

Police Brutality and the #EndSARS# Protests in Nigeria: Appraisal of the Legal Issues

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Abstract

The Police are state officials charged with the duties of law enforcement and other responsibilities. They are empowered to use reasonable force in the discharge of their duties, which is regulated by international human rights norms, national constitutions and other legislations. However, despite the restraints on police use of force, the Police often over step their boundary and use force beyond the limits permissible by law. In Nigeria, the indiscriminate use of force by the Special Anti-Robbery Squad (SARS) led to the popular #EndSARS# uprising, which took over Nigeria like a whirlwind. In the wake of the Protests, this paper examined the legal issues that arose from the protests involving the legal limits of police use of force, the factors that determine when and how the police deploy the power to use force and the impediments to police use of force in Nigeria. The paper found that there are constitutional and other legal provisions that encourage the police to use excessive force in performing their duties of securing the country. It was recommended that both sections 33(2)(b) and 214(1) of the constitution and section 271 of the Criminal Code must be amended to redefine the limits of police powers to use force in Nigeria.

Keywords: Police, policing, brutality, torture, human rights, EndSARS, protests, popular uprising.

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1. Introduction

Police brutality is one of the major obstacles to the prospects of the Nigeria Police and realisation of human rights in Nigeria. The Police in Nigeria, with the backing of autocratic leaders and repressive laws, frequently act outside the rule of law. They take laws unto themselves, maiming, killing and detaining persons arbitrarily and with impunity.¹ Sometimes, the Police can be seen as a “jay walker” who take laws into their hands and become brutal and lawless.²

In Nigeria, Police repression has been institutionalised since colonial rule. The colonial legacy of police despotism evidently demonstrates that the colonial police forces were organised and oriented to behave as occupation forces - ruthless, brutal, corrupt, dishonest and prone to brutalising the colonized peoples and vandalising their properties.³

The repressive political structure and exploitative economic relations in colonial and post-colonial Nigeria gave rise to very high levels of police brutality against women-organised protests and labour strikes as well as police vigilante actions against progressive politicians and political parties, academics, media practitioners, students, labour leaders and unions, pro-democracy and human rights organisations.⁴

The emergence of democratic governance in 1999 did little to reform the police in Nigeria. Accounts of police brutality remain rife in the news media. For instance, the shooting of seven citizens popularly referred to as “The Agege Seven” and the “Apo Six Killings” were sad moments that will ever remain indelible in the minds of Nigerians.⁵ Numerous victims of extortion by the police described having been threatened with or subjected to torture as a means of extracting money from them.⁶ Family members of persons held in police custody

¹ Amnesty International, ‘Killing at Will: Extrajudicial Executions and other Unlawful Killings by the Police in Nigeria’, (Amnesty International Report, AFR/44/038/2009), 2009; E.E.O. Alemika & I.O. Chukwuma, *Police-Community Violence in Nigeria*, (Lagos: CLEEN, 2000), 13.

² G.O.S. Amadi, *57th Inaugural Lecture: Political Jaywalking and Legal Jiggery-Pockery in the Governance of Nigeria: Wherein lies the Rule of Law?* (Nsukka: University of Nigeria Press Ltd., 2011), 14. (The “jaywalker” according to Amadi, “has neither regard for his safety nor that of other road users. He is a danger to himself and society”).

³ Alemika & Chukwuma, above (n 1). See also E.E.O Alemika, 'Police Practice and Police Research in Africa' (2009) 10 *Police Prac & Res.* 483.

⁴ *Ibid.*, 484-487. See also O. Mbanefo, ‘The Multiplicity of Law Enforcement Agencies and the State of the Law and Order in Nigeria: A Case of Too Many Cooks’, (2019) 1(2) *Journal of Social Services and Welfare*, 25-27.

⁵ T.N. Odisu, ‘Law Enforcement in Nigeria by the Police Force and the Travails of the Rule of Law’, (2016) 5(5) *Journal of Civil and Legal Sciences*, 205-206. Andrew Walker, “Will Nigeria’s ‘Apo Six’ Ever Get Justice?” *BBC News*, May 5, 2009, <http://news.bbc.co.uk/2/hi/africa/8025260.stm> (accessed 8th March 2022).

