

Extra Judicial Killings In Nigeria: Analysis of Police Crime Control Mechanism in the APO 6 Case

By

Gbenemene Kpae**Abstract**

It is an open secret that Nigeria has witnessed a lot of extrajudicial killings in recent times, especially by members of the law enforcement agencies. The rate of extra-judicial killings by the police in recent times has reached an alarming proportion. Each time it happens, the police authorities would protect the offending members of the force. And where the police find circumstances convenient to make a scapegoat of the victim, their claim would be that the victim was a suspected armed robber. The case of the Apo traders who were killed by policemen from the Garki division of the Nigeria police in 2005 remains a clear example of police brutality. On many occasions, this violence appears to have been unleashed with government complacency, and even outright complicity. "The federal police and the armed forces are responsible for numerous human rights violations on a regular basis in their policing activities, ranging from extrajudicial executions to death in custody, torture and cruel, inhuman and degrading treatment of suspects. This situation was also corroborated by Amnesty International who noted that in many instances the Nigeria security agencies torture detainees in their cells to death. However, the police usually attribute such deaths in custody to alleged attempts to escape. Victims are labelled as armed robbers to deny them any form of popular sympathy and to justify inaction by superiors within the police who only rarely attempt to investigate these cases. Extra-judicial executions outside detention centres in Nigeria are often linked to operations by special task forces assigned to patrol streets and highways to check armed robbery, violence or illegal activities by some members of the police force, including illegal checkpoints set up to extort bribes from citizens. Amid general concern over crime, serious flaws in the legal system have permitted the police to routinely label citizens as "suspects of armed robbery or murder" without any evidence to secure their remand in prison awaiting trial for years.

Keywords: Security agencies, policing, extra-judicial killing, torture, Nigeria

Introduction

An extrajudicial killing means taking a life without due process of law. A person is judged guilty and sentenced to death by those without authority to do so and without having a chance to defend himself. That is the essence of an extrajudicial killing. It is not about how much violence attended the killing. It is not limited to those committed by the police or the military. Every killing where there is a denial of due process is an extrajudicial killing. The proper name for extrajudicial killing is murder. It is a killing attended by premeditation, treachery and, in most cases, taking advantage of superior strength, with the aid of armed men, or employing means to weaken the defence, or of means or people to insure or afford impunity. So goes the definition of murder in our Criminal and Penal Code.

The term extrajudicial killing can be defined as any kind of intended killing or murdering by an attack exercising out of the judicial authority for political reasons. Obviously, this killing is considered as an illegal act because it happens out of judicial authority influence, actually all legislations prohibit extra-judicial killing of human being, even international law prohibits extrajudicial executions considering it as grave breaches of international humanitarian law & international human rights. Under the Fourth Geneva Convention extrajudicial killings constitute "grave breaches" and are subject to international jurisdiction. So, when we hear someone, or a group, or an entire organization or coalition of organizations condemning extrajudicial killings, what is it exactly that they condemn? Is it the killing, per se? Then, why not just condemn murder in general? Or is it only the killing of people known to be active in fighting for human rights? If it were the second instance, is there a reason extrajudicial killing should be considered more reprehensible than generic murder?

The answer to the last question is most probably NO. The insistence on a different term to denote political killings is not because most find them more reprehensible. It is because giving them a political dimension makes it easier to put the blame on the entire administration without the need to go through legal processes. While the commission of murder must be imputed to a specific person or people and their participation established and proven, the entire administration is sought to be held liable for extrajudicial killings committed during its term unless it can show that it did everything humanly possible to end them. In other words, the term "extrajudicial killing" is resorted to when no specific murderers can be named.

Legally speaking, a killing is said to be extra-judicial if it is not authorized by the law courts. In Nigeria, the sanctity of human life is protected constitutionally as Fundamental Right. It is equally protected by international treaties and organizations which Nigeria is a signatory to. For instance, The African Charter on Human and People's Rights (Ratification and Enforcement) Act provides that:

Every individual shall have the right to the respect of the dignity inherent in a human being and to the recognition of his legal status. All forms of exploitation and degradation of man particularly slavery, slavetrade, torture, cruel, inhuman or degrading punishment and treatment shall be prohibited

Section 33, Constitution of the Federal Republic of Nigeria, 1999 provides, inter alia that:

Human beings are inviolable. Every human being shall be entitled to respect for his life and integrity. No one may be arbitrarily deprived of his life.³

The implication of the above provision is that nobody should be deprived of his life, saves and in the manner provided by law, for it is only then that the deprivation will not be termed "arbitrarily". In Nigeria, the constitutional provision is even more forceful, it provides:

Every person has the right to life and no one shall be deprived intentionally of his life, save in execution of the sentence of a court in respect of a criminal offence of which he has been found guilty in Nigeria.

