

# **Policing for Democracy? The Case of the Public Order Police Unit in Durban**

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**Résumé:** Cet article analyse les rapports entre le maintien de l'ordre et la démocratie. L'article soutient que c'est un domaine de recherche sous exploité dans son contexte africain et avance quelques unes des raisons possibles qui expliquent ce fait. Pour l'auteur les tentatives de démocratisation sont extrêmement difficiles en l'absence d'une bonne réglementation sociale et par le fait que les sociétés sont marquées par de fortes conflits internes. Le maintien de l'ordre par l'Etat est fondamentale pour les tentatives de réglementation et la résolution des conflits. Comme le montre le cas sud africain, la démocratisation de l'Etat doit être accompagnée de la démocratisation de la police d'Etat. Toutefois, pendant que beaucoup associent une telle démocratisation à un maintien de l'ordre moins «musclé», ou ce que certains ont appelé maintien de l'ordre «communautaire», il serait plus approprié de s'investir dans des approches plus profondes des politiques de maintien de la paix. Comme le montre l'article en se référant au cas sud africain encore, le recours aux forces paramilitaires peut être une solution pour asseoir l'autorité de l'Etat, et en créant un équilibre entre la sécurité collective et la liberté individuelle.

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## **Introduction**

The literature on Africa since the 1980s has tended to focus on the inability of states to govern and to deliver, as well as on growing social conflict, including unabated political and criminal violence (Chazan *et al.*, 1988; Klein 1992; Ake 1991). Indeed, according to Laasko and Olukoshi (1996), increased violence and social conflict in Africa is a sign of deepening social inequality, weak states, and a lack of 'social glue'. Consequently, 'democracy' (which generally includes representative, elected government), freedom of association, state accountability and delivery, besides public participation, have become the

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supposed answers to this crisis (Monga 1995; Sadiq 1995; Koulibaly 1997). For some, South Africa has provided the inspiration for democratisation processes in Africa (Laakso and Olukoshi 1996). This has led to a virtual amnesia as to the South African state's repressive, exclusive and illegitimate history, to the extent that Mamdani has remarked that 'for many intellectuals, South Africa is not Africa' (1995:1).

If one is to take a considered approach to South Africa, it is evident that if the new democratic state is unable to deliver, it too will face a crisis of authority and legitimacy, as is the case with most other states in Africa at present. Furthermore, despite the current euphoric nationalism in South Africa, the 'social glue' is already unstuck, manifesting itself in gross levels of social conflict, in particular criminal and political violence. Consequently, as part of its democratisation and developmental programme, the South African state has stressed the need for national security and social order. A key player in this regard is the state police.

Mark Shaw, (currently one of the key consultants to the Ministry of Safety and Security) anticipated this sentiment in stating that

few issues are more central to the future of the country's attempt at democratic compromise than the maintenance of public order... Restoring civil order and personal security for all South Africans is thus very important to a successful transition, and a credible, competent and accountable police force, enjoying broad public legitimacy, is a prerequisite for a durable democracy' (1994:1).

In fact, for both the South African state and its citizens, eliminating crime and social violence is the 'number one' priority. A new reformed and 'democratic' police force is viewed as key to this project. However, while the primary role of the state police is that of 'social ordering' through the reduction of crime and conflict (Bayley 1996), this is not easily achieved given both the history of the South African Police, and the paradoxical nature of policing in general.

The issue of policing though is not one isolated to South Africa. Indeed, it seems, policing has become a public concern for most African countries. An article in *Le Monde Diplomatique* (2 August 1997) lamented that 'Black Africa' is characterised by ineffective and repressive police forces (often referred to as bandits), who are unable to deal with increasing crime and social disorder. Nonetheless, there has been no real intellectual account of the role of the police in a (hopefully) changing order in Africa, despite the acknowledgement that 'law and order are legitimate, and indeed essential, aspects of democracy which only states that are both strong and responsive can assure' (Hutchful 1995:5).

This paper tries to understand this absence through examining the history and current notions of the state police in Africa. It will then examine the potential role of the police in attaining democracy through the use of the South African case. Finally, this paper will give an account of the perceptions of the state police in KwaZulu Natal (a province in South Africa infamous for 'political' violence and an alarming crime rate) as to their role and potentiality in a changing social and political order.

### **A bit on Method**

Robert Reiner states that 'an understanding of how police officers see the social world and their role in it — 'cop culture' — is crucial to an analysis of what they do, and their broad political function' (1992:107). While there is currently much academic interest in the police, particularly in Western democratic countries, one cannot 'read off' from the literature or legislation how this subculture operates, nor its implications. While most police organisations share some key subcultural features such as machismo, conservatism, cynicism, and prejudice, there are peculiarities related to local socio-political conditions and organisational form (Reiner 1992; Shearing 1981). For

all these reasons, it is important to engage directly with police workers to understand their consciousness and behaviour.

Police organisations, owing to strong internal solidarity, and the sometimes 'subterranean' nature of their work, often appear to be impenetrable, and therefore difficult to research. But, as is the case with researching any other social grouping, these difficulties can be overcome. The starting point for doing this is spending time with the police on their turf, understanding their work environment, and listening to their world views. Strangely, because the police are often so isolated from other social formations, they welcome the opportunity to put across their own experiences, aspirations and frustrations. However, research involving the police has to be done from the starting point of understanding police organisations, and with an approach that is sympathetic, though not uncritical. Michael Keith in his book *Race, Riots and Policing* makes an important point about doing research on the police. He states that:

By its very nature, ethnographic work demands a basic level of empathy and the author was regularly surprised by the enormous variations in police attitudes and behaviour, from the very impressive to the less than admirable. Yet the nature of the police organisation and the particular antagonisms and real hatreds that are the day-to-day reality of violent confrontations raise many questions about such work. Ethnography demands that the individual researcher position her/himself as 'member', yet at the same time sustain critical distance: the oxymoron at the heart of the term at the heart of the term 'participant observation' (1993:123).

In countries like South Africa, research on the police has been made feasible owing to the current stress on accountable and transparent policing, including opening up to both researchers and the press to allow for public scrutiny. This does not mean, however, that the police will necessarily understand nor value the process or outcome of research.

When researching the police, the goal of research as well as its potential use to the police and those they serve, needs to be made very clear. The process of the research should also be upfront given the very busy and unpredictable nature of police work. On the flip side, the convenience of doing research with the police is that they are more often than not punctual, and for the most part reliable given that they are often instructed by higher authorities to participate in research programmes.

This paper, in the final section, concentrates on the views of police officers in the Public Order Police Unit in Durban (As will be seen later in this paper, this unit is in fact the para military wing of the police organisation). Before conducting any interviews with the police themselves, it was important to spend time in the unit understanding what the current activities of the unit were, what priorities had been established, and what new plans were being implemented. The police themselves also required time to find out what research I was intending to do, whether the research was for public (in particular press) consumption, and what my relationship with the South African Police Service is.

My independence as an academic appeared to be central to the police members' support of the research project, and they were intrigued by my longer standing interest in the South African Police Service more broadly. Without doubt, my being a woman seemed unthreatening to the police. However, without an understanding of the police organisation, the research project would not have been taken seriously.

Much time was spent at the unit's base learning about their training programme, where members came from, their personal histories and stories, and also reading documents pertaining to rules and legislation in public order policing in South Africa. The police were also interested to engage with me as to what I thought of policing initiatives and

performance, as well as my views on improving police productivity and legitimacy. In doing research with the police, researchers have to prove themselves as both resilient, yet interested.

Separate interviews were conducted with members of the unit from all ranks. A fixed time was set to each interview so that police members did not feel anxious about the duties they had to complete. Interviews were structured as discussions were held in which the police were able to express their views about their organisation, social dynamics and conflict, and policing in general. It was important to be able to engage with interviewees about the activities their unit had been involved in at the time of the interview or just prior to that. The atmosphere of the interview was informal, with allowances for disturbances and disruptions.

Finally, it should be noted that the relationship with this unit did not end when the research processes was completed. It was agreed that I would participate in one of the lectures in the training programme pertaining to debates around public order policing. Also, a presentation and discussion around the research findings will be conducted at some point in the near future. The unit commander has also requested that I be engaged in further research evaluating the implementation of new policies and strategies in the unit. The relationship established is one of experts or professionals sharing their knowledge and skills. It is also ongoing.