⁶ Human Rights Watch, *Rest in Pieces: Police Torture and Deaths in Custody in Nigeria*, Human Rights Watch Vol.17. No.11A, (July 2005), 18, 25.

described being coerced by police officers to extort arbitrary and huge ‘bail’ money or risk the death of their relatives or prolong jail terms.¹ In some cases, women are told to provide sex as an ‘option’ in lieu of payment for bail or inordinately long jail terms.²

Often, torture is used by the Police to extract incriminating or confessional statements from suspects, and sometimes, the police arrest relations of wanted suspects, detain and torture them in order to force the suspects to surrender to themselves.³ These and many other unwholesome activities of the police in Nigeria led to the famous #EndSARS# protests in October 2020, a popular uprising against police brutality and demand to disband the ‘Special Anti-Robbery Squad’ (SARS), which became the symbol of oppression, suppression and subjugation by the police.

On the eve of these protests, many contradictions existed in Nigeria that alienated the populace from both the ruling class and the security agencies that protect them. Apart from the direct activities of the police, which brutalize the people, the Nigeria police force itself had continued to be a willing tool in the hands of political elite to perpetrate themselves in power and mismanage the common heritage of the people. The inability of the government to address the numerous issues confronting the Nigeria state, and especially affecting the fundamental human rights of citizens snowballed into these protests. This paper intends to examine the link between police brutality and the #EndSARS# protests in Nigeria; it will x-ray the factors that cause extreme behaviour of the Nigeria police and discuss the legal issues surrounding the use of force by the police. Finally, the paper will proffer solutions to the enigmatic problems confronting the police in Nigeria.

The paper adopts the doctrinal research methodology, which involves the use of primary, secondary and tertiary sources. Secondary sources are adopted to analyze statutory provisions concerning the police and policing, the Constitution, international treaties and the Police Act. Generally, it may be difficult to take account of every police action that could result to the use of force; however, this paper attempts to examine some of the cruel attitudes of the police in Nigeria using a holistic approach.

2. Police Brutality and #ENDSARS# Protest in Nigeria

The ENDSARS protest was a popular uprising that demanded an end to brutality from State Security Agencies, focusing on the notorious unit known as SARS (Special Anti-Robbery Squad).⁴ Just before the protests, the SARS had become killer squad that traumatize the psyche of the average youth in Nigeria.⁵ Untold crimes were committed by the squad against Nigeria, especially the youth, and these were covered up without any accountability by the police hierarchy.⁶ Some few examples of the SARS high handedness will suffice.

On 4th July 2018, Linda Igwetu who had just finished her Youth Service in Abuja, barely a day before, was shot by a SARS officer, Benjamin Peters, while on her way home with friends. When rushed to the hospital, the doctor refused to treat her without a Police Report and she died.⁷ On 31st March 2019, Kolade Johnson was killed by a SARS officer, for “looking like a fraudster”. He left his home to watch Liverpool vs. Tottenham Spurs match and never returned. The officer responsible was never held accountable.⁸ On 4th December 2019, Mus’Ab Sammani, a graduate of computer Science, was killed over a minor misunderstanding in Kano State. The SARS officer that shot him was finally brought to justice.⁹ On 24th February 2020, Tiyamiu Kazeem, a Footballer in Remo Stars was stopped by SARS officials and as they forcefully tried to take him into custody, he fell out of the SARS vehicle and was ran over by a moving car. The team of SARS officers were not made to face the law.¹⁰ In October 2020, reports of an unprovoked shooting of a boy in the streets of Delta State by SARS operatives were shared on social media. Although the Nigerian Police denied the shooting, it was not enough to quell public anger as more videos of police shootings were shared across social media platforms sparking off the protests against SARS. Celebrities and activists rallied for support on Twitter, Instagram, and

¹ Amnesty International, *Nigeria You Have Signed Your Death Warrant: Torture and Other Ill-Treatment in the Special Anti-Robbery Squad*, (Amnesty International Report, AFR 44/1657/2016, 2016) 15-16.

² *Ibid*, 18; I. Chukwuma, ‘The Legal Structure of the Police and Human Rights in Nigeria’, (1996) *Third World Legal Stud* 41, 51-52.

³ Human Rights Watch, above (n 6) 32.

⁴ BBC, End Swat: Nigerians reject police unit replacing hated Sars, BBC News (October 14, 2020), <https://www.bbc.co.uk/news/world-africa-54531449>; BBC, End Sars: How Nigeria’s anti-police brutality protests went global, BBC News (October 16, 2020), <https://www.bbc.co.uk/news/world-africa-54575219>.

⁵ Amnesty International (2020) “SARS Operatives Since the National Assembly passed the Anti-Torture Act of 2017” Amnesty international, June, 2020.

⁶ *Ibid*.

