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FEDERALISM AND UNIFIED POLICE SYSTEM: A PRODUCT OF POLITICALEXIGENCY IN NIGERIA

BY

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Abstract

If there is any major issue which has generated an unending controversy in Nigeria, it is the continued agitation for state police. The security situation in the country is the trigger for the renewed agitation. It is found that the Federal Police are presently incapable of securing lives and properties in the country as a result of myriads of factors. Agitators of state police believe that a central factor in federalism is the relative autonomy enjoyed by the state governments in relation to the centre. The study found that the establishment of state police is not an effective therapy that will guarantee the security of lives and properties in a multi-cultural polity. If anything at all, state police will serve as a catalyst for the disintegration of the country considering the low level of maturity of political leadership in the country. The study concluded that the federal police should be retained and strengthened to serve as a beacon of direction, an instrument of unity, source of inspiration and custodians of human rights of the nation.

Keywords: Federalism Unified, Police, Political Exigency

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1.1 Introduction

Thomas Jefferson in his famous declaration of independence in the United States in 1776 posited as follows:

> We hold these truths to be self evident, that all men are created equal, that they are endowed by their creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness ... that to secure these Rights, Governments are instituted among Men.[1]

The foregoing attests to the prime position occupied by government in any country. The importance of the above statement is further underlined by what can be described as a necessity of government in any nation. There is no doubt that government almost certainly originated with the need among other things, to protect lives and properties and to maintain law and order. Why then are the sacredness, sanctity and dignity of lives violated with impunity? Why is destruction of properties the pastime of hoodlums and other social aberrant? Many people, both famous and ordinary, have tried to answer these questions. Perhaps human nature dictates selfishness, and people inevitably will come to blows over who gets what property or privilege. Whatever the reasons for these condemnable behaviours, governments first evolved as people discovered that protection was easier if they stayed together as a group. It must be realised that there are many types of government. Nigeria as far back as 1954has settled for a federal system of government[2].Section 2(2) Constitution of Federal Republic of Nigeria 1999 (as altered) enables each state that constitutes the component units to exercise power over some enumerated items[3].It is a form of government in which sovereign power is formally divided usually by means of a constitution between a central authority and a number of constituent regions or states so that each region retains some management of its internal affairs.[4]It is different from a

[1]Jeff Landauer and Joseph Rowlands."*The Necessity of Government*" available at www.importanceofphilosophy.com/politic. Visited last 8/4/2019.

[2]Section 2(2) of The 1999 Constitution of The Federal Republic of Nigeria. (as altered).

[3]Second Schedule, Part II, Concurrent Legislative List of The1999 Constitution of the Federal Republic of Nigeria(as altered).

[4].Nwabueze B.O.' Reflection on the 1999 Constitution: A Unitary Constitution for a Federal System of government.' Being a paper delivered at a seminal in Abuja Organised by the International Commission of Jurists, February 4-16, Year 2000 pp.4-5

confederacy[5] in that the central government exerts influence directly upon both individuals as well as upon regional units. It is also different from monarchy in which the supreme power is lodged in the hands of the monarch who reigns over a territory usually for life and by hereditary rights[6]. Neither is it the same with Oligarchy.[7]

In recent times, no phrase or political terminology has been a greater source of pains and perplexity to Nigerians than the notion of federalism[8]. Federalism and all the ancillary benefits that may flow from it presupposes freely federating units, whereas unitary government suggests entities that have been forcibly brought together or territorial units compulsorily conjoined by a superior force. The structure and practice of Nigeria's federalism have also been a key topic of discussion and debates. Of particular concern in this paper is the security architecture which the constitution says in section 14(2) (b) shall be the primary purpose of government. The 1999 constitution in section 214(1) provides for a single police force for the entire federation.[9]This, too many scholars, is an antithesis of federalism which in theory requires that each component unit has its own security outfit[10]. Undoubtedly, Nigeria is currently bedeviled by myriads of worrisome challenges in terms of security. If it is Boko Haram in the Northeast today, it will be armed bandits in Zamfara and Katsina states tomorrow. Pipeline vandalization in the Niger Delta is not an exception; the humongous wealth of the politically exposed elites has become an attraction for the socially depraved. Insecurity has become a harbinger of misery, poverty and anguish to the people.

The causative factor, protagonists of state police say, is the unified police system for the entire federation. They assert, without equivocation that the Nigeria Police Force as presently constituted cannot effectively carry out the core mandate of securing lives and properties. The federal police contingent in each state is regarded as a force of occupation which does not enjoy the confidence of the local community. It is believed that the Nigeria police is over-centralised as a result of which it could not curb the incessant menace of insurgents, terrorists and armed banditry[11] It is their firm view that Nigeria has become ripe not only for

[5]A confederation is a union by Treaty between states, provinces, or territories that create a central government with limited powers. The constituent entities retain supreme authority over all matters except those delegated to the central government.

[6] Appadorai A .*The Substance of Politics*, Oxford India Paperbacks (1942), p 132.

[7]Oligarchy is a government in which control is exercised by a small group of individuals whose authority generally is based on wealth or power.

[8] Odunayo Joseph 2012 "State Police and a Multi-ethnic Nigeria". Punch, Nigeria, February 19, 2012, p. 14.

[9] S. 214(1) of the 1999 Constitution of the Federal Republic of Nigeria (as altered).

