

## **An Analytical Approach to Police Reform - Policy Recommendations**

The #EndSARS and #EndPoliceBrutality protests in Nigeria have highlighted the commonly known fact that the Nigerian Police Force (NPF) is not only an inefficient organization incapable of performing its core functions, but also a brutal organization capable of inflicting untold pain and hardship on the very people it is to protect. The instances of brutal violations of the rights of the Nigerian public across the country emphasize the need for the immediate reform of the NPF. Such a reform must go beyond the scope of the Police Reform Act recently signed into law by President Muhammadu Buhari. The objective of such reforms should be to create a humane and citizen friendly force capable of preventing and resolving crime.

### **SCALE OF THE PROBLEM**

In its report titled "*NIGERIA: Time to End Impunity, Torture and other Violations by Special Anti-Robbery Squad (SARS)*", Amnesty International reported a minimum of 82 cases of torture, ill treatment and extra-judicial executions committed by SARS officers between January 2017 and May 2020. The report also states that no official had been charged to Court or tried for any of the atrocities committed in this time.

This report focused on the activities of SARS officers, as this unit is representative of the widespread rot, inefficiency, lack of accountability and violation of human rights as well as the extortion, illegal and prolonged detention of suspects without trial or court orders that characterizes the NPF as a whole.

Given the spate of violence, and the level of degeneration in the body polity, one may be right to conclude that the Nigerian Police have exhibited inadequacies, and demonstrated incapacity to effectively enforce the law and maintain order in the society. It is no longer safe to walk alone even during the day. Robberies, assassination, arson, looting of public treasury, and child-theft amongst other vices, have become the rule rather than the exception.

The fact of the frequent use of torture and extra-judicial murder by police officers in spite of Nigeria being signatory to a number of international treaties, such as the African Charter on Human and People's Rights (ACHPR), the International Covenant on Civil and Political Rights (ICCPR), the International Convention for the Protection of All Persons from Enforced Disappearance, and the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT); or the existence of local laws such as the Anti-Torture Act 2017 is deeply disturbing.

It is important to stress that these activities are often used as tools with which to extort innocent Nigerians on trumped up charges. Young people between the ages of 17 and 30 are most at risk of arrest, torture or extortion by SARS. They are often accused of being internet fraudsters and/or armed robbers. Young men with dreadlocks, ripped jeans, tattoos, flashy cars or expensive gadgets are frequently targeted by SARS.

In many cases, there is also a substantial use of these tactics to elicit information and/or confessions from people arrested on the suspicion of committing crimes. This second issue raises 2 substantial problems where the evidence elicited cannot be relied on by a court in reaching its verdict or where innocent people confess to crimes leaving the real culprits to escape justice.

Given the sheer scale of the problem, the question is of course: What to do? We shall below outline a combination of these short, medium and long terms steps that can and must be taken to reform the police for greater efficiency.

#### IMMEDIATE/SHORT TERM MEASURES

A. The government can immediately do an audit of all SARS formations and police commands across the country, and release all detainees held for more than a month without a court order. While Section 36 of the Constitution of the Federal Republic of Nigeria (CFRN) provides that a person accused of an offence shall be granted fair hearing within a reasonable time, the reality is very different. Of the 73,726 people detained in correctional facilities across the country 51,983 - about 70% of that number - are currently awaiting trial. Only 22,773 of them have been convicted. There are no figures available for the number of people detained in police stations or tactical unit formations in the country.

This presents two significant problems, one of which must be resolved in the long term. First, the continued detention of people in SARS facilities will do nothing to shore up public confidence. Second, the lack of data for detainees is a problem that must be resolved in the long run as it enables detention for long spells and the extra-judicial murder/disappearance of people arrested by the police. No democracy committed to the security of its citizens can tolerate citizens 'being disappeared'.

Such an audit can be done in conjunction with the National Secretariat of the Nigerian Bar Association (NBA) and its 36 state chapters. A committee set up in this regard can visit the various police formations, review the cases against detainees, examine the evidence

available on a case-by-case basis then make recommendations for their release where necessary.