### **Some Notes on Policing in Africa**

It is hardly surprising that there is so little focus from writers on Africa about the role of the state police in the democratisation process. Three key reasons could be suggested for this absence. Firstly, the history of policing in Africa, both colonial and post-colonial, raises serious questions as to any potentially 'positive' role the police could play. Secondly, the dominating presence of the military in Africa has led on

the one hand to a conflation in understanding the role and function of the police and the military, and on the other hand, to a preoccupation with the role of the military in changing states (Hutchful 1995; Honwana 1997). Finally, there is a concern that attention to the police as a change agent represents a 'statist' (even modernist) approach to developing a new social order (Mbaku and Kimenyi 1995), or that such an approach is one which assumes a narrow and limited conception of security (Obi 1997a).

The police in Africa during the colonial period were without doubt the antithesis to the 'ideal type' of policing conceived of in, for example, Britain in the 1820s, in which the state police were to operate on a basis of consensus, were civilianised, and were to use minimal force (Pike 1989; Emsley 1990). Without exception, the colonial police operated extremely violently so as to provide a social order stable and secure enough to achieve the political and economic objectives of the colonies. Indeed, as Anderson and Killingray state, the police were the 'most visible public symbol of colonial rule, in daily contact with population and enforcing codes of law that upheld colonial authority, the colonial policeman — be he European officer or a local native recruit — stood at the cutting edge of colonial rule' (1991:2).

While the colonial police forces throughout Africa differed significantly owing to local conditions and imperatives, there are a number of shared features. Given the lack of legitimacy of the colonial state in the eyes of the colonised, police were often recruited from outside the colony or from other regions within the country. So in Southern Sudan in the early colonial period, police officers were usually recruited from Egypt, or from amongst Muslims in the North of Sudan (Johnson 1991). In Kenya, officers were transferred from other colonies, particularly Southern Africa (Anderson 1991). And in South Africa, in the Boer dominated Transvaal, most officers were from the British 'underclass' (Grundlingh 1991). These 'strangers' were seen to

be more reliable and trustworthy; they were poorly trained, under-resourced, and many had formerly been 'military men'. They could best be described as corrupt, coercive, inefficient, and malleable to colonial desire and design. Furthermore, they were unfamiliar with the needs and dynamics of the communities they policed.

A second common feature was that the early colonial police officers were often ex-military officers, or were seconded from the police in the empires; given their training in the use of maximum force, they used excessive violence in ensuring both physical and human resources for the colonial authorities and settlers. The police in The Gambia were until 1981 (by British design) the command body of the military under the direction of the Inspector of Police — a remnant of the Royal West African Frontier Force. This was a paramilitary force whose key goal was to suppress internal aggression against the state (Sall and Sallah 1995). In French and German colonies, such as Algeria and Cameroon, colonial police used coercion to secure both land and labour for the colonies. Instead of providing security and combating crime for all, the police in these countries helped in seizing of land, and thereafter 'provided the force needed to enforce the property rights of new owners' (Mbaku and Kimenyi 1995:286).

The British colonies were much the same — the police played a central role in defining and creating exclusive territorial rights for the British settlers. As Obi (1997b) writes of the Nigerian case, the colonial police force perceived their loyalty as lying with the British crown and were alienated from the daily needs and struggles of the Nigerian population. In South Africa, forced labour would not have been possible if the colonial police had not played an active role in forcing Africans off the land, enforcing labour contracts which if broken would have been subject to criminal prosecution, and violently suppressing any resistance to low wages and poor working conditions (Mbaku and Kimenyi 1995). As a result, paramilitary police were intensely disliked



and perceived as unaccountable representatives of an alien colonial power, imposing a range of new laws and measures of social control, which lacked any semblance of public consent.

Thirdly, while police forces in Europe from the 1920s were being equipped and trained as effective 'crime busters', in the colonies themselves police seldom engaged in crime combating activities. When they did, this generally pertained to 'minor offences' such as dealing with Africans who were in urban areas without permission, failure to pay hut and poll taxes, containment of liquor ordinances, and vagrancy (Anderson 1991). 'Real policing', where it existed, was isolated to areas occupied by 'Europeans' who demanded protection of persons and property. In most colonies, parallel systems of policing emerged: rural policing controlled by appointed chiefs, and formal state policing in the urban areas (Killingray 1991). This is another expression of what Mamdani (1995) refers to as the colonial creation of bifurcated states.

Of course, the colonial authorities were aware that they ultimately had to recruit local people. There were two key reasons for this. Firstly, there was a need for manpower within these police forces which could not adequately be met by outsiders. Secondly, the colonial authorities believed that such a recruitment strategy would improve the legitimacy of policing bodies. However, during the colonial period (and even beyond) colonised peoples were generally unwilling to participate in these formations, and ultimately those who did were perceived as outcasts by their communities, were often bandits, and were generally poorly educated. And, to be sure, policing did not improve with the inclusion of locals, who were often recruitable only because there were no other employment opportunities in times of rapid urbanisation.

As a result, even post colonialism, police forces throughout Africa continued to be much the same as previously apart from some changes in personnel. A recent Amnesty International report notes that in Malawi, the police standing orders have remained unchanged since

independence in 1964. In The Gambia, at the time of the military coup in 1994, the police were characterised as heavily armed and were a remnant of the Royal West African Frontier Police, unable to ensure public safety (Sall and Sallah 1995). In South Africa, in the 1950s, despite the large numbers of African members of the South African Police, local residents on the West Rand began to develop self-policing structures known as Civic Guards, and 'even officials of Johannesburg's Non European Affairs Department in 1957 admitted in private that there was almost a 'State of War' between Africans and the police and that the latter's impact on crime was negligible' (Goodhew 1993:459). More recently, despite the democratic change in government, and much talk and policy reformation aimed at transforming the police in South Africa, the actual police men and women who constitute the force have remained essentially unchanged. This brings with it many questions around real transformation in the police and brings to the fore Weber's old concerns with the unchanging nature of modern bureaucracies.

After Tanganyika attained independence in 1961, the new Tanzanian state attempted to reform its criminal justice system, and seems not only to have perpetuated its colonial heritage, but also introduced new forms of authoritarianism and social repression. The new state refused to accommodate any opposition to its policies, and anybody who dissented was arrested, and criminally charged. This severity of the implementation of law and order was said by Nyerere to be in the 'national interest' of a newly emerging independent state (Shaidi 1989:254).

But, the problem of policing in Tanzania does not end here. The state encouraged the formation of other paramilitary formations, some like the National Service, made up of officers from both the police and the military. There is also a continuation of the people's militia, or a people's self defence force, which despite not being a constituted police

force, has been given the same rights to arrest and search as a police officer — all this to ‘protect the sovereignty of the United Republic’ (Shaidi 257). Despite their lack of police training, these paramilitary units are said to have more of a patrolling presence than the state police in Tanzania, and are known for harassing people, and using excessive violence. The state police, in their activities to defend the status quo of the state, have been variously accused of carrying out procedures without regard for due process, of corruption and abuse of power, as well as torture and the use of maximum force against ‘offenders’.

The Tanzanian case is unfortunately not exceptional. Weak states throughout Africa, lacking legitimacy, mechanisms for delivery, and consensual means of social control, have given excessive powers to the security services. Furthermore, the police and the military have become almost indistinguishable from each another, raising serious concerns about the use of force and the lack of a civilian-based security body (Honwana 1995; Hutchful 1995). Concurrently, there has been an increase in private security, both in the form of corporate organisations, and self-arming by civilians throughout Africa, all adding to increasing militarism and spiralling violence. It is perhaps no exaggeration to state that states in Africa have ‘never had the real monopoly of violence as do states of the West, and are fragile in the face of processes of self-defence’ (*Le Monde Diplomatique*, 2 August 1997). Policing in Africa at present can therefore be described as chaotic, diffuse, excessively repressive, and ‘free’ from any oversight bodies.

