

Police Discretion and Human Right Abuses in Nigeria

¹Ene Robert & ²Abejirinde Ayodele

*Federal University Otuoke
P.M.B 126 Yenagoa*

Abstract

Police as an organization set up by government, has the responsibility of preventing, detecting, investigating, apprehending as well as prosecuting an alleged offender. In doing these, it inevitably exercises tremendous amount of discretion. This has in most cases resulted into corruption, high handedness as well as human right abuses which has legal implication. This paper examines the problems associated with the exercise of discretion by the Nigerian Police and its attendant problem of human right violation in Yenagoa. The study was guided by cognitive learning theory. It was a cross-sectional study hinged upon by quantitative and qualitative data triangulation. Questionnaire were administered purposively to 120 victims of police human right abuses in Yenagoa metropolis, while in depth interview were conducted on 15 lawyers who have handled cases of human right abuses. Data were analyzed at univariate and multivariate levels, and the qualitative data were contently analyzed. Although the study found a relationship between police discretion and human rights abuse, it nevertheless revealed that discretion has no link with variable such as socio economic status of alleged victims, advancement in security equipment, and presence of corruption within Nigeria Police. Hence, more training on human right issues was recommended for police officers to curb the incidences of human right abuses.

Keywords: *Police Discretion, Human Right Abuses, Criminal Justice System, Nigerian Police Force*

Corresponding Author: Ene Robert

Background to the Study

The police are the biggest, most visible and important sub – system of the Criminal Justice System (CJS). The police provide the entry point into the CJS either through crime reports from the public or its own discovery. The police organization is the main institution which provides regular direct contact with the public, a situation that makes it unique among the other components of the criminal justice system. The uniqueness of the police rests on the fact that the policeman on the street is as important as the existence of the criminal justice system. This is because the policeman is the gatekeeper of the CJS as he decides who goes into the system. More so, his decision has a significant effect on the other components. The policeman lubricates the CJS through the arrest of suspects, who are essentially the inputs into the system.

In carrying out arrest, the policeman exercises tremendous amount of discretion, which is the exercise of choice by those charged with the responsibility and authority to carry out various tasks assigned to them. Discretion according to Lord Sharman et al (1992), is the art of suiting action to particular circumstances, and it is the policeman's daily task. Therefore, in every instance, the policeman makes the principle determination of whether or not to initiate the criminal process. Given the thousands of laws on the books, police officers have considerable discretion about which laws to ignore and which to enforce.

The exercise of discretion by the police is inevitable due to various reasons, among which are: first, it is impossible to discover all crimes and apprehend all offenders; second, it is possible for the police to carry out its functions of maintaining law and order without necessarily going through the entire criminal justice process; and third, the high expectations of society sometimes provide no options to the policeman's use of discretion. It could be adduced that in the world of the police, discretion rules.

The exercise of discretion by the police rests on two levels. These are individual and command or departmental levels. At the individual level, discretion involves the choice of alternative actions by individual policeman, including taking no action at all. It requires the use of individual judgment to decide what to look for, where to patrol, whom to investigate, how to interrogate and whom to arrest. At the command level, discretion involves decisions regarding objectives, enforcement policies, deployment of manpower and resources, and so on. The use of discretion in the police is unique. In most organizations, the widest use of discretion is found in the topmost hierarchy, such as the management cadre, but in the police its use is found among the lowest ranking policeman, especially the patrolman. The patrolman maintains regular contact with the public; therefore, he usually has the first or initial contact with either the criminal or the scene of crime.

The job of the police officer is complex since he cannot enforce all criminal laws equally, and even if he possesses such capability, certain factors will make it impossible. First, the courts and the prisons would be unable to cope with the large number of suspects and offenders entering the system; second, there is a lot of stress involved in policing the society as a result of conflicting expectations from the public; and third, more often than not, the police officer

makes instant decisions without the opportunity to seek for advice. These decisions could have serious legal implications (Dambazau, 2011). In pursuing its duty, the police have severally been accused of human right abuses by the public, especially by those accosted or accused of committing crimes. These allegations of human right abuses are mostly linked to the use of discretion by the policeman in carrying out investigations, arrests, interrogation etc.

