

**POLICE FEDERALISM IN NIGERIA: STATE, COMMUNITY POLICE
AND THE SETTLED CONUNDRUM? ***

Abstract

Policing in the Nigerian federation is challenging, recently accentuated by the rate of violent crimes resulting in insecurities and worsening a difficult problem. It evinces the problem of the states to maintain law and order and secure lives and properties. Central to the issue is the constitutional location of policing powers and the exercise of policing powers. In an attempt to tackle the problem, some state governments have proceeded to establish quasi-police organs, without calling them state police. A solution to the problem seems to have been found in the new police legislation, which makes concrete provisions on community police to deal with the policing needs of states. The compromise of community police has not alleviated the agitation of states for more policing powers and control to effectively secure the lives and properties of citizens who mostly reside in state territories. The continuing fears for state police, makes it inescapable to ask whether policing challenges may not be solved by granting the states more control over the current governance structure of the police?

Keywords: Police, Federalism, State Police, Community Police, Conundrum

1. Introduction

In many federations, policing is decentralised; there exist multiple layers of police formations often cooperating to discharge their responsibilities. Nigeria is a federation, in which the constitution creates a single police force, the Nigeria Police Force and confers on federal government functionaries and institutions overriding powers over the police.¹ This reflects the centripetal tendencies of the federation where the federal government dominates the allocable powers of the federation over the state governments and local governments, degrading the lower units in internal security responsibilities. The implication is that ‘...all elements of physical force customarily utilised by government are assigned exclusively to the federal government...[and that]... it leaves a state virtually powerless to deal on its own with serious disturbances inside its borders.’² The National Assembly has enacted police legislation, in response to the deficiencies in the old police legislation.³ The objectives in the Nigeria Police Force (Establishment) Act 2020 (here NPFA 2020) include accountability, transparency, protection of human rights and fundamental freedoms.⁴ The legislation provides the functions of the Nigeria Police Force,⁵ and lists the vast powers of the force.⁶ The new police legislation however has not lessened the centralised trends in policing. The paper contends that the challenges of centralised policing vests in the continuing location of police powers in the federal government, the police governance structure and the exercise of police powers. It concludes that the community police framework in the new police legislation does not remove federal control, intrudes into community affairs, and that granting and devolving on state government’s greater control over the operation of the police force may alleviate the need for state police.

2. Constitutional Location of Police Powers in the Federation

Just as there is no classical federalism, ‘there is no comprehensive theory on what federalism means for police forces.’⁷ The ‘Police forces are structured (and operate) differently in different countries even if those countries all live under federal political order.’⁸ In a federation, powers are enumerated amongst tiers of government and each unit of government operates within its respective tier; ‘however, no precise rule concerning the establishment of the police system can be found in a constitution.’⁹ Policing constituents in a federation are trite.¹⁰ In Nigeria, the competences of the Nigeria Police Force transcend national, state and local jurisdictions

*By **Yusufu Y. DADEM, PhD (Jos), BL**, Senior Lecturer, Nigerian Law School, Kano Campus; Former Head of Kano Campus (2013-2018); Member, Nigerian Bar Association; Member, African Network of Constitutional Lawyers; Member, Law & Society Association; and Member, Nigerian Association of Law Teachers. Email: yusufdadem@yahoo.com; yusufu.dadem@lawschool.gov.ng. Phone: 08037012808

¹ Nigerian federalism admits of the division and enumeration of powers between the federal government and the thirty-six governments of the states in Nigeria. Matters that are not respectively listed in the Exclusive List or the Concurrent List are regarded as residually reserved for states.

² EM Joye & K Igweike, *Introduction to the 1979 Nigerian Constitution* (Macmillan Nigeria Limited, 1982) pp. 71 & 72.

³ Nigeria Police Force (Establishment) Act 2020 herein ‘NPFA 2020’ was passed into law by the National Assembly (the legislature for the federation, made up of the Senate and the House of Representatives) and was assented by the President in September 2020.

⁴ NPFA 2020, s 2.

⁵ NPFA 2020, s 4.

⁶ *ibid.*

⁷ S Roche, *Federalism and Police Systems*, 2011, Geneva: Geneva Centre for the Democratic Control of Armed Forces, p. 4.