Thus, the constitution only recognizes deprivation of life if, and only if, the deprivation is pursuant to the execution of a court order in a criminal offence for which the accused has been found guilty in Nigeria. It follows that any deprivation short of the recognized exception in Section 33(2)(a),(b) & (c) of the Constitution would amount to extrajudicial killing and consequently, unconstitutional.

Extrajudicial killing tantamount to self-help which is an antithesis of the rule of law and Chich has repeatedly been depreciated by the Supreme Court. In spite of all the efforts made by the Government of Nigeria to combat corruption and consolidate the restoration of democracy, there remain serious problems in relation to extrajudicial executions. These were recently acknowledged by the President, and this research study identifies measures required to improve the situation. The problem is illustrated by the "Apo Six" case: the framing and killing of six innocent civilians by the Police in Apo in June 2005.

The Nigerian police force is at the same time seriously under-resourced and confronted with a high rate of violent crime. As a result, abuses including corruption, arbitrariness, torture, excessive use of force and executions are common. There are no systematic statistics recording such executions.

Police put forth various pretexts to justify extrajudicial executions. When a victim is killed in custody, an attempted escape may be cited. When the victim is killed before being taken into custody, his status as an armed robber may be cited. Resort to these pretexts is facilitated by the domestic legal framework. First, the elevation of armed robbery to the level of a capital offence has perverse consequences. While armed robbery does plague much of Nigeria, the label of "armed robber" is very often used to justify the jailing and/or extrajudicial execution of innocent individuals who have come to the attention of the police for reasons ranging from a refusal to pay a bribe to insulting or inconveniencing the police.

Second, the standing "rules for guidance in use of firearms by the police" are deeply flawed. Police Order No.237 authorizes the use of firearms if a police officer cannot "by any other means" arrest or re-arrest any person who is suspected (or has already been convicted) of an offence punishable by death or at least seven years imprisonment. The rules which elaborate upon this provision are even more permissive. According to these rules, any person who seeks to escape from lawful custody commits a felony warranting a seven-year sentence. As a result, it would be justified to shoot to kill someone charged with stealing goods of negligible value but alleged to be seeking to escape from custody. These rules practically provide the police carte blanche to shoot and kill at will. Extrajudicial executions are also facilitated by the impunity the police force enjoys. No doubt that international law is against extrajudicial killings; International law prohibits without exception, the extra-judicial killing and considers it as a grave violation of international humanitarian law, and human rights protocols.

Human rights instruments stipulate that when a government suspects an individual of criminal or subversive activity, that government is obligated to capture and try the person. The government must present its evidence against the individual under a transparent judicial process of inquiry, not to assassinate him.

The right to life finds its most general recognition in Article 3 of the Universal Declaration of Human Rights:

"Everyone has the right to life, liberty and security of person."⁷

Also, Article 6 of the International Covenant on Civil and Political

Rights provides:

"1. Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life."

In accordance with Article 2 of the Universal Declaration of Human Rights and Articles 2 and 26 of the International Covenant on Civil and Political Rights, and pursuant to several other United Nations

declarations and conventions, everyone is entitled to the protection of the right to life without distinction or discrimination of any kind, and all persons shall be guaranteed equal and effective access to remedies for the violation of this right. Moreover, article 4, paragraph 2, of the International Covenant on Civil and Political Rights provides that exceptional circumstances such as internal political instability or any other public emergency may not be invoked to justify any derogation from the right to life and security of the person. Various other treaties, resolutions, conventions and declarations adopted by competent United Nations bodies contain provisions relating to specific types of violations of the right to life. One of the most pertinent of these instruments is the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions⁹, Article 1 of these principles' states: "Exceptional circumstances including a state of war or threat of war, internal political instability or any other public emergency may not be invoked as a justification of such executions. Such executions shall not be carried out under any circumstances including, but not limited to, situations of internal armed conflict, excessive or illegal use of force by a public official or other person acting in an official capacity or by a person acting at the instigation, or with the consent or acquiescence of such person, and situations in which deaths occur in custody. This prohibition shall prevail over decrees issued by governmental authority." Under the Fourth Geneva Convention (ratified by Nigeria in 1954), extrajudicial killings constitute "grave breaches" and are subject to international jurisdiction. Moreover, creating what Amnesty International called "a culture of impunity."