B. Over the past 14 days, about 21 people have been killed in a number of incidents in various protests across the country. This excludes the number of casualties from the forced dispersal of protesters gathered at the Lekki Toll Gate in Lagos by soldiers allegedly from the 65<sup>th</sup> Battalion stationed at the Bonny Cantonment, Victoria Island, Lagos.

At the time of writing this, no police officer has been dismissed, arrested or prosecuted for these killings. Over the years, the failure or refusal of the police authorities to bring erring police officers to justice has eroded public confidence. A quick win will be to immediately arrest all police officers involved in the deaths of protesters and bring them to trial.

The police authorities can also immediately set up a panel to receive evidence of wrongdoing of other police officers who have been accused of high-handedness and professional misconduct under various laws including the Anti Torture Act 2017.

C. Immediate de-escalation of policing tactics for public protest marches.

D. The police authorities could enforce a directive withdrawing all police officers from security details for VIPS and high-ranking government officials and celebrities nationwide. It is estimated that approximately 100,000 policemen, roughly 27% of the entire force, are deployed to such details. This directive has been announced several times in the past without enforcement. It is imperative that this directive is enforced now as the return of such a number of policemen to active operations will go a long way in improving police performance of its core functions.

It is estimated that the Nigerian Police Force currently has 377,000 officers for its approximately 200million people. This spells a ratio of 1 policeman to 554 citizens as against the United Nations (UN) recommended ratio of 1 policeman to 450 people. On the surface, this points to the fact that Nigeria is under-policed and in need of immediate recruitment of police officers to improve its police officer to citizen ratio.

However, when one considers the multiplicity of security agencies such as the Nigerian Security and Civil Defence Corps (NSCDC) and the Federal Road Safety Corps (FRSC). These agencies all perform functions which ought to be within the core functions of the NPF. If their

staff strengths are considered and added to the staff strength of the NPF, the possibility actually exists that Nigeria is adequately policed, or possibly over-policed. The challenge preventing an assertive conclusion in this regard is a lack of publicly available data regarding the staff strength of these two agencies.

## PROPOSALS FOR MEDIUM/LONG TERM POLICY ON POLICING

### **Significant De-Politicization**

There has to be a significant de-politicization of the NPF. For decades, the NPF has acted as a tool for the attainment of the objectives of the political leaders and Nigeria's wealthy elite acting as though its primary objectives are regime security and class preservation rather than the performance of its duty as an agency empowered by law to protect the Nigerian citizenry, and prevent or resolve crime.

According to Oliver Owen in his signal study on the Nigerian Police Force:

Political interference undermines the cohesion,

“Political interference undermines the cohesion, effectiveness and performance of the Nigerian Police Force (NPF). If public see the police as partisan, this will deeply impact their trust permanently. The centralized and hierarchical accountability structure of the NPF renders it vulnerable to political interference, and certain officers may compromise their professionalism to curry political favour in the hope of future career advancement. The tone is set from the top – when politicians restrain political considerations and promote police leadership in order of seniority, this helps to depoliticize the whole system. Conversely, when officers perceived as ‘politically connected’ are advanced over seniors, this incentivizes other junior officers to make similar alliances which compromise their independence.”

David Jimebewon, Former Minister of Police Affairs, puts it this way.

“Here in Nigeria, police arrests a man (and) before you know it, one Alhaji, one Reverend or one Chief will be phoning. The offender himself will prostrate on the road, or the affluent one will bribe his way.”

Anecdotal evidence would have it that the politicization of the Police is seen during elections

when they are deployed across the country for political gain. On many occasions, particularly in the last few years, many police officers have gained notoriety for the brazen manner in which they have attempted to skew the electoral process to curry favour from the dominant political players in the area of their deployment.

This problem is founded in the power given by Sections 215(1)(a) and 216(2) of the Constitution to the President to appoint and remove the Inspector General of Police (IGP) at will, even though the Constitution requires him to consult with the National Police Council to do so. This lack of security of tenure weakens professionalism within the NPF and creates an incentive to compromise on their ethics in order to preserve their jobs.

It is recommended that the Constitution be amended to achieve two goals:

- Put the power to hire and fire the IGP in the National Police Council subject to confirmation by the Senate.
- Guarantee security of tenure for anyone appointed as IGP subject to the power of the Senate to remove him on certain grounds and only upon following certain criteria.