Statement of Problem

As citizens, we look to police officers to resolve dangerous situations, enforce the law and protect our rights. As such the police is often seen as an arm of the government. Often times, the police randomly carry out mass arrests in public places such as restaurants, markets, bus stops and supposed “hot-spots”. In some cases of blatant deception, plain clothe police officers simply masquerade as commuter minibuss drivers, pick up unsuspecting passengers at bus stops, and take them at gunpoint to nearby police stations where they demand money in return for their release. This act by the police has progressively driven by the quest for quick money through bribe tacking from the public with grave consequences for human rights protection as well as the fight against crime in a country like Nigeria. Those who fail to pay are often threatened and unlawfully detained, and at times sexually assaulted, tortured, or even killed in police custody. These dimensions of police cruelty have triggered several public outcries especially because of the inhuman violation of the rights of citizens. Here the police use discretion as an incentive for selfish reward.

As a result of members of the police being the most visible part of the justice system, their actions are highly scrutinized by the public. The most common place for extortion occurs at police checkpoints put in place to combat crime. These checkpoints have become a lucrative criminal venture for the police who routinely demand bribes from drivers and passengers alike. Motorists are frequently detained, harassed and threatened until they or their family members negotiate payment for their release. Extortion-related confrontations between the police and motorists often escalate into more serious human right abuses, occasioning severe beaten, sexual assaults or death of ordinary citizens who failed to pay the bribes demanded.

The criticism against the police may be difficult to defend because a police officer's action requires individual discretion. Officers use previous training, department guidelines and knowledge of the law in order to make quick decisions. Sometimes these decisions are not regarded as heroic. Sometimes they are criticized for being inappropriate or even illegal. Officers are held to very high standards, but they are humans. Sometimes they make mistakes and sometimes unfortunately they exploit their position of public authority and trust. The actions of these officers who abuse their power in some way often predominate what is covered by the Nigerian media. Unfortunately the result is that the public often view police officers as being untrustworthy and abusive while the Police officers in turn often see the public as being ignorant and dangerous thereby resulting to a feeling of 'Us vs. Them'.

Objectives of the Study

The following objectives guided this study:

1. Evaluate the discretionary nature of policing in Nigeria.
2. Examine the relationship between discretion and human right abuse by the police.

3. Determine whether the level of advancement of security equipment influences the rate of human right abuse in the country.
4. To assess the influence of economic status on the choice of law enforcement by the police.

Hypotheses

- H₁. There is no significant relationship between lack of equipment in Nigerian police and the abuse of human right by the Nigerian police.
- H₂. There is no significant relationship between discretion and highhandedness of corruption in Nigerian police.
- H₃. There is no significant relationship between economic status and the choice of enforcing the law by the Nigerian police
- H₄ There is no significant relationship between police discretion and human right abuse

Literature Review

Issues of Police Discretion and human right abuses in Nigeria

The issues of policing and use of discretion has made it clear that not all matters of policing in Nigeria are settled. However, some of the issues that continue to be major topics of debate in law enforcement and have significant impact on the quality of life index and community wellbeing will be examined. Discretion is the exercise of individual judgment, instead of formal rules in making decisions (Romberg, Crank and Kuykendall, 2000). In other words, the officer makes a choice concerning both what laws will be enforced and how that enforcement will take place. The issue of police discretion is very controversial. Some believe that the discretion of police officers should be reduced. Approaches to limiting the use of discretion by police officers is as a result of abuses of that discretion, such as physical abuse of citizens or unequal application of the law in making arrests. Scholars argue that we should acknowledge that officers operate with great discretion and not attempt to limit it. Advocates of this view believe that better education and training would help officers exercise their judgments more wisely. Even more pertinent is the fact that some of the more critical situations involve decisions about stopping, searching, and arresting criminal suspects. Many citizens have been inconvenienced and some have been abused because of a police officer's poor use of discretion. No issue in policing has caused as much controversy in recent times as the issue of police brutality and the violation of the citizen's rights.

