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AN EXAMINATION OF THE LEGAL FRAMEWORKS FOR CONTROL AND SUPERVISION OF THE NIGERIA POLICE BY THE EXECUTIVE ORGAN OF GOVERNMENT IN NIGERIA

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Abstract

The Nigeria Police is a creation of the Nigerian Constitution and other extant laws. For effective performance of its functions, the Nigeria Police is placed under some institutions which include the executive organ of the government, the legislature and the judiciary, aside from the command control mechanism inherent in the Inspector-General of Police with his subordinate instructors. This paper examined the legal frameworks for the control and supervision of the police by the executive arm of governments in Nigeria. These were with a view to evaluating the scope and extent of powers of the various institutions in the executive organ of government saddled with the responsibilities of controlling and supervising police institution and personnel under the Nigerian Law.

To achieve its objective, the study relied on primary and secondary sources of information. The primary source included unstructured interviews with relevant authorities, judicial decisions, the successive constitutions of the Federal republic of Nigeria, states and federal laws governing the control and command of the Force. The secondary source of information included books, journal articles, conference proceedings, newspaper publications and the internet. Data collected were subjected to content analysis.

The paper found that though, adequate constitutional and statutory provisions are made for effective supervision of the Nigeria Police, and its personnel, institutional lapses arising from overlapping responsibilities, lack of adequate funding and over-delegation of duties, no doubt, account for low performance of police personnel and rots in the institutional discipline in the police. This paper, therefore, recommended adequate

funding of the police and the supervisory agencies as a functional panacea for police effectiveness in Nigeria.

Keywords: Control; Supervision; the Executive Organ; Police Institution; Police Personnel

1.1 Introduction

Although, the Inspector-General of Police [IGP] is saddled with both internal and operational command of the police,¹ the external control and review mechanisms over the Nigeria Police is shared among several institutions. Those institutions having such control and invested with the powers over the Nigeria Police are the executive, legislature² and the judicial arms of government. Besides, members of public also exercise control and review on police actions.³ The interrogation of this study, however, is limited to the executive control which involves the control of the police by the Council and Commission and command by the President and ministers. This shall form the gamut of this study.

For a proper understanding, this paper largely discusses the subject, in addition to the introductory in its first section, under five subheads. These include the legal frameworks for the control and supervision of police institution and personnel by executive organ of government in Nigeria which is its section two. Section three and four discuss the control of the Nigeria Police by the Nigeria Police Council and the Police Service Commission; and the command and control of the police by the Executive though the controlling powers of the president and its minister respectively. The paper proffers some recommendations in section five which is its concluding part.

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¹ See section 215(2) of the Constitution of the Federal Republic of Nigeria (1999 as altered) [CFRN 1999]; see also section 9 of the Nigeria Police Act 2020 [NPA].

² Ibid at sections 4, & 88.

³ Ibid, section 14(1).

1.2 Legal Frameworks for the Control and Supervision of Police Institution and Personnel by Executive Organ of Government in Nigeria

Legal frameworks for the supervisory control of police institution and personnel by the executive organ of government comprise both international and national perspective. The international dimension to crime scene investigation is traceable to the sustainable development goals item 16 focusing on peace, justice and strong institutions otherwise indicative of building capacity for law enforcement agencies and maintenance of functional supervision.

The domestic law includes the Nigerian Constitution,⁴ and the Police Service Establishment Act, 2001, Nigerian criminal laws which include procedural and substantive laws. The procedural laws comprise the Administration of Criminal Justice Act,⁵ and its domesticated versions in states that have adopted its application; the Criminal Procedural law⁶ and the Criminal Procedure Code respective of states in Nigeria which are yet to domesticate the provisions of the ACJA 2015 as their states' law.⁷ Also, the police enabling law, the Nigeria Police Act 2020 present and established relationship between the controlling institutions and the Nigeria Police. The extant provisions of these laws as relates the controlling supervisions of the executive shall be considered in turn as each institution is individually reviewed later in this paper. It is however sufficient at this section that the provisions of these laws be referred to in the passing.

⁴ The CFRN 1999 (n 1).

⁵ The Administration of Criminal Justice Act 2015 [ACJA 2015]. Currently, the Act has been domesticated IN more than 28 states in the Federation of Nigeria.

⁶ The Criminal Procedure Law [CPL] for various states, in the southern part of the country, which are yet to adopt the provisions of the administration of the ACJA 2015 (1).

⁷ The Criminal Procedure Code for various states, in the northern part of the country, which are yet to adopt the provisions of the administration of the ACJA 2015 (n 4).