[10] Taiwo L.O. 2005, "True Federalism: Recipe for the Survival of Democracy in Nigeria" Ife Juris Review, Vol. 2, Part 2, p. 173.

[11] Arase E.G., 2018. 'A Critical Analysis of the Pros and Cons of State Policing. To Be or Not To Be' Being a Paper Presented at the Nigerian Bar Association, Benin Branch Law Week, June 11, 2018, p.9.

devolution of powers and decentralization but equally that the state governments be invested with the constitutional powers to operate state police forces in order to be in consonance with true federalism[12]. In terms of security of lives and properties, Nigeria is at cross road and the prevailing questions are; are multiple policing systems in a federation *a sine qua non* for effective security of lives and properties? Can't there be an adoption and adaptation of the classical theory of federalism as propounded by K.C. Wheare *et al*[13] to suit a particular or peculiar situation as dictated by historical, ethno-religious and sociological factors? This paper argues that there is no absolute federalism. It is an ideal and idea set to achieve a particular goal. It is along this line that Justice Niki Tobi (JSC) as he then was stated in the case of *Chief Adebiyi Olafisoye v Att. - Gen. (Federation)* [14]as follows

> A federal government will mean what the constitution writers say it means. And this can be procured within the four walls of the constitution. Therefore a general definition of federalism or federal government may not be in the answer to the peculiar provisions of a nation's constitution which is the *font et origo* of the legal system. Thus, the word federalism conveys the constitutional arrangement shown particularly in the legislative lists.[15]

In order to avoid obsessive adherence to theory, especially where the theory has been tested and found to have failed abysmally[16]as we shall see *anon*, these writers have taken a position that a centralised policing system in Nigeria is not necessarily incompatible or irreconcilable with federalism. It is a product of exigencies of the time as determined by the level of political maturity of the political class. This is against the federalists 'position who advocate that states as

[12] Ibid, p.9.

[13]Other notable scholars of federalism include Ronald Watts, Benjamin Nwabueze, Itse Sagay. Abiola Ojo., Elaigwu I, Kusamotu G.Olu Adediran Chief Obafemi Awolowo, William Riker, Dicey A.V, Carl Friedrich, Taiwo Osipitan: Wallace Oates etc.

[14]*(2004) 4NWLR part 864 p.580*

[15]*Ibid.p.647.*

[16]Local government police existed in the Western Region and Native Authority police in the Northern Region under the 1963 Constitution. It was a bitter experience as the local police force was used as an instrument of oppression and intimidation of perceived and actual political opponents. For further reading see D.A Ijalaye 'The Imperatives of Federal/State Relations in a Fledgling Democracy Implication for Nigeria'. Being A Paper Delivered At Annual Lecture Series of The Nigerian Institute Of Advanced Legal Studies 2001 p.9

constituent units should have their state police forces for effective security control[17]. However, we should no t suffer from collective amnesia from the fact that the states are not necessarily immune to the possible abuse which multiple policing system can engender. A disciplined and well motivated centralised or national policing system will serve as a bastion or symbol of hope. It will also serve as a beacon of direction, a bond of national unity, and custodian of fundamental human rights. Even if the Where's theory were to be considered strictly and sheepishly, national security, unity and cohesion should take precedent over and above a stereotype precept that is over eight decades old.

In order to underline the necessity of federal policing in multi-ethnic and multi-religious nations like Nigeria, the paper is structured as follows. The foregoing introduction serves as section one which is the contextual background of this paper. Section two is on the imperative of unified police system in Nigeria. Section three underlies the clamour for state Police in Nigeria. Section four looks at the comparative overview of police structure in the United States which is often cited as a model for Nigeria. Section five concludes and proffers suggestions to allay the fear of state governors who have been variously described as toothless bulldogs and people with responsibility but without power.[18]

1.2 The Imperative of Unified Police System in Nigeria

The 1999 Constitution of the Federal Republic of Nigeria (as altered) provides the present legal framework for the establishment of a single federal police for the whole federation. It provides that

> "There shall be a Police Force for Nigeria, which shall be known as 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"[19]

Section 3 of the Police Act[20] reinforces this constitutional provision by providing that there shall be established for Nigeria a police force to be known as the Nigerian police force. From these provisions, it is clear that Nigeria, a federal

[17] Falana O. "State Police Back on the Front Burner". Available at http://www.thenationon line.ng. Accessed on June 7, 2016.
[18] iRotimi Kemi *The Police In a Federal System Nigerian Experience*, College Press Publishers Nigeria (2002)p.201
[19] S. 214 (1) of the 1999 Constitution of the Federal Republic of Nigeria (as altered)
[20] Laws of the Federation of Nigeria Cap p19. 2004

state operates a single and centralised police establishment and forbids the other two tiers of government from providing for the maintenance of law and order.