⁷ O. Abombola, ‘Policeman Allegedly Kills Abuja NYSC Member a Day to Passing Out’, The Punch Newspaper, 5th July 2018, available at: <https://punchng.com/policeman-allegedly-kills-abuja-nysc-member-a-day-to-passing-out/>

⁸ M. Olowoporoku, ‘How SARS Officer Murdered Kolade Johnson – Witness’, PM News, 22nd December, 2020, available at: <https://pmnewsnigeria.com/2020/12/22/how-sars-officer-murdered-kolade-johnson-witness/>

⁹ A.A. Maishanu, ‘Court Awards N50 million Compensation over Death of Detainee in SARS Custody’, Premium Times News, 12th November 2021, available at: <https://www.premiumtimesng.com/news/top-news/494986-court-awards-n50million-compensation-over-death-of-detainee-in-sars-custody.html>

¹⁰ D. Olatunji, ‘How SARS Caused Death of Remo Stars Footballer – Eyewitness’, Punch Newspaper, 24th February, 2020, available at: <https://punchng.com/how-sars-caused-death-of-remo-stars-footballer-eyewitness/>

Facebook and, in a matter of days, protesters lined the streets of Lagos, Abuja and other main cities in the country demanding an end to SARS calling for compensation of victims of SARS brutality, retraining of police officers, and trials of indicted SARS officials.¹

The EndSARS protests led to many incalculable economic damages; properties worth millions of naira were damaged and set ablaze between 16th October and December, 2020.² The Lekki Toll Gate was totally destroyed; the Television Continental, Ketu, Lagos and BRT (Bus Rapid Transit) Terminal, Ojodu, Lagos were set ablaze. The Oba's Palace, Lagos, Ojo and Ajeromi Local Government Secretariat, and Shoprite Ajah were set ablaze. Similar sporadic destruction took place in other major cities in Nigeria, including the Federal Capital Territory Abuja, Jos, Kano, Anambra and Imo states.³

Politically, the uprising not only threatened peace, security and stability, but it also exposed the ruling government to overthrow by the people leading to unconstitutional change of government. There was apparent loss of lives and properties in most cities of the Federation. Hoodlums used the opportunity to maim and settle scores with political enemies.⁴

3. Causes of Police Brutality and Extrajudicial Killing in Nigeria

3.1 Constitutional factors

The word "force" as a nomenclature attached to the Nigeria Police Force contained in section 214(1) of 1999 Constitution of Nigeria as amended appears to be problematic. Psychologically, since 'force' is part of the name given to the police in Nigeria, there is the tendency that whenever the Police wants to operate, 'force' may be the ultimate way of enforcing arrests or maintaining peace. There is a dire need to remove the word 'force' from the name of the Nigeria police.⁵

Generally, section 33 of the 1999 Constitution guarantees the right to life, therefore, it is doubtful if the construction of sub-section (2)(b) of the same section guarantees the very right it protects in the first place, if it allows life to be taken to enforce arrest or prevent escape from lawful custody. The same inelegant drafting is found in section 271 of the Criminal Code, which confers the power of forcible arrest on the police in an even more barbaric and unjust manner. This is in contrast to section 36(5) of the 1999 constitution, which recognizes the rights to presumption of innocence and fair hearing of a suspect. Both section 33(2)(b) of the constitution and section 271 of the Criminal Code seem to give law enforcement agents statutory backing to indulge in extrajudicial killing of suspects.⁶ Similarly, Force Order 237, which allows shooting of suspects to avoid escape,⁷ clearly embolden police officers to indiscriminately use force in questionable circumstances. When a suspect or detainee poses no immediate danger to the officer or public, there is no need to apply violence to the extent of causing harm unless it is clear that the suspect is armed and there is every likelihood he poses danger to lives of those around, then the use of force may be justified.⁸

It is submitted that section 33(2)(b) of the Constitution and section 271 of Criminal Code be amended to introduce a proviso to limit the use of force by police officers for arrest only in reasonable circumstances to save lives. On the other hand, Force Order 237 may be replaced with the provision that use of lethal force is only accepted under inevitable situations. Use of force in confronting innocent citizens should be limited to non-lethal weapons such as rubber, wood or polyurethane bullets, tasers and pepper spray.⁹

3.2 Disrespect for Rule of Law

A socially and politically disorganized society is a fertile ground for crime and criminality.¹⁰ Consequently, rule of law involves a system whereby laws are implemented in accordance with established processes.¹¹ In a country

¹ A.R. Uwazuruike, '#EndSARS: The Movement Against Police Brutality in Nigeria', (2020) *Harvard Human Rights Journal* (Online), available at: <https://harvardhrj.com/2020/11/endsars-the-movement-against-police-brutality-in-nigeria/>

² O.I. Brigid and M.K. Chinonso, 'Effect of the ENDSARS Protests on the Nigerian Economy', (2021) 9(3) *Global Journal of Arts, Humanities and Social Sciences*, 3-5; BusinessDay, (2020). "How EndSars Crises Impact Nigerian Financial Market Economy". BusinessDay report, October, 22nd 2020.