The weaponization of the police has also extended to the police budget for the purchase of equipment being skewed to procure military grade weapons and equipment such as fitting its Bell helicopter fleet to carry 7.62mm machine guns.

In addition, standard arms issued to policemen in Nigeria are often assault rifles, mostly AK-47 – even though there have been recent issuances of the IWI Tavor Tar 21. On the other hand, Crime Combating Units (CCU) within the Operational Response Service of the South African Police Service are primarily issued a 9mm Z88/Beretta pistol or a 12-gauge pump action rifle and rubber bullets with the heavier arms reserved for Special Task Forces.

### **Coherent De-Militarization**

There is a concerted need to de-militarize policing in Nigeria. As insecurity has risen in Nigeria, the military has been actively deployed to 35 states to tackle security threats that should ordinarily have been left to the police. This level of troop deployment, a hangover from several years of military rule, raises concern for two primary reasons:

a. the military is trained in the art of warfare and not policing, and is therefore ill equipped to prevent or resolve crime. As a result, it is often unable to gather the sort of intelligence required for modern policing instead relying on the use of force to compel compliance with orders. Of particular concern is the fact that the military has no training in crowd management at public gatherings and protests. A very ready example can be found in the chaos that arose from the deployment of troops to dispel #EndSARS protesters camped at the Lekki toll gate on October 20, 2020.

b. As a result of the deployment of troops, funds and other resources which ought to have been channeled towards the police are rerouted towards equipping and maintaining the military.

The militarization of policing does not only involve the deployment of troops for internal security operations. It also involves the use of military tactics in internal security operations by the police.

To resolve this challenge, it is recommended that Nigeria copies systems from other countries that severely restrict troop deployment within the country and reserve internal policing strictly for the police. A solid example can be seen from the restrictions placed by the German Basic Law on the deployment of the *Bundeswehr* - the German Military - for internal security operations.

The foundation for these restrictions is laid in the provisions of the Basic Law to the effect that

“Except for defense, the armed forces may only be used insofar as this Basic Law expressly allows it.”

The Basic Law goes on to provide that:

“To avert an impending danger to the existence or the free democratic basic order of the Federation or a Land, the Federal Government can, if the requirements of Article 91 paragraph 2 are met and the police forces and the Federal Border Guard are insufficient, to deploy armed forces to support the police and the Federal Border Guard in protecting civilian objects and in combating organized and militarily armed insurgents.”

These provisions have been interpreted to mean that save for imminent threats that constitute a danger to a “free democratic basic order” by “organized and militarily armed insurgents”, there are severe restrictions on the deployment of the military for internal security operations.

For a deployment of the *Bundeswehr* with sovereign powers and, if necessary, with military weapons, a “major terrorist situation” must in fact be so extensive that an unusual exceptional situation can be assumed. However, this is then defined by the federal government and the states. The decisive factor here is that the *Bundeswehr* cannot act independently in such cases – but always only on request and therefore under the command of the respective federal state (or several countries) that the armed forces request for support. So what exactly soldiers should do is not decided by a military commander, but by the civilian police chief or the state interior ministry.

That said, states are permitted to request the technical assistance from the *Bundeswehr* such as stacking sandbags in a flood, or helicopters from the army and air force who fly rescue workers in during natural disasters or rescue people in distress, or the deployment of doctors and nurses to help treat patients in the middle of the corona virus pandemic.

In application, such a system will severely limit the deployment of the military within Nigeria to only severe cases of terrorist threats or instances where technical military assistance is requested for by civilian authorities.

To achieve this objective, there have to be amendments to the Acts, passed by the National Assembly further to its powers under Section 219(1) of the Constitution, that govern the operation of the Army, Navy and Airforce.

There also has to be an amendment of the budgeting process to divert funds previously appropriated for the equipment and maintenance of the military during internal security operations to scale up the equipment and training of the NPF for a complete takeover of internal policing in Nigeria.

