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Sub-national law enforcement and oversight in four African countries: Kenya, Ghana, Nigeria, and Zambia

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1. Introduction

Most African countries are central states, with the exception of a few being federal or quasi-federal. The administrative devolution of state powers varies in different jurisdictions in Africa, but there is typically a division into provinces and municipalities or counties and districts. The enforcement of national laws is generally undertaken by national police services and in circumstances of emergency or disaster, by the military. In general, national police services across the world are vested with powers which include (amongst others): the discretionary use of minimum force; the ability to search persons and properties; to arrest persons with or without a warrant; to detain suspected persons; the interrogation of suspects; and the regulation of public assemblies and gatherings as well as traffic.¹ The location of national and administrative hubs within capital cities attract people searching for economic opportunities but high concentrations of people also create opportunities for crime and thus the tendency for higher

policing presence in urban areas, as opposed to rural and poorer communities.²

Sub-national law enforcement (when properly organised) supplements the work of national police at a local level by strengthening community-police relations and allowing for the swift response to emergency situations. However, this is only possible if each local law enforcement agency has, amongst others, formal standardised training, independent budgets, and existing effective mechanisms for public complaints, oversight and monitoring.³

In many African jurisdictions, provisions for sub-national law enforcement are either embedded within local government legislation or do not exist at all. In the case of the latter, this results in national police regulating and enforcing even minor offences relating to, amongst others, public spaces. In weak States, the absence of local law enforcement leaves the responsibility of security and crime prevention to communities who sometimes form quasi-state security agencies, vigilante

¹ Brown, J. 2021. Police Powers: An Introduction
<https://researchbriefings.files.parliament.uk/documents/CBP-8637/CBP-8637.pdf>

² 'Introductory Handbook on Policing Urban Space: Criminal Justice Handbook Series' (United Nations, 2011),

https://www.unodc.org/pdf/criminal_justice/Introductory_Handbook_on_Policing_Urban_Space.pdf.

³ Surrey Police, 'Why Municipal Policing', 2023,
<https://www.surreypolice.ca/why-municipal-policing>.

groups and even private security forces to fill the lacuna of protection and security within local areas.⁴ The problem, however, (as is applicable in Nigeria and will be further

2. Background and key issues

In African countries where provisions exist for sub-national law enforcement, this usually falls within the ambit of either; provincial, municipal, district or council police depending on how each country devolves powers. As a separate entity to the police, such agencies are typically not mandated to deal with serious crime, and their powers are typically focused on crimes defined under local government laws (referred to as by-laws, municipal laws, and local ordinances), including minor offences related to public spaces, and traffic violations.⁶ By-laws offer municipalities with a means of controlling human and corporate behaviour and are often used as a tool for urban safety regulation enforceable by officials.⁷ While these minor offences may not at face value invoke the same sense of gravity as nationally defined crimes, the enforcement of local government laws can have dire consequences for individuals, particularly those who rely on public spaces for survival.

In a number of African jurisdictions, it is observed that local law enforcement agencies often conduct their work in an arbitrary and discriminatory manner infringing on citizens fundamental

explained below), is that these security agents often become the ploy of the political elite and those capably to afford them, thus creating security risks for others in the community.⁵

human rights such as the right not to be discriminated against, the right to human dignity, equal protection of the law, the right to liberty, freedom of movement, freedom against torture or cruel, inhuman or degrading treatment or punishment, and security of person, including the right not to be subjected to arbitrary arrest or detention.⁸ The violation of these rights during enforcement may be a consequence of the absence of a rights based and democratic policing style of training which includes notions of knowledge, effectiveness, ethics and accountability, responsiveness, and objectiveness, to name but a few.⁹

Local law enforcement officials in Africa are generally accountable to the respective county, district or municipality assembly to which they are assigned, and the onus is generally on each county or municipality to provide training for law enforcement officials. These municipalities (with the exception of a few wealthier ones) generally have limited financial resources and therefore only provide limited and often un-standardised training, in comparison to the more thorough training offered to national police.¹⁰ Consequentially, even when they have powers of arrest, there is little regard by sub-

⁴ Sabelo-Ndlovu Gatsheni, 'Weak States and the Growth of the Private Security Sector in Africa: Whither the African State?' (Institute for Security Studies, 2007), <https://issafrica.org/chapter-2-weak-states-and-the-growth-of-the-private-security-sector-in-africa-whither-the-african-state-sabelo-j-ndlovu-gatsheni>.

⁵ Gatsheni.

⁶ D Bruce and K Stone, 'The State of Local Government Law Enforcement: Preliminary Report Prepared for the South African Local Government Association' (South African Local Government Association, 2022).