### **The State Police as an ‘Ideal Type’**

It should come as no surprise that despite the problems of social disorder and conflict in Africa, the police are seldom posited as part of the solution. But, there is an acknowledgement of a growing need for some form of social control which has to be assisted by the armed forces. Hutchful states in this regard, that ‘...national security in the true sense...and the assurance of law and order are legitimate and indeed

essential aspects of democracy which only states that are both strong and responsive can assure' (1995:5). Unfortunately, however, like many others, Hutchful, while acknowledging that states need to exercise effective policing, tends to be more concerned with transforming civil-military relations in achieving 'national security' so vital to establishing democracy.

Sadiq also notes the need for security if progress and development are to occur in Africa, whose states he believes are corrupt and have a 'near absence of democratic structures, popular accountability and transparency' (1995:180). He goes on to state that:

...serious efforts need to be made by African countries to put conflicts to an end, and to achieve greater political stability, peace and social integration...A primary human development goal in Africa ought to be the preservation of human lives and limbs intact, which is right now a number one human concern of a large section of the African people (1995:188).

This assertion is entirely accurate, yet he provides no real solutions as to how this may be brought about; no mention once more of the possible role of the state police.

Van der Hoek and Bossuyt (1993) go a bit further in stating that one should not overlook the need to bring the armed forces on board if lasting change is to be achieved. However, they too do not go further in stating how this would operate. Indeed, there seems to be no theorisation of the state police in the African context.

It is therefore necessary to take a serious look at the role that the state police should play, as the primary state institution responsible for internal security. In order to do this, some conceptualisation of state policing must occur. In this regard, reference has to be made to the literature about police in the West as an ideal type. This, however, needs to be done with circumspection.

Typically, the state police are characterised as that body which is responsible for creating public safety, arguably the key function of the state. This is done through the prevention and combating of crime, enforcing law and order (as defined by the state), and generally creating a climate of security and public order. Consequently, the role of the police always has been, and continues to be political, and not simply in the general interest, as the police would often like us to believe. As Cawthra states, writing of the South African police, ‘...public confidence in the police is dependent on public support for the government which controls them, a condition which can only be satisfied through political transformation’ (1993:162). And, where there are democratic governments, there are some fundamental shared sentiments of state and civil society with regard to the social order that the police uphold and maintain. The police are able to do this due to the fact that they, unlike any other civilian state body, have access and recourse to the use of force. The state police are indispensable in ensuring social order in the contemporary world. ‘The police are needed to deal with conflicts, disorders and problems of coordination which are necessarily generated by any complex and materially advanced social order’ (Reiner 1992:40). This, however, does not render the state police uncontroversial. Their role is inherently political, given that the social order they are meant to defend is that which complies with dominant conceptions of social order.

This is best put by Bayley who states that crime prevention and social ordering is a matter of political values:

order is not the only objective of government, especially not in democratic societies. Freedom is also important. Putting police in charge of crime prevention would surely tilt the policy in the direction of constraint rather than amelioration. The police stand at the fulcrum between liberty and order but they tend to lean to the right (1996:123).

By its very nature then, state policing is highly contested, given that it always operates in the interest of particular social groupings (usually

the political elites), and that it has the ability to remove freedoms through the legislated power to arrest and make use of legitimate force.

However, even the most hardened Marxists would agree that there is no simple correlation between political and economic dominant interest groups, and the activities of the police. As Hall *et al.* recognise, the police (like the law which gives them principle guidance) do have some relative autonomy from the state, and consequently occasionally 'intervenes against the overt interest of a particular ruling class fraction' (1978:206). But, there can be no doubt that the police are always the enforcers of an unjust social order. Hence, 'given the contradictory, conflict-ridden nature of society, policing by consent can only ever be a half-truth, and has never been more than a partial historical reality; it is in large part a powerful myth' (1993:221). Reiner goes as far as to state that 'the police are inherently a 'dirty work' occupation' (1992:269). The service they offer is controversial, and 'their business is the inevitably messy and intractable one of regulating social conflict' (Reiner 1992:269). But, it is a necessary 'business' in modern societies where social order and governance are inextricably bound. 'Welcome or unwelcome, protectors, pigs or pariahs, the police are an inevitable part of modern life' (Reiner 1992:11). They help create the foundation which makes governance (desirable or not) possible, unless one is to take the view that societies are preferable when self-regulated.

South African criminologists Smit and Botha have tried to grapple with the role of the police in the democratisation process. They state that it is imperative for policing for democracy to be effective since 'a democracy is heavily dependent upon its police to maintain that degree of order that makes a free society possible. It looks to society to facilitate those aspects vital to a democratic way of life, to provide a sense of security, to resolve conflicts, and to protect free elections, freedom of association, and free movement' (1990:36). Yet, they describe democracy and policing as paradoxical; the police have to

ensure both individual liberty and collective security. Consequently, the police may have to curtail the freedom of some, to ensure the freedom of others.

The nature and role of state policing is the most apparent public manifestation of the state itself. What is vexing in the African case, though, is which comes first — social ordering or the democratisation of the state? Does social conflict and crime need to be repressed before states can deliver, or should states first reform/transform, and once assured of their representativity and legitimacy, impose through the police the upholding of law and order? While many African citizens would prefer not to live under a social order defined by Moi, Abacha, and possibly even Kabila, it is unlikely that they wish to live in constant threat of loss of life and limb.

There are no simple answers to these questions, except to say that these dilemmas should not be isolated to the African case. Asia, South America and Eastern Europe are also grappling with authoritarian, exclusive state histories, combined with massive social conflict and repression. This paper argues that the two are inextricably linked; states need urgently to reform and develop institutional strength, and the police need to be reformed and empowered in this process. But first, why is policing so central to changing states?

### **State Change and Policing**

There are few if any institutions that are as central to state functioning as the police. In many ways, the police not only reflect the nature of the state, but are also responsible for the prevention or promotion of state change. There are few if any institutions that are as central to state functioning as the police. In many ways, the police not only reflect the nature of the state, but are also responsible for the prevention or promotion of state change.

Marenin (1996) argues that the police are 'major actors' in changing societies. They are involved in crucial activities such as the combating of crime, the protection of citizens and change agents, and the curtailment of threats to the functioning of society. The police themselves are very aware of this fact. As Superintendent De Beer, head of community policing in KwaZulu Natal<sup>1</sup> states:

Police are necessary in society since they have a direct impact on the quality of life of people. They have the capacity of changing certain things. This is because they have a contact situation with the public, and they know what is happening at all levels of society (Interview conducted in June 1996).

It is this very 'contact with the public' that sets the police at the centre stage in changing societies. Marenin continues that, as the entire world moves toward democracy, there is a quest for policing to become more democratic. So, for example, he states that

as the European Community moves falteringly toward political integration, questions of law and policing have come to the forefront. The police themselves are advocating specific policies, powers and institutions to deal with such problems as immigration, drugs, terrorism, and fraud... (1996:4).

Della Porta, in writing about public order policing in Italy makes the point very clearly. She states that :

indeed... the police represent the very face of state power. Direct interventions by the police to restore public order, moreover, put the police on the front pages of the press, and increase the likelihood of public criticism. It is likely, then, that because of this particular delicacy, the strategies of the police concerning the question of public order are multiple and ever changing (Della Porta 1995:1).

Changing police related to changing states is common not only to South Africa and the European context. Attempts to democratise the police as an institution is a contemporary phenomenon stretching from Latin America, to Eastern Europe, to Asia, and also the North Americas. This

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1. KwaZulu Natal is a province in South Africa known for its high levels of political violence, as well as police corruption and misconduct.



reflects attempts by states to become increasingly accountable to their citizens, and the concurrent acknowledgement that this cannot be done without the support of the police as both objects and agents of change. So Chevigny (1996), writing about policing in Brazil, refers to attempts being made to transform the police from a military organisation to one concerned with the maintenance of human rights. This has essentially been the case since the fall of the military dictatorship in 1987, but is far from a *fait accompli*. Similarly Stanley (1996), in exploring the police in El Salvador, proposes that as there is a move from military to civilian rule, there should be a shift in conceptions of policing from one of 'national security', which he claims is a negation of individual rights, to one of 'internal security', which accepts the rights of citizens in a liberal democracy (1996:43).