### **Comprehensive Review**

There has to be a concerted review of the Police Act, the Administration of Criminal Justice Act (ACJA) and other laws or regulations that govern police conduct, the internal mechanisms

of the police, and the relationship of the police to the public. While the new Police Act greatly improves on the old regulations, it leaves far too much to the exercise of the discretion of police officers – many of whom are notorious for not showing a reasonable exercise of that discretion. Our laws leave too many loopholes open that enable the violation of rights, inordinate delays in trials, long detention spells, inefficient handling of evidence and lengthy trials.

For instance, ACJA requires police officers to inform suspects of the reason for their arrest, their right to silence at the time of their arrest, the right to legal counsel of their choice, the availability of free legal representation from the Legal Aid Council of Nigeria. ACJA also places a responsibility of informing the next of kin of the suspect of the fact of the arrest at no cost to the suspect. Furthermore, ACJA prohibits the arrest of any person in lieu of a suspect.

The reality is significantly different. Suspects are often not informed of the reason for which they have been arrested, prevented from having access to legal counsel of their choice, are often uninformed of their right to free legal representation and are often detained for days, weeks even, without anyone being informed of the fact of their arrest. Family members are also often arrested in lieu of suspects who cannot be found or who are in hiding.

These events are exacerbated by the lack of a public database of suspects arrested or in the custody of the NPF, even though ACJA makes provision for such a database. The lack of such a database enables the police arrest and detain suspects for long periods of time with no further action taken, or to even “disappear” them altogether.

Another instance is the prohibition on the arrest or detention of suspects for civil wrongs. In reality, the police is typically involved in civil cases of all natures, particularly in cases of debt recovery.

A third instance is the requirement that all statements taken from an accused person be taken in the presence of a legal practitioner of his choice or provided by the Legal Aid Council, an official of a Civil Society Organization or a Justice of the Peace or any person of the suspect’s choice. In reality, the police often take statements from suspects without the presence of any of the above-mentioned persons. In many other cases, suspects are compelled –torture being one means – to sign off on pre-written statements.

These examples are critical examples of how non-compliance with the most basic requirements of law enable so many vices within the police and lay the foundation for the

inhumane and inefficient nature of the police force.

The Police Act recently signed by President Muhammadu Buhari is also in itself in need of reform. While it mirrors the provisions of similar laws in other climes, it leaves several things to the exercise of the discretion by police officers, a phenomenon which is worrisome for a police force that has shown the penchant to exercise that discretion with ill intention.

An example can be found in the power given to a police officer to arrest a person, with or without a warrant if he reasonably suspects the person of having committed an offence in another country or if he reasonably suspects that the person is in possession of stolen property or is in possession of an item relating to which the officer suspects a crime has been committed.

The problem with the empowerment of the exercise of this discretion is that the police is notorious to cooking up charges as an excuse to arrest, detain and then extort innocent people. SARS officer are, in particular, notorious for arresting young men on the “suspicion” that the cars, laptops and phones in their possession are either stolen or tools used for committing crime. These provisions only serve to enable them to continue such harassment.

Another example can be found in the power given to the police to receive a “reasonable sum of money” to release a person arrested without a warrant within 24 hours on bail. A perverse application of this provision enables police officers to arrest people solely for the purpose of collecting money to release them on bail, something that the NPF is notorious for. The enactment of such legislation only serves to legalize the nefarious activities of the police.

Across the country informal vigilante groups and state-created law enforcement agencies are taking up many policing functions. This only demonstrates further the lack of coordinated policing policy to determine the areas of soft policing, such as traffic management that states can engage in neighbourhood watch schemes, that local groups can be involved in participatory community policing. Strengthening and institutionalizing these informal and sub-national institutions strengthens the police. Ignoring them creates new actors who can contest a monopoly of violence with the federal government. Abrogating Federal responsibility to such groups means flaunting the Constitution.

There has to be a concerted review of the national internal security apparatus. A glaring example is the Nigerian Security and Civil Defence Corps (NSCDC) which exercises core functions similar to those of the Police. Another example is the similarity between the

functions of the Federal Road Safety Corps (FRSC) and the Traffic Unit of the NPF. Other examples include the deployment of specialist agencies such as the Nigerian Customs Service (NCS) and the Department of State Security (DSS) to conduct internal security operations which ought to be solely within the purview of the police.

