

# A CRITICAL ANALYSIS OF THE RIGHTS OF SELF DEFENCE AND THE LEGAL RESTRICTION ON CITIZENS RIGHT TO POSSESSION OF WEAPONS

SUNDAY JOHN APOCHI

\*LLB (Hons.), BL, LLM, (International Law & Diplomacy, Ph.D. Researcher International Environmental Law. Presently the Author is the Group Company Secretary and the Legal Adviser of the Nigerian Army Welfare Limited. He can be reached on Telephone No. 08035941096, Email: apochi2@yahoo.com

## **Abstract**

*The purpose of this study is to critically analyse the effectiveness of the constitution of the Federal Republic of Nigeria 1999 (as amended), the Nigerian Firearms Act and case laws and other legal framework on the right of citizen in Nigeria to bear arms in light of the constitutional provision which provides for the defence of one's life and property from unlawful violence in Nigeria. It argues that the provisions of the firearms Act and other legal framework which provides for the restriction of this rights are an infraction of the Nigerian Constitution, considering the spate of the current security challenges in the country. This paper is to discuss if the right to defend one's life and property from unlawful violence is a constitutional guaranteed citizens right in Nigeria. It concludes that extant local laws and their regulations enacted to curtail this right are a breach of the Nigerian Constitution and that the failure of the Nigeria State to effectively safeguard the lives and properties of its citizens activates the constitutional provision providing for the defence of one's life.*

## **INTRODUCTION**

1. The world over has seen a rise in insecurity and many nations are dealing with one form of insecurity or the other.<sup>1</sup> The recent upsurge in terrorist attack(s) in Europe which led to the loss of lives and destruction of property underscore the ease with which wanton destruction can be created by willing groups and the limitation of state security outfit in advanced nations that make up Europe and America.<sup>2</sup> Africa as a

<sup>1</sup> Ashdown, P. 'The war against ISIS in Iraq and Syria, the intractable war in Yamen and the ever recurrent fighting between Hamas and Israel are testimony to this assertion. Somewhere in between, Iran pays proxy support for militants against state like Saudi Arabia and Israel. <http://www.independent.co.uk/voices/middle-east-saudi-arabia-iran-control-fighting-war-diplomatic-relations-paddy-ashdown-a8061106.html> Accessed 25 February 2021

<sup>2</sup> Alice Foster Report on the terrorist attack on Charlie Hebdo in Paris France which killed twelve people on January 7 2015, the Spanish terror attack of Thursday August 17 2017 in Bachelona Las Ramblas, where more than a dozen documented terror attack

continent has not escaped the increase in violence and casualties with places like Kenya, Somalia facing the threat from Al-shabab terrorist group.<sup>3</sup> Nigeria, Chad, and Cameroun are all under threat from the dreaded Boko Haram ISWAP terrorist attacks, Fulani herdsmen carnage, rampant kidnapping for ransom, militancy in the Niger-Delta and the Eastern regions of the country, increased rate of armed robbery attacks.<sup>4</sup> This is particularly important as it has now become a common reality for Nigerian citizens to express their frustration and disenchantment through violence on suspected criminals who suffer the possibility of mob justice without the benefit of being given a fair trial, and also necessitated a self-help means through the establishment of regional security outfits such as the Amotekun and the Eastern Security Network (ESN).<sup>5</sup> Insecurity in Nigeria has assumed a formidable dimension in recent times and has kept the military and other security agencies on the street in the past few years.<sup>6</sup>

2. The level of insecurity especially kidnapping for ransom, armed robbery, banditry and herdsmen attacks has become more serious under the present political dispensation. Thus, warranting a scolding question if the Nigerian State have been overwhelmed by the present security challenges. This is because with the rising spate in criminality, the ill-equipped police and the other security agencies have been unable to handle this monster which is constantly threatening the populace. Considering that the Nigeria's police is under staffed to effectively police over one hundred and eighty million population and secure the whole federation and contain criminality,<sup>7</sup> it can be easily deduced that the state is grossly under equipped to take charge of the dangerous security situation. It appears logical at the look of things for individuals to take charge of their own security.