Under international law, exceptional circumstances "including a state of war or threat of war, internal instability, or any other public emergency" may not be invoked to justify executions by a state. International law does not allow for willful killings under any circumstances.

Extrajudicial killing is unlawful under international law because it violates international treaty obligations, as well as customary international law. Extrajudicial killing is unlawful under international law because it violates the respect to the right to life, which is a peremptory norm of customary international law. The only exception to right to life is the right to use lethal force in an act of self-defence against an imminent threat.

As a party to the International Convention on Civil and Political Rights ("ICCPR"), the Nigeria is required by international law to protect the inherent right to life afforded to all human beings¹. According to the ICCPR, the right to life cannot be derogated from even "n time of public emergency which threatens the life of the nation."¹² The ICCPR also guarantees "all persons" the right to a fair trial, a right that is necessarily denied to all subjects of extrajudicial killing.

In addition to the duty under treaty law, the duty to respect the right to life is a peremptory norm of customary

international law. Therefore, customary international law prohibits extrajudicial killing. The ICCPR, the American Convention on Human Rights, the European Convention for the Protection of Human Rights ("ECPHR"), and the African Charter of Human and People's Rights prohibit the deprivation of the right to life¹⁵. Few circumstances allow derogation from this rule. The International Court of Justice has held that even in a time of war, the right to not be arbitrarily deprived of one's life does not cease¹⁶.

Finally extrajudicial killings violate the fundamental principles of democracy, and the conviction that a person is innocent until proven guilty under the law.

The Abuja Police reported that on 8 June 2005 in the Apo district of Abuja five young male traders and a female student were arrested on suspicion of armed robbery, taken to the Garki police station, and subsequently killed while trying to escape. The dead robbers were photographed with their weapons, a post-mortem was conducted as required, death certificates were issued after examination by a doctor, and the bodies were buried. When challenges to this story first emerged the Federal Capital Territory Police Commissioner, Emmanuel Adebayo, publicly affirmed these details. The case looked very typical of many reported by the police in Nigeria.

Unfortunately for the police, however, one of the "robbers" had managed to phone a relative from the police station and reported that the six had been involved in an altercation in a pub with a police officer. Their car had subsequently been ambushed by other police who were called in, they had all been badly beaten, and they were taken to the police station. Family members immediately sought their release but were unable to pay the bribe of \$45, 000.00 demanded by the police. Several of them were executed a few hours later. Another managed to escape but was recaptured and brutally killed by the police. In fact, no post-mortems were carried out, death certificates were not completed by a medical officer, and the bodies were hastily buried in a common grave.

The news of the killings spread rapidly. Rioters ransacked the Apo police on and demanded an investigation. The relatively new Acting Inspector-General of Police convened an internal investigation. But he also took the unprecedented and commendable step of making its proceedings public. Two further elements compounded the horror story that was to emerge. One police officer who took part in the killings allegedly provided the victims' relatives with information on what really happened. He died of '-tonsillitis' the day before he was supposed to give evidence to the inquiry. He was subsequently deemed to have been poisoned by two of his colleagues. Meanwhile, the Divisional Police Office in charge of the Garki police station on the fateful night "escaped" from detention².

In the course of the inquiry one police officer and the photographer on duty that night confirmed that the youths had been killed in cold blood. It was subsequently revealed that the "robbers" alleged weapons had been in

police storage until they were removed by a police officer shortly before the incident. As a result of the inquiry ten police officers were arrested.

