

## **NIGERIA'S SECURITY AGENCIES AND THE UNLAWFUL USE OF FORCE: STATUTORY IMPERATIVE FOR A NEW ORDER\***

### **Abstract**

*Naturally following the unavoidable need and existence of law is the need for the machinery to enforce the law; and inextricably tied to the enforcement of law by those so designated is the use of force. Amidst this twist, the controversy lies in the actual measure of force to be used in any instance of law enforcement. This study therefore ventured into determining the common place thereof. In so doing, it adopted the doctrinal methodology by critically considering both primary and secondary sources on the subject, whereof it was noted that whilst there are no shortage of laws creating and enabling the various law enforcement agents with their prescribed line of duties, there is an abysmal dearth of measure, standard or guide for the use of the power conferred on the various agencies especially as it relates to the use of force. This is directly opposed to what is obtainable internationally as specifically highlighted in some referenced jurisdictions. It is therefore strongly recommended that the extant legal framework be reviewed to provide for rules on the use of force and acts incidental thereto, especially for government to assume responsibility to provide critical hardware to avert the avoidable resort to the unlawful use of force.*

**Keywords:** Security Agencies, Unlawful Use of Force, Law, Nigeria

### **1. Introduction**

The Nigerian media has been awash with the incessant killings by security agents. Verifiably, in January 2023, police in Katsina opened fire after responding to a call at a wedding party, killing two and injuring three<sup>1</sup>. On April 5 2023, a police officer in Delta State killed a man for reportedly refusing to pay a hundred-naira (#100.00) bribe at a checkpoint<sup>2</sup>. On 2<sup>nd</sup> July 2023, three soldiers were reported to have opened fire on community neighbourhood watch guards as the guards responded to reports of a bandit attack in Enugu State. Two guards were killed and four injured while the military accused the guards of being bandits themselves<sup>3</sup>.

All of the above incidents are strongly prohibited by law and constitute a violation of the human rights of the victims. For precision, the law prohibits torture and other cruel, inhuman, or degrading treatment or punishment<sup>4</sup>. Unfortunately, the law has defined and criminalized torture and cruel, inhuman, or degrading treatment of suspects but failed to prescribe penalties for violators. Amidst this heart-warming law come serious legal and social bottlenecks militating against the successful application of the Act. This arises from the interrogation of the actual legislative body in Nigeria (National or State) that has the power to legislate over human rights issues, knowing that Legislative powers in Nigeria are constitutionally conferred by the Constitution as enumerated in the various Lists under the Schedules to the Constitution. Elementarily, any matter not falling within these two Lists (Exclusive List or Concurrent List) becomes the residuary power of the State legislatures. Consequently, any law made by the National Assembly outside the two Lists requires domestication by the State Legislature, and the

---

\*By **K. K. Nelson BRIGGS, PhD Candidate**, Faculty of Law, Nnamdi Azikiwe University, Awka; K. K. Briggs & Co (Veritas Chambers), 86/88 Olu-Obasanjo Road, Port Harcourt; Email: [www.veritashchambers.org](http://www.veritashchambers.org); [veritas.chambers@yahoo.com](mailto:veritas.chambers@yahoo.com); Tel: 08030806193; 08022787414; and

**BN OKPALAOBI, PhD**, Professor of Law, Faculty of Law, Nnamdi Azikiwe University, Awka

<sup>1</sup>A Oluwasanjo, 'Trigger-Happy Cop Kills Child, Injures Three During Wedding Party in Katsina', *Peoples Gazette* <<https://gazettengr.com/trigger-happy-cop-kills-child-injures-three-during-wedding-party-in-katsina/>> accessed 21 August, 2025

<sup>2</sup>F Ahon, 'Police Officer Kills Businessman Over N100 in Delta', *Vanguard* <<https://www.vanguardngr.com/2023/04/tension-as-police-officer-kills-civilian-in-delta-over-n100-bribe/>> accessed 21 August 2025

<sup>3</sup>A Ogundapo, 'How Soldiers Killed Two Local Security Guards in Enugu – Senate panel', *Premium Times* <<https://www.premiumtimesng.com/regional/ssouth-east/709131-how-soldiers-killed-two-local-security-guards-in-enugu-senate-panel.html?tztc=1>> accessed 21 August 2025

<sup>4</sup> Constitution of the Federal Republic of Nigeria 1999, Anti-Torture Act 2017, Violence Against Persons (Prohibition) Act 2015

setback is that most States have refused to domesticate this law just as States are seen dragging their feet on the domestication of The Child Rights Act, 2003 and Violence against Persons Prohibition Act 2015, and the Administration of Criminal Justice Act 2015. This situation has caused the unlawful use of force to thrive as a significant problem inhibiting human rights, particularly by the security agents<sup>5</sup>.

The Constitution and sundry laws prohibited arbitrary arrest and detention and provided for the right of any person to challenge the lawfulness of their arrest or detention in court<sup>6</sup>, but regardless of these lofty provisions of the law, the security agencies arrest arbitrarily, and fail to observe the constitutional safeguards of bringing such suspect before a court of law as prescribed by law. Whereas the law required an arresting officer to allow the suspect to obtain counsel, and be admitted to bail, on the contrary, suspects are seen to be incarcerated indefinitely in the guise of conducting investigation, at other times and in some jurisdictions, suspects are hurriedly taken to court for remand proceedings for order to keep in custody to enable the agency continue with investigation. During this period of detention, detainees are denied the opportunity to communicate with family or their legal representative.