This multiplicity of agencies and functions leads to overlaps that create gaps in the system, stretch resources, and cause inefficiency. A merger of these agencies will go a long way to reduce the inefficiency in the law enforcement operations of the country. Such a merger will also remove inter-agency rivalries that foster a lack of cooperation among agencies hamper a free flow of information between agencies.

The establishment of an effective Internal Affairs department of the Nigerian Police is also imperative. The core function of this department will be to review the activities of police officers regularly on a case by case basis and recommend appropriate commending or disciplinary measures for their conduct.

It is imperative to improve funding for the Nigerian Police. This needs to be done by streamlining the country's security architecture.

a. improvement of the salaries/emoluments/welfare of the police – simply put, the pay scale for the Nigerian Police Force is terrible. There is no way police officers can legally survive or cater to their families on the pittance they are paid. To worsen matters, salaries are often delayed and there are no insurance packages to cater to hazards such as loss of life or severe injuries. The result is a poorly motivated police force that often has to resort to illegal sources of income to survive.

The 8th Assembly tried to resolve some of these funding challenges by passing the Police Trust Fund Act which imposed a levy of 0.005% of the net profits of companies operating businesses in Nigeria to fund the Police Trust Fund. Other sources of funds for the Trust Fund are an allocation of 0.5% of revenue accruable to the Federation Account as well as grants, gifts and other donations and income accruable from any investments made, into the Fund. The 6-year life span of the Fund from the date of inception is a source of concern that ought to compel strict compliance with provisions of the Act. However, there are fears that the monies accruable to owing to Nigeria's severe revenue shortages, the provisions of the Act may not be fully complied with and these challenges will remain.

b. improvement of the equipment and infrastructure of the police – police officers have to

rely on very poor equipment and facilities for their operations. Police facilities such as police stations are poorly constructed and maintained, and lacking in basics such as electricity and internet connectivity. Operational equipment such as vehicles, helicopters and arms are old, obsolete and poorly maintained where they exist at all. Forensic laboratories do not exist or are badly insufficient. The use of technology in collating and storing data or resolving crimes is almost non-existent. Police officers have to purchase their uniforms, writing materials, and other variables needed for their work.

c. improvement in training – police officers in Nigeria are often barely literate and mostly untrained in modern techniques of policing..

The cumulative effect of these three factors is that the police force is poorly equipped to perform its core functions and is often pitted against an enemy that is better equipped and motivated than it is. To achieve any sort of efficiency, it is imperative to provide better funding for the police force to enable it better pay, better equip, and better train its personnel.

An analysis of budgetary allocations to the NPF over the last 5 years shows how badly funded the police force is. While there has been an increase in the monetary allocations to the NPF since 2015, bar 2016 when the allocation dropped, there has been a steady decline in the ratio of this amount when compared to the total security budget. Further analysis will show the Federal Government has been unable to achieve a 100% release of these allocations, with capital allocation during this period barely ever scratching 50%.

Year	Capital Allocation	Capital Budget Released	Overhead Cost Allocation	Overhead Budget Released
2015	17,800,000,000	8,900,000,000	5,895,797,734	4,838,790,8463 <sup>1</sup>
2016	16,107,272,000	10,026,818,000	9,250,565,307	6,369,343,519.18
2017	20,198,272,000	9,099,136,000	11,655,565,307	5,997,413,096 <sup>2</sup>
2018	25,197,675,025	11,979,732,732	10,301,772,124	8,405,006,847
2019	22,064,903,996	6,325,961,598	9,250,565,304	8,567,285,430
2020	14,509,258,151	-	18,250,565,304	-

### Percentage of Police Budget Against Total Security Budget and National Budget from 2015- 2020

Year	National Budget	Security Budget	Police Formations and Commands Budget	% Security Budget	% National Budget
2015	N4.45 TRILLION	N988,892,506,442	N321,322,224,611	32.5%	7.2%
2016	N6.06 TRILLION	N1,076,864,003,431	N308,919,046,437	28.7%	5.1%
2017	N7.44 TRILLION	N1,154,686,839,039	N313,515,233,147	27.2%	4.2%
2018	N9.12 TRILLION	N1,353,788,525,587	N324,220,893,212	23.9%	3.56%
2019	N8.92 TRILLION	N1,403,568,885,911	N366,133,777,795	26.1%	4.1%
2020	N10.59 TRILLION	N1,809,122,690,322	N403,709,451,000	22.3%	3.81%

The 2020 budget made provision of N403,709,451,000 for the Police Formations and Command, of which only N14,509,258,151 – representing 3.6% of the allocation – is set aside for capital expenditure. Recurrent expenditure – salaries and other overheads – are responsible for the rest of the budget.