3. The purpose of this paper is to discuss and interrogate the discourse of the rights of the Nigerian citizen to possess weapons such as firearms as provided by the law. The paper will analyse the security situation in Nigeria, the position of the 1999 Constitution of the Federal Republic of Nigeria (as amended) and other legal framework, the right to life and its protection under the Nigerian Constitution and the right

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have been successfully carried out by terrorist in mainland Europe <http://www.express.co.uk/news/world/693421/Terror-attacks-timeline-France-Brussels-Europe-ISIS-killing-Germany-date-terrorism> Accessed 25 February 2012.

<sup>3</sup> Emmanuel Kendemeh Report East Africa 'Al-shabab a permanent threat' <http://allafrica.com/stories/201711030638.html> Accessed 25 February 2021

<sup>4</sup> Colonel Christopher Kinnan, 'A USA security Report that Nigeria will become a Failed State by 2030: A Case Study (Being a paper presented at the Center for Strategic and Technology Air War College, Air University Maxwell Air force Base Alabama 2011).

<sup>5</sup> The recent killing of suspected kidnapers discovered in tunnel in Mushin Lagos state, news report of Odita Sunday Reported by the Guardian Newspaper 31 August 2020. The Amotekun is a security outfit based in all the six states of south west Nigeria, responsible for curbing insecurity in the region. While ESN is a South-Eastern regional security force wing of the Indigenous People of Biafra. Its goal is to combat Fulani raiders in the areas of the eastern region of Nigeria.

<sup>6</sup> Gbemiosola Jelil Animasun, 'The Military and Internal Security Operations in Nigeria: Rethinking Security for Peace in Maiduguri Nigeria' (2012-2019) 45 Peace Research, 113.

<sup>7</sup> As at 2016, NPF was about 317,000 reported by Wale Odunsi, 'Nigeria Police effectively secure Nigeria-Arase' Daily Post Newspaper (March 6 2016) <<http://dailypost.ng/2016/03/06/why-police-cannot-effectively-secure-nigeria-arase/>. Accessed 25 February 2021.

of Nigerian citizens to bear weapons such as Firearms vis-à-vis the Nigerian Firearms Act. However, this paper will not engage in technical discussions or reflect all academic views on the topic, because it is limited to certain number words.

## SECURITY, THE 1999 CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA AND LAWS

5. The word “security” implies the protection of lives properties of people from various forms of threat. “National Security” which occupies the highest level of priority in the hierarchy of interest, is the concern of the government to see that the country is stable and safe for its citizens. It is one of the core values that states cherish as non-negotiable, and that don not admit compromise. Therefore, laws are made to ensure the security of life and property. In view of the foregoing, some of the laws shall be examined in the light of their security provisions.

6. Guaranteeing the security of lives and properties of persons within Nigeria by Constitutional mandate is a symbolic and complementary activity pursued by all the arms of government. Sections 4, 5, and 6 of the Nigerian Constitution establish the powers of the federal organs and a principal duty of these organs is the provision of security to protect life and property of Nigerians. The federal legislature is empowered by provision of section 11 (1) of the Constitution to make laws with respect to the maintenance and securing of public safety while section 11 (2) empowers state assembly to make laws with respect to public order and public security within states. In accordance with Constitutional mandate, the federal legislature have gone on to enact several security related laws such as the Police Act,<sup>8</sup> The EFCC Act,<sup>9</sup> the ICPC Act,<sup>10</sup> the NSCDC Act,<sup>11</sup> and the Armed Forces Act.<sup>12</sup> The arm of the government charged with implementing these laws is the executive arm of government.<sup>13</sup> The Fundamental Objectives and Directive Principles of State Policy, though not justiciable<sup>14</sup> makes the security and welfare of the people the primary purpose of government.<sup>15</sup>