Prominent among the reasons for abolishing multiple policing systems was the unprecedented abuse to which the local government police were subjected to prior to 1966.[21] Thus the aversion for it cannot be divorced from the unpleasant experience witnessed during the period it lasted. This with many years of military rule and other centralizing effects on policing functions makes a return to the inglorious past undesirable. The Local Government Police in the west and the Native Authority Police in the North became a veritable instrument of oppression and intimidation of political opponents such that criminal charges brought against any person who is well connected will be overlooked. In the West, political thugs were clothed in local police uniform to cause mayhem called operation *wet e*. This and other outrageous factors led to the military takeover in January 15, 1966. This is due to intolerance and immaturity of opposition politicians by the political parties in power[22]. The local police forces became a symbol of absolute power used recklessly for selfish gains. They were turned into local army of the parties in power[23].The antagonists of state police still believe that if the 1999 Constitution is amended to accommodate state police, some power drunk and ambitious governors may use it against their perceived and real political foes. A good example was the misuse of the federal police in 2013 by former governor Gbenga Daniel of Ogun state He ordered the House of Assembly shut on the ground of specious misunderstandings with the leadership of the House of Assembly. What the governor would have done if he had the control of state police is better left to the realm of conjecture. Any governor who is hell-bent in retaining his seat during election will order police officers to steal ballot boxes and crush dissents during voting.Presently; the governors are using the State Independent Electoral Commission to achieve their political whims and caprices. The perceived abuse manifests readily in the absurdity where the ruling party in a state makes a clean sweep of all the local government seats during Councils elections.[24]The antagonists of state police also draw inspiration from the way the governors dominate the local government administration body and soul like a colossus[25].The commissioners of state police will become errand boys of the state

[21] Local Government Police and Native Authority Police existed under 1960 and 1963 Constitutions in the West and the North respectively. They were abolished in 1966 by the Military. The Nigerian Police was then reorganised along the line of Military centralist command system,

[22] Egunjobi A.A..' The Nigerian Federal Practice and the call for State Police'(2016) International Journal Advanced Academic of Research Social & Management Science Vol.2 Issue 7 p.10

[23] .Nwabueze B.O.*Military Rule and Constitutionalism, In Nigeria*(Owerri) Spectrum(,1992) p.120

[24] Ndah- Isaiah Jonathan 2018 'State Police and Trajectory Debate'. Leadership Newspaper Nigeria February23, 2018p. 8.

[25] The present 774 local governments in the country are in bondage of their respective state governors. They are the tiers of government whose body and soul have been completely subjugated by the governors. The

governors. The state police may be similarly deployed to ensure that the political preferences of the governors are fostered on the people. Since most of the governors' decisions will arise from the prism of politics, there may be no job security for the officers and ranks and files of the state police force. Professionalism will also be sacrificed on the altar of nepotism and political expediency. For instance, a state Commissioner of police who fails to carry out the instructions of the governor may be sacked with ignominy.

With the establishment of state police, criminals will be given the opportunity of *forum shopping*, i.e. the choice of state in which they will operate as they will migrate from the states where the policing is relatively strong to the states where the policing is weak and inefficient all in a bid to evade arrest and the law. If there is no centralised police force, we may end up running a confused federal republic with several police bosses in every nooks and cranny of the country. The supporters of the present unified police system argue that nothing has changed in the conditions that led to the demise of local police forces in 1966. It is argued that the state governors in contemporary times will deploy the state police forces for a more bizarre assignment like rigging elections and harassment of political opponent[26].Former Zamfara state governor and former Chairman of Governors' Forum Abdul-Aziz Yari said that Nigeria is not politically mature for state police[27]. Former Senator Shehu Sanni is also of the view that the tyranny, the abuse of power and the state sponsored and state sanctioned violence it will unleash will be unimaginable[28]. To underline the fact that the local police forces were misused in the past, former Military President of Nigeria, General Ibrahim Babangida rightly confirmed this historical fact. He said,

> ....The fact that the state police in the North and the local constabulary in the south were roundly abused in the past during the first republic does not detract from the merit of its resuscitation[29]

chairmen, are either" elected" or selected are at the beck and call of the governors. They are completely subsumed by the ravenous governors.

[26] The proponents of federal police contend that because of the possibility of abuse of local police forces, section 214 (1) of the constitution which forbids the establishment of any other police force in the country should remain in the constitution.

[27] Nda-Isaiah,Jonathan.,p.12.see also Jemibewon. D.M. The Nigerian Police in Transition: Issues, Problems, and Prospects Ibadan Spectrum (2001) pp. 8-87.

[28] Ndah-Isaiah Jonathan, Ibid,, p.8.

[29] Obafemi O.(2012)'Resetting State Police in Nigeria.' Available at http://wwwdailytrust.com.ng/weekly/index/2016 last visited Nov. 16, 2017.

Besides the problem of possible abuse by the state governors another reservation against state police is resourcing or funding. This is a major barrier for its establishment. Virtually, all the state governments depend largely on the federal allocation[30] for their survival. Many of the states owe their workforce arrears of salary for as many as thirty months. The new National Minimum Wage Act, 2019 will further exacerbate the already low budgetary base of the state government. According to Professor Nwabueze:

> The sharing arrangement under Nigeria's Federal System assigns to the Federal Government powers and resources so overwhelmingly greater than those assigned to the states thereby depriving the latter of any meaningful autonomy in relation to the federal government. The 36 states structure has added greatly to the weakening of the state governments reducing them in status to poor relations of an overweening federal government.[31]

To add police responsibilities will certainly be an over -kill[32]. It would certainly be unbearable for many states and the fate of the state policemen in such states where salary is not paid will be unpleasant. Even the federal government is facing difficulty in funding and running the Nigerian Police Force. It only struggles to pay the monthly salary. The state governments provide and maintain the operational vehicles. Even the burden of building or rehabilitation of police stations has been carried by some state governors. They also depend on the donations of well wishers for other logistic supports. While this may be true, it is humbly submitted that the resources needed to finance a police outfit is enormous especially in the light of low internally generated revenues and the meagre allocation to the states from the federation account[33].However, we shall be playing the ostrich or living in self-denial if we do not acknowledge the fact that most states presently invest a substantial amount of their resources to the upkeep of the police contingent in their states. Furthermore, the lack of uniformity in salary will pose a serious problem since all the states are not equally endowed.

