

THE USE AND ABUSE OF POLICE POWERS AND EXTRAJUDICIAL KILLINGS IN NIGERIA

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Abstract

The paper examines the use and abuse of police powers in Nigeria, with emphasis on extrajudicial killing. It argues that extrajudicial killing is the most serious abuse of power and violation of victims' rights to life and fair hearing. Using four typical case studies of live events from Nigerian newspapers, the paper shows that the police in Nigeria not only adopt the doctrine of maximum force in crime control, they often kill suspects and non-suspects at the flimsiest excuse because of an institutionalized culture of impunity. This culture of impunity is derived largely from Government's authorization of a policy of shoot-to-kill, when in confrontation with armed robbers and other dangerous criminals.

Key words: The police, the Nigeria police, police powers, abuse of police powers, extrajudicial killing

Introduction

Like any other police organization in the world, the Nigeria Police Force (NPF) has enormous responsibilities and duties assigned to it by the Nigerian Constitution and the Police Act. These responsibilities and duties include: the prevention and detection of crime; the apprehension of offenders; the preservation of law and order; the protection of life and property; the due enforcement of all laws and regulations with which they are directly charged; and the performance of such military duties within and without Nigeria as may be required of them (Police Act, 1990:5).

There are a number of duties carried out by the police but which are not specifically captured in the duties laid down by the Police Act. These include: traffic control, advice to disputants and offenders, emergency assistance as in fire-fighting and ambulance services (Amadi, 2000:15). Others include: escort services to individuals and banks transferring huge sums of cash from one location to another; and guard duties in banks and public buildings housing sensitive materials and equipment, as well as residential houses of notable public figures such as Judges and top politicians (Igbo, 2007:180).

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More specifically, the Nigeria Police Force has wide powers granted it under the Criminal Code, Penal Code, Criminal Procedure Code and Criminal Procedure Act. These powers include: to take measures to prevent crime, investigate crime, interrogate suspects, prosecute suspects, search properties and persons in order to prevent crimes, detect crimes and apprehend suspected offenders and collect evidence for prosecution, grant bail to suspects pending the completion of investigation, or before arraignment in court, regulate processions and assemblies; and disperse illegal or unlawful processions and assemblies (Ayuba and Ajewole, 2007:135-162).

The extent to which members of the Nigeria Police Force have grappled with their statutory functions and powers has increasingly become a source of serious concern to many observers. For instance, the National Orientation Agency (NOA)¹ has indicted them for collaboration with criminals, unnecessary use of force, negligence of duty, indiscipline, and lawlessness, among others (see Alemika, 1999:85-86). Thus, instead of the preservation of law and order and the protection of life and property, the police in Nigeria have often unleashed violence against the same people they are meant to protect (Alemika and Chukwuma, 2000). This is simply 'abuse of power', which refers to illegal and unconstitutional actions against the innocent citizens by the police, in exercise of their statutory duties.

The police are said to be instruments of the legal coercive power of the state and have the power to arrest, detain, even kill in self-defence or in defence of others and to keep the peace on behalf of the citizens (Alderson, 1979:11). According to Madauikan and Aguda, as cited in Amadi (2000:16), "any police officer properly acting in accordance with the power conferred upon him by law is acting in execution of his duty". However, an improper or unlawful exercise of power puts a police officer outside the protection of the law (Amadi, 2000:16). As Bertrand Russel put it, "in every democracy, individuals and organizations which are intended to have only certain well-defined executive functions are likely, if unchecked, to acquire a very undesirable independent power. This is especially true of the police" (see Alderson, 1979:12). It is even more so with the police in Nigeria.

The abuse of power can be found in almost all police formations in the world. However, the nature and extent of this abuse varies from country to country and from one clime to another. Thus, the abuse of police powers appear to be higher in totalitarian and authoritarian regimes as well as in military dictatorships than in democratic societies and governments.

According to Barker and Carter, police abuse of power or authority conferred on them by the state refers to:

any action by a police officer without regard to motive, intent or malice that tends to injure, insult, trespass upon human dignity, manifest feelings of inferiority and/or violates an inherent legal

right of a member of the police constituency in the course of performing police work (cited in Barker, 2006:83).

Barker went further to delineate three forms of abuse of police authority. These are: physical abuse, which involves police brutality and violence in the discharge of police work; psychological abuse, which has to do with verbal assaults, harassments or ridiculing a citizen by the police; and legal abuse, which involves the violation of a citizen's constitutional rights by the police (Barker, 2006:83).

Similarly, Boydell (1983) had earlier observed that police investigators have enormous powers bestowed on them by the law. Consequently, they use all means, approved and unapproved, to investigate cases of crime. These include: psychological and physical coercion or abuse. In psychological coercion, suspects are often subjected to intolerable emotional and psychic conditions in order to extract confessions from them. They may be moved from one station to another. They may also be denied access to family, lawyers, friends and relations as in the case of suspected treason offenders. Sometimes, they may be subjected to long hours of interrogation and may be denied food, water, among others.

