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THE INNOVATIONS OF THE POLICE ACT 2020

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Introduction <<

The new Police Act brings about innovations which would impact the police institution and the administration of criminal justice in Nigeria. The Act repeals the Police Act CAP P19 LFN 2004 and enacts the Nigerian police Act 2020 to provide a more effective and well organised police force driven by principles of transparency and accountability in its operation and management of its resources and to protect human rights and freedom (See section 1 of the Act).

Based on the above summary, the innovations introduced by the Act are:

Human Rights Promotion and Protection

Among new conspicuous innovations of the new Act is the integration and recognition of fundamental rights

in the police Act and making it part of the primary functions of the police, in all its operations, to safeguard and uphold the fundamental rights of every person in Nigeria. The Act's core objective includes promotion and protection of fundamental rights of every citizen while in its operations. **(See sections 1 and 4(a) of the Act)**

Gender Rights

The new Act for the first time recognizes gender rights and makes provisions to mainstream gender issues into the police recruitment, training and indiscriminate service within the police force. The Act guarantees women participation in all training irrespective of their gender while mainstreaming gender issues as part of the police training. **(See section 19(1) and (3) of the Act).**

Police Duty Solicitor Scheme

The Act makes provision for the police solicitors duty scheme and other legal aid schemes that will provide legal services to accused or suspects under the police custody. It mandates the police to cooperate with any government or private organizations that provide legal services to persons under its detention; and provide the Attorney General of the Federation with an annual report of same, who shall review and make recommendations to the president and publish same in his official website. See **sections 9 (4) and 5(2)**.

Community Policing

The new Act has a paradigm shift that recognizes community policing as one of its key objectives and functions. Unlike in the old Act, which prides its objective on the protection of life and properties, this new Act has a different view of the 'community' and thus co-opts safety of community amongst the traditional safety of life and property, by making it clear in its objective and functions - the safety of life, community and properties of Nigerians.

The Act also establishes the community policing committee under Part XIV. Their roles and duties which is mainly to assist the police are contained in **sections 113-119** of the Act.

Rights of Victims of Crime

Another innovative paradigm shift is the prioritization of the rights of victims of crime and their needs, as against the old ways of putting the crime of offender in absolute focus, to secure a conviction against the offender, while relegating the interest of the victim. See section 2(h).

Private Detective and Investigators

Another innovation is the introduction of private detective and investigators, to be vetted, approved and registered by the Police. These private detectives are not part of the police force but are independent persons permitted to carry out investigative functions. In our view, this is a welcomed development as it will push the Nigerian police to become competitive, efficient and productive. **(See section 4(i) of the Act.)**

Nigeria Police Council Secretariat Independence

The Nigeria police council which is the highest policy-making body of the police force used to have its secretariat under the presidency and ministry of police affairs. The new Act puts the council's secretariat under the ministry of police affairs' permanent secretary and makes the council regulate its proceedings. These provisions give a semblance of

independence of the police force organisation from the executive arm.

Qualification and Term of Office for the Inspector General

The Act qualifies the position of an Inspector General of the police with a first degree, management and professional experience; and prescribes a four-year tenure for an Inspector General of the Police. This innovation is seen to likely improve upon the quality of officers that will man the apex office of the police force and the tenure limitation will ensure that every IGP carries out the duties assigned to the best of his or her capabilities within their tenure and encourages junior officers of the ability to raise in the ranks to hold the highest office within their service.

Funding gap in the Police Act

The provision of **sections 26 - 30** of the Act contains watertight provisions on funding and financial contributions to the police, the proper keeping of records, and compliance with statutory rules on accounting and audit just as is obtainable with other public institutions. This is a great innovation of the Act as it ensures checks and balances, and accountability.

Powers of police officers

Part VII provides for the powers of the police offers in sections 23 – 30. The power to prosecute by a police officer now only lies on a police officer who is a legal

practitioner. (Section 66(1)). The power to search and arrest under the old police Act is not detailed and leaves room for wide discretion, the new Act specifies the power of search and arrest. The new Act recognizes the power of the court to issue a warrant for arrest and also particulars of security to be taken to secure bail after the warrant has been executed. (Ss. 71,79).