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[30] The Allocation of revenue to the three tiers of government as provided by section 162(3) of the constitution is skewed in favour of the federal government. The federal government receives 52 68%. The state governments get 26. 72%, while the Local governments receive 20. 60%percent.

[31] Nwabueze B.O., 'Reflections on the 1999 Constitution: A Unitary Constitution for a Federal System of Government op.cit.' Pp.4-5.

[32] Adetumbi O..'If we have Courts At State Level,. Why not State Police'? Nigerian Compass available athttp://wwwcompassnewspaper.org.retrieved on September 20, 2018.

[33] Jembewon D.M..*The Nigerian Police in Transition, Issues, Problems, and Prospects.*(Spectrum Books Ltd Ibadan 200)1 p.47.

Inefficiency and corruption may result if salary in a particular state is higher than the other.

Another notable reason for the retention of *status quo* of unified police force is that the force will serve as a principal bond of national unity, a symbol of hope and custodian of fundamental human rights of the people. In this regard, a centrally controlled police force would be in a better position to allay the fear of ethnic minorities especially at the present time when mutual mistrust among the more than three-hundred and fifty ethnic extractions is rife. There is no doubt that the state governors will use the state police against rival ethnic groups in case of communal clash. Already, the security agencies have had problems coping with the proliferation of armed ethnic militias dotting the landscape[34]. Certainly, the challenge will be greater and overwhelming when the armed militias and political thugs are clothed with police uniform and begin to fight one another, thereby compounding the internal security. If the centrally controlled police is sustained and strengthened, the possibility of multiplicity of police formations in all the states will be avoided. The supply of arms and ammunition too many different formations with the possibility of it being mishandled or getting into the hands of criminal gangs will also be eliminated.

1.3 The Clamour for State Police

State police is organized bodies under state authority rather than local authority. They are employed like the federal police, for prevention and detection of crimes and to protect lives and properties[35].However, in the particular context of our discourse, state police is a kind of sub- national police outfit which is established, organised and under the direct control of and jurisdiction of a particular state government.[36]The clamour for state police operating side by side of the centralised Nigerian police dates back considerably in time. It even pre-dated the time Nigerian became independent. It was among the constitutional issue that the nationalist leaders debated before the 1958 Constitutional Conference in London[37]. It re-surfaced in the 1980s when centralised police

[34] Ethnic militias such as Oodua Peoples' Congress, Bakassi Boys, Independent People of Biafra, Arewa Consultative Forum etc. are presently of wreaking havoc on their rival opponents.
[35]Section 4, Police Act , Laws of the Federation Cap p19 2004
[36] . Egunjobi A.A. op.cit., p.2
[37]Adekanye J.B. Police powers and Federal systems: The Nigerian Case In Comparative Perspective'. Being a Lecture delivered at Fourth Matriculation Lecture. Achievers University Owo. Ondo state Nigeria, February 10 2011.p 7

powers were abused by the federal authorities under President Shehu Shagari civilian Presidency.[38]

The strongest argument in favour of state police is that it accords with the extant principles of federalism which Nigeria adopted in 1954 and on which Nigeria styles its constitution.[39]. Based on the extant features of federalism which has been discussed earlier, the proponents of state police contend that since the police force is the symbol of authority of a government, it is incongruous for a state government within a federation to be invested with power and authority to maintain law and order within its jurisdiction without the means of discharging that responsibility[40]. They further contend that it is illogical to invest a state governor with the constitutional responsibility as the Chief security officer of a state[41] without the power of law enforcement. The independence or autonomy of the states or units as the defining principle of the bedrock of true federalism was emphasized in the case of *Att. Gen (Ogun State) v. Att. Gen (Federation)*[42].The duo of Angela E.O and Emmanuel O. C rightly adumbrated the importance of autonomy of constituent units in a federation as follows:

> The absence of State Police under Nigerian federation is a contradiction in terms and detracts from true practice of federalism as operational in other notable federal states. As agreed in so quarters, the Nigerian federalism is very dysfunctional with concentration of powers and resources at the centre and requires urgent restructuring. The creation of state police is one of the fundamental requirements for the operation of true federalism in Nigeria[43].

They went further to say,

> Also in line with the dictates of federalism, the establishment of state police will enhance the proper functioning of the state justice system. For without any power of control over law

[38] Adekanye J.B. Ibid, p.7.
[39] Section 2(2) of the 1999 Constitution of the Federal Republic of Nigeria (as altered)
[40] Section 4(7) of the Constitution empowers the State House of Assembly to make laws for the peace order and good government of the state with respect to the matters not included in the Exclusive Legislative List.
[41] Section 176 (2) of the Constitution of Federal Republic of Nigeria 1999 (as altered)
[42] 1982 NCLR (vol.3) p.166.
[43] Angela E.O. & Emmanuel O. C. 'State Police an Imperative for True Federalism in Nigeria' International Journal of Innovative Research & Development (2015) Vol. 4 Issue 11, p.82.Also available at www.ijrrd.com.