³ VOA, "Destruction at the EndSARS Protest in Jos, Nigeria", 21st October 2020, available at: <https://www.voazimbabwe.com/a/destruction-at-an-end-sars-protest-in-jos-nigeria-/5629979.html> (accessed March 10th 2022).

⁴ Guardian, '#EndSARS Protests: Counting the Losses and the Gains', 24th November, 2020, available at: <https://guardian.ng/features/endsars-protest-counting-the-losses-and-the-gains/>

⁵ G.O.S. Amadi, '*Police Powers and the Rights of Citizens in the Nigeria Criminal Justice System*', (Unpublished Ph.D. Thesis, Faculty of Law, University of Nigeria, 1993), 842.

⁶ C.M. Onuegbulam, '*Extrajudicial Killing and its Challenges to the Nigerian Criminal Justice Process*', (Unpublished LL.M Dissertation, Faculty of Law, University of Nigeria, Enugu Campus, 2013), 100.

⁷ Rule 3, Force Order 237, Rules for Guidance in Use of Firearm by the Police, available at: https://www.policinglaw.info/assets/downloads/Nigerian_Police_Force_Order_237.pdf

⁸ See the case of *Omoregie v. The State*, [2008] 35 N.R.N.181, where the court held that self-defence has no limits where it applies.

⁹ Warren Cohen, "When Lethal Force Won't Do", *U.S. News and World Report*, (June 23, 1997), 12.

¹⁰ E. Buscaglia and J. Dijk, 'Controlling Organized Crime and Corruption in the Public Sector', (2003) 3(1-2) *Forum on Crime and Society*, 1—12.

¹¹ A.V. Dicey, *Introduction to the Study of the Law of the Constitution*, 10th ed., (London: MacMillan & Co. Ltd., 1961), 202.

where rule of law is respected and observed, the law is king.¹ In Nigeria, the rule of law has been relegated to second place in the affairs of the state, as arbitrary use of power, subjugation of the populace and rule of the mighty appears dominant.² The logic of the rule of law itself is interpreted in the reverse in Nigeria. A person who has committed an offence in Nigeria gets away with it so long as he has the financial muscle and right connection with people in authority.³ The reverse is the case even for the innocent person. The law enforcement agents take laws into their hands not only to prosecute but also to persecute persons who are suspected of committing crimes no matter how flimsy suspicion, if they are indigent and not well connected. Sometimes, the police and other security agencies go as far as executing suspects in their custody extrajudicially without any serious repercussion, making the rule of law look more like a legal fiction than reality in Nigeria. A good example of the case of *Aliyu Bello v. A.G. Oyo State*⁴ where an accused who was sentenced at the High Court and Court of Appeal to death for Armed Robbery, was hurriedly executed while his appeal was still pending before the Supreme Court. The Court held that the hurried execution of the accused facing a death sentence during the pendency of his appeal was a 'reckless disregard for the life and liberty of the subject and the principle of the rule of law' and therefore was 'unconstitutional and unlawful'.⁵

3.3 Arbitrary use of Vigilante Groups and Private Security

The use of vigilante and local militia has become a fact of everyday life in Nigeria, in the face of inadequate federal police personnel presence and equipment.⁶ Local communities, local governments and even state governments have turned to these vigilante groups and militia to ensure security of lives and property in the face of growing insecurity in the country.⁷ The problem with these porous security arrangements is that the vigilante and militia often are not trained professionals and so they indulge in all manner of methods to extract information and confession from suspects, in the process violating their fundamental human rights in diverse ways, including torture, deprivation of personal liberty, and even loss of life.⁸

In other places where the federal police presence is guaranteed, there is still the problem undue influence on the security system by the so-called 'big men' and political elite, who dictate to those to be arrested, detained and prosecuted. The police hierarchy are bribed and subjected to the whims and caprices of the political class, no matter how callous and crude their wishes may be. In addition, the political class use their authority to maneuver appointments and dismissal of police chiefs in order to control them within their domains, thereby infringing on police independence.⁹

For instance, it is argued that role of police officers attached to serving public office holders, such as state governors, be clarified to avoid their use as instrument of terror against political opponents.¹⁰ Proliferation of vigilante groups in Nigeria has led to weaponization and militarization of the society, which has introduced other vices including ethnic militias and communal clashes and banditry.¹¹ Some of these groups have metamorphosed into party thugs and champions of their founder's interest whether or not it aligns with the interest of the society.