⁸ *ibid.*

⁹ *ibid.*

¹⁰ *ibid.*, vi.

and the policing powers and competences are centralised with the governance structure controlled by the federal government.¹¹ On the single police force, the constitutional clause provides that ‘there shall be a police force for Nigeria, which shall be known as the Nigeria Police Force, and subject to the provisions of this section no other police force shall be established for the federation or any part thereof.’¹² The use of the expression ‘subject to the provisions of this section’ does not necessarily mean there are other police forces, except the other branches of the Nigerian Police Force such as those to protect harbours, waterways, railways and airfields.¹³

The underlying philosophy for a single police force for the federation (which is influenced by historical reasons),¹⁴ is to make it a truly national force that would meet the policing needs of both the national and sub-national units of government, without a dominant control by one unit over the other.¹⁵ Due to the potential of conflicts in dual or multiple police organs, a national police force would obviate the areas of conflict between the dual tiers of government. Therefore, while the Nigeria Police Force is ‘...admittedly an arm or department of the federal government... that is for the purposes of structural arrangement. It is, in its functions and the purpose of its existence, a common organisation for the federal and state governments.’¹⁶ The ultimate command of the force is on an Inspector General of Police for the whole federation and not for the federal government. So that ‘in a federation... the principal instrument of law and order, the police force ... is to be seen and accepted as a common organisation serving the interests of all.’¹⁷ The Inspector General of Police is to meet the policing needs of all tiers of government and not of the President who is only commander in chief of the armed forces;¹⁸ The Inspector General is thus a trustee of policing powers in favour of all tiers of government.

The constitutional location of the police under federal control makes states impotent. First, states’ consultative role in the appointment of a Commissioners of Police for states has been removed and unilaterally given to the Police Service Commission, a federal organ laced with appointees of the President, whose role excludes consulting State Governors.¹⁹ Second, any directives given by the Governor of a state with respect to maintaining and securing public safety and public order is subject to revision by the directives of the President or his Minister.²⁰ This power of modification has resulted in situations where Commissioners of Police within states have reported impending problems requiring immediate action for presidential nod or disapproval, with grave delays and implications for security of lives and properties.

3. Exercise and Checks on Police Powers

The constitution provides that the President may give to the Inspector-General such directions with respect to the maintaining and securing of public safety and public order as he may consider necessary, and the Inspector-General shall comply with those directions or cause them to be complied with.²¹ The control of the Nigeria Police Force is placed under ‘the command of the Inspector-General of Police and contingents of the Nigeria Police Force stationed in a state shall, subject to the authority of the Inspector-General of Police, be under the command of the Commissioner of Police of that state.’²² Where the President issues directives for the maintenance of law and order to the Inspector General of Police, it is obligatory for him to execute.²³ He does not have any discretion on the matter, unlike any directive which may be given by the Governor of a state where

¹¹ The applicable laws regulating policing in Nigeria is the Constitution of the Federal Republic 1999 and the Nigeria Police Force (Establishment) Act, 2020. Some procedural codes of states and legislation on crimes also regulate police responsibilities.

¹² CFRN 1979, s 214 (1). This centralised policing departs from the arrangement under the 1960 and 1963 Constitutions, which allowed other police forces. A Nigeria Police Force was established for the federation of Nigeria; however, any of the regions could establish and maintain a local government police or a Native Authority Police for a province or part of a province within the region; s 105 (1 & 7) of the 1960 Constitution.

¹³ See FRN v Osahon (2006) 5 NWLR, part 973, p. 361.

¹⁴ The Willinks Commission established in 1958 recommended a single police force, to serve both federal and regional purposes to avoid confusion, allay minorities’ fears and inefficiency.

¹⁵ That is, the state governments can confer certain duties and responsibilities on the Nigeria Police Force, such as the enforcement of certain laws of the states. This is different from the overarching law of the National Assembly on the Nigeria Police Force.

¹⁶ BO Nwabueze, *Federalism in Nigeria under the Presidential Constitution* (Sweet & Maxwell, 1983) p. 109.

¹⁷ *ibid*, p. 104.

¹⁸ *ibid*, at pp. 119-120.

¹⁹ CFRN 1999, s 215 (1) b.

²⁰ CFRN 1999, s 215 (4).

²¹ CFRN 1999, s 215 (3).

²² CFRN 1999, s 215 (2).