> enforcement, the states in Nigeria cannot be said to have a complete and effective system as the case at the federal level[44].

From the foregoing analysis of the essentials of federalism, it is very rare for police powers to be made an exclusive responsibility of the federal government[45]. Thus the existence of a single national police is not in the letters and spirit of a federalist constitution[46].

Prominent individuals including the legendary Chief Obafemi Awolowo protested against a centralised police in Nigeria when the British imposed a single police force in 1958[47] He said

> ... it is wrong in principle and practice for a regional government vested with power and authority to maintain law and order to be without the means of discharging its responsibility[48].

A similar sentiment was expressed by Chief Dapo Sarumi at a press conference in 1999 in the following words

> ..." in a country like ours that is multi-ethnic, multilingual and multi-religious it is only in this place that we have central police force"[49].

Thus, the large size of the country, its heterogeneous nature, and the centralisation of its security forces account for the current anarchy being witnessed across the country.

The inability of the federal police to unravel murder cases, especially the high profile ones is another potent factor for the agitation for state police. This has emboldened many criminal minded people to commit egregious crimes with

[44] Angela E.O. & Emmanuel O. C Ibid, p.82.
[45] Item 45 Part 1 Second Schedule of Exclusive Legislative List of the Constitution of the Federal Republic of Nigeria 1999.
[46] Egunjobi A. A. Op.cit, p.3.
[47] Police Act, Cap154, Laws of the Federation 1958.
[48] . Onyeozili Emmanuel (2005) 'Obstacles To Effective Policing In Nigeria' African Journal of Criminology And Justice Studies Vol.1, No 1,p.40.
[49] Opera Anthony (1999) State Police: To be or not.' Law Enforcement Review, October-December 1999, p.15

impunity[50].There is a genuine claim by the state governors and other stakeholders in the state that the present federal police have shown glaring inability to secure the lives and properties of Nigerians. Factors like population, complexity of customs and traditions require a considerably decentralised system of policing. Besides, bringing policing functions closer to the people, decentralized police powers has the additional advantage of making the communities to be involved in the business of providing security and welfare for their citizens. Involving key stakeholders in policing creates a friendlier environment for policing[51]. The possibility of having a police officer from a far place to work in a place where he has no knowledge of geographical and cultural aspects of life of the people will not arise. It is perhaps out of exasperation and frustration that made a retired Military Officer, Major General Ishola Williams to say that

> "We have a federal system and the states have a form of autonomy. It is a stupid governor who believes that he has to depend on the federal government for security in his state. ... I mean it is a stupid governor that will be waiting on the Federal Government to secure his state.[52]

The clamour for state police is also predicated on the conflict between the commissioners of federal police and the governors in each state. This paper has earlier averred that by virtue of section 215 (4) of the 1999 Constitution of Nigeria, the operational control and command of the present police structure is in the firm hands of the federal government. The section is unequivocal that a state Commissioner of Police is at liberty to refer the directives given by a state governor to the President or a Minister appointed in that behalf before acting on them. This place the governors in a subordinate position vis-à-vis the commissioners of police as far as security matters are concerned. Prompt proactive security measure may not be possible which will lead to the escalation of the crises. By the time the approval from Abuja comes, the crises must have festered beyond imaginable extent. This was what actually happened in Plateau

[50] Examples of unresolved assassinations of political figures include the likes of Harry Marshal of former All Nigeria Peoples Party, Chief Amino Sari Dikibbo of PDP. The double murder of Barrister and Mrs. Igwe in 2005. The husband was the President of Onitsha Bar Association. Chief Bola Ige, The former Attorney General of the federation in December, 2001. Recently, Mrs. Funke Olakunrin nee Fasoranti was gruesomely murdered by suspected Fulani herdsmen on the July, 12, 2019.

[51].Adekanye J.B. op.cit. p.4 .

[52] Williams Ishola 'Without Strategic Thinking, Nigeria's Search For Solution to Insecurity Will Remain Elusive' The Guardian, Nigeria, Saturday 20, 2019, p. 3.

and Ogun States[53].This ugly development propelled Prof, Ben. Nwabueze to rightly observe as follows

> "In a situation of danger to public safety and public order in a state, liberty on the part of the police Commissioner to comply or not to comply with the Governor's directions as he likes is incompatible with the autonomy of the state government, and is a recipe for trouble and eventual collapse of the system."[54]

It is almost certain that where there is conflict between the order of the President or any Minister appointed in his behalf and the order of a state governor, the commissioner of police will most likely obey the order of the President. The full effect of section 215(4) is best manifested when the position of the state governor as the "chief security officer" of the state as provided by section 176(2) of the constitution is considered. Section 215(4) stripes the governors of that status and places them on the unenviable and unedifying position of a General without troops. Commenting on this absurdity, a social commentator said

> A state Governor as the Chief Security Officer of his state in an ideal setting ought to have the control of police stationed in his state. The current trend where police commissioner in a state will have to take order from Abuja concerning security issues in a state is to say the least, quite pathetic and unfortunate.[55]

Former Governor of Plateau state also lamented that he was being called the chief security officer of the state despite the fact that he is not in control of the security machineries of the state.[56] He argued that this anomaly could have been responsible for the premeditated attack and massacre that was carried out on some villages during the communal crises in Plateau state. The experience of former

[53]Segun Osoba,of Ogun state, Joshua Dariye, Plateau State both former governors of their respective states lamented their lack of operational control of the machineries of police to quell the communal crises that erupted in their states. For instance Osoba using the 1999 Shagamu riot as a reference point argued that the crisis would have been cut short if he had power over the Ogun state Police Chief to give directives instead of waiting for directions from Police Headquarters at Abuja.