3.4 Inordinate Political Ambition and Violence

Politics in Nigeria is seen as an opportunity for self-aggrandizement and accumulation of wealth rather than service to the people.¹² As a result, the political class consider access to political office as a do or die affair, which must be taken with or without the people's mandate. Opponents must be eliminated or outsmarted through threats and violence engineered by political thugs, mercenaries and killer squads.¹³ Electioneering campaigns in Nigeria are replete with intimidation, violence, kidnapping, assassination, rigging and all manner of election malpractices.¹⁴ The police is always at the centre of this confusion to execute the wishes of the

¹ B. Tamanaha, 'The History and Elements of the Rule of Law', (2012) *Singapore Journal of Legal Studies*, 232-247.

² E.V. Efebeh, 'Democracy and the Rule of Law in Nigeria: 1999 – 2015', (2015) 5 *Research on Humanities and Social Sciences*, 72-79.

³ *Ibid*, 76-77.

⁴ (1986) 5 NWLR (Pt. 45) 828.

⁵ *Ibid*, 851, 869 per Aniagolu, JSC and Bello JSC respectively. See E.M. Akpambang, 'Right to Life: Tackling the Little Foxes that Spoil the Vine', (2018) 9(1) *NAUJILJ*, 85-86.

⁶ V. Felbab-Brown, *The Greatest Trick the Devil Played was Convincing Nigeria He Could Protect Them: Vigilante Groups & Militias in Southern Nigeria* (New York: United Nations University, 2021), 8-10, available at: http://collections.unu.edu/eserv/UNU:8285/UNU_SouthernNigeriaVigilantes.pdf

⁷ *Ibid*, 5-12.

⁸ *Ibid*, 19-22, 32-34, 41.

⁹ Onuegbulam, above (n 22) 100.

¹⁰ C.S. Ibekwe, 'Presidential Control of the Nigeria Police: Constitutional Reforms for Organizational Performance Development and Political Neutrality', (2020) 8(2) *Global Journal of Politics and Law Research*, 65-79, 71

¹¹ O.C. Abden, 'Public Perception of the Services of Vigilante Groups in Anambra State', (2017) 9(1) *International Journal of Religion and Human Relations*, 80-84, 96.

¹² U.G. Ikechukwu, 'Political Nomadism and Its Implications on Political Development in Nigeria: A Critical Analysis', (2015) 9 *Journal of African and Asian Studies*, 75-85.

¹³ *Ibid*.

¹⁴ H.P. Faga, 'The Impact and Legal Consequences of Electoral Violence on Nigeria's Nascent Democracy', (2018) 1 *Edwin Clark University*

incumbent government and political parties.¹ Some documented examples will suffice to show the deep involvement of the police in the political struggle for government offices in Nigeria. In 2004, the police were instrumental to the kidnapping and overthrow of the sitting governor of Anambra state on the instigation of a political godfather. Although, the governor was eventually rescued and reinstalled, both the godfather and the police hierarchy involved in the saga went scot-free.² In 2013, despite the presence of heavily armed policemen, thirty persons died on the campaign train of the All Progressive Grand Alliance (APGA) in circumstances that implicated the police.³

Similarly, in March 2011, four members of the Congress for Progressive Change (CPC) were killed by policemen at Masallachin Jumaa Area of Jos. The incident happened during the Presidential rally in the present President, who was then an opponent figure when the police shot at the flag-waving crowd who wanted to have a glimpse of their Presidential candidate thereby killing four of them instantly.⁴

4. Factors that Determined Police Use of Deadly Force in Nigeria

Police brutality in a given society is a function of the level of violence and sophistication of crime and criminality in it. A large number of policemen are either killed or permanently deformed during encounter with criminals. The alarming rate of attacks and killing of policemen is saddening. It reflects a direct attack on the society. An unprotected police cannot protect the society.⁵ The following seven factors can be described as the circumstances that can lead to police shootings either in self-defence or for purposes of defending the society