In physical coercion or abuse, suspects may be beaten up, physically assaulted and tortured. They may be subjected to electric shocks, hand-cuffed, burnt with cigarette lights and tear-gassed. This is 'man's inhumanity to man'. Nigeria's inspector General of Police (IGP) announced in July 2015 that the police authorities were reviewing Force Orders, including the notorious Force Order 237, which authorizes police officers to shoot suspects and detainees who attempt to avoid arrest or escape (whether or not they pose a threat to life). The IGP also announced that over the past three years, the police had paid nearly 1 billion Naria (US \$5million) to victims of human rights violations by the police (Amnesty International, 2015).

Police 'brutality' is one of the most serious types of abuse of police powers. This abuse is said to "occur most frequently during the arrest stage, if and when it occurs at all" (Watchorn, nd p.53). For Michalowski (1985:191), "situations most likely to result in police brutality are those involving disrespect to police authority, injury or death to police; or political conflict". Similarly, Bohm and Haley (1997:219) argue that the use of "excessive force" by the police is often the result of perceived disrespect and physical resistance by suspects, particularly where such suspects are armed with some kind of weapons and where the police reasonably believe that the suspects are prepared to use the weapons against them.

For Barker (2006:84), "the use or potential use of force is at the core of the police role". However, most policemen use unreasonable and unnecessary force which may occur in four ways: The officer(s) may use force to: effect or complete arrest;

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overcome resistance to arrest; keep the subject in custody or re-arrest a fleeing suspect; and may even use deadly force to defend himself/themselves or others.

Although the use of 'force' is central to police operations and necessary for the maintenance of public peace and safety, it should always be limited to "minimum force" (Alderson, 1979:13), as against "maximum force" or deadly force. In Britain, for example, police officers are generally armed with "truncheons" which can be used on citizens under strictly regulated conditions. This is policing with "minimum force".

In the US, the police are authorized to use 'non-lethal' or non-deadly force against citizens, where necessary, to enforce the law or to protect life and property. They are permitted to use non-lethal force (devoid of firearms) to make arrests, restrain individuals who are threats to themselves or others, and for self-defense (Michalowski, 1983:191). In these instances, the use of force is rare in police-citizen contacts and is usually 'provoked' by some citizens. (Greenfield et al., cited in Barker 2006:86).

However, in Nigeria, the police are authorized to use both lethal and non-lethal force against suspected offenders, particularly armed robbers and kidnappers. In short, the use of force in Nigeria is not only common in a situation where most police officers on the streets are heavily armed, but may indeed be "unprovoked", as in cases of drunkenness by police officers, and citizens refusal to give a bribe to police officers.

In reaction to a call by former military Head of State, General Yakubu Gowon, that all cases of past abuse of power in Nigeria be re-opened and investigated to ensure justice to the aggrieved, one of the most widely read newspapers in the country, the Daily Sun, observed that:

...the government should take up the gauntlet and investigate all verifiable instances of power abuse. It is indisputable that many human rights abuses were and are still being perpetrated in the country...

In addition, most high profile murders in the country have not been resolved while those behind such murders are yet to be unmasked and brought to justice. The killers of political actors such as Chief Bola Ige, Kudirat Abiola, and Marshall Harry and the notable journalist, Dele Giwa, are yet to be determined and brought to justice. (Daily Sun Comment, 2013:19).

'Power abuse' or 'human rights abuse' has remained a serious problem in Nigeria, in both military and democratic regimes. In most of the high profile killings in military regimes, the military was always the prime suspect, as in the brutal killing of Mrs. Kudirat Abiola, wife of the presumed winner of the June 12, 1999 general elections, and Dele Giwa, the Editor-in-Chief of *Newswatch Magazine*,

who was killed with a parcel bomb. On the other hand, the police have always come under the searchlight whenever high profile individuals are killed in democratic regimes. The understanding is that the police are directly or indirectly implicated in such killings, sometimes with hard evidence, and at other times because of the shoddy manner they handle investigations into such killings. For instance, the killers of Chief Bola Ige, a sitting Attorney General and Commissioner for Justice of the Federation in December, 2001, are yet to be unmasked. Many Nigerians believe that the police know much more than they are prepared to make public in these cases.

Perhaps the most serious form of abuse of police power is 'extrajudicial killing'. Sometimes called 'extralegal killing', extrajudicial killing refers to "deprivation of life without full judicial and legal process, and with the involvement, complicity, tolerance or acquiescence of the government or its agents" (UN, 2002:15).