⁷ 'By-Laws as a Tool for Urban Safety Regulation in South African Cities' (The Urban Safety Reference Group, 2018), https://www.saferspaces.org.za/uploads/files/Web_GIZ_Urban_Safety_Brief_2018%EF%80%A21.pdf.

⁸ 'UN General Assembly, "International Covenant on Civil and Political Rights", Arts. 2, 3, 6, 7, 9, 10, 12 and 26', Pub. L. No. Pub. L. No. Resolution 2200A (XXI) (1976); Organization of African Unity, 'African Charter on Human and Peoples Rights, Arts. 2, 3, 5, 6, 12 and 18.', Pub. L. No. Pub. L. No. OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982).

⁹ L Muntingh et al., 'Democratic Policing: A Conceptual Framework', *Law, Democracy and Development* 25 (2021), <http://dx.doi.org/10.17159/2077-4907/2021/ldd.v25.5>.

¹⁰ J Rauch, A Louw, and M Shaw, 'Municipal Policing in South Africa: Development and Challenges' (Institute for Security Studies, 2001), <https://www.files.ethz.ch/isn/104921/municipalpolicinginsouth.pdf>.

national law enforcement officials to uphold rights-based treatment particularly when dealing with vulnerable groups such as those living and those performing life sustaining activities in public spaces. Poor and marginalised groups such as homeless persons, women, children, and those seeking to earn a living (minibus operators, touts, street and market vendors) often find themselves at the mercy of law enforcement officials who enforce a combination of formal penalties (fines, confiscation of goods, arrest and detention) and informal penalties (the solicitation of bribes, extortions, etc.).¹¹ Moreover, local law enforcement officials have limited powers and resources as they generally have to hand over arrested suspects to a national police station to be detained in national police cells.

Oversight is another issue of importance when considering the nexus between national and subnational law enforcement as there is generally a lack of internal and external independent monitoring of police and local law enforcement officials at the national and subnational level. Many African States lack independent, well-resourced and functioning oversight mechanisms that have the capacity to regulate and hold accountable national police as well as subnational law enforcement for unlawful actions against citizens. Even when national oversight mechanisms exist, they generally do not have jurisdiction over complaints against subnational law enforcement officials as these complaints must be directed to

the respective municipal assembly in which these officials operate.¹² Yet, the proximity to and the interaction with the general public by municipal or district law enforcement officials often yields public concerns which require that oversight is taken seriously. The absence of effective oversight at municipal, district or county level creates a culture of impunity and leaves citizens with nowhere to turn for redress.¹³

The section below provides a situational analysis of sub-national law enforcement in two west African countries, one east African and one southern African country; namely, Ghana, Kenya, Nigeria, and Zambia and highlights some of the challenges present in each context, particularly with regards to enforcement targeted at those working within public spaces.

3. Ghana

Ghana is a unitary State divided into 16 regions with a total of 261 districts.¹⁴ The Ghana Police Service (GPS) is the main law enforcement agency in the country and has a unitary command. The police service is located within the Interior Ministry under the Inspector General of Police.¹⁵ The majority of law enforcement in Ghana is done in large cities, as opposed to smaller rural communities.¹⁶ While there exists within the GPS a Community Police Unit responsible for the establishment of community security and neighbourhood watch committees, these projects are currently not present in all districts as they

¹¹ Joseph Muraya, 'Kenya: The Bribery Economy; How Petty Offenders Have Been Made Cash Cows', *Campaign to Decriminalise Poverty and Status*, n.d., <https://pettyoffences.org/the-bribery-economy-how-petty-offenders-have-been-made-cash-cows/>.

¹² Chumile Sali, 'Municipal Oversight Bodies Must Be Beefed up to Protect against Human Rights Abuses by Police', *Daily Maverick*, 12 July 2020, <https://www.dailymaverick.co.za/opinionista/2020-07-12-municipal-oversight-bodies-must-be-beefed-up-to-protect-against-human-rights-abuses-by-police/>.

¹³ Sali.

¹⁴ 'Maps and Regions of Ghana', *The Permanent Mission of Ghana to the United Nations*, 2023, <https://www.ghanamissionun.org/map-regions-in-ghana/>.

¹⁵ 'The Police, the People, the Politics: Police Accountability in Ghana' (Commonwealth Human Rights Initiative - Ghana, 2007), https://www.humanrightsinitiative.org/publications/police/police_accountability_in_ghana.pdf.