This mirrors the allocations made for the Police Formations and Commands in the 2019 budget with N366,133,777,795 allocated, of which only N22,064,903,995.85 – representing 6.02% of the allocation was set aside for capital expenditure.

A Budget that Ignores Training and Equipment

A closer look at the main budget item for Police Formation and Command HQ in the 2019 and 2020 budgets show that a massive N 339 billion was allocated for 'recurrent expenditure' in 2019 and N389.2 billion for the same line item in 2020. However, only N599 million was allocated for training in 2019 and N755 million in 2020. A paltry N20 million was allocated for teaching aids in 2019 which dropped to N13.4 million in the 2020 budget. And a grossly insufficient N48 million is allocated for Research and Development in the 2020 budget. How can training a large number of people be efficient if such a minor percentage of resources are allocated to this.

Indeed, of the N16 billion allocated for capital expenditure in the 2019 budget (4.7% of recurrent expenses or 4.3% of the total budget), only N3.3 billion was allocated for security equipment, compared to N10 billion for construction. The situation is mirrored in the 2020 budget where only N3 billion was allocated for security equipment compared to N8 billion for construction and the provision of other fixed assets.

The budgetary allocations raise all sorts of concerns about the opacity of security spending. For example, there is no detailed breakdown of what constitutes "*security equipment*" for which a combined N6.3 billion is allocated in the 2019 and 2020 budgets. There is also no breakdown of what constitutes "*Infrastructure*" in the 2020 budget for which N4.2 billion is allocated.

This begs the question: With so little investment in supporting manpower, how can the police force operate effectively and duly in line with its duties? However, the question begs a second question: Does this reflect a policy objective destined to down skill the Nigerian Police Force?

An answer in the affirmative is consistent with and the belief that there has been a consistent vandalization of the top echelons of the Nigerian Police Force over the last few years. Never in the Nigeria Police Force's over 200-year history has it lost so many experienced police officers for so few to be promoted to the detriment of so many Nigerians as it has in the last four years.

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Article 87a Paragraph 2

Article 87a Paragraph 4

Exceptional Case in Germany - the Debate About the Internal Deployment of the Bundeswehr  
<https://www.bpb.de/politik/grundfragen/deutsche-verteidigungspolitik/254178/einsatz-im-innern> accessed 20 October, 2020

Germany Enlists Army to Help Fight Corona Virus,  
<https://www.ft.com/content/c5fb1f72-6920-11ea-800d-da70cff6e4d3> accessed 20 October 2020

Section 6 ACJA

Section 7 ACJA

Sections 15 and 16 ACJA

Section 8(2) ACJA

Section 17 ACJA

Section 38(1)(a)

Section 38(1)(d)

Section 62

Section 3 NSCDC Act, 2007 ACT No. 6

“Nigeria faces a number of challenges including; but not limited to, the slow dispensation of justice largely borne out of a lack of adequate equipment, infrastructure, trained personnel as well as standardized processes and procedures to investigate crimes and prosecute criminal cases. The responsible authorities, in particular the Nigerian Police Force (NPF), the Nigerian Immigration Service (NIS), and the Federal Ministry of Justice (FMOJ) are not yet sufficiently capable of meeting these challenges. Working procedures within the institutions are often not transparent and international standards are still to be fully integrated into operational processes. A decade ago, NPF and NIS embarked on an internal reform process that aims at mainstreaming human rights standards into their work. This mainstreaming has yet to take full effect within both organisations.” GIZ: Project title: Police Programme Africa – supporting police reform processes in Nigeria, commissioned by: German Federal Foreign Office (AA) <https://www.giz.de/en/worldwide/41986.html>