POLICE REFORM IN POST-CONFLICT AFRICA:

A REVIEW

Janine Rauch and Elrena van der Spuy

October 2006
IDASA's Safety and Security Programme aims to professionalise policing on the continent within a human rights framework. The objectives of this programme are 1) to empower citizens to think and act in a constructive way about their own safety as individuals and the safety of their communities; and 2) to assist the process of reforming institutions responsible for the safety of citizens to be more effective in their service and operations.
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Authors’ note

This paper is very much a work in progress, and will be finalised on the basis of inputs made at the JICA conference on March 12.
LIST OF ACRONYMS

Introduction

ASSN  African Security Sector Network
AU  African Union
ECOMOG/  Economic Community of West African States Monitoring Force
ECOWAS
EAPCCO  East African Regional Police Chiefs of Cooperation
DDR  Disarmament, Demobilisation and Re-integration
SARPCCO  Southern African Regional Police Chiefs of Cooperation Organisation
SADSEM  Southern African Defence and Security Management Network
SSR  Security Sector Reform

ANGOLA

APRM  African Peace Review Mechanism
DDR  Disarmament, Demobilisation and Reintegration
DIASA  Direcao de Inforacao e Seguranca de Angola
FNLA  National Liberation Front of Angola
IDPs  Internally Displaced Peoples
MONUA  United Nations Observer Mission in Angola
MPLA  Movement for the Popular Liberation of Angola
NPA  National Police of Angola
PVB  Peoples Vigilance Brigades
RRP  Rapid Intervention Police
UN TCU  United Nations Transitional Coordination Unit
UNITA  National Union for the Total Independence of Angola
UNOA  United Nations Office in Angola

CHAD

ANT  National Army of Chad
DDS  Direction de la Documentation et de la Securite
MPS  Movement for Patriotic Salvation

DEMOCRATIC REPUBLIC OF CONGO

EUPOL  European Union Police Mission
EUSEC  European Union Advisory and Assistance Mission for Security Reform in the DRC
ICC  International Criminal Court
IGP  Inspector General of Police
MONUC  United Nations Mission in the Democratic Republic of Congo
PIR  Police Intervention Rapide
PNC  Police Nationale Congolaise
TNG  Transitional National Government of the Democratic Republic of Congo
UNCIVPOL United Nations Civilian Police
UPI Unite de Police Integre

ETHIOPIA

EPRDF Ethiopia People’s Revolutionary Democratic Front
TPLF Tigrean People’s Liberation Front

KENYA

CID Criminal Investigation Division
DFID Department for International Development, United Kingdom
GJLOS Governance, Justice, Law and Order Sector Reform Programme
IDP’s International Development Partners
KANU Kenya African National Union
NARC National Rainbow Coalition
OP Office of the President
PSC Public Service Commission
SWA Sector-Wide Approach

LIBERIA

ASSN African Security Sector Network
ICTJ International Centre for Transitional Justice
LINLEA Liberia National Law Enforcement Association
UNAMIL United Nations Mission in Liberia

MOZAMBIQUE

ACIPOL Academy of Police Science
CCLJ Coordinating Council for Legality and Justice
COMPOL National Community for Police Affairs
FRELIMO Frente de Libertacao de Mocambique
GPA General Peace Agreement
PPM People’s Police of Mozambique
PRM Police of the Republic of Mozambique
RENAMO Resistencia Nacional de Mocambique
SISA State Information and Security Services
SNAP People’s National Security Services
SPPRM Strategic Plan of the Police of the Republic of Mozambique
UTIPE Unidade Tecnica de Implementacao do Plano

NAMIBIA

NAMPOL Namibian Police
SAP South African Police
SFF Special Field Force
SIPE Socio-Economic Programme for Ex-Combatants
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<thead>
<tr>
<th>Acronym</th>
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<tbody>
<tr>
<td>SWAPO</td>
<td>South West Africa People’s Organisation</td>
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<td>SWATF</td>
<td>South West Africa Territory Force</td>
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<tr>
<td>UNTAG</td>
<td>United Nations Transition Assistance Group</td>
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**NIGERIA**

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<tr>
<td>CLEEN</td>
<td>Centre for Law Enforcement Education</td>
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<tr>
<td>IGP MU</td>
<td>Inspector General of Police’s Monitoring Unit</td>
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<tr>
<td>MOPOL</td>
<td>Mobile Police</td>
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<tr>
<td>NPF</td>
<td>Nigeria Police Force</td>
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<td>PCB</td>
<td>Public Complaints Bureau</td>
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<td>PPM Unit</td>
<td>Police Performance Monitoring Unit</td>
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<td>SAP</td>
<td>Structural Adjustment Programme</td>
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**RWANDA**

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<tr>
<td>ICTR</td>
<td>International Criminal Court for Rwanda</td>
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<td>PF</td>
<td>Rwanda Patriotic Front</td>
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<td>UNAMIR</td>
<td>United Nations Mission in Rwanda</td>
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**SIERRA LEONE**

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<tr>
<th>Acronym</th>
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<tr>
<td>ACC</td>
<td>Anti-Corruption Commission</td>
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<tr>
<td>APC</td>
<td>All People’s Congress</td>
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<td>CCSSP</td>
<td>Commonwealth Community Safety and Security Programme</td>
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<tr>
<td>CDIDD</td>
<td>Police Complaints, Discipline and Internal Investigations Department</td>
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<tr>
<td>CHAD OT</td>
<td>Conflict and Humanitarian Assistance Department’s Operations Team (of DFID)</td>
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<tr>
<td>CPDTF</td>
<td>Commonwealth Police Development Task Force</td>
</tr>
<tr>
<td>DDR</td>
<td>Demobilisation, Disarmament and Reintegration</td>
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<tr>
<td>ECOWAS</td>
<td>Economic Committee of West African States</td>
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<tr>
<td>IMATT</td>
<td>International Military Training Team</td>
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<tr>
<td>JSDP</td>
<td>Justice Sector Development Programme</td>
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<tr>
<td>MTEF</td>
<td>Medium Term Expenditure Framework</td>
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<tr>
<td>ONS</td>
<td>Office of National Security</td>
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<tr>
<td>PSCs</td>
<td>Private Security Companies</td>
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<tr>
<td>SILSEP</td>
<td>Sierra Leone Security Programme</td>
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<tr>
<td>RUF</td>
<td>Revolutionary United Front</td>
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<td>SLP</td>
<td>Sierra Leone Police</td>
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<tr>
<td>UNAMSIL</td>
<td>United Nations Mission to Sierra Leone</td>
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<tr>
<td>UNIOSIL</td>
<td>United Nations Integrated Office in Sierra Leone</td>
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<td>UNOMSIL</td>
<td>United Nations Observer Mission to Sierra Leone</td>
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**SOUTH AFRICA**

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<tr>
<td>AMT</td>
<td>Amalgamation Management Team</td>
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<tr>
<td>ANC</td>
<td>African National Congress</td>
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<td>CMT</td>
<td>Change Management Team</td>
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CPFs  Community Police Forums
ICD  Independent Complaints Directorate
MEC  Member of Executive Council
MPLs  Members of Provincial Legislatures
NIA  National Intelligence Agency
NPA  National Prosecuting Authority
NSMS  National Secretary of Management Systems
ODA  Official Donor Assistance
PAC  Pan Africanist Congress
PFMA  Police Finance Management Act
SADC  Southern African Development Community
SAP  South African Police
SAPS  South African Police Service
SASS  South African Secret Services
SDU  Self Defence Unit
SPU  Self Protection Unit
TRC  Truth and Reconciliation Commission
UNODC  United Nations Office on Drugs and Crime

**SUDAN**

CPA  Comprehensive Peace Agreement
GoNU  Government of national Unity
GoS  Government of Sudan
GoSS  Government of Southern Sudan
MDTF  Multi Donor Trust Fund
NCP  National Congress Party
SPLA  Southern People’s Liberation Army
SPLM  Southern People’s Liberation Movement
UNMIS  United Nations Mission in Sudan

**TANZANIA**

CCM  Chama Cha Mapinduzi
JLOS  Justice, Law and Order Sector
LSRP  Legal Sector Reform Programme
PRSP  Poverty Reduction Strategy Paper
TANU  Tanganyika African National Union
1. THE RESEARCH BRIEF

The objectives of this Report are to describe and analyze trends in police transformation in selected post-conflict countries in Africa. The Report was intended to inform a workshop to be held on the development of democratic policing in post-conflict countries in Africa. It was envisaged that the workshop would involve police practitioners, researchers and civil society representatives from a range of African and donor countries. More explicitly, the aims of the workshop were to:

- Enable sharing of experiences of post-conflict police reforms in Africa
- Develop a shared analysis of post-conflict police reforms in Africa
- Identify good practices and lessons learned from various experiences of police reform
- Encourage restructuring and democratisation of police organisations in Africa
- Facilitate networking and co-ordination between role-players in police reform in Africa
- Identify - with the current research Report as a basis - future research needs and potential interventions in the field of police reform in Africa.

Select case-studies: With the above-mentioned objectives in mind, the Report focuses on state police organisations in a number of post-conflict countries in Africa. The range of countries surveyed, and the depth of data-gathering, was shaped by both time and budget constraints. The research conducted for the Report comprised a desk-top study in which access to English-language, electronic-source material in particular, proved critical. The limitations associated with a desk-top review include the lack of complete up-to-date information, the absence of the personal intuitive grasp of issues that only an on-the-spot observer possesses, a problem in establishing the real priorities facing complex social and political processes, and a lack of corroborative evidence that comes from face-to-face interviews with key informants. This research needs to be augmented by other research strategies in future. In our view, targeted interviews with both security sector practitioners and development agencies involved in reform efforts during in-country field visits are likely to yield more substantive details about current efforts at police reform in Africa and their outcomes. We therefore propose future primary research in those directions.

Research themes: In order to facilitate comparative analysis the discussions for each country are organised around the following main themes:

- Historical and political context of policing
- Imperatives for integration/amalgamation of police organisations
- Demilitarisation and civilianisation
- Political control and independence of the police organisation and leadership
- Oversight and accountability arrangements
- Mechanisms for transitional justice and their impact on police reforms
- The role and impact of donors on police reform processes
- The management and co-ordination of donors and technical assistance during the reform process.

As will become clear from the country-specific case studies, lack of detail prohibited the formulation of definitive comments on some of the themes. However, the identification of gaps in the information that

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1 This report does not deal with informal policing or private policing.
has been made possible through this research does serve a useful purpose in defining a future research agenda.

The choice of countries surveyed in the draft report has been influenced by the priorities of the contracting agencies on the one hand, and the researchers’ assessment of the feasibility of the research on the other.

- Category A contains an in-depth case study of the wide-ranging process of police reform which has been undertaken in South Africa over the past fifteen years. The details contained in this case study are much more comprehensive than in any of the other case studies. In part, this is a function of the fact that police reform in South Africa has been well-documented. Also, police studies, as an academic field in South Africa, is much more advanced than elsewhere on the continent. The South Africa case is furthermore enriched by an ‘insider’ perspective provided by a former senior SAPS police commissioner.

- Category B comprises brief descriptions of selected aspects of police reform in eight countries: Angola, DRC, Kenya,

2 Mozambique, Namibia, Nigeria, Rwanda and Sierra Leone. The coverage of each of these countries varies according to the availability of information to the research team.

- The list of Category C countries includes Chad, Ethiopia, Liberia, Sudan and Tanzania. On these countries, significantly less research material was available.

Although most of the states researched for this report can be described as undergoing some significant form of transition, not all of them emerge from overt conflict. Nigeria, for example, is emerging from a history of military dictatorship, while Kenya has changed from a one-party state to multi-party democracy. Even where there are recent histories of conflict, these case studies have shown a wide variation in the nature of those conflicts – from institutionalized racism in apartheid South Africa, to genocide in Rwanda, and various types of civil war in Liberia, Mozambique and Angola.

In all the cases examined for this report, state policing is primarily organised at the national (federal) level, albeit with various forms of regional policing and regional political control and oversight. This is characteristic of police organisations in Africa, but differs markedly from police organisations in large democracies such as India and the US. The types of reforms that are canvassed in these case studies are generally those which are applied to large, national police organisations – working with national organisations can, for instance, facilitate standard-setting, training and donor co-ordination.

It is worth noting that in many of the cases described in this report, the processes of police reform are currently under way, or about to commence. Although we have emphasised some of the increasing similarities in the processes of police reform in post-conflict African states, there is potential for varied trajectories in the near future. The cases of Liberia, DRC and South Sudan, for instance, are likely to differ from each other in many respects.

Included in this report are eight of the largest (in terms of population size and/or land mass) countries on the African continent. In Africa, large states perform poorly. Stated differently, in Africa big states exhibit

2 Although not a ‘post-conflict’ case study, the Kenya case illustrates police reforms in the context of a shift from one-party state to multi-party democratic governance, and touches on many of the same critical themes as the post-conflict cases.
`varying conditions of dysfunctionality.‘ Understanding the links between size and dysfunctionality is important for purposes of grasping the particular developmental challenges which big states in Africa confront. Such developmental challenges have a bearing on the prospects for state-building more generally. Such challenges will also impact on the prospects for building the coercive institutions of the state such as the public police - the very subject of this research enquiry.

3 ‘A dysfunctional state’, as Marian Ottowy puts it, ‘is one that cannot general sufficient administrative capacity to make it possible for decision taken by the leadership actually to be implemented, or to prevent other organisations from taking over part of its territory. In other words, a dysfunctional state is one where the government can neither administer the country nor protect the nation or the regime against armed opposition. All states are dysfunctional to some extent, but there are widely different degrees, starting with mild inefficiency and culminating in state collapse.’ Ottaway, M. 2006. ‘Dysfunctional states, dysfunctional armed movements, and lootable commodities.’ In Clapham, C., J. Herbst and Mills, G. (eds) Big African States. Johannesburg: Witwatersrand University Press. p. 189.
2. POLICING IN AFRICA: BACKGROUND AND CONTEXTUALISATION

Policing in Africa is an under-researched, and by implication ill-understood, topic. It is against the background of a general dearth of research material that the importance of the contribution of Alice Hills' Policing Africa needs to be appreciated. Policing Africa comprises the first historically substantive commentary on police developments in the era of post-colonial rule. Whilst largely restricted to Anglophone Africa, it offers comparative insights into the trajectory of policing in Africa in the post-1960 period. Hills’ treatise makes for sobering reading. Understanding the historical legacy and the structural roots of the policing ‘problem’ is essential for those eager to participate in the reform of police agencies on the African continent. Some broad observations will allow us to put the issue of police in Africa in context.

Broadly speaking, the trajectory of state policing in Africa has, over a period of 200 years, been shaped by four key processes:

- In the first instance, colonial rule has had a formative influence over politics and economics in Africa and by implication over the structure and function of police agencies. Colonial conquest provided a breeding ground for the military concept and practice of policing. The defining feature of this model was that it was more concerned with protecting the interests of the colonial power than the safety and security needs of the indigenous people. Militarism shaped the structure, function and arrangements for accountability of police agencies in Africa in definitive ways. On the whole, colonial police institutions exhibited a centralised character. This held true for colonies under both British and French rule.

Having emphasized the coercive function of the police under colonial rule, it is however important to acknowledge that over time the military functions of the police were augmented by a number of civil police duties. After World War II, as political instability confronted many colonial authorities, attempts were made (more or less boldly) to reorganize police institutions. Such attempts focused (again, to varying degrees) on the modernisation, professionalisation and Africanisation of colonial police institutions. The historical record thus provides some proof of early efforts to reorganize African policing in response to changing political dynamics.

- From the 1960s onwards, the dismantling of colonial rule provided an opportunity for reinventing the raison d’être of the state and its armed forces. As Hills posits: “the critical break in policing in Africa occurred during the shift from colonial to postcolonial politics”. Post-colonial regimes took the place of the former colonial administrations and proceeded to pursue nation-building objectives. In the next three to four decades political relations would develop in particular directions. For insight into such dynamics we draw on Goran Hyden’s African Politics in Comparative Perspective. In Africa, the character of the state came to exhibit features at odds

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with its modern, rational-legal counterpart in advanced democracies. Simply put, the state in Africa lacks autonomy from society. Furthermore, the state’s administrative capacity to extend its reach across society and into the rural hinterland, in particular, is limited. As Hyden puts it, the African state does not “broadcast its powers to the peripheral concerns of its territory”.\textsuperscript{10} Big Man Rule (or neo-patrimonial rule) became a defining feature of African politics; power remained concentrated at the centre rather than dispersed and/or separated; and power relations ended up being more personal, impulsive and arbitrary. In such a context, where the distinction between public and private was far less clear, informal institutions continued to play a more important role than formal institutions.

By the end of the twentieth century - for a range of complex reasons - the African pathway through politics became intimately associated with large-scale poverty, patrimonial politics and associated patterns of corruption. Such features would cast a long shadow over the development of security institutions. In most, if not all, instances, post-colonial regimes invested both faith and fortune in the military rather than the police. In terms of access to resources and power, police agencies became ‘poor cousins’ of the military. Incumbent regimes found it expedient to utilise the repressive capacity of the police agency in defending regime interests. In periods of military dictatorship, the exploitation of the police on the part of the political elite was particularly pronounced. Against this background, a confluence of factors thus ensured that African police forces remained “urban, under-resourced, brutal and stagnant”.\textsuperscript{11} In this process, police agencies in Africa became, more or less, clientelist, corrupt and compliant.\textsuperscript{12}

- A third defining feature of African politics after 1970 relates to the frequency and lethality of war. “In 1999”, says Hyden “a fifth of all Africans lived in countries battered by war.”\textsuperscript{13} From Angola to Sudan, from Rwanda to Sierra Leone, Liberia, DRC and beyond, civil war made for brutality and destruction on an enormous scale. Add to that the fact that most of Africa’s wars have been within, rather than between, states. Invariably the police became embroiled (to a greater or lesser extent) in the civil war, with policemen becoming perpetrators, targets and casualties. In the aftermath of civil war, peace initiatives had to engage with the role of the police during the ‘conflict’. One example illustrates the predicament quite well: From the ruins of Sierra Leone’s war, the police would emerge in tatters. In such instances, a cosmetic tampering with uniforms, ranks and organograms would not even begin to engage with the scale of reconstruction required. Resurrecting from the ruins of war a civil police agency with some functional capacity to protect and serve citizens (along the lines of a British vision of consensual policing), would take a lot of doing. This indicates the sheer scale of the efforts required to reconstruct civil police agencies.

- The fourth period in the development of African policing is linked to the end of the Cold War and the new global environment. In the 1990s, the way was paved for the introduction of multiparty politics and competitive elections in most countries in Africa. Over such developments the international community hovered as a would-be benevolent benefactor. In this era, developmental agendas re-engaged with the reconstruction of the economy and polity in Africa. The creation of peace, stability and security became one critical ingredient of the expansive blueprints for change. It is at this point that a more substantive engagement with the question of police and policing in Africa became possible.

\textsuperscript{10} Ibid. p. 68.
\textsuperscript{12} Ibid. p. 20.
With such broad comments on the evolution of African politics and policing in mind, the discussion now turns to recent examples of police reform in post-conflict settings. This report attempts to capture critical features of recent experiments in police reform in selected countries in Africa. We follow a case-study approach to the topic. In the first case study involving police reform in South Africa, a detailed description is provided of the shape, content and outcome of fifteen years of efforts to modernise and democratise the national police agency in the post-apartheid era. The ‘exceptionalism’ of the South African case notwithstanding – it provides a window onto a range of challenges with which police reform in other transitional contexts have to contend. From here the discussion moves to seven further country-specific experiments in police reform. From these country profiles of police reform we extrapolate some common themes and key differences in the approach to, and outcome of, police reform. Common trends and key differences are outlined in more detail in the concluding section.

14 The ‘exceptionalism’ of South Africa lies in the modernity of its industrial base, its tradition of parliamentary democracy, and the vibrancy of its civil society.
3. INTRODUCTION: POLICING IN POOR, CONFLICT-RIDDEN AFRICAN STATES

The case studies presented here underline the fragile nature of social order in Africa over the past four decades. Where authority is weak, institutions unstable and dysfunctional, and leadership lacking probity, it can hardly be expected that the police will prove an exception. Yet stability, peaceful conditions and an adherence to the rule of law are prerequisites if Africa is to escape from poverty and underdevelopment. In bringing about social order, the positive role of policing agencies, both formal and informal, appears to be one key ingredient. Whether the policing agencies of Africa can perform this role remains an open question. Perhaps one encouraging sign is that for the first time, African leaders and the international community are agreed on the urgent task of police rehabilitation, and concrete action is underway on many levels to improve the provision of public safety. The case study data in this report illustrates the achievement of a fair amount of consensus on this point, at least at the level of public pronouncements and political rhetoric. The case studies also indicate that the task of police reform is as complex and intractable as that of ‘development’ as a whole.

Role of police in conflict and civil war: In cases of severe conflict, the public (state) police appear to be either irrelevant, or themselves a part of the problem; and armed force tends be monopolised by the military and various non-state militias. Insofar as the police have a significant role to play, it is often as paramilitary adjuncts to one or other of the contending forces. It is striking that in most of our case studies, politicians appear to have ‘given up’ on existing police structures, and created new armed units that act as roving agents of repression, control and regime protection. These units seem to be here to stay, but their role needs to be regularised as integral and law-abiding divisions of the overall police institution, otherwise they will pose the same problem to any elected government that the military and militias have posed over the last decades.

The police and the military: As in Latin America, the experience of military regimes in Africa appears to have taught the lesson that governments dominated by the military are no long-standing solution to social disequilibrium. Armies tend to disprove the argument that African states lack well-organised and well-resourced institutions. Soldiers have proved to be often-vicious guardians of state power. In all the cases examined in this report, except for a brief honeymoon after seizing power by toppling of a corrupt civilian regime, the army lacked one essential criterion for stable rule: popular legitimacy, whether formal or informal. The case studies presented here suggest that African militaries are now prepared to accept that their role is not to govern. But we lack adequate information on the developing relationships between the new police agencies and the formerly all-powerful militaries. Clearly, an element of tension must be expected, as armies tend to be weakened and resource-deprived while police are strengthened. The emergence of justice sector-wide approaches in contrast to security sector-wide approaches may represent a new manifestation of this dynamic. Another example manifests when police numbers are boosted whilst downsizing the military (as is common in post-conflict scenarios) which often results in political tensions within the security sector. (Sierra Leone demonstrates the pertinence of such tensions and the need for their strategic management).