In Nigerian cities, excessive force charges against police officers have been made and documented and have resulted in the loss of public confidence in the police. Not only is the persistent use of excessive force by the police against citizens unethical, civilly wrong, and criminally illegal, but it also creates a situation where public confidence is lost by the police . In fact, the scope and context of contacts between the police and citizen are largely restricted to law enforcement situations. These are situations which citizens consider restrictive and therefore resent. The ineffectiveness of Nigerian police, arising from inadequacy of human resources, facilities and funds, lowers the estimation of the police in the eyes of the public. These conditions alienate police from the public and engender police-citizen hostility and violence (Alemika and Chukwuma, 2000). It has been observed that the Nigeria Police Force

is psychologically and structurally too distant from the people they are meant to protect; and do not share or get bound by the values, interests and sentiments of the people. This situation stemmed from the fact of colonial origins of the Police force, which adversely affected the quality of those recruited into the police, and the type of training and orientation whether brutal and (or) oppressive they were given. These adversely affect their perception and behavior towards people. Their negative perception and treatment of Nigerians also made Nigerians not to trust or want to go near the police (Nwolise, 2012). For many years, police followed the professional model, which rested on three foundations including; preventive patrol, quick response time, and follow up investigation. Seeing that the professional model did not always operate as efficiently as it could, Nigeria opted to the use of community policing as this will help solve both minor and major problems in a neighborhood. In other words, police and citizens are to work cooperatively to build a strong sense of community thereby share responsibility in the neighborhood to improve the overall quality of life within the community. However, due to the age-long suspicious and antagonistic relationship between the police and members of the public, it has been difficult for the members of the public to accept or trust the Community Policing Project (Ayuba, 2007).

More so, allegations have being been leveled against the police and its personnel, some of which have proven to be true, such as arbitrariness in exercising power, corruption, perversion of justice, and delays in the administration of justice. However, these allegations are a product of “god-fatherism”. This concept of god-fatherism has become a dominant issue in Nigerian political economy and it impedes the course of justice across the country. Many highly placed public officers in Nigeria are known to pervert the course of justice by virtue of their closeness to the seat of power. Often, the police get sucked in, and this accounts for their complicity in several unresolved crimes across the country (Onyeozili, 2005). A reference point is the unresolved assassinations of political figures, which the police have not being able to fish out the perpetrators. This and other similar actions, rightly fuel the suspicion of police duplicity and belief that they are nothing but a bunch of hired guns in the secret service of select criminal political godfathers (Onyeozili, 2005).

In the same vein, the policing system has been politicized in Nigeria. In most Nigerian cities, party politics prevented the development of professional police departments. Local political leaders understand that controlling the police is a means of maintaining their own political power and of allowing criminal friends and political allies to violate the law with impunity. In fact, in some states, the police is clearly an extension of the state party machine, which attempts to dominate all activity in a community.

Issues on Human Right and Human Right Abuses

Human rights in simple language may be categorized as the fundamental rights to which every man or woman living in any part of the world is entitled by virtue of having been born as a human being, the rights that are required for the full and complete development of human personality. Human rights are derived from the dignity and worth inherent in human person. They include the right to freedom from torture, the rights to life, inhuman treatment, freedom from slavery and forced labour, the right of liberty and security, freedom of movement and

choice of residence, right to fair trial, right to privacy, freedom of thought, conscience and religion, freedom of opinion and expression, the right to marry and form a family, the right to participate in one's government either directly or indirectly or through freely elected representatives, the right to nationality and equality before the law.

Policemen in Nigeria are given wide powers under the Police Act of 1943 and the Criminal Procedure Act of 1945 in the performance of their duties. These powers include the power of arrest, search, seizure, detention and the power to use force in certain circumstances. The exercise of each of these powers affects the fundamental rights of the citizen more directly when the discretionary powers of the police are factored in. Personal freedom, physical and psychological integrity are abused by unlawful arrests, detention and coercive interrogations. Other factors also contribute to violations of human rights by the police: the training and basic educational background of the policeman, his knowledge of his powers and duties, the facilities available to him, and the citizen's awareness of his rights and duties.

In the accusatorial system of criminal justice, as a person is considered to be a criminal only if and when he is convicted by a court of law, the police should also presume that a person in custody may be innocent, till his guilt is proved. The principle of presumption of innocence is specifically provided in Article 11 of the Universal Declaration of Human Rights. A police station is the most important base-line unit of the police organization. It is at this cutting edge level of police administration, the people often get in close touch with the police. The lock-up is the first place of detention of arrested persons, regardless of whether they are later acquitted, convicted, fined or placed on probation.