- (a) *Violence levels:* The higher the levels of violence in a community, the more likely police in the area will use deadly violence. A number of studies have found that fatal police shootings were closely related to reported violent crime rates and criminal homicide rates.⁶ Police officers kill civilians at a higher rate in communities and countries where the general level of violence is higher. The perception of danger may contribute to the use of violent means for self-protection.⁷
- (b) *Exposure to violence:* Police officers may become exposed to violence when they are forced to confront emotionally disturbed persons. Some distraught people attack police as a form of suicide. This tragic event has become so common that the term ‘suicide by cop’ has been coined to denote victim-precipitated killings by police.⁸ For example, during a 10-year period (1988 – 98) more than 10 percent of the shootings by police officers in Los Angeles involved suicidal people intentionally provoking police.⁹
- (c) *Work load:* A relationship exists between police violence and the number of police on the street, the number of calls for service, the number and nature of police dispatches, the number of arrests made in a given jurisdiction, and police exposure to stressful situations.¹⁰
- (d) *Firearms availability:* Cities that experience a large number of crimes committed with firearms are also likely to have high police violence rates. A strong association has been found between police use of force and gun density (the proportion of suicides and murders committed with a gun).¹¹
- (e) *Social conflict:* The greatest numbers of police shootings occur in areas that have significant disparities in economic opportunity and high levels of income inequality.¹² David & Jason¹³ for instance, noted that “the presence of an African-American Mayor significantly reduces the likelihood of police-citizen violence” in the United States. They concluded that economic disadvantage within the minority community coupled with political alienation leads to a climate in which police-citizen conflict is sharpened. Politically excluded groups may turn to violence.

Law Journal, 81-94.

¹ O.O. Olutola, ‘Security Agents and the Elections Security in the 2015 Nigeria’s General Election’, (2019) 30(2) *Journal of Education, Society and Behavioural Science*, 5-8.

² N.J. Madubuike-Ekwe and O.K. Obayemi, "Assessment of the Role of the Nigerian Police Force in the Promotion and Protection of Human Rights in Nigeria," (2019) 23(1) *Annual Survey of International & Comparative Law* 30; Agbo Madaki, *The Nigerian Police Force and the Promotion and Protection of Human Rights in Nigeria*, 3(1) COM. & INDUS. L.J. 302 (2012).

³ Famzn, “Bloody Campaign in Anambra: 30 Ngige Supporters Die at APGA Campaign Stop”, Famzn News, November 2013, available at: <https://famzn.com/bloody-campaign-in-anambra-30-ngige-supporters-die-at-apga-campaign-stop-photos/> (accessed 3rd March 2022).

⁴ S.O. Akhaine and B.U. Chizea, (eds.), *State of Human Rights in Nigeria*, (Abuja: Centre for Constitutionalism and Demilitarization, CENCOD, 2011), 243.

⁵ C. I. Nmerole, *Police Interrogation in Criminal Investigation*, (Minna, Nigeria: Halygraphy Nig. Ltd, 2008), 26

⁶ M.D. White, ‘Identifying Situational Predictors of Police Shooting Using Multivariate Analysis’, (2002) 25(4) *Policing: An International Journal of Police Strategies and Management*, 726-751.

⁷ J. MacDonald, G. Alpert and A. Tennenbaum, “Justifiable Homicide by Police and Criminal Homicide: A Research Note”, (1999) 22 *Journal of Crime & Justice*, 153.

⁸ A. Jordan, N.R. Panza and C. Dempsey, ‘Suicide by Cop: A New Perspective on an Old Phenomenon’, (2019) 23(3) *Police Quarterly*, 82-105.

⁹ H. R. Hutson, ‘Suicide by Cop’, (1998) 32(6) *Ann Emerg. Med.* 665-669.

¹⁰ L. J. Siegel & J.J. Senna, *Introduction to Criminal Justice*, 10th ed., (Belmont, CA: Thomson Wadsworth, 2005), 225.

¹¹ White, above (n 47).

¹² *Ibid.*

¹³ D. Jacobs and J. Carmichael, “Subordination and Violence against State Control Agents: Testing Political Explanations for Lethal Assaults against the Police”, (2002) 80 *Social Forces*, 1223.

- (f) *Administrative policies:* The philosophies, policies and practices of individual police chiefs and departments significantly influences the police use of deadly force. Departments that stress restrictive policies on the use of force generally have lower shootings rates than those that favour tough law enforcement and encourage officers to shoot when necessary. Poorly written or ambivalent policies encourage shootings because they allow the officer at the scene to decide when deadly force is warranted, often under condition of high stress and tension.¹
- (g) *Race/ethnic sentiments:* No other issue is as important to the study of the police use of deadly force as that of racial and ethnic discrimination and sentimental attachments. In a racially diverse society, critics argue that police are more likely to shoot and kill minority offenders than they do to whites.² In the Nigerian society where ethnicity is more prevalent, the same logic seems to apply where police may deploy violence against ethnic minorities in different states of the federation.