The politics of police reform: Each case study provides proof of the intimate connection between police and politics. Police reform is a deeply political endeavour - political interests are fundamental to the process of reform. For example, in political systems where patronage is entrenched, police are tied to the apron strings of the political elite. In such contexts, the principles of equality before the law and non-partisan service delivery are inconceivable.
The scope and scale of police reform: In post-conflict settings, the scope of police reform is qualitatively different from what is usually understood by the term in conventional northern debates on the topic. In the context of regime transitions that take place amidst or in the aftermath of violent conflict, the depth and breadth of the reformist endeavour required to reform police agencies (in the image of their democratic and service-orientated western counterparts) is usually underestimated. In this regard, the concept of fundamental police reconstruction probably serves to better capture the potential scale of the reformist enterprise. The case studies demonstrate that the reforms envisaged often involve changes in structure (from centralised to decentralised structural arrangements), function (from an emphasis on defending regime security to the protection of citizen security), and in the basis of legitimacy (from regime-based legitimacy to legitimacy based on popular consent and participatory modes of democracy). And yet while this goal of fundamental change may be one that the police leadership and practitioners must keep in mind, it is one that seems unreasonably demanding in situations where governments themselves have very limited capacity. This points to the need for on-the-ground pragmatism. This point was made by Eric Scheye in referring to post-conflict countries such as Sudan, Liberia and Sierra Leone. In such countries, he argues:

The objective is to get the justice and penal systems (and police) up and running; no more, no less. It is not about long-term development, but short-term ‘getting the systems working in some form’. To try to do too much leads to failure. To be over-ambitious is not financially, politically, or culturally viable and there will be no real national control or ownership. In prisons that means getting the prisons functioning: basic security perimeters and mechanisms; ensuring that prisoners are not beaten or killed; getting rudimentary records of who is in the prisons for how long and for what; and food, clothing, shelter and healthcare for prisoners that is no better than what the ‘average’ person outside the prison experiences. In the justice system it means how to file and register a case; ensuring that the case file is stored and can be retrieved; having the judges/lawyers/police know what the law actually is… and above all resurrecting the linkages between traditional and official law and legal resolution…

The intricacy of police reform: Given the institutionally underdeveloped nature of most police agencies in Africa, institutional change is a multilayered affair. It includes reconstruction of the material base of the police organisation, human resource capacity development as well as more ‘cultural’ aspects of reform. A reconstruction of the basic police infrastructure may involve re-building police stations, supplying paper, pens and uniforms, putting communication systems in place, providing vehicles and petrol, or developing more specialist infrastructure involving forensic laboratories and so forth. All post-conflict police agencies require investment in the processes of recruitment, selection and training of police personnel. The human resource development needs are great at all levels of the organisation: from foot patrollers to middle-level managers and executive officers. The needs tend to far outstrip the resources available. This in turn requires a prioritisation of needs in the light of what is feasible - which assumes a police leadership with the capacity to undertake such strategic planning. Beyond infrastructure and human resources, lies a further critical area of development. Equally important, and difficult, is the forging of a new ethos for policing in which the basic democratic values of the rule of law, equality before the law and accountability to democratically elected institutions are protected. Human rights training, for example, is a standard feature of interventions in transitioning police institutions. Beyond the realm of basic democratic values, other reform principles also receive attention. New public management ideas are now routinely applied in the course of state reconstruction in Africa. This has resulted in an emphasis on ‘fiscal discipline’, ‘value for money’ and efficient ‘service delivery’ to the ‘clientele’ of the police. The reconstruction of security sector institutions under the direction of transnational institutions (World Bank, UN) and donor agencies bears evidence of the current demand for efficiency and economy in the delivery of police services in addition to an emphasis on rule of law and human rights. Most of the case studies allude to the gap between what is and what should be. The generalised state of despair and disrepute exuded by post-conflict police agencies

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stands in sharp contrast to the expansive demands for modernisation of the police machine, the professionalisation of its incumbents, and the democratisation of both the formal rules and the attitudes and practices of the informal police culture. Whilst the discipline of police studies has long insisted on the importance of the police subculture, little is known about the subcultural dynamics of African police institutions caught in the throes of political and organisational change.

The long and the short of police reform: Short term interventions aimed at stabilising crisis situations, providing emergency relief, undertaking the most basic of reform within the police organisation and building specific capacity with the view to policing elections, continue to be dominant features of assistance in many post-conflict situations. Although such interventions are important in their own right, they do not address the need for longer-term developmental interventions, as the preceding paragraphs have implied. The scale and cost of the British intervention for reform of the Sierra Leone Police, and the European Union-led intervention in security sector reform in the DRC are enviable examples of more ambitious long-term engagements. The scale of such efforts and the cost associated with them stand in contrast to the piecemeal and ad hoc nature of interventions in police reform in many other parts of Africa. The sheer scale of the reconstruction efforts raises the critical issue of finances and budgets, in which the police may not enjoy a high priority.

Costing police reform: Policy reform is a resource-hungry enterprise. There is little detailed literature on the costs involved in getting the most basic of policing capacity up and running, nor on sustaining its functioning in the longer-term. What is clear, however, is that the costs involved in police restructuring on the scale required in post-conflict situations far outstrip the capacity of underdeveloped national economies. Police reform competes with a litany of other equally pressing domestic priorities. It is into this breach that the development community steps. Whilst altruism may be greased by the worthiness of supporting the democratic project in Africa, a dependency on the West for funding the reform effort creates its own problems. Dependence on external resources does not sit comfortably with notions of national ownership of reform agendas and efforts. In the new fiscal environment, reform initiatives are expected to engage with budgetary implications. Some indication of costs is very necessary, as are such mundane issues of salaries that can attract the right recruits while insulating police officers as far as possible from the pervasive pressure to supplement low income with bribes and direct extortion.

Policy frameworks: The issue of the cost of police reform is made more complex by the fact that such reform is usually embedded in wider policies, with their attendant needs for resources. These policies are mostly spelled out in Peace Agreements, which provide road maps for transitions from war to peace. The extent to which reform of the security agencies is inserted into peace agreements varies. A comparison of, for example, the South African Peace Accord (1991), the Lomé Peace Agreement (Sierra Leone, 1999), the Arusha Accord (Rwanda, 1993) and the Comprehensive Peace Agreement (Sudan, 2005) illustrates wide variance in the detail of provisions and stipulated time-frames. In post-conflict contexts, police reform is, as a matter of course, tied to much broader policy frameworks - particularly policy relating to the Disarmament, Demobilisation and Re-integration (DDR) of ex-combatants. Again, the extent to which police agencies stand peripheral or central to DDR processes varies. The difficulties encountered in adhering to the policy objectives of DDR are many. The lack of employment for large numbers of ex-combatants creates its own dynamic for job-creation. State bureaucracies are often the only source for sheltered employment. The Namibian Police, for example, became a critical employer regardless of whether the insertion of ex-combatants fitted the professionalisation objectives of police reform. More recently, police reform has become tied programmatically to wider reform of the criminal justice system and/or the security sector. The policy frameworks associated with Security Sector Reform (SSR) or Justice Sector Reform currently in vogue in transnational think-tanks espouse the virtues of embedding police reform into wider and more ambitious sector-wide programmes. Such policy frameworks provide common terms of reference across
the donor community and may, in the long term, aid co-ordination of reform efforts within countries and between external players. However, rhetoric and promise concerning sector-wide security reforms continue to outstrip practice and actual delivery on the ground; and sector-wide approaches can slow and inhibit creative reforms within police institutions.

**Post-conflict contextual challenges:** As if the preceding problems were not enough, the dynamics of the transition to peace and early democracy usually provoke new realities that challenge police capacity. The national capacity to shape the agenda of police reform and translate policy into operational reality varies from one case to the next. At the national level, two ingredients are critical: political will at the centre, and civil society capacity at the extremities. The re-eruption of old conflicts; the emergence of new patterns of conflict (so often a by-product of democratic reforms) and the rise in crime more generally (a common feature of transitional societies) create social contexts within which the difficulties of sustaining reform efforts multiply. The rise in crime, together with the emergence of new forms of organized crime and the increase in public insecurity to which they give rise complicate democratic reform efforts. In such contexts, as the comparative record stretching from Latin America to Eastern Europe to Africa suggests, more punitive and militarised responses to criminality are evoked. Crime policies often oscillate toward short-term crime control strategies at the cost of longer-term crime prevention objectives. Perhaps the most that can be hoped for is that the parties involved - the political and the police leadership in particular - accept that the institutionalisation of professional policing is a long-term goal that should not be sacrificed even where immediate circumstances throw up obstacles.

**Critical players in police reform:** The South African case illustrates that a range of constituencies were involved in the process of police reform. Domestically, police reform drew on inputs from political parties across the political spectrum, key NGOs, research-based institutions, the corporate sector, and different units and groups within the police agency itself. External agencies included representatives of observer missions and the development community, policy consultants and foreign police advisors. The case studies illustrate the extent to which external agencies, such as donors, play a critical role in the design and implementation of policing policy. In the absence of much domestic capacity, transnational institutions (World Bank, United Nations), global think-tanks and donor agencies (European Commission, USAID, DFID-UK and so forth) tend to define, shape and steer police reform. African regional networks such as the Economic Community of West African States Monitoring Force (ECOWAS) and the West African peacekeeping mission known as ECOMOG are playing an increasingly important role in peace-keeping, in policy formulation for purposes of comparative lesson drawing, and in capacity-building. Regional and sub-regional policy networks are of critical importance. Networks in civil society (such as the African Security Sector Network [ASSN], and regional networks like the Southern African Defence and Security Management Network [SADSEM]) are as important as those between government agencies (such as the Southern African Regional Police Chiefs Cooperation Organisation [SARPCCO], the Eastern African Regional Police Chiefs of Cooperation [EAPCCO], and the Coalition of Police Forces in the Great Lakes Region and the Horn of Africa) and those created by multilateral bodies such as the African Union. Building the capacity for cross-national lesson-drawing and regional support within the continent can help to redress the imbalances bred by an excessive dependency on Western models. It can also contribute to regional ownership of post-conflict peace-building. Regional initiatives are also important because of the inter-dependency of national safety and security and regional stability. Many of the case studies profiled in this report graphically illustrate the extent to which the prospects for peace in Sierra Leone, Rwanda, DRC and Sudan (to name but a few) are co-determined by peace in bordering states.

**The inadequacy of reliable crime and justice information:** There is more English-language information available on the state of policing in Africa than expected, albeit contained in very scattered and disparate sources. However, the information is by no means adequate, for two reasons. First, it is
likely that there is some policing information which would be available to in-country researchers which has not been disseminated or published widely outside of the countries. The current status, for example, of legislative reform concerning the police in Sierra Leone, Nigeria and Angola, to name but three examples, could probably be easily ascertained by in-country researchers, but was not available to the research team based in South Africa; and the same must hold true for many other relevant issues, such as police salaries, rank structures, demographic composition of police forces and so on. But, secondly, there is the problem of the inadequacy of information available to the police themselves. The most striking example of course is that of crime data. Recorded crime statistics and victimisation survey data are today considered an essential adjunct of police work and policy planning in the developed world. Public opinion surveys, for example, can yield invaluable information about public perceptions ‘from below’ of the quality of governance more generally, and of government’s performance in combating crime more specifically. A case in point relevant to this report, concerns Afrobarometer’s most recent analysis of citizen perceptions of how well governments are responding to crime and corruption in twelve African countries. On this score survey data reveal both positive and negative trends.\(^\text{16}\) None of the countries studied here, with the exception of South Africa and Namibia, are able to produce remotely-reliable crime statistics, although some agencies such as the Angolan and Mozambican Police claim that statistics are collected and collated at headquarters. The capacity to collect, transmit, correlate and analyse statistics of this nature requires massive resources, trained personnel and the necessary equipment such as computer systems. If criminality in both its interpersonal predatory and more organised forms is a prevalent feature of post-conflict African societies, the absence of reliable crime information further limits the prospects of effective policing. Whilst international victimisation or crime surveys and UN-driven Safer City initiatives are beginning to yield much-needed information, police reform tends to be pursued in the absence of critical information about the crime environment; which may contribute to the kind of internal focus on organisational reforms rather than the external attention to citizen safety which bedevilled the early South African approach to police reform. The compilation of basic and reliable data on crime in Africa, and particularly in its urban centres, requires attention.

**Policing in the rural hinterland:** If the above-mentioned problems hinder policing of the urban centres, policing of Africa’s rural hinterland remains even more severely underdeveloped. The problem is largely a function of the lack of capacity of most post-colonial administrations to extend their administrative rule into rural areas. In many instances, the provision of security and safety in the countryside has long relied on traditional informal justice mechanisms. Observations from the field\(^\text{17}\) underline the importance of these non-state social ordering arrangements. The uneven access, of rural communities in particular, to mechanisms of state justice are important when contemplating how best to address the security needs of citizens in post-conflict Africa. It may be, as many commentators have suggested, that there is a need for pooling the policing resources of formal and informal agencies.

**Ongoing informalisation and privatisation of policing:** This report focuses on reform initiatives which target public police agencies functioning under the auspices of the state. Each of the case studies yields insights into the capacity deficits confronting African states and their police. In each case, there is also evidence of the long-standing informalisation of policing and more recently, the privatisation of the provision of security. In the light of these realities, the state is unlikely to be able to settle the demands for security. Beyond the range of issues to be addressed when focusing on reform of public police forces in post-conflict societies in Africa, there lies a broader challenge of assessing the role of non-state policing agencies. This issue is particularly pertinent for this study, given that most of the countries

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surveyed possess valuable raw material reserves that constitute potentially lucrative sources for state revenue - and also for high-level corruption. Oil and diamonds, to cite only the two most obvious cases, could fund the reform of much more than the police, if systematically collected and honestly expended. The issue is a complex one, touching on not just the proliferation of private security in countries like Nigeria, Sierra Leone and Angola, but also the hesitant beginnings of an institutionalised anti-corruption mechanism for African states. The latter in turn depends in large part on the successful reform of the ‘men in blue’.

Similarity and diversity: The case studies in this report highlight a number of common concerns in the course of post-conflict police reform, such as those related to amalgamation of police (or military) forces, civilianisation and demilitarisation of ‘new’ police agencies, and establishment of various devices to improve police accountability. In most of the police reform initiatives under way at present, there are marked similarities in discourse – concepts such as accountability, partnerships, service to communities, and improved community relations appear universal. Despite the massive diversity of conditions across the continent, these similarities suggest that there is value in sharing of experiences and lessons between African states and police agencies.

Progress despite obstacles: Lastly, it is important to recognise the range of experiments in police reform that have been undertaken in recent years across Africa, and to acknowledge the achievements which have been won despite obstacles. A comparative assessment of such achievements is likely to be of strategic significance as post-conflict societies try to expand their efforts in pursuit of police reform.
4 SOUTH AFRICA CASE STUDY REPORT

Police reform in South Africa must be understood within the unique political environment of South Africa’s transition to democracy. This was shaped by a negotiated political settlement, which saw the liberation movements agreeing to retain all apartheid civil servants (including police officials) in their previous positions, the creation of a power-sharing Government of National Unity for the initial post-democracy period; and the establishment of a Truth and Reconciliation Commission which dealt with some apartheid police abuses. While the final, critical stages of the negotiations were under way, the police were already involved in negotiating new arrangements for public order management and election security, under the auspices of the multi-party National Peace Accord, which gave them some early experience of the style that would be required by a democratic government.

The police reform process saw greater priority given in the early transition period to the priority of creating a new legitimacy for the state institutions, rather than to the challenge of making those institutions more effective against crime. For Mandela’s government, the critical challenge was to build a basic relationship of trust between citizens and state agencies such as the police, which had been strongly associated with apartheid repression, lending them the legitimacy of being associated with the new regime, and thereby building a police-community relationship which would allow for basic functionality of the police institution. The initial approach to institution reform of the police in South Africa was informed by a clear strategic decision by the ANC-led Government to achieve political control of the police by the new government, with a correlating strong emphasis on accountability and oversight. It was only in the second term of the democratically-elected government, after political control and legitimacy had been achieved, that the government began to strongly emphasise the role of the police in crime-combatting.

The process in which South African police reform was conceptualised and executed began during the multiparty negotiations which led to the first democratic elections. At that stage, the majority party (the ANC) did not have significant expertise on policing policy matters, and made significant use of input by domestic policing researchers, lawyers, peace workers and human rights activists to supplement the views of its own military and intelligence cadres. Civilian advisors to the first ANC Minister responsible for policing were drawn from these same sectors. With so many issues to attend to in the initial phase of police reform, the new South African government attached great importance to various strategic priorities and policies, leading to a situation in which there was much excellent policy on paper, but inadequate capacity to implement the policies within the police institution itself.

The following description of the process of police reform in South Africa does not adequately capture the human experience of the process. While the South African experience of police reform is often cited as a model for other African states, it is important to bear in mind that the process was laborious and often agonising for the members of the police organisation.

4.1 HISTORICAL AND POLITICAL CONTEXT

The system of apartheid was designed to entrench white minority rule and racial segregation in South Africa. It was characterised by highly racialised economic inequality and by large-scale social engineering to ensure the subjugation of black South Africans, who make up 80% of the country’s population. Although the apartheid system only existed formally from 1960 to 1990, it was built on a legacy of 200 years of white colonial rule, and rested on strong foundations of racial exclusion and economic exploitation, which had been established by successive generations of Dutch and British
colonists. Popular resistance to colonialism and apartheid was led by the African National Congress (ANC), which was formed in 1912 and banned by the apartheid government in 1960. Apartheid was declared a crime against humanity by the United Nations, and a large-scale international campaign developed to isolate the South African government and support the ANC and other liberation movements.

One of the key features of the apartheid system was the racial organisation of the state, with the security institutions similarly organised – the South African Police and judiciary were dominated by white officers at the senior level. South Africa under apartheid was notorious for the brutality of the security forces and the widespread violation of human rights. Over the 30 years of formal apartheid (1960-1990) an estimated 78,000 people were detained without trial by the police because of their political activism against apartheid, and 73 deaths in police detention were recorded. In the last years of the system, security forces were responsible for high levels of torture, extra-judicial executions and disappearances of pro-democracy activists.

The enforcement of racist and unpopular laws created a profound crisis of legitimacy for the criminal justice system in South Africa. In many respects, the police played a military role, crushing popular protest in South Africa’s de-facto civil war, as well as being deployed in support of white regimes against independence struggles in neighbouring states. Under successive apartheid governments, the police, intelligence service and the military vied for political dominance and greater slices of the national budget. By the late 1980’s, the apartheid state was in severe crisis, forcing the police, the military and the bureaucracy to devise joint strategies to defeat the liberation movements, and an integrated National Security Management System (NSMS) was established to oversee the successive ‘States of Emergency’ that were declared after 1985. By 1986, the police and the army began to implement their counter-revolutionary strategy, with the aim of destroying the ANC and its allies, and restoring initiative to the state. The strategy entailed establishing a firm police and army presence in the townships and suppressing protest and or resistance; ‘taking out’ leadership through mass detentions, trials, harassments and assassinations; re-establishing intelligence networks; the ‘counter-organisation’ of communities through setting up groups with links to the security forces, the use of vigilantes; and the alleviation of socio-economic grievances through the upgrading of selected trouble spots... Nearly 30,000 people were detained in 1986.

This period of repression further cemented the alienation of the police from the majority black population. Police officers were not just unpopular; they were the targets of abuse and violence from pro-democracy quarters. In some places, police officers and their families were unable to live in ordinary residential areas for fear of attack; and special barracks were provided alongside police stations.

In late 1987, the apartheid state took its first public steps towards a negotiated settlement with the liberation movements, when it released ANC veteran Govan Mbeki from prison. This was a ‘test case’, and the security elites had not anticipated the massive popular reception Mbeki received. Shortly

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18 The former South African Police was deployed in the ‘bush wars’ in Namibia, Angola, Zimbabwe and Mozambique, and also participated in cross-border raids on the bases of the exiled liberation movements.
19 “Military and police personnel were prominent at all levels in the NSMS, with the police taking command of the lower levels and playing the dominant role in operational command. The very fact that the primary threat was now seen as domestic and not external meant that the police began to reassert their role in strategic intelligence and hence in influencing state strategy. The emergency also required the substantial strengthening of the police, which began to draw away some of the state funds which would previously have flowed to the defence force.” See Cawthra, G. 1993. Policing South Africa: The SAP and the Transition from Apartheid. Cape Town: David Philip. p. 32.
20 Cawthra ibid. pp. 32-3.
afterwards, a new wave of bannings and repression began, with police and courts charging thousands of people with political offences. 

At the same time, international isolation of the apartheid state intensified as sanctions took effect. In early 1988, the South African military was defeated in battle in Angola for the first time – a crucial symbolic moment. The repressive strategy had resulted in virtual civil war in South Africa’s cities and rural towns, high levels of militarisation, fear and conflict between its citizens, and the alienation of an entire generation of black children from schools and most other institutions and symbols of authority, including their families and traditional social structures. The influence of the security agencies began to wane within the apartheid government, and a new breed of ‘enlightened’ Afrikaners began to emerge, advocating reform and dialogue with black leaders. In 1989, a more liberal wing of the ruling National Party took control and F W De Klerk was appointed State President. The following year he unbanned the African National Congress (ANC) and the other liberation movements, releasing ANC leader Nelson Mandela and other imprisoned leaders. This marked the commencement of a protracted period of negotiations towards democracy.

One of the features of the lengthy negotiated transition in South Africa was the breakdown of racially-exclusive and repressive apartheid structures responsible for administering various material aspects of life – notably systems of law enforcement, education and welfare provision – without immediate replacement by legitimate or effective alternatives. This ‘deregulation of social control’ during the end of apartheid and the negotiation period facilitated increased levels of criminal and social violence, notably during the early 1990s. The period leading to open elections in 1994 was characterised by brutal domestic conflict and rising crime rates. Writers on the South African transition argue that, because of the preceding decades of state repression, violence had become socially approved as a means of maintaining or obtaining political power. This acceptance of violence penetrated all spheres of life.

When negotiations began, the South African government and its homelands had eleven police agencies, five different militaries, and various intelligence organisations and branches of the judiciary. The ANC, on the other side of the table, had their ‘armed wing’, and an ‘intelligence department’, and there was a smaller ‘armed wing’ in one of the other liberation movements – the Pan Africanist Congress (PAC). The government elected in April 1994, dominated by the ANC under President Nelson Mandela, faced a monumental task in reconstructing all these inherited criminal justice and security agencies into agencies that would be acceptable to all South Africans and that could address the complex problems of crime facing the country.