If the military-like nature of the state led to necessary changes in policing, with the civilianisation of all aspects of society in Latin America, then military war appears to have been an impetus for changes in the police service in the Gulf areas. According to Ross (1996), these areas recognised a dire need to develop a more professional police service detached from the military, in order to achieve acceptance from citizens. Similarly, Shelley (1996) speaks of post-Soviet policing. In making use of Weberian explanations, Shelley believes that changes have been slow because of the lack of administrative changes. He further states that 'while it may be premature to expect a major restructuring of law enforcement, this failure to address one of the more important authoritarian legacies of the Soviet period inhibits these countries' ability to democratise' (1996:217).

Change in these police forces is also impeded by police corruption, ethnic conflict, and the lack of the physical resources which are fundamental to proper policing. These problems, of course, resonate in all African states, particularly in the South African case, where police are confronted with intense social conflict, are under-resourced and

have been labelled the most corrupt police force in the world (*Mercury*, 13 September 1997). Police officers in KwaZulu Natal stated the following in this regard:

In Natal changing the police has been difficult on the ground due to the violence that is still taking place between the African National Congress (ANC) and the Inkatha Freedom Party (IFP). For proper community policing, there needs to be stability and political intolerance disturbs community policing (Interview with an Inspector of the Umlazi division of Public Order Policing, June 1996).

It is just difficult to change the police when working conditions are so bad. As a policeman, you are just dumped and expected to use your own resources. This is unrealistic. You do not have facilities, but are expected to provide a high standard work. You may, for example be in a god forsaken area with no communication where there is conflict between groups of people in the same area. So, police themselves get involved in crime and become corrupt, or they join private security companies (Interview with Captain who heads Operations in Provincial Public Order Policing, June 1996).

While there are multiple problems with the state police in Africa, this cannot preclude an examination of their role in restoring order and containing conflict in these societies. This poses difficult but riveting challenges to African states who make claims to democratisation processes. As Shearing argues, the study of policing in South Africa, as elsewhere, is fascinating since 'developments in policing contributes to an understanding of the evolution of governance' (1994:1). So, for Shearing, one needs to locate an understanding of the policing within shifts in what he calls 'mentalities of governance'. The lack of any non-partisan or effective policing in Africa says much of the inability and unwillingness of African states to provide effective and equitable services to its populations.

### **Changing Police and Community Policing**

Global shifts in state policing toward increasing democratisation, civilianisation, an acknowledgement of broader privatisation, and increased technological and communicative sophistication have given

rise to a revisiting of both the style and the role of state policing. This has led to elevated civilian participation and control in policing, as well as a reduction in the legitimacy of the use of force. As a response, policing, particularly protest policing, has had to become more 'co-operative'. And debates rage on in the police organisation, states, political parties, and academics as to how democratic and civilianised the state police should be. This is of crucial importance in African states where civilian participation has the potential to divide communities further.

An international desire to conceptualise new styles of policing has emerged along with global and national state change. In this regard, 'community policing' has become the catch phrase to express this shift. Moir and Moir capture the popularity of this terminology adeptly when they state that 'one could be forgiven for thinking that the principles of community policing were delivered to us from on high, writ large on tables of stone. Such is the zeal with which community policing has been proselytised' (1992:211).

After an extensive review of competing conceptions of community policing, Moir and Moir choose the following definition:

...community policing is a strategy adopted by police services to enable them to achieve the objectives of police in a liberal democratic society by successfully engaging the public, through various communities...to undertake lawful activities with or on behalf of the police who are organised in such ways as to maximise the achievement of those objectives through this process (1992:222).

Moir and Moir (1992), make the point that state police ultimately need to be in control of policing; citizen involvement, while crucial to effective and efficient policing, must be done with the consent and oversight of the state police. The police, like the state, need to be at the centre of democratisation processes.

Braithwaite who examines the police in Australia, states the following of a 'good police service':

It prioritises crimes that pose the greatest threat to the dominion of citizens. It seeks to provide a cost-efficient service of taxpayers... It is right respecting. It investigates complaints of racial prejudice or any other form of bias in its practices and seeks to put remedies in place to protect against recurrence. Police training and socialisation emphasise these values... The good police service recognises that authoritarianism is a constant risk in a service that has special coercive powers. So, it seeks to be responsive to its community... Rather than joining in crushing the dominion of the oppressed, it enhances the dominion of the oppressed by active empowerment strategies (1992:15).

Such definitions of 'good' policing, while useful, raise many questions in the African context. Can we use concepts and practices ultimately developed for liberal democratic states? What 'community' are we referring to in deeply divided societies? Whose law are we deferring to? What exactly is community empowerment where basic service delivery seems not to be the priority of states in constant economic, social and political crisis? These are all serious questions. What the international context provides us with is a 'model' of where policing should be directed. And in broad terms, the move toward community or 'good' policing directs us at the most basic level to the idea that proper policing requires dependable knowledge from the community within which police operate, as well as good relations between the community and the police. Policing then remains state centred, but is accountable and community need defined. This conception at the very least gives those of us in Africa a yardstick by which to measure police effectiveness, as well as commitment to values of individual liberty and collective security. This may go some way in beginning to provide the much needed 'social glue' in African states.

The state police have a key role to play in providing an environment which is safe and secure for all citizens. While the nature of the state will largely determine the form that policing takes, the state police

should be encouraged to develop some degree of autonomy in carrying out their functions. This means that the police have to make use of their discretionary abilities to decide when it is appropriate to enforce the law, and when to encourage social order as defined by communities which does not infringe on the rights of others. Real social order is only sustainable if communities and individuals have an interest in it. The alternative is highly repressive policing and undesirable in democratising states (This is not to deny that more forceful policing is at times not only acceptable, but even preferable, as we shall see later in the paper).

While the South African state should not be idealised in this regard, the policy decisions made on policing, and police responses to these could go some way in providing an example of what could be done.

### **Policing in KwaZulu Natal**

The acknowledgement that transition to democracy could not be successful without substantial changes within the South African Police came both from the African National Congress, and from the apartheid state itself. In fact, the roots of community policing in South Africa began almost as soon as De Klerk unbanned political organisations on 2 February 1990. De Klerk, speaking to police students at the police college later that year, stated that the police role should be one of combating crime, and should be removed from the 'political battlefield'. In November 1991, the Strategic Plan of the South African Police endorsed the concept of community policing. In so doing, police management recognised the need for a representative police force which forged alliances with the community, did away with a military ranking system, depoliticised the police, and became service oriented. The apartheid state agreed in general with the ANC that what was needed was the restoration of public confidence and involvement in policing, so that genuine partnerships could emerge between the police

and communities, and the basis of policing be consensus rather than coercion.

It was recognised early on in the negotiation process that despite the South African Police's racist, violent and unaccountable past, fundamental transformation of this structure would not be possible. At best, what had to be looked at was the transformation of the existing force. As Penuel Maduna, an ANC representative at a conference in May 1992 on prospects for democratising policing stated:

The political and economic reality confronting us is that there is no question of the apartheid oriented, non representative South African Police force, which is rooted in the gross denial of human rights to the oppressed black masses, being dismantled and replaced with a new force. At the same time, we cannot take the SAP over as it is, with its wrong orientation, tendencies and value systems... Trapped as we are between Scylla and Charybidis, as it were, we are constrained to talk about the need to transform the existing forces and instruments of the law... and infuse them with new, humane and democratic values and personnel... The alternative of us throwing them out lock, stock and barrel is just not feasible<sup>2</sup> (cited in Cawthra 1993:167).

