insecurity over the past decades. If multiplicity of police forces is neither necessary nor sufficient condition for efficiency or freedom, but is associated with a range of problems, such as inefficiency, poor coordination,

cooperation and communication among other forces, the need for rational and thorough examination of appropriate police structure for Nigeria is desirable.

The argument that the state police forces will be more effective, sensitive and accountable and less corrupt than the federal police force may not necessarily be valid. Thus, historically, local police existed in Nigeria throughout colonial rule and up to 1966. Records and research evidence show that those local police forces exhibited the same vices attributed to the Nigeria Police Force, in many cases on a larger scale. The governors who are campaigning for state police forces are to a large extent doing so for less than noble reason. There are available records to show that local polices in Northern Nigeria and Western Region were employed principally to manipulate elections and for the repression of opposition to the government and party in power. What **is** therefore needed in the area of police transformation for now **is** popular control and participation in policing rather than state governors' police.

CHAPTER FIVE

Conclusion, Findings and Recomendations

5.1 Findings and Observations

From the proceeding study, it is clear that the Nigerian Police more than any other agency has important role to play in administration of justice. Consequently, this study observed that the attitude, mentality and training of the Nigerian police force are fashioned at taming and intimidating Nigerians. This was the legacy of the colonial era who trained the police force to tame and intimidate native with "primitive impulse and criminal intent[1]. Unfortunately, this attitude, mentality and training has not changed over the years, the most often than not apply unreasonable and sometimes illegal force in the discharge of their role in administration of justice in Nigeria[2].

The research also revealed that the foregoing assertion about the nature and character of the Nigerian police from the colonial era to date made it a well fashioned available instrument for human rights violation with grave impunity. Human rights violations by the police is a common phenomenon in Nigeria, it ranges from police brutality,

[1] Abegunde, A., *The Nigerian Police and Human Rights* in Abegunde A.A. Adebayo, W. (ed.). *Essays in Honour* of Oba Emmanuel Adebowale Adebayo (Petoa Educational publishers, Ibadan, Nig. 2008), p. 238.
[2] Alemika, E.E.O. ' *Policing and Perception of Public in Nigeria*' (11 Police Studies, 1998), p. 161.

extra-judicial killing to extortions, torture, rape as well as unnecessary restraints such as handcuffs and leg chains[3].

Another common illegal practice by the police in Nigeria is arrest by proxy. For example, arresting the father for crime alleged to have been committed by his son. This practice was codermn by Justice Niki Tobi in the following terms:

> *I know of no law which authorized the police to arrest a mother for an offence committed or purportedly committed by the son. Criminal responsibility is personal and cannot be transferred. A police office who arrests "A" for the offence committed by "B" should realize that he acts against the law[4].*

This study equally observed that there exist legal and constitutional problems with regard to the role of crime prevention by the Nigeria Police Force. For example, section 215(1) of the 1999 Constitution provides that "there shall be Inspector-General of Police who subject to section 216(2) of the same Constitution shall be appointed by the President on the advice of the Nigerian Police Council from among serving members of the Nigeria Police Force. Section 215(1) of the same Constitution empowers the President to

[3] Section 4 of the Criminal procedure Act CPA C4 LFN, 2004.
[4] *African Continental Bank (ACB) v. Okonkwo (1997) 1 NWLR pt. 480 p. 197.*

exercise control over the Inspector-General of Police, while subsection four subjects the power of a State Governor to issue directives to a Commissioner of Police to the approval of the President or his delegated minister. This is rather curious because State Governor is the chief Security Officer of his State, subjecting the power of the State Governor to issue directives to a Commissioner of Police to the approval of the President or Minister will under mine the power of the Governor who may be required by circumstance to take action to prevent the breakdown of law and order. In this regard Prof Mwabuze rightly said:

> *In a situation of danger to public safety and public order in a state, whereby 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*[5].

The problem created by this arrangement is manifest in states that did not belong to the ruling People's Democratic Party (PDP) such state governor has several complaints against the police

[5] Nwabueze, B.O., *Reflections on the 1999 Constitution: A Unitary Constitution for a Federal System of Government* Being a paper delivered at a seminar 14-16 February, 2000, p. 35.

ranging from misuse of the police by the ruling party to the police refusal to comply with court order. Recently, the former governor of Anambra State Dr. Chris Ngige while he was sitting as governor was abducted and forcibly removed from government house by an Assistant Inspector General of Police as a result from order from the above. It took widespread condemnation and breakdown of law and order as well as the Supreme Court decision before the governor was reinstated[6].

This study also observed that the Nigeria Police lack adequate working too in term of logistic and equipment. Equally deplorable, is the welfare and condition of the police in Nigeria. The police is very critical in administration of justice unfortunately, this institution which is expected to be a front runner in administration of justice has over the years been neglected in Nigeria. For instance, there is widespread belief among the general public that most policemen are frustrated in their jobs. The mere physical appearance of the police officer of lower ranks, in worn out uniforms and tattered boots lend credence to this assertion. The Nigerian police force is characterized by lack of adequate modern tools to fight crime, addition, policemen

[6] ThisDay Newspaper of 15th 24th and 26th July 2003, See also, *A.G. Anambra State v. A.G. Federation (2005) FWLR pt 266 p. 1557.*

live in poorly maintained and over crowded barracks. And these combine to affect, negatively, the morals of the police which in turn has encouraged corruption. Police corruption in Nigeria has been exacerbated by poor working conditions, poor training, inadequate pre-recruitment screening, and non compliance with merit in promotion, inadequate supervision and weak leadership.