On June 10, 2023 the Department of State Service (DSS) detained the former Central Bank Governor Godwin Emefiele for investigative reasons. On July 25, 2023 the Federal High Court in Lagos granted Emefiele bail and ordered that he should be held at the Ikoyi Correctional Centre until the bail conditions are met. However, the DSS immediately attempted to arrest Emefiele again, and a fight reportedly broke out between DSS agents and Nigerian Correctional Service officers as each group tried to take Emefiele into custody. Emefiele was released on bail on November 8, 2023 but was later charged with corruption.

The DSS continued to detain Nnamdi Kanu, the leader of the Indigenous People of Biafra (IPOB), an organization that was so hastily designated as terrorist group has suffered the continued incarceration of its leader on the grounds of national security for charges touching on treason, terrorism, and illegal possession of firearms. In 2017, Kanu fled abroad after jumping bail, but was arrested and returned to the country in 2021. In 2022, the Court of Appeal, Abuja judicial division dropped all charges against Kanu and ordered his release, which the federal government appealed. On December 15, 2023 the Supreme Court overturned the appeals court ruling and stated that Kanu should face terrorism charges, even though Nigeria's secret police had violated Kanu's rights during his arrest and extradition, Kanu remained incarcerated till date.

## **2. The Use of Force in Nigeria's Legal Framework**

The power to use force is amply provided for in our laws, but there is a dearth of definition as to the extent of application and this has created difficulty in the appreciation and evaluation of situations where force is applied. This difficulty extends to both the general public and the security agents such that whilst the public is in the outcry against unlawful use of force, the security agent has always been in the defence of haven't applied force or excessive force thereby strengthening the need for an acceptable understanding and standard in determining what actually amounts to unlawful force. In the legal adventure of proffering apt definition to the rather nebulous concept of force, respite came with the explanation that, whilst excessive force is seemingly not amenable to precise definition, then, understanding what appropriate amount of force is, may be helpful, and same is said to be the '*amount of effort required by police to compel compliance from an unwilling subject*'.<sup>7</sup>

The phrase 'use of force' refers to the use of physical means that may harm a person or cause damage to property. Physical means include the use of hands and body by law enforcement officials; the use of any instruments, weapons or equipment, such as batons; chemical irritants such as pepper spray;

---

<sup>5</sup> V V Tarhule, Y Ornguga, 'Curbing Incidences of Torture through Legislation: Focus on the Nigerian Anti-Torture Act, 2017', *Benue State University Law Journal* 2017/2018 30 – 44 <<https://bsum.edu.ng/w3//files/lawJournal/vol8n1/article2.pdf>> accessed 21 August 2025

<sup>6</sup> Constitution of Federal Republic of Nigeria 1999 (as amended), African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act 1983

<sup>7</sup> International Association of Chiefs of Police, *Police Use of Force in America* (2001),

restraints such as handcuffs; dogs; and firearms.<sup>8</sup> Unlawful use of force means force that violates the principle of legality, i.e. force that has an insufficient legal basis or that is used in pursuance of an objective that cannot be qualified as a legitimate law enforcement objective. Such legitimacy is determined by domestic law, which should be compliant with international human rights obligations. Excessive use of force applies to situations where the use of force was legal and legitimate, but the type and level of force was unnecessary and/or disproportionate. Use of force is arbitrary when resorting to force (or the specific type and level of force), is not legitimate in light of the specific circumstances, and presents an element of injustice, discrimination, unreasonableness, abuse of power, or exercise of unwarranted discretion.<sup>9</sup>

While there are guidelines, there is not a universal set of rules governing law enforcement officer's use of force. the determination of 'excessive' force requires judging whether the amount of force used was unwarranted, and that the officer overstepped the limits of his or her authority. Originally, the use of excessive force is determined by the conscience or honest intention of the person applying the said force<sup>10</sup>. This standard was highly subjective depending on the mental state of the offending officer thereby creating ambiguity in determining cases bordering on the use of excessive force. This was later developed to 'objective reasonableness' test as a standard for determining excessive force<sup>11</sup> whereof the U.S. Supreme Court has held that an objective reasonableness standard should apply in determining claims against police officers for using excessive force. Regrettably, the seeming improvement to the objective reasonableness standard is still largely inaccurate in determining the extent of force used or necessary to be used in specific situation still remains difficult and debatable. A direct consequence of this uncertainty was the move to develop generally acceptable principles in the form of a legal framework<sup>12</sup> which articulates several principles for guidance in the use of force. Force is permitted at certain times, such as for the purpose of self defence or in defence of another, group and/or property. Even in these circumstances, there is no single, definite stipulation on the exact extent of force 'necessary' or 'appropriate' in any given situation.

The Police Act<sup>13</sup> emphasize the fact that a suspect should be accorded humane treatment, be treated with dignity and not be subjected to torture, cruel, inhuman or degrading treatment. Similarly, the use of unlawful force is abhorred and prohibited by other laws especially the Violence Against Persons Prohibition Act<sup>14</sup>. Again, Anti-Torture Act<sup>15</sup>; the Administration of Criminal Justice Act 2015<sup>16</sup>, among other statutes have made robust provisions against the use of force.