¹⁶ C Wrigley-Asante et al., 'Crime and Safety in Urban Public Spaces: Experiences of Ghanaian Women Traders in the Makola Market in Accra, Ghana', *Geographic Journal* 188, no. 1 (2021), <https://doi.org/DOI:10.1111/geoj.12423>.

have only been piloted in a select few.¹⁷ A study on community perceptions of the police highlighted that poor police visibility is a key contributory factor to the lack of trust in policing at community level since cases of assault and killings by police officers are common, and frequent cases of police brutality have been reported.¹⁸

The Local Government Act makes provisions for district and municipal assembly officers, commonly known as ‘City guards’ as a form of law enforcement at local level.¹⁹ City guards are a separate entity of the National Police and are generally responsible for promoting peaceful co-existence as well as the enforcement of district assembly’s by-laws, and community regulations particularly on traffic, tax and sanitation issues.²⁰ The functions of City guards also include traffic management, rendering security services for staff and properties of the assembly, controlling unlawful hawking along the roadside and bus stops within the district, and ensuring proper parking of vehicles on the roads.²¹ Moreover, City guards also patrol markets to ensure that vendors (especially those selling food products) meet the necessary health and safety standards. City guards have the powers to enter a building, premises or land within the area of authority of the Assembly for the purpose of carrying out inspection, enquiry and other duty authorized by the Assembly.²² Arrest powers are limited as they must hand

over any suspects to national police because they do not have their own cells and rely on police cells to detain suspects.

While City guards are provided a certain level of training by the particular municipal assembly under which they operate, this is not comparable to the standard of training that the National Police Service provides.²³ The enforcement of municipal assembly by-laws in major cities, particularly in Accra, are often targeted at those working in the informal economy and within public spaces (particularly street and market vendors). In 2010, the Accra Municipal Assembly passed seven street by-laws outlining certain activities prohibited on streets and pavements in Accra including the selling and trading on streets (except for street markets) and the solicitation of alms, amongst others.²⁴ While on the one hand it appears that women are especially targeted by law enforcement officials in the enforcement of the above by-laws simply because they make up the majority of street and market traders; interestingly, on the other hand, they also suffer due to the lack of sufficient visible policing in markets as they often experience theft due to limited basic infrastructure and services in the market such as adequate lighting, and also limited security personnel to apprehend thieves.²⁵ The municipal assembly (local government) is responsible for the upkeep of markets, particularly in terms of providing adequate sanitation, infrastructure and security, but these are often lacking.²⁶ When local law enforcement are present and patrolling markets, they often enforce by-laws in a

¹⁷ Gerald D Gyamfi, ‘Exploring Public Trust in Policing at a Community in Ghana’, *Security Journal* 35 (2022): 1249–62; Ghana Police Service, ‘Community Policing Unit’, 2023, <https://police.gov.gh/en/index.php/community-policing/>.

¹⁸ Gyamfi, ‘Exploring Public Trust in Policing at a Community in Ghana’.

¹⁹ ‘Ghana Local Governance Act 936’ (2016).

²⁰ ‘A Guide to District Assemblies in Ghana’ (Friedrich-Ebert-Stiftung Ghana, 2010), <https://library.fes.de/pdf-files/bueros/ghana/10487.pdf>.

²¹ ‘City Guards Are to Enforce Assembly’s Road Safety Bye-Laws’, 7 September 2021, <https://newsghana.com.gh/city-guards-are-to-enforce-assemblys-road-safety-bye-laws/>.

²² Local Government Bulletin, ‘Accra Metropolitan Assembly By-Laws’, No.3 § (2017), <https://ama.gov.gh/doc/bye-laws.pdf>.

²³ ‘A Guide to District Assemblies in Ghana’.

²⁴ ‘A Report on Street Vending in Ghana’ (Women in Informal Economy Law Project, 2012), <https://www.wiego.org/sites/default/files/publications/files/G07.pdf>.

²⁵ Wrigley-Asante et al., ‘Crime and Safety in Urban Public Spaces: Experiences of Ghanaian Women Traders in the Makola Market in Accra, Ghana’.

²⁶ Wrigley-Asante et al.

brutal and discriminatory manner, resulting in the seizure of goods and reported cases of assaults.²⁷

At local level, there currently exists no monitoring and oversight mechanisms for City guards, and all complaints on misconduct must be directed to the respective municipal assemblies to which they are assigned. At the national level, the Police Professional Standards Bureau (PPSB) is an internal mechanism of the national police for the general public to complain against the misconduct of police officers,²⁸ but while it is tasked to investigate complaints against the police, it lacks independence, therefore creating a lack of public trust in its efficacy. The government has not yet established an independent police complaints commission and oversight mechanism despite many calls made by civil society organisations for the creation of one.²⁹ Currently, the Ghana Commission of Human Rights and Administrative Justice (CHRAJ) as part of its administrative justice mandate (which replaced the office of the Ombudsman) also plays an oversight role and remains one of the only independent means through which the public can lodge complaints against the police service to ensure that officers are accountable and transparent.³⁰