On 27 June 2005, the President unprecedentedly appointed a Federal judicial commission of enquiry to look into the "Apo Six" case, i.e. the killings of the six Nigerians. The terms of reference given to the Commission by the Federal Government include:

- a. to determine the remote and immediate causes of the eruption of the violent clash between the Police and some traders in Apo Village;
- b. to establish whether or not there was any armed robbery incident at Gana Street, Maitama Abuja on 7th June 2005;
- c. to determine the identity of the six persons killed at Gimibiya Street, Abuja on 7th June 2005 and the circumstances surrounding their death;

From the statements given by DCP Danjuma Ibrahim, the main protagonist in the case, both during the investigation by the Police Board of Inquiry and the memoranda which he sent to the Judicial Commission of Inquiry, he averred that at said day of 7th June 2005, while on visiting rounds, he received a distress call from DG, NEMA that armed robbers had operated in house located at Plot 417 Lake Chad Str., Maitama, using a Peugeot 406 Car. He later visited the scene. He further claimed to have received another distress call that armed robbers were operating at Crown Guest Inn at Area 11 Garki, Abuja. He added that at 12.30am, in continuation of his visiting rounds, he sighted a Peugeot 406 struggling with a Red Starlet Car with two men inside at Gimbiya Street. He claimed that while he was there, he suddenly saw the suspected Peugeot Car approaching them at the Pin-down-point, where he met with one Inspector and Three Constables. He further claimed that when the Peugeot 406 car attempted to escape, he used his BMW Car to block the road. He asserted that the occupants of the car fired at the Police, to which the Policemen responded. He stated that he came out of his car and brought out his pistol and fire two shots. Thereafter, the officer-in-charge of the Police ALGON Jeep, on his instruction, took the four presumably dead persons and two injured men, all occupants of the Peugeot 406, to Garki Police Station. He also stated that the Peugeot 406 was searched and the following items were recovered from it:

- a. 2 locally made pistols;
- b. 2 live cartridges;
- c. 2 expended cartridges;
- d. 2 daggers; and
- e. 1 cutlass.

The DCP added that he could not state exactly who amongst the Policemen at the scene fired. However, **Inspector Suleiman Audu, PC Yakubu Philibus, PC Haruna Mamot and PC Ibrahim Garba** of the memo submitted to the Panel by the then Acting Inspector General of Police coupled with their evidence given to the Panel are to the effect that there was no shooting from the Peugeot 406 Car that **DCP Danjuma Ibrahim** collected the rifle of Inspector Sulieman Audu and shot at the Car. The scenario was re-enacted when the panel visited the scene. Inspector Sulieman Audu graphically told the panel how the incident took place.

Thus, after analyzing the testimony of Inspector Sulieman Audu, both at the Panel and at the scene, and the testimonies of PC Yakubu Philibus, PC Haruna Mamot and PC Ibrahim Garba, three things stood out distinctively to wit:

- a. That no shoot-out between the Police and the deceased persons at Gmbiya Street, Area 11 Garki Abuja on that day;
- b. That no shooting came from the Peugeot 406 Car;
- c. That DCP Ibrahim Danjuma collected the AK 47 rifle of Inspector Suleiman Audu and shot the entire 10 bullets into the Peugeot 406 Car;

The evidence of Inspector Suleiman Audu, PC Yakubu Philibus, PC Haruna Mamot and PC Ibrahim Garba were to the effect that nothing was recovered from the said Peugeot 406 Car. The statement and evidence of **Inspector Ishaya Nyaiwak**(statement pages 21 -22 of the memo submitted by the Acting Inspector General of Police) that the said locally made pistols were recovered from RITA LORI HOTEL a week before the incident. Also, the evidence of PC Dennis Asa>vato the effect that DPO CSP Othman Abdusalamspecifically directed him on where to search in the said Peugeot 406 Car. The evidence of DCP DanjumaIbrahim that the Peugeot 406 Car was not searched at Gimbiya Street even though different from his statement contained at pages 5-7 of the Acting Inspector General of Police also gave credence to the fact that the two locally made pistols were planted in the said Peugeot 406 Car by the Police.

The Ballistician report before the Panel stated in part that the locally made pistols allegedly found on the deceased persons had not been fired in recent time and the expended cartridges were not fired from any of the locally made pistols. It can thus be seen that from the facts that no locally made pistols or any firearms had been found with deceased persons. The deceased persons did not pose any threat to the lives of the Policemen around including DCP Ibrahim Danjuma or were they (Police Officers) put under a serious apprehension of their safety³ to warrant the killings of the deceased persons.