### 4.2 POLICING ARRANGEMENTS

At the time of the political transition in 1994, South Africa had eleven police forces, the largest being the SAP or South African Police, and the others each reporting to the governments of the ethnic ‘states’ created under the apartheid homeland system. The composition of the forces was as follows:

<table>
<thead>
<tr>
<th>POLICE FORCE</th>
<th>NUMBER OF PERSONNEL</th>
<th>% OF TOTAL SA POLICE NUMBERS</th>
<th>% WHITE PERSONNEL</th>
<th>% BLACK PERSONNEL</th>
</tr>
</thead>
<tbody>
<tr>
<td>South African Police</td>
<td>112 057</td>
<td>80%</td>
<td>45%</td>
<td>55%</td>
</tr>
<tr>
<td>Bophuthatswana Police</td>
<td>6 932</td>
<td>5%</td>
<td>0.2%</td>
<td>99.8%</td>
</tr>
<tr>
<td>Transkei Police</td>
<td>5 377</td>
<td>4%</td>
<td>0</td>
<td>100%</td>
</tr>
</tbody>
</table>

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21 Cawthra ibid. p. 34.
<table>
<thead>
<tr>
<th>Police Service</th>
<th>Total</th>
<th>Rank</th>
<th>Crime Rate</th>
<th>Murder Rate</th>
<th>Murder Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>KwaZulu Police</td>
<td>5,264</td>
<td>3.7%</td>
<td>0</td>
<td>100%</td>
<td></td>
</tr>
<tr>
<td>Lebowa Police</td>
<td>3,357</td>
<td>2.3%</td>
<td>0</td>
<td>100%</td>
<td></td>
</tr>
<tr>
<td>Venda Police</td>
<td>2,013</td>
<td>1.4%</td>
<td>0.1%</td>
<td>99.9%</td>
<td></td>
</tr>
<tr>
<td>Ciskei Police</td>
<td>1,806</td>
<td>1.3%</td>
<td>0.1%</td>
<td>99.9%</td>
<td></td>
</tr>
<tr>
<td>KwaNdebele Police</td>
<td>1,205</td>
<td>0.9%</td>
<td>0.5%</td>
<td>99.5%</td>
<td></td>
</tr>
<tr>
<td>QwaQwa Police</td>
<td>1,032</td>
<td>0.7%</td>
<td>0.2%</td>
<td>99.8%</td>
<td></td>
</tr>
<tr>
<td>Gazankulu Police</td>
<td>1,012</td>
<td>0.7%</td>
<td>0</td>
<td>100%</td>
<td></td>
</tr>
<tr>
<td>KaNgwane Police</td>
<td>793</td>
<td>0.6%</td>
<td>0.1%</td>
<td>99.9%</td>
<td></td>
</tr>
<tr>
<td><strong>TOTAL POLICE</strong></td>
<td><strong>140,848</strong></td>
<td><strong>100%</strong></td>
<td><strong>36%</strong></td>
<td><strong>64%</strong></td>
<td></td>
</tr>
</tbody>
</table>

### 4.2.1 ONE NATIONAL POLICE SERVICE – THE SAPS

The new constitution that came into effect in 1994 created one national police service (the SAPS), to be organised under the command of the National Commissioner and nine Provincial Commissioners.

The 1994 Constitution required that a new Police Act should be promulgated, to govern the new police arrangements for the country. The Minister appointed a technical team (consisting of police and civilian lawyers) to draft the legislation, and, after a lengthy period of negotiation and consultation, the SAPS Act was enacted in late 1995. Among the innovations contained in the Act were:

- Restructuring the Police Service into National Divisions, provincial demarcations to match the geographic boundaries of the new Provinces, ‘Areas’ (groups of stations in a district) and Stations, with various types of command and oversight at each level.
- The creation of the National and Provincial ‘Secretariats for Safety and Security’, which would advise the political executives on police policy matters and monitor police adherence to new policy. This was motivated by the ANC’s desire to see political control of the police vested in civilian hands.
- A legal requirement that the National Commissioner of Police should annually publish his plans, priorities and objectives. This was intended to enhance transparency in police policy-making, and to enable monitoring of the efficiency and effectiveness of the police service.
- The creation of statutory ‘Community Police Forums’ where local police would liaise with, and account to, local communities.

### 4.2.2 MUNICIPAL POLICE SERVICES

In addition to the SAPS, there are some local, Municipal Police organisations, which are each independent, created and funded by municipalities. These exist only in the largest cities/metropolitan areas in South Africa. Their functions are limited to traffic enforcement, municipal bylaw enforcement and crime prevention; and they also assist with some crowd management. They do not have investigation or intelligence functions; and their powers can only be exercised within the municipal boundary.

Municipal police services exist in the following metropolitan centres (large cities):
- City of Johannesburg
- City of Tshwane (Pretoria)
- Ethekwini Metro (Durban)
- Cape Town
- Ekurhuleni Metro (East Rand).
To establish a municipal police service, a local council must make a detailed application to the provincial government and comply with a number of criteria. At present, it seems unlikely that any further municipalities will apply to establish municipal police services. Councils are beginning to realize that provision of round-the-clock policing services is extremely expensive, and that the city’s success in reducing crime or improving safety will depend on numerous other factors, not merely on the existence of a municipal police service. Early indications are that the municipal police do, in any event, spend most of their time and resources on traffic policing and far less on crime reduction or bylaw enforcement.22

There are problems in the relationship between the municipal police organisations and the SAPS, and various structures have been created to improve co-ordination between them.

4.2.3 STATE INTELLIGENCE AGENCIES

There are two specialised intelligence services, both organised at the national government level – the National Intelligence Agency (NIA) which concerns itself with domestic intelligence, and the South African Secret Service (SASS), which focuses on foreign intelligence. There is a National Cabinet Minister for Intelligence Services, who is politically responsible for intelligence, and a civilian ‘Inspector-General for Intelligence’ who is responsible for oversight over the Intelligence Services. The SAPS also has a ‘crime intelligence’ component, which co-ordinates with the other intelligence services.

4.3 POLITICAL CONTROL AND INDEPENDENCE OF THE POLICE

The new government created a Ministry of Safety and Security at the national government level, and similar posts in the Executive Councils of each Provincial government. The SAPS National Commissioner reports to the National Minister of Safety and Security; the National government provides the entire budget for the SAPS; and the National Commissioner is the ‘accounting officer’ for that budget.

There is a provincial Minister (called Members of Executive Councils or MECs) for Community Safety in each of the nine Provincial governments. These MECs are politically responsible for policing in their provinces. The Provincial governments do not allocate budgets to the police, but play some role in directing and monitoring the activities of the police in their province. The Provincial Commissioners of Police report directly to the National Commissioner, but also report and account, for some of their functions, to the Provincial government through the MEC for Community Safety and the Provincial Departments of Community Safety.

The question of political independence (impartiality) of the police, and the parallel issue of how the government gives ‘direction’ to the police have been central themes of debates around police reform in South Africa. This is due to the history of massive political interference and bias in policing under apartheid. At that time, the police were unashamedly used as a tool of the ruling National Party, whereas the new dispensation envisaged a Police Service that serves all South Africans. Three devices were created in the arrangements for policing, which aimed to manage (and transform) the relationship between police leaders and politicians:

- A distinction was made, in law, between the Minister’s role in ‘giving direction’ to the police, and the National Commissioner’s role in ‘command’ of the police organisation.

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A great deal of emphasis is placed on the principle of police accountability; with the police being required to answer for decisions and actions to a range of institutions and oversight bodies. This ‘answerability’ counterbalances the professional independence of the police.

Rather than the Minister being advised only by police officers, the new arrangement in South Africa provided for the establishment of civilian policy units (the National and Provincial ‘Secretariats for Safety and Security’) in both the national and provincial governments. This capacity was intended to enable the politicians to make considered policy choices, and to have other sources of information with which to balance the information and advice they receive from the police.

4.4 POLICE REFORM ISSUES

4.4.1 INTEGRATION / AMALGAMATION OF POLICE AGENCIES

Integration of Eleven Police Agencies

The eleven police agencies described above were amalgamated to form the new, unified national Police Service. In addition, a small number of former combatants from the ANC and PAC were integrated into the new SAPS; as well as a group of ‘self-defence unit’ (SDU) and ‘self-protection unit’ (SPU) members from a region of the country that had experienced severe levels of political conflict during the pre-democracy period.

The process of amalgamating the eleven police agencies was managed by a team established by the Minister shortly after the 1994 election. Known as the Amalgamation Management Team (AMT), it was co-chaired by a senior police officer and one of the Minister’s civilian advisors. It consisted of representatives from all the police forces, plus a number of other SAPS personnel and experts. A number of sub-committees were formed, each tasked to deal with a particular aspect of the process, for instance

- design and feasibility of a new, common uniform for the SAPS
- design of new insignia and signage
- integration of Medical Aid and Pension systems
- integration of rank and promotion systems.

On many of these issues, technical, legal and financial factors had significant impact on the final ways forward; and in-house police experts (mainly from the SAP) played key roles in investigating and defining policy options for the new government. Finances also determined that government could not afford to manufacture an entirely new uniform for all 140 000 of its new police officers, so elements of the old SAP uniform were retained, with only partial replacement of new items of clothing. For similar reasons, some of the changes (such as changing the colour of police vehicles from yellow to white) were phased in gradually over a period of years after the amalgamation.

The Constitutional provision for one Police Service made the amalgamation process essential - there was no room for objection by police officers.

An issue which was given insufficient attention during the organisational reform process was that of police corruption, and, in particular, the legacies of corruption that were attached to the former ‘Bantustan’ or ‘homeland’ police forces. It was only later during the SAPS ‘Transformation’ phase that
corruption came to be seen as a key element of the overall change management effort, and even then, efforts to tackle police corruption have been criticised as inadequate.\textsuperscript{23}

**Integration of ex-combatants**

One of the agreements reached in the negotiations process was to incorporate members of the former liberation movements’ armed forces into the new South African security forces. This was a key dimension of negotiations around the future of the military, but was less significant in the negotiations about the police, for a number of reasons.

- Little preparation had been done by the liberation movement for taking control of policing. Neither the ANC nor the PAC had trained any of their exile members in police work. The closest that they came to having a policing capacity was their intelligence and protection components. (The ANC, for example, had a ‘Department of Intelligence and Security’ which was separate to its armed wing, Umkhonto We Sizwe). There were some ANC operatives who had been deployed into the apartheid police forces, mainly for intelligence-gathering purposes, and some who had been captured and ‘turned’ by the police; but it was deemed unstrategic by the ANC to expose or promote these members in the immediate post-election period.

- In respect of Security Sector Reform, the main political concern of most of the liberation movements was the possibility of a right-wing coup from the military, and thus their focus was on the transformation of the defence force.

- apartheid’s alienation of the police from the black majority made the prospect of working in the police a far less attractive one for liberation movement cadres than working in the army or intelligence services, to which significant numbers of former combatants would migrate, some likely to hold command positions.

A small number of ANC and PAC personnel were ‘integrated’ into SAPS VIP Protection (bodyguard) and Crime Intelligence Divisions, two of the most politically-sensitive units in the police organisation:

- **VIP Protection**: Protection of VIP’s is a responsibility of the police organisation; but, prior to 1994, the liberation movements had provided their own security for their VIPs. Integration of the ANC and PAC security personnel was necessary once the leaders of those parties assumed positions in the democratic government. The early command of the newly-integrated VIP Protection unit was shared between an officer from the former SAP, and one who came from the ANC. The two commanders emphasised, trust, their personal relationship based on professional values, and the need to be assertive and to take the lead. Their key challenge was to get the Unit to function, with the members from both sides integrated effectively and efficiently as united teams. At first, no clear policy guidelines on integration were available from the government, and the Commanders had to improvise and solve problems as they arose. One of the key challenges was to determine employment levels (rank and salary levels) in the absence of policy guidance; and the Commanders decided to use individual years of service in both statutory and non-statutory forces as the baseline for decision-making. In terms of skills and training, members from the former SAP questioned the policing knowledge, skills and experience of the members from the non-statutory forces; and the former ANC & PAC members believed that the former SAP members had not been exposed to international best practices and were therefore not up to the standards used by the ANC & PAC cadres. To address this, a shorter version of the new SAPS Basic Training Programme, developed with international assistance, was introduced for the newly-integrated personnel, and international trainers were

brought in to re-train the entire unit. Members from the former SAP were thus exposed to VIP Protection Training from countries to which they had not previously been exposed, notably Germany. The training process assisted in generating mutual recognition for knowledge and skills gained prior to integration. The style of the new government leaders also played a role in inculcating a new culture in the unit – Mandela, in particular, is cited as an example of how mutual respect and cordial relationships developed between the protected VIP’s and their and protectors.

- **Crime Intelligence**: Command of the Crime Intelligence Unit (a restructured version of the notorious SAP Security Branch) was given to an ANC intelligence officer, although most of the officers who reported to him remained white, former Security Branch personnel. The combination of South Africa’s Truth and Reconciliation Commission process (which focused on the former Security Branch officers as key agents of apartheid police abuses) and a series of generous retrenchment packages offered to encourage the departure of ‘undesirable’ former apartheid police officers saw a severe flight of experience from the Crime Intelligence component of the police. This loss of capacity was one of the key issues associated with the subsequent need to strengthen the crime intelligence function of the SAPS as part of its later imperative to combat crime.

The integration of liberation movement personnel into the SAPS was far from smooth, and this aspect should probably not be regarded as one of the successes of the South African police reform experience. The integrated bodyguards, for example, have had limited access to promotion and career development, because they did not undergo regular police training at the time of their integration into the SAPS. They are therefore disadvantaged, relative to their colleagues from the former apartheid police forces, who were regular police officers before developing their speciality in bodyguard work, and hence enjoy greater potential mobility in the police organisation.

### 4.4.2 IMPROVING POLICE-COMMUNITY RELATIONS

The need to improve relationships between the police and the previously alienated black majority was one of the key drivers of police reform in the early democracy period in South Africa. The concept of ‘community policing’ had already been adopted by some sectors of the apartheid police institutions (gleaned from limited contact with the international police fraternity) and was politically appropriate to the policies of the newly-elected ANC government. The 1994 Interim Constitution contained a detailed requirement that the new police service should establish a Community Police Forum (CPF) at every police station to enable consultation with the local community. The motivation for this was to rebuild police-community relations, and encourage local-level accountability of the police to the community it serves.

The early years of community policing in South Africa were characterised by an over-emphasis on the establishment of CPF’s (and the many difficulties associated with these), rather than on changing the style of local police work. This was further complicated by the realities that many of the most talented police leaders had been promoted away from community interface into the overstuffed regional, provincial and national police headquarters; and that local police station managers often felt disempowered by the tradition of authoritarian, centralised and hierarchical decision-making that had characterised the police organisation – in contrast to the locally-appropriate flexibility, which community policing now required. One of the key problems of the South African model of community consultation revolved around the question of funding to sustain the activities of the CPFs. This was managed

24 The small change in the name was intended to signify a new approach— ‘communities' come first.
differently in different provinces (as community policing was seen as a provincial matter), and, in some parts of South Africa, international donors supported extensive facilitation and training for CPFs in the early years of their existence.

CPFNs played a crucial role in building positive police-community relations in the early transition period. However, their success, sustainability and impact have varied considerably over time, and in different parts of the country. In addition to poor service delivery (performance) by the police, corruption emerged as one of the key problems raised by many communities in their dialogue with the police; and, in many places, these problems (corruption and poor police performance against crime) became new obstacles to good police-community relations later in the transition period.

Policy regarding community policing shifted from enabling structured liaison and communication, to emphasizing collaborative problem solving and subsequently to providing a framework for participatory and complementary local-level crime reduction. Now, a decade later, there is some discussion in policy and advocacy circles about the need to review the legal framework for community consultation, and it is possible that the CPF model will be amended as part of proposed changes to the legal framework for policing.

4.4.3 CHANGING PERSONNEL DEMOGRAPHICS IN THE SAPS

To build the legitimacy of the new South African police service and facilitate improved relationships with the black majority population, two aspects of the composition of the police service had to be addressed: the racial composition of the police organisation, particularly at the top level; and the fate of police officials who had perpetrated gross human rights violations under apartheid (this is described later under the section on transitional justice).

The archetypal image of a police official in apartheid South Africa was of a rather brutish, uneducated, working-class, white, Afrikaans-speaking man. Viewed together, however, the eleven apartheid police agencies were by 1994 roughly representative of the racial composition of the South African population - 64% of the combined personnel of the police organisations was black. What did characterise the old South African Police, however, was the predominance of white Afrikaner males in its senior ranks.

Post-apartheid transformation efforts saw some significant changes, especially at the most senior levels of the officer corps.25

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26 The figures in the final line of this table are drawn from the most recent SAPS Annual Report 2005-2006, which is available online at http://www.saps.gov.za/saps_profile/strategic_framework/annual_report/2004_2005/organisational_profile.jpg I have assumed that all ranks from Director and above are in the category ‘senior ranks’ and that ‘junior ranks’ refers to non-commissioned officers.
By 2004, 58% of the Commissioned Officers were black, and 79% of all uniformed police officers were black. The police have been one of the most successful government departments in changing the racial composition of their top ranks, but this has not been without costs, such as “political displacement, social bewilderment, and rank-and-file demoralisation.”

4.4.4 DEMILITARISATION / CIVILIANISATION OF POLICE

Demilitarisation of the police in South Africa had two main aspects:

Firstly, in terms of the symbols and culture of policing, demilitarisation meant changing the style of policing to make it less military, less hierarchical and less authoritarian – moving towards a community-based style of policing rather than a colonial style of policing. These changes included:

- Changing the names of the rank system to a demilitarised form – e.g. from ‘General’ to ‘Commissioner’.
- Changing the uniform and insignia to a less military-style (including informal jackets and baseball-style caps).
- Changing some of the weapons used by the police – e.g. automatic rifles were no longer to be used by the police.
- Changing some of the vehicles used by the police – e.g. the ‘Casspir’ that was similar to an armoured troop-carrier was phased out.
- Introduction of legal trade unionism in the police (with some limitations, such as no right to strike).
- Introduction of a human rights-based labour relations dispensation in the police, instead of a system based solely on military discipline.
- Changes to the Basic Training system of the police, to train recruits in community-based policing skills, rather than in military formation drill and rote learning.

Secondly, in terms of control over policing, demilitarisation meant removing the police from the ambit of military influence to ensure civilian, rather than military, control over the police organisation and police policy.

In the effort to improve civilian control over the police, the following steps were taken in South Africa:

- Ensuring that the Ministers of Safety and Security were from non-military backgrounds.
- Establishment of the National and Provincial ‘Secretariats for Safety and Security’ as civil service structures, staffed by civilians rather than police officers (although there were some police officers employed in the early years), designed to support the Ministers.
- Establishment of various structures of ‘civilian oversight’ over the police (see below).

One of the key areas for demilitarisation of police practices was that of Public Order Policing. The former “Riot Units” and “Internal Stability Units” – which had been responsible for the management of crowds and public events under apartheid – were re-formed into the Public Order Police Unit (POP). Policy guidance for this element of the reform project was available in the form of reports and recommendations generated during the National Peace Accord period prior to the 1994 elections by a Judicial Commission of Inquiry headed by Judge Richard Goldstone. The new government appointed both local civilian advisors and international technical advisors (mainly from the then-Belgian Gendarmerie) to ensure implementation of the Goldstone commission recommendations. This resulted in:


in a far more systematic process of reform to this unit, including re-selection and re-training of all its members. The transformation of public order management by the police in the post-democracy period was empirically evidenced by the dramatic decline in the number of incidents of police violence used against crowds.

4.4.5 OVERSIGHT AND POLICE ACCOUNTABILITY SYSTEMS

One of the key features of the South African model of police reform is its emphasis on ‘accountability’, which was a reaction to the highly politicized and unaccountable nature of apartheid policing. This led to the creation of a system of civilian oversight of police which is elaborate, complex and expensive. It is sometimes described as a ‘multiple accountability’ model, requiring the police to account to a number of different structures and audiences.

Significant efforts and resources - including large amounts of international donor aid - were directed at improving human rights compliance by police and prosecutors during the early period of the transition to democracy. However, one of the issues which only later began to emerge as a significant subject for scrutiny was the problem of police corruption, which now features strongly in contemporary discourse about oversight and accountability for police misconduct in South Africa.

At the institutional level, numerous bodies were established to oversee and investigate alleged abuses in the justice and security sector. The various civilian oversight structures are:

4.4.5.1 Parliamentary Oversight

There are numerous parliamentary committees responsible for oversight of the police at both the national and provincial legislatures. These committees are multiparty committees, made up entirely of elected civilian representatives, and most of their proceedings are open to the media and the public. At the national level, the most significant structure for parliamentary oversight is:

- The Portfolio Committee on Safety and Security, which is dedicated to overseeing safety and security matters, including policing, crime prevention and private security.

There are also a number of other Parliamentary Committees that play various roles in overseeing the police:

- The Portfolio Committee on Finance, which is responsible for overseeing financial matters of all government departments, including the police.
- The Portfolio Committee on Intelligence, which oversees all the intelligence agencies, including the intelligence functions within the police (for instance, SAPS Crime Intelligence).
- The Portfolio Committee on Public Service and Administration, which oversees the government-wide implementation of policies such as affirmative action, improved service delivery, etc.
- The Portfolio Committee on Gender, which oversees SAPS performance on gender issues and its adherence to national and international gender policies.

At the Provincial legislatures, there are similar Committee structures, though fewer in number. The Provincial legislatures are smaller and Members of the Provincial Legislatures (MPLs) often sit on many Committees, so they have less time to dedicate to any one Committee. These constraints, combined with the fact that Provincial Governments do not actually fund policing in their provinces, means that oversight by the Provincial Legislatures is taken less seriously than at the national level.
The elaborate system of parliamentary oversight means that the police management spend a great deal of time in parliament during committee sessions, accounting to the various committees. From time to time, Committee members embark on site visits to police stations and compile reports about the situation on the ground. Committee members (and other MPs) also receive occasional reports about police misconduct or poor performance from individual citizens or organisations, and are often very responsive to media reports about problems in policing.

However, despite the appearance of thorough parliamentary oversight, many of the committees are weak, and the police are seldom thoroughly held to account. The police leadership tend to ‘baffle’ the committees with huge volumes of information presented in highly technical formats, thus avoiding criticism and difficult questions. There have been instances of senior police leaders being downright disrespectful to the Committee (refusing to answer questions or follow the Committee’s agendas), which has undermined the entire notion of democratic accountability.

4.4.5.2 Complaints - The Independent Complaints Directorate (ICD)

The ICD is a body established by statute in 1997 to deal with public complaints about the police, and to investigate serious incidents of police misconduct, such as deaths in police custody and at the hands of the police. It is an independent, non-police body, which reports to the Minister of Safety and Security and to the Portfolio Committee on Safety and Security in Parliament.

The objective of the ICD as established in legislation is to

\[\text{ensure that complaints in respect of offences and misconduct allegedly committed by members of the Service are investigated in an effective and efficient manner.}\]

The law does not require that the ICD actually carry out any investigations itself, nor even that the ICD itself should necessarily be the principal vehicle for receiving complaints. What these provisions do impose is an obligation on the ICD to ensure that complaints in respect of offences and misconduct allegedly committed by members of the SAPS and MPS are “investigated in an effective and efficient manner”.

In the eight years up to the end of March 2005 it had, according to ICD annual reports, received 30 083 cases falling within its mandate. This included 5 340 cases involving deaths in police custody or as a result of police action, cases which the ICD itself is obliged to investigate. In addition, the ICD also received many other cases that did not fall within its mandate and which it referred to other bodies.