²³ The phrase used in the clause is ‘shall’ which courts in Nigeria interpret as command without discretion, even though the proper context in which it is used depends on the wordings of the statute. *A.T. Limited v A.D.H. Limited* (2007) 15 NWLR, part 1056, pp. 118 at 150.

the Commissioner of Police ‘may request that the matter be referred to the president or such minister of the government of the federation as may be authorised in that behalf by the president for his directions.’²⁴ With this ultimate control and considering that he is Head of state, Head of Government and the Commander-in-Chief of the armed forces, the plenipotentiary and supernumerary powers of the President is one that is better imagined.

A major scheme implanted in the Constitution to dilute the unilateral control of the police by the federal government and ensure some balancing is the Police Council.²⁵ The functions of the council are:

organisation and administration of the Nigeria Police Force and all other matters relating thereto (not being matters relating to the use and operational control of the Force or the appointment, disciplinary control and dismissal of members of the Force); the general supervision of the Nigeria Police Force; and advising the President on the appointment of the Inspector-General of Police.²⁶

The powers of the council on ‘all matters’ relating to the ‘organisation and administration’ and ‘general supervision’ are vast. The power can be exercised to structure, administer and reengineer policing at all levels of the federation, including state and local levels to meet policing needs of subnational units. Were this power to be properly exercised, policing problems at the state and all levels could be alleviated.²⁷ The composition of the council with the President and governors of the states as chairman and members respectively, furnishes an opportunity and conclave to resolve contending policing needs, interests and conflicts within the federation to meet the policing wishes of the tiers of government.²⁸ Although the Governors of states are required to have a voice by way of advice on the appointment of an Inspector General of Police and the President is obligated to consult them, in practice, this is hardly done. The President simply hires and fires an Inspector General of Police, and on certain occasions, seeks for the ratification of his action.²⁹ Such ratification *post factum* is not sanctioned by the constitution.³⁰

The NPFA 2020, has added an additional responsibility to the powers of the police council. The police council can receive and deliberate on reports and advise the President or the Inspector General of Police on actions to be taken on policing from the states and the Federal Capital Territory Abuja, on ‘any crucial decision from the meetings of their security committee in the three months preceding the quarterly meeting of the police council’³¹ and also on ‘security concerns relating to policing from the states and the Federal Capital Territory, Abuja and taking such action as it may consider appropriate.’³² The council could meet at least twice in a month or in urgent situations. This power seemingly guarantees greater participation of the states in the governance structure of the police. However, queries may be raised on the correctness of the power because it further centralises decision on policing matters of states in a federal body beyond federal balancing in a federation. Security meetings of states are under the chairmanship of Governors of states who deal with myriads of issues within the prerogatives of states. To appeal such matters to the Police Council chaired by the President, is to further emasculate any remnant of control by states on security issues.

With respects to recruitment and discipline in the Nigerian Police Force, the constitution confers that power on the Police Service Commission.³³ The rationale for this is plausibly to have an independent and impartial body

²⁴ This is a foundational clause in post independence policing arrangement, which is now reflected in CFRN 1999, s 215 (4).

²⁵ CFRN 1999, s 153. The council is comprised of the President, who is the Chairman; the Governor of each state of the federation; the Chairman of the Police Service Commission; and the Inspector-General of Police.

²⁶ CFRN 1999, items 22 & 28, part 1, third schedule.

²⁷ For example, the council could limit the circumstances in which directives (pursuant to s 215) could be forwarded to the President for his variation, by granting greater supervisory role to the Governor over the commissioner of police in a state in terms of maintenance of law and securing public safety. The federal government has not shown greater desire to devolve its powers.

²⁸ The Inspector General of Police and the Chairman of the Police Service Commission are members of the council.

²⁹ Two recent cases exemplify this practice. First is the appointment of Mr. M. Adamu on 15th January 2019 and second Mr. A. Baba on 6th April 2021 as Acting Inspectors General of Police. In both cases, the appointees started acting in those capacities before any ratification of the appointment by the council.

³⁰ CFRN 1999, s 216 (2).

³¹ Each state of the federation constitutes a security council or committee chaired by the governor of the state and substantially dominated by the heads of security formations in the State. The body meets periodically to deliberate and tackle security challenges that affect the state.

³² NPFA 2020, s 6 (3) d i & ii.