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<sup>8</sup> Cap P19 LFN, 2004

<sup>9</sup> Cap E1 LFN, 2004

<sup>10</sup> Cap C31 LFN, 2004

<sup>11</sup> Nigerian Security and Civil Defence Corps (Amendment Act No. 6, 2007)

<sup>12</sup> Cap A20 LFN, 2004

<sup>13</sup> Section 5 (1) (a) CFRN 1999 (as amended)

<sup>14</sup> Section 6 (6) (c) CFRN 1999

<sup>15</sup> Section 14 (2) (b) CFRN 1999

7. In a bid to secure the lives and properties of citizens of Nigeria and also implement the laws passed by the legislature a single police for the federation and armed forces was created.<sup>16</sup> These agencies established to provide security have been charged with the maintenance of both internal and external security respectively and the executive arm of the government is in control of these bodies.<sup>17</sup> The judicature's role is to ensure that infractions of these laws are punished while government agencies entrusted with provisions of security do not act unconstitutionally and violate the rights of citizens of the nation.<sup>18</sup> In all, the constitution makes adequate provisions for the security of its citizens but are these laws properly implemented and enforced? This poser shall be answered subsequently.

## NIGERIAN POLICE ACT

8. In 1967 the Police Act was created and via its section 3, the Nigerian Police Force was established as the only policing body for the federation. Section 4 provides for the general duties of the police which comprises, among others, the prevention and detection of crimes, the protection of life and property and the due enforcement of all laws and regulations. In performing the role of securing the lives and properties of its citizens the government delegates the duty of maintenance of internal security to the Nigerian Police. Section 10 (1) of the Police Act provides that:

The president may give to the inspector-general such direction  
With respect to maintaining and securing of public safety and  
Public order as he may consider necessary and the inspector  
General shall comply with those directions or cause them to  
Be complied with.

9. The Nigerian police are expected to perform these roles efficiently and effectively but the high rate of insecurity in the country begs the question of the ability of the police to perform the onerous task it is saddled with. The police are handicapped in their role because of a combination of factors<sup>19</sup> among which are lack of resources, poor government support, poor condition of service, lack of appropriate and adequate training and ill equipped work force.<sup>20</sup> Furthermore, the issue of police extortion and corruption and other vices common among the police system contributes to lack of efficiency.<sup>21</sup>

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<sup>16</sup> Sections 214 and 217 CFRN 1999

<sup>17</sup> Recently, Lagos State governor Ambode Akinwummi announced the creation of a neighborhood watch charged with securing the lives and properties of persons living in Lagos reported in Premium Times (Lagos, 27 March 2017

<sup>18</sup> Section 6 (a-d) CFRN 1999

<sup>19</sup> The Nigerian Police annual report (2019)

<sup>20</sup> Odekunle, F. 'Overview of Policing in Nigeria: Problems and Suggestions' (CLEEN Foundation, 2020) p20-26

<sup>21</sup> Adegoke, N. 'The Nigeria Police and the Challenges of Security in Nigeria (Review of Public Administrative and Management 2019) 3 (6) p 21-35

## THE NATIONAL SECURITY AGENCIES ACT (NSAACT)

10. The purpose of the National Security is to safeguard national values and the most fundamental values of any nation is survival, self-preservation and self-perpetuation.<sup>22</sup> In order to safeguard these national values the Nigerian government enacted the National Security Agencies Act (NSA Act) which provides for the creation of three security agencies charged with the conduct of relevant aspects of national security.<sup>23</sup> The three agencies are the Defence Intelligence Agency,<sup>24</sup> the National Intelligence Agency,<sup>25</sup> and the State Security Services.<sup>26</sup> One of the duties these agencies are saddled with among others is the prevention and detection of any crime against the internal security of Nigeria.<sup>27</sup>