### **3. Evaluation of the Legal Framework on the Use of Force in Nigeria**

In Nigeria, the foremost law on the use of force is the CFRN which subtly provide or enabled the use of force in specific circumstances. The constitution enabled the use of force even to the extent of derogating on the right to life.<sup>17</sup> Whilst force used to achieve this purpose can safely pass for lawful force, it appears loose, uncensored, imprecise and nebulous for the constitution to permit the deprivation of life by means of force in defence of any person from unlawful violence or for the defence of property; in order to effect a lawful arrest or to prevent the escape of a person lawfully detained, or for the purpose of suppressing a riot, insurrection or mutiny.<sup>18</sup>

---

<sup>8</sup> Resource book on the use of force and firearms in law enforcement, (New York, United Nations, 2017) 1<[https://www.unodc.org/documents/justice-and-prison-reform/17-03483\\_ebook.pdf](https://www.unodc.org/documents/justice-and-prison-reform/17-03483_ebook.pdf)> accessed 25 May 2025

<sup>9</sup> *ibid* 2

<sup>10</sup> *Johnson v Glick* 481 F.2d 1028, 1033 (2d Cir.) cert. denied, 414 U.S. 1033 (1973).

<sup>11</sup> *Graham v Connor*, 490 U.S. 386, 396-97 (1989)

<sup>12</sup> Basic Principles on the Use of Force and Firearms by Law Enforcement Officials

<sup>13</sup> s 37, Police Act 2020

<sup>14</sup> ss 2, 3, 4, 5, 18, 21 of the VAPPA

<sup>15</sup> ss 2 and 5(1)

<sup>16</sup> s 5

<sup>17</sup> s33(1) & (2) CFRN 1999

<sup>18</sup> s 33(2) CFRN 1999

The expression in section 33(2) CFRN which is now brought under critical consideration is the phrase 'reasonably necessary'. A consummate appreciation of this phrase is to the effect that, a person will not be liable for the offence of murder even if death occurs by reason of his use of an extent of force in situations reasonably necessary and specifically provided for by law, and such situation may include the situations in the constitution.<sup>19</sup> Again, the distasteful use of force on the basis of 'reasonable' standard is evident in the constitution, in that, whereas forced labour is prohibited under the constitution, same was given specific exception under subsection 2(d).<sup>20</sup> This provision of the constitution unarguably brings the operative standard for the use of force to the moribund, imprecise and ineffective 'reasonableness' rule/standard long rejected by developed climes for being unascertainable and susceptible to the varying consideration of different individuals in different circumstances.

The implication of this constitutional provision is that, as sensitive as life is, in Nigeria, it is put in a position of being determined by standards long adjudged to be unacceptable and ineffective. This state of affairs ordinarily leaves one to ask the pertinent question: what does it really take to join the comity of developed countries in adopting and applying the appropriate standards on the use of force in protecting and safeguarding lives and properties in Nigeria? To say the least, to continue to allow these provisions of the constitution is to allow an unbridled and open-ended defence for the arbitrary use of force.

It is submitted that no one should cause the loss of life and be availed the defence that it occurred out of defence of self, another or property where the imminent threat resulting in the death of the deceased is not life threatening. Not even the defence of the threat of imminent serious injury should be a justification for causing death. Where the imminent danger is serious injury, the only act to be excused should be an act of defence which resulted in serious injury and not death *per se*. Simply put, where the danger to be averted is not death, then, causing death cannot be excused for any reason, and where serious injury is not the imminent danger, then applying any degree of force to inflict serious injury should not be excused for whatever reason. This is in line with the principles of proportionality, necessity and precaution to be considered in the use of force.

Away from the use of force as provided by the constitution, it is also provided for in the enabling laws of sundry institution/agencies which are established by specific Acts of Parliament. Paramount amongst such institutions is the police and the military which enabling laws allow the use of force, although with necessary Regulation which formed the basis for the Police Regulation that has undergone amendment to adapt and to effectively bring same to bear with the object of the parent Act. One fundamental provision of the Regulation which is the focus of this study, is the use of force by means of firearm as provided in Order 237. It reads thus:

A Police Officer may use firearms under the following circumstances:

- a) When attacked and his life is in danger and there is no other way of saving his life;
- b) When defending a person who is attacked and he believes on reasonable grounds that he cannot otherwise protect that person attacked from death;
- c) When necessary to disperse rioters or to prevent them from committing serious offences against life and property; N.B. Remember that 12 or more people must remain riotously assembled beyond a reasonable time after the reading of the proclamation before the use of firearms can be justified
- d) If he cannot by any other means arrest a person who being in lawful custody escapes and takes to flight in order to avoid re-arrest; providing the offence 34 35 with which he is charged or has been convicted of, is a felony or misdemeanour; an
- e) If he cannot by any other means arrest a person who takes to flight in order to avoid arrest, provided the offence is such that the accused may be punished with death or imprisonment for 7 years or more.

---

<sup>19</sup> s 33(2) (a - c) CFRN 1999

<sup>20</sup> s 34(2) (d) CFRN 1999

Whilst the Police have leveraged on its parent law to make a Regulation relating to the use of force, it is imperative to ask: how adequate is the provision of the Order 237.<sup>21</sup> On a broader curiosity on the all-important subject matter of the use of force, this study queries that even when Order 237 is grossly inadequate, which other security institution/agency have as much or such lesser provision akin to Order 237 on the use of firearm; yet, most of the security institutions are enabled to use firearm without any standard operating procedure or definite rule of engagement.

Taking a quick swipe across the various security institutions, the NSA Act created the SSS, DIA and NIA which wields enormous power including the use of firearm. even unto a seeming legislative supremacy clause<sup>22</sup> which places the NSA Act over and above any other Acts inconsistent with it, yet, the same Act made no provision on the use of firearm by any of the security agencies created thereof. Sadly, this crucial duty is abdicated to the President to by an Instrument make provisions on the power of the agencies under the NSA Act which includes assigning the powers of superior police officers.<sup>23</sup> Unfortunately, the literature has no record of any extant Instrument under the hand of the President. The Instrument relating to the SSS is not one of the President. In summary, under the NSA Act the associated subsidiary legislation is an Instruments to be made by the President and not a Regulation to be made by any ultimate officer of the NSA.