Extrajudicial killing is unconstitutional and illegal as well as a flagrant violation of human rights, particularly the right to life and the right to fair hearing (Igbo, 2005:304). It is the illegal termination of the life of a person or persons by the agents of the state, with the police as the most notorious culprit. As we have argued (p.298), the right to life is perhaps the most fundamental and most protected human right in the West, where it may be said that "one life lost is indeed too many". However, in Africa, particularly Nigeria, it can be said that: "many lives lost mean little or nothing", especially when the victims are complete strangers to the killers. Nigerians tend generally to celebrate death (through elaborate and expensive burial ceremonies) rather than celebrate life.

There is a thin line between the use and abuse of power. This is because power can be abused in the process of using it. It can also be abused by failure or refusal to use it, as and when necessary. This paper examines the use and abuse of police powers in Nigeria, with special focus on extrajudicial killing by the police. It must be pointed out that extrajudicial killing is not the exclusive preserve of the police. Other arms of the security agencies sometimes engage in extrajudicial killing of citizens. Even, members of the public sometimes engage in extrajudicial killing or what in Nigeria is generally referred to as "jungle justice" by lynch-mobs. These are not our concern in this paper, unless in so far as the police are, directly or indirectly involved in such killings.

Theoretical Framework

Criminal justice refers to both the formal processes and the component agencies that have been established to apprehend, try, punish and treat criminal offenders (Siegel, 1983). Criminal justice lays emphasis on "the protection of the innocent, the fair treatment of offenders, and fair play by the agencies of law enforcement..." (Schmallegger, 1995:15). Of all the criminal justice agencies, the police are the most proximate and visible to the public.

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Packer (1968) has identified two major models in the criminal justice system, based on two opposing value judgements. These are the “crime control model”, which is favored by the police, and the “due process model”, which is favored by the courts. The crime control model has been seen as the most important function of criminal justice (Bohm and Haley, 1997:475). It reflects traditional conservative values based essentially on “crime fighting”. The model assumes that the repression of criminal conduct is the *sine qua non* of the criminal justice system. Consequently, its emphasis, more or less, makes sure that no offender escapes unpunished, for whatever reason. In short, the crime control model is based on the “presumption of guilt” which, simply put, means that a person is guilty until proven innocent.

The due process model, on the other hand, stands more or less in opposition to the crime control model. The due process model lays emphasis on the doctrine of “legal guilt” and the “presumption of innocence”, which assumes that a person is innocent until proven guilty by a court of competent jurisdiction. It advocates for “formal, adjudicative fact-finding processes” (Bohm and Haley, 1997:477), which must be scrupulously followed before convicting an accused person. The model insists that ‘factual guilt’ is not enough unless combined with “legal guilt”. The aim here is to prevent or substantially reduce the absolute and tyrannical authority of the police in particular and to guarantee the defendant’s right to fair hearing. The government and police in Nigeria overwhelmingly favor the crime control model as against the due process model.

Apart from acknowledging the crime control and due process models, King (1981) added four other models: the medical/rehabilitation, bureaucratic, status passage, and the power models of criminal justice. The ‘medical/rehabilitation model’ assumes that the individual offender is ‘sick’ or psychologically traumatized and therefore needs ‘treatment’ and ‘help’. The ‘bureaucratic efficiency model’ lays emphasis on speedy and efficient trial of offenders to save time and costs for all concerned. The ‘status passage model’ focuses on societal reactions that are designed to publicly shame offenders so as to humiliate them and make them become remorseful; while the ‘power model’ sees the criminal justice system as representing the interests of the powerful elite in society. Of these four models, the power model, which represents the interests of the powerful elite, is akin to the crime control model. Similarly, Davies et al. (2005) have come up with two additional models. These are the ‘just deserts’ model and ‘managing offender behaviour’ model. While arguing that the offender should be punished if found guilty, the just deserts model makes a strong case for the ‘rights of the offender’ to be respected. This makes it akin to the due process model. One can safely argue that the additional models have tended to support either the crime control model or the due process model of criminal justice.

In recent years, the Nigeria police has created various rapid response units at federal and state levels for purposes of fighting the increasing menace of crimes, particularly armed robbery. These units include “operation fire-for-fire”, “operation smash”, “operation wipe-out”, and “operation storm”, among others

(Igbo, 2005:304). As the names of the units indicate, they are all known for their “no-nonsense” confrontations, ruthlessness, and use of deadly force against suspected or actual armed robbers and other violent offenders.

With the increasing incidence of armed robbery and associated victim fatality in post-civil war Nigeria, the Federal Government promulgated the Robbery and Firearms Decree of 1970 which prescribed death penalty and long prison sentence for convicted armed robbers. In addition, the police were empowered to shoot armed robbers on-sight. This shoot-to-kill policy emboldened the police to engage in extrajudicial killings in Nigeria and it is a typical example of the crime control model of criminal justice.