³³ The commission is created as one of the executive bodies under CFRN 1999, s 153. The Police Service Commission is comprised of a Chairman and such number of other persons, not less than seven but not more than nine, as may be prescribed by an Act of the National Assembly. The commission is composed of federal officials and is intended as controlling mechanism for the Nigeria Police Force. Unlike the Nigeria Police Council, which grants voice for the state

to conduct such exercises, thereby insulating it from the intrigues and manipulations that may attend such exercise were that to be conducted by the force itself. The states should play a greater role in the process of recruitment of men and officers into the Nigeria Police Force for all the advantages that such partnership holds.³⁴This continuing vesting of the power of appointing persons into the force on a commission constituted by the appointees of the federal government (without states' participation in membership or the process) still evidences the dominant exercise of the federal government in the police governance machinery in the federation. Similarly, the new legislation obligates the states to fund the Nigeria Police Force by making contributions into the General Fund of the Nigeria Police Force.³⁵As a federal matter, the administration and financing of the Nigeria Police Force is vested in the federal government, which is one argument for allotting an enhanced weight for federally collected revenue in favour of the federal government.³⁶

4. State Police Agitations: Hopes and Fears

Since the return to civil rule in 1999, some state governments and agitators for 'true federalism' have made strident arguments for the devolution of police powers to states, in apparent response to insecurities within the States and their impotence to tackle them.³⁷ The campaign contends for the establishment of state police, in which the states superintend over an established police force that operate within its territorial borders to function more effectively, independently and to immediately respond to challenges of insecurity and threat to lives and properties within the states. The case for state police is premised on its supposed advantages, such as proximity to citizens (in comparison to the national police), ease of recruitment and command, effectiveness to deal with threats and tackling crimes, and local control of its governance and operational structure. It however suffers the problem of proliferation and fragmentation of forces with often-conflicting jurisdictions and the potential and probability of conflicts existing in the light of the variegated interest of many states in Nigeria.³⁸ In contrast, a single national police force presents the challenge of detachment from the locale of the trouble, fewer police personnel and slow action.

Despite the prescription of a single police force for the federation, states possess some policing powers. They have the mandate 'to make laws for the peace, order and good government of the state or any part thereof' on matters they are empowered to act;³⁹ and also to make laws for the 'maintenance and securing of public safety and public order.'⁴⁰ 'Public safety and public order' is encompassing to include many facets of policing such as regulating health, traffic, meetings, emergencies and other measures for the protection of the citizens. States have used these provisions to establish institutions and appoint marshals for social control on sanitation, traffic, health, road, market, neighborhood watches and to police social/immoral vices.⁴¹This soft policing power has not been disputed; what is in contention is the hard policing power to deal with detection, prevention, investigation, prosecution and tackling of violent crimes (including arming state functionaries with firearms to do so).⁴² The Supreme Court prematurely terminated a policing dispute between the federation and a state government, which would have aided in deciphering and determining the question of soft policing power of the states.⁴³The policing powers conferred by the constitution does not prevent the exercise of the soft policing

governors, the Police Service Commission does not; CFRN 1999, items 29 & 30, part 1, third schedule; s 2 (1) Police Service Commission (Establishment) Act, 2001 No. 1 LFN 2010. Having regard to the fact that the Police Service Commission is solely responsible for the assignment of Commissioners of Police to head police commands in the states, the absence of states as stakeholders does not enhance state interests in the process.

³⁴ State participation as of right would saturate the force with personnel of impeccable character and ability because the states are in a better position to identify such persons, being close to the people.

³⁵ NPFA 2020, s 26 (1) b.

³⁶ The formula for allocating federally collected revenue is as follows: federal government is 56 percent; state governments are 24 percent; and local government councils is 20 percent. See the Allocation of Revenue (Federation Account, Etc.)(Modification) Order 2002.

³⁷ 'True federalism' is an aphorism for the real exercise of devolved powers to sub-national units and a discountenance of the aggregated centralised powers over the years.

³⁸ Communities in the borders of contiguous states have often had clashes on the limits of their land borders. In such cases, a fragmented state police may be confronted with the problem of loyalty.

³⁹ CFRN 1999, s 4 (7).

⁴⁰ CFRN 1999, s 11 (1 & 2).

⁴¹ For example, the Kaduna State Traffic Laws Enforcement Authority Law 2017, Gazette No. 18, Vol. 51 of 7th August, 2017 authorises its officers to impound overloaded vehicles and safeguard roads from encroachment of markets, motor parks and activities of street traders hawkers and beggars; s 6, Gazette No. 18, Vol. 51 of 7th August, 2017. Kano State Hisbah Board Law No. 4 of 2003 and Kano State Hisbah (Amendment) Law No. 6 of 2005 confers policing powers on the Hisbah Corp of Kano State.