For the EFCC, whereas, it is empowered to use force<sup>24</sup> by its incorporation of the Police Act by reference, there is no extant law on the use of force/firearm and there is no Regulation that has been made by the Attorney General as enabled by the Act.<sup>25</sup> At best, it would be inferred that having the power and privileges of the police, the EFCC may as well leverage on the Police Regulation as it relates to the use of force/firearm. In like manners, the ICPC is enabled to use Force<sup>26</sup> by its incorporation of the Police Act, although the ICPC Act gave no specific power to any of its personnel, organ or authority to make Regulation, it generally has no provision on the use of force/firearm except as may be implied from the Police Act. The NSCDC have the power to use force<sup>27</sup> but gave no particulars on how the power is to be exercised. The Acts empowers the Minister of Interior to make Regulations necessary or expedient for giving full effect to the Act, however, there is no record of any such Regulation.

The NDLEA Act just like the other laws enabled the Agency to use force and vested the powers and privileges of the police on the officers of the agency<sup>28</sup> and also empowered the Attorney General of the Federation to make Regulation for the agency.<sup>29</sup> Similarly, the FRSC Act empower the Corp to use force and exercise the power of the police<sup>30</sup>, but also empowered the Commission to make Regulation for its effective operation.<sup>31</sup> In the same vein, the NIS is empowered to use force<sup>32</sup> and the Acts also empowered the Minister of Interior to make Regulation;<sup>33</sup> interestingly, the NIS has an extant Regulation<sup>34</sup> which though did not specify or particularize the NIS' power to use force but provided for the effective administration of the Act in admirable details.

Nigeria Custom Service (NCuS) use of force is enabled by its law<sup>35</sup> following the vesting of the powers, right and privilege of the police on custom officers, it's Board is also allowed to make Regulations

---

<sup>21</sup> Police Regulation

<sup>22</sup> S.7(2) NSA Act

<sup>23</sup> S.6(2)(c) NSA Act

<sup>24</sup> s 41 EFCC Act

<sup>25</sup> s.43 EFCC Act

<sup>26</sup> s 32 ICPC Act

<sup>27</sup> s 3(f) NSCDC Act,

<sup>28</sup> ss 4 & 41 NDLEA Act

<sup>29</sup> ss 10 & 50 NDLEA Act

<sup>30</sup> s 4 FRSC Act

<sup>31</sup> s 4 FRSC Act

<sup>32</sup> s 63 Nigerian Immigration Service (NIS) Act

<sup>33</sup> s 112 NIS Act

<sup>34</sup> Nigerian Immigration Regulation 2017

<sup>35</sup> s 6

subjects to the approval of the Minister of Interior<sup>36</sup> but there is no record of any extant Regulation of the NCuS.

For the Nigeria Correctional Service (NCoS), the Act empowers the officers to use firearm and/or any other weapon,<sup>37</sup> but unlike all the other Acts, the NCoS Act made clear prescription of how the force may be applied, the circumstances, but the degree/measure of the force to be used has been strongly queried in this study. As others, the Act empowered the Controller General to make Regulation for the purpose of carrying into effect the provision of the NCoS Act.<sup>38</sup>

Now, whilst the constitution and other laws allow for the use of force as noted above, other legislations randomly and scantily provide for some limitations, checks and restraints on the use of force. The concern therefore is: to what extent can the other statutory checks and limits on the use of force actually curb or effectively check/limit the arbitrary use of force by security agents. Put differently, how best can a balance be struck between the laws enabling a seemingly open-ended use of force and the others limiting the use of force? This is because, the extant safeguards against the use of force do not holistically address all the circumstances in which force is unlawfully used, thereby affirming the greater need for a dedicated piece of legislation on the use of force with all the possibly fathomable safeguards relating to the use of force as enabled therein.

The sad and painful reality is the fact that except for the Police Regulation<sup>39</sup> and Nigerian Correctional Services Act<sup>40</sup> there is no extant legal framework in Nigeria that relates to the use of firearm or other sundry weapons, yet these weapons are used as of routine by the security agencies according to their discretion and fancy without any guideline, operational procedure or rule of engagement. Little wonder there is the incessant and ever rising arbitrary use of force by security agents.

#### **4. International Standards on the Use of Force by Security Agents**

There are a few operative Instruments on the use of force especially by law enforcement agents across the international community.<sup>41</sup> These laws prescribe the standards and principles to be observed in every circumstance warranting a resort to the use of force; whether physical force, firearm or other sundry weapons. Notably, a cursory consideration of the Instruments reveals that same were put together with keen consideration and application of the basic jurisprudential principles relating to the use of force.