As to how many were persons died at the first point of contact, i.e. Gimbiya Street, Area 11 Garki Abuja, there was a lot of conflicting and contradicting evidence. The evidence of DCP Danjuma Ibrahim was corroborated by the evidence of Yakubu Alama, a security guard at Syndicate Plaza, Area 11 Garki Abuja, who was on duty on the night of the incident to the effect that only one person died at Gimbiya Street and that the remaining five were taken to Garki Police Station and he, DCP Danjuma Ibrahim, handed them over to the DPO Garki Police Station, CSP Othman Abdulsalam. The statement of PC Ezekiel Achenejeas contained at pages 8 -- 9 of the memo submitted by the Acting Inspector General of Police gave a graphic account of those they shot which sum up to five people. In the memo, his statement provided thus:

"...That on the way along Kabusa road, one of the suspects jumped down from the vehicle and was chased

³By Force OrderNo. 237 it provides, "A police officer may use firearms under the following circumstances: ...

(a) When attacked and his life is in danger and there is no other way of saving his life.."

From the statement and evidence before the Commission, it was evidently clear that some people were killed at Gimbiya Street, Area 11 Garki Abuja and some people killed thereafter near Prince and Princess Estate, Gauda Abuja. The common denominator flowing from both statements and testimonies of witnessed is that all the deceased were killed by the Police in a continuous single exercise of elimination to conceal facts.

Also, it was found as fact that though there was robbery at the house of the DG, NEMA, the car used for the robbery was a Red Honda Haller and not a Peugeot 406. Furthermore, by the evidence of Ben Agari, owner of Crown Guest Inn, he stated that those involved in the robbery at his hotel never came with any car and they escaped through a pathway to the road where they boarded a Red Toyota Car. Thus, the issue of Peugeot 406 for in the said robberies on that fateful day was introduced by DCP Danjuma Ibrahim.

The Judicial Commission of Inquiry was headed by Justice O. O. Goodluck, a serving High Court Judge of FCT, Abuja with Chief Osita Okeke, DIG Parry Osayande (Rtd), Brigadier General Okunbor and Hauwaas members, Barrister Iduwas made the Secretary of the Panel and Barrister Oluwole Aina as Counsel to the Panel.

The Judicial Commission of Inquiry was sworn in on 27th of June 2005 (nineteen days after the killings/incident) and commenced sitting on 29th of June 2005. The Judicial Commission of Inquiry concluded her sitting on the 5th of August 2005 with the admission in evidence of the autopsy reports on the Six deceased persons carried out by two renowned anatomic Pathologists namely

Right To Life And The Nigerian Police

The Nigeria Police have grown significantly under civilian rule to 225,000 in 2007. But the numbers are still inadequate, their level of training and funding insufficient, and their morale low. Although Nigeria suffers from high violent crime rates, the force is chronically under-resourced. All too often new recruits pay for their own uniforms, salaries are delayed for many months, equipment required in an emergency needs to be borrowed from other agencies,³⁰ and complainants (even those alleging murder) are asked to cover the costs of the police investigation including travel and accommodation. Where they cannot afford to do so, the investigation fizzles. In addition, corruption is widespread among police officers, in part due to very low salaries.

For these reasons, and because police tactics are often marked by the arbitrary and unnecessary use of force, including high rates of extrajudicial killings, there is little public confidence in the police. Indeed, they are criticized by virtually all sectors of civil society. The lead editorial in a security-focused magazine observed that the "[operatives of Nigeria Police are dreaded agents of death who decimate human lives at will." The editorial continued:

"Looking scruffy and ferocious in different shades of gear, operatives of Nigeria Police would storm the roads armed with guns, horsewhips and batons It is business time. And the road and its users no longer know peace. From [the police] standpoint, everybody is a criminal and every crime has a price. "

Common complaints include the carrying of firearms in public by un-uniformed police, the wearing of uniforms by police when they are off-duty ³³ and the widespread practice of police requiring payment to ensure the safe deliver.- of goods. As a result, the overriding public attitude towards the police is one of fear and mistrust.

The focus of this analysis, however, is on extrajudicial killings by the Nigeria Police. These can be broadly grouped into three main types:

- (1) extrajudicial executions of suspected criminals;
- (2) the excessive and arbitrary use of force; and
- (3) deaths in custody.