So began practical steps to ensure joint partnerships between police and structures of civil society, as well as oversight bodies of the South African Police. This was implemented initially through the National Peace Accord established in 1991. The Accord, through the peace secretariats it set in place, provided a forum for the police, together with local government, political parties and business, to ensure that trust and reconciliation were created between all parties; that rules were set for

2. This was the case for a number of reasons. Firstly, the ANC prior to the unbannings had focused on the transformation of the military and not the police, and hence there were no real trained cadres to move into the police institution. Secondly, there was a widely held belief that the forced expulsion of members of the SAP would lead to potential right wing backlash. Thirdly, it was posited that a disruption of the police service could be threatening to national internal security, and crime prevention. The wisdom of this choice has been questioned at length subsequently, and many are skeptical as to the extent of change that can be expected from long serving members of the South African Police.

conflict resolution, and where complaints against the police would be investigated. Ultimately, the aim of the police was to transform itself into a community-oriented service which worked cooperatively with communities, and was accountable to those it served. In the early days of conceptualisation many questions relating to the viability of community policing in the South African context were raised, most of which are relevant to the rest of Africa today. As Etienne Marais, one of the early proponents of community policing in South Africa, asked:

Is community policing practical, indeed possible in the present South African context, characterised by deep divisions and a militarised policing philosophy? Is community policing such a good idea considering its inherent sophistication as a means of social control, in the absence of a representative state, or of a negotiated social accord? Can community policing be pursued, indeed promoted separate from a concern for and reality of the absence of real community empowerment in South Africa? (1992:6).

These questions remain important today in South Africa, four years after the change to democratic state rule. The internal cultural and organisational change required for a democratised police service is extremely difficult to achieve, and is still in the painful process of trial and implementation. And, communities are still uncertain about allowing the police to have greater involvement in their everyday lives as is the case with community policing. Furthermore, community policing may not always be the solution to all forms of social disorder; there are times when 'harder' policing styles may be more appropriate, but undoubtedly more contentious. But, changes toward community oriented policing have been legislated in a number of Acts which have come into effect since the national democratic elections in South Africa in April 1994. Of central importance is the Police Act of 1995. This Act 'provides for the establishment, organisation, regulation and control of the South African Police Service'. The Act states the following in its preamble:

- ... there is a need to provide a police service throughout national territory to:

- ensure the safety and security of all persons in the national territory;
- uphold and safeguard the fundamental rights of every person as guaranteed by Chapter 3 of the Constitution;
- ensure cooperation between the Service and the communities it serves in combating crime;
- reflect respect for victims of crime and an understanding of their needs; and
- ensure effective civilian supervision over the Service.

The Act is historic in that it breaks with past Acts which focused on the Police Force as ensuring law and order, as well as in its quest for civilian oversight. This is in tandem with the most basic premises of community policing by any definition. The Act has major implications for a reformed and restructured police service in line with the implementation of a new and democratic government. This is crucial given the previous role the police have played in South Africa, and their resultant lack of legitimacy.

At a more practical level, since the 1994 elections, the Minister of Safety and Security, together with the National Commissioner, has set in motion a series of internal changes in the police service in line with new democratic governance. This involves increased civilianisation, transparency, accountability and representativity. The changes have included the appointment and promotion of black officers, relaxed legislation with regard to police unionisation, the removal of the military ranking system, attempts to root out corruption, and the creation of a single united police service.

While community policing represents a commitment to localised, accountable, and greater consensual practices, this does not preclude the need for more forceful policing. As was noted earlier, what distinguishes the police from other state agencies is their actual or threatened use of maximum force when necessary for public order. The notion that all policing should be consensual is simply not possible



where there is an unjust social order, and therefore continual potential for public disorder and protest. The only possible lasting solution to this is a complete and radical transformation of the social, political and economic order. This, however, is unlikely, particularly given the pervasive and global nature of capitalism. In the short and medium term, the only way to ensure public order may be through the use of 'harder' forms of policing, concurrently with what is seen to be the 'softer' version of community policing which is ultimately preferential.

Internationally, there has been a trend toward an increase in paramilitary policing (Kraska and Kapelar 1997). This has become the source of much debate within the policing literature, particularly given that police forces the world over are being restructured toward community or partnership policing (Moir and Moir 1992). The aim of community policing is to increase public participation, re-establish the legitimacy of the police, and develop more effective means of crime prevention and combat. This would include the mobilisation of public; consultation; problem solving as opposed to reactive policing; and adaptation to local conditions (Bayley 1996). The idea here is that the presence of the police itself as well as developing familiarity between police and the communities they serve, will lead to decreased crime. If this is the case, the need for forceful styles of policing is minimised, and police effectiveness is assured through their legitimacy, and supposed consensual activity. A complete reliance on community policing, however, assumes consenting and relatively harmonious communities.

In reality, particularly in Western democracies, there has been since the seventies, a decline in both state legitimacy, and also in public order (Jefferson 1990; Hall *et al.* 1978). In Africa, the problem is even more evident where many states lack any form of legitimacy and hegemonic practice, and where social conflict and public disorder are the prevailing conditions. This has serious consequences for appropriate, or effective styles of policing.

Across the world, increased inequality and social division has led to a decline in public confidence in the state as well as an upward turn in public protest, and in some instances, rioting (Reiner 1992; Keith 1993). Most countries, as a result have opted for some form of specialised police units to deal with public disorder, regardless of cause. So, police have concurrently had to deal with increasing their legitimacy and public esteem, while at the same time developing a tougher order enforcement approach. While community policing became mainstream, paramilitary or public order policing<sup>3</sup> was introduced and enhanced as a specialised form of policing. While to many this may appear contradictory in the light of other policing trends, Lord Scarman (one of the most influential police policy informants in the eighties), asserts that the relationship between these different forms of policing is not unproblematic or simple. He states that there is not a straightforward dichotomy between 'hard' and 'soft' policing. Instead, 'the crucial question is not the existence of 'hard' or 'militaristic' police strategy, but how the mix is decided, and by whom' (Reiner 1992).

But, it is important to highlight the key debate surrounding the usefulness and necessity of paramilitary or public order policing. Jefferson (1990), taking a Marxist approach, believes that paramilitary policing is the antithesis to more community oriented policing. He makes the point that paramilitary policing has the effect of creating more violence and antagonism between the police and communities. The use of force, he states, gives rise to collective violence rather than preventing or containing it. Secondly, the problem of contemporary societies need to be solved through programmes aimed at social justice,

3. Paramilitary police units are highly trained in the use of sophisticated weaponry, are subject to hierarchical and militaristic command structures, and they operate in squadrons. These units are 'organised outside the conventional pattern of police and community controls, and with an emphasis on preparedness, swiftness and mobility, their behaviour had something of the military style and philosophy about it. Like an army unit, they were often armed; unlike the military they possessed the traditional power of the police arrest' (Reiner 1978:47).

not repression. Waddington (1991), on the other hand, believes that paramilitary policing should be welcomed. Such units, he proposes, prevent further violence and injury since they are trained specifically to deal swiftly and effectively with public disorder and social conflict, unlike the mainstream police who are neither adequately trained, nor equipped. Waddington asserts that so long as there is potential for public disorder in society, there is a need for paramilitary policing. Furthermore, he states, there is no real contradiction between the two forms of policing, since paramilitary policing has the potential to lay the foundation for real community policing which requires some degree of social order. These debates and choices have not escaped South Africa, and are pertinent to the rest of Africa facing crisis of rising crime, and social disorder. South Africa, it seems has followed the less 'politically correct' Waddington approach.

New legislation and new programmes for change are key indicators of the South African state's commitment to the development of a new and more accountable crime prevention police service. However, whether or not this mission is achievable is ultimately dependent on the members who constitute the police service itself. Perhaps the most important unit of the police to understand in this regard is the Public Order Police Unit. This unit is highly armed, extremely mobile, hierarchical, and continually trained in new technology for creating and maintaining public order (Waddington 1991; Kraska and Kappeler 1997). This unit, in many ways, is the backbone of any form of ordinary daily visible policing. Furthermore, public order units are the most visible policing units, given that they operate in squadrons, and are the 'strong arm of the law'.

In South Africa, the Public Order Police Unit (POPU) has its roots in a highly militarised structures (riot and mobile units), created after the 1976 Soweto Uprisings to crush any type of protest and state opposition. Formalised in 1992 as the Internal Stability Unit (ISU), this

police formation has been noted for its excessive use of force and unashamed abuse of any human rights. Indeed, it is this unit which has received the most attention in terms of human rights abuses throughout the process of the Truth and Reconciliation Commission. Subsequent to the democratic elections in 1994 in South Africa, there was much debate as to whether there should be a separate public order unit in the South African Police Service as a result of public condemnation of the ISU.

