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**Sub-national Governance, Law Enforcement and Oversight in Five  
African countries:  
Ghana, Kenya, Nigeria, South Africa and Zambia**

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# 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: provinces, states, municipalities and districts.
- The enforcement of national laws is undertaken by national police services and military (in circumstances of emergency or disaster).
- National police powers generally include: *the discretionary use of force; the ability to search persons and properties; to arrest persons with or without a warrant; to detain suspected persons; the investigation and interrogation of suspects; the regulation of public assemblies and gatherings as well as traffic.*
- More policing presence in national and administrative hubs (more economic opportunities available) as opposed to rural and poorer communities.

## Why the need for sub-national law enforcement?

- When properly organised, supplements the work of national police at a local level, strengthens community-police relations, allows for the swift response to emergency situations.
- Only possible if: formal standard training, independent budgets, effective oversight and monitoring, and existing effective functioning mechanisms for public complaints.



## Sub-national law enforcement: to have or not to have?

- Provisions for sub-national law enforcement services are either embedded within local government acts or do not exist at all.
- In the case of the latter, this results in national police regulating and enforcing national and subnational laws, and 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 that form quasi-state security agencies or vigilante groups, and even private security to fill the lacuna and guarantee protection and security within their local area.
- Problems arise: national police is overstretched, overworked and not effective, security agents/vigilante groups often become the ploy of the political elite and those with financial prowess, security risks in the community, lack of monitoring and control.



# Sub-national law enforcement: to have or not to have?

- 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.
- Typically not mandated to deal with serious crime, powers are 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.
- While these offences may not at face value invoke the same sense of gravity as nationally defined crimes, they can have dire consequences for individuals, particularly those who rely on public spaces for survival.



## Key issues

- Local law enforcement officials in Africa generally answer to the respective county, district or municipality administration to which they are assigned.
- The onus is generally on each county or municipality (which generally have limited financial resources) to provide training for law enforcement officials, which, in comparison to national police, is not as formal, thorough and advanced.  
Consequences? little regard by sub-national law enforcement officials to uphold rights-based treatment.
- Poor and marginalised groups, those living and working in public spaces (minibus operators, touts, street and market vendors) at the mercy of law enforcement officials who enforce a combination of formal penalties (fines, confiscation of goods, impoundment, arrest) and informal penalties (the solicitation of bribes, extortions, etc.,).
- Reliance on national police resources: i.e., presenting arrested suspects to national police stations.
- Question of internal and external monitoring, accountability and oversight. The absence of strong oversight bodies creates a culture of impunity and leaves citizens with no place to turn to for redress.



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# **Sub-national Governance, Law Enforcement and Oversight in Five African Countries:**

**Ghana, Kenya, Nigeria, South Africa and Zambia**



# Ghana

- Ghana is a unitary State divided into 16 regions with a total of 261 districts.
- 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.
- The majority of law enforcement in Ghana is done in large cities, as opposed to smaller rural communities.
- 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 within the country, and have only been piloted in select districts.



# Ghana

- The Local Government Act (2016) makes provisions for district assembly officers, commonly known as ‘City guards’.
- City guards are a separate entity of the National Police and are generally responsible for promoting peaceful co-existence, the enforcement of the respective district assembly’s by-laws particularly on traffic, and sanitation issues.
- The functions of City Guards also includes traffic directing, rendering aggregate security 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.
- City Guards also patrol markets to ensure that vendors (especially those selling food stuffs) meet the necessary health and safety standards.
- City guards have the powers to give warnings, and to issue fines. Arrest powers are limited as they must hand over suspects to national police because they do not have their own cells and rely on police cells to detain suspects.





# Ghana

- City Guards are provided a certain level of training by the particular municipal district under which they operate, this is not comparable to the standard of training that the GPS provides.
- 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 the community level as cases of assault or killings of police officers are common.
- Complaints against City guards are directed to relevant Municipal Assembly.
- The Police Professional Standards Bureau (PPSB) is a mechanism for the general public to complain against misconduct of police officers. While the Bureau is tasked to investigate complaints, it lacks independence, therefore creating a lack of trust in its efficacy.
- The Ghana Commission of Human Rights and Administrative Justice (CHRAJ) is an avenue for public to lodge complaints against the police service to ensure that officers are accountable and transparent as part of its Administrative Justice mandate (which replaced the office of the Ombudsman).
- Recommendations for the establishment of an independent, monitoring police complaints oversight mechanism are yet to be met.



# Kenya

- Kenya is a unitary state and has since 2010 adopted a constitution providing for a federal-type devolved government of 47 counties.
- The Kenya Police Service (KPS) is the main law enforcement agency comprising of 14 units under the command of the Inspector-General. KPS launched in 2005, the Community Policing program in some and not all 47 counties.
- At subnational level, the Constitutional provisions effecting counties led to the enactment of County Law Enforcement Bill (2018).
- County enforcement officers commonly known as ‘County Askaris’.
- The functions 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. County officials/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.*



# Kenya

- County officers receive training from the respective county in which they operate, and variances in budgets between counties reflects in the various levels of training.
- Two oversight agencies monitor the work of the Kenya Police Service: Internal Affairs Unit and the Independent Policing Oversight Authority (IPOA). However, IPOA's mandate is only limited to complaints against the National Police as per the IPOA Act. At County level, there is yet to be established a civilian oversight mechanism despite efforts advocating for one. At present, the Nairobi City Accountability Bill (2022) which has been tabled, seeks to provide a framework to enhance accountability for County Askari actions. Until then, all complaints are lodged at relevant County Government.