Despite the fact that the scourge of armed robbery plagues much of Nigeria, the label of "armed robber" is very often used to justify the jailing and/or extrajudicial execution of innocent individuals who have come to the attention of the police for reasons ranging from a refusal to pay a bribe to insulting or inconveniencing the police. The problem lies in part in the elevation of armed robbery to the level of a capital offence. This seems to

have at least two pen e~?e consequences: (1) criminals interrupted in an armed robbery have no desire to use arms (either way it will be a capital offence); (2) the police are given a justification to shoot to kill any person who has committed a capital offence and is seeking to flee.³⁴

The case of the Apo Six is telling in that the Nigerian Civil Liberty Organization was able to predict, with chilling accuracy, the execution of: alleged armed robbers. Tragically, the practice of summarily executing s.criminals by the Nigeria Police is widespread and systematic. This is both illegal and counter-productive. There are no circumstances under which summary executions are legally permissible let alone justifiable. The practice is counterproductive for several reasons. Summary executions of suspects, many of whom are innocent of the crime of which they have been accused, does nothing to stem the high rate of armed robbery in Nigeria. For all the killings at the hands of the police, this rate has shown no diminution. The practice also confirms the public sense of the police as being out of control, brutal, and relatively unconcerned with protecting the public and upholding the law. Fundamentally different police tactics are thus required by law and for pragmatic reasons.

The key challenge is to determine when deadly force can legitimately be used against criminals. Most approaches to date seem to be inconsistent with human rights requirements. For example, in "operation fire-for-fire", a 2002 campaign against crime, the Inspector-General of Police pre-authorized police officers to fire in "very difficult situations". The result, revealed in police statistics, was that in the first 100 days, 225 suspected criminals were killed, along with 41 innocent by-standers². Fortunately, this operation was terminated.

But the standing "rules for guidance in use of firearms by the police" are equally flawed. Police Order No. 237 provides for the use of firearms in situations where it is essential in order to protect the life of the police officer or of another person, or where necessary to prevent "serious offences against life and property" by rioters. These provisions are unexceptionable but the rules which effectively relate to "armed robbers" are formulated very differently. They authorize the use of firearms if a police officer cannot "by any other means" arrest or re-arrest any person who is suspected (or has already been convicted) of an offence punishable Amnesty International, Security Forces in Nigeria: Serving to protect and respect human rights? (December 2002) at p. 14. by death or at least seven years imprisonment. The rules which elaborate upon this provision are even more permissive. They note that any person who seeks to escape from lawful custody commits a felony warranting a seven-year sentence. As a result, shooting to kill someone charged with stealing goods of negligible value but alleged to be seeking to escape from custody would be justified. The only qualification contained in the rules is "firearms should only be used if there are no other means of effecting his arrest, and the circumstances are such that his subsequent arrest is unlikely". These rules are deeply flawed. They provide close to a carte blanche to the police

to shoot and kill at will.

Police Order No. 237 should be amended immediately to bring it into conformity with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. The resulting emphasis should be on proportionality, on the use of lethal force as an absolute last resort, and only "when strictly unavoidable in order to protect life". Thus, the possible escape of an alleged robber who presents no direct threat to the lives of others, cannot justify shooting to kill.

On paper, the system for investigating police misconduct is impressive. In practice, it is too often a charade. The outcome of investigations usually seems to justify inaction or to ensure that complaints are dealt with internally through "orderly-room hearings" or the like. While police officers are certainly disciplined and some dismissed, the system has rarely worked in cases in which police are accused of extrajudicial executions. In these instances, genuine investigations are rare and referrals to the DPP for prosecution are even rarer. It is also not uncommon for the primary accused police officer to escape, for charges to be brought against others, and for the latter to be acquitted on the grounds either of insufficient evidence or of prosecution of the wrong officers. The result gives me appearance of a functioning investigative system, while in fact promoting the goal of *de facto* police impunity.

In 2005 the acting former Inspector-General of Police (IGP) announced that "the days of extra-judiciary killings" and of "corruption in the service" must end⁴. The question for Nigeria is how to introduce some notion of accountability. While no single country can provide a model, efforts to promote democratic policing in South Africa are of major relevance⁵. It is generally accepted that three different levels of control are needed: internal, governmental, and societal.

In terms of internal accountability, the Nigeria Police system is weak. From the few statistics available there are the indications that few serious disciplinary measures are taken except against rogue individuals. Indeed, the single greatest impediment to bringing police officers to justice for their crimes is the Nigeria Police force itself. Evidence indicates that it systematically blocks or hampers investigations and allows suspects to flee. In order to break this cycle of impunity, a new investigation and prosecution mechanism is required.