Allegations are plenty to show that the police misbehave with the suspects many ways including employing third degree methods, detaining illegally, detaining beyond the permitted period, not permitting to wear proper cloths, not providing food etc. These acts show that there is no presumption in favor of the suspects during the course of investigation. The Nigeria police have consistently come under severe public criticism for its poor human rights records. This was most pronounced in the years of military rule with its unusual castration of the rule of law, which foisted a Utopian character on the people's demand for the protection of human rights (Ayuba and Ajewole, 2007). Despite the continuous attempts by successive police administrators to change the human rights image of the force, the notion persists among members of the public that the Nigeria police has very scant regard for the civil rights of the average citizen. Among the violations, the most common forms are illegal detention, prolonged detention, manipulation of records of detention, custodial torture which may lead to serious injury or death, custodial rape, denial of food, medical care and clothing, denial of access to counsel and denial of interaction with dear and near ones.

Theoretical Framework

Cognitive Learning theory

Cognitive theorist recognizes that learning involves the acquisition and organization of information gotten or observation made and the relative power of the learning that varies by the degree of familiarities and repeated number of association (Good and Brophy, 1990).

Constructing, developing and learning cognitive schema which can be considered shorthand for organizing and storing information, often start as simple and loosely organized networks but can evolve into systemic and complex relationships. Research findings by Brehm et al.,(2002), Bower et al.,(1979) and Read, (1987), suggest that these schemas form a mental model that plays a key role in predicting a person's responses to other individual, place and things, in future encounters of events. For example, it is likely that these schemas or biases will be triggered when making an observation, or during an encounter with a person, certain place and (or) things that is part of one's mental model. Once a Police officer has identified an individual or group with an assumed role, future behavior patterns will be predicted upon the developed schema. The schemas or stereotype can be formed by people with or without specific training, and about groups with individual or social characteristics like being impressionistic and based on perceptions. A person can respond in a learned way to another who has membership with another group with which he or she has experience or a history. Average policeman may not have a well-developed schema to deal with people who are suspicious; as such Nigerian police should be trained to identify suspicious people posing threat. (Ruby and Bringham, 1996); research shows that police officers are more likely than civilians to apply a cognitive interpretation of actions that are unfamiliar or uncertain intents as suspicious. With this, to become suspicious about things that they do not believe fit a particular situation, time, place or thing that they do not understand becomes a problem of discretion and proper policing in Nigeria. However, if a police becomes suspicious, he may want them to approach and confront the object of suspicion which is the suspect/person. When that happens, the suspect may become apprehensive and so respond negatively which the policeman will interpret to mean bad attitude or criminal behavior.

Methods and Materials

Data were collected for a period of four months through a triangulation method, which enabled them to gather information from multiple sources. Interviews were conducted by the researcher at the court premises on lawyers. This was done one-on-one and in groups. In addition, using self-completion questionnaire approach, questionnaires were administered to victims of human rights abuses. This was done to get on the victims' experiences of violation. The complementary method of using survey questionnaire and unstructured/non standardized interview provided both quantitative and qualitative data. The people of Yenagoa Local Government Area of Bayelsa State were the study population with emphasis on those who have experienced one form of police human rights abuse or the other. The set of element that were the focus of this study included victims of human rights violations, Lawyers, ex-convicts and the police force. The study population include people arrested by the police for alleged crime between 2013 and 2018. Data available at the police station Yenagoa put the number at 785, out of which 120 formed the sample size. This is in addition to fifteen lawyers selected for in-depth interview (IDI). Hence, a total of 135 respondents formed the sample size.

Victims of human rights abuses were surveyed through interviews or questionnaire. These include those currently in detention (via their lawyers), those on bail and some that have never been charged. At the Yenagoa High Court of Justice, Lawyers engaged in cases involving

human right abuses were given questionnaire to administer on their clients and return back. The non-probability sampling approach was used for the study, using purposive and snowball sampling methods. The purposive sampling enabled the researcher to identify key stakeholders in the study because of their experiences. The snowball sampling process was also used. This process enabled the identification and contact of victims of human rights violations by the police. Primary sources of data collection such as questionnaire and semi-structured in-depth interview were used. The different information gathered were analysed using statistical and content analyses.