⁴² The jurisdiction over firearms (Firearms Act, Cap. F28, LFN 2010) is vested in the federal government, limiting states from arming their personnel where this is required with military-grade firearms to confront violent offences.

⁴³ Attorney General Kano State v Attorney General of the Federation (2007) 6 NWLR, part 1029, p. 164. The dispute arose out of the operations of the Kano State Hisbah Board Law No. 4 of 2003 and Kano State Hisbah (Amendment) Law No. 6 of

powers, if any meaning could be given to the import of the state governments' powers as a tier of government in the federation.

Two developments have given greater push for state police: resolutions of national conferences and political groups and the formation by the southern states of security networks. Since the return to civil rule on May 29, 1999 national conferences in 2005 and 2014 dealt with myriads of problems beleaguering the federation. Both conferences recommended the devolution of legislative and fiscal powers from the federal government to the state governments.⁴⁴ The recurring theme at the conferences is for 'true federalism' and the contention for the devolution of security and policing powers to the states, form a major component of the call. Similarly, greater impetus was given to the issue following the recommendations of the ad-hoc committee on 'true federalism' of the ruling party, the All Progressives Congress.⁴⁵ One key issue the committee answered was, 'what items on the exclusive legislative list should be transferred to the concurrent list to enable states have direct responsibility e.g. state & community police, prisons?'⁴⁶ After its assessment, the committee discovered that 'more than 30 items were identified by stakeholders for devolution from federal to state governments ... Among these items, police and community policing topped the list'⁴⁷ and that 'police/community policing as number one' item that should be devolved as states' responsibility.⁴⁸ Accordingly, police and prisons should be transferred from the exclusive legislative list to the concurrent legislative list. Secondly, south-west states have established security organs to deal with growing cases of insecurity that pervade their communities through enabling legislation on the matter.⁴⁹ The security network, although regionally inspired, is not a 'regional police, but a state-based security outfit.'⁵⁰ The security networks of the states cooperate amongst themselves and also extend the cooperation to other 'security network agencies in other states of the federation.'⁵¹ This cooperative federalism in policing amongst the states signifies their consent to achieve matters of common security concerns as they have done in other areas.⁵² As such, 'other states of the federation' would need to subscribe to this bait by the states of the south-west region, though some non-contiguous states would find less incentive to do so. The security network is dichotomised between the security agency as the administering and coordinating authority with specified functions;⁵³ and the enforcement corps of the agency otherwise known as *Amotekun*, which is responsible for carrying out the functions of the agency, including powers of arrest.⁵⁴ The corps are constituted by registered vigilante groups operating within a state, statutory security agencies operating within a state, and any other person qualified by law.⁵⁵

The question arises, whether the security network, is a state-policing organ with powers akin to the Nigeria Police Force? Again, how autonomous is such a security network in the light of the federal scheme, which specifies the sphere of competences of the respective tiers of government in the federation? An examination of the powers and the functions of the security networks require a substantial degree of dependence by the state governments on the federal authorities (the Inspector General of Police) to realise their objectives. The security networks are to 'collaborate and assist the police' or undertake 'joint operations with the Police' demonstrating that the security networks have no independent policing powers of their own, but must depend on the Nigeria

2005. Under s 7 of the Law No. 4 of 2003, *Hisbah Corps* were established with the responsibilities set out under subsection (4) of that section, some of which are very similar in many respect, to those of the Nigeria Police Force. It thus remains a moot point whether institutions with similar powers would be said to be abrogating police functions under the constitution.

⁴⁴ For example, the 2014 National Political Conference recommends the maintenance of a Federal Police Force with federal and inter-state jurisdictions; however, for states that require it, such states are recommended to establish, maintain and fund a state police force to meet its policing needs.

⁴⁵ The party won the presidential election of 2015 and also won many gubernatorial elections at the state level.

⁴⁶ Issue No. 4.

⁴⁷ p. 22.

⁴⁸ *ibid.*

⁴⁹ The states within this zone are Ekiti, Lagos, Ondo, Ogun, Osun and Oyo States, which are contiguous to each other. They are states that at various periods were created out of the former Western region of Nigeria, which ceased to exist in 1967. They have however continued to cooperate with each other in areas of infrastructure and the economy as western or western states.