Not all complaints about the police are directed at the ICD. A SAPS standing order makes provision for the SAPS to receive and investigate complaints from the public against SAPS members. The SAPS receives somewhere between 1 500 and 21 000 complaints against SAPS members each year simply through the special national telephone complaints lines. Many complaints are also lodged against police

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29 Its budget is a separate line on the Safety and Security (police) budget vote; and this is the subject of some criticism from sectors of civil society, who believe that for the ICD to be truly independent, it should have an entirely separate budget. However, this is not possible within Treasury Regulations.

at police stations. Many of these complaints received by the police from members of the public are probably dealt with informally rather than through a disciplinary hearing, (and hence would not be reflected in any records) and some of them may not be dealt with at all.

Depending on its discretion and available resources, the ICD can decide to investigate any complaint. In practice, the ICD has adopted the approach of trying to investigate as many of the complaints as possible, itself.

The ICD has its own investigators (some of whom are former police detectives) who investigate the most serious complaints. Its total staff complement is approximately 160, located in a national office in Pretoria as well as at nine offices in the Provinces.

On conclusion of an investigation, the ICD makes recommendations to the National Commissioner of Police about how to deal with the matter. The National Commissioner exercises his discretion in implementing suggestions made by the ICD; but its reputation and stature are such that he can seldom just ignore recommendations. This is the result of many years of relationship-building between the police and the ICD. Also, police leaders now see the benefit of having an independent investigation agency for complaints and controversial cases; and the police themselves sometimes refer cases to the ICD for investigation.

Where ICD investigators uncover evidence of criminality, cases are referred to the National Prosecuting Authority (NPA) for consideration for prosecution.

The SAPS, Municipal Police Services and the ICD have entered into various protocols and agreements, which aim to smooth out the interfaces between them. More importantly though, senior police managers have begun to appreciate the value of having a strong, independent complaints investigation agency – matters can be investigated and resolved without allegations of police bias.

**4.4.5.3 Monitoring Policy Implementation: The Civilian Secretariats**

One of the unique features of the South African model was the establishment of ‘Civilian Secretariats for Safety and Security’ at both National and Provincial Government levels. The Secretariats had two key functions:

- Advising the Minister (or the MEC, in the case of Provincial governments) on policy matters – to counterbalance the technical policy expertise held by the police and to ensure a civilian approach to policies on safety, crime, policing, etc.
- Monitoring police adherence to policy, and reporting on this to the Minister or MECs. In the case of provincial secretariats, they might also monitor adherence to Provincial Policy Directives issued by the MEC or the Provincial Government; and they also monitor the Municipal Police Services that operate in their provinces.

In effect, the Secretariats gave civilian capacity to the political heads responsible for policing. If they had sufficient resources (which depends on allocations made to them in the respective National or Provincial Budgets), they could draw on non-government expertise, and conduct citizen surveys and other research in order to inform their advisory and monitoring work.

The creation of the Secretariats was a response to specific historical features of the South African policing situation at the time of transition:

- In the pre-democracy period, the apartheid government had relied solely on the police for advice on policy matters concerning policing. The police used to draft all legislation and write all
policy documents on matters of policing and crime. There was no input from civil society, from critics, or from international experience.

- Prior to 1994 (and for some time after that), there was almost no civilian (civil society) expertise on policing and crime policy matters. The police held a monopoly on this kind of knowledge.

A 2004 evaluation of the Provincial Secretariats found that they were generally not carrying out all the functions provided for in legislation, and therefore not realizing the full extent of the powers available to them. A related finding was that the 2004 restructuring of the National Secretariat resulted in a diminution of its role so that it appeared to exist only to advise the Minister of Safety and Security, without playing any significant monitoring role\(^\text{31}\). The mandate of the Secretariats is currently under review as part of a process of streamlining the various oversight functions and revising police legislation in South Africa.

### 4.4.5.4 Community Oversight: The Community Police Forums (CPFs)

The South African model initially placed quite a lot of emphasis on the role that local communities were expected to play in holding local police accountable, through the Community Police Forums established at every Police Station. This was in line with the overall approach to community policing, which emphasized *local-level accountability*.

CPFs have *two* statutory mandates — one to monitor/oversee the local police; the other being to assist the local police in reducing crime in the area. In the early post-transition period, communities were more focused on police transformation and on misconduct — a legacy of the history of policing in our country. Interest in monitoring then turned to focus on police performance and the quality of police service in reducing and investigating crime. Inevitably, the resource problems and weak organisational systems found in the police service resulted in communities becoming more sympathetic to the police, and less critical.

### 4.4.5.5 Judicial Oversight: The Role of Courts

Judicial oversight is an important form of scrutiny and constraint over the police. Courts in South Africa contribute in a number of ways:

- Criminal cases against individual police officers who are accused of misconduct amounting to a crime. Judges in these cases often make wider findings on problems in the police institution; and judicial comments have significant weight in society and in government.
- Civil cases against the police organisation (which are brought against the Minister of Safety and Security) provide an important avenue for recourse. Evidence in these matters provides an important source of information about police behaviour and policy; and judgements often have wide policy implications.
- Comments made by judges in regular criminal trials concerning the quality of police work presented to the court, or the behaviour of police officials involved in a case, also carry a lot of weight.

Judicial comments are often picked up by politicians (e.g. in Parliamentary debates) and provide impetus for police reforms. Civil claims against the police can place a huge financial burden on the organisation, also acting as an impetus for change.

4.4.5.6 Financial Oversight: The Public Finance Management Act (PFMA)

The 2000 Public Finance Management Act (PFMA) created new demands of financial accountability on all government departments, including the police. It requires all government institutions to set out measurable, deliverable objectives; and to report on their performance against these planned objectives. The reports submitted by the police are scrutinized by the Treasury, the Portfolio Committees in Parliament; and there is also further financial oversight conducted by the Auditor-General. The PFMA put in place a number of new and severe penalties for non-compliance with its provisions; including holding individual civil servants liable for financial mismanagement.

The PFMA also requires institutions (like the police) to produce (and make public) detailed annual reports. The information provided in these annual reports has become a major source of data for monitoring and evaluating the police.

4.4.5.7 Human Rights Oversight: The Human Rights Commission

The Human Rights Commission, which was established in terms of Chapter 9 of the Constitution can receive complaints from members of the public who believe that their rights have been violated by the police. It can also initiate investigations into human rights practices by the police. However, it is not specifically dedicated to police oversight, and, in practice, only deals with police matters from time to time.

4.4.5.8 Administrative Oversight: The Public Protector and the Public Service Commission

The Public Service Commission oversees all Government Departments to ensure compliance with government-wide policies related to public service and administration; for instance salaries, labour relations and conditions of service. Some of the key policies in the field of public service and administration relate to the Quality of Service Delivery Policy (known as ‘Batho Pele’) and the government’s policies on affirmative action for previously-disadvantaged public servants. However, some aspects of police administration fall outside the scope of the Commission, for instance, the police have a separate labour relations dispensation and a separate disciplinary system from the rest of the public service.

The Public Protector receives complaints from members of the public about problems, misconduct and corruption in the public service. Complaints about the police can also be made to the Public Protector; and, in theory at least, a referral system exists for passing different types of complaints between the Public Protector, the ICD and the Provincial Secretariats.

4.4.5.9 The Oversight and Accountability Role of Civil Society

Two civil society sectors have played prominent roles in holding the police accountable in South Africa:

- Non-Government Organisations (NGOs).
- The Media.

NGOs that conduct research and monitor have been able to collect data about police abuses, misconduct or poor performance, and have been able to use this data to argue for various reforms of
the police system. For instance, NGOs concerned with gender violence monitor the police and are very vociferous in publicising the failures of the police to implement the Domestic Violence Act correctly, to treat victims of violence appropriately, and to investigate gender violence cases successfully. Similar work is done by some Human Rights NGO's who monitor cases of torture and other police abuses of power. Organisations working with migrants, refugees and xenophobia are able to publicise cases in which the police abuse foreigners in South Africa. Organisations working with land rights, farm workers and rural development are able to identify cases of police abuses or misconduct in rural areas, which might otherwise go unnoticed.

The media plays an important role in exposing police misconduct. South Africa has a small but strong tradition of investigative journalism, which has often focused on the police. For instance, television broadcasts of police officers using a police dog to assault some Mozambican migrants, and of police officers soliciting bribes and sexual favours from prostitutes, resulted in disciplinary action and firing of the police officers involved.

### 4.4.6 SELECTION AND APPOINTMENT OF NEW POLICE LEADERSHIP

A key element of democratic restructuring in South Africa revolved around the appointment of new officials (i.e., those aligned with the ANC or with the struggle against apartheid) to senior positions in the new government structures, and the related problem of what to do with the 'old' officials (as a clause in the negotiated agreement and the Constitution guaranteed jobs to all existing civil servants, including security forces).

In the military and intelligence services, the ANC appointed its own stalwarts to most top command posts. By contrast, most of the top operational positions of the criminal justice sector initially went to 'old' bureaucrats. The Director-General of Justice, the National Commissioner of Police, and the Commissioner of Correctional Services were all senior officials who had served during the apartheid era. However, the newly created oversight structures geared toward human rights and accountability were all led by ANC or liberal-aligned individuals - the Constitutional Court, the Human Rights Commission, the Independent Complaints Directorate, and the Public Protector.

There were some delays in appointing a new National Commissioner of the SAPS, due to legal requirements associated with the transitional arrangements. In the period before the National Commissioner was appointed, the Commissioners of all the previous eleven police forces operated a leadership collective known as the ‘Board of Commissioners’. However, due to the fact that their forces technically no longer existed – having been replaced by the new SAPS when the Constitution came into effect on 27 April 1994 – they had little authority and most of their decisions had to be ratified by the new Minister of Safety and Security.

President Mandela appointed the first National Commissioner of the SAPS early in 1995. He selected a white officer from the former SAP – George Fivaz. Unlike most of the apartheid police leadership, Fivaz had never served in the SAP Security Branch, and was therefore seen as untainted by the gross abuses of apartheid policing. Mandela also announced the appointment of four Deputy National Commissioners. These four were drawn, one each, from the four main 'race groups' in South Africa. This arrangement was typical of the Mandela-era of South African politics: highly symbolic gestures of non-racialism and reconciliation.

In a radical departure from previous practice, the next-most senior positions in the SAPS were publicly advertised and the selection process was competitive and relatively transparent. The positions of the
nine Provincial Commissioners were advertised; and the selection committees that interviewed the short-listed candidates included representatives of the National Minister for Safety and Security, as well as the Provincial Ministers (MECs) for Safety and Security and the National Commissioner. The legal framework requires that Provincial governments must participate in, and agree to, the selection of Provincial Commissioners of SAPS (even though they are actually appointed by, and report to, the National Commissioner). This principle was extended into further rounds of senior appointments in the Provincial SAPS senior management ranks, with representatives of the MEC participating in selection panels for a range of key police management posts in each province.

Senior police officers who were not appointed into the new management structure were offered retrenchment packages. As has been described above, special arrangements were made for the appointment of new Commanders of politically-sensitive units within the SAPS, such as the VIP Protection and Crime Intelligence units.

4.4.7 REFORMS OF POLICE TRAINING

Some initiative had been taken to review recruit training (called basic training in South Africa) in the years prior to 1994, resulting in a large number of recommendations for changes to the basic training system. The new government moved fast to implement some of these recommendations, and mobilised significant international assistance in doing so. A ‘multinational implementation team’ was set up, involving police trainers from a range of Commonwealth countries, led by British police training experts. This multinational team oversaw the development of a new approach to recruitment, the redesign of the basic training system for the SAPS, and the re-selection and re-training of the police trainers in the basic training colleges.

The changes in the basic training system were based on a shift away from the military style of drill-based training, to a skills-based approach aligned with the philosophy of community policing and South Africa’s new legal and Constitutional environment. The eleven apartheid police forces had previously each had their own training facilities (and in South Africa, separate training colleges had been created for each race group), but these were rationalized in the new dispensation, and basic training was delivered to racially-mixed groups of male and female recruits together in the basic training colleges for the first time. One of the most significant changes to the basic training methodology was the introduction of a ‘field training officer’ system, which created a structured in-service training and mentorship programme for student constables after leaving the basic training colleges.

Over the years following 1994, all aspects of police training in South Africa were reformed. Donor countries played a significant role in these reforms. For instance, the Belgian Gendarmerie made major contributions to a new training approach for public order policing (crowd management), while the Swedish government supported a great deal of training in human rights. The Danish government supported a management training programme for Station Commissioners, which was delivered by a consortium of South African universities.

Training for detective work (investigation skills) was also prioritized, and a new Detective Training Academy was created by refurbishing one of the pre-existing police training facilities. Some South African officers were sent for training at the FBI Academy in the United States.
4.4.8 CHANGE MANAGEMENT CAPACITY OF THE POLICE

Due to the immense challenges faced in transforming the police agencies, the Minister instructed that three teams should be created to manage the change process. These were the:

- Police Act Drafting Team, which was responsible for drafting the new legal framework for policing in South Africa, and managing its progress through Parliament.
- Amalgamation Management Team, which dealt with all matters related to the amalgamation and rationalisation of the eleven police forces into the new, unified South African Police Service (SAPS).
- Change Management Team, which dealt with all other matters of transformation and organisational development, such as creating a fair promotions system, deployment of resources to rectify the inequities left by apartheid, and addressing the racially skewed composition of the management ranks of the police organisation.

All these teams were initially composed of a mixture of police officers (from both the SAPS and the former homeland forces), the Minister's civilian advisors, and some outside experts, such as lawyers, researchers and academics. (During the early phase of the transformation process, foreign police officers and advisors played some useful roles, providing the new South African government with technical expertise). The teams were all chaired or co-chaired by the Minister's civilian advisors. The Police Act Drafting Team and the Amalgamation Management Team were fairly short-lived, as they had limited mandates and their tasks were completed during 1995.

The Change Management Team (CMT) operated for a longer period. It was also reproduced at Provincial level, with most Provincial Ministers (MECs) establishing similar teams to oversee transformation in the SAPS at provincial level. After the initial phase, the CMT composition was reviewed and it was subsequently composed only of police officers, and chaired by a police officer (then Asst. Commissioner Louis Eloff). The CMT included many police officials who had previously been trained in management, work-study, public administration and human resources. While some of these skills had not been valued or utilised under the militarised, authoritarian apartheid police culture, they proved useful for managing the transition. Middle-ranking officers who had been exposed to international knowledge through university studies were able to engage positively with the new government’s policy advisors. The Change Management Team had a large number of sub-committees or technical committees, dealing with various aspects of the transformation process; and the entire change management effort involved over 100 people, over a period of nearly three years (1994-1996).

Without this significant internal capacity, the process of transformation would have been far slower and more laborious, as internal police management experts were able to generate and introduce reforms in ways which were more feasible than those that might have been introduced from outside the police organisation, by the new government. The collaborative, negotiating style of operation between the police officials involved in the change process, and the new government’s officials and outside experts was a hallmark of the initial period of democratic government under the leadership of President Mandela. Good working relationships and shared visions of the desired future style of policing contributed to making the change process both feasible and relatively smooth in the crucial early transition period.

International technical assistance was utilised to a limited extent in the South African reform process (see below). Some aspects of police reform (such as public order policing, crowd management, community policing and detective training) benefited from large amounts of foreign input, while other aspects were managed using in-country capacity. The Change Management Team partnered with the Belgian Gendarmerie to exchange experiences on change management, and it occasionally drew on other foreign police experts for technical assistance on specific issues.
4.4.9  A NEW APPROACH TO POLICE LABOUR RELATIONS

One of the implications of South Africa’s new human rights dispensation was the liberalisation of the labour relations environment within the police (where trade unionism had previously been prohibited). The emergence of police labour unions and the requirement to negotiate on a range of issues which had previously been decided solely by police management or the central government administration created massive challenges for police managers at all levels of the organisation.

Collective bargaining and participatory management were extremely difficult to accommodate in the hierarchical, militarised police culture that had been inherited from apartheid. In the early period of police reform, managers at local police stations in particular - far removed from the sophisticated ‘change management’ plans of the SAPS Head Office - often found themselves embroiled in conflicts with their staff, without the tools and skills to manage these kinds of conflicts effectively. Police unions were also new and inexperienced, and similarly ill-equipped in the initial period to utilise the new labour relations framework.

The police labour relations framework in South Africa appears to be resulting in a quest for increased labour rights for the police elsewhere in the region32.

4.4.10  CRIME AND CRIMINAL JUSTICE

In international comparative terms, numerous scholars and news reports have since 1996 listed South Africa having one of the highest homicide rates in the world. Its rate of 51 per 100 000 left it third (behind Swaziland and Colombia) out of 62 reporting countries in the 2000 rankings of the UN Office on Drugs and Crime (UNODC). The soundness of these rankings, which omit more than 100 developing countries, is questionable.33 Country-level victimization surveys conducted by the UN Office on Drugs and Crime between 1992 and 2001, found that nearly 23% of South African respondents reported having been victimized by at least one crime. This placed South Africa somewhere in the middle of the 22 countries surveyed by the UNODC, although the country led the rankings for reported robberies.34

Approximately 2.5 million crimes were recorded in South Africa in 2000 and again in 2001. With a police service at that time staffed by 120 000 people, the sheer volume of crimes reported to the police represented one of the most significant challenges for the process of police reform in South Africa.

Public perceptions about SAPS effectiveness against crime declined after the transition to democracy in 1994:

- Citizens’ feelings of safety declined significantly after 1994, according to annual surveys conducted by the Human Science Research Council (HSRC).35 In 1994 the majority (73%) of respondents said that they felt safe or very safe, while 16% felt unsafe or very unsafe. By 2000

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34 Ibid.
this had shifted significantly, with only 44% of respondents in the 2000 HSRC survey reporting that they felt safe or very safe.

- In 1998, the majority of respondents in the country’s first National Victimisation Survey thought that the police were performing as badly, or worse, than they had under apartheid. In line with a government-wide emphasis on improving the delivery of services to the public after the second presidential election in 1999, most of the criminal justice agencies implemented ‘Service Delivery Improvement Programmes’, including the SAPS. The objectives of the ‘SDIP’ were to improve ordinary police work, to identify problems in service delivery at the local level, and to improve performance there.

- A national public opinion survey was conducted by the Institute for Security Studies in October 2000, five years after the establishment of the new South African Police Service. It found that members of the public who had visited one of the high-crime police stations were overwhelmingly satisfied with the attitude of the police officials, and with the treatment they had received. Over 70% of respondents who had reported a crime to the police were happy with the service they received from the police at the time of reporting the incident. The perceived ability of the police to deal effectively with complaints and reports deteriorated after the initial report was made, to when an arrest (if any) was made; and less than half the respondents had ever heard from detectives about the progress of their case.

- In a national victimisation survey carried out in 2003, just over half (52%) of South Africans surveyed said the police were doing a good job in their area, while more than two out of five (45%) thought they were doing a bad job.

The South African government adopted a National Crime Prevention Strategy in 1996. This policy was largely driven by civilians, and was intended to match the Police Plans, developed in response to unacceptably high levels of crime. Only one aspect of the NCPS was significantly implemented in the early transition period – that which concerned Criminal Justice Reform (or ‘re-engineering’ as it was known in the Strategy). This involved a massive inter-departmental effort to make the justice process more efficient, supported by the business community. The process of criminal justice reform is ongoing. Some of the major achievements to date are:

- The creation of one national electronic database of fingerprints and criminal records
- The computerisation of many police stations and courts
- Initiatives to reduce the number of prisoner escapes from custody
- More efficient systems for managing court rolls and reducing delays.

The ‘tough policing’ approaches adopted by the SAPS since the late 1990s increased the pressure on the rest of the criminal justice system. The initially positive public response to this type of policing was undermined by the rest of the criminal justice system that was unable to follow through with speedy and similarly tough sanctions. The government’s ‘tough on crime’ policies contributed to lengthy delays in the criminal courts, massive overcrowding in South Africa’s prisons, increasing numbers of pre-trial detainees, increasing numbers of deaths as a result of police action and in police custody, rising xenophobia resulting from the notion that ‘foreigners’ are responsible for South Africa’s growing crime problem and increasing numbers of arrests in certain crime categories, resulting in increases, rather than declines, in recorded police statistics. In June 2000, the Minister of Safety and Security admitted

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36 The National Victimisation Survey (conducted in 1998, with a relatively small sample) revealed that only 26% of respondents thought that the effectiveness of the police had improved, while 32% of respondents thought that they had stayed the same, and a majority of 42% thought they had become less effective since the 1994 democratic elections.

37 This may reflect the impact of initiatives to improve front-line service over the past few years, but may result from relatively low expectations and, pleasant surprise, from the police service encountered.

that the “successful implementation of the [SAPS] strategic and operational plan hinges, in the main, on a tighter consolidation of the criminal justice system”.  

In mid-2006, the South African media and public were again gripped by a severe moral panic about rising crime; and reducing the level of crime was identified by government as a key priority. To achieve this, more police, improved administration of justice and better infrastructure were identified as key strategies. “As a government we are committed to the reduction of crime, particularly violent crime. We are acutely aware of the damage that crime does to our social fabric and psyche, not to mention the impact on the livelihoods of small businesses and the poor.” The 2006 Medium Term Budget Policy Statement (MTBS) includes additional funding for approximately 8 000 police officials and 2 000 civilians to be employed by the police, as well as modernisation and expansion of police infrastructure, all of which is also intended to contribute to appropriate security during the 2010 Soccer World Cup to be held in South Africa.

4.5 DONORS IN THE REFORM PROCESS

4.5.1 THE ROLE / IMPACT OF DONORS ON POLICE REFORM

In the first phase of police reform in South Africa (1992-1996), Western assistance to the police was driven by the need to transform an apartheid institution into an acceptable and legitimate organ of social control. To this end, the doctrine of community policing provided a very useful prism through which reforms, both within and beyond the state, could be viewed. In the second phase, Western efforts were directed towards aiding the South African government in confronting ‘crime’ as one of the most central challenges facing stabilisation of the emerging democracy. In this context, the lack of institutional capacity within the police machinery to counteract crime became starkly evident. As a consequence donors came to target the public police institution as a major beneficiary of assistance; often abandoning the NGO’s which had been supported during the apartheid era and the early democratic period. In this latest phase, institutional development and capacity-building towards effective and efficient service delivery became the prominent preoccupations of international assistance.

Development assistance to the police agency has been an evolving enterprise. So, for example, aid in the sphere of police reform has evolved from *ad hoc* and piecemeal approaches during the early phase of assistance (1994-6) to more ambitious, sectoral interventions in line with a cluster approach to the governance of criminal justice. In South Africa, development assistance or aid for criminal justice reform has been characterised by diversity, both in terms of the types of projects funded and the range of donors involved. Assistance went in three broad directions:

- Human Resource Management and Development;
- Institutional and Administrative Development; and
- Logistical Development.

