

An Evaluation of the Nigeria Police Jurisdictional Powers under the Nigeria Law

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ABSTRACT

The paper examined the legal framework and professional practices with regard to functions, power and jurisdictions of the Nigeria Police, and the overlapping functions of law enforcement agencies in Nigeria. These were with a view to undertaking a holistic analysis and appraisal of the nature and extent of jurisdictions established by law for the Nigeria Police.

The study adopted doctrinal methodology and relied on primary and secondary sources of information. The primary source included unstructured interviews with relevant authorities, judicial decisions, state and federal laws governing jurisdictional issues in policing. The secondary source included books, journal articles, conference proceedings, newspaper publications and the internet. Data collected were subjected to content analysis.

The study found that, notwithstanding the various constitutional and statutory provisions on outlawing the creation of any other police in Nigeria or any part thereof, socio-economic, political, cultural and humanitarian challenges had militated against police effectiveness which necessitated the proliferation of law enforcement agencies in Nigeria. It was also found that the legal framework delineating Nigeria into various police formations and areas over-concentrated powers in the epicentre of the police system.

The study insisted that, unless the Nigeria Police is adequately funded and its personnel properly trained and retrained, its effectiveness might remain unachievable. The paper, therefore, concluded that fundamental issues of recruitment policy, conditions of service, inadequate equipment, corruption in the police, attitude of Nigerians, force policy for delineation of police area, encroachment by other law enforcement agencies into police jurisdiction and the various overlapping functions by other law enforcement agencies must be properly addressed if the Nigeria Police would fulfil its constitutional role to the best advantage of the people.

Keywords: Nigeria Police; Jurisdiction; Criminal Jurisdiction; Civil Jurisdiction; Law Enforcement

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1.0 INTRODUCTION

Official acts are subsumed in the agencies' powers conferred inherently or by legislation on the organisation. Jurisdiction connotes power to act; power to function; power to take decision and power to enforce the decision.¹ It is the sum total of the power exercise. Such powers are not limited to exercise of judicial powers; they extend

¹ See AS Hornby, *Oxford Advance Laws Dictionary* (Oxford University Press 2014) p. 858.

to performance of administrative duties.¹ This kind of jurisdiction is known as agency jurisdiction which is defined by *Black's Law Dictionary*² to mean "the regulatory or adjudicatory power of a government administrative officer over a subject matter or matters".³ The substratum of every duty is jurisdiction without which the act become a nullity. This underscores the all-important impact jurisdiction on persons taking decision; they should be seised of a recognisable authority without which such acts become null and void since no person ever puts something on nothing and expect the thing to stand.⁴ In the dictum of Lord Denning, in the celebrated case of *Macfoy v United African Company*⁵:

If an act is void, then it is a nullity. it but incurably bad. There is no need for an order of the court to set it aside. It is automatically null and void without much ado, though, it is sometimes convenient to have the court to declare it to be so. And every proceeding which is founded on it is also bad and incurably bad. You cannot put something on nothing and expect it to stand.⁶

The foregoing underscores the need to enforce the law by regulation. Put differently, it illustrates that each institution is limited by the gift of organisational powers donated by its enabling enactment, otherwise the action undertaken becomes a nullity.

In this paper, police operation is presented broadly, to accommodate the various activities undertaken officially by the Nigeria Police with a view to ensuring public order and enforcement of law. The burden of this paper is the evaluation of extant statutory laws relating to performance of duties and the due exercise of police powers in the context of the police's bifurcated criminal and civil jurisdiction in Nigeria. To this end, the paper, is divided into five segments, apart from the introductory which is the first segment. In its second segment, the paper examines the legal frameworks for exercising police jurisdiction in Nigeria, just as it considers, in its third segment, the police criminal jurisdiction in Nigeria. In the fourth segment, the exercise of police civil jurisdiction with its nature, objects, limits and impacts are evaluated while the fifth segment, the concluding part, proffers some suggestions towards the effective reform of extant laws to promote effective engagement of police jurisdictions in Nigeria.

2.0 LEGAL FRAMEWORKS FOR EXERCISING POLICE JURISDICTION IN NIGERIA

For effective understanding of jurisdictional issues, as conferred on the police in Nigeria, it is imperative that an underlying framework of law on the phenomenon of police powers is imperative. Both criminal and civil jurisdiction are predicated on enforcement of law and public order. Law enforcement and public order are regulated by both domestic and international laws as well as treaties. The domestic substantive law includes the Nigerian Constitution,⁷ and the Nigerian criminal laws which include procedural and substantive laws. The procedural laws comprise the Administration of Criminal Justice Act,⁸ and its domesticated versions in states that have adopted its application; the Criminal Procedural law;⁹ the Criminal Procedure Code;¹⁰ the Evidence Act 2011; and certain parts of the police enabling law.¹¹ The substantive laws comprise the Criminal Code Act, the Penal Code, the Economics and Financial Crime Commission Establishment Act, the Independent Corrupt Practices Commission and Other Related Offences Act, the Terrorism Act and others.

An essential part of the statutory duties of the Nigeria Police Force is the protection of the rights of the people.¹² For the avoidance of doubt, section 4 of the Nigeria Police Act (NPA) 2020 provides that:

4. Police shall:

¹ TR Powell, Administrative Exercise of the Police Power. III. Judicial Review in Actions for Damages *Harvard Law Review*, Vol. 24, No. 6 (Apr., 1911), pp. 441-459 (19 pages)

² Garner Bryan A.: *Black's Law Dictionary* (8th Ed.), (Minnesota: Thomson West1999).

³ Ibid, 867.

⁴ *Macfoy v United African Company* (1961) All ER 1169.

⁵ Ibid.

⁶ Ibid at 1172.

⁷ Ibid.

⁸ The Administration of Criminal Justice Act 2015 [ACJA 2015]. Currently, the Act has been domesticated IN more than 28 states in the Federation of Nigeria.

⁹ The Criminal Procedure Law [CPL] for any state, in the southern part of the country, which are yet to adopt the provisions of the administration of the ACJA 2015.

¹⁰ The Criminal Procedure Code for any state, in the northern part of the country, which are yet to adopt the provisions of the administration of the ACJA 2015 (n 9).

¹¹ The Nigeria Police Act 2020 [NPA 2020].

¹² Ibid at section 4.

- a. prevent and detect crime and protect rights and freedom of every person in Nigeria, as provided in the constitution, the African Charter on Human and people's rights and any other law.¹

The above section of law created three main duties viz.: the duty of enforcement of law; maintenance of public order, and protection of rights. The insertion of the rights' protection duty among the above duties, in Nigeria Police Act (NPA) 2020, was a resolute attempt at making the police the institutional enforcer of people's rights in whichever duty it may engage. It has been argued that the obligation on the police to protect the people's rights arises from its duty to detect crime as demanded in the constitution, which equally places obligation on the democratic state,² with its law enforcement agencies required to provide security to the state and its citizens.³ This duty includes the protection against internal and external threats. Safety is, undoubtedly, located high in the hierarchy of "goods" to be protected by law.⁴ The observance or upholding of the people's rights by the police also constitutes a cardinal essence of the government.⁵ The duty of upholding the rights of the people to exercise its criminal jurisdiction which protects citizens from unnecessary abuse from perpetrators of crime; and also demands the police to intervene where the fallout from the lawful enjoyment of a citizen's right is a foreseeable course to apprehend the breakdown of law and order, wanton destruction of life and property alongside the inestimable demand to ensure the maintenance of law and order likely to be contravened; or put differently, in appropriate cases, where the intervention is necessary, to prevent the commission of a crime.⁶

These aspects, therefore, require the police to exercise its civil jurisdiction, though criminal offence is yet to be committed, for the realisation of the main objective for exercising jurisdiction in the circumstance of the above expedition is the protection of rights, and maintenance of public order and safety. It is, therefore, essential to state this legal demand, which essentially harped on the legal framework for the interrogation of these jurisdictional phenomena. In Nigeria, various national laws,⁷ universal,⁸ continental⁹ or regional treaties¹⁰ and

¹ Ibid at section 4(a).

² See section 14(2)(b) of the Constitution of the Federal Republic of Nigeria 1999 (as altered) [CFRN 1999]

³ See section 4(d) & (e) of the NPA 2020 (n 12).