1.3 The Control of the Nigeria Police by the Council and the Commission

The Nigerian constitution places the Nigerian police under the control and supervision of the executive arms of government.⁸ For these purposes, the executive includes the President with such other minister to whom the president may delegate power and the Attorney-General of the federation⁹ or the state. In addition, the Nigerian police council and the police service Commission all play vital roles in its control. These institutions shall therefore, be examined in detail. These deal with the control by the Nigerian Police Council which is saddled with the organisational and disciplinary control of the Nigeria Police Force with its control by the Nigeria Police Council and Police Service Commission respectively. The Police Service Commission is responsible for the personnel, appointment and discipline of members of the Force.

These institutions would be examined hereunder to evaluate their constitutional role of controlling, regulating and supervising of the Nigeria Police.

1.3.1 The Control of the Police by the Nigeria Police Council

The Nigeria Police Council has the organisational control of the Nigeria Police Force. The Constitution¹⁰ established the Nigeria Police Council and saddled it with specific oversight responsibilities and control.¹¹ The constitution¹² established the Nigeria Police Council and the Service Commission and saddled them with certain oversight responsibilities and control.¹³ More importantly, the Nigeria Police Council and the Police Service Commission were intended to perform oversight functions in the control of the police under the Constitution of the Federal Republic of Nigeria, 1963. These bodies existed until they were

⁸ Ibid, section 5 of the CFRN 1999 (n 1).

⁹ Ibid, section 215(3).

¹⁰ Ibid

¹¹ Ibid at section 153, Para L (27) Part 1, Third Schedule; and section 153, Para L(27) Part 1, Third Schedule; see also section 6 of the NPA 2020 (n 1).

¹² See the CFRN 1999 (n 1).

¹³ Ibid at section 153 para L(27) part 1. Third Schedule and section 153 para L(27) part 1 Third Schedule; see also section 6 of the NPA 2020 (n 1).

sacked by the military in 1966. Osayande attributed the inglorious retardation in the performance of the police to the suspension of these institutions for over three decades during military rule in Nigeria.¹⁴ He averred that:

Under the military, the suspension of such democratic institutions as the National Assembly, Police Council and the Police Service Commission, all of which have oversight functions over the Nigeria Police left the police institution as an orphan at the mercy of the ruling military. That vices, such as corruption, greed, indolence, tribalism, godfatherism, racism, nepotism, injustice and various malpractices crept into the police and attained their peak during this period, cannot be over-emphasised. This led to the waning of public confidence in the Nigeria Police and the resultant apathy toward the organisation. The fact that the Nigerian police survived the era without being completely overwhelmed is an eloquent testimony to its resilience.¹⁵

The Nigeria Police Council is an advisory and supervisory body established by the Constitution for the control and general administration of the Nigeria Police.¹⁶ Similar provisions to those constitutional provisions are also created by NPA 2020.¹⁷ It is provided¹⁸ that the Council shall have the functions listed below:

- a. The organisation and administration of the Nigeria Police Force and all matters relating thereto (not being matters relating to the

¹⁴ BO Osanyande, 'Factors Inhibiting Police Performance in Nigeria' being a Paper Presented at the Occasion of the Retreat with the Theme: *Understanding the Mandate and Operations of the Police Service Commission in Context of the Rule of Law*", held in Abuja in August, 2008, p. 6.

¹⁵ Ibid.

¹⁶ See section 153 of CFRN 1999 (n 1); see also Part 1 Third Schedule to the Constitution, Paragraph L(27).

¹⁷ See section 6 of the NPA 2020 (n 1) at.

¹⁸ See section 153 of CFRN 1999 (n 1); see also at section 6(3) of the NPA 2020 (n 1).

- use and operational control of the force or the appointment, disciplinary control and dismissal of members of the Force);¹⁹
- b. The General Supervision of the Nigeria Police Force;²⁰
 - c. Advising the President on the appointment of the Inspector-General of Police;²¹
 - d. Receiving and deliberating on reports and advising the president or Inspector-General of police on action to be taken:²²
 - i. pertaining to policing in matters from the states of the federation and the Federal Capital Territory, Abuja, on any critical decision of their security committee meetings held during the three months preceding a quarterly meeting of the police council, and;
 - ii. on security concerns relating to policing from the states and the Federal Capital Territory, and taking such action as it may consider appropriate.

The composition of the Council is as follows:

- i. the President, who shall be the chairman.
- ii. the Governor of each state of the federation;
- iii. the Chairman of the Police Service Commission; and
- iv. the Inspector-General of Police.

¹⁹ Ibid at Paragraph L(28)(a) of Part 1 Third Schedule to the Constitution; see also at section 6(3)(a) of the NPA 2020 (n 1).