A keen consideration of these instruments show that on the international scene, before prescribing rules and guidelines for the law enforcement organization, emphasis is placed first on the authority of the State with the responsibility of first ensuring and prescribing rules and regulations for the use of force, with a firm obligation to ensure a constant review of the rules and regulations.<sup>42</sup> Still sustaining the burden on the authority of the State, the Instrument insisted as a priority, that government has the responsibility to provide a variety of weapons and ammunition leaving the law enforcement personnel with a choice of the appropriate option to use in specific circumstances. This is with emphasis on the provision of non-lethal weapons as well as sufficient protective and self-defensive equipment appropriate to confront specific situations without the constraint of solely resorting to firearm or brute force in the face of other effective options.<sup>43</sup> Where the law on the use of force and the variety of weapons are in place, then there must be a careful and controlled use of the equipment, ensuring a

---

<sup>36</sup> s 5

<sup>37</sup> s 20 NCoS Act

<sup>38</sup> s 33 & 39 NCoS Act

<sup>39</sup> Force Order 237

<sup>40</sup> s 20

<sup>41</sup> Code of Conduct for Law Enforcement Officials Adopted by General Assembly resolution 34/169 of 17 December 1979 (CCLEO); Basic Principles on the Use of Force and Firearms by Law Enforcement Officials Adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990 (BPUFF)

<sup>42</sup> Principle 1 BPUFF

<sup>43</sup> Principle 2 BPUFF

proper evaluation of the situation before deciding on the appropriate weapon to use.<sup>44</sup> Departing from the responsibility of government, the law focused on the training and orientation of personnel to understand that the non-violent approach is the foremost approach, while the use of force should only be resorted to where non-violent approach is ineffective or unlikely to be effective.<sup>45</sup>

Interestingly, in the event of an unavoidable use of force, the law stipulates that the law enforcement agent must apply discretion, caution and restraint. To do this, the official must apply only the extent of force that is proportionate to the seriousness of the offence and the legitimate objective to be achieved; the official must act in manners that will occasion minimal damage or injury, and in manners that will sufficiently demonstrate respect for human life and the intention to preserve it. Very captivating in this principle is the obligation to render assistance and medical aid to injured persons or those affected by the use of force and to at the earliest possible moment, notify their relatives and close friends of the state of affairs.<sup>46</sup> The role of government was emphasised and the law therefore provides that government must as a matter of compulsion see to and ensure the punishment of officials who default in the use of force; with further specific *caveat* that internal political instability or any other public emergency shall not be a justification or defence to the breach of the law on the use of force.<sup>47</sup>

Apart from the general use of force howsoever arising, particular and special mention is made of the use of firearm which represents the height of force. The principle stipulates that firearm is not a weapon to be used indiscriminately. Only specific time and circumstances should warrant its use and this must particularly relate to the danger of death or serious injury to oneself or the person of another. This must be with an initial warning, with sufficient time to comply with the warning, except where such warning and time to comply with same is impracticable, unreasonable or inappropriate<sup>48</sup>. It is important to observe that unlike the CFRN, protection/defence of property is not one of the circumstances to justify the use of force, firearm or the loss of life under this principle.

The principle further provides that it is not just enough to provide and authorise an officer or organisation to use firearm, but that, there should be Regulation on the use of firearm, which regulation must have some basic specifics such as, the circumstances the firearm may be used, the type of firearm to be used and the type of ammunition to be used. This is to avoid unnecessary harm or damage, regulate access to firearm and accountability for its use, warning before its use and a chain of reporting after use.<sup>49</sup> This compulsory enactment of Regulation when juxtaposed with the Nigerian situation is a far cry from the ideal because apart from the Nigeria Police Force and the Nigerian Correctional Service no other security agency (NSCDC, EFCC, SSS etc) has an extant Regulation on the use of firearm. For the Nigeria Police that has one, the adequacy of same to meet contemporary international principles on the use of firearm leaves much to be desired.

Another determinant of the use of force is the orientation of the security personnel. To this end, the principle emphasized the need for proper qualification, selection, training and counsel of personnel with particular emphasis on security ethics, human rights, alternative dispute resolution, human behaviour with particular attention on personnel prone to stress and the use of force. To drive home these principles and ensure due compliance, it is prescribed that there should be a veritable review of the mechanism for the consideration of the actions of law enforcement officials, and further to that, there should be an effective disciplinary arrangement to sanction errant personnel found wanting in respect of the principles on the use of force.

By a combined consideration of the relevant instruments, there are now established international standards on the use of force by law enforcement official. Worthy of note is the fact that the term 'law

---

<sup>44</sup> Principle 3 BPUFF

<sup>45</sup> Principle 4 BPUFF

<sup>46</sup> Article 3 CCLEO, Principles 5 & 6, BPUFF

<sup>47</sup> Article 5 CCLEO, Principles 7 & 8, BPUFF

<sup>48</sup> Principles 9 & 10 BPUFF

<sup>49</sup> Principle 11 BPUFF

enforcement officials' in this context includes all officers of the law to includes military and other security personnel. Unarguably, by a keen consideration of the extant Instruments, it is trite that everyone is entitled to equal protection of the law, without discrimination on any grounds, and especially against violence or threat. Security agents are bound to be vigilant to protect potentially vulnerable groups such as children, the elderly, women, refugees, displaced persons and members of minority groups. They are expected by extant instrument to treat all victims of crime with compassion and respect, and in particular protect their safety and privacy. Refrain from the use of force except when strictly necessary and to the minimum extent required under the circumstances, and avoid using force when policing unlawful but non-violent assemblies. On the other hand, when policing entails dispersing violent assemblies, the standard strongly prescribe the use force only to the minimum extent necessary. In this wise, lethal force should not be used except when strictly unavoidable in order to protect your life or the lives of others. It is worthy of note that the need to protect property in the international scene is not a basis for the use of lethal force contrary to the CFRN. Arrests must only be effected when there are legal grounds to do so, and must be carried out in accordance with lawful procedures provided for arrest. As may be gleaned from the several Instruments, detainees are not to be kept arbitrarily, the standard expects a law enforcement officer to ensure that all detainees have access promptly after arrest to their family and legal representative and to any necessary medical assistance. Accordingly, all detainees must be treated humanely, as no law enforcement official is expected to inflict, instigate or tolerate any act of torture or ill-treatment, in any circumstances, and refuse to obey any order to do so. In this regard, the standard does not allow a law enforcement official to carry out order for the unlawful use of force or cover up extrajudicial executions. For proper record and action, the standard stipulates prompt and adequate record and report of all breaches of the Basic Standards and to push for investigation and necessary sanction for breach of the standards.