[54]. Nwabueze.B.O op.cit.., p.35

[55] Quoted from .Angela E.O. & Emmanuel O.C. op.cit., p 7.

[56] .Kehinde S. 'State Police Forces: Is Nigeria Ready.' The Lawyer's Chronicle, July 4, 2013, p.212 Also available at www.ijird.com

governor Rotimi Amaechi is not better. It epitomises the frustration of many governors in their relationship with their commissioners of police. The Governor in lamentation said

> "Currently, the commissioner of police barely acknowledges official communication from the governors not to mention other principal agents of the rivers state. The avenue of given him lawful directives as my constitutional role as the Chief Security Officer of the state have been unilaterally and unlawfully precluded by Mr. Mbu".[57]

The vice President Professor Yemi Osinbajo admitted the obvious when he said that we cannot realistically police a country the size of Nigeria centrally from Abuja[58].

Indeed, the Supreme Court has long put a judicial stamp on the status of Governors as the chief security officers of their state. In the case of *Att. Gen (Anambra state) v. Att. Gen. (Federation)*[59]. The Court said the Governors; by virtue of section 215(1) of the constitution of the Federal Republic of Nigeria (as altered) have the power to give orders to Commissioners of Police on security matters[60].

Another plausible reason for the no love lost relationship between the state governors and their commissioners of police is that the governors are not privy to the appointment of commissioners of police. This is unlike the 1963 constitution which made it a constitutional duty for the Premier of the Regions to be consulted. The Police Service Commission under 1999 constitution is under no obligation to consult state governors before appointing or removing a state commissioner of police. Commenting on this with a sense of nostalgia, Prof. Nwabueze stated

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[57]Quoted in Agwanwo D.E. 2014.'State Policing and Police Efficiency in Nigeria' (2004) Research on Humanity and Social Sciences Vol. 4 No 25 available at www.iisce org.
In former Anambra state the former Commissioner of Police Bishop Eyitene was at loggerhead with the former state governor, Mr. Jim Nwabodo who refused to appear before the High Court of Enugu State seven times to face assault charges against him.(Former Governor Joshua Dariye of Plateau state also cited lack of operational control of instrumentality of the police as the major factor that was responsible for the escalation of communal crises that led to the declaration of state of emergency in the state in 2011 The governor of Ogun State also cited lack of operational control of the police contingent in his state that led to the escalation of communal crises between the Yoruba community and Hausa community in Sagamu in 2003 .

[58] Nda-Isaiah Jonathan op.cit,p.13. He said this while declaring open a two day National Security Submit in Abuja on February 8, 2018.

[59] 2005 5 S. C. N, J. p. 38

[60] Adekanye J.B. op.cit., p.49. See also Att. Gen.(Ogun state) v, Att. Gen. (Federation) 1982 NCLR p.166 at p.203 per Kayode Eso (JSC) as he then was.

> Not only was consultation with the Regional Premier Legally required by the 1963 constitution in practice, his views were virtually conclusive in choosing the state police commissioner, which enables him to insist on the commissioner being a native of the region. As a nominee of the premier, the chances of disagreement or conflict between the two were minimal, if not altogether non-existent. The conflict that has arisen under the 1979 constitution between the state governors and their police commissioners owes much to the fact that the state governors have no say in the appointment or removal of their state police commissioner...[61]

The conditional role allotted to the governors in terms of lawful directives to the commissioners of Police provide a plethora of cases of how the state governors have been reduced to nominal or ceremonial "chief security officers" of their states. Professor Sola Adeyeye cannot be more correct when he said that

> "Whether it is in the realm of education, energy generation, revenue mobilization or police, an over-bearing centralism has become a suffocating albatross around Nigeria's neck. Until we have state police, governors, notwithstanding their siren, pomp and pageantry are mere administrators[62]."

The partisan use of the central police by the federal government is another source of irritation to the state governors. It is an established fact that since the beginning of the second republic in 1979, the federal government has been serially abusing the use of Nigerian police force, especially for political objectives. It imposes its political preferences upon the states. The defunct National Party of Nigeria controlled federal government in the second republic capitalised on the monopoly enjoyed under section 194(1) of the 1979 Constitution to destablise states controlled by rival parties. The police was

[61].Nwabueze B.O.. *Federalism in Nigeria Under The Presidential Constitution* London, Sweet and Maxwell (1983) p.106. The Position of the 1979 Constitution of the Federal Republic of Nigeria on the appointment and removal of Commissioners of Police remain the same under the present 1999 Constitution.