⁵⁰ Speech by the Chair of south-west Governors' Forum, Governor of Ondo State, Arakunrin Rotimi Akeredolu, SAN, following resolution with federal authorities to harmonise the operation of the security network. See 'IGP, Southwest Governors agree on Amotekun' <<https://lagosstate.gov.ng/blog/2020/02/13/igp-southwest-governors-agree-on-amotekun/>> accessed on 26th March, 2021.

⁵¹ s 3 (3) Ekiti State Security Network Agency Law, 2020 herein 'ESSNAL, 2020'.

⁵² Cooperative federalism recognises the sharing and overlapping of responsibilities and functions by all levels of government in many spheres of the nation's life. AO Bowman & RC Kearney, *State & Local Government* (6th ed., Houghton Mifflin Co.1990) p. 39.

⁵³ The functions of the Agency are listed in s 5 (1).

⁵⁴ ESSNAL 2020, s 17 (2). Details on records of arrest are to be documented. ESSNAL 2020, s 29.

⁵⁵ ESSNAL 2020, s 20.

Police Force. Cooperative federalism does not enslave the sub-national units to the national government; each cooperates in the exercise of their respective powers. In the absence of the Nigerian Police Force lending its powers, the south-west security networks cannot exercise independent policing powers. This is more so, that although they could by law ‘disarm unauthorised persons in possession of arms and other dangerous weapons’ the *Amotekun* corps are not armed and the Inspector General of Police must grant approval to them to ‘bear licensed arms in the performance of [their] duties and as may be incidental to the operation of [their] objectives.’⁵⁶The establishment of the security networks has impelled more states (southeast states) to follow suit.⁵⁷ This is consequential to the increased cases of security breaches within the regions.⁵⁸The states (despite initial reluctance) have agreed to establish and to ‘maintain a joint security vigilante for the South East otherwise known as *Ebubeagu*...to coordinate our vigilante in the South East.’⁵⁹ The operational structure and powers of the *Ebubeagu*, is still being framed, leading to some cynicism over the resolution of the south-east Governors on the pronouncement over the security outfit.⁶⁰ Other regions have cogitated on the establishment of similar security networks for their regions without any practical implementation.⁶¹

The dangers of devolving police powers to the states still persist. The fears expressed before the Willinks commission has not yet abated.⁶² Certain developments have not reduced the fears; the ethnic coloring of the regional security networks being established and the record of management of state government institutions by state governors have been dismal.⁶³ The *Amotekun* and *Ebubeagu* corps appear ethnically coloured, reflecting the tribal names of leopards, rather than one to inspire confidence amongst the diverse citizenry. Further, state governments have not fairly and democratically managed certain institutions within states’ control.⁶⁴ This accentuates the fears that the state police would be parochial, biased and instrument of oppression of opposition figures, to satisfy certain sectional and political interests within states. Funding of state government institutions has been poor and parlous, with many such institutions made ineffective; there is no guarantee for adequate funding of state police.⁶⁵ If these fears could be alleviated through a written law providing for its existence, accountability mechanisms and courts’ review of police actions and inactions, adequate funding, clearly defined competences and jurisdictions on matters assigned to the states; a state police is desirable.

5. Community Policing

The NPFA 2020 provides a framework for community policing, without actually defining what it means, probably because delimiting community policing itself is difficult, as ‘its definition is still in limbo, pejorative, and rooted in various dictums and aphorisms.’⁶⁶ Community police, however ‘... emphasises the working partnership between police officers and citizens in creative ways in order to solve community problems relating to crime, fear of crime, and neighborhood disorders.’⁶⁷ The NPFA 2020 structures community police and

⁵⁶ESSNAL 2020, s 18 (1). Arms, ammunitions explosives (major assets for maintaining law, order and public safety) are under the control of the federal government, in contradistinction to the situation under the independence constitution of 1960, which had placed it as a concurrent matter.

⁵⁷ The states constitution the south-east region are Abia, Anambra, Ebonyi, Enugu & Imo.

⁵⁸ Examples are kidnappings, attacks on farming and herding communities and attacks on security personnel and offices

⁵⁹ Communiqué of the meeting of the state governors of the south-east region issued on 11 April 2021; see ‘EBUBE AGU’: South-East Governors Establish New Outfit To Tackle Rising Unrest’, <https://www.channelstv.com/2021/04/11/ebube-agu-south-east-governors-establish-new-outfit-to-tackle-rising-unrest/> accessed on 26 March 2021.