⁴ Eliza Smith, 'Hierarchy of Controls: Definition and Examples' <<https://study.com/academy/lesson/administrative-controls-for-safety-professionals-definition-methods.html>>

⁵ See section 14(2)(b) of the CFRN 1999 (n 15).

⁶ Ibid at section 35(1).

⁷ See sections 33-46 of the various provisions on protection of the people's right contained in Nigerian statutes. These statutes include the CFRN 1999 (n 2); Child's Rights Act, 2003; the NPA 2020 (n 4); Administration of Criminal Justice Act 2015 [ACJA 2015] as domesticated by various states in Nigeria; The Criminal Procedure Law [CPL] of states in the southern part of Nigeria which are yet to adopt the ACJA 2015 (n 12), Criminal Procedure Code for states in the Northern Nigeria which are yet to adopt the ACJA 2015 (n 12); Torture (Prevention and Prohibition) Act 2017 [TPPA 2017].

⁸ The Federal Republic of Nigeria is a signatory to various international treaties, conventions, protocols and agreements that border on the protection and promotion of human rights which include the following: UN Universal Declaration on Human Rights 1948 (UDHR); UN Code of Conduct for Law Enforcement Officials (1979); UN Standard Minimum Rules for the Treatment of Prisoners (1977); UN Principle on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions (1989); UN Declaration on the Protection of All Persons from Enforced Disappearances (1992); UN Body of Principles for the Protection of all Persons Under any form of Detention or Imprisonment (1988); UN Convention on the Rights of the Child. (1989); UN Rules for the Protection of Juveniles Deprived of Liberty (1990); UN Convention against Torture Inhuman or Degrading Treatment or Punishment; UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Powers (1990); UN International Covenant on Civil and Political Rights (ICCPR), (1966); UN Declaration on the Elimination of Discrimination Against Women (1967), and UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (1990). Though, implementation of these international treaties requires specific legislation, to enable the application of these treaties in before national courts, in Nigeria, the Nigerian Fundamental Right Enforcement Procedure Rules [FREPR] allows their basis as a ground on which rights may be enforced in Nigeria.

⁹ Africa Charter on Human and Peoples' Rights and Robben Island Guidelines for the Prevention of Torture.

¹⁰ ECOWAS Human Rights Protocols such as A/P.1/5/79 relating to freedom of movement for persons, residence and establishment and; Protocol A/SP.1/7/85, etc.

protocols are established for protection of rights of the citizens. Under the CFRN 1999, citizens are entitled to: right to life;¹ right to dignity of human persons;² right to personal liberty;³ right to fair hearing;⁴ right to private and family life;⁵ right to freedom of thought, conscience and religion;⁶ right to freedom of expression;⁷ right to peaceful assembly and association;⁸ right to freedom of movement;⁹ and right to freedom from discrimination.¹⁰ Whichever jurisdiction the police is exercising, be it the inherent or statutory; or put differently, the criminal or civil, the concomitant obligation of the police is to ensure that these rights are protected. However, this has not always been observed by police officers who put no difference between duties performed at these jurisdictional instances, often believing whether or not matters handled are civil wrongs, contractual or domestic occurrence, application of force is continually applied. Where appropriately exercised, though in civil cases, the stricture of the court will not be available against the police.¹¹ It appears that it is the seemingly perturbing nag and abuse that has distanced police authorities from its engagement. The recognition of these rights, notwithstanding, newspapers report terse incidents such as the police beating a man with a cutlass for alleged civil wrongs.¹²

A compelling story to drive home the negative impacts of breaching the rights of citizens in ridiculously non-criminal matters is illustrated by Nigeria Police interference in civil disputes, among other gory incidents of rights abuse where suspects die while detained on civil causes. A terse instance was a case reported by The *Punch* newspaper relating to a 33-year-old man identified as Jimoh Abdulquadri, who died in detention for allegedly owing someone the sum of 220 thousand naira.¹³ Again, on February 16, 2025, *Vanguard* newspaper reported the setting ablaze of a police station after chasing away the divisional police officer and other policemen over unauthorised use of force on a suspect in custody in Ifon Ose Local Government Area of Ondo State.¹⁴ This and many such instances had propelled breakdown of law and order in the country, leading to wanton destruction of lives and property. It will be recalled that the #ENDSARS riot of November 2020 that almost plunged the country into a anarchy was the aftermath of repeated police brutality and misuse of force on suspects in Nigeria. The police authority has consistently condemned unauthorised use of force by police personnel.¹⁵ Worried by the incessant use of force as a mode of eliciting statements from suspects, the Inspector-General of Police, Kayode Egbetokun, has urged police legal officers in the state commands to protect citizens' rights and due process.¹⁶

Apart from the NPA 2020 which is the principal enabling law regulating the Nigeria Police Force, there are other subsidiary legislations, the principal of which is the Police Regulations 2004 [PR 2004]. This is in addition to administrative order and notices made for the guidance of the force or police personnel. These regulations, orders and notices are deemed to derive their authority from the NPA 2020.¹⁷ Both the principal legislation (the PA 2004 now NPA 2020) and the subsidiary legislations (the Police Regulations 2004) are held to have equal

- ¹ See section 33 of the CFRN 1999 (n 15); see also Article 3 of the UN Universal Declaration on Human Rights; see also Article 4 of African Charter on Human and People's Rights.
- ² Ibid at section 34(1) see also Article 9 Principle 2, UN Universal Declaration on Human Rights; see also Article 5 of African Charter on Human and People's Rights.
- ³ Ibid at section 35(1); see also Article 5 UN Universal Declaration on Human Rights, see Article 6 of African Charter on Human and people's Rights.
- ⁴ Ibid at section 36; see also Article 7 of the African Charter on Human and People's Rights.
- ⁵ Ibid at section 37.
- ⁶ Ibid at section 38]; see also Article 8 UN Universal Declaration on Human Right; see also Article 5 of African Charter on Human and People's Rights.
- ⁷ Ibid at section 39; see also Article 9 of the African Charter on Human and People's Rights.
- ⁸ Ibid at section 40; see also Article 10 of the African Charter on Human and People's Rights.
- ⁹ Ibid at section 41; see also Article 12 of the African Charter on Human and People's Rights.
- ¹⁰ Ibid at section 42; see also Article 19 of the African Charter of Human and People's Rights.
- ¹¹ *Esabunor v Faweya* (2008) 12 NWLR (part 1102) 794 at 809, para F-G.
- ¹² See the *Daily Trust* publication of August 5, 2022, entitled 'policeman Captured Flogging Man With Cutlass Detained at Force-Headquarters' <<https://dailytrust.com/Policeman-captured-flogging-man-with-cutlass-detained-at-force-headquarters/>> accessed on August 21, 2024.
- ¹³ See the *Punch* publication of December 23, 2024 captioned 'Kwara Suspect Dies in Police Custody.' <<https://punchng.com/kwara-suspect-dies-in-police-custody/>>. accessed on February 18, 2025.
- ¹⁴ *Esabunor v Faweya* (n 34) at 794 at 809, para F-G.
- ¹⁵ This was expressed by the Ondo State Commissioner of Police Wilfred Afolabi during an un-d-sport visit to the scene
- ¹⁶ See the *Independent News* publication of May 10, 2024 captioned 'IGP Meets with Police Legal Officers, Emphasises Service Delivery, Rule of Law' <<https://independent.ng/igp-meets-with-police-legal-officers-emphasises-service-delivery-rule-of-law/>> accessed on February 16, 2025.
- ¹⁷ Ibid at section 140(6).

effects in law¹, and none is superior to the other, except when the rule of inconsistency is applied.² The NPA 2020 is as important as the Police Regulations. There are other procedure laws strengthening existing legal framework on jurisdictional engagement. These include the Administration of Criminal Justice Act 2015 which replaces the repealed Criminal Procedure Act 2004, the Criminal Procedure Law of various states which are yet to domesticate the provisions of ACJA 2015 in the southern states of Nigeria, the Criminal Procedure Code of states in northern Nigeria which are yet to domesticate ACJA 2015 and the Evidence Act 2011. These laws make far-reaching provisions and procedures for criminal investigation in Nigeria. The police are guided by those procedural laws.