11. Governments across the globe have struggled to keep up with the growth and complexity of security challenges facing them in contemporary times, To cut through this complexity and help government respond to the plethora of challenges facing them at home and abroad, governments are called upon to develop a national security strategy.<sup>28</sup> A strategy which would aim at : articulating a vision of the current and future security environment, communicating national security values of the twenty-first century to the global community, developing a framework for collaboration across government on a national security policy and identify policy areas where departments and agencies can be more efficient and effective in working together; prioritizing national security policies and initiatives and the allocation of resources; bringing together the plethora of departmental white papers on national and international security.<sup>29</sup> The National Security should be enunciated in a long term strategic national security policy. It appears that there is a tendency on the part of the Nigerian government to make security decisions on an ad hoc basis, as dictated by the immediate circumstances and taking a reactive rather than proactive stance on matters bordering on national security. Furthermore, one immediate lacuna observed in the NSA Act is the absence of any express provision conferring the power to formulate clearly defined national security policy on any person or office or any other individual that the president may deem fit. The failure to provide this very strategic function in the Act, preferable on the national security coordinator, has been a major reason for the inconsistent uncoordinated way in which the Nigerian security agencies have so far responded to the security crisis in Nigeria.<sup>30</sup>

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<sup>22</sup> Abidde, S. 'Redefining Nigeria's National Security <https://Nigeriavillagesquare.com/articles/sabella-o-abidde/redefining-nigerias-national-security-html> accessed 28 February 2021

<sup>23</sup> Cap N74 LFN, 2004

<sup>24</sup> Section 1 (a)

<sup>25</sup> Section 1 (b)

<sup>26</sup> Section 1 (c)

<sup>27</sup> Section 2 (30 (a) NSA Act

<sup>28</sup> Edwards, C. The Case for National Security Strategy (Demos Report, 2017) 3

<sup>29</sup> Ibid.

<sup>30</sup> Akinsulore, A and Ekemenah, A. 'The Boko Haram Syndrome and the Nigeria's National Security Crisis: a Socio-Legal Appraisal (2018) 16 (1) Uniben Law Journal p 119-214

12. The effect of this lacuna is that recently, Nigeria had no clearly defined explicit National Policy.<sup>31</sup> Whatever the country had was more an ad hoc policy formulation that issued out of the security exigencies of the time. In February 2015 President Goodluck Jonathan (as he then was) launched the new “National Security Strategy; Federal Republic of Nigeria November 2014”. The NSS 2014 provides a list of threat environment and their assessment. The following were identified as threat to national security: terrorism, transnational organized crime, crude oil theft, climate change, pastoral/farmers conflict, politics of federalism in Nigeria, kidnapping, proliferation of small arms, Banditry, armed robbery etc. It is yet to be seen whether this policy has had any impact on the performance of the security agencies in Nigeria.

### **THE RIGHT TO LIFE AND ITS PROTECTION UNDER THE NIGERIAN CONSTITUTION**

13. A prohibition on the use of force to take a life may be regarded as one of the minimum conditions of social life. This in turn is bound up with recognition of the right to life and physical security as the most basic claim of every human being.<sup>32</sup> The idea of physical security as one of the “natural rights” of mankind has long history and Blackstone followed this tradition when he held that the right to life and limb is an “absolute right” which every man is entitled to enjoy whether out of society or in it.<sup>33</sup> Therefore the right to life is a fundamental right of every human being and can only be derogated upon as provided by the law. Nigeria’s law, like many other legal systems, provides and protects this natural right in chapter IV of its Constitution. Section 33 (1) of the Nigerian Constitution provides for the fundamental right to life. The Nigerian Constitution has expressly preserved the right to life of every individual in Nigeria and this is because life is sacrosanct and should not be taken arbitrarily. Therefore, the instinct towards self-preservation is so strong and basic to human nature that no law can oblige a man to abandon it.<sup>34</sup> Many religions<sup>35</sup> appreciate the fact that there is a supreme being who gives life and as such it should not be disposed of on any body’s whims because a life once lost cannot be replaced. For instance, the sixth commandment in the Bible serve as early protection for the security of human life.<sup>36</sup> Beyond the negative obligation not to kill or murder, there is some evidence in the Old Testament for a more positive obligation to protect life. A declaration not to stand by idly by blood of a neighbour<sup>37</sup> seems to imply a moral duty to preserve life where possible.