By 2000, it became clear that the development community was moving toward a more Southern African, (regional) approach to donor assistance, in recognition of the transnational nature of security in SADC.

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A sizeable proportion of overall Official Developmental Assistance (ODA) to South Africa, particularly in the form of grants and technical assistance, was earmarked for good governance and democracy.\textsuperscript{42} For the period 1994-8, donor support in this area constituted approximately 8\% of total overseas developmental assistance received by the Government of South Africa.\textsuperscript{43} Between 1994 and 1998, the ‘justice cluster’ received about R256 million in ODA, of which, as calculated, 65\% went to Justice and 35\% to Safety and Security (police).\textsuperscript{44}

4.5.2 THE MANAGEMENT OF DONORS AND TECHNICAL ASSISTANCE

Compared to other African countries, the South African government has been far more successful in determining the terms and content of international assistance – including assistance to the criminal justice sector and the police agency. South Africa could have afforded to dispense with foreign development aid if it seemed too intrusive in domestic policy goals. Nevertheless, the country, and the police specifically, have received generous assistance.

The state’s efforts to manage developmental assistance in a more proactive manner – as undertaken by the Treasury’s International Development Co-operation (IDC) Office – also played a role. The strategic frameworks designed within core departments of the criminal justice system helped steer donor assistance in locally-defined directions. Furthermore, individual line-departments within the ‘justice cluster’ made concerted efforts to clarify the administrative rules regarding the management of aid. The search for suitable mechanisms of co-ordination has yielded some positive effects, (such as in the Department of Safety and Security\textsuperscript{45}) but some challenges related to donor co-ordination still remain.

4.6 TRANSITIONAL JUSTICE MECHANISMS RELATED TO POLICE

One of the key policy decisions during South Africa’s transition to democracy revolved around dealing with officials – particularly in the police and intelligence services – who had been involved in perpetrating apartheid atrocities. The final compromise on this difficult question was framed in a post-amble to the Constitution, which required that legislation should be passed to provide mechanisms and criteria for the granting of amnesty to deal with perpetrators of past abuses, who, by virtue of the agreements reached in the transition negotiations, would retain their jobs in the new South African security establishments. (No sweeping personnel changes were ever envisaged for the country’s Security and Justice agencies.) Some analysts argue that were it not for the political compromises on the question of amnesty, there may have been no negotiated political settlement and no democratic election in South Africa. The final agreement was not to a general or unconditional amnesty, but an amnesty available to perpetrators only in exchange for full disclosure. This reflected the dominant logic of the South African transitional justice model, one of truth and reconciliation, rather than emphasizing justice and accountability. The South African model sought to combine the process of granting amnesty to perpetrators, with the processes of officially establishing the truth about past human rights abuses,

\textsuperscript{42} As the Development Co-operation Report (Department of Finance, 1999: 24) states: ‘It is evident that the major portion of ODA in the form of grants and technical assistance is to the democracy and governance cluster.’


\textsuperscript{44} Ibid.

providing victims with some form of reparation, and making recommendations to prevent any recurrence of systematic human rights violations.

With the establishment in 1994 of the South African Truth and Reconciliation Commission (TRC), the ANC government had to clarify its position on previous abuses by police officials. President Mandela insisted that his government was opposed to, and had no intention of conducting, a witch-hunt against the police as a result of activities arising from orders given to the police by the apartheid regime. He urged police officers not to dwell on possible investigations by the TRC, and instead to get on with the job of law enforcement and community policing. The appointment of George Fivaz as the first National Commissioner of the SAPS was a crucial moment in the transformation process. Although he had been a senior police officer under apartheid, he had never been involved in political policing or human rights abuses, and he was President Mandela's direct appointee. He called for his staff to make a “clean and definite break with the past” which remained one of the themes of his leadership.

Few police officials voluntarily came forward to seek amnesty during the early period of the TRC’s operations, but the TRC received a number of amnesty applications - mainly from police officers - at the end of 1996. This sudden slew of applications was the result of the successful prosecution of Eugene De Kock - a notorious apartheid police assassin who, during his trial, provided extensive information about other senior state operatives who were involved in gross human rights abuses. His conviction on several charges of murder and fraud signalled the possibility of other police officers being prosecuted and convicted for crime committed during apartheid duty.

Of a total of approximately 7 000 amnesty applications made to the TRC by April 2002, approximately 300 were by police officers seeking amnesty for human rights violations. Overall, about 60% of the valid applications for amnesty succeeded, and of the police applicants, approximately 70% received amnesty. For the police officials (or former police officials) who applied, it appears that the primary factor in generating amnesty applications was the threat of prosecutions, rather than a change of heart or a desire to reconcile with their victims. The TRC also underscored a new climate of official intolerance and public rejection of state abuses committed in the course of duty, laying the groundwork for improved service and community relations.

Two main factors limited the potential impact of South Africa’s TRC on police reform. Firstly, the TRC’s focus was on ‘gross violations of human rights’; and, secondly, only overtly ‘political’ motivations were considered in the granting of amnesty. This meant that the everyday apartheid police abuses against black people were not scrutinized by the TRC, but also that even ‘gross human rights violations’, which were not overtly political in nature were not considered. The vast majority of police officers were probably involved in perpetrating some type of human rights violations during the apartheid era, but

46 President Mandela, Address to the Opening of Parliament, 17 February 1995.
49 Data provided by Camila Ernest, CSVR, 30 April 2002, based on research in progress at CSVR into the amnesty aspect of South Africa’s TRC.
51 Of those police officials who applied for amnesty, most were no longer in the SAPS by late 2002. Their departure from police ranks may have been a result of earlier personnel reviews associated with the restructuring of the police service, or offers of generous retrenchment packages, rather than the TRC process itself. But the threat of prosecution or public shaming in the TRC process probably helped rid the new SAPS of some of the worst and most senior officers implicated in serious apartheid crimes.
virtually no ‘ordinary’ officers or incidents were scrutinized by the TRC, because they did not fall within the Commission’s legal definition of a politically-motivated, gross violation of human rights.

The final report of the South African Truth and Reconciliation Commission made some recommendations about police reform, but most of the recommendations referred to policies and practices that had already been addressed.
5. TRANSFORMATION OF THE SAPS: AN INSIDER’S VIEW  
(by Louis Eloff)

5.1 BACKGROUND

The challenge that faced South Africa’s new government and Police in 1994 was to transform both the face of the Police and the way the organisation and its employees functioned - in order to effectively combat crime, begin to serve all the people of South Africa, and introduce effective democratic policing. This required changes to the nature and style of policing, and cultures, structures, management styles, policies and practices within the Police. Simultaneously, reforms needed to

- meet the statutory requirements of South Africa’s new Constitution,
- meet the expectations of the newly-elected majority Government with regard to universal and equitable police service delivery,
- increase the effectiveness of the Police Service in combatting crime,
- address the fears and safety needs of the community,
- address the needs and expectations of the members of the SA Police Service, and
- create a legitimate and credible police service.

5.2 APPROACH TO POLICE TRANSFORMATION IN SOUTH AFRICA

The approach to transformation had three main components:

- The rationalisation and amalgamation of the eleven policing agencies and relevant non statutory forces into one national police service. An Amalgamation Management Team (AMT) was appointed to deal with the matters relating to the rationalisation and amalgamation required by the new Constitution. One of its other aims was to ensure effective police administration at both national and provincial levels of government.

- Change management - the introduction and management of key transformation (change) issues, which was a second but concurrent phase. This phase aspired to transform the SA Police Service into a professional, representative, efficient and effective, impartial, transparent and accountable service which would uphold and protect the fundamental rights of all people, and which would carry out its mission in accordance with the needs of the community. The Minister appointed a Change Management Team (CMT) to manage this phase.

- Development of the Legal Framework - the Minister appointed a legal team to manage the development of a new Police Act and the management of the entire related process of consultation, finalisation and promulgation related to this new act. The team comprised both police lawyers and civilian lawyers, many of whom came from a background of human rights lawyering.
The Change Management Team (CMT) had no executive powers. Its role in the reform of the Police was both guiding and supportive. It had to initiate processes, monitor, evaluate, intervene and align where necessary, develop new principles and objectives, assist where capacity did not exist, activate participation and manage resistance. During 1994 early 1995, the initial CMT - comprising police members and civilians - reported to the Minister; but later it became a fixed component within the SAPS reporting directly to the National Commissioner.

The process of police transformation commenced with a detailed analysis of the environment, including the regulatory framework, the policies of the new government, international policing models, the needs and expectations of the various stakeholders in the country, and the then state of policing. This led to a definition of the desired state of policing and the creation of a vision, mission and value statement, followed by a code of conduct.

Once an analysis had been done of the present and future / desired state of policing, the issues which had to be addressed (focus areas / gaps) were identified and listed.

The key focus areas were then prioritised. Technical Teams, as far as possible representative of the 11 police forces, were appointed to tackle the focus areas. Each Technical Team was provided with a clear Terms of Reference, which set out the composition of the team, the convenor, a task description, responsibilities, consultation and communication channels to be followed, and basic policy guidelines.

The work done by the technical teams was monitored by the AMT and CMT and where necessary, interventions were made to support or redirect the team in order to achieve appropriate outcomes. From time to time, technical teams would need to engage with each other, for instance to obtain financial or legal advice, the Teams would engage with the Technical Team on Finances or the Technical Team on the Police Act.

Because direction and standards were set at national level, the transformation of the South African police can be described as a centrally-driven process, managed internally, in a consultative and participative manner through a Police Management Forum (Board of Commissioners) in which the top echelons of police leadership (such as former Commissioners of Police, and new Provincial Commissioners) participated.

Policies that could not be standardised during the amalgamation phase without substantial work or extensive consultation or negotiation were deferred, to be dealt with during the change process (in phase 2). In this context, certain ‘interim’ policies and practises were retained during phase 1 of the amalgamation, to be reviewed during the change / transformation phase.

Although there was much uncertainty after the elections of 1994, at police station level, the vast majority of police officials continued with business as usual - attending to complaints, launching local crime prevention operations and investigation crime.

### 5.3 RATIONALISATION

The rationalisation and amalgamation was a technical necessity brought about by the need to merge eleven police agencies, which each had, for example, different structures, practises, policies and procedures, insignia and uniforms. The amalgamation period also provided an opportunity to make changes in accordance with the emerging vision for the new SAPS.
During the rationalisation phase, interim financial and logistical arrangements (such as procurement and provisioning systems) were established at both national and provincial levels to reduce duplication of these systems between the pre-existing police forces. At provincial level, personnel of the various police forces in the geographic area of a province were brought together to jointly manage relevant policing issues in their respective fields of responsibility (These interim structures were replaced with permanent structures once the new structure of the SAPS and the appointments of senior personnel had been finalised).

The budgets of the different police agencies were integrated and decision-making about expenditure was located in the joint inter-agency interim management structures.

A Proclamation\textsuperscript{52} for the Rationalisation of the South African Police Service was promulgated in January 1995 to enable the formal, legal ‘rationalisation’ of the South African Police Service. Six schemes for the rationalisation, reorganisation and consolidation of the South African Police Service were laid out in terms of this Proclamation, \textit{inter alia} creating enabling organisational and post structures for the South African Police Service.

The enabling organisational structures and post structures, from the level of middle management (deputy director - senior superintendent) and above, were finalised during this phase. New, rationalised SAPS posts were created and filled after being advertised both internally and externally. This was done according to a newly designed selection and appointment process whereby members in management posts were appointed according to skills, competence and potential rather than seniority. This resulted in the establishment and appointment of an entirely new management echelon for the Police Service. Senior personnel from the eleven former police forces who were not accommodated in the new structure were allowed to take early retirement packages.

Members of the Provincial Government’s Executive Councils for Safety and Security in provinces (Provincial Ministers) took part in the selection and appointment of Provincial Commissioners.

The organisational structures, although seen as enabling structures for the purpose of rationalisation, established a sound basis to secure empowerment and greater accountability at the lower levels, the phasing out of superfluous levels in the police organisational structure, shorter communication lines, and the transfer of as many resources as possible to lower levels, to enable the greatest effect on crime.

Post structures were then developed for all posts at supervisory level (captain and superintendent). These posts were advertised and filled after which the remainder of the personnel were transferred into rationalised junior posts.

5.4 AMALGAMATION

Whereas in the past, eleven different police agencies together with “Non-Statutory Forces” (the armed units of the liberation movements) existed, a national police service was required by the 1994 Interim Constitution. The physical amalgamation of the various existing policing agencies and identified personnel of the non-statutory forces had commenced in April 1994 with the rationalisation phase described above.

Some of the key issues for the amalgamation process were:

\textsuperscript{52} Proclamation No 16239 - R5, (1995)
5.4.1 Legislation

A special legal Proclamation (R5 of 1995) was promulgated to provide for senior appointments and transitional arrangements for the command and control of the Police Service during the amalgamation phase, as a new Act had not yet been passed and the pre-existing Acts governing the various police forces were outdated or only applicable in limited geographic jurisdictions. This Proclamation provided the legal basis for the ‘transitional arrangements’ during the amalgamation period.

A new Police Act, the South African Police Service Act, Act no 68 of 1995 was finally promulgated during October 1995 to provide for the establishment, organisation, regulation, and control of the new South African Police Service, and related matters. A lengthy public consultation process involving a wide range of interested parties preceded the promulgation of the Act.

5.4.2 Organisational Structures aligned with new Boundaries

The organisational structures developed by the police services as part of the ‘rationalisation’ phase were further developed so as to allow for the amalgamation of the various police forces into the newly-designated provinces, areas and stations. (South Africa’s new provinces came into effect with the new Constitution in April 1994). The number of SAPS ‘areas’ was determined and ‘area’ and ‘station’ geographic boundaries were delimited as part of this process.

The former Head Offices of the various police forces were rationalised into one national Head Office.

Where they existed in the apartheid police forces, traffic policing services, which did not form part of the legal mandate of the new SAPS, were rationalised and handed over to provincial authorities that would be responsible for traffic enforcement.

5.4.3. Integration of members of non-statutory forces

Small numbers of members of the “Protection” and “Intelligence” services / units of the African National Congress (ANC) and Pan Africanist Congress (PAC) liberation movements were incorporated into the Protection Service and Crime Intelligence division of the new SAPS, in accordance with an agreement reached during the political negotiations. For example, 115 members of the ANC’s Department of Intelligence and Security entered the SAPS as part of this process.

In order to facilitate the entry of these members into the SAPS, the National Commissioner waived some of the regular entrance requirements for police recruits (such as academic qualifications) and also waived the requirement for a clean criminal record where these individuals had criminal records which were clearly related to their politically-motivated activities as part of the freedom struggle prior to 1994.

A similar process of waiving promotion requirements was later implemented in an attempt to compensate these members of the SAPS for their historical disadvantage in the promotion system of the police.

A special pension arrangement was also later negotiated for members who were integrated into the SAPS at older ages than usual recruits.

Later, some other members of the former liberation forces were appointed as lateral entrants in the SAPS, on an individual basis, after applying for management-level posts.
5.4.4 Personnel Management issues

The personnel particulars and records of all members of the various police forces were audited and computerised on a centralised personnel and salary system. This allowed electronic access to the personnel particulars and service records of all police members. It enabled payment of salaries from the centralised system as well as control over membership and use of the medical scheme, and membership of pension funds.

The service conditions (with regard to salary, allowances and benefits) of members of all the forces were standardised. All previous government pension funds were rationalised into one new pension fund.

All human resource-related policies were nationally standardised.

A revised medical aid (health insurance) scheme was implemented to accommodate all members of the police service.

Standardised recruitment policy and procedures were developed and implemented to remove discriminatory measures and to ensure uniform standards for employment that were in line with new legal requirements. For example, unmarried policewomen who became pregnant would no longer be dismissed.

An independent Promotion Commission – appointed by the Minister - reviewed the promotion of members who had claimed that they have been disadvantaged or have been discriminated against in the past. The position of various members was adjusted as a result of the report.

During the Amalgamation phase, an interim promotion policy was implemented to standardise promotions in anticipation of the new SAPS promotion policy.

5.4.4.1 Labour Relations

New regulations for labour relations and grievance procedures were promulgated and implemented. The process of developing the labour relations systems involved representatives of all police unions in a technical team with various labour lawyers and industrial relations experts.

Concerted efforts were made to promote more effective labour practices in the SA Police Service, including joint training and problem solving sessions between unions and management and the establishment of Labour Relations Forums at every station. The police leadership also attempted to facilitate the involvement and participation of police unions in relevant aspects of the organisational transformation process.

New disciplinary regulations and grievance procedures were developed and implemented.

A Labour Relations component was later established within the Police Service to deal specifically with these matters, and labour relations experts were appointed into this component from outside the Police.

5.4.4.2 Administrative issues

A newly-designed ‘appointment certificate’ for uniformed staff, and identification card for civilian personnel, were developed and implemented.
The forms and registers of all the policing agencies were standardised. New forms and registers were phased in, together with related policies and procedures.

5.4.4.3 Firearm licenses

A Transitional Arrangements Act was developed and promulgated to regulate firearm licenses issued by the various authorities of the old dispensation. Procedures relating to the issuing of firearm licenses were standardised, and discriminatory practises with regard to the issuing of firearm license were discarded.

The authority to issue firearm licenses was centralised at the Central Firearms Register in Pretoria.

Members responsible for the handling of firearm applications were trained in the new standardised procedures.

5.4.4.4 Loss control and management

A management information system whereby loss control is managed in an integrated manner was designed and implemented. This included civil claims and litigations.

Standardised policies and procedures were developed and relevant personnel were trained in the management of loss control and the recovering of debts.

5.4.4.5 Uniform, symbols and insignia

A new uniform and insignia (including a new police badge) was developed and introduced to establish uniformity of dress and a corporate identity for the new Police Service.

New corporate colours for police vehicles, air- and sea-craft were implemented, and a new police flag was introduced.

5.4.4.6 Logistics

A policy on Logistical Support that provided for more efficient and effective logistical support was implemented. Policies and procedures in relation to all logistical responsibilities such as procurement, tenders, stock control, accommodation, etc, were standardised nationally.

A comprehensive audit and accounting of all assets (in particular arms and ammunition), commodities and logistical resources of the South African Police Service was completed and all logistical contracts were reviewed and consolidated.

Logistical services relating to mechanics and radio technical services were integrated. Information Technology strategies and communication networks were integrated and national systems began to be developed.

5.4.4.7 Finance

The budgets of the various police forces were integrated and all financial policies and procedures were standardised.
Payments of salaries was centralised; and disparities on remuneration, allowances, taxation, pensions etc were redressed.

5.5 FROM “CHANGE MANAGEMENT” TO “TRANSFORMATION”

As mentioned earlier, the Minister for Safety and Security appointed a change management team (CMT) to manage and facilitate the transformation process in the SAPS, which would continue after the Rationalisation and Amalgamation phases were completed. The CMT – made up of both civilians and police officers – had the following mandates:

- to create an organisational climate conducive to change, and
- to activate, guide, align (through interventions), support, monitor and ensure alignment with the vision of the new police service, and
- to ensure focus on the change-related priorities within the police service.

The terms transformation, change and reform are commonly used to describe the process whereby an organisation is “changed”. Although transformation in the SAPS was originally defined as the process consisting of rationalisation, amalgamation and change; the adoption of Government’s White Paper on the Transformation of the Public Service subsequently made it necessary to redefine the process in order to align it with the approach adopted more generally in Government. It was also necessary to shift the focus from the largely administrative approach of “rationalisation” and “amalgamation” to a more wide-ranging and fundamental approach based on the need to transform the Police Service, and to improve the quality and accessibility of police service delivery to all the people of South Africa.

Inside the SAPS, “transformation” was therefore redefined as a dynamic, focused and relatively short term process, designed to fundamentally reshape the Police for its proper role in the new dispensation in South Africa. This was complemented by the ongoing process of organisational “reform”, which was considered to be a broader, longer-term process. The need for an ongoing process of police reform was recognised to ensure that the South African Police Service keeps pace with the changing needs and requirements of the domestic and international environments.

It is against this background that the key areas of transformation (or “change management” as it was originally termed) are set out, and against which the different aspects of change documented below must be understood.

5.5.1 Community Policing

During the early nineties there had been some research and dialogue about Community Policing, though it could not be adopted within the context of apartheid. Internally, the police leadership realised that the institutionalisation of community policing entailed, in addition to community involvement and participation, the total re-alignment of the police organisation to support the philosophy and principles of

53 White Paper on the Transformation of the Public Service 15 November 1995

community policing. Amongst other things, the implementation of Community Policing in South Africa entailed:

- the development of a new, shared vision, mission and value system to redirect the South African Police Service towards rendering the quality service demanded by the community and members, and to create a safe and secure environment,
- the development of new organisational structures that facilitated the downward devolution of managerial autonomy and empowerment at the lowest possible level of the organisation,
- the establishment of management styles that were based on teamwork, participation and problem solving,
- the development of new policies and practises to support the philosophy and style of community policing, and
- the development of a new culture that accommodated principles such as accountability, participation and transparency.

The process of implementing Community Policing as part of the overall transformation effort was spearheaded in a local-level project which was intended to be manageable, to harness the impetus and momentum of change in a focused and concrete fashion, and which would be able to serve as a model of excellence or best practise. This “Community Policing Pilot Project” was thus introduced at selected police stations throughout the country. The project was designed with the assistance of members of the Belgian Gendarmerie who also assisted with the training of facilitators to support implementation at station level. The initial focus of the project was to establish a culture of problem solving and to implement the broader philosophy and principles of Community Policing. Support was received from various international partners (Police Study Centre in the Netherlands, the Danish Police School, and community policing experts of the Canadian Police) as well as from domestic NGO partners involved in facilitating workshops with local communities (South African NGO’s such as IDASA, CSVR and the Community Peace Foundation).

A project to enhance and develop managerial capacity, community relations and service delivery at station level was shortly thereafter implemented by external management consultants with the assistance of the South African organised business sector at 100 of the neediest stations.

As these two projects came to be seen as overlapping and competing; they were both reviewed and then integrated into one project: the Service Delivery Improvement Programme (SDIP), with revised training material. The Service Delivery Improvement Programme (SDIP) was used as the tool to implement community policing and to improve service delivery to communities at local level and has since been implemented at all police stations. The SDIP focused on service delivery, addressing local policing priorities, community policing, quality service, human resource development, and the optimal utilization of physical resources.

Key elements of the SDIP approach included:

- training of facilitators
- establishment of community partnerships

55 Many initiatives to address these issues are dealt with under Demilitarisation below. Those initiatives are not repeated here albeit that they directly contributed to creating a conducive environment for the implementation of Community Policing.
- compilation of station profiles
- development of service charters
- station diagnostic (problem identification)
- development of implementation plans
- formulation of performance indicators
- implementation
- monitoring
- ‘best practices’ roll-out.