4. Kenya

Kenya's 2010 Constitution provides for a federal-type devolved government of 47 counties replacing the erstwhile nine provinces.³¹ Despite the devolution of some administrative powers to county-level, the Kenya Police Service (KPS) remains the main law enforcement agency under the command of the Inspector-General.³² In an effort to garner voluntary participation of the local community in crime prevention, the KPS launched the Community Policing program in some and not all 47 counties.³³

At subnational level, the constitutional provisions effecting counties led to the enactment of county inspectorates and law enforcement legislation in counties such as Mombasa, Nairobi City and Nakuru and security or county enforcement officers in Kilifi, Tana River, Uasin Gishu, (to name a few) which did not legislate inspectorates.³⁴ The mandate of these officials, commonly known as 'County Askaris' include enforcing compliance with county laws and regulations; patrolling and guarding access points; crowd control and providing market security; and the protection of county government property.³⁵ County Askaris have powers to issue violation tickets (fines), inspection, close premises, seize properties, impound, use reasonable force and arrest but must immediately present suspects to a police station.³⁶

²⁷ 'A Report on Street Vending in Ghana'.

²⁸ 'Director-General Police Professional Standards Bureau (PPSB)', *Ghana Police Service*, 2023, <https://police.gov.gh/en/index.php/police-professional-standard-bureau/>.

²⁹ 'The Police, the People, the Politics: Police Accountability in Ghana', 66.

³⁰ 'Administrative Justice Mandate', *Ghana Commission on Human Rights and Administrative Justice*, 2023, <https://chraj.gov.gh/administrative-justice-mandate/>.

³¹ Republic of Kenya, 'The Constitution of Kenya', § 18 (2010), <http://kenyalaw.org/kl/index.php?id=398>.

³² Republic of Kenya.

³³ Nicole Mazurova, 'Law Enforcement Development in Kenya: History, Reform, and Path Forward' (Washington, DC: Office of Community Oriented Policing Services., 2022), Washington, DC: Office of Community Oriented Policing Services.

³⁴ Jean Redpath, 'The Centre Cannot Hold: The Role of Subnational Governments in Policing in South Africa' (Cape Town, University of the Western Cape, 2019), https://etd.uwc.ac.za/bitstream/handle/11394/7410/redpath_phd_law_2019.pdf?sequence=1&isAllowed=y.

³⁵ Republic of Kenya, 'County Law Compliance and Enforcement Bill' (2018), <http://www.parliament.go.ke/sites/default/files/2018-10/COUNTY%20LAW%20COMPLIANCE%20AND%20ENFORCEMENT%20BILL%2C%202018.pdf>.

³⁶ Republic of Kenya.

The use of reasonable and minimum force by County Askaris is a contentious issue in Kenya as there are multiple reports of harassment, abuse, and inhumane treatment by Askaris, especially on those working in public spaces such as hawkers and street and market vendors especially within the Nairobi County central business district.³⁷ A recent report of a street hawker allegedly handcuffed and brutally whipped with a metal rod by a County Askari highlights some of the challenges that those working in public spaces encounter.³⁸ Cases like these are not isolated to Nairobi, as there have also been incidents in other counties such as Eldoret where ill-treatment by Askari towards hawkers have repeatedly been reported.³⁹ There is a tendency to link misconduct by sub-national law enforcement to inadequate levels of training. County officers receive training from the respective county in which they operate, and variances in county budgets reflects in the various levels of training provided.⁴⁰ There is a general need for standardized training on human rights-based approaches of democratic policing. Despite the enactment of the County Law Compliance Enforcement Bill seeking to introduce professionalism among County Askari by adopting a uniform code of conduct, this has yet to operationalize.⁴¹

Two oversight agencies monitor the work of the NPS, including the Internal Affairs Unit tasked with handling cases made by and

against police officers;⁴² and the Independent Policing Oversight Authority, established to monitor and investigate any reported cases of police misconduct and whose mandate is limited to complaints against the national police and not against County Askaris.⁴³ Despite the presence of these two agencies at the national level, there remains slow progress in prosecuting rogue officers who are willing to bribe their way out of trouble.⁴⁴ At the sub-national level, there is a lack of internal and external oversight on local law enforcement and few sanctions are place on erring Askaris, resulting in citizens having nowhere to turn to for redress. Complaints against Askaris must be lodged with the relevant county municipality. There has been some progress to addressing this challenge, particularly in Nairobi County where the proposed Accountability Bill seeks to provide a framework to enhance accountability for County Askari's actions.⁴⁵ If successful, this legislation will pave the way for other counties to follow suite to actively monitor the conduct of county law enforcement officials.