The new Act expressly provides that all arrests are to be made with warrant except in few circumstances, in which case, the warrant is to be shown to the suspect within 24hrs of his remand. (S78).

The new Act has made references to Administration of Criminal Justice Act (ACJA) 2015 on the issue of arrest where the police can arrest without warrant, on police powers to arrest and search the new Act tries to improve on it but lacks necessary foundational provisions such as cases where a search can take place without a warrant. Further, it alludes to the existence of an arrest warrant without making detailed provisions on the process of obtaining it, the Act reads as if an arrest without a warrant were the rule and the arrest with a warrant the exception.

Several issues that have tainted the public perception of the police, have stemmed from the excessive use of police powers. They range from inhumane treatment of suspects in detention, or subjected to torture, cruelty, denial of basic services such as medical and legal services, arbitrary arrest and arrest in lieu of a suspect. The new Act addresses these concerns by proposing search warrant safeguards, stipulating when an arrest can be carried out without a warrant

and actions to be taken before, during and after a search is conducted. For the power of police to detain and search a suspected person or vehicle and action to be carried out by police officer before a search occurs, the officer must be in uniform and wear a visible Police identity card and must inform the person in charge of the vehicle of his/her name, police station, object and ground of the search and adds that certain personal attributes shall not be grounds for reasonable suspicion including a person's colour, age etc. These provisions of the new Act improve to address the fundamental concerns of citizens.

The new Act mandated the report of the findings of its investigation to Attorney General of the Federation or State as the case may be. This part will help in the speedy dispensation of justice and protection of the human right of individuals.

Documentation of Arrests, and Death in Police Custody

The police are to keep a record of arrest and visits to the stations by all persons, noting all their particulars. The police are also to keep a record of persons shot, wounded and killed by an officer in the course of discharging his duties. Failure to do these attracts disciplinary measures. The Inspector General shall give a quarterly report to the police service commission of the persons who were detained all over

the country, charged and prosecuted in the courts and the outcome of their cases; were killed or wounded during police operations across Nigeria and died in police custody. (S89)

Discrimination as to Offences by Police Officers

On offences, in which senior officers were exempted in the old law, all officers will be held liable under the new Act without any discrimination. (S96)

Police Public Complaints and Discipline

For any police service to be effective, it would need to have a feedback mechanism through which dereliction of duty and or negligence can be checked. This innovation is important to improve the professionalism of the police force and increase public respect and trust in the institution.

Part XII of the Act establishes the police complaint response unit under section 129. It mandates the Inspector General of police to establish a police complaint response unit in the police force headquarters and in each of the police commands in all the states of the federation and the Federal Capital Territory. The unit as provided in subsection (2) is said to be under the public relations section and shall consist of representatives of the Federal or State's intelligence bureau, police provost marshal and any other unit of the police force as the Inspector General

deems fit and shall be headed by an officer, not below the rank of a chief superintendent of police.

the police is involved in an act constituting professional misconduct or that the conduct complained of resulted in the death, or serious injury or any other gross human rights violation.

To further protect the institution, section 132 provides that where after investigations, it is discovered that the complainant knowingly gave a piece of false information against the police officer or reasonably known that the information is false, the complainant shall be tried according to relevant laws for the time being in force.

Prohibition against gender discrimination.

Another innovation is stipulated under section 133 of the Act. This provides for a prohibition against gender discrimination on the basis of sex and would impact positively on the promotion and protection of women's rights in Nigeria who initially face so many challenges and discriminatory practices under some extant laws and customs.

For example, under S127 of the old police Act, married women were prevented from seeking enlistment into the Nigerian police force. Under S127 also, when an unmarried policewoman is pregnant, she would be discharged from the police force and can only be reinstated on the approval of the Inspector General of

police. Section 133 of the new Act, therefore, provides that the police force or other persons shall not in the performance of his or its functions under the Act discriminate against any person based on gender as provided under Section 42 of the constitution Federal Republic of Nigeria.

CONCLUSION

The police are an integral part of a nation's security architecture and the frontline provider of security to citizens. To this end, it is important that the police Act is brought in conformity with best practices and modern-day standards. The repeal of the old Act would benefit not only the citizens but the institution itself.