The victims of extrajudicial killings by the police in Nigeria are mostly, but not limited to, armed robbers. Today, the list includes suspected kidnappers and terrorists, as well as oil bunkerers and oil thieves who engage in pipeline vandalization. However, many innocent citizens have been killed extrajudicially at police check-points, in police stations, on the highways and in their homes for failure to give a bribe, refusal to stop at police check-points, rudeness to the police, suspicion of being armed robber, among others. These killings are perpetrated in the name of “fighting crime”.

Method

The data for this study was based on secondary sources. The method adopted was ex-post facto, involving actual cases of police brutality that were in the public domain through media reports, mainly newspapers. Four of such cases were studied in-depth and analyzed qualitatively, citing verbatim quotations from journalists, the police, relatives of victims and other key players.

Each case presents a slightly different picture of the problem of extrajudicial killing in Nigeria. However, all of them are predicated on the inappropriate use, or malign neglect, of police powers. The cases were taken from Daily Sun, Sunday Sun, Saturday Sun and the Nation Newspapers. Each case is discussed immediately after presentation. In the end, the four cases are compared and a composite conclusion drawn.

Case No. 1: The APO Six Killings: The Lies and Deceits

On June 8, 2005, some officers and men of the Nigeria Police Force in Abuja, the country’s capital city, extrajudicially killed six persons in the Apo district of the city. This is what has become generally known as the “Apo Six Killings”. The six persons killed were alleged by the police to be “armed robbers killed in police-robbers shoot-out” (CLEEN Foundation, 2006:v). The six persons include five male traders and a female who had gone to pay a visit to her fiancé, who was one of the traders/mechanics. At the close of trading activities on the fateful day, the six killed persons drove off in a 406 Peugeot car and never arrived at their homes.

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Out of the six, four of them were killed by policemen on duty at the “pin-down-point”. Two of them “initially survived the unprovoked shooting by the police but were later taken to a remote part of Abuja and killed” (CLEEN Foundation, 2006:38). Unfortunately for the police, what they feared most happened. One of the victims managed to make a phone call to a relative saying they had an altercation with a police officer in a pub (p.160). This is the real reason the six were killed.

The news of the killing of the six persons spread like wild fire among Mechanics and traders in and around Apo market and the surrounding areas. The leaders of the Motor Spare Parts Traders Association in Apo Mechanic village paid a visit to the Commissioner of Police in charge of Abuja and pleaded with him to thoroughly investigate the officers’ claim that the murdered traders were armed robbers. Instead of heeding their advice and pacifying them, the Commissioner of Police dismissed the traders within 3 minutes “by telling them not to teach him his job”. He went ahead, the same day, to announce to the Press that the six persons, including the only female in the group, were actually armed robbers shot dead in a ‘shoot-out’ with the police. To buttress the allegation, two locally-made pistols, allegedly used by the victims, were displayed for the press to convince or confuse them.

The press conference on the six persons generated widespread disgust, condemnation and reprisal from the Apo traders and the general public in the area. On the 9th of June, 2005, the next day after the killing of the six persons, there was rioting in the area. The rioters attacked the police station, destroying a number of vehicles. Consequently, the Federal Government set up a Judicial Commission of Inquiry into the killings and the aftermath.

The ‘Commission’ established, among other facts:

- (1) That there was an armed robbery incident earlier in the day which the police used as a cover up for the killing of the six persons;
- (2) That the armed robbers, four males only, used a Red Honda Hala and escaped in a Red Starlet car;
- (3) That the Peugeot 406 car driven by the six victims was never used in the robbery operations;
- (4) That the six victims were unarmed at the time of interception by the police;
- (5) That the two locally-made pistols allegedly recovered from the Peugeot car were planted by the police at the instance of the Divisional Police officer (DPO) (and had not been fired in recent times); and
- (6) That there was no threat to the lives of the policemen that warranted the shooting and killing of the six persons (CLEEN Foundation, 2006:61).

This case shows that very often, policemen in Nigeria engage in extrajudicial killing of defenseless and innocent citizens based on false allegations and trumped up charges. The killing of the ‘Apo six’ was based on mere ‘suspicion of being armed robbers’, and not because of the false allegation that they engaged in

a 'shoot-out' with the police. The Constitution of the Federal Republic of Nigeria Section 33(1) categorically states that:

Every person has a right to life, and no one shall be deprive (sic) intentionally of his life, save in the execution of the sentence of a court in respect of a criminal offence of which he has been found guilty in Nigeria (Constitution of the Federal Republic of Nigeria, 1999:34).

This means that the right to life is a fundamental human right which the police in Nigeria often disregard in the execution of their mandate. What is more, Section 36(1) of the 'constitution' guarantees every citizen the 'right to fair hearing' while Section 36(5) provides that "every person who is charged with a criminal offence shall be presumed to be innocent until he is proved guilty". These sections of the constitution, based on the 'rule of law', are often disregarded by the police, in the pretext of "fighting crime".