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<sup>31</sup> Ibid.

<sup>32</sup> Ashworth, A.J. ‘Self Defence and the Right to Life’ Cambridge Law Journal [1975] 34 (2) 282-307

<sup>33</sup> Ibid.

<sup>34</sup> Hobbes, L. (Blackwell 1947) 196

<sup>35</sup> Christianity, Islam, Buddhist, Traditional Worshippers etc.

<sup>36</sup> ‘Thou shall not kill’ is the sixth commandment as given to the Israelites by God in Mount Sinai (Exodus Chapter 20 Verse 13 the Holy Bible KJV)

<sup>37</sup> Leviticus 19:16

14. In the abstract, it may be difficult to identify any interest that might outweigh the need to protect human life but when specific circumstances are considered it soon becomes clear that there are existence of potential conflicts.<sup>38</sup> If it is considered, for example, the shooting of a suspected suicide bomber in order to prevent the detonation of a bomb, or the shooting down of a hijacked plane targeting thousands of people on the ground or the withdrawal of life sustaining medical treatment from a comatose patient, it would be appreciated that there may be some circumstances in which the legal protection of human life should not be absolute. The situations in which the right to life conflicts with other interest are some of the most topical and controversial facing the discipline of law today.

The Nigerian Constitution while protecting the right to life also makes room for when a person's life can be taken or derogated upon.<sup>39</sup> The provisions of sections 33 (1), and 33 (2) (b &c)<sup>40</sup> are usually carried out by the state apparatus like the police, army and other law enforcement agents. But the provisions of section 33 (2) (a) concerns private individual's capacity (right) and can be regarded as taking a life in self-defence a position Jeremy Bentham supports by saying 'Taking away this liberty. And you become, in so doing the accomplice of all bed men'.<sup>41</sup>

15. The law in Nigeria is not only allows homicide in the defence of oneself or any other person from unlawful violence, it also allows killing a person in defence of property especially in defence of a dwelling house.<sup>42</sup> Some jurisprudence recognize a general right to kill in defence of property as can be seen in South Africa and exemplified in the case of *Ex parte Die Minister Van Justie: In res v Van wyk*<sup>43</sup>. The defendant had tried in vain various methods of stopping a spate of burglaries of his shop. In desperation and with knowledge of the police, he rigged up a shot gun which would be triggered by anyone entering the shop through certain window or tempering with the good in the shop. The gun was positioned in a way that it would aim at the legs of the intruder only and he had also placed a notice on his shop warning of the trap. In spite of this step a man broke into the shop and was fatally shot. At his trial the defendant successfully pleaded private defence and was acquitted. Where upon the minister put the question to the Court of Appeal whether a person could be justified in using fatal force to defend his or her property. The court answer unanimously in the affirmative.

16. The right to kill in defence or in defence of property whether in Nigeria or in other jurisdiction cannot be done arbitrarily or without justification or reasonable cause. It must be done with such force as is reasonable necessary in the circumstances. Stanley Yeo succinctly puts it that the formulation of private

<sup>38</sup> Wicks, E. The Right to Life and Conflicting Interests ( OUP 2010) v

<sup>39</sup> Section 33(2) CFRN 1999

<sup>40</sup> CFRN 1999

<sup>41</sup> Betham, J. Theory of Legislation (first edn CK Ogden 1932)