Community policing has since been introduced at all police stations throughout the country. Community Police Forums were also established at all stations, Community Police Boards at most police areas and provinces as prescribed in the Police Service Act.

A common understanding on the concept of Community Policing was developed in consultation with international police forces, communities and relevant role-players; and a revised policy and guidelines on Community Policing was later developed and distributed. Public education materials in this regard were also developed and distributed to educate the community on the principles and practical implementation of Community Policing.

### 5.5.2 Affirmative Action, Representativeness, Equality

Even after the amalgamation of the various police forces (as described above), the leadership of the new police service did not reflect the community it served. The command and control of the Police was predominantly in the hands of white personnel, specifically white males. This had to change dramatically if the new SAPS were to have any legitimacy or credibility.

The first programme developed and implemented by police management to work towards improved representivity in the Service, while waiting for a formal affirmative action policy and approach, was known as the “representivity and equal opportunity programme” or REOP. The implementation of this programme saw the identification of candidates with potential from the historically disadvantaged groups, appointment of these individuals to higher ranks / posts, development programmes for them, and further promotion and appointments in accordance with their skills and expertise.

A formal “Employment Equity Plan” for the SAPS was developed in compliance with the requirements of the Employment Equity Act. The plan was developed in consultation with all relevant stakeholders and was registered with the Department of Labour, who accepted it and confirmed that it met the required standards. In 2001/2, the first Employment Equity report required by the Act was submitted to the Department of Labour and also met the required standards.

In terms of the Employment Equity Act, the SAPS also developed an Affirmative Action Programme. This programme included development tools for Affirmative Action personnel inside the police service such as such as accelerated development, shadow posting, secondment, succession planning, bridging programmes, learnerships, bursaries and fixed term contracts.

The following are examples of programmes / initiatives implemented in support of affirmative action and employment equity in the South African Police Service:

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57 Section 53 of the Act with regard to affirmative procurement and preferred service providers was also complied with.
- 40% of all in-service training places were reserved for women, in order to improve their mobility to middle and senior management positions;

- 70% of all places in the Emerging Leader Programme were reserved for women, in order to broaden the pool of women leaders;

- A fast-track promotion policy was approved and incorporated into the SAPS promotion policy to address disparities in representivity;

- A Code of Good Practice for people with disabilities was launched in order to ensure fair treatment and reasonable accommodation of persons with disabilities;

- Programmes to enhance representivity in specialised units such as the Special Task Force were implemented;

- A policy on the promotion of employment equity and the elimination of unfair discrimination was developed and adopted;

- A National Gender Desk and Gender Structures throughout the service were established to identify and institute corrective action pertaining to gender inequality in the Police Service.

Communication and awareness campaigns, and workshops pertaining to unfair discrimination and racism, were held throughout the country. All discriminatory content was removed from policies and procedural documents.

A “zero tolerance” approach was adopted towards members of the police service found guilty of racism or unfair discrimination.

5.5.3 Equality In Service Delivery

One of the legacies of apartheid was the uneven distribution of police resources, with most police stations and resources based in formerly white and urban areas. A more equitable distribution of resources was therefore necessary, to ensure that all communities and members have equal access to resources. Particular attention needed to be given to police stations in historically disadvantaged areas.

A Resource Establishment Programme was developed to determine the actual and ideal human and physical resource (including Information Technology) needs within the Service, with specific focus on police stations. This commenced with an audit of all resources of the SA Police Service. The process enabled the redistribution of resources (and the direction of new resources) to historically disadvantaged and other priority areas. It also included the new building programme of the Police - the building and or upgrading of police stations in historically disadvantaged areas received specific focus.
5.6 DEMILITARISATION

In order to understand the approach adopted towards demilitarisation of the police in South Africa, it is necessary to explain some of the historical and conceptual meanings of the term.

The colonial Police organisation in South Africa was established in 1913 through the amalgamation of military and semi-military police institutions. Military officers were appointed in the South African Police; and, later, "Police Brigades" drawn from the South African Police took part in the two World Wars. For almost 30 years under apartheid rule, (1960's-1990's), members of the Police received military counter-insurgency training and were utilised for counter-insurgency duties in South Africa and neighbouring countries. Organisational policies and procedures, and military practises, terminology, police uniforms and symbols served to strengthen the military style.

The politicisation of the police under apartheid resulted in strong-arm tactics to maintain government's racially-segregated policies, and led to the development of a strong military culture within all the police forces of South Africa, which contributed to a lack of legitimacy and negative attitudes towards the Police. Under apartheid, the police had used expensive, intrusive techniques, and unorthodox (sometimes inhuman) methods to obtain or extract information in their quest to exert authority and maintain the apartheid system. Police practice therefore became routinely coercive in nature and not concerned with legitimacy, transparency, accountability, participation, mutual respect and fundamental rights.

Police organisations in South Africa prior to 1994 could be typified as classical military organisations, displaying excessive emphasis on tradition to the detriment of their capability to adapt to a dynamic and changing environment.

A centralised control structure, autocratic one-way downward communication in the form of commands, a rigid senior-subordinate relationship, an impersonal and rule-driven environment together with an insistence on unquestioning obedience and loyalty, formed an integral part of the model. This repressive function was emphasised to the detriment of pro-activism and the police official was not taught to apply discretion, nor to encourage participation by or consultation with the community. Militarism in policing does not leave much scope for co-operation with, and participation. In practical terms, the militarised approach to policing means that there is a rift between the police and the community; and that the police do not receive co-operation from the community, nor do the community participate in or accept responsibility for policing.

After 1994, visible changes were made to military symbols and practises in the police and demilitarisation of the organisational culture was explicitly addressed, with the following focus areas:

- **A vision-driven instead of a rule-driven police organisation**

A new vision, mission and value system was developed for the police service, and all policies, procedures and practises were aligned therewith.

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58 Some policing experts will argue that, in order to implement community policing, demilitarisation of the Police is necessary. Others will argue that in demilitarising the Police, you are actually moving towards community policing. Both views are correct, but for the purposes of this report, the two issues are dealt with separately.
- **Human Rights**

Much dialogue and research on human rights in policing was conducted by the police, academic institutions and human rights NGO’s. A great deal of donor support was dedicated to the process of creating a new human rights-respecting culture in the SAPS. This culminated in the development of human rights training manuals and a “Human Rights and the Police” textbook which was developed in collaboration with academic institutions and NGO’s. The Training manuals were made available in various South African languages and a training programme on education on human rights in the police was developed and implemented, using both civilian and police trainers.

The human rights norms and values were formalised in a code of conduct and a new disciplinary code for the police.

- **The use of force**

Again, much research and dialogue had taken place around the issue of use of force. The use of force in crowd management situations had been of particular concern in the apartheid era; and, in the early 1990’s, the Goldstone Commission of Inquiry had made various recommendations for the policing of crowds. Other issues of concern were the use of force in arrest and fleeing felon situations. New policies on the use of force, the effecting of arrests, prevention of torture, the treatment of persons in custody and the questioning of suspected persons were developed and implemented to eliminate the unnecessary and excessive use of force and to contribute to respect for the fundamental rights of people. Also, the Independent Complaints Directorate investigated all incidents involving the use of lethal force by the police.

- **Crowd control**

Public Order Policing underwent one of the most fundamental transformations in all of the SAPS. The approach moved from “crowd control” to “crowd management” and “Internal Stability Units” were replaced by Public Order Policing Units.

New policies for public order policing and for the management of crowds, based on international comparative study and the findings of the Goldstone Commission, were developed and implemented. These policies included a strong focus on the minimum use of force, conflict resolution and negotiation. A specialised code of conduct specifically for Public Order Policing was developed and implemented.

New personnel profiles and selection and recruitment processes for Public Order Policing units were developed. All personnel to be employed operationally in the public order policing units were subjected to a vetting and selection process. All members of the new Public Order Policing units were retrained within the framework of the new principles and values. Key personnel of the POP Units were also exposed to best practices internationally through study tours, seminars and international training.

Recognition of the expertise in the Public Order Policing Units was one of the reasons for their subsequent restructuring to create “National Intervention Units” focusing on incidents that require specialised training and capacity. The majority of Public Order Policing Units were then reorganised into “area crime combatting units” under the command of Area Commissioners.
- **Military-type Equipment**

Police equipment was assessed regarding its military nature and connotations. Some military-type equipment (e.g., machine guns) was phased out and replaced with equipment more appropriate for community policing. Equipment that allowed the minimum use of force was issued instead, for instance pepper spray to use before considering the use of batons or firearms.

- **Military Ranks, Symbols and Insignia**

Uniforms, insignia and the rank structure were changed to be less formal and non-militaristic and the military connotation was removed from all symbols and insignia.

- **Demilitarising the Organisational Culture**

The kinds of organisational culture change that was required in the SAPS entailed moving away from a “role and power” culture characterised by bureaucracy, high levels of standardisation and conformity, and limited or no empowerment of members, towards a “task and person culture” characterised by performance-based rewards, focus on people, teamwork, empowerment, growth and development of members, and collaboration.

An attitude/culture transformation programme was developed and implemented in the SAPS to enhance respect for fundamental rights and to facilitate culture changes in relation to the vision and mission of the Police Service, the development of a common value system, integrity, diversity management, labour relations, human resource practices, discipline and professionalism, and service delivery.

The former Personnel Services function was transformed into Human Resource development and management including a person-centred approach with the emphasis on individual capability, initiative, discretion and potential.

Leadership development was implemented with the focus on participative management and teamwork rather than authoritarianism, inertia, variant attitudes and non-participation.

Self-discipline (professionalism) was promoted in terms of an ethical and disciplinary code of conduct and organisational values.

Police managers were empowered to effectively engage with unions and facilitate fair labour processes. Acceptance and incorporation of fair labour practices at all levels was facilitated.

Measures of assessment and performance appraisal were implemented to determine the extent to which members realised the new organisational objectives and performance excellence, rather than merely rewarding compliance with regulations as in the past. Reward systems were also later re-designed and implemented.

- **Decentralisation & Devolution of Powers within the Police Organisation**

In order to empower members at the lower levels, the structures of the police were reviewed and the management (hierarchical) levels decreased. Delegations of powers and responsibilities were reviewed.

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59 The Integrity strategy was part of a broader strategy to deal with corruption.
and general powers were (in accordance with the skills and expertise that existed at local level), placed at the lowest possible level.

All policies and practises were reviewed in order to consolidate as far as possible the autonomy of local commanders in respect of that for which they are to be held accountable.

- **Civilianisation**

  It was recognised that personnel who do not require formal police training or police powers could better perform some administrative functions than trained police officers. Specific jobs and categories of jobs were identified as not requiring police training or police powers. This process, aimed primarily at cost-effectiveness, was however initially hampered by a lack of funds to employ additional civilian personnel. Subsequently, large numbers of police officials were redeployed on operational duties after having been replaced by suitably skilled and qualified civilian personnel to perform administrative functions.

- **Demilitarising Police Training**

  A new curriculum for basic training was developed, based on research and preparation which had been conducted prior to 1994. The new Basic Training focused on the following:

  - Fundamental human rights
  - practical policing
  - community policing
  - problem-solving
  - conflict resolution
  - negotiation and communication, and
  - fair labour practises.

  (These themes were also included in the curriculum for all management-level courses.)

  The implementation of the new basic training (and the first round of recruitment to the new SAPS) was assisted by multinational teams of police trainers from countries in the Commonwealth and Europe. They lent both expertise and legitimacy to the new approach.

  A leadership development programme for top management (the top 20 officers) of the new SAPS was designed and implemented, based on university management school-type training, to facilitate the development of a learning culture at the top levels of the police organisation, and to enable them to adapt to new conditions.

  Further attempts at culture change were contained in various training / education interventions on themes such as empowerment, skilling and capacity building, discretionary use of powers, proactive, participative decision-making and problem-solving approaches, and accountability.

**5.7 OTHER TRANSFORMATION ISSUES**

5.7.1 Crime Intelligence

The former “Security Branch” was phased out through the suspension of functions and activities no longer relevant to the new dispensation, and the closure of units of the Security Branch.
A new Crime Intelligence component was established and remaining capacity was refocused to deal with Crime Intelligence.

A new approach was developed in respect of the management of crime information / intelligence (gathering, analysis, utilization).

5.7.2 Performance measurement

The development of performance measurement (service evaluation) indicators and mechanisms to measure the performance of the Police was at an early stage identified as a critical requirement for the new police service.

However, initially, there were various difficulties in establishing such a system, including the lack of such effective, scientifically based performance measurement systems for police organisations elsewhere in the world. An interim manual system based on traditional “target setting” was therefore implemented initially; and later a computer-based system was developed and implemented in the SAPS.

5.7.3 Combatting Crime During the Transition

During the period 1995 to 1999 the meetings of the top management of the SAPS with the Ministry, as well as internally within SAPS, dealt mainly with issues of transformation. The leadership of the department were however faced with the dilemma of combatting rising crime, while simultaneously managing an organisation engaged in a massive transformation process. The reality of crime had to be faced, and it was evident that crime and violence were at unacceptably high levels. This led to the implementation during March 1995 of the SAPS’s “Community Safety Plan”, a new police response to address nationally-important crime trends.

The 1995 Community Safety Plan was operationalised, in the short term, by means of policing operations and activities aimed at addressing the following priorities:

- the reduction of violent crimes by police operations focused on illegal firearms, bank robberies, taxi violence, politically-related violence, and in certain priority geographic areas (at that stage KwaZulu-Natal and Gauteng);
- the restriction of organised crime by focusing on criminal syndicates dealing in narcotics, stolen goods and firearms;
- the reduction of hijacking and other vehicle related crimes; and
- combatting commercial crimes.

The approach of the Community Safety Plan was primarily one of ‘fighting fires’ where severe crime problems existed. Mixed successes were achieved in this regard.

The aims and objectives of the Community Safety Plan were subsequently integrated into the annual Police Plans, which were developed and publicly issued, in accordance with the Police Service Act\(^6\), which prescribes that the National Commissioner of the SAPS shall, before the end of each financial year, develop a plan which sets out the priorities and objectives of policing for the next financial year.

\(^6\) Act 68 of 1995.
The first annual Police Plan (1996/97) issued in terms of the Police Act marked the beginning of a new approach to transform the police service into an accountable, effective and efficient organisation, whilst maintaining focus on the combating of identified priority crimes.

The second annual Police Plan (1997/98) was more focused in terms of outlining the policing priorities and organisational focus areas to address needs related to crime. The needs for synergy between Government policies, strategies and plans, for interdepartmental cooperation and support, and the need for internal police operational and support functions which focused on improved service delivery both internally and externally become more evident and urgent. A separation between operational plans (dealing with crime combating) and organisational plans (dealing with transformation) however remained intact.

By late 1999, the rationalisation and amalgamation of the various police agencies into a unified national police service had been completed and transformation firmly entrenched within the organisation. The levels of crime in the country however remained unacceptable. The appointment of civilian Jackie Selebi as National Commissioner of the SAPS during January 2000 marked the beginning of a new approach, in which the focus of top management of the Police became crime combating (which also became the main topic for discussion at meetings of the Management Forum of the SAPS). From 2000 onwards, the SAPS Strategic Plans61 were more integrated, focused on crime combating and the improvement of police service delivery, with the organisational aspects of the Plans aligned to those objectives.

5.8 KEY CHALLENGES & FRUSTRATIONS FOR POLICE MANAGEMENT

Of course, various challenges and frustrations existed in relation to the transformation process. Some of the key issues were:

5.8.1 MAINTAINING FOCUS

One of the greatest challenges of transformation was the ability to remain focused on the priorities, given limited resources and capacity. The day-to-day management of the Service, obligatory service delivery, the crises that had to be managed on a regular basis, high expectations, public pressure, and the complexity and scope of the transformation all impeded the capacity to transform.

5.8.2 RESISTANCE TO CHANGE

Although there was generally a relatively high level of commitment to the transformation of the Service, there were still those who propagated old ways and who did not actively contribute to transformation, through old mindsets, paradigms, own agendas, personal prejudices, uncertainty or a lack of information or understanding.

5.8.3 FINANCIAL CONSTRAINTS

The rationalisation, amalgamation and transformation of the SAPS had to be managed within the limits of existing budgetary constraints and without any additional budget allocations. Funds were directed at maintaining the existing levels of service delivery and combatting the rising crime level. Inequalities such

61 Since 2000, SAPS strategic plans have not been annual, but framed in a longer planning horizon (now 5 years), with annual updates.
as a severe shortage of equipment and vehicles in the some parts of the country (the former TBVC states and Self-Governing territories) also had to be addressed within existing funds.

The ability of the Police to deliver services and to undertake new initiatives was also compromised by the natural and on-going attrition of personnel due to resignations, retirements and deaths, and by a lack of funds to employ additional / replacement personnel.

Transformation strategies and actions had to be prioritised in terms of impact on service delivery, and in accordance with the availability of funds. However, some aspects of transformation were supported by foreign donor assistance62, and occasionally by Government’s Reconstruction and Development Funds.

5.8.4 RELATIONSHIPS BETWEEN POLICE AND CIVILIANS IN LEADERSHIP

The appointment of civilian advisors in the Ministry for Safety and Security and the creation of a Civilian Secretariat for Safety and Security to support the Minister’s policy-making and oversight functions created a novel situation in which the Minister no longer had to rely solely on the Police for policy advice. In the senior management hierarchy of the Police, these developments created an environment fraught with tension and distrust.

The transformation process was being led, on the one hand, by “new” civilians who did not trust most of the police management and did not have confidence in their ability to manage and transform the Police; and, on the other hand, traditional military-minded police leaders who saw their “command and control” culture threatened by civilians who had no practical knowledge or operational experience of policing and were seen as ‘interfering’ in police operational matters.

Initially the lack of cooperation between civilian and police leaders in the Department led to delays in decision-making. However, distrust and suspicion faded with time, as some of the parties got to know and understand each other, and developed a common vision around the transformation of policing in South Africa.

The relationship between the Secretariat for Safety and Security and the Police however remained one of distrust and conflict until the departure of the first Secretary for Safety and Security, as the Police leadership believed that the Secretariat was intent on “controlling” the Police by gaining control of the entire Departmental budget. The intention of gaining civilian (Secretariat) control over the SAPS budget never materialised, despite this having been stated in the 1998 White Paper on Safety and Security. Poor management skills of certain individuals within the Secretariat also contributed to the poor relationship with police management.

Interestingly, relationships between police and civilians on the Change Management Team and in many of the Technical Teams working on the Amalgamation and Change processes were more positive, perhaps because status conflicts were less likely at lower levels of the organisation, and because many of the teams were made up of experts who recognised and respected each other’s expertise, and enjoyed the new experience of joint problem-solving across old police-civilian divides. The leadership style of the co-ordinator of each team also played a major role in shaping civilian-police relationships in each team.

62 For example, the transformation of Public Order Policing was assisted by a grant from the Belgian Government, which provided a great deal of Technical Assistance to the SAPS during the process.
5.9 KEY LESSONS LEARNT

Some important lessons were learned during the initial phases of police reform in South Africa:

- Clear political direction on key transformation issues is essential, in order to prevent delayed implementation of changes.

- The main focus of the Police must remain crime combatting. Police managers must find a balance between delivering on crime combatting, service delivery and transformation / development issues,

- There must not be a “separate” police transformation plan. There must be one integrated strategic plan for combating crime that contains the plan for transformation (reform),

- Transformation must be clearly defined. The ideal definition in a post-confict context might be “the process required to fundamentally reshape the Police for its appointed role in the new dispensation”,

- Do not try to fix everything at once. Do not tackle too much. There must be a process of careful prioritisation of issues key to re-shaping the police for its new role,

- Stick to the basics. Keep it straight and simple,

- Everything from the past is not bad. Do not reject policies and practices simply because they come from the past. There must be an objective evaluation before anything is changed,

- There should be provision for an exit strategy for personnel whose services cannot or should not be used in a new and democratic dispensation,

- You cannot transform from the outside. Although the drivers for change are normally from outside the Police, the change process must be driven and managed from within the police leadership, but with the supported of a small team of change agents, some of whom may be drawn from within the police and some appointed from outside,

- Militarism is not discipline. Discipline is essential in an accountable and democratic police service, yet it does not need to take military form. However, all police services inherently have some form of militarism in their culture, which can be used positively in pursuit of transformation, if managed correctly,

- Manage the transformation so that successes are visible on a regular basis,

- Relevant personnel should, as part of creating a climate conducive to change, be sensitised / trained to understand and manage labour relations / trade unionism in the police in accordance with the new democratic environment.

- Communicate, consult and explain (again and again)!
5.9.1 MANAGING UNCERTAINTY AND RESISTANCE

Any process of transformation / reform brings with it uncertainty and in many instances resistance, which must be managed.

The following tactics (among others) were used to manage uncertainty and resistance among police officials, during the transformation of the SAPS:

- A consistent and clear vision of the new government’s policies and its vision for the police were articulated regularly by the Minister who was the political head of the Police.
- The process of developing shared vision was important – this was manifest in the mission and value statements of the SAPS, and the new code of conduct,
- A participative management style, an involvement of, as far as possible, all members of the SAPS in the transformation processes,
- Clear and regular communication to all levels within the Police, labour unions and society (using all possible mediums – both formal and informal),
- Displays of strong leadership by the new SAPS leadership,
- Creation and use of clear goals and actions with the achievement set out in a planned orderly fashion - visible to all"
- Change agents (such as the CMT) would identify obstacles to change, and address them with a sense of urgency,
- Build sound relationships with entities such as labour unions, NGO’s, parliamentary committees etc - in order to broaden the support base and facilitate communication
- Reward positive attitudes and initiatives,
- Impose sanctions (and where applicable exit strategy) for those police members who were not adaptable to change or who were undermining change or transgressing the new code of conduct,
- Resistance was redirected towards negotiable issues and away from key non negotiable issues (eg rank and insignia, where there was some negotiability, versus implementation of community-based style of policing, which was not).
6. ANGOLA CASE STUDY REPORT

6.1 HISTORICAL AND POLITICAL CONTEXT

“For more than forty years, Angola lived in conditions of war. Up to the mid-1970s, the warring side were, on the one hand, the Portuguese army, and on the other, anticolonial nationalist movements: the People’s Liberation of Angola (FNLA), and later the National Union for the Total Independence of Angola (UNITA). Portugal withdrew its forces from Africa, but the national liberation movements continued to fight each other, each seeking to secure control over the entire country. In this war, they extensively relied on outside support in the Cold War conflict... During the forty years of war, two generations of Angolans have been born and reach maturity. They have never lived in conditions of peace and stability and do not know what peaceful development of the state is about.”

The former Portuguese colony of Angola declared independence in November 1975 after protracted conflict among the Portuguese colonisers and three main contending local liberation forces. The group in control of the capital city of Luanda, the Marxist-inclined Movement for the Popular Liberation of Angola (MPLA), then spent a quarter of a century battling to ensure its ascendancy over its rivals, with the help of a large contingent of Cuban military and technical personnel until 1990. The sporadic but bitter civil war was only concluded in 2002 after the death of the leader of the main opposition force, the National Union for the Total Independence of Angola (UNITA). This extended conflict displaced over four million inhabitants, led to the death of more than a million people, and left the country’s basic infrastructure in ruins, and tens of thousands of landmines scattered around the country.