²⁰ Ibid, Paragraph L (28)(a); see also the NPA 2020 (n 1) at s 6(3)(b).

²¹ Ibid, Paragraph L (28)(a); see also the NPA 2020 (n 1) at s 6(3)(c).

²² Ibid, Paragraph L (28)(a); see also the NPA 2020 (n 1) at s 6(3)(d).

Although the Minister of Police Affairs is not a member and does not attend the Council's meetings, the Permanent Secretary of his Ministry attends them in official capacity, though not as a member.²³

An important aspect of the responsibilities of the Nigeria Police Council is its advisory function on the appointment of the Inspector-General of Police. For the avoidance of doubt, section 216 (2) the Constitution of the Federal Republic of Nigeria, 1999 provides that before making any appointment to the office of the Inspector-General of Police or removing him from office, the President shall consult the Nigeria Police Council'.²⁴

It would be recalled that much agitations were made in the past on the demand for concession to the governors of the state, of the control of the Commissioners of Police in their respective states. The inclusion of the governor of each state of the federation in its membership is intended to give state governors, as the chief security officers of their respective states, the opportunity to be involved in the selection process and control of the Inspector-General of Police to avail them of the right to self-determination. There are now fixed statutory meetings of the council. The council is mandated to meet, at least, twice a year, aside from other meetings which are of an emergency nature.²⁵ This express provision is intended to ensure regular meetings is held, thereby arresting any lackadaisical disposition to council meetings, as it used to be in the past. Considering the inestimable value of the Council to internal security, it is hoped that its regular meeting will be well-appreciated. Only then would its statutory roles be fully harnessed, realised and considerably beneficial to Nigerians.

²³ Ibid; section 6(5) of NPA 2020 (n 1) which provides that the Permanent Secretary in the Police Affairs Office, in the Presidency, shall be the Secretary to the Council and the Secretariat of the Council shall be in the Police Affairs Office, the Presidency.

²⁴ See section 216(2) of CFRN 1999 (n 1).

²⁵ See at section 6(4) of NPA 2020 (n 1).

1.3.2 Police Service Commission

The Police Service Commission is another supervisory institution that exercises control over the Nigeria Police. The Commission is established under section 153 of the Constitution,²⁶ and it is vested with the power to:

- i. appoint persons to the office (other than the office of Inspector-General of Police) in Nigeria Police Force.
- ii. dismiss and exercise disciplinary control over persons holding any office referred to in sub-paragraph (a) of this paragraph.

Rather the seeing above as conferment of powers, in a more radical approach, the Police Service (Establishment) Act, in its section 6 itemises seven key functions imposed on the Commission. These include:

- a. The appointment and promotion of persons to offices in the Nigeria Police Force (other than the office of the Inspector-General of police)
- b. dismissal and disciplinary control over persons in the Nigeria Police Force (other than the Inspector-General of Police);
- c. formulation of policies and guidelines for appointment promotion discipline and dismissal of officers of the Nigeria Police Force;
- d. identifying factors inhibiting or undermining discipline in the police force;
- e. formulation and implementation of policies aimed at efficiency and discipline to the Nigeria Police Force;
- f. performance of such other functions which in the opinion of the commission are required to ensure the optimal efficiency in the Nigeria Police Force; and
- g. carrying out such other functions as the president may, from time to time direct.

²⁶ See section 153 and Paragraph L(29) Part 1 Third Schedule of CFRN 1999 (n 1); see also section 1 of the Police Service (Establishment) Act 2001.

In order to ensure the independence of both the Nigeria Police Council and Police Service Commission, the constitution²⁷ provides that, subject to the provisions of section 157(3) of the Constitution,²⁸ a person holding office to which that section applies may only be removed from that office by the President acting on address supported by two-thirds majority of the Senate praying that he be so removed from the office on grounds of inability to discharge the functions of the office (whether arising from infirmity of mind or body or any other cause) or for misconduct.

Constitutionally, disciplinary control of the Nigeria Police is vested in the Police Service Commission. There, however, appears to exist a legal conflict in the Police Regulation which identifies the Nigeria Police Council as the competent authority for the exercise of disciplinary control of the Nigeria Police.²⁹ The rule of inconsistency demands that any provision in any law that is inconsistent with the provisions of the constitution shall be null and void to the extent of its inconsistency. It, therefore, means that any provision in the Police Regulation [a subsidiary legislation which is deemed to have been made pursuant the NPA 2020³⁰ investing any form of disciplinary control on the Nigeria Police Council, against the express provision of its principal law, as competent authority,³¹ in contradiction to the express provision of the CFRN 1999 other than advising the

²⁷ Ibid; Pursuant to the foregoing need for independence, the police service (Establishment) act 2001 provides for no subjugation of the commission as it provides that 'The Commission shall not be subject to the direction, control or supervision of any other authority or person in performance of its duties other than as is prescribed in this Act.