This research also observed that there is unnecessary rivalry among various security agencies in Nigeria particularly between the police and the Armed Forces. The relationship between policemen and soldiers is hardly ever friendly. Soldiers exhibit contempt for policemen. An attitude encouraged by better treatment and working conditions of soldiers as well as the advent of military rule. Alozie Ogugbuaja one time Lagos State Police Public Relation officer, while testifying before the Justice Akanbi Panel that investigated students crisis in Nigeria educational institution in 1986 declared that the neglect of the police force by successive military administrations was deliberate. This, he said was because a well equipped police force may have the capacity to stop military coups in Nigeria[7]. Nigeria has enjoyed more than a decade of constitutional democracy but

[7] The Guardian Newspaper, March 2, 2002 p. 18.

relationship between the police and the members of Armed Forces has not significantly changed for the better. This is not good for a administration of justice in Nigeria. All the security agencies are expected to complement one another and present a coordinated effort at prevention and control of crime in Nigeria.

It is also the finding of this research that the police in Nigeria has in most case abuse their statutory power, particularly the powers of arrest. The police powers of arrest are indeed wide justifiable only on reasonable suspicion that an offence is committed or likely to be committed. While the object is to ensure effective crime prevention and detection, there is an underlying assumption that the police would apply these powers judiciously. However, this ha not been the case, the power of arrest have become the most abuse of police power.

This study also observed that citizens are not ready and willing to report crime or provide useful information to the police on crime. There are instances where informants are either killed because

information supplied to the police had leaked or the informants become the suspect[8].

5.2 Suggestions and Recommendations

Consequently the following suggestions and observations are made**:**

1. There is need to amend the provision of section 215(3) and (4) of the 1999 Constitution of Nigeria. These provisions relate to the powers of the Federal Government regarding the control of the police relative the state governments. These provisions have been a source of controversy as well as conflict between the governors and the federal police authority. The provisions of section 215(4) of the constitution appear to undermine the powers and integrity of the state governor relative to the management of the police. Thus, it is recommended that the provision be amended to confer on the state governors being the chief security officers for their respective states power to be able to give directive to the Nigeria police for the contingent in their states and such directives to be promptly carried out without seeking approval from either the president or ministers.

[8] Kuteyi, O.S. and A. Ogunfolu, *the legal and Socio-economic Implications of State Police in Nigeria*. Being a paper presented at the 2002 national association of law Teachers Conference 23rd to 26 April 2002, Lagos, p. 29.

2. The selection and screening process for recruitment into the Nigerian police especially at the junior level and the curricula for the training of the police is narrow in scope and should be reviewed presently, the emphasis is more on physical excursive, drill and stamina. The content of the training is limited in subject such as sociology, psychology law, social relation and human rights. These inadequacies associated with selection, screening, testing and training adversely impact on discipline orientation, attitude, performance and conduct of the Nigerian police.

3. In the course of this study, lack of awareness of the exact power and function of police and general ignorance of the importance of human rights education as well as observance of the rule of law has been implicated as a major fact that has affected the role of the police in the administration of justice in Nigeria. Hence, we recommend that police must be trained and educated in some basic concepts such as rule of law, human rights and limits of the powers of the police. In the part of the general public, there is need for awareness campaign or public enlightenment on the need to support the police in the administration of justice. Once these have been put

in place, the public will truly be the police as a friend and will collaborate effectively to fight crimes in Nigeria.

4. There is the need to establish Police Board at the local and state levels to replace the moribund and weak police community service committee. The new board once established, will promote partnership communication and cooperation between the community and the police ion problem identification, find problem solving. They should monitor police conduct, and performance as well as public complaints against police malpractices, including production of quarterly and annual repot for the Inspector-general of police, police service commission and the Nigerian police council presently, characterized by deep suspicion and sometimes violence.

5. The police should be properly equipped with modern and sophisticated equipment. Government must provide good condition of service to the police, this include recruitment of adequate number of policemen, attractive salary and accommodation. This will improve the image of the police and thereby boosting their morale.

6. It is axiomatic that achieving an ideal Nigerian police force can indeed be challenging, particularly that enormous resource is required from the government which has other responsibilities. In this

regard, it is recommended that government should ensure sustained political commitment for improving the Nigerian police. By sustained political commitment, government is required to show genuine concern on police problems by enacting workable laws and fully implements police policies to address and deal with the problems.

7. It is also the recommendation of this research that all the security agencies in Nigeria particularly the police, the armed forces, state security service and so on must cooperate and complement other in the administration of justice in Nigeria. To facilitate this, a coordinating mechanism should be put in place that should encourage sharing of security information, tips and intelligence. This mechanism will equally stamp out rivalry which presently is one feature amongst security agencies in Nigeria. Once this is achieved, law enforcement agencies in Nigeria rather than being reactive will become more preventive in their approach as obtainable in other advanced jurisdictions.

8. Finally, improving the quality of the Nigerian police in the administration and provision of security cannot be resolved by proliferation of ad hoc committee, panels or task force, there is no alternative to putting in place a permanent mechanism as have been

recommended herein to address the challenges of law enforcement and administration justice in Nigeria.

5.3 Concluding Remarks

It is axiomatic that the Nigeria Police are striving to maintain peace, order and good governance over the years, but they are seriously saddled with a lot of challenges. The government of the day is very much concern with the issues of security. The general publics are perturbed with lack of efficient maintenance of law and order and blame both the police and the government for not providing adequate security for the protection of lives and properties. Although the government are trying their best to satisfy these yearnings by embarking on several reforms of the Police Force but, it appears as if the problems are insurmountable. The way forward is for the Police, civil society and the government should put all hands on deck to address all matters of security because, the maintenance of law, peace and order lies on everybody in the country.

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