For the avoidance of doubt, section 1(2) of the Administration of Criminal Justice Act compels the court, law enforcement agencies and other authorities or persons involved in criminal justice administration to ensure compliance with the provisions of the Act³ for the realisation of its purposes. In a more instructive perception, section 3 of the Act⁴ provides that:

A suspect or a defendant alleged or charged with committing an offence established by an Act of the National Assembly shall be arrested, investigated, inquired into, tried or dealt with according to the provisions of this Act, except otherwise provided under this Act.⁵

The Administration of Criminal Justice Act, 2015 is a Federal Law with restrictive application to states in the federation of Nigeria, except for the provision of its section 86 which expands the application of parts 8 to 30 thereof to all criminal trials and proceedings, unless express provisions are made in respect of any particular court or form of trial or proceeding. Nearly all the states of the federation have either domesticated or are currently initiating the process of domesticating it, *mutatis mutandis*, to replace the existing moribund Criminal Procedure Law/Code. In addition, the NPA 2020 makes novel provisions for protection of the citizens' rights as it subjects police operations to observance of the rule of law and respect for human rights as contained, either in chapter IV of the CFRN 1999 or as may be contained in any international conventions or protocol.⁶ It is now certain that the new enabling law of the Nigeria Police is rights-friendly and people inclined.

The case law which emphasises the judicial directives and strictures of court are all consolidating epoch on jurisdictional issues in Nigeria.

The extent of the scope of the Nigeria Police is subsumed in its operational jurisdiction which is the sum total of the exercise of police power. The substratum of every duty is jurisdiction without which police action will be a nullity. Operational jurisdiction is an official general power to exercise authority over all matters, persons and things within specified domains of the institutional duties. Operational jurisdiction is a corollary of duties and powers exercisable by an institution. For instance, the jurisdiction of the Nigeria Police is predominantly in the area of enforcement of law and the maintenance of order while that of National Drug Law Enforcement Agency is on narcotics and drug-related cases. The jurisdiction of the Nigeria Customs Service is the control and regulation of inter-border trade while that of the Nigeria Immigration Service borders on the control of foreigners and inter-citizen relationships.

Jurisdictional issues in policing are basically statutory and inherent. This could be dichotomised into civil jurisdiction and criminal jurisdiction. Traditionally, the age-long primary duty of the police is the maintenance of law and order which, in recent times, has been overridden by the erstwhile unpopular, but now popular, enforcement role. The pressure often exerted on the police appears to limit police essence to investigations and prosecution of cases. This is so because there are many empirical indications of a continuous crescendo in crime especially in the last three decades. Media accounts of the fear expressed, and lived out, by the public and the intimidating crime statements by government authority, leave the police with more crimes to contend with, thereby restricting police jurisdiction to criminal cases. The resultant effect of this is the assertion that the Nigeria Police is concerned with criminal matters alone without any civil jurisdiction. This misconception has become so popular that any attempt by the police at making invitation, howbeit for maintenance of law and order, has always been repelled by court suit.

¹ See *Agha v IGP* (1997)10 NWLR (Pt. 524) 317.

² Ibid, p. 332.

³ Ibid.

⁴ Ibid.

⁵ See also section 32 of the similar provisions in the NPA 2020 (n 6), subjecting the arrest, investigation, trial or otherwise dealing with the defendant or suspect, to the provision of the NPA 2020, except otherwise provided by the Act NPA 2020 (n 12). The dual application of the two provisions found in varying laws, no doubt, constitutes a strong dilemma of a conflict of law.

⁶ See sections 2 & 31 of the provisions of the NPA 2020 (n 12).

3.0 THE POLICE CRIMINAL JURISDICTION IN NIGERIA

The duties the Nigeria Police performs are contained in the legislation, mainly as contained in the Nigeria Police Act.¹ The said duties include among others prevention and detection of crime; apprehension of offender, enforcement of all laws with which they are directly charged. Traditionally, the age long primary duty of police was the maintenance of law and order which, in recent times, has been overridden by the erstwhile unpopular but, now, popular prevention and detection of crime. This is so because there are many empirical implications that there is a continuous crescendo in crime especially in the last three decades. Media accounts of the fear expressed and lived out by the public and the securitisation statements for crime by government authorities leave more crimes to contend with.

The major laws prescribing duty or conferring power from which police jurisdictions are derivable are: (i) the NPA 2020,² (ii) The Criminal Procedure Law (for the southern part of the Country), (iii) The Criminal Procedure Code for the (Northern States), (iv) Criminal Code Act,³ (v) Penal Code,⁴ and (vi) the Administration of Criminal Justice Act,⁵ the Administration of Criminal Justice (Repeal and Re-enactment) Lagos State, 2011.⁶

NPA 2020 s 4(a)-(j) provides that:

4. The Police Force shall:

- (a) Prevent and detect crimes and protect the rights and freedom of every person in Nigeria as provided in the Constitution, the African Charter of Human and Peoples' Rights –see source and any other law;
- (b) Maintain public safety, law and order;
- (c) Protect the lives and property of all persons in Nigeria;
- (d) Enforce all laws and regulations without any prejudice to the enabling Act of other security agencies;
- (e) Discharge such duties within and outside Nigeria as may be required of it under this Act or any other law;
- (f) Collaborating with other agencies to take any necessary action and provide the required assistance or support to persons in distress, including victims of road accident, fire disaster, earthquake and flood;
- (g) Facilitate free passage and movement on highways, roads and streets open to the public;
- (h) Adopt community partnership in the discharge of its responsibilities under this Act or any other law; and
- (i) Vet and approve the registration of private detective schools and private investigative outfits.

The statutory duties contained above⁷ can be itemised as follows: (a) prevention and detection of crime, (b) maintaining public safety, law and order, (c) protection of lives and property of all the persons in Nigeria, (d) enforcement of all laws and regulations without prejudice to the enabling Act of other security agencies, (e) discharge of such duties within and outside Nigeria as may be required under this Act or any other law, (f) collaboration with other agencies to take any necessary action and provide the required assistance or support to persons in distress including victims of road accident, fire disaster, earthquake and flood, (g) facilitation of free passage and movement on highways, roads and streets open to the public. Others are, protection of rights and the freedom of the people, (h) adoption of community partnership in the discharge of its responsibilities under this Act or any other law, and (i) vetting and approving the registration of private detective schools and private investigative outfits. In addition to the above are the duties of control and regulation of traffic, Sheriff duties and such allied statutory duties as may be contained in other legislations.

The above constitutes the legal jurisdiction and field of practice of the Nigeria Police. Looking critically, the duties of detection of crime; enforcement of law and apprehension of offenders constitute the criminal jurisdiction of the Nigeria Police while other duties constitute its civil jurisdiction. Not much needs be emphasised aside from discussing the legality theory which is apposite to this discourse.

Criminal jurisdiction of the Nigeria Police is statutory in nature. Investigatory and prosecutorial powers are exercisable only in criminal offences. The police power of arrest, which is an incident of criminal investigations,

¹ Ibid.

² The NPA 2020 (n 12).

³ The Criminal Code Act Cap C 38 Laws of the Federation of Nigeria 2004.

⁴ The Penal Code Cap P 3 Laws of the Federation of Nigeria 2004.

⁵ See the ACJA 2015 (n 9).

⁶ The Administration of Criminal Justice Act, (Repeal and Re-enactment) Lagos State, 2011.

⁷ See section 4 of the NPA 2020 (n 12).

can only be exercised in matters that are mainly criminal in nature. The Constitution of the Federal Republic of Nigeria 1999, as amended, outlaws customary law/ common law offences in Nigeria. It is provided therein that “Subject as otherwise provided by the Constitution, a person shall not be convicted of a criminal offence unless that offence is defined and the penalty therefore is prescribed in a written law, and in the subsection, a written law refers to an Act of the National Assembly or a Law of a State, any subsidiary legislation or instrument under the provisions of a law”.¹ In *Ifeagwu v Federal Republic of Nigeria & Ors*,² the Court of Appeal reechoed the above constitutional provision where it is held that:

it is sacrosanct that no person shall be liable to be tried or punished in any court of this land except under a clear and unambiguous provision of a written law. This was the import of the decision in *Aoko v Fagbemi & Anor*,³ the decision of the High Court of the old Western Region of Nigeria, the law expounded therein still remains immutable.⁴

Common law offences are no longer applicable in Nigeria. No act or omission can constitute an offence today in Nigeria, unless such act or omission is prescribed under a written law. In a good number of cases where the police adopted criminal investigation in cases that are purely civil, such investigation and action taken thereon had always exposed the police to stricture of courts.⁵ Be that as it may, it is sufficient to state that offences investigable by the police must be created by concrete law under which the act or omission prohibited must be defined in writing with punishment provided for its breach. The criminal jurisdiction exercisable by the police must be derived either from the statute directly charging it with the enforcement of such law, or granting authorisation either expressly or by long usage and acceptability by the court and the people. Though the assumption of criminal jurisdiction is an executive act which arises in the normal course of administration, it should be a functionally-recognised practice by law.