²⁸ Ibid.

²⁹ See Regulation 372 of Police Regulations 2004 [PR 2004], a subsidiary legislation made pursuant to the NPA 2020 (n 1), which provides that the competent authority for the exercise of disciplinary control shall be the Nigeria Police Council.

³⁰ See section 140(6) of NPA 2020 (n 1).

³¹ In Regulation 372 to the exercise of disciplinary control of members of the Nigeria Police Force Council.

president on removal of the IGP, is null and void, granted that the aspect of disciplinary control has been expressly withdrawn from the principal law.³²

The duties of the Police Service Commission can best be meaningful if they are projected early enough at the appointment stage. Recruitment processes are essential to quality control, thereby regulating the inlet of inconsequential personnel into the Nigeria Police Force.³³ Variety of reasons exist why people seek police recruitment in an insecure economy. Whatever the individual interest might be, recruitments should seek to accommodate the lesion created between police procedures designed to ensure standards and desperation of the individual job seeker who attempts to bypass those standards to gain access into the force to serve personal interest. The standardisation regularisation of the recruitment, with the assistance of the Police Service Commission, has observably helped as filtering mechanism for ensuring transparency, equity and fairness among states and standardisation of quality guidelines.³⁴

To this end, the provision of section 18 of the NPA 2020 relating to recruitment committee, causing the responsibility for recruitment of recruit constables to the Police Force and that of the recruit candidates to the Nigeria Police Academy (POLAC) to be that of IGP Nigeria Police with the establishment of the Nigeria Police Recruitment Committee without any representative from Police Service Commission is grossly inconsistent with the express provisions of the CFRN 1999

³² See section 6(3)(a) of NPA 2020 (n 1).

³³ Olly Owen, 'The Nigeria Police Force: Predicaments and Possibilities' (Nigeria Research Network [NRN] 2014) NRN Working Paper No. 15, p. 12.

³⁴ Mary Y Oghogho , Irenen O. Ikponmwosa, and Mitchel Cristopher Osazuwa, Police Recruitment and Training: Assessing the Impact of Behaviour and Citizens Complaints in Nigeria (2024) *The American Journal of Interdisciplinary Innovation and Research* 6(11) 177-193. <https://www.researchgate.net/publication/385715276_POLICE_RECRUITMENT_AND_TRAINING_ASSESSING_THE_IMPACT_ON_OFFICER_BEHAVIOR_AND_CITIZEN_COMPLAINTS_IN_NIGERIA/citations>

which places matters relating to appointment into the Nigeria Police Force to be an exclusive preserve of the Police Service Commission.³⁵ Until these constitutional provisions are amended or revoked, section 18 of the NPA 2020 is null and void to the extent of its inconsistency.³⁶ Given that, the provisions of Police Service Commission (Establishment) Act by virtue of section 6(6)(a)(c) are not in any way repealed or made subjected to section 18 of the NPA 2020 is an absolute preservation of the Police Service Commission's responsibility for appointment of police officers.

The regulatory role of the Police Service Commission in promotion of police personnel is germane. This will, as a basis for promotion, help to strike a balance between federal character and merit as well solve the problem of endemic indiscipline in the Force, which resulted varying rate of career advancement with its attendant discrimination.

The Police Service Commission is not, in any way, responsible for the appointment, discipline or removal of the Inspector-General of Police.³⁷ This fact has always been, and was confirmed by the Police Service Commission itself when, in reaction to a call for its investigation of perceived allegation of corruption levelled against the then IGP by the Chairman, Senate Committee on Navy, the commission declared:

The IGP is not under the Commission's supervision by virtue of the Act establishing the Commission. By law, the Commission could only discipline or probe policemen from the rank of

³⁵ See para L (29) of part 1, Third schedule to the CFRN 1999 (n 1).

³⁶ See section 1(3) of CFRN 1999 [n 1].

³⁷ These are matters vested in the President of the Federal Republic of Nigeria on the advice of the Nigeria Police Council by virtue of section 153(1)(L), Part 1 Third Schedule of CFRN 1999 (n 1).

constable to Deputy-Inspector General of Police. So, the Commission cannot investigate or discipline the IGP.³⁸

Since the above is the correct position of the law, who then is responsible for the disciplinary control of the IGP and, by what process?