5. Nigeria

Nigeria is a federal republic consisting of 36 states controlled by governors and 774 local governments.⁴⁶ Despite the decentralization of administrative government powers at state and local level, the fairly independent operation of each state government and the existence of such a large number of local constituents, the Nigeria Police Force (NPF) is the only law

³⁷ Eric Ngobilo, 'Unclear Laws on Operations of County Askaris', *Journalism Hub East Africa*, 2020, <https://jhkea.org/2020/12/18/unclear-laws-on-operations-of-county-askaris/>.

³⁸ Maureen Kinyanjui, 'Pressure on NMS and City Hall to Rein in Rogue County Askaris', *The Star*, 25 July 2021, <https://www.the-star.co.ke/counties/nairobi/2021-07-25-pressure-on-nms-and-city-hall-to-rein-in-rogue-county-askaris/>.

³⁹ Wycliffe Kipsang, 'County on the Spot over Traders Rights Violations', *People Daily*, 28 April 2023, <https://www.pd.co.ke/news/county-on-the-spot-over-traders-rights-violations-178908/>.

⁴⁰ Ngobilo, 'Unclear Laws on Operations of County Askaris'.

⁴¹ Republic of Kenya, County Law Compliance and Enforcement Bill.

⁴² 'Kenya Police Internal Affairs Unit', *Kenya Police Service*, 2023, <https://www.iau.go.ke/>.

⁴³ Independent Police Oversight Authority, 'Independent Police Oversight Authority: What We Do?', 2022, <https://www.ipoa.go.ke/>.

⁴⁴ Ronald Kempe Hope, 'The Police Corruption "crime Problem" in Kenya', *Security Journal*, no. 32 (2019): 85–101, <https://doi.org/10.1057/s41284-018-0149-y>.

⁴⁵ 'Nairobi City County Accountability Bill' (2022), para. 39, <https://nairobiassembly.go.ke/ncca/wp-content/uploads/bill/2022/NAIROBI-CITY-COUNTY-ASSEMBLY-1.pdf>.

⁴⁶ 'The Local Government System in Nigeria' (Commonwealth Local Government Forum, 2019), http://www.clgf.org.uk/default/assets/File/Country_profiles/Nigeria.pdf.

enforcement agency in the country. The NPF is overseen and supervised by the Police Service Commission, the Nigerian Police Council and the Ministry of Interior.⁴⁷ The National Police Force headquarters in Abuja is supported by stations in all 36 states which are also subject to the Inspector-General of Police, under the command of the Commissioner of Police within a particular state. The mandate of the NPF include fighting crime through detection, investigation, apprehension and prosecution and officials are provided with police powers to search, arrest and prosecute offenders through proactive policing.⁴⁸

There exist no legal provisions for sub-national law enforcement in Nigeria and all law enforcement functions are vested in the NPF, which are considered by citizens to be corrupt, under-equipped, under-funded, under-trained, unaccountable, overly centralized and politicized.⁴⁹ The negative perceptions towards the Nigerian police are fuelled by their perceived failure to guarantee community safety and high levels of corruption. A study on police and corruption found that 50% of the Nigerian population consider the NPF to be the most corrupt public sector in Nigeria.⁵⁰

The lack of sub-national law enforcement in Nigeria is noteworthy given the otherwise federal nature of the state,

providing the scope for each state to control its own security apparatus, yet, the legislated absence of sub-national policing creates a security lacuna at state and local government levels⁵¹ resulting in the creation of various security agencies including quasi-state formations and state-supported ‘vigilante’ groups to fill the void.⁵² The majority of these security agencies are populated by informally trained personnel and enforcement is conducted in a brutal manner and often characterized by a lack of due process.⁵³ Two examples of these agencies are provided. Firstly, the Lagos State Traffic Management Authority (LASTMA) established in July 2000 and operating under the Ministry of Transportation to compensate for inadequate traffic management in Lagos State.⁵⁴ LASTMA officials have a range of functions, including, controlling traffic and enforcing state and national laws that govern the safe use of vehicles on roads in the State, as well as deterring and apprehending road-traffic offenders.⁵⁵ LASTMA officials have powers of arrest and impound vehicles in Lagos, and this unfettered power has raised concerns by Lagos motorists regarding their unprofessional and unruly conduct and reports of arrest without providing evidence of wrongdoing.⁵⁶

A second example of the consequence of an absence of sub-national law enforcement is the rise of the vigilante group known as ‘Bakassi Boys’ which emerged as angry market traders

⁴⁷ Mbafelo Odum, ‘The Multiplicity of Law Enforcement Agencies and the State of Law and Order in Nigeria: A Case of Too Many Cooks?’, *International Journal of Academic Accounting, Finance & Management Research (IJAAFMR)* 3, no. 4 (2019).