### **5. The Use of Force by Security Agencies in Selected Jurisdictions**

The trajectory of this study took an expository sojourn on the meaning of the use of force and veered into the principles governing same. This study having considered the place of force in our jurisprudence and the operative standards internationally, it is needful therefore to check the applicability or otherwise of these standards in various international jurisdictions with a view to ascertain the acceptance and feasibility of the principles on the use of force. This can readily form a basis to advance an argument whether to adopt same in Nigeria or to do so with necessary amendments or to completely refuse to adopt same. The clamour for the prohibition of unlawful use of force and the associated safeguards is not a move peculiar to Nigeria, as very many countries have developed Legislations, Regulations, Instruments etc and are already adhering to the agitation against unlawful use of force. Below are references to a few international jurisdictions specifically picked and considered across the different continents.

#### **United States**

The United States operate a well-developed democracy with its federating units. This study considers the US legal framework on the use of force with particular emphasis on whether there is an enforceable policy documents or standard operating procedure or rule of engagement on the use of force. The law enforcement practice of the US is stratified across the different tier of government. Notably, the several law enforcement agencies have a develop legal framework. Of interesting references in this study is the United States of America Department of Defence (DOD) Arming and the Use of Force.<sup>50</sup> The Department of Defence have established policy and standard for the carrying of firearms and the use of force by its personnels, it provides requirements, authorization and restriction on the caring of firearms and the use of force. The document provided fine details of the nature of persons entitled or qualified to be armed for official duties; firearms qualification and training, use of force in the performance of official duties, possession and use of privately owned firearm etc.

---

<sup>50</sup> [https://irp.fas.org/doddir/dod/d5210\\_56.pdf](https://irp.fas.org/doddir/dod/d5210_56.pdf)

Similarly, the US Department of Homeland Security,<sup>51</sup> which is the US federal executive department responsible for public security. The US has a very robust policy documents on the use of force with wide repository to several agencies and critical stakeholders in the US. In the same vein, the US Customs and Border Protection (CBP) which is an institution akin to the Nigerian Customs Service also has its own rich CBP Use of Force Policy.<sup>52</sup> A paraphrase of the principal Instrument<sup>53</sup> provided for the purpose of the document/law to implement policy guidance, including investigation and documentation practices, through component-specific policy, procedure, and training.<sup>54</sup> The general principle upon which the policy is predicated are: respect of human life, de-escalation of issues, use of safe tactics, resort to appropriate warnings, acknowledgments of exigent circumstances to respond accordingly, rendering of appropriate medical care/assistance, intervention in and reports of improper use of force.

The worrisome fact about this heartwarming document is its ouster clause (paragraph x), which is to the effect that the policy document ‘*is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity, against the United States, its departments, agencies, or other entities, its officers or employees, or any other person.*’<sup>55</sup> However, as disappointing as this provision is, it is the position in this study that it is even better to have such documents which meets the contemporary human rights concerns in law enforcement as guide for security agents and reference to adjudge their activities even without the rights of enforcement, instead of having none and leave the crucial issue of law enforcements and the services of security agents to the whims, caprices and discretion of one disgruntled security agent.

It is submitted that, it is most desirable, and serves the cause of justice and regard for human rights to have a holistic policy document on the use of force to uniformly state the principle and standard on the use of force, rather than being without one. In any events, it is not out of place and same portend no legal danger to adopt the said document in Nigeria and have it enforceable. It can't even be imagined that having an enforceable Instrument or piece of legislation such as the US DHS policy on the use of force will inhibit law enforcement or by any other means hinder the course of the global call for the respect for human rights.

### **United Kingdom**

One defining feature of the average law enforcement official is its ability to use force. Conversely, it is the most dialectic feature too. This debate arises from or gets intense when this power of the average law enforcement agent is used unlawfully or arbitrarily by means of misuse, abuse or overuse. Many more have died following police contact through other methods of force, such as restraint or the use of a taser.<sup>56</sup> In the UK, the law that governs police use of force is not defined by one specific piece of legislation but by a body of laws<sup>57</sup>, and the Common Law principles which consummately provides for the law relating to police use of force in the English and Welsh context. Generally, the law allows police officers to use force whilst exercising their powers only to the extent that it is necessary, proportionate and reasonable in all circumstances. Notably, the UK operates a seemingly more stricter understanding of the term ‘force’, in that, Force includes any touching, even if it doesn’t result in injury. This includes the use of handcuffs, taking fingerprints, holding a person’s arm to lead them to a police vehicle or into a station, the use of tear gas, a police baton or police dog. For the purpose of making an arrest, preventing crime, and/or for self-defence or in defence of another person, the police

---

<sup>51</sup>[https://www.dhs.gov/sites/default/files/publications/mgmt/law-enforcement/mgmt-dir\\_044-05-department-policy-on-the-use-of-force.pdf](https://www.dhs.gov/sites/default/files/publications/mgmt/law-enforcement/mgmt-dir_044-05-department-policy-on-the-use-of-force.pdf)