The disciplinary control of the Inspector-General of Police is left in the hands of the President through the minister saddled with the responsibility for running of the affairs of the Nigeria Police Force. This, as practice and occasion dictate, may either be the Minister of Police Affairs or the Minister in-charge of Ministry of Interior; that is, the Minister supervising the Police Department to exert ministerial control. For purposes of disciplinary control government's departmental head or head of agency, it is the supervising minister who takes cognisance of the disciplinary offences and takes internal collateral control or disciplinary action. He issues a query requesting explanation on why the minister should not report his conduct to the President or otherwise commence a disciplinary action against him. This is in line with known practice procedures in sane climes the world over, Nigeria not being an exemption.³⁹

³⁸ See *the Punch Newspaper's* publication of 9th, September 2017, captioned 'We can't probe IG for corruption- Police Commission', <<http://punchng.com/we-can't-probe-ig-for-corruption-police-commission/>> accessed on 2/12/2024. However, where the duty performed by the IGP is a delegated duty or duty collateral to the function of the Police Service Commission, then, the Commission can ask the IGP to offer explanation and it may thereby clear him of complicity. Thus, the commission gave the IGP a clean bill on allegation of illegal promotion, captioned PSC releases clean bill of health on IGP, absolves him from wrongdoing; see *the Breaking Times's* publication of 30th October, 2017, <<http://www.thebreakingtime.com/psc-releases-clean-bill-of-health-on-igp-absolves-him-of-wrongdoing/>> <accessed on November 6, 2024.

³⁹ See the *Vanguard Newspaper's* publication of 19th, January 2012, captioned 'Escape of suspected bomber: IGP queried, faces sack' <<https://www.google.com.ng/amp/vanguardngr.com/2012/01/escape-of-suspected-bomber-igp-queried-faces-sack-minister/amp/>> accessed on 2 August 2024 in respect of the query which the then Minister of Police Affairs, Mr Caleb Olubolade issued to the then IGP Hafiz Ringim on the sudden disappearance of a suspected bomber, Kabiru Sokoto from the police custody in January 2012. The Minister issued a publication that IGP's response to the said query was found satisfactory by him (the Minister). See the *Vanguard newspaper's* publication of 23rd, January 2012 captioned 'Kabir sokoto: I am

The posting of Commissioner of Police to each of the police State Command is, constitutionally, the exclusive preserve of the Police Service Commission⁴⁰ though this is rarely done. It is therefore essential for this responsibility be transferred to the Nigeria Police Council. According to him, it is only by so doing that the governor of the state shall, directly, as the chief security officer for the state, be involved in the appointment of the Commissioner of Police for his State Command.

1.4 The Command and Control of the Police by the Executive

Operationally, the executive control over the Nigeria Police Force is wholly vested in the President of the Federal Republic of Nigeria. The ministerial control is domiciled in the minister in whose ministry the responsibility of running the Nigeria Police Force is placed. This fluctuates between the Ministry of Police Affairs and the Ministry of Internal Affairs.

1.4.1 The Control of the Nigeria Police by the Presidency

The Nigerian Constitution places the control of the Nigerian police under the executive arm of government. For this purpose, the President with such other minister to whom the President may delegate power, the Attorney-General of the Federation and the Governor or such commission with the Attorney-General of the State undertake supervisory control over the Nigeria Police.⁴¹ Additionally, the Nigerian Police Council and the Police Service Commission also play vital roles in its control. Operationally, the executive control of the Nigeria Police Force is wholly vested in the President of the Federal Republic of Nigeria. The ministerial control is domiciled in the minister whose ministry is responsible for running the Nigeria Police Force. This fluctuates between the Ministry of Police

satisfied with IGP's response- Minister'
 <<https://www.google.com.ng/amp/vanguardngr.com/2012/01/satisfied-with-igp's-response-minister/amp/>> accessed on 2 August 2024.
⁴⁰ See section 215 (1)(b) of CFRN 1999 (n 1); see also section 12(2) of NPA 2020 (n 1).
⁴¹ Ibid at section 215(3).

Affairs and the Ministry of Internal Affairs. These institutions shall, therefore, be examined in detail.

Though the CFRN 1999 places the Nigeria Police under the command of the Inspector-General of Police, his appointment is the sole preserve of the President.⁴² The President is constitutionally empowered to give directions, with respect to the maintenance and security of public safety and public order, as he may deem necessary. At the same time, the Inspector-General of Police has the obligation of complying with those directions.⁴³ Until its repeal, sections 9 and 10 of the Police Act contained more radical provisions⁴⁴ than the above constitutional provision. section 9(4) of Police Act 2004 provides that the President shall be charged with operational control of the Force, while section 9(5) of the Act provides that the Inspector-General of Police shall be charged with the command control of the police.