The public officer or public authority (as in police authority) must point to some power or authorisation of such long standing that it has been accepted by the court as existing at common law, an authorisation which must be found immediately in an Act of parliament. It is never sufficient to allege that the conduct complained of has been in accordance with regular practice followed even for considerable time by the authority concerned.⁶ It is necessary that the exercise of any jurisdiction, be it criminal, civil or otherwise must, as a matter of course, be traced to an Act of the parliament. The foregoing underlines the efficacy of the rule of law which demands that an official act must be traceable to an enactment which itself should be traceable to the grundnorm, which is the constitution.

For the avoidance of doubt, where the enabling law of an agency expressly bars all other institutions from assuming jurisdiction, those other institutions can neither by any means confer a jurisdiction on themselves nor can parties by consensus. In like manner, where an act confers jurisdiction absolutely and exclusively on an institution to the exclusion of all others, all such other institutions are precluded from assuming jurisdiction, except for the purpose of inter-level or inter-institutional cooperation, whereby the cooperating institution merely assists in the preliminary enquiry before transferring the suspects with the enquiry case file to the appropriate institution. Where two or more enactments deal with a subject matter and each enactment confers powers or jurisdiction on different institutions, either or both of those institutions could exercise a jurisdiction as conferred by the individual enactment conferring the jurisdiction.

Where an enactment establishing a new institution confers it with jurisdiction to exercise all the powers of an existing institution, nothing therein, except expressly stated, precludes the existing institution from exercising jurisdiction earlier conferred on it including those now shared with the new institution, except such residual power has been expressly taken away by a repeal. For instance, the Nigeria Police Act⁷ confers on police officers, the power to conduct prosecution⁸ before any court whether or not the information or the complaint is laid in his name. The Act⁹ also imposes on the police the duty of prevention and detection of crime and apprehension of offenders.

¹ See section 36(12) of the CFRN 1999 (n 15).

² *Ifeagwu v Federal Republic of Nigeria & Ors* (2001) 47 WRN 86 at 105.

³ *Aoko v Fagbemi* (1960) 1 All NLR 400.

⁴ *Ifeagwu v Federal Republic of Nigeria & Ors* (n 55) at 139.

⁵ *Mclaren v Jennings* (2005) 3 NWLR (Pt. 808) pp. 470 at 484 paragraph E – H; See also *Nkpa v Nkume* (2001) 6 NWLR (Pt. 710) 543 at 561; *Fajemiroku v CB CL Nig. Ltd. & Anor.* (2002) 10 NWLR (Pt. 774) 95.

⁶ Keir and Lawson: *Cases in Constitutional Law* (5th Edn., Oxford University Press 1968), p. 306.

⁷ See the Nigeria Police Act 2020 [NPA 2020].

⁸ Ibid at section 66.

⁹ See the Police Act Cap P 19, Laws of the Federation of Nigeria, 2004 [PA 2004].

A crime is an offence, and Section 2 of the Criminal Code Act¹ defines an offence to mean an act or omission which renders the person doing the act or making the omission liable to punishment under the code or under any Act or Law. By this provision, offences or crimes are not limited to those contained in the Criminal Code Act.² A crime includes any such offence or crime created by any enactment in Nigeria. This, *ipso facto*, gives the police the power to prevent and detect any such offence created, in any such other Act or law, whether or not jurisdiction is expressly conferred on the police. They can, therefore, arrest and investigate persons committing the offence under that enactment, even though police power to enforce such law would only arise if the police are directly charged with its enforcement under that law.

The foregoing enjoys judicial approval in a line of cases construing section 4 of the Police Act 2004 which imposes on the police, among others, the duty of due enforcement of all laws with which they are directly charged. In *IGP v Daniel Andrew*,³ the Court of Appeal (Ekiti Division) construing the provisions of section 8(2)(a) of the National Drug Law Enforcement Agency Act (2004)⁴ which saddles the agency with the power of prosecution of drug-related offences, in contrast with the provision of section 23 of the Police Act, held that:

None of those sections ousted the prosecutorial power of the police which is donated by the Constitution. The fact that the Agency is given concurrent power with the police to prosecute under the Act cannot amount to usurpation of its power by the police. Both the Police and National Law Enforcement Agency are fighting crime in the country. Any power tussle between the Federal Agencies charged with responsibility to fight crimes will lead to anarchy and the Federal Government's effort will remain prostrate.⁵

Although the two cases above border on whether the police can validly prosecute offences contained in other security agencies' enabling laws, the residual estate and fundamentals of police functions and powers of the police are perpetually preserved by law. Quite often, executive intervention in inter-level cooperation and inter-departmental relationships results in the police delimiting dissipation of efforts on overlapping functions to the effect that, apart from preliminary actions considered necessary for handling specialised cases, such cases are usually conceded wholly to the specialised agencies. It appears this practice is in compliance with Federal Government's directives which enhance the patronage of the agencies by members of the public. Such directives may also be seen to have been provoked by police ineffectiveness. Therefore, the creation of new agencies covering special fields to heal police inefficiency demands the cooperation of the police. Despite the foregoing seemingly-fanciful administrative arrangement, it is the position of the court that, in Nigeria, the police can validly prosecute virtually all cases.

In *FRN v Abuah Daniel*,⁶ the Court of Appeal Abuja Division, held that the Nigeria police can prosecute all offences including those under the Nigeria Security and Civil Defence Corps Act, 2007. It overturned the decision of Justice I. E. Ekwo of the Federal High Court (Lokoja Judicial Division), who in his judgment delivered on the 17th June 2013, held that, since section 3 (1)(f)(vi) of the Nigeria Security and Civil Defence Corps Act, 2007 conferred the authority to investigate offence of oil pipeline vandalisation on NSCDC and the power to initiate proceedings thereto on behalf of the Attorney-General of the Federation, the police is under a fettered obligation to hand over any suspect apprehended by them to NSCDC for prosecution.

The various administrative arrangements, notwithstanding, they do not divest the Nigeria police of its statutory powers and duties of detection and prevention of crime, maintenance of law and order, enforcement of all laws, prosecution of criminal cases and protection of life and property as long as the acts or omissions giving vent to police action constitutes an offence. The police can exercise its residual jurisdiction to enforce, investigate and prosecute offences created under such laws. This assertion is reinforced by the Supreme Court's holding in the case of *Nyame v FRN*⁷ which affirmed that the Economic and Financial Crimes Commission is empowered to prosecute offences as long as they are financial crimes. In a similar vein, the Nigeria Police by virtue of sections 4 and 66 of the NPA 2020,⁸ has an extensive investigatory and prosecutorial power in Nigeria so long as the

¹ Criminal Code Act Cap C Laws of the Federation of Nigeria, 2004.

² Ibid.

³ *IGP v Daniel Andrew* (2014) All FWLR (Pt. 729) p. 1194.

⁴ National Drug Law Enforcement Agency Act Cap N 30, Laws of the Federation of Nigeria, 2004 [NDLEA 2004].

⁵ *IGP v Daniel Andrew* (n 65) at p. 1207.

⁶ *FRN v Abuah Daniel* (2015) LCN/7893 (CA); also published with approval in the *Nigerian Leadership's* publication entitled "Police Have Power to Prosecute All Offences" <<http://leadership.ng/news/439601/police-have-powers-to-prosecute-all-offences-court>> accessed on March 30, 2024..