⁶⁰ The cynicism flows from the citizens of the states who see the development as a murky arrangement laced with federal government control and to meet political exigencies only.

⁶¹ Other states with similar security challenges, such as the northern states have also contemplated establishing regional security networks.

⁶² That is the fears of domination expressed by the minorities within the regions dominated by the major tribes in the three regions that made up the federation at that point.

⁶³ Ethnic-based vigilante groups in Nigeria have been accused of extra-judicial violations of citizens’ rights. The ethnic shading of the state security network is linked to the enforcement corps of the network respectively, the *Amotekun* in the south-west and the proposed *Ebubeagu* in the south-east. Azuka Onwuka ‘Ebubeagu, Amotekun and the confusion of meaning’, <<https://punchng.com/ebubeagu-amotekun-and-the-confusion-of-meaning/>>. The constitution creates many institutions under the control of state governments> accessed on 22nd April 2021.

⁶⁴ A typical example is the State Independent Electoral Commissions (SIECS) that have the powers to conduct elections into local government councils in their respective states. In virtually all of the elections held from 1999, the ruling parties within the state always returns almost 100% electoral victory.

⁶⁵ The commander of the *Ebubeagu* for example resigned barely months after appointment because of lack of adequate funding and provisions of equipment for the operation and functioning of the *Ebubeagu*. Peter Okotu ‘EbubeAgu: I resigned because South-East govts. failed Security Committee — Umahi’, <<https://www.vanguardngr.com/2021/06/ebubeagu-i-resigned-because-south-east-govts-failed-security-committee-umahi/>> accessed on 12th June, 2021.

⁶⁶ID Onwudiwe ‘Community Policing: the Case of Informal Policing in Nigeria’ in *D Wisler & ID Onwudiwe* (Eds.) *Community Policing: International Patterns and Comparative Perspectives* (CRC Press, 2009) p. 81.

⁶⁷ *ibid*.

infuses the police with a novel function to adopt ‘community partnership in the discharge of its responsibilities.’⁶⁸ Community policing had been initiated in 2004 as a ‘practical approach to policy reforms’⁶⁹ to address the ‘challenges confronting the nations as a result of the high crime rate.’⁷⁰ It was increasingly introduced in many states, though premised as policy, without legislative backing until the enactment of the NPFA 2020. The legislation thus crystallises previous amorphous arrangements for community police, making extensive provisions on its operation and application.⁷¹ Community policing aims at ‘problem solving oriented policing that is proactive with the community as the cornerstone of policing objectives;’⁷² some specific objectives in the NPFA 2020 are maintaining partnership between the community and the police force; promoting cooperation between the police and community in fulfillment of the policing needs of the community; and improving accountability and transparency in the provision of police service to the community.⁷³

A Commissioner of Police in a state has direct supervisory command over community police within the state, even though he is only responsible over the contingent of the Nigerian Police Force stationed within a state. However, the strategies for implementing community police are vested in the Inspector General of Police who may apply them depending on the cultural context and the needs of the community.⁷⁴ The duties of community policing officers correlate with normal police duties, such as maintenance of law and order, prevention and detection of crime and reporting same to police commanders, and intelligence gathering and dissemination.⁷⁵ The Commissioners of Police of states have decisive powers with respect to the establishment, supervision and control over the community police in the states. The Commissioner of Police in a state is required to collaborate with the state on the establishment of a State Community Police Committee;⁷⁶ but with respect to other community policing committees (the Community Police Committee, Community sub-committee and Divisional Committee), the prerogative for doing so is on the Commissioner of Police and no such collaboration is required.⁷⁷ The incongruity of the community police framework in the new police legislation is that although community police officers directly operate within the immediate community of a state, the operational control of community policing is vested in the Commissioner of Police. The structure is top-bottom, rather than bottom-top. ‘Collaborating with stakeholders’ or the state executive council does not subsume the role of the Commissioner of Police to the control of the state. The discretion rests with him, and ultimately the Inspector General of Police, his overseer. The implication of the extant framework on community policing is the further strangling of policing at community and local levels by the federal government. The chain of command flows from the national level to the community level.