<sup>42</sup> Section 282 Criminal Code Act Cap77 LFN 2004

<sup>43</sup> 1967 (1) SA 488 A and 1967 SAJL 123

defence in every jurisdiction require the force used against an aggressor to have been reasonable in the circumstances.<sup>44</sup> Built in to this requirement is the need to ensure that the force was proportionate to the nature of the threatened danger.<sup>45</sup> Therefore, it could be said by the principle of proportionality as espoused in section 33 (2) (a) of the Nigerian constitution, every Nigerian citizen has a right to defend himself in proportional measure to the attack on him or his property. For example, where a herdsman with an AK 47 rifle invade a private property of a Nigerian citizen with intent to destroy and maim its inhabitants, it would be a constitutionally valid act of such a citizen to protect his life and resist the invasion of his property with the deployment of a pump action rifle against the invading herdsman.<sup>46</sup> However, a question that arises is how do private citizens protect themselves when under attack from persons wielding dangerous weapons when the law in Nigeria prohibits or severely restricts private ownership of reliable defensive firearms?

### **RIGHTS TO BEAR ARMS AND THE NIGERIAN FIREARMS ACT<sup>47</sup>**

17. The Constitution has given the individual the right to defend his life and property proportionate to the attack used. The tools used to activate this constitutional right span from bare-hands, stone, cudgels, knives and guns. The one that has activated the most debate is the private use of guns by the Nigerian citizen for protection and self-defence. This leads therefore to the analysis of the statute which regulates the use of firearms in Nigeria. Section 2 of the Firearms Act defines firearms as any lethal barreled weapon of any description from which any shot or bullet or other missile can be discharged and includes a prohibited firearm, a personal firearm and a muzzle loading firearm of any of the categories referred to in part I, II, and III respectively of the schedule to the Act and any component part of any firearm. From the definition, it can be said that firearms in Nigeria is divided in to 3 types:

- a. Prohibited firearms
- b. Personal firearms
- c. Muzzle loading firearms.

No person is allowed to bear a prohibited firearm in his possession except in accordance with a license granted by the President acting in his discretion.<sup>48</sup> Example of the prohibited firearms are artillery, rockets weapon, bombs and grenades, revolvers and pistols whether rifled or unrifled.<sup>49</sup> From the example above it can be deduced that these weapons are heavy duty artilleries or weapons which are usually used either by

<sup>44</sup> Yeo, S. 'African Approach to Killing in Defence of Property' ([2008] the Comparative and International Law Journal of South Africa p339-352

<sup>45</sup> Ibid.

<sup>46</sup> Chinenyelu Ozor, Report 'Fulani herdsmen have been documented to go around pillaging and destroying farms in Nigeria even to the extent of killing and raping farmers in their farms' <[www.vanguardngr.com/2016/02/fulaniherdsmen-invade-enugu-community-kill-two-19-missing/html](http://www.vanguardngr.com/2016/02/fulaniherdsmen-invade-enugu-community-kill-two-19-missing/html)> Accessed 1 March 2021

<sup>47</sup> Cap F28 LFN, 2004

<sup>48</sup> Section 3 Firearms Act

<sup>49</sup> Including flint-lock pistols and cap pistols, machine guns and machine pistols, military rifles namely those of calibers 7.62mm, 9mm, 300 inches and 303 inches etc.( Part I of schedule FAA)



the police or the military but from reports most of the insurgents, militants, kidnappers, bandits have been found to be in possession of many of these hardware.<sup>50</sup> It seems as if even though these firearms are prohibited they are still easily accessible to the criminal elements in the society.<sup>51</sup> Meanwhile law abiding citizens who may wish to get them cannot because it is only the President that can grant the license to own or bear such arms and ammunition.

18. Furthermore, the law provides that except in accordance with a license granted by the Inspector General of police no person shall have in his possession or control any firearm referred to as personal firearm.<sup>52</sup> From the type of guns set out in the schedule many of these weapons are little more than toy guns and they cannot be said to be effective weapons against formidable weapons which are deployed by the criminals in the society. In a fight to save lives and property, none of the weapons identified in the schedule to the Act stand little chance of effectively fending off attacks when military grade assault weapons are deployed against their users.<sup>53</sup> Furthermore, before a person can use personal firearms he must obtain a license from the Inspector General of Police, which license shall be granted or refused in accordance with principles decided upon by the National Council of Ministers.