⁷ See *Nyame v FRN* (2010) 4 SCM 61 at pp. 100 – 101.

⁸ NPA 2020 (n 3).

complaint being handled is a crime known to law. NPA 2020 has further strengthened the proprietary rights and powers of the Nigeria Police in the enforcement of laws.¹ For the avoidance of doubt, section 4(d) of the NPA 2020 empowers the Nigeria Police Force to enforce all laws and regulations without any prejudice to the enabling Act of other security agencies. The phrase, “without prejudice to the enabling law of any agency” in the above section is intended to lay to rest all agitations.

There is a gulf of differences, under the defunct Police Act,² between the police duty in detection of crime under the law and enforcement of the law. This arises from the condition inserted in the enforcement duty providing that the enforcement powers of the Nigeria Police would be subject to its being directly charged under that law, while the duties of prevention and detection of crime as well as prosecution of cases are bare duties without any qualification. It is not the duty of any person nor that of the court to read into provisions of unambiguous law, anything that is not expressly stated,³ even when there is a lacuna because that would amount to rewriting the law. It is not part of the court’s duties to make laws. Meanwhile, because the NPA 2020 has corrected this anomaly, it has now preserved this proprietary function of the police.

Arising from the above reform, unless the enabling law of any agency expressly limits specific police function or power, all the functions, and powers of the police ancillary to the general duties of prevention and detection of crime and enforcement of law with the maintenance of law and order are still intact. This becomes so when it is realised that both proprietary and residual powers of the police are yet preserved by the NPA 2020, even though, a spark of such powers has been extended to any other institutions, for the purpose of performing specific duties, and unless the enactment so creating that jurisdiction for the new institution makes that specific duty absolute and exclusive or invokes the repeal of any other enactments to its exclusion. For instance, the police may not have been directly charged in the National Food and Drug Administration Commission Act⁴ [NAFDAC Act] with its enforcement, they, however, have the proprietary power to enforce its various provisions and regulations thereto contained. This is on the ground that the Act does not, in whatever manner, expressly dispossess the police of the power of enforcement.

A vivid example of the above is the investigation of homicidal case resulting from consumption of unwholesome product, though duly registered by the NAFDAC, which medical autopsy claimed was responsible for the death of the victim. Another instance is, where in the course of criminal investigation of a homicide case resulting from administration of any stupefying substance for the purpose of facilitating the commission of an offence or facilitating the flight of an offender, discovered a large stock of expired repressants displayed for sale, in a medicine store or pharmacy where the deceased had purchased similar pills that medical autopsy claimed was responsible for the death of the victim, it would be reasonably appropriate for the police to investigate and arraign the operators of the pharmaceutical stores before the court, though not for the murder of the victim, but for an offence of dealing in expired drugs punishable under Section 3(1)(a) of the Counterfeit and Fake Drugs and Unwholesome Processed Food (Miscellaneous Provision) Act,⁵ enforceable under the NAFDAC Act.⁶

In a case⁷ where the proprietary rights of police investigation and prosecution under the Counterfeit and Fake Drugs and Unwholesome Processed Food (Miscellaneous Provision) Act⁸ was challenged in a criminal trial before the Federal High Court 2 sitting at Ibadan, his Lordship, Honourable Justice Molokwu,⁹ held that nothing in that enactment precludes police from investigating and prosecuting NAFDAC-related cases under the Act and that section 23 of the defunct Police Act 2004¹⁰ empowers police officers to prosecute cases whether or not the information or complaint is laid in their names.¹¹ This is a residual power of the police. In the final analysis, though the police have the propensity of covering the field of prevention and detection of crime on a wide range of other agencies’ related cases, that does not invest the police with exclusionary power. Hence, the phrase ‘without any prejudice to the enabling Act of other security agencies’ is wide enough to accommodate the

¹ Ibid at section 4(d).

² See the Police Act 2004 (n 62).

³ *Gafar v AG Kwara State & Ors* (2007) 4 SCM 110 at 134 – 135.

⁴ Cap N 1 Laws of the Federation of Nigeria, 2004.

⁵ Cap C 34 Laws of Federation of Nigeria 2004.

⁶ Section 5 of National Agency for Food & Drug Administration & Control Act Laws of the Federation of Nigeria, 2004.

⁷ *FRN v Timothy Agunbiade* in Charge No. FHC/IB/66/2007 (unreported) 1.

⁸ See his Lordship ruling on the above matter delivered 26th Feb, 2008 following the lead author’s strong argument in opposition to Applicant’s application for striking out of charge for lack of jurisdiction on the ground of competence.

⁹ Ibid.

¹⁰ Ibid.

¹¹ *FRN v Timothy Agunbiade* in Charge No. FHC/IB/66/2007 (n 77) at p. 7..

proprietary right conferred on other agencies to treat such cases, though police can similarly enforce such provisions. Whatever jurisdiction the police may wield must be traceable to specific provision of the law that is not too vague or indiscernible.

4.0 THE CIVIL JURISDICTION OF THE NIGERIA POLICE: NATURE, OBJECT LIMITS AND IMPACTS

Aside from the inherent duties of the police in Nigeria, among its civil jurisdiction, under the statutory duties indicated under the NPA 2020 s 4 are: (a) prevention of crime, (b) maintaining public safety, law and order, (c) protection of lives and property of all the persons in Nigeria, (d) discharge of such duties within and outside Nigeria as may be required under this Act or any other law, (e) collaboration with other agencies to take any necessary action and provide the required assistance or support to persons in distress including victims of road accident, fire disaster, earthquake and flood, (f) facilitation of free passage and movement on highways, roads and streets open to the public, (g) adoption of community partnership in the discharge of its responsibilities under this Act or any other law, and (h) vetting and approving the registration of private detective schools and private investigative outfits. In addition to the above are the duties of control and regulation of traffic, Sheriff duties and such allied statutory duties as may be contained in other legislations.

By the intrinsic data evaluation above, the police in Nigeria performs more duties in its civil jurisdiction than its criminal jurisdiction. Also, it is some aspects of the duties associated with its civil jurisdiction that exhibit not only the fundamental role of the police in Nigeria but also the whole essence of government. Accordingly, the Supreme Court has held, in the case of *AG Federation v Atiku Abubakar*,¹ that 'the maintenance of public safety and public order is the most fundamental duty of the Nigeria Police'. It is under the police function of maintenance of public order that the Nigeria Police assumes mostly its civil jurisdictions. Civil jurisdiction of the Nigeria Police Force is traditionally derived from its inherent jurisdiction as well as ancillary powers created by statutes and case law. There is need to note here, however, that in the handling of such civil cases, the police should exercise caution so that it would not cause more problems than it intends to solve.

It is observed that several criminal cases begin with the undertone that is purely civil in nature but snowballs into heinous crimes as a result of poor management. Indeed, most gruesome homicide cases emanate from mild protest by persons within a close degree of relationship and precipitates intrigues culminating in the killings.² Tracing the offender-victim relationship, Thompson and Tapp, reported that, among the 123,342 homicide offences detected in the United States for 2022, 55 were close contact,³ most of which might have arisen from mild issues purely relating to civil background. Some of those homicide cases were reported but investigations were declined by the police on grounds of the complaint being civil in nature or on ground that the cases arose from domestic dispute or from purely business interaction or cases of lawful debts before they degenerated into violence through self-help.⁴

The inherent aspect of police civil jurisdiction is derived basically from its very nature and name. The police is traditionally known to be law enforcer by its very nature. One does not need to look out for a statute to know whether the police should maintain or preserve law and order. This aspect of police actions is derived from the inherent nature of policing; and, even if no statute provides for them, the police is traditionally known to be law enforcers and peace officers. One wonders only a little, considering the fact that the Criminal Code⁵ defines a peace officer to include any magistrate and any police officer of, or above the rank of, Assistant Superintendent of Police. The restriction notwithstanding, every police officer is charged with the responsibility of preventing breach of public peace. It is sufficient, therefore, to state that even, where no offence is contemplated or has become apparently manifested, the police could entertain any such complaint for the purpose of preserving the public order and protection of life and property by virtue of its responsibility to maintain public peace, public order, and public safety, which are purely civil duties, and not *stricto sensu* within its criminal jurisdiction.