In terms of governmental accountability, the Police Service Commission is charged with police discipline, but has opted to refer all complaints of extrajudicial police killings back to the police for investigation. The Commission's mandate is potentially empowering. But despite efforts by one or two excellent commissioners, its performance has been dismal and self-restraining. Its Quarterly Reports to the President are not published and present a dismal chronicle of rubber-stamping decisions taken by the police, coupled with inaction in relation to pressing concerns. A radical overhaul of its procedures and composition is warranted. In terms of *societal*

accountability there are various initiatives to promote community policing and reinvigorate the Police-Community Relations Committees that exist in some states⁶. But these efforts fall far short of the need. Some external authority needs to be equipped and empowered to monitor police abuses, including instances of illegal checkpoints, demands for bribes and other forms of corruption and abuse

The prevalence of human rights violations and extrajudicial killings in the Nigerian Police is a function of several and complex factors acting together in a potent mix to predispose the average policeman and woman to abuse the powers conferred on him by the state and the rights of the citizens. These factors include the following:

(a) Conceptual

It appears that most Nigerian languages do not equip the police with the concept of a "suspect". To be accused or arrested is to be presumed guilty. The treatment of suspects testifies to a significant conceptual limitation. The public display of armed robbery suspects and their arms/charms is the most dramatic manifestation of this limitation. Although the word "suspect" is often used but it seems to connote guilt and condemnation in the Nigerian police, hence suspects like those of the "Apo Six" are treated with indignity, crudity and brutality.

b) Historical

The Nigerian Police is still afflicted by its heritage as an instrumental of colonial purification. The alienation of the colonial Police from the general population remains a feature of police -- civil society relations in Nigeria today.

(c) Culture

The Nigerian Police operates in a paternalistic environment in which authority is expected to be unquestioned. The uniform which a police officer puts on confers on him authority which is often used in a culturally-calibrated way. The Nigerian policeman does not expect an ordinary citizen to argue or explain his/herself out of a situation. He expects a person to beg and if the person does not, he considers such a person recalcitrant and worthy of any manner of abuse.

(d) Environmental

The Nigerian Police operates in an environment which has been brutalized by civil war, military rule, political mismanagement and economic adversity. It is a terrain in which the failure of the State and culture of comprises has engendered an epidemic of lawlessness and violent crimes. The average Police officer is confronted, on a daily basis, with a relentless army of lawbreakers.

(e) Infrastructural

The policeman and woman in Nigeria work in grossly insalubrious and environments. Police Stations are

ill-equipped, often dingy and generally inadequate for the needs of those who work there. The Nigerian Police Station is a frustration-inducing environment or put more positively, is hardly an edifying environment. In addition to the uninspiring working environment, the Nigerian Police is handicapped by gross supply and logistic inadequacies which undermine work attitudes and the capacity to perform, at the level desired by all.

(f) Institutional

The Nigerian Police has suffered from years of maladministration and neglect. Its poor administrative processes have tended to generate disaffection among the rank and file. For years, the Police have suffered from what can be described as the collapse of command. Indiscipline and arbitrariness on the part of local commanders plagued the force. This problem has not been totally eliminated. With a poor system of sanctions, infractions have generally not been consistently or systematically punished. The police officer, in the field, is hardly deterred by a system in which discipline and order are only discriminatory enforced.

(b) Coroner's inquiries

In the Nigerian criminal justice system, coroners are an endangered species and inquiries a rarity. Thus, records of coroner's inquiries are unavailable. In practice, unspecialized magistrates act as coroners.

It is commonplace for pathologists to sign reports without examining the body and when police killings are involved, there is often no signature.

(c) The Holding Charge

If the Nigerian criminal justice system worked, suspects would be brought before a court, charged and remanded. Instead the police consistently resort to a short cut by taking suspects before a magistrate who remands them indefinitely without formal charges while the police conduct their investigation. The result of this "holding charge" is that individuals can be jailed more or less indefinitely in a legal limbo based on little more than a suspicion of criminal activity, unsupported by any evidence. This practice continues despite a declaration of its unconstitutionality by the Court of Appeal⁸. It has contributed significantly to the extremely high rates of individuals in Nigerian prisons who have not been formally charged, a situation which can endure for a decade and beyond. It is an insidious but pervasive practice which shields police inefficiency and severely punishes many innocent persons.

(d) The Prosecutorial System

Public Prosecutors have no control over police investigations, nor can they demand that individuals be produced in court. As a result, most police killings are never referred to the DPP and the latter cannot initiate a prosecution. Moreover, a police officer must be dismissed from the police force before being

prosecuted.