Findings

The data presented and analysed here was done using combined methods due to the fact that the data was collected using multiple sources.

Socio Demographic Data

Table 1: Sex composition of respondents

Sex of respondents	No of Respondents	Percentage of respondents
Male	96	80
Female	24	20
Total	120	100

Table 1 show that 96 respondents, representing 80% of the total sample are male while 24 respondents representing 20% of the total are female.

Table 2: Religious affiliation of respondents

Religion of respondents	No of Respondents	Percentage of respondents
Christians	112	93
Muslim	8	7
Total	120	100

The data in Table 2 above shows that 93% of the respondents totaling 112 are Christians, while the remaining 7% totaling 8 are Muslim

Table 3: Marital status of respondents

Marital status	No of Respondents	Percentage of respondents
Single	89	74.16
Married	25	20.83
Divorced/Widowed	6	5
Total	120	100

From the above table, 74.16% of the respondents are singles, 20.83% are married, and 5% are either divorced or widowed.

Table 4: Age distribution of respondents in years

Age	No of Respondents	Percentage of respondents
18-27	41	34.16
28-37	32	26.66
38-47	30	25
48 and above	11	9.16
Total	120	100

From the above table, 34.16% are within the age bracket 18-27 years, 26.66% are within age bracket of 28-37 years, 25% fall under age 38 – 47 years, and 9.16% are within age bracket 48 years and above

Table 5: Monthly income of respondents

Total Monthly Income	No of Respondents	Percentage of respondents
₦200,000 or below	110	91.16
₦200,000 and above	10	8.50
Total	120	100

The table above shows that 91.16% of respondents earn monthly income of N200,000 and below, while 8.50% earns N200,000 and above as monthly income.

Table 6: Education status of respondents

Education Status	No of Respondents	Percentage of respondents
Tertiary	24	20
Secondary	62	51.66
Primary	34	28.33
Total	120	100

Table 6 above shows that 24(20%) the respondents had tertiary education, 62(51.66%) of them had secondary education, while 34(28.33%) of them had primary education.

Table 7: Analysis of the alleged crime of victims of police abuse

Alleged crimes			
Armed Robbery	47	39.16	39
Possession of contraband	26	21.66	22
Robbery	19	15.83	16
Theft	13	10.83	11
Prostitution	12	10	10
Fraud	3	2.5	2
Total	120		100
Duration in police custody			
None	41	34.16	34
< 2days	37	30.83	31
>2 days	23	19.16	19
4-7 days	12	10	10
1 week	7	5.83	6
Total	120		100
Means freed			
In Custody	50	41.66	42
Bribe	32	26.66	27
Police Bail	18	15	15
Court Bail	9	7.5	7
Escape	6	5	5
Police discretion	5	4.16	4
Total	120		100
Use of force to incriminate self (Torture)			
Yes	77	64.16	64
No	43	35.83	36
Total	120		100
Violation of Human Right (Torture, Unlawful Arrest/detention etc.)			
Yes	87	72.5	73
No	33	27.5	27
Total	120		100

Test of Hypotheses

The hypotheses in the study were tested through the use of tables and percentage.

Hypothesis 1: There is no significant relationship between lack of equipment in Nigeria police and abuse of human rights.

Table 8: Do you think that lack of equipment in Nigeria police is the cause of the violation of human right?

Response	No of Respondents	Percentage
Yes	51	42.5
No	69	57.5
Total	120	100%

From the above, the study shows that 51 respondents representing 42.5% of the sample agreed that lack of equipment is the cause of the violation of human right by Nigeria police while 69 respondents representing 57.5% of the sample disagreed. The above table accepted the hypothesis.

Except I for hypothesis number I:

Police discretion is a function of the kind of training giving to the police officers during recruitment and the subsequent once as they progress in their career. I don't think inadequate security equipment causes violation of human right, (IDI/Male lawyer in Yenagoa).

Hypothesis 2: There is no significant relationship between police discretion and highhandedness of corruption by the Nigeria police.

Table 9: Do you think that discretion by Nigeria police is influencing corruption in the system?