Civil jurisdiction can be exercised in a large number of civil matters which include: (i) Lovers and families disputes; (ii) Children and parent disputes; (iii) Chieftaincy disputes; (iv) Trade disputes; (v) Land disputes; (vi)

¹ *AG Federation v Atiku Abubakar* (2007) 6 SCM 1 at 141.

² This is derived from the personal experience of one of the authors as the Head of Legal Matters, Ekiti State

Command between 2000-2004, Head of Legal Matters, Oyo State Command between 2004 - till date.

³ Alexandra Thompson and Susannah N. Tapp, 'Criminal Victimization' (September 2023, NCJ 307089, U.S. Department of Justice 2022); see also Alexandra Thompson and Susannah N. Tapp, 'National Crime Victimization Survey', [United States], 2022 (ICPSR 38603)

⁴ Ibid.

⁵ See section 2 of the Criminal Code, Cap C 38 Laws of Federation of Nigeria 2004.

Religion disputes; (vii) Boundary disputes; (viii) Matters relating to sovereign right of the government to promote order, safety, health, morals and general welfare of members of public; (ix) Police action in major disasters; (x) Police action in crowd control; (xi) Police action in peaceful resolution of crises and conflict managements, etc. Though, this list is inexhaustible, it is sufficient to note that, every duty within the constitutional limit traditionally performed by police officers, to ensure that justice is done though no law may have imposed such duties, falls inherently within police civil jurisdiction.

In addition to protecting lives during emergency situations and disaster management, police usually perform duties to preserve recovered property to ensure that they are kept in safety for the owners. Other instances include police intervention under the Liquor Act for safety measures for protection of the drunk; assisting sick persons on the streets; helping the abandoned to get home; giving signals to avert accident or imminent death; crowd control; police intervention during major disasters or trade disputes; helping the strayed to locate his bearing and helping the destitute or the displaced persons to be sustained, restoring hope to the hopeless. These are only few among the unending list of such duties. Only a little will one wonder, when realised that denying a spouse of

Criminal Victimization, 2022

marital rights,¹ failing to perform marital obligations,² withdrawal of beneficial rewards,³ or mere domestic insults⁴ could result in dastardly-gruesome violence like murder, manslaughter, armed robbery and allied offences, wanton destruction of life and property.

In *Afonja v R*,⁵ there was a domestic dispute between a husband and wife whereat the wife jeered at, and spat on the face of, her husband for his incompetence. This aroused a great passion of provocation from the husband who hewed her in pieces. Were the case reported at the police station, an average police officer would have refused the case as civil and turned back the enraged husband, for reason of sheer ignorance of the possibilities of police civil jurisdiction which is available for the purpose of preventing foreseeable fallout that may lead to loss of life or grave consequence on public peace. Similarly, if, at his sudden provocation, Bedder, a eunuch (in *Bedder v DPP*),⁶ who, having failed repeatedly to sustain turgidity that would enhance penetration due to his impotence, was jeered at, and kicked by a sex worker, had gone to a police station to report his ordeal before the murderous incident, the matter would ordinarily have been refused civil, perhaps with greater embarrassment than he suffered from the sex worker, considering the circumstance and facts of the case. The foregoing cases illustrate the need for prudent handling of all cases including those the police consider as civil in nature, as a panacea for public peace and preventive mechanism for numerous homicidal cases. This becomes more essential in communities known for quick responses in using cutlass to settle issues.⁷

4.1 The Nature of Police Civil Jurisdiction

Understandably, resort would be had to the definition expressing the nature of jurisdiction offered by James Stroud,⁸ for the word “jurisdiction”, in appraising the nature of police civil jurisdiction. The learned jurist had asserted that the jurisdiction of a validly-constituted court connotes the limits of the court which are imposed upon its power to hear and determine issues between persons seeking to avail themselves of its process by reference:

- (i) to the subject matter of the issue;
- (ii) persons to whom the issue is joined; and
- (iii) to the relief sought or to any combination to these factors.⁹

¹ See Lenny Roth and Lynsey Blayden, ‘Provocation and self-defence in intimate partner and sexual advance homicides’ <<https://www.parliament.nsw.gov.au/researchpapers/Documents/provocation-and-self-defence-in-intimate-partner/briefing%20paperprovocation%20and%20self-defence.pdf>> f M Howard (1975) HUSBAND-WIFE HOMICIDE: ‘An Essay from A Family Law Perspective’ <<https://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=3825&context=lcp>> both links accesses on February 10, 2025.

² Ibid.

³ Ghazzal, Zouhair. *The Grammars of Adjudication*. Presses de l’Ifpo, 2007, https://doi.org/10.4000/books_ifpo.461.

⁴ *kaza v The State* (SC 212/2004) [2008] NGSC 10 (15 February 2008) or (2008) 1 All N.L.R. 335.

⁵ *Afonja v R* (1955) 15 WACA 26.

⁶ *Bedder v DPP* (1954) 2 All ER 801.

⁷ See the case of *Adagba Ezekwe v The State* (Unreported), FCA11/63 of 7/6/84 where the court took judicial notice of the fact that the wielding of the matchet is a faster hand in the locality.

⁸ *Stroud’s Judicial Dictionary of Words and Phrases* (4th Ed., Vol. 3), (1986), London, Sweet & Maxwell.

⁹ Ibid. p. 1452.

Although Stroud's construction of the term 'jurisdiction' was court-specific; however, with respect to agency jurisdiction, the same features or factors, in expansive manner, are dominant police civil jurisdiction which are:

- (a) There should be nothing expressly contained in any limiting the exercise.
- (b) The subject matter upon which such civil jurisdiction is exercised must be within the constitutional powers of the police.
- (c) The parties with whom police civil jurisdiction is sought to be exercised must be willing and able to submit to police civil jurisdiction. Where one of the parties is uncompromisingly aggressive, civil jurisdiction may not be exercisable unless court's intervention is first and obtained.
- (d) The objects sought to be attained by the exercise should, in the overriding public interest, be within lawful powers of the police. The object not be manifestly unlawful or patently beyond police powers.

The above four elements must coexist for a lawful assumption of police civil jurisdiction. Unless it becomes absolutely necessary for maintenance of public order, where one of the above elements is lacking, it is advisable that the complaint be refused as civil wrong for which the parties should be advised to seek alternative lawful remedy in the law court, or from the right administrative institutions empowered for such responsibility.

One is not unmindful of the fact that in several cases where the police have delved into cases that are purely civil, such investigation and action taken thereon always exposed the police to stricture of courts.¹ Of respectful view is that, in appropriate cases where there is threat to human life or a destruction of property with deleterious consequences, it is important that the police should, without fear of modesty, the law would not avail a parties the right to resort to self-help in handling their matter the way they like. That would amount to abdication of duty. Police invitation at such a time is necessary and must be honoured, except the party so refusing, has something to hide. This position was affirmed by the court's decision in *Adebo v Omisola*² where it was held that:

...while it is true that police are not vested with jurisdiction to decide the rights of parties to land, once the complaint as to ownership of land touches on threat to life, a law abiding citizen who has nothing to hide and whose acts or deeds accord with law would have heeded the invitation of that police man.³

This above is further consolidated by the provisions of the constitution which imposes an obligation of cooperation on the Nigerian citizens.⁴

4.2 The Objects of Police Civil Jurisdiction

The police civil jurisdiction hangs on a tripod indicative of its three objects which are:

- (i) the maintenance of law and order;
- (ii) the protection of life and property; and
- (iii) enhancing the administration of justice.

This tripod typifies the very essence for which police civil jurisdiction is exercisable and it would, hereunder, be examined.

4.2.1 Maintenance of Law and Order

Undoubtedly, several criminal cases took root from oblivious civil matters which often result in deleterious social disequilibrium. A wide range of duties is performed for the purpose of maintenance of law and order. These duties include crisis and conflict management, dispute settlement, dispute mediation, parties' reconciliation, pre- or post- proactive monitoring, and sentiment dissolution by the police. Many operational duties the police perform in whatever name, which did not commence for the sole intent of detection of crime, apprehension of offenders or prosecutions of criminal cases, are within this aspect of civil jurisdiction.