The intrusion by the federal government into affairs of local community necessarily raises the question if it does not overreach the powers of the federal government in matters that is local and residual to states? Is community police an extension of police as to grant to the federal government the legislative authority over the subject matter? ‘Community police’ is not listed in the exclusive legislative list; in the absence of such, community policing is a residual matter, controllable by state governments. The argument may presumably be countered that community police is incidental to the exclusive power of the federal government to legislate on police;⁷⁸ in that case, the regime on community policing in the NPFA 2020, may be said to be incidental and within the precincts of the federal government competence. Incidental powers suffer the limitation of inability to intrude into the legislative competence of other tiers of government; for example, some states have already legislated on

⁶⁸ *ibid.*

⁶⁹ Abdul Rauf Ambali & Akeem Ayanda Araba, ‘Community Policing and Human Security in Nigeria: A Study of Lagos State Neighbourhood Safety Corps (LNSC)’ in *Journal of Administrative Science* Vol.17, Issue 2, 2020, pp. 72 – 91, sourced at p. 74.

⁷⁰ *ibid.*

⁷¹ Historically however, various communities in Nigeria have established local and informal policing methods as a means of social control; what Onwudiwe calls ‘informal policing structure’ (IPS) by citizens and particularly age-grade groups. In recent times and in many communities, vigilantes, farmers and hunters have also set up organs for the protection of lives and property and prevention of breaches of the peace, some of which have the covert and overt patronage of the government; ID Onwudiwe, p. 87.

⁷² Abdul Rauf Ambali & Akeem Ayanda Araba, *op. cit.*

⁷³ NPFA 2020, s 116 (1).

⁷⁴ s 117 (2 & 3).

⁷⁵ Other duties include resolution of conflicts, patrol of public spaces within local communities, advising on public safety and security tips, dealing with minor offences and social vices, partnering towards crime control and managing traffic and school safety.

⁷⁶ Such collaboration however does not remove his control; the commissioner is the initiator and not the state.

⁷⁷ Although the commissioner is required to collaborate with community stakeholders when establishing the divisional committee at the police division level.

⁷⁸ CFRN 1999, item 68 part I, second schedule.

community police which they deem is within their competence.⁷⁹The community police framework, which provides for committees at the local level in the NPFA 2020, potentially overreaches similar committees established by states.⁸⁰

6. Conclusion

The challenge of policing in Nigeria has led to agitation for state police and necessitated the introduction of community policing. Attempts to realise state police has led to the formation of security networks by some states. These developments suffer from certain limitations. The reasoning, which informs the formation of a single police force is still persuasive in a diverse and democratically-challenged country as Nigeria. The ultimate line of operational control on the Inspector General of Police, appointed by the President of the federation, presents a challenge for meeting the policing needs of states. A constitutional amendment may be undertaken to confer greater operational control of the command of the police force on a Governor of a state or his appointee or obligating the Commissioner of Police in a state to execute the Governor's lawful directives without the necessity for a revision of the Governor's directives by the Inspector General of Police or the President. Such amendment would constitute a partial victory over the centralised trends in Nigerian federalism, giving state government's greater role in internal security responsibilities. The courts should decide the propriety of a Governor's directives. Reforms of the Police Council for mandatory meetings and discharge of its mandate; the Police Service Commission (for state participation in the postings process of Commissioners of Police); and imbuing state authorities with final directional control of the police commands in their states, are likely to lessen the agitation for state police. The ineffective operation of the extant regime for policing the federation by its operators is largely to be blamed for the challenges of policing in Nigeria, a problem evident in other sectors even when systems and processes are fixed. State police agitations would continue until solutions are found to a problem that challenges the operation of Nigeria's federalism.

⁷⁹ The Community Volunteer Guard Law of Benue State Cap. 39 Laws of Benue State 2002 herein 'CVGLBS 2002', for example legislates on community policing within the state. Same with Lagos State Neighbourhood Safety Corp Law 2016. In the laws, volunteer guards or neighbourhood watchers assist in the prevention of crimes, promotion of consciousness in the community, disarming armed persons, arresting and conducting searches and coordination with the police. CVGLBS 2002, s 2 & s 6 (1).

⁸⁰ For example in Benue State, communities have volunteer guards coordinating committees with powers to monitor the operations of the community guards within the community; CVGLBS 2002, s 8. The volunteer guards coordinating committees consists of the chairman of a local government council, the divisional police officer, an officer with the state security service, the head of each ward in the local government, the head of the traditional council in the area and the social welfare officer in the area.