⁴⁸ D Smith Jordan, ‘The Bakassi Boys: Vigilantism, Violence, and Political Imagination in Nigeria’, *Cultural Anthropology* 19, no. 3 (2004); T Akuul, ‘The Role of the Nigerian Police Force in Maintaining Peace and Security in Nigeria’, *Journal of Social Science and Public Policy* 3 (2011), <https://nairametrics.com/wp-content/uploads/2013/03/THE-ROLE-OF-THE-NIGERIAN-POLICE-FORCE.pdf>.

⁴⁹ Redpath, ‘The Centre Cannot Hold: The Role of Subnational Governments in Policing in South Africa’.

⁵⁰ Oluwatoyin Oluwaniyi, ‘Police and the Institution of Corruption in Nigeria’, *Policing & Society* 21, no. 1 (2011): 73, <https://doi.org/10.1080/10439463.2010.541245>.

⁵¹ Ihesiulo Grace, ‘Insecurity: Nigeria Needs to Fix Identified Security Lacuna – Expert’, *Daily Times Nigeria*, 24 November 2019, <https://dailytimesng.com/insecurity-nigeria-needs-to-fix-identified-security-lacuna-expert/>.

⁵² Adewumi Badiora, ‘Vigilantism in Nigeria: A Way to Combat Crime If It’s Non-Violent and Regulated’, *The Conversation*, 7 February 2022, <https://theconversation.com/vigilantism-in-nigeria-a-way-to-combat-crime-if-its-non-violent-and-regulated-175676>.

⁵³ Redpath, ‘The Centre Cannot Hold: The Role of Subnational Governments in Policing in South Africa’.

⁵⁴ ‘Lagos State Traffic Management Authority’, *Lagos State House of Assembly*, 2023, <https://lastma.lagosstate.gov.ng/>.

⁵⁵ ‘Lagos State Traffic Management Authority’.

⁵⁶ Dayo Oyewo, ‘Anger as LASTMA Officials Clamp down on Motorists with Trumped-up Charges’, *PUNCH*, 18 November 2022, <https://punchng.com/anger-as-lastma-officials-clamp-down-on-motorists-with-trumped-up-charges/>.

opted to take matters into their own hands after an increased number of violent robberies and extortion by criminal gangs in Abia, Imo and Anambra States.⁵⁷ The Bakassi Boys have powers to arrest, but do not have powers to detain and must hand over suspects to the police.⁵⁸ Although the Anambra state government has conferred special legal recognition to the ‘Bakassi Boys’ through the enactment of the Anambra State Vigilante Services Law, the lack of monitoring, accountability and oversight has provided the Bakassi Boys freedom to exercise powers at their own discretion; resulting in the routine capturing of suspects who are treated cruelly and inhumanely and, in some instances, publicly executed.⁵⁹

A culture of impunity and abuse of power exists within both quasi-state and vigilante groups and even within factions of the NPF.⁶⁰ The 2020 #End SARS protest against police brutality by the Special Anti-Robbery Squad (SARS) unit of the Nigerian Police notoriously known for extrajudicial killings, torture, extortion is testament of longstanding abuse of powers by Nigerian police officers.⁶¹ Despite the existence of the Police Service Commission, the Ministry of Interior, and the Police Council which are charged with supervising the work of the Nigerian Police Force; corruption, political interference, resource constraints, and a failure to maintain a functional investigative unit have created a culture of impunity in the NPF.⁶²

Efforts to establish subnational law enforcement in Nigeria are on-going, however, challenges and concerns exist. Firstly, is the perceived likelihood of abuse by local or state politicians as state-controlled law enforcement could be misused, leading to localized conflict. Secondly, financial and logistical resource limitations at State level would limit poorer states (particularly those that are not oil-producing states) to adequately support their own sub-national law enforcement agencies. Thirdly, it appears that the centralized NPF is considered by Nigerian citizens as a unifying factor and provides a form of national cohesion.⁶³ There are more proponents to maintain the *status quo* rather than to change it despite the obvious discrepancies within the NPF. The recently enacted Police Bill seeking to promote principles of transparency and accountability in NPF operations; while also encouraging all 36 federal states to increase contributions towards the work of the NPF is testament to this.⁶⁴ As efforts to strengthen the NPF remain on-going, it is unlikely to foresee the establishment of subnational law enforcement within the immediate future.

⁵⁷ Johannes Harnischfeger, ‘The Bakassi Boys Fighting Crime in Nigeria’, *Journal of Modern African Studies* 41, no. 1 (2003): 23–49, <https://doi.org/10.1017/S0022278X02004135>.