4.2.2 Protection of Life and Property

All duties which are mainly civil in nature that may, by police failure to perform such duties, lead to destruction of life and property are within this realm. Several civil matters often end in destruction of life and property. For example, a land dispute or boundary dispute may result in wanton destruction of life and property if not well-managed. Any matter, though not criminal in nature, but could lead to destruction of life and property, demands an urgent surveillance attention from the police to prevent such destruction falls within this aspect. For instance, a prelude to war is the civil protest and demonstration, and police intervention for preventive duties by assumption of civil jurisdiction to forestall the breakdown of law and order becomes necessary.

¹ *Mclaren v Jennings* (n 58) at 484 paragraph E – H; See also *Nkpa v Nkume* (2001) 6 NWLR (Pt. 710) 543 at 561; *Fajemirokun v CB CL Nig. Ltd. & Anor.* (2002) 10 NWLR (Pt. 774) 95.

² See *Adebo v. Omisola* (2005) 2 NWLR (Pt.909) 149.

³ *Ibid.* 175 para, F-G.

⁴ See section 24(e) of the CFRN 1999 (n 15).

Minor issues as mild as lovers' dispute may result in domestic assault, just as injurious spousal nagging arising from allegations of infidelity reported by either of the spouses, if not well-handled, may degenerate into murder or manslaughter. These criminal incidences may be prevented by mere police invitation and counselling.

4.2.3 Enhancing the Administration of Justice

This is a unique object derivable from the inherent jurisdiction of police arising from both criminal and civil wrong intervention. In *Sogbamu v COP*,¹ the West Africa Court of Appeal asserted that the term administration of justice whether civil or criminal cases do not begin in the court. In criminal cases, it indeed starts when the complaint is laid at the station to the charge-room officer whose duty it is to receive same and, after receiving it, determines whether or not the suspect should be summoned or arrested.²⁹

In enhancing the administration of justice, cases handled by the police may not be criminal in nature but they are matters which the police entertain under the aspect of civil jurisdiction for this object. For instance, when a lost property is found, the founder has a duty to bring the found property to the police station to enable the police trace its lawful owner. There is nothing criminal to investigate in this instance. The duty performed by the police to locate the lawful owner is purely civil. In insurance cases, lost property is expected to be reported to the police. Obtaining of police extract is a prelude to risk adjustment or statutory replacement of official valuable documents; for example, cases of lost certificates and other documents or recovery of insurance claim. The duty performed by the police in both incidents is not criminal in nature but civil.

Pursuant to its civil jurisdiction, the NPA 2020 empowers the police to serve summons and court processes lawfully issued by a court.² Enforcement of court orders and giving protective assistance during execution of court judgments are duties which are purely within police civil jurisdiction.

4.3 Mode and Methodology of Police Civil Jurisdiction in Nigeria

That police are conferred with civil jurisdiction is no longer in doubt. What remains to be addressed at this juncture is the ways and means of exercising civil jurisdiction by the police.

4.3.1 Mode of Police Civil Jurisdiction in Nigeria

In a horde of judicial authorities,³ employing the police for debt collection or securing possession of land has received stricture at different occasions from the courts in Nigeria. However, where there is threat of injury or grave consequence to human lives or a foreseeable destruction of property, it is necessary to note that timeous intervention could serve as a crime-prevention model. It appears the Court of Appeal's decision in *M'Clare v Jennings & Ors*, positing that section 4 of the defunct PA 2004⁴ only limits the police intervention to criminal causes, has become too sweeping, considering what grave damage the citizens would suffer from such generalisation.⁵

The above position is further consolidated by the provisions of the constitution which impose an obligation of cooperation on the citizen.⁶ It is only in so doing that the obligation of protection of life and property with the maintenance of law and order, undertaken in the official oath by every police officer, would be appropriately be satisfied. Admittedly, the police's right to prompt response from invitees in cases that are civil in nature has often been abused by recklessness and police brutalisation daily exhibited in the course of exercising police powers, although such lawlessness is gradually fading off due to recent police reforms and current police leadership stance on respect for rule of law which is impacting positively on police conduct. Be that as it may, it is true that many great battles have been resolved at roundtable conference. A good number of children may perhaps be salvaged from the grip of abuse, if the police would look beyond the parental rights. Although the police statutory civil jurisdiction found in statute⁷ and administrative orders⁸ lay down in some (civil matters) when and how they could be entertained, it is sufficient to state that civil jurisdiction may be exercised in all civil cases:

¹ See *Sogbami v COP* (1947) WACA 156.

² Ibid at Section 26.

³ *M'Clare v Jennings & Ors* (2003) 3 NWLR (Pt. 808) 470 at 488, *Fajemirokun v CB (CL) Nig. Ltd. & Anor* (2002) 10 NWLR (pt. 774) 95 at 111-112.

⁴ Op.cit.

⁵ *Adebo v Omisola* (2005) 2 NWLR (Pt.909) 149 at p. 175 para, F-G..

⁶ See section 24(e) of Constitution of Federal Republic of Nigeria 1999 as amended.

⁷ See the provisions of Public Order Act, Cap P42 Laws of Federation of Nigeria 2004; See also the provisions of Force Order relating to police action in Trade Dispute and also police power under the Trade Dispute Act, Cap T8 Laws of Federation of Nigeria, 2004.

⁸ See the provisions of various Force Orders and provisions of Force Administrative Instruction on police action in trade disputes.

- (1) Where acquiescence or police inaction would result in insecurity and breach of public peace, public safety and public order;
- (2) Where acquiescence or police inaction would result in loss of life and property; and
- (3) Where acquiescence or police inaction would lead to promotion of injustice and where it is the interest of justice to so act.

4.3.2 The Requirements for Exercising Civil Jurisdiction in Police Operations: How Exercised?

Whenever it is necessary that civil jurisdiction be exercised, it should be borne in mind that the essence of civil jurisdiction is not to set the criminal process in motion but to ensure maintenance of law and order within constitutional limit. It needs be remembered that parties' cooperation is of immense importance while assuming civil jurisdiction as a crime-prevention model. For the avoidance of doubt, the following principles govern police action in the assumption of police civil jurisdiction:

- (1) No action should be taken other than for securing public peace, public order and public safety in the neighbourhood as well as protecting the *status quo* of the parties, where necessary.
- (2) Actions taken should be done as much as possible without any friction with the individual rights or with the fundamental rights of the parties.
- (3) Arrest should never be resorted to unless there is an apparent manifestation of threat to life or property. A better approach is by way of invitation as against arrest, and holding of conferences as against detention.
- (4) No person should be said to be released on bail since no arrest was made, and where it becomes necessary due to exigency of fact, it should be done sparingly without recognisance.
- (5) Since no criminal case is being investigated, statement should be obtained voluntarily and not under caution.
- (6) Police officers involved should put on civility and politeness and attend to the parties timeously in manner that would preserve the parties' daily duties/businesses.
- (7) Holding meetings and conferences with parties should be for a definitive period of time at which time the police should take a decision on ending future meeting on the matter.
- (8) Where the chances of settlement of dispute is slim, parties should be advised, while yet in harmony with one another, to lawfully seek civil remedy at appropriate quarters with an undertaking to maintain peace executed with the police.
- (9) Discussions at such conference or meeting should focus on how to sustain the:
 - (i). Maintenance of law and order, preservation;
 - (ii). Protection of life and properties; and
 - (iii). Enhancement of administration of justice and the police should not be involved in the parties' intra personal dispute than is necessary to maintain its objectives.
- (10) Though giving of reasonable and useful suggestion is allowed, when necessary, however, parties may come out with terms of agreement or undertaking, voluntarily prepared by them or by their solicitor(s) at their own request and NOT by police officers.
- (11) The police should encourage party to reason out among themselves, solutions to their problem, and may in appropriate cases, suggest to the parties a referral to other appropriate administrative institutions having the mandate over such disputes. This among others includes the Public Complaints Commission, Consumer Protection Council, or Mediation Section of the Ministry of Justice.
- (12) Finally, where either of the parties shows uncooperative attitude, the cooperating member should be advised to take positive steps towards finding appropriate better remedy at the law court and where civil disruption of conference proceeding is anticipated, it is essential that the police should apply to the court for binding over of leaders of the respective parties pending litigation.
- (12) Whenever it becomes necessary, the police should seek judicial assistance either orally or by a formal application for binding over the parties in order to prevent breakdown of law and order or for direction at any point in time.