<sup>52</sup> [https://www.cbp.gov/sites/default/files/2024-09/exhibit\\_09\\_-\\_cbp\\_use\\_of\\_force\\_policy\\_final\\_jan\\_2021.pdf](https://www.cbp.gov/sites/default/files/2024-09/exhibit_09_-_cbp_use_of_force_policy_final_jan_2021.pdf)

<sup>53</sup> US Department of Homeland Security Policy on the Use of Force (US DHS Policy)

<sup>54</sup> s 1 US DHS Policy

<sup>55</sup> s 10 US DHS Policy

<sup>56</sup> ‘Number of fatalities following police contact in England and Wales from 2010/11 to 2023/24, by type’ *Statista* <<https://www.statista.com/statistics/319287/deaths-during-or-following-police-contact-causes-england-and-wales/>> accessed 15 November, 2025

<sup>57</sup> Criminal Law Act 1967, Police and Criminal Evidence Act 1984, Criminal Justice and Immigration Act 2008, Crime and Courts Act 2013 (Householder Defense), Schedule 2 of the Police (Conduct) Regulations 2020 and European Convention on Human Rights,

are empowered to use reasonable force.<sup>58</sup> However, such use of force must always be reasonable in the circumstances. This means the force must be necessary to achieve a lawful objective, and proportionate i.e., no more than is needed to achieve the objective.

## 6. Conclusion and Recommendations

The term 'force' is about one of the most debatable terms in the law enforcement process. The term appears as protective as indicting to the different actors, whether as the public or the security agents. This puts the concept in an ever-increasing need for precise and definite understanding and application, and so, by this study, unlawful force entails the resort to violence beyond what is ordinarily necessary for the given purpose and circumstance. Sadly, this remark about the concept of force rears up the stern debate and question of measure in determining the actual extent or measure of force to be applied thereby leaving this crucial concept to uncertainty.

It is palpably regretted that whilst the unavoidable need for force in law enforcement is acknowledged and authorised, there is no corresponding provision of measure to determine what force is to be used as to strike a balance in maintaining law without violating the rights of the people. From this study, there is no difficulty in reaching the incontrovertible conclusion that the reason for the problem of human rights abuse by the use of unlawful force is not the dearth of relevant laws on the subject, indeed, there are more than enough laws, in fact, too much laws and associated institutions, but the regrettable situation is that the too many laws do not seem to sufficiently provide for the intricate observance, protection and enforcement of rights as to serve as appropriated restraints and safeguards in the use of force by the security agents.

Whilst almost all the enabling laws of the various security agencies provided for the use of force, and whilst this study has noted specific key principles to be observed in the use of force by security agencies, it is saddening to note that very many of these guiding principles are not reflected in almost all the enabling laws of the various security agents; that is, whilst the use of force is enabled, there is no extant legal framework guiding the use of force, thereby surrendering the very sensitive and volatile issue of force and its use to the uncertainties, whims and caprices of the security agents.

It is noted with regret that amongst the several security agents considered in this study, it is only the Nigeria Police Force and the Nigerian Correctional Services that has a Regulation wherein the circumstances for the use of firearm (the highest extent of force) is provided, yet, most of the agencies have authority to bear and use firearm, howbeit, without any legal framework capable of being referred to evaluate and determine how adequate, appropriate or otherwise the resort and use of firearm was in the circumstance. Curiously, one will ask, is this is also the situation globally? Unfortunately, it is not. In the international scene, there exist rich legal framework in the use of force with a greater compliance burden on the government. Yet, our State actors in Nigeria have failed to borrow a leaf, perhaps, because of the direct responsibility placed on government to assume the responsibility of first providing all the appropriate alternatives for use against the use of force.

The painful reality is that unlawful use of force in Nigeria has thrived owing principally to the docility of government and lack of responsibility and will power in assuming its frontline charge of curbing human rights violation especially by means of unlawful force through the provision of adequate alternatives and ensuring compliance with the stipulation of extant legal framework; but in Nigeria, what is seen is, the same government coveting the entire authority over the use of force in the person of the President to exercise with the constitutional caveat of being unquestionable as to how such power over the security agents is exercised thereby enthroning the absolute power syndrome over the use of force.

While the greater problem is one of government, there are other sundry challenges against the protection and enforcement of human rights. This include infrastructural, equipment and facility deficit, obviously compromised, complicit and weak institution that are not alive to its statutory mandate in the security,

---

<sup>58</sup> section 3 Criminal Law Act 1967

law enforcement and human rights architecture of the state; and worse of all is the legal and political challenge whereof certain persons/authority are through the instrumentality of the law placed ultimately above others, regardless of the overriding status of their fundamental human rights. A keen consideration of the available facts points to the inescapable view that whilst there is the endemic challenge of unlawful use of force and its threat to the enjoyment of human rights, it is noted with regret that the trend is worse of, in the developing countries particularly in the African sub-region. This may not be far from the inclination of African leaders' firm grip on power and our sit-tight syndrome for which reason African leaders are willing and ready to dare the devil and defy all odds to catapult themselves to power and remain there. To achieve these inordinate tendencies, there is the deliberate creation of infamous statutory, legal and political lacunas and excesses to be leveraged on to perpetuate themselves in power and suppress voices of decent not minding whether same amounts to a violation of human right.