5. How to End Police Brutality and ENDSARS Protests

In other to maintain international best practices and reduce police brutality and excessiveness largely, these measures if implemented could be a way forward. However, to avoid staccato, this paper shall provide solutions to end Police Brutality and EndSARS Protests in Nigeria and the points mentioned hereunder can be treated interchangeably.

a) *Constitutional review*

We have already noted above that sections 214(1) and 33(2)(b) of 1999 Constitution, and section 271 of Criminal Code, are inelegantly drafted to impliedly confer unlimited power on the police to take life in circumstances in which restraint on use of force ought to be observed. It is submitted that these provisions should be reviewed and re-drafted to protect the right to life of everyone. Consequently, this paper suggests that section 33(2)(b) of the Constitution be re-drafted to allow use of deadly force against a suspect only when he is armed with dangerous weapon and there is likelihood that he would use it to facilitate his escape.

“Nigeria police force” in section 214(1) of 1999 Constitution should also be re-drafted to read, “Nigeria Police Service”, while section 271 of the Criminal Code should be re-drafted thus:

When a peace or police officer proceeding lawfully to arrest, with or without warrant, a person for an offence which is a felony and is such that the offender may be arrested without warrant, and the person sought to be arrested takes to flight in order to avoid arrest, it is lawful for the peace or police officer and for any person lawfully assisting him, to use such force as may be reasonably necessary to immobilize him as to catch him alive. The use of deadly force is allowed only if the offender poses a danger to human life and there is no other means of immobilizing or stopping his escape from custody.

It is further submitted that Force Order 237 be redrafted to provide that “use of lethal force should be allowed if it is strictly inevitable to protect life”. These provisions contradict legal guarantees of presumption of innocence of an accused. The law cannot stand to contradict itself otherwise, it would make nonsense of itself, which is not the intendment of the law.

b) *Abolition of Torture and Strengthening of Enforcement Measures to Protect the Rights of Suspects*

Torture as a means of extracting truth from suspects has to be abolished and criminalized. Law enforcement agents should be banned from using torture as part of their strategy against suspects. They should also be banned from killing crime suspects under their custody outside reasonable self-defence or defence of life. The constitutional rights of a suspect must be respected. So many lives have been lost through torture in police cells, National Drug Law Enforcement Agency (NDLEA) cells and vigilante groups.

c) *Proper Forensic Investigatory Training and Facilities for Law Enforcement Agents*

Every law enforcement personnel should as a matter of necessity undergo proper forensic investigatory training for better efficiency in the discharge of his duty. More so, the police on whose shoulders lie the bulk of criminal investigation, record of crime scenes prior to removal of objects, safe preservation of evidence and use of valid evidence in prosecution strongly needs to be provided with forensic facilities, to conduct certain necessary scientific test on evidence adduced.

d) *Strict Control on the Procurement of Arms and Weapons*

The Federal Government has to exert tougher control measures on state and local government procurement of weapons. In this way, all official and individual arms acquired whether for professional or personal use must be properly reported and licensed. Therefore, all monetary allocations to state government for peace and security must be audited to ensure they have not been used for private gains. In that case, custom officials especially those at the borders must be warned on what and who, they allow into the country because, most of these

¹ Siegel & Senna, above, (n 51), 225.

² P. Takagi, “A Garrison State in a Democratic, Society”, (1974) 5 *Crime and Social Justice*, 34. See also M. Blumberg, “Race and Police Shootings: An Analysis in Two Cities”, in James Fyfe, (ed.), *Contemporary Issues in Law Enforcement*, (Beverly Hills, Calif.: Sage, 1981), 152.

sophisticated weapons are not produced in Nigeria.

e) Proaction of the Judicial System

While we appreciate the efforts of most judges and Magistrates in Nigeria who are devoted to their judicial functions, it is our opinion that to check extrajudicial killing the Judiciary has to be proactive. Appointments to judicial position should be based on merit and competence to avoid the frustration of unnecessary adjournments without compromising the integrity of the office at the altar of injustice and bribery. This will help to discourage law enforcement agents from engaging in extrajudicial killing.

f) Maintenance of best practices

Police brutality or extra-judicial killings violate the right to life as enshrine in section 33 of the Constitution of the Federal Republic of Nigeria 1999, Article 4 of the African Charter on Human and Peoples Rights (ACHPR) and Article 6 of the International Covenant on Civil and Political Rights (ICCPR). As a result, the hierarchy of the police and all authorities concerned with security in Nigeria must ensure full-scale investigation into any event of extra-judicial killing in the line of duty with the view of bringing any violators of the rules of engagement to justice, as solution to police brutality.