Response	No of Respondents	Percentage
Yes	89	74.16
No	31	25.83
Total	120	100%

The above table show that 89 respondents representing 74.16% of the sample agreed that discretion is the cause of corruption in the Nigeria police while 31 respondents representing 25.83% of the sample disagreed. Based on the analysis, the hypothesis was rejected.

Police Direction and Influence of Corruption

Excerpt for Hypothesis Number 2

With regards to the possible influence of corruption on police discretion as concerning human right abuse, the respondents interviewed sighted factor such as the rank/ level of these officers involved.

This was deduced from views such as this:

Human right abuse as occasioned by police discretion can possibly have corruption undertone depending on the rank of the officer involved. The junior officers are more likely to allow their discretion based on victims that they can extort. Also the junior officers are likely to be in the field for operations when compared with the senior officers (IDI/Male lawyer to one of the victims of human right abuse).

Hypothesis 3: There is no significant relationship between economic status and the choice of enforcing the law by the Nigerian police.

Table 10: Does one's economic status determine his treatment by the Nigerian police?

Response	No of Respondents	Percentage
Yes	105	87.5%
No	15	12.5%
Total	120	100%

From the above table, 105 respondents representing 87.57% of the sample agreed that economic status determines choice of treatment of cases by the Nigerian police while 15 respondents representing 12.5% of the sample disagreed. From the above table, the hypothesis that there is no significant relationship between economic status and choice of enforcing the law by the Nigerian police was rejected.

Economic status and choice of enforcement

Excerpt 3 for hypothesis Number 3

This has to do with whether victims of human right abuse as caused by police discretion can be explained from economic and social status angle. Most of the respondents interviewed agreed to a strong relationship between economic and police discretion and human right abuse. This is evident in the excerpts below

Police officer find it convent to discretionally abuse the right of commoners either on the streets during patrol or on the high way during stop and check (IDI, female lawyer). While performing their duty, officers are always interested in the identity of their victims so as to guide against losing their jobs or ranks in the process (IDI, female police officers)

Discussion and Findings

Findings from the study concerning the first objective, which seeks to evaluate the discretionary nature of policing in Nigeria, revealed that in order of frequency and incidence, Armed Robbery, Possession of contraband and Robbery topped the cases of alleged crime victims and human right abuse. At the bottom of the ladder include crime cases such as theft, prostitution, and fraud. From the above, it is observed that the nature of police discretion and human right abuse is class based, because fraud which is normally perpetuated by the upper class persons constituted the least alleged cases of victim of human right abuse. This finding is in agreement with the work of Onyeozil (2005), which found that highly placed public personnel are hardly victims of human right abuse.

With regards the second objectives which borders on the relationship between discretion and human right abuse by the police. The finding reveals that factors such as the kind of training given to the officers, the rank of the officer, and the existing laws play key role in the relationship between discretion and human right abuse. The first hypothesis tested revealed that there is no significant relationship between lack of equipment used by the officers and the abuse of human right. The findings when triangulated with the IDI conducted with the selected lawyers showed a deviation. This position is however in agreement with the finding of (Alemika and Chukwuma, 2000) that emphasized the importance of advance security equipment for officers to avoid human right abuses.

The second hypothesis tested showed that there is no relationship between police discretion and corruption in the Nigeria Police Force. The result of the triangulation indicated that police officers deliberately arrest and abuse the human right of their victims as informed by the plausibility of vulnerable persons from which they can extort money from.

The finding of the last hypothesis equally established no significant relationship between socio-economic status and choice of enforcing laws by the police. However, the interview conducted on the selected lawyers revealed that socio-economic status of the alleged crime victims influence Police discretion. Since discretion is the exercise of individual judgment instead of formal rules in making decision. For Kuykendall (2000) corrupt police officers can spear the rich from abuse and the same time refuse to let the poor go off an alleged crime.

Conclusion

The findings of this study have shown that most victims do not fight for their rights because they have neither power nor means to do so successfully; hence they have normalized the violations of their fundamental human rights by the police. That's why even where they know that the police action was wrong and illegal, they appear to feel powerless to register a complaint or seek redress, rather they choose to do anything they can to free themselves which may include bribery or admitting to crimes to ease their immediate pains.