Eight years after the killing of the 'Apo Six', and in spite of the findings and recommendations of the Judicial Commission of Inquiry that the main suspect in the killings, Deputy Commissioner of Police (DCP), Ibrahim Danjuma, be prosecuted, the DCP "is still walking the streets a freeman" (Uzor, 2013:6). It is also alleged that he "was granted bail in 2006, while the other seven accomplices were still languishing in prison custody" (Nnadi, 2012:10). These concerns were raised by the Movement for the Actualization of the Sovereign State of Biafra (MASSOB), which has often demanded for 'justice' for their kith and kin: the five male victims, and the female fiancé of one of them. In protest for the inexplicable delay in dispensing justice in this case, MASSOB declared Saturday June 8, 2013 as a sit-at-home day for all the Igbo of the south-east of Nigeria. The adage which says that "justice delayed is justice denied" aptly summarizes this point. According to the publicity secretary of Civil Liberties Organization (CLO), Rivers State Chapter, Mr. Livingstone Nechie, "there is no justice for the dead in Nigeria" (Anucha, 2013, p.11). This means that the death of the victim often leads to the end of the case.

Lawyers for Human Rights (an American based organization) observed, with deep concern that the Nigeria police does not discipline or sanction its officers for violating human rights. When they do, by setting up internal boards to investigate such abuses, the investigations hardly result in disciplinary action against the erring officers (see Alemika, 1999). This aptly captures the deplorable state of affairs and the persistence of impunity in the police.

However, since this celebrated case, the Nigeria Police has, to some extent, started the process of redeeming this negative public image by taking steps to discipline its officers, instead of shielding them from justice. Thus, twelve years after being charged to court for the murder of the six Apo traders, two policemen were sentenced to death on Thursday 9th March 2017 by a High Court in Abuja,

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the Federal Capital Territory (FC) of Nigeria (Tsa, 2017). The convicted policemen were found guilty of the extrajudicial killing of two of the six traders and their burial in a shallow grave to conceal the crime. The court, however, discharged and acquitted the superior officer, Deputy Commissioner of Police (DCP), Danjuma Ibrahim, who was alleged to have given the order to kill the six traders. The court also discharged and acquitted three other policemen “because of the inability of the prosecution to convince the court” on the charge of conspiracy to kill the traders (Tsa, 2017 p.5).

On the four other traders killed in their Peugeot 404, the court said it was not convinced because of the contradictory evidence of two of the prosecution witnesses on gun seizure and shooting by DCP Danjuma Ibrahim. In other words, the court was unable to determine who killed the other four traders. It blamed this on the absence of finger-print of the DCP, Danjuma Ibrahim, on the said gun used in killing the four traders on the fateful day.

This court judgement on the traders, who were all of the Igbo ethnic group sparked off protests in Abuja the following day as many people alleged ‘injustice’ to their slain kith and kin. Also, a Pan Igbo Socio-cultural organization, Nzuko Umunna, referred to the judgement as a “travesty of justice’, adding that “it was strange that the officers who obeyed a command were sentenced to death but their superiors, who gave the command were left off the hook” (Daily Sun, Tuesday March 14, 2017 p.10). Furthermore, there are allegations that Anthony Idam, a serving police officer, who was the driver of the police car on the night of the killings, was eliminated by his colleagues through poisoning to conceal the evidence. Being an Igboman, it was believed that the driver would squeal because he witnessed the brutal killing of his kith and kin, the Apo 6 traders. This was disclosed by the counsel to the Apo 6 families, Mr. Amobi Nzelu, in reaction to the court judgement. In her own reaction, the mother of the poisoned police officer declared that those policemen who conspired to kill her son ‘will not know peace’. She lamented that, in spite of the fact that her son died in active service, “all his entitlements, including insurance and other benefits, have not been paid till date” (Eze, 2017 p.28). This is another indictment of the police.

Case No. 2: The Killing of Comrade Olaitan Oyerinde: The Conspiracy Theory

On January 10, 2013, the Governor of Edo State of Nigeria, Adams Oshimohle, accused the Nigeria Police of being responsible for the murder of his Private Secretary, Comrade Olaitan Oyerinde. The Governor made this allegation at the launching of the Code of Conduct for officers and men of the Nigeria Police Force where he presented a keynote address. He specifically accused the Deputy Inspector-General of Police (DIG), in charge of Force Criminal Investigation Department (FCID) and the Deputy Commissioner of Police (DCP) in Edo State, as the main culprits in the murder case. In his keynote address, Governor Oshimohle, openly and angrily declared, in the presence of the Vice-President of Nigeria, and facing the Inspector General of the Police:

...I am aggrieved over the murder of my private secretary and the way in which your men trivialized it. And in my view I am saying it knowing that the Vice President is here and I hope he doesn't see it as a comment, it is something I want him to take home that my Private Secretary was murdered in cold blood and you dispatched a DIG to supervise the investigation... in the end, they went for a civil rights activist and charged him with the offence of murder. Number one; they wrote a report...that the man who was involved in the murder...was already under police detention at the time my private secretary was murdered. Number two, the weapon that was used for the murder, was used for armed robbery and earlier recovered by the police and was under police custody at the time my private secretary was murdered.