In 1995, it was decided that given the high levels of social disorder (crime and violence), such a unit was necessary but should be transformed to operate in terms of the new Constitution and Police Act. A new, highly centralised unit, the Public Order Police Unit (POPU), was hence constituted in 1995, in line with international trends with regard to public order policing (Interview with Captain Ally, Head of Public Order Police Training in KwaZulu Natal 1997). According to the Operational Commanders Course Manual for POPU, public order is defined as 'a state of security and tranquillity that is needed in society, and that should be pursued by the state in order to ensure constitutional rights and to benefit thus a harmonic development of society'. It is clear then, that public order policing has been bounded by the democratic transformations more broadly in South African society.

### **The Voice of the Police**

Changes in legislation, public commitments to new forms of policing, and a political will for the transformation of policing are alone not adequate. The form that policing takes is ultimately dependent on those who carry out the task of social ordering, police members themselves.

The remainder of this paper will explore how members of the POPU in Durban view the transformation process, as well as their role

and potentialities in creating a secure and safe public order in South Africa at present<sup>4</sup>.

To begin with, members of the POPU interviewed<sup>5</sup> were for the most part positive as to the democratic changes that have taken place, particularly with regard to their impact on the process of policing. The underlying assumption expressed was that the democratisation process has given rise to an increased legitimisation of the police, and hence improved participation from community members with regard to preventing and combating crime, which they recognised as central to effective policing:

We have gained a lot with democracy. We now have co-operation with the public. In particular, it is easier to get information. The community now see themselves as citizens; they can participate and have rights with regard to policing (Interview with Inspector Swart, Public Order Policing Unit, Durban, 1997).

Policing has definitely been made easier with the new government. Every day the police are changing. We are now on a training course to reduce violent responses to the public. Policing has changed a lot. Police are less racist, and violent and the people don't fear the police as much anymore (Interview with Sergeant Govender, POPU, Durban, 1997).

In order to facilitate and ensure that public order policing in Durban is in line with the new legislation pertaining to policing, training for this unit has been reformulated. In this regard, Captain Ally, head of POPU training in KwaZulu Natal states that there is a move toward the kind of

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4. These findings are based on interviews with 12 members of the POPU carried out in one of Durban's African townships, Umlazi, and also at the Public Order Police Training College in Chattsworth, Durban. Commentary will also be made based on participation 'in lectures, discussions, and a team building weekend away with public order police themselves during October and November 1997.
  5. It should be noted that all of the members interviewed had been part of POPU and its former structures for some years. Hence, like much of the rest of the SAPS, the personnel of the POPU remains unchanged despite the transformation process in the police.

training that is internationally acceptable in public order policing.<sup>6</sup> While this police unit is still trained in sophisticated weapon usage, there is far more emphasis on the use of the tonfa, a baton (a martial arts weapon), and the now preferred weapon in the South African Police Service. The tonfa is a preferable weapon, since it is 'non intimidating' as compared with live ammunition previously used with little restraint by the SAP. Training now condemns the use of lethal weapons, stating that rubber bullets should be seen as the means for achieving maximum force. So in line with community based, consensual policing, there is an emphasis on minimum force, and on what is called the 'gradual police response' whereby the police response to crowd management is a gradual build up from negotiation, to the implementation of defensive methods, to the undertaking of offensive operations.

Furthermore, the new training programme is concerned with the development of 'soft skills'. In this regard, the POPU are being trained in negotiation, mediation, and facilitation skills. The aim here is to use force as an absolute last resort, and in line with democratic principles, to ensure that 'all people are able to express themselves in terms of protest. This involves a movement away from seeing protestors as a threat, and the protection of demonstrators and the people around them' (Interview with Captain Ally 1997). Captain Ally believes that this has to be viewed in the context of the police in a transforming society. He believes that the community should look to the police to bring about peace and order. The police, he asserts, are an important organisation since they are 'the only people who can enforce the constitution'.

The changes in public order policing in South Africa are reflected in 'Public Order Police Document on Crowd Management' which was made official in 1996. The document takes as its starting point the

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6. New training programmes for public order policing has been developed together with officers from Belgium, Canada, England and the United States of America.

transformation process in South Africa, and the consequently necessary changes needed in public order policing:

As a result of the vast socio-political changes that have occurred in South Africa over the past few years, new approaches, tactics and techniques must be developed to align the management of crowds with the democratic principles of transparency and accountability. Police actions must be reconciled with the Bill of Human Rights, and the statutory provisions pertaining to crowd management (1996:1).

In attaining this, the document asserts that the public order police should be fair and impartial, predictable and tolerant, allow all citizens to feel safe and secure in crowd situations, make clear analyses of the risks involved, operate on the basis of reliable information, ensure constant two way communication between the police and the public; and ensure that media participation is permitted and encouraged. And as the *POPU Operational Command Manual* stresses :

The action of POP is aimed at the general wellbeing of society. POP will help make it possible to exercise the constitutional freedoms, support the harmonious relations between residents and the State, as well as the community. In order to achieve this goal, it is the purpose of all operational commanders to find the least violent solutions, and to use them to solve problems relating to the maintenance of public order' (1996:7).

All this represents a fundamental move away from a highly militarised, reactive and secretive unit, in line with general shifts to community oriented policing. These changes are based on liberal democratic models of public order policing. There has been no input from other African states in the transforming of this unit. In fact, according to Captain Ally, public order policing in South Africa is far ahead of that in other African countries which make use of the military for public order. This is because, says Ally, other African countries still see protest and demonstration as a threat.<sup>7</sup>

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7. At present the SAPS are involved in training the police in Swaziland, Zimbabwe, and Botswana in crowd management.

A move towards new operational and attitudinal approaches is not simple to implement, however. This is particularly so, given that at present, almost all public order police were trained prior to the 1994 elections, and have become accustomed to the use of excessive force in creating an environment of repression and fear. Consequently, a number of police interviewed believed that increased concerns on the part of the state with ensuring fundamental human rights had created difficulties for police officers who felt compromised by the increased freedoms and protections afforded to citizens:

The problem is that the new constitution has given the public too many rights and liberties. We are expected to treat criminals with respect. This is a problem. Before the police used to give a person one klap (slap) and they would then respect you. Now the criminal have more rights than the police (Interview with Sergeant Mbatho<sup>8</sup>, POPU, Durban, 1997).

At the moment the community has too much influence over what the police can and cannot do. The community tends to intervene in police functions. But it is easier to keep laws in a democratic country because you are not seen as an oppressor. If people support the government, they tend to support the police (Interview with Sergeant Hestermann, Public Order Police Unit, Durban, 1997).

These responses are hardly surprising. Police institutions are generally conservative, and are resistant to any change processes, particularly those which appear to threaten the power and autonomy of the police. According to Wisenand and Ferguson in this regard, 'the manner in which police departments have evolved has resulted in strongly supported traditional organisational structures and roles. The idea of sharing police responsibilities with citizens is difficult for many traditionalists to accept' (1973:261). Throughout the world, police organisational culture, the constant reference of police to police professionalism, and the concern with police technology and science

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8. It is interesting to note this respondent is one of the few female police in the POPU.



are all important in understanding the real mistrust of police officers to community involvement in police activity.<sup>9</sup>

However, in general, hesitation with the transformation process did not prevent these police from recognising the need for a new community oriented police service, given the appalling history of the South African Police (in particular its paramilitary units<sup>10</sup>), and resultant poor community police relations:

Community policing is something which we have to implement in South Africa. There is just no other way to build up trust in the police. And, there is a change in the police. Police are seeing it with community policing. In the past when we used to go out, the community would not even talk to us, partly due to intimidation from the police. So we have to enter into a partnership with the community in order for them to live in a crime free society. Community policing ensures that we are transparent in our dealings with the community. This is important because there has been so much corruption and abuse in the police (Interview with Captain in charge of operations in Provincial Public Order Policing, June 1996).