# Nigeria

- Nigeria is a federal republic consisting of 36 states and 774 local governments. Each of the 36 states are controlled by governors.
- Despite the federal decentralization of government powers, and the existence of such a large number of local governments, the Nigeria Police Force (NPF) is the only law 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.
- The functions of the NPF include fighting crime through detection, investigation, apprehension and prosecution and are provided with police powers to search, arrest and prosecute offenders through proactive policing.



# Nigeria

- There exists no legal provisions for sub-national law enforcement in Nigeria and all law enforcement functions are vested in the NPF, which are known to be corrupt, under-equipped, under-funded, under-trained, unaccountable, overly centralized and politicized.
- The lack of sub-national law enforcement has created a lacuna as far as local security and protection, resulting in the creation of various security agencies including quasi-state formations and state-supported ‘vigilante’ groups to fill the void.
- These groups are generally populated by informally trained personnel and enforcement is often characterized by a lack of due process.
- E.g., Lagos State Traffic Management Authority (LASTMA) established in July 2000. LASTMA officials have powers of arrest and impound vehicles in Lagos state and this unfettered power has raised concerns by Lagos motorists.
- E.g., Vigilante group “Bakassi Boys” in Abia, Imo and Anambra states. Respective States have given official status through legislation. The members of this group have powers to arrest, but do not have powers to detain and must hand over suspects to the police.



# Nigeria

- LASTMA and Bakassi boys – reports of brutality, arbitrary arrest, extra-judicial killings, and torture of suspects.
- Corruption, political interference, resource constraints, and failure to maintain a functional investigative unit have created a culture of impunity in Nigerian Police Force as well as within vigilante and quasi-state security groups.
- 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.
- Efforts for the establishment of sub-national law enforcement in Nigeria are on-going although it appears that the current top-down approach to law enforcement is favoured.





## South Africa

- South Africa is a republic with 9 provinces and 52 districts. While the administration of the country is centralized, provincial powers are also delegated at provincial level.
- The South African Police Services (SAPS) is the central law enforcement agency in the country, however, the Constitution and relevant SAPS legislation provides for limited powers to municipal policing.
- The need for municipal policing - Department of Safety and Security's 1998 White Paper *“importance of local government in crime prevention and ensuring as the SAPS would be more responsive to local safety needs by encouraging stronger co-operation between local communities, local government officials, councillors and the police.”*



## South Africa

- The mandate of South African municipal/metro police are restricted and are primarily directed at crime prevention, the enforcement of local government by-laws and traffic violations.
- The powers of municipal police include fines, impoundment, search and seizure, however, on suspicion of having committed a criminal offence, suspects must be handed over to a SAPS station as soon as possible.
- Issue of internal and external oversight.
- The Independent Police Investigative Directorate is the oversight body responsible to investigate (without any referral required) deaths in police custody or as a result of police action and a closed list of other serious allegations against police including systemic corruption for police and metro police.



# Zambia

- Zambia is a unitary republic divided into 10 provinces and 116 districts.
- The Zambia Police Service (ZPS) is the main law enforcement agency in the country, coordinated by the Ministry of Home Affairs and is subject to parliamentary oversight.
- Local Government Act (2019) makes provision for enforcement officials commonly known as ‘Council Police’.
- Mandate is restricted to the enforcement of local government regulations and by-laws, as well as the maintenance of law and & order and the protection of council property.
- Council Police have powers of entry, inspection, inquiry and execution of works that are reasonably necessary for the proper carrying out or enforcement of the powers. They have powers to arrest without a warrant and may detain that person until that person can be delivered into the custody of a police officer.
- Council Police are subject to the council administration and are provided limited training by same.





# Zambia

- In 2018, following stricter provisions to street vending and nuisance legislations on account of sub-standard food practices and its possible role in the cholera epidemic, enforcement of sanitation standards within markets increased, leading to 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 called for district Council Police to treat vendors humanely and stop confiscating their products.
- Proximity to the population, limited training and low wages = Council Police are deemed corrupt by the public because of the increasing number of bribes demanded. A study reported that corruption takes place in 80 per cent of all Zambian interactions with the police.
- The Zambia Police Public Complaints Commission exists as an avenue for the public to raise complaints regarding police misconduct, but is not independent and studies have revealed that public perceptions of its efficacy is low. Complaints by Council Police directed to relevant Council Assembly.



# Conclusion

- The nexus between national and subnational law-enforcement remains a challenge in many African jurisdictions.

## General observations:

- Local government law enforcement is a separate entity of the national police and their powers are conferred by local governments primarily for the enforcement of by-laws, traffic and sanitation issues.
  - The mandates and powers of local law enforcement is restricted (e.g., in instances of arrest)
  - Inadequate training (depending on the district, municipality or county in which they operate) presents opportunity for abuse of powers; harsh and brutal treatment, especially of those living and working in public spaces.
  - Failure of national government to guarantee security at sub-national level results in communities organising themselves (quasi-state security formations, vigilante groups, private security).
- It is important to encourage less of a reliance on criminal justice systems by solving socio-economic challenges and building compliance to the law through risk prevention, public education and awareness.



Thank you