On the positive side, Angola possesses considerable raw materials that ideally could make this African state one of the most prosperous on the continent. It has large reserves of onshore and offshore oil, the main contributor to GDP, public revenue and exports. There are also rich diamond fields in the east of the country, and other minerals abound. However, the war has consumed much oil revenue, some of which also ended up in the private pockets of those connected to the ruling elite, widely regarding as corrupt. In addition, the main oil-producing area of Cabinda, an enclave separated from the country by a strip of territory belonging to the DRC, remains a problematic entity much like Nigeria’s Niger Delta region, with a population many of whom are antagonistic to the MPLA and harbour separatist sentiments. It has also been argued that the prolongation of the civil war owed much to the attempts by senior military officers on both sides to maintain control of resource-rich areas.

The majority of the population live in poverty, and there are an estimated 4.5 million ‘internally displaced persons’ (IDPs) in miserable conditions in camps and in urban squalor. In addition, a UN-supervised Disarmament, Demobilisation and Reintegration (DDR) programme has been running on and off since the 1990s, and many former fighters remain to be fully disarmed and reintegrated into a society short on

66 Ibid.
jobs, facilities and a trained and impartial civil administration. Agriculture, the previous mainstay of the majority of the population, urgently needs rehabilitation.

The country in short faces a formidable task of reconstruction of the most basic amenities while reconciling groups hitherto battlefield enemies. The ruling MPLA, under Eduardo dos Santos, President of the country since 1979, has undergone several mutations, from a Marxist-Leninist one-party regime to a party ruling through majority electoral support won in elections in 1992 during a pause in the war. These elections have yet to be repeated, although the government has committed itself - with many reservations about the preparedness of the society - to elections later in 2006.

In 1992 Angola adopted a constitution under which the elections of that year were held. The Constitution provides for presidential rule, with some devolution to the country’s eighteen provinces. It also contains many of the expected clauses about respect for human rights and non-discrimination, although their implementation has been far from secure. A new draft constitution has been under consideration since 2004, but has as yet to be accepted by the country’s National Assembly. Two agreements negotiated in the 1990s when peace seemed in sight, the Bicesse Peace Accord and the Lusaka Protocol, also locked the government into various reconciliation and integration programmes.

In the event however, the prospects for peace were sabotaged by renewed fighting. The prospects for peace improved after the death of UNITA leader Johan Savimbi in February 2002. A cease-fire agreement was signed in April 2002 and shortly thereafter UNITA’s military wing was disbanded.

Government authority remains highly centralised, both from the Portuguese colonial system, but also due to the centralising tendencies of the MPLA during its Marxist period. The President is the key government figure. He generally chairs the Council of State, not the Prime Minister, whom he may appoint or dismiss as he pleases. Provincial and local structures were embryonic even before independence, and have been largely dislocated by decades of war.

6.2 POLICE ARRANGEMENTS

There is little information on the working of the Angolan National Police in colonial times and in the wartorn years after 1975. The bulk of its senior personnel and trained technical staff must have been lost when most Portuguese settlers fled the country as the transition to independence loomed. Part of the colonial legacy had been a strong security police widely feared for its repressive tactics. This structure, Direcao de Informacao e Seguranca de Angola (DISA), was formally abolished in 1979, but its functions have been subsumed under a new body which is still colloquially known as the ‘Disas’. Little is known about the relationship of this body to the public police.

Under civil war conditions, it appears that what was left of the Angolan National Police played a very minor role until the 1990s. In 1984 the ruling MPLA regime created a mass public formation from among
ordinary citizens, the People’s Vigilance Brigades, with public order and anti-crime functions. Its current status is unclear.

With the negotiations of the 1990s, in particular the Lusaka Protocol, the Angolan National Police were made responsible for the maintenance of public order and defence of interests, integrity and security of all persons, irrespective of nationality and political affiliation. At the same time, an elite unit, the Rapid Reaction Police (or Policia da Intervencas Rápida - PIR) - nicknamed the ‘ninjas’ by the public - was created. The Lusaka Protocol allocated the unit functions such as the maintenance and restoration of order; control of situations of concerted violence; protection against violence and organised crime; the protection of strategic installations; and security for important personalities. The Protocol stipulated that any action by the Rapid Reaction Police shall be carried out in compliance with the principle of legality and at the request of the competent political and administrative authorities. Further, it was agreed that the PIR would only act in circumstances in which other specialised organs of the National Police found it technically impossible to act. Once public order had been restored the Rapid Reaction Police units were to return to their installations. They were to be stationed only at strategic locations.

Currently the organisation of the National Police, on paper, consists of a national command, with provincial, municipal and communal structures under its overall control. However, the Lusaka Protocol explicitly stated that the responsibilities of the Police at the level of the provinces were a provincial affair, and that operational matters were reserved for the Provincial Commands. To what extent this clause has entailed meaningful police decentralisation is not clear.

Police departments include public order; criminal investigation; traffic and transport; investigation and inspection of economic activities; and the Rapid Reaction Police. The functions of the NPA are the defence of democratic legality; preservation of public order and calm; respect for fundamental rights and liberties of citizens; defence and protection of state, collective, and private property; prevention of delinquency and reduction of criminality; and collaboration in the implementation of national defence policies, in terms established by the law.

The Police enjoy exclusive powers of control over the registry, the records, and the marketing, use and transport of arms. The force is supposed to guarantee the personal security of members of government agencies and of other national and foreign entities, and of other citizens when subject to situations of significant threat. They exercise the policing, supervision, and control of national borders and guarantee the security of strategic economic objectives.

6.3 POLITICAL CONTROL AND INDEPENDENCE OF POLICE

The Angolan National Police falls under the Ministry of the Interior. Under the various legal instruments that govern their activities, the Angolan Police are required to act impartially and subject to the rule of law regarding the civil rights of citizens. However, there have been numerous reports of political bias among police rank-and-file in favour of the ruling party. It is unclear as to what real political and operational autonomy the police leadership actually enjoy. The National Police Statute, Angola Decree 20/93 of 11 June 1993 is still applicable, and may demand revision.

72 Ibid.
73 See file://C:\Documents and settings\Administrator\Desktop\Special Operations_Com.htm (Accessed 13/3/2006).
6.4 POLICE REFORM ISSUES

While there is little in-depth information on the current nature and functioning of the state police in Angola, various organisations such as Amnesty International, and news sources have stated that police brutality (up to and including torture in detention and extra-judicial killings) remains a major issue confronting police reform. Angolan officials themselves concede that the National Police are under-equipped and poorly resourced, and without the technical expertise or equipment to perform criminal investigations adequately. The Police are unable to curb high crime rates, and are often accused of extortion of ordinary citizens and sexual assaults (the latter along with the military).

In 2003, the Police initiated a five-year Modernisation and Development Plan that included restructuring, retraining, and the improvement of infrastructure, equipment and working conditions. The authorities stressed that a key objective was to improve respect for human rights. Complaints offices where police abuses could be reported were opened in Luanda in February and subsequently in other provinces. The offices reportedly produced three-monthly summary reports, but these were not widely publicized.

The aftermath of civil war still taxes the capacity of the Police authorities. It is estimated that one-third of Angolans still possess firearms. The Police have announced that they were developing a plan to collect illegally held weapons. NGOs reported cooperation from the police in their work with local communities to prepare for the surrender of weapons. Other factors stemming from the near-collapse of effective administration include the fact that millions of Angolans lack identity documents of any kind.

The activities of the paramilitary Rapid Reaction Police appears a matter of contention, especially in the conflict-ridden Cabinda enclave. In general, it is felt that the Angolan Police and the Rapid Reaction Police are heavy-handed in their response to public demonstrations and frequently ignore basic civil rights. For one example, a Human Rights Watch Report on the RRP noted that from 1996 to 1998 the Rapid Reaction Police were deployed to 13 locations rather than confined to barracks; they were used to subdue strikes in Luanda in June 1996; used to expel 2000 West African and Lebanese immigrants perceived to be responsible for the main crime problems; and they were suspected of summary executions of people caught committing crimes.

6.4.1 INTEGRATION/ ALMAGAMATION OF POLICE AGENCIES

The Lusaka Protocol of 1994 set the general terms of reference for the Angolan National Police to become an ‘instrument for reinforcing national reconciliation’ in part through the incorporation of a significant number of UNITA members at ‘all levels and in all branches.’ The Protocol provided for 180 officers, 550 sergeants, and 4 770 policemen to be recruited into the Police from among demobilised UNITA troops. In addition, 1 200 members of the Rapid Reaction Police were also to be drawn from the ranks of former UNITA fighters. There appears to be little or no information on just how smoothly this process went off, or what its results have been.

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75 Ibid.

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6.4.2 DEMILITARISATION / CIVILIANISATION OF POLICE

While on paper civilian control and legal accountability of the National Police are entrenched in the relevant measures, including the Constitution (see the following section), it is by no means to be taken for granted that a former paramilitary and oppressive organ of colonial rule has undergone radical change in its modus operandi. Again, there is little information on the actual situation.

6.4.3 OVERSIGHT AND POLICE ACCOUNTABILITY SYSTEMS

Despite widespread allegations of police misconduct and abuses, there are in principle a number of checks and balances on the National Police. Below are extracts of an overview\(^79\) of possible and actual oversight mechanisms:

“The Constitutional Law of the Republic of Angola was promulgated in 1975 but has been updated a number of times since then with the latest amendment in 1992. The Constitution underwent a revision process in 2004 and a draft was presented to the Constitutional Commission of the National Assembly. It is not clear whether this has been taken further and it seems that the 1992 Constitution still holds. This 1992 version of the Constitution, amongst other things, affirms Angola’s commitment to the United Nations (UN) and Organisation of African Unity (OAU) Charters as well as recognising equality before the law of all its citizens, respect for human dignity and that no person shall be subject to torture or any other cruel, inhuman or degrading treatment or punishment. The Constitution also makes provision for the Attorney General’s Office to enjoy independence and to be governed by ‘its own statutes’. Chapter VI of the Constitution outlines the powers and duties of the Judicial Proctorate. The main purpose of the Judicial Proctorate, as outlined in Article 142 of the Constitution, is to ‘defend the rights, freedoms and guarantees of citizens ensuring by informal means the justice and legality of the public administration’. Therefore ‘citizens may present the Judicial Proctorate with complaints concerning acts or omissions’ by the public administration, to which the Proctorate may make recommendations to remedy the ‘injustices’.”

“Angola’s Justice Ombudsman was appointed in mid-2005 by the National Assembly. However, there has been controversy over the selection process as human rights organisations have accused the government of not being transparent and not consulting with civil society. The candidate for the position was nominated without any input from civil society despite the fact that the government had assured that civil society would work closely with the National Assembly in the selection process. Legislation outlining the mandate and role of the Ombudsman also still has to be established and there are concerns that this lack of definitive direction may hamper effectiveness.”

“...the police have an internal complaints office situated at police headquarters which apparently receives about ten complaints a day from members of the public reporting on police misconduct. There are signs that this mechanism may be effective as, reportedly, police suspected of misconduct have been disciplined and some have been removed from office. The Modernisation and Development Plan 2003/2007 of the police has incorporated training programmes to improve police-community relations and recent UN visits to Angola have shown that, overall, human rights are increasingly being respected. Respect for human rights is encouraged through the fact that police authorities and the Minister of the Interior have on occasion acknowledged human rights abuses by the police and have condemned these actions. Non-governmental organisations (NGOs) have also played a role in holding the police accountable through for instance providing human rights training and, similarly, law enforcement personnel from other countries in the region have provided professional training.”

“Angola does not have an independent human rights commission per se, however, the National Assembly does have a human rights commission which receives complaints from the public and the Ministry of Justice has a Human Rights Unit with human rights commissions in each of Angola’s provinces. Angola also has a Procurator General (prosecutor) who ‘can play a direct and accessible role in precipitating a complaints process against a police officer.”

“It seems that the Lusaka Protocol and Bicesse Accords may also contribute to the democratic accountability of the police if these instruments are still respected and upheld in the country. For instance, the Protocol stipulates that the police must ‘[discharge] its tasks in accordance with [the provisions of the Bicesse Accords and the Lusaka Protocol] and within the letter and spirit of democratic principles and internationally recognized human rights, such

as the Universal Declaration of Human Rights. Furthermore the Protocol clearly stipulates that the police are to be held responsible for any violations of the political rights of citizens and that the police should be non-partisan.”

According to the most recent of Annual Reports of Amnesty International, efforts have been made in Angola to improve police respect for human rights. Recently, the Angola National Police signed an agreement with the Associated for Justice, Peace and Democracy to provide human rights and civic education to the police. No police officer, however, was known to have been prosecuted for human rights violations, including extrajudicial executions, torture and ill-treatment or the use of excessive force during 2005.80

6.4.4 SELECTION AND APPOINTMENT OF NEW POLICE LEADERSHIP

Before the 1990s, the MPLA leadership were in control of police appointments. The Lusaka Protocol (Annex) of 1994 stipulated that the UN presence would monitor the Police in order to ensure its neutrality. The current situation regarding senior appointments is not clear.

6.4.5 CHANGE MANAGEMENT CAPACITY OF POLICE

It appears that the Angolan National Police lack the basic resources and requisite personnel to undertake sweeping reform. Police academies do not have facilities to overcome deficiencies. One area is police training. For example, there is no special criminal investigation school.81 However, in 2006 a Higher Institute of Police Sciences was opened to train members in the various sectors of the police activity to upgrade professional techniques and to meet the demands of a democratic and lawful state.82

6.5 DONORS IN THE POLICE REFORM PROCESS

6.5.1 THE ROLE/IMPACT OF DONORS IN POLICE REFORM

In the first phase of reconstruction Angola had access to considerable amounts of humanitarian aid. At present donor assistance on any real scale appears to be largely absent in Angola. In the view of some, the perceptions of corruption and government inefficacy had led to donor fatigue by 2004.83 In October 2004, less than 60% of the original UN $262 million for humanitarian assistance to Angola had been donated, which negatively affected the resettlement and reintegration of returnees and IDPs. The funding situation was likely to deteriorate as high levels of government corruption contribute to reluctance on the part of donors to finance development programmes. There are signs however that both the World Bank and the International Monetary Fund are re-engaging with Angola.84

The Angolan government joined the African Peer Review Mechanism (APRM) in 2004 at the African Union summit in Addis Ababa, Ethiopia, along with Malawi, Lesotho, Tanzania and Sierra Leone.

84 Ibid.
According to the *Angola Peace Monitor*, Angola's decision to subject itself to peer review could be seen as evidence of the government’s determination to face up to ongoing criticism of its democratic credentials and competence to rule. The Angolan government clearly hoped the process would produce a balanced picture of problems that need to be tackled, and show that Angola is committed to democracy and development, without leaving international donors to define the terms of the debate. It remains to be seen whether the engagement with peer review mechanisms more generally may contribute to a climate of greater scrutiny of police activities.

### 6.5.2 THE MANAGEMENT OF DONORS AND TECHNICAL ASSISTANCE

There is little material available on this topic. Given the situation until quite recently regarding international distaste for widespread corruption, adequate mechanisms to oversee and coordinate future donor aid may not be in place.

### 6.6 TRANSITIONAL JUSTICE MECHANISMS RELATED TO THE POLICE

The main transitional measure regarding the Police was contained in the 1994 Lusaka Protocol, to which reference has been made. That the government remains at least in part committed to its provisions was shown by the 2003 absorption of UNITA personnel into the Police.

### 6.7 ARRANGEMENTS FOR POLICING OF POST-CONFLICT ELECTIONS

The Angolan government until recently at least argued that the state of the country was such that elections scheduled for 2006 should be postponed until 2007. It made public a study that estimated that preparations for parliamentary and presidential elections would cost $430 million, including $90 million for the registration of eligible voters. The government has argued that there are fourteen essential tasks to be completed before elections can take place, including the revision of the electoral law, and the national constitution, the return home of refugees, and getting basic state services operating throughout the country.

Public concern has been expressed about the flouting of civil liberties in the pre-election period by the Police, army and the Civil Defence Organisation. In Luanda and other coastal regions, these freedoms are generally more respected than in the provinces. Journalists criticizing the government have been physically abused, threatened, and sued, and have also been denied access to official information, including data on public expenditure. Opposition activists in the provinces were the target of violence by the police, army, and supporters of the government.

A study based on focus group discussions regarding the elections and the Police contained the recommendation “Train the police to ensure law and order and security of the population, without intimidation of citizens, regardless of party preferences”. Many do not trust the impartiality of the police and express apprehension in participating in political rallies or any other activity that promotes partisan politics.

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87 Ibid.
7. DRC CASE STUDY REPORT

7.1 HISTORICAL AND POLITICAL CONTEXT

The effectiveness of security structures is measured by several key barometers: the ability to protect national territory against aggression and internal threats, adherence to the rule of law, and the ability of security services to protect and respect citizens’ basic rights. On all these counts, the Congo’s security forces are seriously deficient.88

The conflict in the Congo between 1998 and 2004 is estimated to have cost nearly four million lives. Up to 38,000 people continue to die each month as a result of ongoing conflict.89 While criminality is high in all parts of the country, the eastern regions are most affected by the continued conflict, despite the presence of the UN peacekeepers (MONUC – the UN Mission in the Democratic Republic of Congo). In the eastern part of the country, renegade armed groups control parts of the countryside, and over 1.8 million have been displaced as a result of the conflict.

During the war, the police remained largely un-armed and completely marginalized. Because the police were not involved in the conflicts, the reform of the police institution has not been prioritized by the Congolese government or by donors.

The 2002 Sun City peace agreement involved not only the opposing armed and political groups, but also civil society. The civilian posts in a transitional government were distributed between the parties to the agreement. The agreement did not significantly deal with police (or other security sector) reforms, postponing many of the practical steps required to integrate police forces from the various parties.

Police reform since 2002 has been ad hoc and donor-driven; yet some elements of the reforms have been reasonably effective – for instance, crowd management at the time of the postponement of elections in June 2005 was “handled well for the most part”.90

Elections took place in July and October 2006. The transitional process is still facing numerous challenges, as the appointments of the new Cabinet Ministers and Parliamentary Commissions are only expected in the first quarter of 2007.

7.2 POLICING ARRANGEMENTS (STRUCTURE OF STATE POLICING)

There has been a formal police service in the DRC since 1908 when the territory was mandated to the government of Belgium following the disastrous stewardship of King Leopold II of Belgium. The present police service is known as the Police Nationale Congolaise (PNC) and derives its style and basic working practices from the former Belgian colonial police. A living example of this is the present Inspector General of Police (IGP), Monsieur Katsuva, who joined the Belgian colonial police service as a cadet officer in 1956.91

89 Ibid. p. 3.
90 Ibid. p. 6.
The Police Nationale Congolaise (PNC) was created in 1997 by then-President Laurent Kabila, out of a merger of the Civil Guard and National Gendarmerie. The Gendarmerie had been created by Mobutu in 1972 as a means of entrenching his rule. In 1984, decentralised the police and created the elite Civil Guard to conduct border control as well as normal police functions; while the Gendarmerie and local police (which had originated in colonial times) operated at the local level.

The Transitional Constitution specifies that the DRC will have a unitary, national police service.

A 2006 DFID discussion document described some elements of the structure of the PNC as follows:

The PNC is presently organised into nine departments and operational policing is delivered through eleven inspections provinciales including the capital city. The PNC is under the command of the Inspector-General of Police, who is based in Kinshasa with many of his senior officers. The actual establishment is not known and is estimated to be between thirty to fifty thousand.

During the most recent conflicts the PNC has become dis-integrated. The PNC mandate extends to not more than forty per cent of the national territory and many of its members have either joined composant groups, have fled into exile, drifted away or regrouped in the capital city of Kinshasa. According to the United Nations Civilian Police (UNCIVPOL) element of MONUC, the PNC is not really effective.

The ineffectiveness of the PNC in combating armed crime in Kinshasa led to the creation with international support of a unit to control armed criminal activity. The unit is known as the Police Intervention Rapide (PIR) and polices all key routes into the capital, secures the international airport, guards key government buildings and patrols the operational and residential areas where the personnel of the international diplomatic and consular corps are based. The PIR has received support from France and some of its personnel have received training in Angola and Nigeria.

The unite de police integre (UPI) is the most recent police organisation to have been established in the DRC. The UPI was the brainchild of MONUC and is intended to replace the UN military battalion that is currently forming the force neutre, which guarantees the safety of political leaders from both the former DRC government and the composants. The force neutre also provides security at key economic points in Kinshasa. The idea of forming the UPI followed the agreements reached in peace negotiations in South Africa in April 2002.

The significance of the UPI is that, to a degree, it gives life to the provisions of Article 175 of the Constitution, because the UPI has a personnel composed of all the signatory groups.92

Over 1 000 Congolese police were trained to participate in the UPI. Training and equipment was funded by the European Development Fund. One of the aims of the European Union Police mission (EUPOL) was to provide a framework for, and advice to, the UPI; to guarantee that the UPI operates in accordance with international best practices European funding was allocated to refurbish a training centre, provide equipment, train officers and monitor and mentor the UPI.93 The EU called for a wider EUPOL mandate, which was considered by the international reflection group.94

The PIR and UPI are both tactical responses to current problems and should not be confused with strategic reform of policing. The EU mission realised that the UPI issue was only a small part of the police picture, and envisaged that there would be a future need to take a more strategic view.95

The Congolese police are often associated with criminal abuses of their powers, as well as with corruption for enrichment. They operate in poor living and working conditions and are paid insufficiently and irregularly.

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7.3 POLITICAL CONTROL / INDEPENDENCE OF THE POLICE

Chapter IV (section 1) of the Constitution includes the following:

ARTICLE 173:

The Police Nationale is responsible for public security, and the maintenance and re-establishment of order.

The Police Nationale is established to serve the Congolese nation. Nothing will divert it from its specific aims.

The Police Nationale exercises its duty throughout the national territory in accordance with the Constitution and laws of the Republic.

Article 174:

The Police Nationale is a non-political force. It is subject to the civil authorities and is placed under the authority of the Minister for the Interior.

Article 177:

The Law determines the organisation and operation as well as the specific conditions of the recruitment of members of the Police Nationale.

7.4 POLICE REFORM ISSUES

7.4.1 INTEGRATION / AMALGAMATION OF POLICE AGENCIES

When the transitional government was formed, each of the conflicting parties was entitled to contribute a certain quota of police members; a third of whom were required to be ‘officers’ (even if they did not have the requisite training). The former rebel groups (particularly the Mai-Mai) struggled to find sufficient numbers of trained personnel, while the former National Police (PNC) had too many staff and was forced to retrench some highly-trained officers. Many of those coming from the rebel groups into the police after Sun City were not actually registered on the police personnel system, did not receive training, and some were illiterate.