So, the man who murdered my secretary was in police custody. The gun was in police custody and these are the findings of the police. The only conclusion that can be reached is that the police ordered the killing of my private secretary...

The DIG, Force CID, has a case to answer. It is either he is guilty of conspiracy to murder or he is guilty of conspiracy to shield murderers, or both...

I feel terrible that as a Governor, I cannot get justice. If I cannot get justice, then the average Nigerian cannot expect justice and we can't have justice if we can't tell the truth...

The SSS (State Security Service) paraded those who killed Oyerinde and I believe that they are the ones who killed him. But the DIG Force CID, working with another junior officer, conspired to shield the actual murderers and parading an innocent civil rights activist. Detained him for two months without trial in clear disobedience to court order. This country cannot be reduced to Banana Republic and everyday we allow this sense of impunity, we are joking and I do not intend to joke as long as I remain Governor of Edo State... (Kilete, 2013:5, emphasis mine).

Edo State is one of the 36 states that make up Nigeria. The Governor of Edo State Adams Oshimohle, was not only concerned here with 'the right to life' or 'the right to fair hearing' but he was also very much concerned with the general tendency of the police to sometimes 'conspire' with criminals to pervert the course of justice, even in serious cases of murder. This explains why the Governor alleged that the top police officer in charge of the investigation was either guilty of conspiracy to murder or conspiracy to shield murderers, or both. This is because, according to the Governor, the weapon used for the murder was earlier

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used for armed robbery and was in police custody at the time of the murder, based on police report.

It is also pertinent to note that the State Security Service (SSS) had earlier investigated the murder case and had paraded some suspects accordingly. The investigation was disregarded by the police for an entirely new suspect – a civil rights activist and friend of the late Oyerinde, Rev David Ugolor. This case, was yet to be finally resolved, as at the time of putting this paper together. It is only when the police conclude their investigation that the case file can be forwarded to the State Prosecutor's office for further action at the courts, if need be. In short, many crimes, including murder, fizzle out with time in the name of "awaiting police investigation".

Case No. 3: Police Killing of Citizens by 'Mistake'

A Police Inspector, Yahyah Emmanuel, as a prosecution witness at a Lagos High Court at Igbosere, recounted how a policeman, Corporal Abu Abolaji, 'mistakenly' fired seven shots that killed three men (Olabiyi, 2013). According to Emmanuel:

On October 1, 2009, I was at Adekunle Police Station when we received a distress call, informing us about a robbery at Alagomeji after which four of us, including the defendant, signed for ammunition and went on patrol. When we got there, we saw three men who ran into a car and locked themselves up immediately they saw us. I got down from the patrol van with CPL Abolaji and asked him to go and find out why the men ran into the car when they saw us.

After a while I started hearing gunshots and I moved to the scene to ask the defendant why he was shooting. Immediately I got there, he said it was a mistake and the gun was collected from him by another police officer, who later discovered that seven of the bullets had been fired (Olabiyi, 2013:31).

According to the Inspector, one of the men died instantly and the other two died on their way to General Hospital on Lagos Island.

This case has to do with extrajudicial killing of three apparently innocent suspects "by mistake". The case is another eloquent testimony of the disregard to "the right to life" and "the right to fair hearing" by the police. Beyond running into their car and locking it, there was no evidence that the men were armed or even exchanged words with the police. One of the policemen simply 'fired seven shots' at the victims from close range, and afterwards claimed that it was a "mistake".

This is not an isolated case. It is only the "tip of the iceberg". Cases like this frequently occur at police check-points, on the highways, in police stations, among others. Police authorities usually explain them in terms of "accidental

discharge”. However, the above case cannot stand as accidental discharge because the policeman fired seven shots at the victims, an average of two shots per person. This was charged to court instead of the usual “orderly room trials” by the police. Orderly Room trial is an in-house trial by the police and may end up protecting their own from charges of wrongdoing or abuse.

Case No. 4: Looking the other way in Extrajudicial Killing by Mobs

On July 21, 2013, two young men, Ifechukwudi Nwaikpor (25) and Kazeem Onayemi (26) were hacked to death by a mob in the most gruesome manner for “being suspected armed robbers”. The two young men were murdered by a mob in the presence of six police officers in uniform.