The negative effect of the violations of human rights on the victims, the general public and police force cannot be overemphasized. In a modern and civilized world of today, Nigeria must not be thrown back to the imagined state of nature in Hobbes Leviathan where individual freedom was despised by the strong and powerful. The failure of the police to abide by the provision of the constitution of respect for fundamental right of people is attributed to psychological, political and socio-economic factors in addition to lack of proper or inadequate education of men of the Nigeria police "force" on human rights issues. The police continue to violate the human or fundamental rights of the people in Nigeria as clearly stated in the 1999 constitution of Nigeria.

Extrajudicial killings, torture, violence, brutality, bribery and other cruel, inhuman and degrading treatment constitute the nature of violations of human rights in Nigeria. While much of what is taken to be discretion is selective law enforcement, a process which is non-discretionary, discretion is necessary to reduce the injustice of law enforcement. Reducing the non-discretionary class bias inherent in law enforcement entails reducing resort to law enforcement itself, which entails generating greater discretion both among police districts and agencies and among individual officers within districts. Misleading premises about police discretion stem from uncritical adherence to an Enlightenment idea of law and order. Enlightenment misconceptions run thus, the terms of a people's social contract among themselves place limits on the exercise of state power over the people. To ensure that people respect one another's liberty within the terms of the contract, officials are to invoke legal sanction for misbehavior with perfect disciplines swiftly, surely, and just severely enough to make the cost of breaking the law marginally greater than the gains offenders seek. The official who acts within the bounds of law will apply the law equally to a friend, foe, and neutral stranger.

This government of laws and not of people preserves civil liberties. By making law enforcement predictable, the government of law leaves people free to undertake private obligations freely and with the security that reciprocity will be upheld. The health and vigor of private enterprise rests on the security that the rule of law will be upheld. Hence, not only civil liberties but economic health and growth of people rest on maintenance of law and order. So, the issue of discretion is very important in the democratization of police in Nigeria. The law makers should produce and provide a ground in which discretion will work on and in which an officer should make the decisions at a given time and place. In achieving this, police officer should be sensitized, socialized and educated on the basis of National consciousness not the unconsciousness. Professional ethics should be inculcated in every member of the force. Furthermore, police should be separated from the control and influence of other arms of the government this will help in repairing the image of Nigerian police.

Recommendations

1. The Nigeria Police Force should prioritize internal control mechanisms by establishing a Public Complaints Unit at each police station. The unit should include a human rights officer, an anti-corruption officer, and an officer responsible for service delivery. These complaints personnel should be assigned the exclusive duties to ensure that the Public is able to effectively report cases of unlawful treatment by patrol officers. They should be provided with sufficient funding, training, and institutional support.
2. Publish detailed quarterly reports of the number, type, status, and outcome of complaints received by the Public Complaints Unit.
3. Officials should be assigned to the unit and by designating a budget item to support it, with a view to establishing a well-funded, professional, and accountable internal anti-corruption unit that reports directly to the inspector general of police. The officials should prioritize investigations of publish detailed quarterly reports of the number, type, status, and outcome of cases complained by the citizens
4. Strengthen the internal disciplinary procedures of the Nigeria Police Force by including on the Force Disciplinary Committee a representative from the Police Service Commission, and by making public the outcome of decisions on disciplinary matters.
5. Thoroughly investigate and promptly arrest police officers implicated in corruption and abuse of discretionary rights, and promptly submit investigation reports to the attorney general for prosecution, including any of senior rank, who hires out, or assigns without authorization, police officers to serve as private guards for individuals of upper economic class.