In reality, much of the support by these police is probably informed by popular 'police speak'. Apart from notions of accountability, transparency, and negotiation, there is little depth on the part of these police to what such a style and programme of policing would involve. At a more critical level, support for community oriented policing may in many instances be instrumental: police are aware that their job security and promotion is dependent on their performance in relation to new police policy. Indeed, these police are aware that the move to community oriented policing is crucial, given the previous role the

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9. In the South African case, where levels of violent crime are said to be the highest in the world outside of countries at war, it is hardly surprising that members of the South African Police Service believe it necessary to present themselves as both forceful and independent.
  10. The terms paramilitary and public order policing are used interchangeably as is the case in much of the literature concerned with these polices structures. This is not unproblematic, but will not be dealt with here.

police have played in South Africa in enforcing the social engineering of apartheid (Cawthra 1993), and the complete lack of confidence of the public in the police (Lee and Klippen 1997).

The police in KwaZulu Natal have a particularly bad track record. In this region of South Africa, more than anywhere else, the police have been accused of being partisan (particularly toward Inkatha), and even active in fuelling what many have termed a civil war in the province. As Nicholas Claude has stated, 'for over a decade the role of the old South African Police and the KwaZulu Natal Police in encouraging or fermenting political violence in KwaZulu Natal has been the subject of heated dispute and speculation — and the amalgamation of both these forces into the SAPS has not ended this debate' (1997:8).

While the police are compelled by new legislation, 'police speak', and a desperate need to change their image, it seems that there is also a genuine concern with finding appropriate ways of reducing violence in the province. Interestingly, and perhaps surprisingly, police interviewed believed that the use of force will not resolve the high levels of violent conflict in KwaZulu Natal. When asked about the most appropriate form of policing for this province, almost all believed that some type of 'community policing' was the only solution:

Community policing is the only appropriate kind of policing in KZN. If you use force, people are aggressive. There is no solution in force. You have to speak to people, and maybe they can understand (Interview with Sergeant Mbatho, POPU, Durban, 1997).

The way to solving problems in KZN is to know the background of the situation. Why did it happen and when did this thing start? The solution cannot be arrests and force. The police should be a communicator. They need to bring people together to sort out their problems. More forceful solutions will not help. Arrests are often useless because there are always other people behind the scenes operating (Interview with Sergeant Malimela, POPU, Durban, 1997).

Of course, the constant knowledge by communities that the police (especially the public order police) can always resort to forceful means, in itself builds compliance. For the police interviewed this interpreted itself into an understanding that the most effective mechanism of police intervention is visible police presence as opposed to raw police force. These police stressed the need for police patrols as the key to good policing. This is in tandem with most current writing on community policing (Bayley 1996). These police were well aware of the limitations of their organisation in dealing with high levels of political violence, particularly when this is sporadic and unpredictable:

There is very little the police can do to stop violence in an area. The police can never do this since they cannot be everywhere at the same time. So, the effectiveness of the police is dependent on the information that the police have which has to come from the community. The best that the police can do is to bring together key people and leaders to speak to one another (Interview with Inspector Swart, POPU, Durban, 1997).

The only way to reduce violence in KZN is to get people to talk to one another. POPU will not be able to stop violence on their own. So, bringing in the POPU is a temporary solution. The lasting solution is negotiation. POPU has started a process of negotiation in places like Richmond<sup>11</sup> since anything will not be lasting (Interview with Captain Ally, POPU, Durban, 1997).

Apart from the threat of force which the police obviously represent, police interviewed recognised that identifiable instigators of violence should be arrested to try to avoid further incidences of social disorder. As Sergeant Hestermann stated, 'criminal elements should be 'taken

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11. Richmond is an area in the Midlands of KZN, and has been the site of continuous violence and warlordism. This area has been particularly conflictive since the ANC expelled one of its members (a notable warlord in the area) from the party in April 1997. Since then 'a total of 45 people have been killed in political violence', and there have been some concerns from residents that the security police have been involved in these killings *Daily News* (5 November 1997). The POPU presently have a permanent presence in Richmond, and there have even been calls by politicians for a state of emergency in the area.

out' by the police', as a way of preventing further problems. What is at root here is that in order to create public order and stability, the police are required at times to make use of their special powers to curtail the liberties of citizens.

The use of such powers by the police is one clear mechanism for asserting state authority, and consequently rebuilding confidence in the state. However, this has to be done where the public are convinced that the police are acting in the interest of the broader collective security and social stability. As Bayley (1996) rightly asserts, ultimately the modern police play two major roles — authoritative intervention and symbolic justice. Authoritative justice is the attempt to restore order without looking at resolving the causes for disorder. Symbolic justice on the other hand is the enforcement of law; 'its purpose is demonstrative, to show offenders and public that a regime of law exists' (1996:34).

Despite the clear advantages of using public order policing, there has been some concern internationally with the increase of paramilitary type policing. Jefferson (1990), for example, believes that such police units simply serve the purpose of creating further disorder, owing to their potential for the use of excessive force, their paramilitary training, and the lack of individual discretion because of the emphasis on squadron work. All this, according to Jefferson, means that public order policing tends to amplify the potential for violence and disorder, and flies in the face of consensual, minimum force policing (in particular community policing). However, Kraska and Kappeler argue that in fact, there are perhaps 'interconnections and possible symbiotic relationships' (1997:5) between the militarisation of the police and community policing. They argue that public order or paramilitary policing has the potential to create a social environment which allows for the practice of community policing. But they make the important point that this has to be seen in the light of the larger role of police

'nationally and internationally in wielding and maintaining state power' (1997:14).

Waddington (1991) explains why this is the case. Paramilitary units, he says, have a command which is hierarchical, and a high degree of discipline. They are highly mobile and hence more able to use force than would a local civil police unit who are enmeshed in local dynamics. Paramilitary forces hence tend almost invariably to be instruments of the central government, sent wherever they are needed to suppress disorder or revolt' (1991:127). In South Africa, too, the POPU is a centralised unit whose activities have to be agreed by the State President. And, much as one may feel discomfort with a paramilitary unit such as POPU (both given its history and its access to force), states require social order to govern effectively, though of course this means, in part, a reinforcement of social injustice.

Just as democracy needs a context of social stability, so too does localised, democratic policing require a context of relative order. Units such as POPU 'dedicated to public order duties would allow the civil police to continue to 'police by consent' in the traditional manner' (Waddington 1991:152). While Waddington writes from an essentially British experience, there is much value in his assertion that 'so long as the threat of serious disorder exists and it remains the duty of the police (as opposed to some other body) to suppress it, paramilitarism will have some value' (1991:154). This somewhat uncomfortable thought is one which should be seriously debated and considered in the African context where any form of delivery and intervention is made virtually impossible by the constant threat of or actual disorder.

Members of the Public Order Police Unit in Durban were adamant that their unit was vital in South Africa at present. This is particularly the case given the massive ineffectiveness of ordinary visible policing by the South African Police Service at present:

Public order policing is definitely necessary. Normal stations are not equipped to deal with crime and violence and public gatherings. Station manpower is low, and public order police have greater numbers of people with greater training. Ultimately, of course, the show of force is also important (Interview with Sergeant Hestermann, POPU, Durban, 1997).

Public order policing in South Africa can only be phased out when visible policing does what it should do. Presently the secondary function of the POPU (those outside of public order work such as crime prevention) are taking a greater proportion of our time. Policing in most local areas is not up to standard. POPU has been called in to fill the gap. We are basically a support structure which is more effective because of its manpower and equipment (Interview with Captain Ally, POPU head of training in KZN, 1997).

Highly trained, team oriented, and well equipped units such as the POPU, it seems, are used as temporary measures for all policing functions rather than police forces that are ill equipped at the local level to deal with high levels of crime and disorder. And so long as such units are bound by principles of accountability, consultation, negotiation, and the gradual police response, they could be a short term solution to crises in policing institutions.

But, what the KZN experience makes very clear is that while policing is necessary in contexts of social disorder and upheaval, such contexts make policing extremely difficult, particularly community oriented policing of any form. In KZN the continual political violence and intolerance in the province is very daunting. Police, if they are in any way to resolve conflict, are always agents between conflicting parties:

Policing is extremely tiring in this province due to the violence. Anything the police do is used by political parties for their own gain. At every political platform, politicians make use of such opportunities (Interview with an Inspector at Umlazi Public Order Policing, June 1996).