From the foregoing, it is clear that the Nigeria Police Council has the organisational and administrative control of the Nigeria Police Force; the President has the operational control of the force; the Police Service Commission has the personnel control (appointment, promotion and discipline) of the Nigeria Police Force while the Minister of Police Affairs has the budgetary control of the Nigeria Police Force. Based on the above levels of responsibilities and control, whatever further command is, assumptively, left with the Inspector-General of Police, remained ineffective, more so that the IGP himself and his charge under section 9(5) of the Police Act 2004 are subjected to the directions of the President. This, therefore, means that whatever command is left with or traceable to the Inspector-General of Police is subject to the lawful directive of the President either directly or through his Minister on that behalf. This is because the IGP would constantly see all directions of the President as lawful. The IGP possesses

⁴² Ibid at section 215(2).

⁴³ Ibid at section 251(3).

⁴⁴ See the NPA 2020 (n 1).

no valid authority to query the authenticity of the President's direction. Most Presidents in Nigeria demand a military form of obedience and loyalty from their service chiefs, including the Inspector-General.

That informed why there was a suggestion for equipping the IGP with more discretionary powers to prevent unwholesome servitude. It was the observation of the Civil Society Panel on Police Reform⁴⁵ that:

...situations like these make it difficult for the police to act professionally and decisively in the situation where directive from the President or any minister of government acting on his behalf may be at variance with their professional judgment about what needs to be done.⁴⁶

The problem with the Nigeria Police Force is obvious and peculiar, judging from the Nigerian experience. Centre for Law Enforcement Education (CLEEN) has earlier rebuffed the above resentful arrangement in its memorandum submitted to the Civil Society Panel on Police Reforms in Nigeria⁴⁷ as it expressed that:

There is no democratic country in the world today where you would find in its statute book a provision like section 9(4) of our Police Act, which vests operational control of the police in (sic) the President rather than the chief of police. What obtains in other jurisdictions is public control of the police by the political authority while operational control is retained by the chief of police, who is a professional in the field.⁴⁸

The Civil Society Panel on Police Reforms⁴⁹ has, therefore, recommended in its final report that:

⁴⁵ See the Final Report of Civil Society Panel on the Police Reform (2012) p. 4. <<https://new.cleen.org/CSO%20Panel%20Final%20Report.pdf>> accessed on March 23, 2024.

⁴⁶ Ibid, p. 28.

⁴⁷ Ibid, p. 29.

⁴⁸ Ibid.

⁴⁹ Ibid.

If the Nigeria Police Force is to be rebuilt for improved performance, the process of making appointments into leadership positions needs to be fully defined, open, competitive and transparent. The qualities required for leadership positions in NPF should include the ability to: facilitate the development of organisational vision and mission; develop; implement; and continuously evaluate a strategic plan of the NPF to different audiences such as citizens, the legislature, the executive, criminal justice circles within and across jurisdiction, and development partners.⁵⁰

For whatever it is worth, it is sufficient to emphasise that there exists a constitutional safeguard for the protection and independence of the Inspector-General of Police, which ensures that the appointment and removal of the Inspector-General of Police can only be made after due consultation with the Nigeria Police Council. For the avoidance of doubt, section 216 of the Constitution of the Federal Republic of Nigeria, 1999 provides as follows:

- (1) Subject to the provisions of this Constitution, the Nigeria Police Council may, with the approval of the President and subject to such conditions as it may think fit, delegate any of the powers conferred upon it by this Constitution to any of its members or to the Inspector-General of Police or any other member of the Nigeria Police Force.
- (2) Before making any appointment to the office of the Inspector-General of Police or removing him from office, the President shall consult the Nigeria Police Council.

Expectedly, this provision is intended to ensure that the Inspector-General of Police, as the custodian of public order and the Constitution for which he has sworn an oath to preserve, will be capable of making decisions considered fit and proper for his office. However, of all the indigenous Inspectors-General of Police

⁵⁰

Ibid, p. 30.

(IGP) removed or retired, as of 2023, only IGP M. A. Smith's removal and the subsequent appointment of IGP Tafa Balogun after mutinous protest of police officers in 2002 were done after due consultation with the Nigeria Police Council.

Other cases, including the removal of IGP Sulaiman Abba and the subsequent appointment of IGP Solomon Arase, were done at the instance of the President, notwithstanding later ratification. Such unconstitutional practices, no doubt, merely expose the IGPs so appointed to perpetual servitude. It is sufficient to remind ourselves that any appointment made before the ratification of the Nigeria Police Council is nothing but an acting appointment. Such appointed acting Inspectors-General of Police retain their actual rank as substantive rank. An acting Inspector-General of Police is not a substantive Inspector-General of Police until confirmed.