[62] Adeyeye Sola. 'Revisiting The Inspector General's Burden'. This Day, Nigeria, Sunday March 16, 2004, p.48.

deployed as part of the coercive instrument to rig the 1983 gubernatorial and Presidential elections in favour of the ruling party[63]. The aftermath of this was general violence characterised by house burning, maiming and killing of members of rival parties. The use of the instrumentality of the police forces to arrest and forced a serving governor who was alleged to have resigned is even more condemnable. This happened in the Third Republic during the civilian regime of former President Olusegun Obasanjo[64]. This is in spite of immunity clause in section 308 of the constitution which insulates certain political office holders from arrest and prosecution[65]. In subsequent elections, men of the Nigerian police force were mobilised by influential politicians to snatch ballot boxes, rig elections and intimidate political opponents[66].

The serial abuse of the centrally controlled police force cannot be more obvious than in the impeachment process of state governors during former President Obasanjo's Administration. In six instances, state governors were impeached ignominiously in flagrant violation of the provisions set out in Section 188 of the 1999 Constitution. Men of Nigeria police force were deployed to assist the Presidency to impeach the state governors who were regarded as renegades and perceived to be corrupt[67]

We have earlier submitted in this paper that the state governors abused the use of state police in the past. It is our humble view that the federal government is as guilty of this infraction as the state governors. Thus, the reason of possible abuse by the state governors for discountenancing the establishment of state police crumbles like a pack of card. The reason is not only spurious but also specious and self-serving. This is in the face of the reality that majority of Nigerians are the same irrespective of the sphere of life or political ladder they found themselves. JusticeTurgood Marshall, the first Black American to be appointed to the Supreme Court of the United States said the following words of instinct about human being when he wanted to retire from the court. He was accosted by journalists as to whether he would want to be replaced by a black or a white man. He said that there is no difference between black snake and white

[63] Egunjobi A.A.. Op,cit, p.10.

[64] *Att.- General (Anambra State) v. Att,- General (Federation)*FN 2005 S.C.N.J. p.38

[65] Dr. Chris Ngige, Former Governor of Anambra State was the victim The Supreme Court per Justice Katsina – Alu held that the purported letter of resignation of July 9 2003 said to have been signed by the governor is a false document and pro tanto null and void.. The Assistant Inspector-General of Police who led the operation late Raphael Ige was merely retired with full benefit. The security details of the arrested governor was also withdrawn and was not reinstable despite a positive order of a competent court

[66] The 2018 gubernatorial elections in Ekiti and Osun states were other examples of where the federal police were used brazenly and unabashedly for partisan purposes.

[67] The affected former Governors wereDiereyeAlamiesigha of Bayelsa state, Rashid Ladoja of Oyo state and Ayodele Fayose of Ekiti state. Others are Peter Obi of Anambra state, Joshua Dariye of Plateau state and Muritala Nyako of Adamawa state.

snake. According to him, they both bite.[68] The issue at stake is what the officials of federal government can do with federal police and what the officials of state government can do with state police. There is no difference between the two officials. Hence, it is an illusion to invest the federal officials with the sanctimonious posture of self-righteousness which they may not necessarily possess.

As attractive, cogent and compelling the reasons canvassed for the establishment of state police may seem, these writers insist that we must thread the path of caution and trepidation. This is to avoid a floodgate of conflicting and mutually destructive orders from the state governors to their respective commissioners of police. We submit, most humbly that, there is great wisdom behind those factors against the creation of state police especially at this stage of our political development[69]. If the federal and state governments are all monsters in security matters with regards to abuse of police, we submit respectfully but with justifiable conviction that it is preferable to deal with a monster in the centre than to deal with thirty-six motley monsters scattered all over the country, for the confrontation that will arise is better imagined than experienced.

1.4 Comparative Overview of Police Structure in the United States

The clamour for state police has been situated within the classical concept or theoretical framework of federalism as enunciated by scholars like K.C wheare. They used the details of the practice of federalism in the United States as a template. Although Nigeria pretends or feigns to practice federalism, its variety is believed to differ significantly from what obtains in the United States. While states in the latter are independent in concept, the federating units in the former are largely dependent on, and subservient to the government at the centre. Thus, federalism in the United States is the evolving relationship between the US states and federal government[70].

There are two types of police system in the United States. They are Federal and State Police. Federal police is tasked to enforce federal laws. They employ uniform police officers who provide security and conduct foot patrols around federal properties. Other agencies hire criminal investigators called special

[68] Quoted by Professor D.A Ijalaye in my private conversation with him in respect of the consistent view of Mr. Thurgood Marshall that human being are the same irrespective of the political ladder they find themselves in life.
[69] Jemibewon D.M. op.cit., p. 87
[70] M. A. Olong. & J. A. Agbonika 'Awakening the State Police Controversy in Nigeria: Need for Rethink'. International Journal of Asian Social Sciences. Available at http/wwwaccessweb...

agents who carry out investigations. Any federal law enforcement officer can arrest someone who committed a federal crime[71].

State police is unique and peculiar to each state in the United State. The police have state wide authority to conduct law enforcement activities and criminal investigation. They also perform other functions such as enforcing traffic laws on state highways. They also oversee capital complex and protecting the governor[72]. However, there has been a gradual drift towards centralised policing system especially after September 11, 2001 terrorist attacks. The government established the office of Homeland security to safeguard the country against and respond to any future attacks. The establishment of the homeland security Department witnessed the integration of different federal laws enforcement Department[73].However, the advocates of state police who recommend the American model of police structure in Nigeria have forgotten that there is a major difference between the two countries. First, in terms of ethnicity it is not as pronounced in United States as it is in Nigeria. The allegiance of average Nigerian is to his or her ethnic tribe while an American is ready to pay the supreme sacrifice for his country. Also America's democracy has been fully developed and as a result it is devoid of the kind of problems facing Nigeria.