Police officers were concerned that political parties in KZN tended to use the police as scapegoats at every turn. And indeed, the violence, as

well as accusations (true or false) of police partiality, makes any form of community consultation and participation very difficult. In this context, the show of force (even if symbolic) often appears as an easy solution, and it is consequently surprising that the public order police interviewed did not stress this more. Policing in conflict-ridden environments is extremely complex and over determined by political allegiance and identity.

In addition, police interviewed felt that ultimately they are 'objects' of the ruling party:

We were taught that to be a true policeman, we have to be apolitical. But, in reality police have to be loyal to the government of the day. In the past we were tarnished by the laws we had to carry out. Today we have to carry out the laws of the ANC. Now, for example, we have a problem of trying to end the carrying of traditional weapons and the IFP then accuse us of being puppets of the ANC. It is very sensitive (Interview with Captain in charge of operations in Public Order Policing, 1996).

This statement needs to be seen in the context of evidence of police involvement in attacks on the UDF/ANC by Inkatha supporters in the past. Cawthra, in illustrating this point, alludes to one incident in a part of KZN:

In Mpumalanga, where more than 1,000 homes had been devastated in 1987, Inkatha launched a devastating attack on 27 November last year, reportedly with the support of the SAP and the KwaZulu police and the special constables who had been brought into the townships some months earlier... (1993:121).

More recently, there have been allegations that the police were at best incompetent in not intervening in recent massacres of ANC supporters. For example, on Christmas day 1995, 19 people were killed, 23 injured and 80 homes destroyed at Shobashobane, an ANC stronghold, by men from an IFP settlement. Police were accused of failing to protect the community of Shobashobane, despite warnings of the attack beforehand (*Natal Witness*, 27 December 1995). Even more alarming is the fact that there was absolutely no police presence before or during

the massacre, despite the massacre being in full view of the nearby Izingloleni police station. But of most concern is that amongst those arrested for involvement in the massacre, were four policemen (Information from an informal interview with a senior member of the Network for Independent Monitors, June 1996).

Despite the difficulties confronting any policing in this province, as Wifried Scharf states, 'communities need some form of protection from crime'<sup>12</sup>, and there has to be some agency that has the right to use legitimate force when necessary' (1994:7). The role of the state police as both peace keepers and law enforcers is particularly relevant in KZN where the numbers of people killed in politically related violence is alarmingly high, and has been so for years. The estimated deaths in KwaZulu Natal in politically related violence between 1990 and 1993 is according to Morrell (1997) approximately 10,000. According to a researcher at the Human Rights Commission in KZN, 338 people died in politically related incidents in May 1994 alone. While these numbers have dropped significantly in the past two years, the same source recorded 40 deaths of a similar nature in May 1996. The paramilitary police units in all their different forms have been called in throughout to try to create some form of public order. In recent years, this responsibility has fallen primarily on the POPU (sometimes together with the military). The police have come to be recognised as essential to the project of peace and stability of the new government.

Even strong critics of the South African Police Service in KZN agree that the state police are key role players in bringing an end to violence and disorder. Hence, with the advent of local elections on 26 June 1996, 30,000 police (mainly POPU) and 2,300 extra soldiers were deployed in the province (*Sunday Times*, 23 June 1996). And Bheki

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12. The assumption here is that politically motivated violence, in particular murder, is in most instances criminal. In South Africa, there is often a somewhat problematic distinction posed between criminal and political violence.



Cele, the ANC's Safety and Security spokesperson in KZN, who earlier that same year proclaimed that the police were failing to secure peace in the province (*Daily News*, 3 April 1996), hailed the initiative to increase the security forces over the election period. Furthermore, he endorsed their role as central to social stability, stating on behalf of the ANC that '[they] welcomed the measures taken by the security forces, but they were a bit too late'. He stated that 'if the security forces had been there earlier we would have stabilised areas such as the Donnybrook corridor in the Midlands where people are still dying' (*Sunday Times*, 23 June 1996).

Cele's view is shared by South African historian Bill Freund, who in speaking of the destructive nature of violence in KwaZulu Natal, states that:

For the state, even with its far more measured view of the ANC since February 1990, an agenda for the social and economic reconstruction of South Africa exists in broad outline. There is a potential advantage in making sure no African political groupings can deliver on a society alternative to the structures being forged at present. A situation of chaos in which only the police and army can intervene on behalf of the problems of ordinary people is thus not necessarily undesirable...the collapse of order itself cries out for a new political solution...which is being contested (1997:190).

In the absence of an adequately equipped and competent police service, public order policing will be called upon to act decisively in such situations to allow for a climate of relative tranquillity necessary for reform and democratisation. Community policing, concurrently with some form of paramilitary policing, at least in the short term is a necessary component of social and political reality in South Africa. Unfortunately, as elsewhere in the world, public order policing will be depended upon not only to deal with threats to public disorder in the form of protest and demonstration and collective action, but also in the more secondary function of crime combating and prevention.

Most recently in KZN, for example, the POPU was active in an operation to bring the violent and disorderly taxi industry to order. On 30 October 1997, the POPU were involved in setting up roadblocks to recover millions of rands in traffic fines owed by taxi drivers. In a telling statement related to this event, POPU spokesperson Captain Trevor Reddy stated that 'we want to send a clear message that nobody is above the law, as has been the perception of the public regarding taxis' (*Daily News* 30 October 1997). More broadly, POPU is involved in a range of other crime combating activities in South Africa that are not traditionally their function, such as drug syndicate raids, and assisting with identifying high profile crimes in local community policing forums.

But no matter how confident the police feel about their ability to combat everyday crime (and all the POPU members interviewed were), there is simply no way the police will be able to do this. Internationally there is a recognition that police in fact do worst what most people think they should be doing — crime combating and prevention (Bayley and Shearing 1996). Apart from the history and peculiarities of the South African police, the police simply cannot be everywhere all the time. More important still, the problems that give rise to criminal activity are often completely outside the control of the police. In terms of threats to public order, particularly those caused by politically related violence, the POPU members are absolutely accurate that they can best play a role through their visible presence and their theoretical monopoly of the use of state force. However, even if limited in its effects, the police do have a role as both law enforcers and peace officers. In the South African case, the POPU may, perhaps unfortunately, be best placed to carry out these functions, given their organisational capabilities and training. Their effectiveness and legitimacy, however, is entirely dependent on police accountability, consultation with communities, and institutionalised civilian oversight.

## Conclusion

The concern with developing democracy in Africa has to be grounded in an attempt to ensure state delivery as well as security and stability to citizens. South Africa, exceptional as it may be in some regards, can provide a case study for how this can begin to be contemplated. Early in the transformation process in South Africa, it was recognised that the quest for democracy is rendered extremely difficult where there is social disorder and conflict. Ultimately, it is the responsibility of the state to ensure peace and stability within its governing boundaries. If states are to posit that they are democratic, the fundamental human right of safety has to become a priority. The state police are a key agency for developing this, despite their controversial colonial and post-colonial history, as well as internal crises pertaining to corruption, abuse and inefficiency.

The police as the public face of the state, and ideally as servants of the public, have the potential to restore some degree of public order through an enforcement of the law, as well as through engaging in peace keeping activities. The potential use of force by the state police symbolises the authority of the state, which is hugely lacking in the African context. Of course, for the state to have authority, it must have public support and consent. There are numerous variables which determine this that are beyond the scope of this paper. But there is no doubt that state democratisation cannot become a reality without transformed, accountable police forces; the two processes are inextricable from one another, and need to take place concurrently.

The lack of real policing structures in Africa, together with high levels of social disorder and conflict mean that in the interim public order policing structures which are highly mobile, highly trained, and equipped with knowledge of sophisticated weapon usage may be a solution to the inappropriate use of the military in internal security issues. However, as in the case of KwaZulu Natal, such policing

structures must be bound by principles of accountability, consultation, minimum force, and civilian oversight, in line with democratisation moves in policing internationally. The state police, as has been shown above, cannot solve problems of conflict and crime, but they are central to this project. Their mission is one which states in Africa can no longer avoid: to help balance the concern for collective security and individual freedom. Exactly how this is to be done needs to be a point of discussion for African academics and intellectuals.

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