Expectedly, arising from the above, the operational control of the Nigeria Police hitherto domiciled in the President under section 9(4) of the Police Act 2004 is now laid to rest with its and, in its lieu, the Nigeria Police Act 2020 [NPA 2020], which now places the operational control of the Police Force on the IGP. Though the impact of this reform may seem too mean to ponder, its wordings, however, symbolise courage and bravery and are terse enough to command a successful voyage to effectiveness. The Inspector-General of Police, as the head of the Nigeria Police Force, must exercise full command and operational control that will ensure efficiency in the police performance. This, however, will certainly depend on the bravery, tactfulness and competence of the IGP. This new development would demand, as it were, the building of capacity in police officers. It is only by doing so that the grooming process necessary for institutional courage would be available to the police force.

It needs to be noted that the above-noted anomalies contained in sections 9(4) and 10 of the Police Act 2004 have since been corrected in the reform introduced by the NPA 2020. The Inspector-General of Police now exercises full command and

operational control over the police and all its departments and units.⁵¹ As presently constituted, the Nigerian Police is constitutionally placed under the command of the Inspector-General of Police, who now exercises full command and operational control of the Force.

1.4.2 Control by the Attorney-General and Minister/Commissioner for Justice

Another executive control that commands an engagement at this juncture is that of the Minister for Justice and Attorney-General of the Federation or the Commissioner for Justice and Attorney-General for the State, who plays advisory roles to the police on executive actions. Legal advice issued, generally by the Attorney-General of the Federation or State in criminal cases investigated under federal or state laws, is binding and may terminate not only the investigation but also the trial.⁵² Under the Administration of Criminal Justice Act,⁵³ the police and all investigatory authorities are responsible for utmost cooperation with the Attorney-General. Arising from the foregoing is the fact that the exercise of the police investigatory powers is no longer isolated from the supervision of the Attorney-General for the Federation, who also is the Minister of Justice or Attorney-General of the State, who is as well the Commissioner for Justice of the respective State. For a good cause, the Attorney-General may request that the case files of any of the cases under police investigation be brought to their offices. He may render advice on them or give reasonable directions as may be appropriate in the circumstances of each case. Although, where such a request depicts inordinate mischief or is patently in bad faith, public outcry by the police becomes consequential. Even then, the police are under obligation to comply with such instructions.⁵⁴

⁵¹ See section 7 of the NPA 2020 (n 1).

⁵² See section 376 of the ACJA 2015 (n 1).

⁵³ Ibid.

⁵⁴ Ibid at section 105(3).

An instructive statutory control of criminal investigation by the Attorney-General of the Federation and states has been expressly created. The provisions of section 105(1)(1) of the ACJA 2015, provides that:

1. The Attorney-General of the Federation may issue legal advice or such other directives to the police or any other law enforcement agency in respect of an offence created by an Act of the National Assembly;⁵⁵
2. The Attorney-General of the Federation may request from the Police or any other agency for the case file in any matter in respect of an offence created by an Act of the National Assembly and the Police or other agency shall immediately send the case file as requested (*emphasis mine*).

The police are guided by legal advice validly issued by the Attorney-General. Any prosecutorial rascality by the police against formal advice so issued remains an exercise in futility. The exercise of the constitutional powers of the Attorney-General as regards the taking over of such cases for termination remains unfettered. The supervisory control of the Attorney-General over police investigation has now been well-reinforced by the above provisions of the Administration of Criminal Justice Act, 2015, as relates to the control of the incidence of police investigation. The phrase ‘shall immediately send the case file as requested’ employed in sub-section 3 above lists the police with no discretion to exercise at all. For the avoidance of doubt, both the Inspector-General of Police and the Commissioner of Police for each state command are now obligated to forward quarterly reports of records of all arrests made, with or without warrant,

⁵⁵ Ibid at section 105(1). Similar provisions are available in the various Administration of Criminal Justice Laws of the various States.

within a state in relation to federal and state offences respectively, to either the Attorney-General of the Federation or of the state, as the case may be.⁵⁶