The foremost ingredient of a functional society is the existence of a developed and effective law and its enforcement mechanism through the relevant security agents. The act of law enforcement generally requires confrontation of an adverse party in manners that may entail the use of force. The use of the said force requires some precise measure; otherwise, the use of force may be uncensored and excessive and thereby become unlawful. It is noted that the uncensored use of force over the years has brought untold hardship and sent some unsuspecting individual to the great beyond. Relatedly, there is the disturbing trend of security agents taking undue advantage of the people regardless of the rights which inure to the people and for which they ought to be protected from some uncanny and brute confrontation; but amidst the contending interest of the people's rights to the protection of their human rights and the statutory mandate of the security agents to discharge their duties with maximum result comes the pertinent interrogation and quest for a balance.

In Nigeria, there is no balance, and what exist is a far cry from the ideal and one no longer wonder why. There is the existence of a government which has enacted laws conferring rights on the people and ensuring the preservation of same by law, but by the same law, the rights sought to be protected are curtailed and at other times, security agents are authorized to operate in manners that is at cross purposes with the rights sought to be protected. What stands beyond controversy is the fact that this ugly twist is enabled by our ailing laws which needs to be reviewed, and the review need the requisite willpower to do so. By and large, the entirety of the rot and failure is principally traceable to inadequate legal framework and lack of willpower over the years to review same, which to a large extent is confirmed to be deliberate just to benefit from the unfair advantage that comes with the situation.

From the generality of this study and the associated findings, it is recommended as follows:

1. The Parliament should embark on a thorough review of the statutory provisions which touches on the President's overriding and unquestionable power to control the police, military and other security agencies, as to among other things subject the exercise of that power to interrogation by the courts. Other provisions for review are the powers of the Attorney General<sup>59</sup>, power of the President to declare state of emergency.
2. Enactment of a legal and administrative framework on the use of force consistent with international rules and standards. This entails the enactment of a consummate piece of legislation on the use of force in line with the Basic Principle and the US Homeland Security on the Use of Force. This piece of legislation should ensure and provide for the following:
  - i. Enjoin security agents to exercise restraint in the use of force and act in proportion to the seriousness of the offence and the legitimate objective to be achieved.
  - ii. Minimize damage and injury, and respect and preserve human life.
  - iii. Ensure that assistance and medical aid are rendered to any injured or affected persons at the earliest possible moment.
  - iv. Ensure that relatives or close friends of the injured or affected person are notified at the earliest possible moment.

---

<sup>59</sup> ss 174 & 211 CFRN

- v. Report promptly to superiors any injury or death caused by the use of force or firearms by law enforcement officials.
  - vi. Establish effective reporting and review procedures for all incidents of serious injury, or use of firearms.
  - vii. In cases of death and serious injury or other grave consequences, a detailed report should be sent promptly to the competent authorities responsible for administrative review and judicial control.
  - viii. Before using firearms, law enforcement officials should identify themselves as such and give a clear warning of their intent to use firearms, with sufficient time for the warning to be observed, unless to do so would unduly place the law enforcement officials at risk or would create a risk of death or serious harm to other persons, or would be clearly inappropriate or pointless in the circumstances of the incident.
  - ix. Provide officers with clear and specific Regulations (sometimes referred to as guidance, or standard operating procedures) on the use of force and specific weapons. These must always be in line with the State's obligations under international and national laws and carefully define in which situations law enforcement officials are allowed to use force, as well as the type of firearms, or less-lethal weapons to be used. While the precise content of the guidance will differ for each type of force, in general, the guidance should underscore that the use of force (and the use of the weapon in question) should be proportionate, lawful, strictly necessary, accountable and should be planned, prepared and conducted so as to minimise harm. In the interests of transparency, accountability and public confidence in policing, the guidelines governing the use of force should be made publicly available. Senior officers should ensure, in addition, that guidance contains the following equipment-specific measures. Both senior managers and officers are responsible for ensuring that these are followed in circumstances where force is used, and that officers are held to account in circumstances where that does not happen. On firearms and lethal force international standards provide that lethal force (including but not limited to firearms) can only be used to protect life, when other, less harmful measures are inadequate. Hence firearms and lethal force should be used only in response to a specific threat which is immediate or imminent (i.e. 'a matter of seconds, not hours'), and when unavoidable (i.e. other, lesser means have not been effective or it would not be possible to try them, and the use of such force is unavoidable), and when necessary to 'protect life' (i.e. 'a life may be taken intentionally only to save another life').
  - x. Notification of the relatives of the injured or affected persons and provision of a system of reporting on the use of firearms.
  - xi. Investigation of any use of force resulting in death or injury. To be effective, these investigations must be conducted promptly, in an independent and impartial manner, and must involve the participation of the victims and/or their next of kin. They also have a right to remedy and reparation.
  - xii. Review of training programmes and operational procedures in the light of particular incidents.
3. Government should in line with international standard assume the responsibility of providing State officials with adequate equipment, including weapons and ammunition, as well as self-defensive equipment and alternative weapons to firearms to ensure veritable alternatives/options to the use of force.
  4. The recruitment (selection, training and capacity-building of law enforcement officials) in accordance with international rules and standards should compulsorily include teaching of police ethics, human rights and alternatives to the use of force.
  5. Parliament should designate human rights violations as both a civil wrong and criminal offence with appropriate criminal sanctions in the form of imprisonment, damages as well as non-custodial sanctions such as community services, rehabilitation etc.
  6. Require security agents, companies and other institutions to mandatorily keep and file human rights compliance updates/reports on oath with the National Human Rights Commission at

specific periods for their operations and for all persons in their employ or custody with contact details for confirmation of entries where and when necessary.