1.5 Conclusion and Recommendations

It is a tragic reality of life in Nigeria today that the social rewards or dividends of democracy expected from a new found democratic experiment have been rubbished and made meaningless by the massive decline in the level of physical and emotional insecurity in the country. There is no iota of doubt that the security situation in Nigeria is getting worse and it has impacted negatively on socio-economic activities especially in the northern part of Nigeria. The advent of the deadly Boko Haram insurgency across most part of northern Nigeria has further exacerbated the already degraded security status of the country. This is occasioned by the incessant cases of lethal attacks leading to the enormous loss of lives and properties. As if this is not bad enough, the lingering phenomenon of incessant kidnapping in every part of Nigeria to the war-like situation caused by

[71]Salaudeen Leke,' On State Police, divided we stand. The Nation Newspaper, Nigeria. Thursday September 13, 2012. P1.

[72] Salaudeen Leke Ibid, p.2

[73] .Solomon. E.A.'A Critical Analysis of the Pros and Cons of State Policing: To Be Or Not To Be' A Paper delivered at NBA Benin Branch Law Week June11, 2018. p.14

armed robbers, the farmers- herders clash creates a frightening picture of a failing state where anarchy, chaos and brute-force[74] are taking hold of the social order.

Against this background some groups of critical stakeholders in the security of lives and properties of Nigerians, especially the state governors have proposed a despicable solution i.e. the establishment of state police. They believe that citizens' lives and properties will be better secured by state police because they will be familiar with the people at the grass roots in terms of their historical background, traditions, and culture leading to effective policing. Little did they realise that state police may not be the best for a multi-ethnic and multi-cultural country like Nigeria. Those rooting for the retention of the federal police argue that state police will lead to chaos and anarchy and sign post the beginning of disintegration of the country as a result of possible misuse by the state governors. Thus, they prefer the *status quo ante* whereby section 214(1) of the Constitution of the Federal Republic of Nigeria (as altered) will be retained and strengthened. We are emboldened in our resolve and proud to associate with the above suggestion because of its relative advantages over state controlled police force. After all, the Presidential Committee that was set up during former President Olusegun Obasanjo's administration on the review of 1999 Constitution recommends as follows

> In view of possible destabilizing effect of having parallel police at the state and federal levels, the committee recommends that the existing constitutional provisions as provided in sections 214, 215 and 216 be retained"[75].

This is however subject to the implementation of the following additional recommendations in order for the police to be in touch with the present realities.

1. In order to create a compromise and amity between the governors and commissioners of police, section 215 (4) should be expunged by amending the constitution. By so doing, the governors will be able to give orders to the commissioner of police on security matters and which the commissioners should obey in good faith and conscience. The governors will be able to nip in the bud actual or potential security threats. With less politicking by the governors, there will be fewer problems if the governors

[74] Somalia, Afghanistan, Syria are veritable examples of failed states. This is because people have no respect for the rule of law, might is right in accordance with Thomas Hobbes' state of nature where life is brutish, short, and nasty.

[75]. Ijalaye D. A. op.cit., p.13.

and the commissioners of police in the state are in charge of the state security.[76]

2. The Police Council which is established by section 153 of the constitution and section 9(1) of Police Act 2004 should be strengthened. This will create opportunities for the governors and all concerned to air their views on matters concerning the police under their jurisdictions. The Council has recently been accused of been political and has been relegated to the background.

3. The general economic conditions in the country that led to the upsurge in commission of heinous crimes, like kidnapping, banditry and gruesome murder should be tackled. Mass unemployment, extreme poverty and lack of educational opportunities for the teeming youths have become a scourge that has enarmoured them to see crimes as a pastime.

4. The present federal police structure should be adequately funded and rebranded. It is currently characterised by lack of operational equipment, technological tools for operations, poor motivation and pervasive corruption. The public perception is that it is inequitable for the state governors to fund the contingent of a federal police in a state without corresponding control over the police. The establishment of state police in a country where the sub-units (states) are grappling with low budgetary base may not present a viable alternative to security of lives and properties. Nations are moving from multiple policing systems to a single centralised police force which is less expensive and oppressive. It is also more effective and result oriented. Already, as a result of proliferation of small arms, illegally acquired arms are in the hands of non-state actors which are fuelling insecurity in the country.

To create state police at this inauspicious time of our political life is to behave like the moth fly which hated its husband and threatened to burn its pregnancy. Anywhere the moth fly sees light; it would struggle to enter the flame. The moth fly ends up destroying itself before destroying the pregnancy that belongs to the husband. Apart from being Nigeria's silent albatross, state police is a step backward. It is a retrogressive step towards nepotism, a recipe for anarchy and chaos, and a blind march towards disintegration[77].

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[76] Adediran Olu." Need for A Decentralised Police Force". Nigerian Tribune Newspapers, August 2, 1988 pp.8-9.

[77] As at the time of writing this paper, President Muhammadu Buhari had received the Reports of a Committee setup to work out a white paper as to whether a state and local government police are desirable. This was sequel to recommendations from a Presidential Panel on how to reform the Special Anti-Robbery Squad (SARS).