References

- Dambazau, A. B. (2011). *Criminology and criminal justice*, Spectrum Books Ltd, Spectrum House, Ibadan, Nigeria
- Ahire, P. T. (1991). *Imperial policing: The emergence and role of the Police in Colonial Nigeria*, Philadelphia: Open University Pres.
- Alemika, E. E. O. & Chukwuman, I. (2000). *Police community violence in Nigeria*, Lagos: Centre for Law Enforcement Education and Human Rights Commission.
- Alemika, E. O. (1995). Criminology and the Philosophy of Policing” in Tamuwo, T.N et al (eds.) *Policing in Nigeria: Past, Present and Future*. Lagos: Malihouse.
- 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.
- Ayuba, D. (2007). *Community policing, in Solomon, E. Arase and Iheanyi, P. O. Iwuofor (Eds.), policing Nigeria in the 21st century*, Ibadan: Spectrum Books.
- Bower, G., Black, J. & Turner, T. (1979). Scripts in text comprehension and memory, *Cognitive Psychology*, 11, 177–220.
- Brehm, S., Kassin, S. & Fein, S. (2002). *Social psychology, (5th ed.)*, Boston: Houghton-Mifflin.
- Chukwuma, I. (1994). *Above the Law: Civil liberties organization*, Lagos. P54.
- Cromwell, P., James, O. & D'Aunn, W. (1991). *Breaking and Entering: An ethnographic of Burglary*. Newbuty Park, CA: Saga Publication.
- Davis, K. C. (1971). Discretionary Justice: A preliminary inquiry Louisiana State UP) p 4. Eagle, Robin and Robert Worden, police officer's attitudes, Behaviour and supervisory. influence: An analysis of problem solving. *Criminology* 41:131-166
- Finnane, M. (1990). Police and politics in Australia – the Case for Historical Revision 23 *Australian and New Zealand Journal of Criminology* 218 at 218
- Goldstein, H. (1977). Categorizing and structuring discretion, in Goldstein H (ed), *Policing a Free Society* (Ballinger Publishing Company) pp 95-100.
- Good, T. L, & Brophy, J. E. (1990). *Educational psychology: A realistic approach (4th Ed)* White Plains, NY: Longman
- Mastrofski, S. & Roger, P. (1990). Improving Observational Studies of Police, *Criminology* 28:475-496 (1990).

- Newbum, T. (Ed) (2004). *Handbook of Policing*. United Kingdom: Willan Publishing.
- Nwolise, O. B. C (2004). *The Nigerian Police in international Peace-Keeping under the United Nations*, Ibadan; Spectrum Books.
- Nwolise, O. B. C (2012). Oral on the State police discourse in Nigeria: A Citizen's Perspective!! *Paper presented at the October 2012 Edition of NISER Research Seminar Series*, at NISER, Ibadan, October, 9.
- Onyeozili, E.C. (2005). Obstacles to effective Policing in Nigeria, *African Journal of Criminology and Justice Studies*, 1 (1), 33-54.
- Owuhunwa, I. (2007). Nigerian police in international peace-keeping operations” in Solemn E. Arase and Iheanyi P.O. Iwuofor (Eds.) *Police in the 21st Century*, Ibadan: Spectrum Books.
- Read, S. (1987). Constructing causal scenarios: A knowledge structure approach to causal reasoning, *Journal of Personality and Social Psychology*, 52, 288–302.
- The Rt Hon Lord Scarman, (1981). *The Scarman Report: The Brixton disorders*, 10-12 April 1981 (Penguin Books) p 103.
- Robinson, C., & Scaglione, R. (1987). The origins and evolution of the police function in society: Notes towards a theory, *Law and Society Review*, 21/1:109-53
- Robinson, C., Scaglione, R. & Olivero, J.M. (1994). *Police in Contradiction: The Evolution of the Police Function in Society*. Westport, CT: Greenwood.
- Robert, R. (2010). *The Politics of the Police (4th edition)*, Oxford: Oxford University Press.
- Roy, R., Roberg, J. P., Crank, J., & Kuykendall, L. (2000). *Police and Society*, Ruxbury Publications.
- Ruby, C. L.; Brigham, & John C. (1996). A criminal schema: The role of chronicity, race, and socioeconomic status in law enforcement officials' perceptions of others, *Journal of Applied Social Psychology*, 26(2).
- Schwartz, R.D. & Miller, J.C. (1964). Legal evolution and societal complexity, *American Journal of Sociology*, 70(1), 159-69.
- Sherman, L., Schmidt, J. & Rogan, D. (1992). *Policing domestic violence*, Experiments and dilemmas (The Free Press).
- Stenning, P. (2009). Discretion, in Wakefield A and Fleming J (Eds), *The SAGE Dictionary of Policing* (Sage Publications Ltd) p 85
- Superintendent, G. F. (1980). At institute of criminology, police discretion in the criminal process, *Proceedings of a Seminar on Police Discretion in the Criminal Process* (University of Sydney, 1980) p 9.