⁵⁸ Smith Jordan, ‘The Bakassi Boys: Vigilantism, Violence, and Political Imagination in Nigeria’.

⁵⁹ Oluwaniyi, ‘Police and the Institution of Corruption in Nigeria’.

⁶⁰ Oluwakemi Okenyodo, ‘Governance, Accountability, and Security in Nigeria’, *Africa Security Brief: A Publication of the Africa Center for Strategic Studies*, no. 31 (2016), <https://africacenter.org/wp-content/uploads/2016/06/ACSS-Africa-Security-Brief-No.-31-EN.pdf>.

⁶¹ Cheta Nwanze, ‘Nigeria Police: The Need for Comprehensive Reforms’, *Premium Times*, 6 August 2023, <https://www.premiumtimesng.com/opinion/614690-nigeria-police-the-need-for-comprehensive-reforms-by-cheta-nwanze.html>.

⁶² Okenyodo, ‘Governance, Accountability, and Security in Nigeria’.

⁶³ Rommy Mom, ‘Policing Structures in Subnational African Countries: Nigeria’s Case Study.’ (Sub-national Governance, Law Enforcement and Oversight in Five African Countries: Ghana, Kenya, Nigeria, South Africa and Zambia (30 August 2023), Online Webinar, August 2023), https://acjr.org.za/resource-centre/lawyers-alert-policing-structures-presentation-r-mom.pptx/view?utm_source=newsletter&utm_medium=email&utm_campaign=thank_you_note_webinar_sub_national_governance_law_enforcement_and_oversight_in_five_african_countries_ghana_kenya_nigeria_south_africa_and_zambia_30_august_2023&utm_term=2023-09-13.

⁶⁴ ‘Nigeria Police Act’ (2020), <https://placng.org/i/wp-content/uploads/2020/09/Police-Act-2020.pdf>.

6. Zambia

Zambia is a unitary republic divided into 10 provinces and 116 districts.⁶⁵ The Zambia Police Service (ZPS) is the main law enforcement agency in the country, resorting under the Ministry of Home Affairs and subject to parliamentary oversight.⁶⁶

At sub-national level, local government legislation makes provision for council enforcement officials commonly known as ‘Council Police’ who operate in close proximity to the population.⁶⁷ The mandate of these officials is restricted to the enforcement of local government regulations and by-laws, including public health and nuisance regulations; as well as the maintenance of law and order and the protection of council property.⁶⁸ Council Police may arrest without a warrant any person on reasonable suspicion of the person having committed a contravention within the area of the local authority and may detain that person until delivered into the custody of a police officer.⁶⁹ Each Council confers powers to council officers and agents of the local authority powers of entry, inspection, inquiry and execution of works that are reasonably necessary for the proper carrying out or enforcement of the powers.⁷⁰

Council Police are subject to the city council administration to which they are assigned and are provided limited training by same. There has since 2018 been an increased enforcement on

street and market vendors by Council Police in various Zambian districts following stricter provisions to the street vending and nuisance legislation due to concerns of substandard food preparation and its possible role in the cholera epidemic which began in 2018.⁷¹ The increased enforcement resulted in increased confiscation of goods and the ill treatment on the part of Council Police towards informal traders and hawkers. In 2019, the Minister of Local Government cautioned district council police to treat vendors humanely and stop confiscating their products.⁷² However, to date, enforcement continues to target those conducting life-sustaining activities in public spaces in Lusaka and other cities as seen in a recent report of law enforcement officials removing ‘mobile money’ booths and trading stands of street vendors in Kasama.⁷³

The proximity of Council Police to the population and their ability to arrest without a warrant on suspicion of wrong doing provides room for corruption, particularly the solicitation of bribes as a form of informal penalisation. A study on police corruption found that 80 per cent of all interactions between the police and the population involve corruption.⁷⁴ According to a 2023 Afrobarometer study, the police are considered the most corrupt amongst key institutions in the country, and 54% of Zambians feel that “most” or “all” police officials are involved in corruption.⁷⁵ Unfortunately, the absence of an effective complaints mechanism at subnational level leaves citizens with

⁶⁵ ‘Zambia’, *World Observatory on Subnational Government Finance and Investment*, June 2022, <https://www.sng-wofi.org/country-profiles/zambia.html>.

⁶⁶ Institute for Security Studies, ‘THE CRIMINAL JUSTICE SYSTEM IN ZAMBIA: Enhancing the Delivery of Security in Africa’, 2009, <https://issafrica.org/chapter-3-policing>.

⁶⁷ ‘Zambia Local Government Act’ (2019), <https://www.parliament.gov.zm/node/7947#:~:text=An%20Act%20to%20provide%20for,the%20functions%20of%20local%20authorities%3B>

⁶⁸ Zambia Local Government Act.