(e)Legal aid

There is a "severe lack of competent and adequately compensated counsel for indigent defendants and death row inmates seeking appeals."⁹ Although the Legal Aid Act guarantees free legal assistance in capital cases to those who cannot afford a lawyer, in practice the Legal Aid Council, the body responsible for providing such assistance, is under-funded and unable to fulfil its duties¹⁰. While practitioners are keen to point to *the pro bono* work done by some barristers, this makes little dent in the overall shortfall of legal aid.

Conclusion and Recommendations

The "Apo Six" case was a terrible tragedy and also a sad reminder of the incident of extrajudicial killings in Nigeria. The case brought out all the pathologies affecting the Nigerian Criminal Justice System as well as the endemic disregard of human life by the Nigerian Police. A fundamental right of all citizens of Nigeria is the right to life enshrined under the 1999 Constitution and numerous International Human Rights instruments. The right of life of every citizen is expected to be respected by the Police and this right can be violated in special circumstances provided under the law. However, as could be seen in the Apo Six case, the six innocent suspects' right to life were violated without due process (this is what is known as extrajudicial killing) by the Police and the unfortunate part is that perpetrators tried to cover up their heinous act by committing more killings. The famous police extra-judicial killing of innocent suspects of crime in our nation's capital, otherwise known as the Apo 6 was also noted in a report Professor Philip Alston, Special Rapporteur of the United Nations Commission on Human Rights on extrajudicial, summary or arbitrary executions in Nigeria

In sum, this paper examines the incidents of extrajudicial killings in Nigeria, and also the causes of extrajudicial have also been discussed that relevant human rights principles and provisions of international humanitarian law prohibit without exception, the extra-judicial execution of individuals. It is within this context that the killing of the six innocent civilians by the Police in the Apo Six Case is a serious crime under international law. It clearly amounts to intentional and willful killing, which constitutes a grave breach of humanitarian law, and could be subject to criminal prosecution.

Recommendations

This is, therefore, a call on the Federal government to ensure that law enforcement officers do not resort to torture or inflict cruel, inhuman or degrading treatment on detainees under any circumstance; that they do not carry out extra-judicial executions; or exert excessive use of lethal force. It also recommend the prosecution of

erring police officers and the payment of compensation to families of victims of police brutality, torture and extra-judicial killing. Lastly, extrajudicial killings violate the fundamental principles of democracy, and the conviction that a person is innocent until proven guilty under a policy of extrajudicial killing, a government becomes prosecutor, judge, and executioner, it is unconstitutionally.

References

- Alston, P. (2005). Expert on Extrajudicial killing ends visit to Nigeria. A United Nations Human Rights office of the High Commissioner Press Release.
- Amnesty International (2002), Security Forces in Nigeria: Serving to protect and respect human rights?
- Ajomo, M. A. and Okagbue, I. E. (1991) Human Rights and the Ad: Criminal Justice in Nigeria. (Ibadan: Spectrum Books.
- Centre for Law Enforcement Education (CLEEN) and National Human Rights Commission (1999) Policing a Democracy: A Survey Report on the Role And Functions of the Nigerian Police in a Post-Military Era. (www.kabissa.org/cleen).
- Civil Liberties Organization (2005), I Can Kill You and Nothing will Happen: A Report of Extra-Judicial Killings and Impunity by Law Enforcement Agencies in Nigeria between May 1999 - June 2005.
- Crooke Q.C, G. W. (2001). Professional Policing v. Corruption. Paper Presented at the 15th International CoGormley, 'The right to Life and the Rule of Non-deogability: Peremptory Norms of Jus Cogens,' in E.G. Ramcharan (ed), The Right to Life in International Law (1985) inference of the International Society for the Reform of Criminal Law, Canberra.
- Government White Paper on the Report of the Judicial Commission of Inquiry on the Apo Six (6) Killings by the Police in Abuja Between 7th - 8th June, 2005.
- Human Rights Law Service, (2004) Travesty of Justice: An Advocacy Manual Against the Holding Charge.
-

Masuku, T.(2005)Strengthening Democratic Policeand Coordinating the Internal and External A

South African Police Service, (Braamfontem. Centre for the study of Violence and
Reconciliation

World Organization Against Torture and Centre for Law Enforcement

Education (2002), Hope Betrayed? A Report on Impunityand State-Sponsored
Violence in Nigeria.

The Report of the National Study Group on Death Penalty, Abuja, August
2004