The Police and other Law Enforcement Agencies need to abide by the internationally recognized rules of engagement for internal security operations, which are derived from the international human rights law and are in accordance with the international principles guiding the use of Force.

g) Restructuring of the Police Force

There is need to reform and restructure the Nigeria Police Force and look at possible areas of amendment in the enabling legislations on police powers and functions, including the 1999 Constitution of Federal Republic of Nigeria, the Police Act, the Nigeria Police Trust Fund Act, the Administration of Criminal Justice Act, the Anti-Torture Act and the National Human Rights Commission Act.

A new salary structure of members of the Nigeria Police Force should be put in place to enhance Police Welfare. The minimum entry requirement for new police recruits should be a University degree. The Nigerian Police Act, 2020 did not state the minimum qualification for recruitment into the Nigerian Police Force. In the Arlington, Texas Police Department of the U.S.A., in 1986, a bachelors degree was required for new recruits with prior police experience.¹ In 1999, a master's degree requirement was instituted for promotion for Assistant Chief of Police.² The essence was to have officers, who are more flexible, more understanding of human behaviour, more sensitive to community relations and less authoritarian.³

h) Retooling of the Police Force

The Police need to train and retrain its officers to imbibe current police philosophies and operations. Experts in the different sphere of human relations should be brought occasionally to teach new recruits. It is wrong when policemen without legal backgrounds are allowed to teach criminal law to new recruits in the Police College. A Police Court should be established to handle cases of police brutality and other police excesses speedily.

i) Increase in Government's Sensitivities

With the litany of problems in Nigeria and its concomitant effects that resulted to EndSARS protests in Nigeria, perhaps, one of the solutions is for government to take proactive measures against the police insensitivities. Police personnel should be held responsible for their actions and appropriate measures given to the police officers that are responsible for extrajudicial killing.

The restructuring of the socio-economic and political landscape of Nigeria could be helpful. Consequently, the Security Agencies need to be decentralized or regionalized to ensure better services. The tenets and philosophy of community policing needs to be imbibed to ensure compliance with human rights standards.

6. Conclusion

There no doubt that the Nigeria police force exists to provide security and enforce law and peaceful co-existence in Nigeria. In the course of performing their lawful duties, the police often times exceed the powers given them in the law or act ultra vires these powers and as a result violate the rights of the very citizens they are created to protect. Various factors are responsible for this unfortunate impasse. This paper examined the immediate and remote causes of police brutality and the #EndSARS# protests that ensued. These protests have shown that the Police may no longer enjoy the confidence of the citizens especially the youths and demonstrated that the Police and other government units can be called to order. Certain constitutional and legal provisions appear to encourage the police rascality and impunity, including the use of the nomenclature 'force' in the name of the Police in Nigeria, disrespect for the rule of law, inordinate ambition of the political class, weakness of the judiciary and lack of training of the police institution in Nigeria.

Although there are circumstances permissible by law when police can use reasonable force such as in self-

¹ A.L. Baro and D. Burlingame 'Law enforcement and higher education: is there an impasse?' (1998) 10(1) *Journal of Criminal Justice Education*, 57-78.

² T. Bowman, "Educate to elevate", (2002) *Community Links*, 11-13.

³ D.L. Carter and A.D. Sapp, 'Higher Education as a Policy Alternative to Reduce Police Liability', (1990) 2 *Police Liability Review*, 1-3

defence, Nigerian laws did not define ‘reasonableness’. What is reasonable in a particular circumstance may not be in another situation. To end Police brutality, the entire Police Force need to be retooled and overhauled. The psychology and mental disposition of the police need to be looked revamped. Perhaps, if University degree is made the minimum qualification for recruitment into the police force, it may reduce excessive ruthlessness of the Police because education has a way of making a person more dynamic and reasonable. The establishment of a Police Court to speedily prosecute erring police officers may be useful to end police brutality.

On the #EndSARS# protest, the government of Nigeria may be required to x-ray the litany of demands of the Youths and look at the issues that are implementable especially the amendment of the Constitution to entrench regionalism of the federating states and by extension the Nigeria police force, reduction of high budgetary allocation to the National Assembly and improvement of the welfare of the Police. If one accepts that legal science includes not only the techniques of interpreting the texts, principles, rules and standard of a natural system, but also the discovery of models for preventing or solving social conflicts, then this paper can provide a good range of model solutions to prevent police brutality in Nigeria.

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