A summarization of legal analysis of the Nigerian Firearms Act could be put thus:

The Nigerian Firearms Act discourages possession of any form of firearm by Nigerian citizens through the wide scope of its statutory prohibitions and restrictive regulations.<sup>54</sup> The regulatory requirements for seeking license from the President of the Federation or the Inspector General of Police or the Commissioner of Police of a State depending on the type of firearms, appears to inhibit the exercise of the constitutionally provided right of a Nigerian to defend his/her life from unlawful violence. It is worth nothing that the Act states clearly that licenses or permits are not granted as of right<sup>55</sup> such that even the possession of the locally produced dane-gun, without permit, becomes an infraction of the law capable of attracting criminal sanctions on the Nigerian Citizen.

19. The powers to grant, refuse or revoke a license by the granting authority is so wide that a license may be revoke without the authority being bound to assign any reason to such act.<sup>56</sup> The grievance redress mechanism in the Act is so skewed against the ordinary citizen's capacity to possess firearms as the President of the Federation is the only appellate body with the power to review the decisions of the granting

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<sup>50</sup> Duquet, N. 'Arms Acquisition patterns and the Dynamics of Armed Conflict: Lessons from Niger-Delta (2009) International Studies Perspectives' p 175-178

<sup>51</sup> Okeke, V.O.S. and Oyi, R.O. 'The Nigerian state and the proliferation of small arms and light weapons in the northern part of Nigeria' [2014] 4 (1) Journal of educational and social research 415

<sup>52</sup> Section 4 Firearms Act.

<sup>53</sup> Ibid.

<sup>54</sup> Section 3,4 & 5 of the Firearms Act

<sup>55</sup> Section 6 Firearms Act

<sup>56</sup> Section 6 (1) Firearms Act

authority. This power of review is discretionary and the decision is final. Restrictions as contained in the Firearms Act has historical roots. The law was enacted then to incapacitate possible local insurrection and to also maintain the economic policies of colonial government which promotes the sale of only colonial products in colonized territories.<sup>57</sup> The enactment of this strict gun control in Nigeria has disabled the general populace from facing well-armed criminals. This is more so glaring where the law enforcement agencies have become incapable of safeguarding the lives and properties of the citizens from many variants of insecurities and criminalities that threaten their existence.<sup>58</sup> It therefore stands to logic that the people's right to life and property being in jeopardy because government cannot safeguard it, they retain all reasonable means of assuring safety to themselves.

20. The Firearms Act prevents the exercise of a guaranteed constitutional right by its 'unwarranted broadness and rigid provisions'<sup>59</sup> which prohibits the citizenry from having access to means to properly defend their lives and properties. At any rate these rigid restrictions have been wholly ineffective in the prevention of firearms from criminals and outlaws who go about using these prohibited firearms with impunity against defenseless citizens of the country. Furthermore personal security is guaranteed by national security agencies of Government chief among which is the Nigerian Police<sup>60</sup> The statutory origin of these agencies is federal which makes them necessarily distant and not easily amenable to local realities or control. The modus operandi of these security agencies is by legislation national in outlook rather than local. Their command and control system is one that is linear and mono-directional with directives flowing from the controlling centre to the subservient local subset in line with policy decisions designed at the controlling centre. The Nigerian police, for instance, has been observed to be incapable of acting beyond the dictates of the Federal Government policies and politics even while such policies are 'politically and economically repressive measures'.<sup>61</sup>

21. The incapacity of security agencies to implement suitable security measures that guarantee personal safety and local protections has generated debates for alternative security outlaw for the guarantee of personal security for citizens of the country.<sup>62</sup> The call for state police, in my view, is a call to guarantee the personal safety of many Nigerian citizens that have never been covered by the present security architecture of Nigeria. The agitation for state police is also linked to a renewed call for true federalism in Nigeria and

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<sup>57</sup> Adinkrah, K.O. 'Arresting Armed Robbery with Arms: the case for Freer Access to Guns in Nigeria, (1986) 13 Nigeria LJ 60,64

<sup>58</sup> Ibid.