⁶⁹ Zambia Local Government Act, para. 75.

⁷⁰ Zambia Local Government Act, para. 58(f).

⁷¹ Danielle Resnick, ‘Informal Traders in African Cities Are Being Used as Political Pawns’, *The Conversation*, 2019,

<https://theconversation.com/informal-traders-in-african-cities-are-being-used-as-political-pawns-123396>.

⁷² Resnick.

⁷³ Z Nancy, ‘Kasama Street Vendors Removed’, *Zambia News 365*, August 2023, <https://zambianews365.com/kasama-street-vendors-r/>.

⁷⁴ D Singh, ‘The Causes of Police Corruption and Working towards Prevention in Conflict-Stricken States’, *Laws* 11, no. 5 (2022), <https://doi.org/10.3390/laws11050069>.

⁷⁵ Afrobarometer, ‘Zambians See Corruption Declining, especially among Elected Leaders; Still Rank Police as Most Corrupt’, 25 April 2023, <https://www.afrobarometer.org/wp-content/uploads/2023/04/News-release-Zambians-see-declining-corruption-Afrobarometer-bh-v2-24april23.pdf>.

nowhere to turn for redress except to lodge complaints at the relevant council.⁷⁶ The Zambia Police Public Complaints Commission exists as an avenue for the public to raise complaints regarding police misconduct, however, monitoring and oversight remains weak because the Commission is not independent, nor is it clear whether Council Police who form part of local government administration can also be reported using this avenue.⁷⁷

7. Conclusion

Subnational law enforcement has the potential of supplementing the work of national police by strengthening relations between communities and law enforcement and swiftly responding to emergency situations in various municipalities, districts or counties, depending on how each State devolves powers. However, the nexus between national and subnational law-enforcement remains a challenge in many African jurisdictions both when provisions for subnational law enforcement exist and when they do not.

From the country case studies discussed above there are five general observations that can be noted. Firstly, it is noted that sub-national law enforcement is a separate entity to the national police and the powers conferred to the former are done by local governments primarily for the purpose of enforcing by-laws, traffic and sanitation issues within public spaces. Secondly, it is observed that the functions and mandates of local law enforcement are often restricted and to a large extent, reliant on national police resources such as police cells. Thirdly, it is a common phenomenon in the four countries that the discretionary powers of City guards, Council Police and Askaris are often utilized in a brutal and abusive manner which

may be as a result of inadequate rights-based training, therefore presenting an opportunity for abuse of powers. Fourthly, there is a general observation that certain groups of people (market and street vendors, women, mini-bus touts) are often the targets of local law enforcement due to their work in public spaces. While formal penalisation is used, informal penalisation such as bribes are also meted against these groups. Finally, it is further noted that failure by national government to guarantee security and protection at sub-national level (as is the case in Nigeria) will result in communities organising themselves either through quasi-state security formations or vigilante groups to guarantee their own safety, which ultimately poses a security risk to the community at large. Moreover, the failure by local government to provide adequate resources, infrastructure (such as functioning street lights), and a clean environment within markets is detrimental to those working in public spaces and is perhaps the reason why many street and market vendors opt to trade along roadsides as opposed to designated market areas.

While the enforcement of regulations and by-laws in public spaces is useful in ensuring sanitary and safe public spaces, it is important that it is proportionately conducted by taking into consideration those living and working within public spaces. It is important to encourage less of a reliance on the criminal justice system by solving socio-economic challenges and building compliance to the law through risk prevention, public education and awareness. Sub-national governments must provide constructive solutions to local communities. It is recommended that municipal assemblies, subnational law enforcement agencies, and other stakeholders support the efforts of those

⁷⁶ Chamuka Shalubala, 'Govt Angers Street Vendors: "Just Kill Us, We Have Nowhere to Go"', *News Diggers*, 19 July 2023, <https://diggers.news/business/2023/07/19/govt-angers-street-vendors-just-kill-us-we-have-nowhere-to-go/>.

⁷⁷ Ethel Sundando, 'Inquiry on the Effectiveness of Public Complaints against the Police – a Case Study of the Police-Public Complaints Commission in Zambia' (Cavendish University Zambia, 2021), <http://155.0.3.194:8080/jspui/bitstream/123456789/794/1/ETHEL%20SUNDANO.pdf>.

living and working in public spaces, through equitable approaches to improve security in public spaces because these activities significantly contribute to the socio-economic development of the country. It remains the overall situation that people engage in income-earning activities in public spaces as it gives them access to potential customers. For them this is work, a right that is recognized and protected. Overzealous regulation and predatory enforcement punishes and criminalises work rather than supporting the informal economy and boosting socio-economic development.

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