Suffice it to say that accountability in the Nigeria Police is predominantly centralised and largely *upward-facing* and aside from the Presidency, the police are answerable to parallel supervision of the Minister of Police Affairs or the Interior (whichever has the supervision of the Nigeria Police), and legislative assemblies with very little oversight control from members of the public and local government authority to whom they render services. There has, thereby, created a vast vacuum in the accountability plane of the controlling organs of the Nigeria Police Force. The Police Service Commission, whose constitutional powers were mainly on the appointment, promotion and dismissal of members of the force, still battles for survival with its ancillary recruitment power exercised by the NPA 2020 s 6. Until lately it appears, the concern of the Police Service Commission had beamed its focus mainly on senior police officers with vast portions of issues relating to junior officers delegated to the Inspector-General of Police, more particularly, on matters relating to promotion and discipline of junior police personnel to the Inspector-General of Police. The Nigeria Police Council, saddled with the responsibilities of the general supervision and organisational and administrative control of the Nigeria Police Force, has barely lost focus of the force by the inability to attend to consequential issues arising from general supervision frequently, and the organisational structure of the police. This results from the omnibus delegation of vast portions of these powers.

1.5. Conclusion

Suffice it to say that accountability in the Nigeria Police is predominantly centralised, and largely *upward-facing*. Aside from the Presidency, the police are answerable to parallel supervision. For instance, the Nigeria police Council has the organisational control, the Police Service Commission exercises the personnel

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Ibid, section 29.

control while the Minister of Police Affairs or the Interior which ever for the time being is saddled with ministerial responsibility over the police, has the budgetary supervisory control of the Nigeria Police). The Parliamentary Assembly in the people have the legislative control, though members of the public and local government authority to whom they render services, have very little oversight control over them. Although, the IGP maintain an operational command over the Nigeria Police, there is created a wide vacuum in the accountability plane of the controlling organs on the Nigeria Police Force. The Police Service Commission whose constitutional powers were mainly on the appointment, promotion and dismissal of members of the force, still battles the survival with its ancillary recruitment power excised by section 6 of the NPA 2020, but prior before this, it only focused on senior officers. It delegates vast portions of these powers as regards the police junior staff to the Inspector-General of Police. The Nigeria Police Council, saddled with the responsibilities of the general supervision and organisational and administrative control of the Nigeria Police Force has barely lost focus of the force by inability to frequently attend to consequential issues arising from general supervision, and organisational structure of the police. This results from the omnibus delegation of vast portions of powers.

The above lag in the accountability mechanism is however further weakened by an unrestricted delegation, of the supervision and some inalienable functions of controlling institutions, to the Inspector-General of Police who in turn deploys some forms of informal adjustment which constantly develop a more benevolent potential for blame, risk and in transparency in the police system. The founding objectives of the control mechanisms; and the dynamics of the command and structural intervention for review of public complaints are poorly-evaluated, less undertaken, and of little use but poorly-valued within and outside the Force. A major impact of these burdensome institutional delegations of functions may result in an acute low performance of both the statutory and delegated functions by Inspector-General of Police. Supervision request much funds, inadequate

budgetary allocation, no doubt, constraints on the oversight responsibilities of these institutions.

Notwithstanding the foregoing lapses, it is trite that the Nigeria Police Force and its personnel are constitutionally placed under the supervisory control of the Police Service Commission; and organisational control of the Nigeria Police Council; executive control of the President; advisory control of the Attorney-General and; and departmental or budgetary control of the Minister of the Police Affairs, Internal Affairs or Interior (whichever is, for the time being, saddled with the control of the police department, as the case may be). In addition to these controls, there is a legislative control and judicial control by the National Assembly and the judiciary respectively. The question that may beg for answer, at this juncture, is despite the horde of these controlling authorities, why has the police system not been efficient enough to end impunity arising from the exercise police operational or investigatory powers?

Although, adequate constitutional and statutory provisions are made for effective supervision of the Nigeria Police, and its personnel, institutional lapses arising from overlapping functions, lack of adequate funding and over-delegation of duties, no doubt, account for low performance of police personnel and rots in the institutional discipline in the police. Effective funding of the police and the supervisory agencies as a functional panacea for police effectiveness, is therefore recommended in Nigeria. In addition to this, the following recommendations are hereby proposed to enable the realisation of the noble objective of the purposeful establishment of these supervisory institutions.:

- a. the strengthening of capacity of these controlling and reviewing institutions with a view enhancing the effective performance of their constitutional responsibilities;

- b. organising of periodic retreat, trainings and workshops for staff and personnel of the controlling institutions. This will assist the institutional effectiveness of these controlling agencies in no little way; and
- c. an urgent intervention by way of law reform to enable the carving a unique niche for each institution thereby resolving the various area of overlapping responsibilities.

The consideration of the above recommendation, it is hoped, would promote a symbiotic relationship among these controlling institutions as well as the service delivery of the police organisation.