According to Oji (2013), the Lagos State Commissioner of Police, Mr. Umar Manko, while addressing journalists in Lagos on Thursday 01 August, 2013 declared:

I watched the video clip of how the two students were clubbed to death in the most terrific (sic) manner, it was too gory. The DPO (Divisional Police Officer) did not tell us the true position of the matter until I watched the video clip. When we started asking questions, we discovered that the two persons who were killed were not armed robbers as we are (sic) initially told. So we told ourselves that we would be failing in our duties if we failed to bring everyone involved in the murder to justice (Oji, 2013:6, emphasis mine).

The Commissioner of Police, after watching the video clip of the mob action which clearly showed that there were six uniformed police officers at the scene of the attack, set up an investigation panel to fish out the policemen. This is because the policemen were alleged to have watched as the victims were murdered in cold blood, “without doing anything”. According to the reporters, the father of one of the victims, declared shortly after the incident that:

My only son was killed in cold blood and labelled an armed robber... I'm terribly sad because the police that one should run to when in distress, stood and did nothing to stop his lynching...I have lost faith in the Nigerian Police (Isiguzo and Igbonwelundu, 2013:9).

This case reveals the apparent indifference sometimes shown by the police when people are being murdered by mobs. The reaction of the devastated father of one of the victims was that he had ‘lost faith’ in the Nigeria police because the police “stood and did nothing” to stop his son’s murdered. This is a serious indictment of the Nigeria Police in its statutory duties of maintenance of law and order, prevention of crime, and protection of life and property. It is, however,

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interesting to note that unlike many of such cases in the past, where the top echelon of the police tried to protect or shield their junior officers from the law, the police commissioner was quick to set up a panel to identify the six policemen at the scene, and investigate if there was negligence of duty on their part.

This case also shows that it is not always that the police engage directly in extrajudicial killing of suspects. Sometimes, the police may decide to 'look the other way' to allow a mob mete out 'jungle justice' to suspects, forgetting that they can be called to account for their apparent indifference. According to Saturday Sun (2013), the video recording in this case showed six policemen standing and watching the mob as they clubbed the victims to death. One of the policemen, who was an Inspector, even "*interviewed* the victims as they were being beaten" (p.12).

Cases like that of Ifechukwudi Nwaikpor and Kazeem Onayemi are, no doubt, extrajudicial killings, though they were not committed by the police. The issue is that policemen witnessed these cases and "did nothing" to save the victims from being murdered. They can be said to be liable for 'negligence of duty' in their statutory function of maintenance of law and order, and protection of lives and property.

Conclusion

Like any other police establishment in the world, the Nigeria police have wide-ranging powers bestowed on them by the Constitution and other relevant statutes and Acts of Parliament. These powers include: crime control, maintenance of law and order, protection of lives and property, among others. In the exercise of these powers, however, the police often overstep the bounds of legality and even morality by engaging in illegal arrest and detention, torture, brutality, corruption, violation of basic human rights, include the right to life and the right to fair hearing. The main focus of this paper is on extrajudicial killing of citizens by officers of the Nigeria police force.

Four case studies of police abuse of power with emphasis on extrajudicial killing have been discussed in this paper. These cases show that officers and men of the Nigeria police tend generally to over-assert their authority by regularly resorting to the use of maximum, excessive or lethal force rather than minimum force, which is the norm in western democracies. This tendency is due largely to the extant government policy of "shoot-to-kill", when in confrontation with armed robbers and other 'dangerous' criminals such as terrorists and kidnappers. This obnoxious policy of shoot-to-kill has emboldened the police to engage in, or condone extrajudicial killing of citizens at the flimsiest excuse. All these are done under the framework of 'crime control', rather than 'due-process'.

The need for a general re-orientation of the police in Nigeria, through training and re-training programs, cannot be over-emphasized. Policemen and women need to be well grounded in the ethics of policing to ensure that they are sensitive

to their mandate as it concerns respect for the rule of law, protection (not destruction) of lives and property, and the right to fair hearing of the accused (not jungle justice). A situation where the police act as the investigator, prosecutor, judge and executioner does not augur well for criminal justice.

Endnote

1. National Orientation Agency (NOA) is the Nigerian government agency charged with the task of disseminating government policies and programs to the public and inculcating in the public the spirit of patriotism and national unity.