The courts recognise the crime-prevention duties of the police in the maintenance of public order and protection of life and property. In the course of discharging their responsibility, the police are permitted to take whatever steps are reasonably desirable to achieve their goal.¹ Such applications are usually ex-parte supported by enough facts which would avail the grant of the order. Where time is of essence and circumstances demand an urgent action, such application can be made orally.² This assertion can better be illustrated by the facts in *Esabunor v Faweya*,³ where the first appellant, born 19th April 1997 at Chevron Clinic Peninsula became sick on 11th May

¹ *Esabunor v Faweya* (n 34) 12 NWLR (part 1102) 794 at 809, para F-G.

² Ibid at page 810 paragraph C-E.

³ Ibid.

1997 and was taken to the same clinic for treatment where he was examined by the medical doctor attached to the clinic, and found to be suffering from severe infection which had led to acute shortage of blood in his body. After intensive medication without any success, the 1st appellant who could no longer breathe properly was placed on oxygen, consequent upon which the medical personnel at the clinic believed that without blood transfusion, the 1st appellant would die. This made them inform the 2nd appellant, being the mother of the child. However, the 2nd appellant refused to consent to the transfusion of blood on the ground that she was a Jehovah's Witness and that blood transfusion was forbidden by her religion. This led the hospital management to report the case to the police. The police applied for, and obtained, an order from the Magistrate's Court authorising the hospital management to do all that was necessary for the protection of the life and health of the 1st appellant which said order was executed and the condition improved, after which he was released a few days later.

The 2nd appellant's application to the court (Magistrate's Court) for setting aside the order of 12th May, 1997 was dismissed and she appealed to the High Court of Lagos State, for an order of *certiorari* to quash the judgment and ruling/order made at the Magistrate's Court in addition to an order for payment of damages. All the reliefs were dismissed by the High Court. The appellant's further appeal was dismissed by the Supreme Court which also affirmed the Court of Appeal's approval for the actions taken by the police and court in the prevention of crime. The foregoing underscores judicial approval on the legality and validity of police action in prevention of crime.

4.4 The Limits of Police Civil Jurisdiction

The fancifulness of this doctrine notwithstanding, it does not make it absolutely acceptable to all persons. The doctrine, however, has its limitations. First, where parties in a cause which is manifestly civil are uncooperative and aggressive, civil jurisdiction can hardly be exercised other than merely holding the ground to avert a breakdown of law and order, otherwise one may be creating a greater problem than the one in contention. This is because any undue delay may escalate hostility and violence as a result of misconceived aggression. Imagine a situation where one of the parties is strangled in the divisional police office, one is inclined to wonder what explanation the DPO would offer.

Another limitation is utter ignorance and dearth of knowledge. This is because a good number of people, including the enlightened, are not aware of the existence of this power. Not even many police senior officers know so much about the assumption of civil jurisdiction.

Other limitations include pressure often mounted by external influence on parties. For instance, counsel or solicitors and interlopers may condemn this laudable mechanism in a guise of preference for other alternatives or even where it is approved by some, they may wish to turn it to exploitative venture for pecuniary gain. Parties may, for this, reason be discouraged from honouring police's further invitation or attending future conferences, considering the civil nature of the case. It is important that counsel to the parties be carried along and involved in proffering solution to the problems. Parties should be encouraged to attend conferences with their counsel unless it is impracticable to do so.

No limitation to the exercise is greater than lack of logistics and resources. The exercise of civil jurisdiction is a novel technique, quite grey and slippery. Police officers exercising this jurisdiction need prudent skills, mastery and good knowledge of this aspect of policing which would assist them in knowing when and how to handle each case. Quite often than none, ignorant officers are stampeded by lawyers into withdrawal just because the officers do not know what to do. Good managerial techniques are an antidote to this type of limitation. Poor management of situations often leads to a greater hostility and escalation of problem.

4.5 Impacts of Effective Exercise of Police Jurisdiction

Police jurisdiction, be it criminal or civil, holds sway in overriding public interest. Jurisdictional issue is a novelty, whose purpose is derived from the Latin maxim '*Jurisdictio est potestas de publico introducta cum necessitate juris di decendi*', meaning jurisdiction is a power introduced for public good on account of the necessity of dispensing justice. This underscores the impacts of jurisdictional issues in policing. Criminal jurisdiction of the Nigeria Police is statutorily created to delimit the extent of police powers exercisable by each unit, in criminal investigation. By so doing, litigants make their complaints at the appropriate venue of the offence without right to elect the office or officer they may prefer to handle their complaints or causes of action. This executive or administrative system, put in place, enhances administration of justice. Criminal jurisdiction lays out the agencies' jurisdiction, thereby creating for each agency the extent of exercise of its powers.

The Nigeria Police possesses enormous jurisdiction in the Nigeria criminal field. The enforcement function allows the police so much latitude that almost divests them of any dint of effectiveness. This usually causes congestion on police work load, leading to inevitable constraint on administration of criminal justice system. The Nigeria Police remains the foremost security institution in Nigeria responsible for internal security management

in the country.¹ Although the duties of the police are found in various enactments, the NPA 2020 is the imperative law which regulates the performance of police duties and the exercise of such powers.² Major, among these duties and powers, are the police investigatory and prosecutorial powers even in situations where cases are civil.³ Several cases which have no business in court are usually referred for prosecution, even when such parties have been, or are willing to be reconciled at the police level in less-criminal cases. Such insistence on criminal justice, no doubt, only succeeds in causing injustice. Undoubtedly, this practice is a major cause of prison congestion and the slow pace of justice delivery in our courts today. The assumption of civil jurisdiction would, in a great while, promote justice, save operational time, cost and also preserve social relationship of the parties. In addition to the above, the impacts of the jurisdictional issue in strengthening the prevention theory of crime as it would enable the field of crime to be put under observation with a view to curtailing the level of social equilibrium. The exercise would promote professionalism and enhance efficiency in the performance of police duties. The assumption of civil jurisdiction, in addition to the foregoing impacts, will help restore people's trust and confidence in the police.

5.0 CONCLUSION AND RECOMMENDATIONS

It is observed that the rapidly-changing dynamics of the Nigerian society in the post-independence era has been taking its toll on the Nigerian Police, which has necessitated the proliferation of law enforcement agencies which are equally empowered to perform functions similar to those performed by the police, thereby creating overlapping jurisdiction. Territorial jurisdiction remains assaulted due to conflictual overconcentration of powers at the epicentre. Although the Police force has proved itself worthy one in terms of coping with new strategies in crime, especially in the areas of cybercrime, money laundering, advance fee fraud and others, there is much prospect that operational and leadership challenges remain the major issues in the assumption of agency's jurisdiction by the police in Nigeria. This has hindered the realisation of the noble objective of enhancing the operational capacity of the force to tackle new challenges posed by the society.

To this end, the underlisted suggestions have become essential in the circumstances of promoting police service delivery and effectiveness in Nigeria:

- i. Functional developmental training and retraining of police personnel in the promotion of human rights and due process of law as they affect the assumption of police jurisdiction in Nigeria.
- ii. Adequate funding to cater for manpower development in the police and for provision of logistic recourses.
- iii. Training and retraining of judicial officers to create awareness in them for understanding the nature and extent of jurisdictional issues and proactive policing in the maintenance of law and order.

It is hoped that much success would be achieved in their operational duties if these suggestions are put into practice by police officers.

¹ Oshita O. Oshita and Augustine O. Ikelegbe, 'An Overview of Theoretical and Practical Issues in Internal Security Management in Nigeria' in O. O. Oshita et al. (eds.) *Internal Security Management in Nigeria* (Palgrave Macmillan 2019) p. 38;

² The NPA 2020 (n 12) is the major enabling law which prescribes duties and powers for the Nigeria Police. Other enactments are the Administration of Criminal Justice Act; Penal Code Cap P 3 Laws of Federation of Nigeria 2004; and the Criminal Procedure Code for the (Northern States).

³ see also Ikenna Mike Alumona, 'The State and Internal Security Management in Nigeria' in O. O. Oshita et al. (eds.), *Internal Security Management in Nigeria* (Palgrave Macmillan 2019) p. 68.