<sup>59</sup> Ibid

<sup>60</sup> Other security agencies established to guarantee internal security includes the Directorate of State Services (DSS), Nigerian Security and Civil Defence Corps (NSCDC), National Drug Law Enforcement Agencies (NDLEA), Economic and Financial Crimes Commission (EFCC), Independent Corrupt Practices and Related Offences Commission (ICPC).

<sup>61</sup> Alemika, E. O. 'Policing and Perceptions of Police in Nigeria: Problems and Suggestions' (CLEEN Foundation, 2004) 28.

<sup>62</sup> Adedeji, O.A. 'State Police in Nigeria: Issues and Challenges' (2012) SSRN Electronic Journal [www.ssm.com/abstract=2088033](http://www.ssm.com/abstract=2088033) Accessed 1 March 2021

the shared control of the coercive power between the federal government and the federating states.<sup>63</sup> Until the call for state police or similar security arrangement is implemented, I opined that a Nigerian citizen should be allowed to exercise his right to defend his life visa-vis the right to bear arm should become unfettered by the restrictive provisions of the Firearms Act.<sup>64</sup>

## CONCLUSION

22. The effect of insecurity in Nigeria is manifold. It includes loss of lives, manpower, economic sabotage, drain on the scarce resources of the nation, hatred, lack of trust. The government may have tried in so many ways to tackle the insecurity problems but despite these efforts there has not been any significant drop in the insecurity level in Nigeria. One of the ways in which Nigerian citizens can protect this right to life is with the use of firearms. It can be deduced from the constitutional right to life that there is a right to defend one's live from many forces that try to make short work of it. John Locke's social contract theory provides interplay of rights and duties the government, as a recipient of right which it has to guarantee and protect, and that of the citizens as willing contributors of rights to government in order to be guaranteed protection by the government.<sup>65</sup> One of such right is the right to life.<sup>66</sup> Where government fails to guarantee this right it serves as a recipe for individual's withdrawal of consensually donated right, thereby activating the corollary right to self-defense of their lives.

## RECOMMENDATIONS

23. It is recommended that:
- a. There is the need for a federal government robust strategy that will encapsulates and enhance the security of live and property of Nigerian citizens who are becoming increasingly frustrated over governance failure, thereby resorting to self-help means of protection that increase demand for small weapons.
  - b. The National Assembly should amend the relevant provisions of the FAA Cap F28 LFN, 2004 to afford responsible Nigerian citizens the right to access firearms for their personal protection.
  - c. There is a need for the Nigerian federal government to reform the security architecture saddle with responsibility of protecting live and property in the country.

<sup>63</sup> Ohonbamu, O. 'The Dilemma of Police Organisation under Federal System: The Nigerian Example' (1972) 6 The Nigerian Journal p73-83

<sup>64</sup> Onyeoli, E.C. 'Obstacles to Effective Policing in Nigeria' (2005) 1 (1) African Journal of Criminology and Justice Studies 32.

<sup>65</sup> Locke, J. Two Treatises of Government and A Letter concerning Tolerance (Ian Shairo edn Yale University Press, 2003)141

<sup>66</sup> Green, M.S. 'The Paradox of Auxiliary Rights: The Privilege against Self-Incrimination and the Right to keep and Bear Arms' [2002] 52 (1) Duke Law Journal p 113-115

- d. There is need for the creation and adoption of a National Arms Control Strategy by the federal government to guide against the proliferation of small arms light weapons in the country.

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