References

- Alderson, J. (1979). *Policing freedom*. Plymouth: MacDonald & Evans Ltd.
- Alemika, E. E. O. & Chukwuma, I. C. (2000). *Police community violence in Nigeria*. Lagos: Centre for Law Enforcement Education (CLEEN).
- Alemika, E. E. O. (1999). *Police-community relations in Nigeria: What went wrong*. In *Policing a Democracy*. Lagos/Abuja: CLEEN Foundation & National Human Rights Commission.
- Amadi, G. O. S. (2000). *Police powers in Nigeria*. Nsukka: Afro-Orbis Publications Ltd.
- Amnesty International (2015). Annual report: Nigeria. <https://www.amnesty.org/en/countries/africa/nigeria/reprot-nigeria>. Retrieved 06/04/16.
- Ayuba, D. & Ajewole, B. U. (2007). *Human rights and law enforcement*. In Arase, S. E. & Iwuofor, P. O. (eds). *Policing Nigeria in the 21st Century*. Ibadan: Spectrum Books Ltd., 135-162.
- Barker, T. (2006). *Police ethics: Crisis in law enforcement*. Illinois, USA: Charles C. Thomas Publishers Ltd.
- Bohm, R. M. & Haley, K. N. (1997). *Introduction to Criminal Justice*. Glencoe: McGraw-Hill.
- Boydell, G. L. (1982). Rural justice: A system analysis of property crimes. *Canadian Journal of Criminology*, 27, (3), 289-296.

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- CLEEN Foundation (2006). *Opportunity for justice: A report of the Justice Olasumbo Goodluck judicial commission of Inquiry of the APO six killings by the Police in Abuja*. Lagos. CLEEN Foundation.
- Constitution of the Federal Republic of Nigeria (Promulgation) Decree (1999). No. 24, Section 36(1) and Section 36(5).
- Daily Sun (2013, 01 August). *Comment: Revisiting power abuse in Nigeria*. Thursday p. 19.
- Daily Sun (2017, 14 March). South East news: Group rejects Army Panel, call for review of Apo 6 ruling. Tuesday, P.10.
- Davis, M., Croall, H., & Tyrer, J. (2005). *Criminal justice: An introduction to the Criminal Justice System of England and Wales*. Harlow, England: Pearson-Longman.
- Eze, M. (2017, 19 April). Apo 6: Killers of my son won't know peace. *Daily Sun*, p..28.
- Federal Republic of Nigeria (FRN), (2005). Opportunity for justice. <http://www.vanguardngr.com/2012/08/olaitan-oyerinde-many-conspiracies-different-culprits/>. Retrieved 6/4/16.
- Igbo, E. U. M. (2005). *Human Rights, Capital Punishment And Extrajudicial Killings in Nigeria*. In Okeibunor, J. C. & Anugwom, E. E. (eds). *The Social Sciences and Economic Transformation in Africa*. Nsukka: Great AP Express, 297-308.
- Igbo, E. U. M. (2007). *Introduction to criminology*. Nsukka: University of Nigeria Press.
- Isiguzo, J. & Igbonwelundu, P. (2013, 14 August). Badagry killing: Police hunt for culprits. *The NATION*, Wednesday p.9.
- Kilete, M. (2013, 11 January). Oshimohle's bombshell: Police killed my aide. *Sunday Sun*, p.5.
- King, M. (1981). *The framework of criminal justice*. London: Croom Helm.
- Michalowski, R. J. (1985). *Policing freedom*. Plymouth: Macdonald & Evans Ltd.
- Nnadi, C. (2012, 7 January). APO 6 killing: MASSOB threatens fire, orders-sit-at home on June 8. *Daily Sun*, Monday, p.10.
- Oji, C. (2013, 2 August). Badagry killing: CP takes over case file. *Daily Sun*, Friday, p.6.

- Olabiyi, L. (2013, 25 July). How police officer shot three men in error during patrol. *Daily Sun*, p.31.
- Packer, H. (1968). *The limits of criminal sanction*. California: Stanford University.
- Police Act and Regulations (1990). Laws of the Federation of Nigeria, *CAP 359*, 15-18.
- Saturday Sun (2013, 31 August). He who kills by sword: In era of security self-help, it's instant justice all the way, p.12.
- Schmallegger, F. (1995). *Criminal justice Today: An introductory text for the 21st century*. New Jersey: Prentice Hall.
- Siegel, L. J. (1983). *Criminology*. New York: West Publishing Company.
- Tsa, G. (2017, March 10). Apo 6: Court sentences 2 policemen to death. *Daily Sun*, p.5.
- United Nations (UN) (2002). *Human rights and law enforcement: A trainers guide on human rights for the police*. Geneva: Office of the UN High Commissioner on Human Rights.
- Uzor, E. (2013, 9 March). APO 6 killing: MASSOB declares sit-at-home, June 8, 2013. *Saturday Sun*, p.6.
- Watchorn, D. J. (1966). *Abuse of police powers: Reasons, effect and control*. Retrieved August 28, 2013 from [utflr.law.Utoronto.ca/utfl-file/count.../07_24FucLRev48\(1966\).pdf](http://utflr.law.Utoronto.ca/utfl-file/count.../07_24FucLRev48(1966).pdf).