The Sun City agreement did not spell out the practical steps of integrating the various armies, police forces and security services. The priority was to neutralize the impact of the militias and end the fighting, rather than to overhaul the security sector. 97

According to the report of the International Crisis group, “the integration process proved so complicated, transport so difficult and housing so scarce, that in October 2004 the Joint Commission on Security Reform (in which Congolese authorities and donors meet) abandoned national-level integration and decided to proceed at local level.” 98

98 Ibid. p.6.
Further amalgamation issues are on the agenda of police reform in the DRC in future – if the Groupe Mixte de Reflexion sur la Reforme et la Réorganisation de la Police Nationale Congolaise (GMRRR) 2006 proposals concerning police reform are sustained, other police agencies such as the Police Judiciare (which currently falls under the Ministry of Justice), the Mines Police and the Border Police may be amalgamated into the PNC in future.

7.4.2 DEMILITARISATION / CIVILIANISATION OF POLICE

The following excerpts of the Transitional Constitution suggest that there is a commitment to establish police primacy and to remove the military from day to day involvement in civil affairs:99

SECTION II: THE ARMED FORCES

Article 178:

The mission of The Armed Forces of the Democratic Republic of the Congo is to defend the integrity of the national territory against all foreign aggression and, within the conditions determined by the Law, to participate in the economic, social, and cultural development of the Republic and to protect its people and their property.

Article 180:

The Armed Forces of the Democratic Republic of the Congo are national, republican and non-political.

Their numbers at all levels are drawn up in such a way to assure equal and impartial participation from all provinces.

The Armed Forces of the Democratic Republic of the Congo are at the service of the entire Congolese nation. No person will divert them from their specific aims without fear of the penalty of high treason.

Article 181:

The Armed Forces of the Democratic Republic of the Congo are subject to the civil authorities and are placed under the authority of the supreme Commandant of the Armed Forces.

7.4.3 OVERSIGHT AND POLICE ACCOUNTABILITY SYSTEMS

A desk-top search did not reveal any material on this aspect; however, there is an intention to create a Parliamentary Commission which will play an oversight role over the police.

7.4.4 SELECTION AND APPOINTMENT OF NEW POLICE LEADERSHIP

The current police high command and provincial inspectors were appointed in mid-2004. It is possible that the new government elected in 2006 may consider making changes in the leadership of the PNC.

7.4.5 CHANGE MANAGEMENT CAPACITY OF THE POLICE

There are four PNC members of the Groupe Mixte de Reflexion sur la Reforme et la Réorganisation de la Police Nationale Congolaie – GMRRR – and this small group could perhaps become a change management capacity within the PNC. However, at the time of writing, no dedicated ‘change management’ capacity existed in the PNC.

7.4.6 CAPACITY FOR REGULAR POLICEWORK AND CRIMINAL JUSTICE PROCESSES

The ICG\textsuperscript{100} notes that “because donors have tended to focus on the elections, they have essentially created police who are good at crowd control while neglecting their other core functions.” There has been virtually no routine police training in the DRC for the past decade; most of those who were trained received antiquated training, and a small handful of officers benefited from training abroad with the French of Belgian Gendarmeries. The PNC capacity to respond to crime and engage in regular prevention and detection policework is extremely limited; not least by the absence of basic resources (like vehicles, communications technology, pens and paper).

7.5 DONORS IN THE POLICE REFORM PROCESS

7.5.1 THE ROLE / IMPACT OF DONORS ON POLICE REFORM

According to the International Crisis Group, donor support for security sector reform in the DRC has not been commensurate with needs. Most early donor assistance went to health, education and transport; and where funds were allocated to security sector reform, most of this was dedicated to funding demobilisation packages for ex-combatants. Most donor efforts have focused on Kinshasa. More recently, however, there is wider recognition of the critical importance of security sector reform.\textsuperscript{101}

Some of the key donors in the policing field in the DRC are:

The European Commission is one of the largest donors to the policing sector in the DRC, and provided over 60% of the funding in support of election security. Much of its support is directed to EUPOL; and it also provided a full-time technical advisor to the Groupe Mixte de Reflexion sur la Reforme et la Réorganisation de la Police Nationale Congolaie (GMRRR), the only donor to do so.

The Angolan government has provided various police training programmes in the DRC, including training of trainers, members of the anti-crime brigade, and in crowd control. The estimated cost of the the Angolan training up to end 2005 was $18 million.\textsuperscript{102}

The South African government has provided training in intelligence and crowd control, to the value of approx $5 million.\textsuperscript{103} Other areas highlighted for South African assistance are tackling the proliferation of firearms, VIP protection, and operational command.\textsuperscript{104} A regional partnership is underway in pursuit of a Development Assistance Programme, with different phases involving the development of operational

\textsuperscript{103}Ibid.
\textsuperscript{104}Opening Address by the National Commissioner of the SAPS, Mr Jackie Selebi at Seminar ‘The Democratisation and the Establishment of Sustainable Policing in the Democratic Republic of Congo’, Centurion Lake Hotel, Pretoria, 25 October 2004.
capacity and support for the DRC elections; development of a structural framework for the DRC PNC; and expansion of their operational capacity.

The Japan International Co-operation Agency (JICA) has, since 2004, been supporting a series of interventions focusing on the democratisation of the DRC police and the police preparation for elections in the DRC. The JICA-supported interventions have included training (of trainers and of officers) delivered in partnership with MONUC, the South African Police and Independent Election Commission (IEC) and the DRC Red Cross.

MONUC (the UN Mission to the Congo) is not a ‘donor’ but plays a significant role in providing support and technical advice to the Congolese police, not only in respect of the security of the elections, but also to the Groupe Mixte de Reflexion sur la Reforme et la Réorganisation de la Police Nationale Congolaise (GMRRR) which is dealing with proposals for longer-term police reforms.

7.5.2 THE MANAGEMENT OF DONORS AND TECHNICAL ASSISTANCE

According to the International Crisis Group, prior to the election, there was little co-ordination between the various donors involved in police training and reform – the EU, France, Angola, South Africa and the MONUC police component.

A basket of funds, co-ordinated by the UNDP, was created for the policing of the 2006 election. The EU was the largest contributor to the fund. A mixed group of international police experts, donors and PNC officers comprised the Groupe Technique pour la Securitisation des Elections (GTSE), dedicated to securing the elections. This multi-donor project appears to have been successful, although formal evaluations have yet to be completed.

A more recent multi-partner group - Groupe Mixte de Reflexion sur la Reforme et la Réorganisation de la Police Nationale Congolaise (GMRRR) - was established in early 2006, to prepare for the longer-term process of police reform required by the new Constitution. One of its aims was to improve donor co-ordination.

7.6 TRANSITIONAL JUSTICE MECHANISMS RELATED TO POLICE

Most police reform initiatives do not significantly engage with the transitional justice initiatives which may be under way simultaneously – or may come later and destabilise the reform processes. Issues such as illustration or amnesty for perpetrators, vetting out perpetrators of past abuses, and compensation for victims of past violations tend to be ignored or marginal in the design of large police reform programmes. Similarly, enforcement of peace agreements, management of post-settlement conflict or public disorder and transitional justice arrangements are seldom planned for as part of the police reform agenda. These deficiencies demonstrate once more the centrality of police reform processes in transitions to peace and democracy.

Where the police were involved in gross human rights violations as part of the conflict (for example Rwanda and South Africa), mechanisms for transitional justice – such as Truth Commissions or criminal trials for past violations – can play a useful role in holding police officials accountable for these violations, thus laying the foundation for a new style of policing which emphasizes accountability and which will not tolerate such abuses in the future.

Retrenchment packages or transitional justice devices can be useful in ridding the police organisation of individuals who are not likely to support the future trajectory of police reforms, or who are likely to oppose the policies of the new government.

However, in most of the countries surveyed, transitional justice mechanisms were absent, or, where they exist, did not pay significant attention to the role of the police in the previous conflict, or to making forward-looking recommendations about future police conduct. Some of the countries surveyed are only now commencing transitional justice processes, and these are opportunities to develop a new approach which links accountability for past violations to the creation of a new culture and style of policing which supports democratic accountability and discourages abuses.

### 7.7 ARRANGEMENTS FOR POLICING OF POST-CONFLICT ELECTIONS

Much of the donor assistance which has been provided to policing in the DRC in recent years focused on preparing for, and policing, the first post-conflict elections, which were held in two rounds in 2006.

Various DRC police agencies received training in crowd management and human rights issues related to elections; for example, the Rapid Intervention force (PIR) was trained by Angolan and French police trainers; the UPI was trained by the EU; 300 members of a mobile unit were trained by the South African police; and some of the territorial police forces were trained by MONUC.

The official evaluations of the policing of the elections have yet to be made public, however it is safe to say that the Congolese police managed the elections well, despite their severe lack of resources and training in the decade prior to elections.
8. KENYA CASE STUDY REPORT

8.1 HISTORICAL AND POLITICAL CONTEXT

The system of state policing in Kenya emerged in 1906 during the period after the British Foreign Office took over the administration of the region from the Imperial British East Africa Company. Kenya was declared a Colony and Protectorate of Britain in 1920, and the modern Kenya police was founded in the same year, in response to demands for security and protection from the increasing numbers of settlers in the Colony. At that time, Africans were recruited only into the lowest ranks of the police force and were subservient to European and Asian officers.

During the years between World Wars 1 and 2, growth and expansion in the Kenya police saw the introduction of a Criminal Investigation Department (CID) and fingerprint bureau, as well as the provision of education classes for the lower ranks. After the Second World War, and partly in response to a perceived threat of indigenous unrest, the police force was further expanded with the Kenya Police Reserve, a dog unit, Air Wing and the General Service Unit all being established in 1948.

The 1950s saw an increase in the tensions between the police and the indigenous people of Kenya, and a rapid expansion of police numbers. The Mau Mau insurgent group was active between the late 1940s and early 1950s, sowing fear among white settlers. In 1952, a State of Emergency was imposed and remained in place until 1960, when the army took over from the police as the primary law enforcement agency. Many law enforcement agencies were involved in the policing of the State of Emergency, including the British military and volunteer military forces, local home guards and volunteers and the Kenya colonial police.

The State of Emergency brought with it an initial suppression of the uprising, followed by “a planned programme of brutality against civilians, designed to purge the region of Mau Mau sympathisers”. The programme introduced detention camps where confessions were obtained from Mau Mau members by means of torture. Similarly brutal raids were carried out in the villages and across the country side by the Home Guard. “The Kenya Police Reserve, Special Branch and CID were notoriously at the forefront of the police brutality and misconduct. The Special Branch was in charge of the Mau Mau Investigation Centre outside Nairobi, which was a specialised torture centre where those suspected of serious involvement with the insurgent group were sent.”

The 1953 Emergency regulations changed the criminal justice system by granting powers of control over the (largely Kikuyu) population to District Commissioners which allowed for detention without trial and the disbanding of political parties. This was despite the fact that Kenya’s British colonisers had signed the European Convention on Human Rights, Article 5 of which forbade detention without trial. The Convention allowed for derogation of this article in cases of public emergency, and it has been

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107 With thanks to Judy Klipin for her assistance with this chapter.
109 CHRI ibid.
110 CHRI, 2006: p. 4
argued that the State of Emergency was kept in place for so many years in colonial Kenya (until 1960), to allow for the continued application of detention without trial.\footnote{CHRI, 2006.}


Although the 1963 Constitution made provision for a neutral, professional and autonomous police force which would be legislated and overseen by a Police Service Commission and a National Security Council, these provisions, and the appointment of the Police Inspector General, were never implemented. Instead, the police became an extension of the civil service when a constitutional amendment removed their autonomy in 1964.\footnote{CHRI, 2006.}

Between 1964 and 1990, the constitution was amended many times, resulting in the granting of increasing power to the executive. In 1982, Kenya became a one-party state with the passing of the Section 2A amendment to the Constitution and by 1988 further amendments removed the security of both judicial and legal tenure. With these amendments came resistance and the middle to late 1980s saw increased police repression, with the police being implicated in a number of deaths and/or disappearances of people involved in opposition activities. The Government could no longer ignore the increasing opposition, and in 1990 began reversing some of the constitutional amendments, resulting in the return of Kenya to a multi-party state. The first multi-party elections since Independence were held in 1992.

“On the human rights front, the NARC government has remained tinted and non-committal like the previous KANU one. On assuming power, it accorded human rights campaigners positions in its ranks, opened torture chambers and promised Kenyan to follow a piped dream, and embarked on ‘reforming’ the security organs. However, there have been genuine concerns that the country may be sliding back into the days of dictatorship, torture and tyranny. In recent weeks, there have been complaints that police officers are engaging in arbitrary arrests; extra-judicial killings are still prevalent while the security officers have been accused of torturing suspects ... The police have also been accused for use of torture to extract confessions from criminal suspects. According to a recent reports released by human rights organisations, torture, extra-judicial execution and mob justice accounted for a total of 574 deaths in 2004/2005 alone. The main causes of death were gunshot wounds (40%) occasioned by the police followed by blunt force trauma (36%). In several deaths caused by the police and other state agents, the reports points to a systematic and endemic mass execution by police of criminal suspects. In 2002 to 2005, a total of 1432 torture cases were reported to various organisations. Most of those who reported torture alleged to have been violated during arrest (60%), and 28% accounted for those tortured while in custody, and a staggering 2% were cases that occurred at home.\footnote{The Oscar Foundation Free Legal Aid Clinic-Kenya (OFFLACK) 1996 Shielding Impunity: A Human Rights Accountability Report p 3 at http://www.policeaccountability.co.za/File_uploads/Docs/Shieldingimpunity.pdf}"

### 8.2 STRUCTURE OF STATE POLICING

The Kenyan police are organised in terms of the 1961 Police Act, the Police Regulations, the Standing Orders and the Police Manual. The Kenya Police Force is responsible for the overall law enforcement,
including traffic control, in the country and has a number of components, including an Air Wing, a Dog Unit a range of units to combat inter alia narcotics, terrorism, robbery and corruption.

The Kenya Police is headed by the Commissioner of Police, who is the Chief Administrative Officer and is based at Police Headquarters in Nairobi. The Police Commissioner reports to the President of Kenya and may be appointed or removed by the President at any time, as provided in the Republican Constitution.\textsuperscript{116} The Commissioner of Police has a Secretariat comprising a Senior Deputy Commissioner, a number of Senior Assistant Commissioners and civilian and uniformed officers. Also based at Police Headquarters in Nairobi are the Special Branch, CID, Motor Transport Branch, Signals Branch and the Quartermaster.\textsuperscript{117}

There are 14 posts in the rank system, starting with Constable and working up to Commissioner. The Kenya Police is organized into eight provinces in addition to the Railway and Harbors Police. Each province has sub-Divisions, each of which is headed by a Divisional Commander who reports to the Provincial head of police. Police stations are headed by Chief Inspectors or Inspectors, and policed posts by a Sergeant or a Corporal.\textsuperscript{118}

A ‘General Service Unit’ is provided for in the Standing Orders of the Kenya Police to deal with “special operations and civil disorders”\textsuperscript{119}. It “is a mobile police force that is separately organized from the rest of the Kenya Police. It is a paramilitary police force used for the apprehension of dangerous, syndicated, or armed criminals.”\textsuperscript{120}

Because of the historical dual system of customary and civil administrations in Kenya, an ‘Administration Police’ was established by the Administration Police Act in 1958 to deal with customary law, and continues to be operational today, mainly in the rural areas. The Administration Police has its own set of Standing Orders and procedures, and report to the Minister of Internal Security through local provincial heads, (although the operations and practices of the Administration Police and the Kenyan Police often overlap, and reporting lines are similar).

8.3 POLITICAL CONTROL AND INDEPENDENCE OF THE POLICE

The President has absolute authority over the Commissioner of Police and appoints him or her with no assistance from Parliament or any other public office. In addition, there is no set term of office for the post, so the Commissioner is always at the mercy of the President. The President is also empowered to declare a State of Emergency and take over operational control of the police from the Commissioner, as well as to make extensive regulatory changes to policing. Illegitimate political interference is embedded in the culture of the Kenya Police, exacerbated by the lack of structures to limit such interference and influence.

In theory, the Kenya Police Force is supervised by the Public Service Commission (PSC) which is supposed to discipline corrupt police officers. However, “since the Kenya Police Force is a political institution and the Public Service Commission is composed of politicians who are appointed by the President, disciplinary action is rarely taken against a delinquent police officer.”\textsuperscript{121}

\textsuperscript{117} CHRI, 2006.
\textsuperscript{118} CHRI, 2006.
\textsuperscript{119} CHRI, 2006.
\textsuperscript{121} Ebbe op cit
Although the new regime brought with it expectations for police reform, these hopes were not fully realised, particularly as the President appointed a member of the Kenyan Army as the new Police Commissioner in 2004. Allegations of political interference in policing are still commonplace.

8.4 POLICE REFORM ISSUES

The need for police reform in Kenya has been recognised since the return of multiparty democracy in the early 1990s, although it has been haphazardly addressed since then. Various government strategy documents such as the plan for economic recovery and wealth creation, and poverty reduction strategies have identified police reform and the provision of governance and security as critical.

The Economic Recovery and Wealth Creation Strategy for 2003-2007 outlines the following security priorities:

- Increase the police officer-to-population ration
- Improve trust between the police and the population
- Enhance police effectiveness through utilising and training around modern technology and the need to operated within the law
- Resource the police with modern technology and equipment
- Improve conditions of service and housing provision of police officers
- Review and enact appropriate laws to deal with modern crime challenges such as money laundering, cyber crime, terrorism and tax evasion
- Develop and enforce a framework for cross border and territorial waters policing and collaborative security management.

In November 2003, the Governance, Justice, Law and Order Sector (GJLOS) reform process was initiated to look at strengthening the entire system for the administration of justice. Police reform is a key component of the GJLOS programme - police are recognised as a pivotal state institution as well as a key player in the criminal justice system. The key police reform priorities set out in the GJLOS Vision and Strategy documents\(^\text{122}\) include:

- Introduction of codes of conduct, establishment of independent complaints and oversight mechanisms with powers of investigation, improved transparency and public access to police actions;
- Improving responses to police corruption through:
  - An anti-corruption sensitisation programme for police officers;
  - Decentralising operations of the Anti-Corruption Unit to the Provinces; and
  - Providing appropriate equipment for prevention and rapid response
- Improving police local service delivery through a shift from reactive to proactive policing. The police will be piloting new protocols based on professional best practise in selected areas;
- Improving crime reporting procedures as a service objective to the victim;
- Increasing training in investigation techniques for the Criminal Investigation Division (CID); and
- Providing better equipment and technical assistance, to increase intelligence led investigations of crime.\(^\text{123}\)

Planned improvements to the police service institution include:

\(^{122}\) Public Safety and Security in Kenya is dealt with in Key Output Area 4 of the GJLOS document.
\(^{123}\) CHRI, 2006: p. 60.
- Enhancing police motivation by strengthening the police code of conduct and ethics, and its implementation; reviewing the salary scales and ensuring promotions on merit according to a clear and appropriate scheme of service;
- Enhancing public access to the police through the establishment of community-based police services. This will also include a review of the number and distribution of police stations and posts throughout the country, and establishment of special desks to deal with special and vulnerable groups;
- Developing a community policing strategy, to complement police efforts towards improving security, and as part of the adoption of a new approach to policing; and
- Developing a national crime prevention strategy to provide a clearer picture of priorities and a performance monitoring and evaluation system.\(^2\)

The 2003 – 2007 Kenya Police Strategic Plan makes provision for effective performance management through a range of structures and processes, including the establishment of a Police Service Commission and an independent police oversight body. The Plan also identifies the need for a national policy on policing, clear operational guidelines and a finite period of service for the Police Commissioner. In addition to police governance issues, the Strategic Plan also makes recommendations around the need for increased and improved resources and terms and conditions of service.

The Government Police Reforms Task Force, intended to enhance the effectiveness and efficiency of the police was set up one month after publication of the Police Strategic Plan. The aim of this 15-member body is to take forward police reforms as well as to co-ordinate other reforms that are on-going. Its mandate was based on a review of the Kenya Police Strategic Plan 2003 – 2007 and of other recommendations for policy and institutional reforms, including:

- Internal recruitment,
- Terms and conditions of service
- Complaints procedures
- Strengthening of the regulatory framework through review of laws
- Establishment of monitoring and evaluation processes and a civilian oversight board
- Development and implementation of performance standards
- A number of reforms relating to police accountability
- Reforms necessary for improvement of the police image
- Improvement in crime prevention and reduction activities
- Capacity-building in relation to police infrastructure, equipment and resources and the management thereof
- Implementation of community policing
- Improved human resource management and development.

Police misconduct and the lack of police accountability continues to be a major challenge for police reform in Kenya:

“The cycle of police brutality continues to be perpetuated with impunity and remains the most serious and divisive human rights violations in Kenya. Excessive use of force by the law enforcement officers, including torture, extra-judicial executions, arbitrary arrests and intimidation, is rife in virtually all police stations in Kenya. The inability of the police force to make it possible for rogue police officers implicated in human rights violations in order to face the due process and be held accountable has been compromised by a rein of lawlessness and

\(^2\) CHRI, 2006, p. 60.
endemic corruption. This trend is rapidly precipitating a state of moral negligence and ineptness in the entire police force. … police brutality is ‘systematic and endemic’ in Kenya; measures to deter impunity have failed to yield any meaningful solutions; and, in each case reported to us, survivors of police abuses face enormous obstacles in seeking legal redress to present any criminal prosecution against rogue officers implicated in human rights violations.”

8.4.1 Integration/amalgamation of police agencies

The structure of policing and police agencies in Kenya has remained relatively unchanged since the middle of the last century. Amalgamation or integration processes are not a feature of current police reform in Kenya.

8.4.2 Demilitarisation/ civilianisation of the police

There have been no programmes to civilianise the rank structure of the police in Kenya, although the style of policing remains predominantly of the “colonial or regime” style of policing, rather than a “democratic” one. There is still a long way to go with regard to professionalisation of the police in Kenya.

8.4.3 Oversight and Police Accountability Systems

As has already been discussed, the 1963 Constitution made provision for a neutral, professional and autonomous police force which would be legislated and overseen by a Police Service Commission and a National Security Council, but these provisions, and the appointment of the Inspector General to oversee the Police, were never really implemented.

A range of national legislation and international protocols provide a comprehensive framework for police functioning and accountability in Kenya. Internally, these include the Constitution, the Police Act and Police Standing Orders and Regulations and general laws related to the criminal justice system and the administration thereof. Internationally, a range of bodies such as the United Nations, the African Union and the Commonwealth provide international standards for policing that Kenya, in theory, subscribes to. However, in practice, there is little police accountability or adherence to international standards of good practice.

A police oversight unit exists to conduct investigations; monitor police misconduct and evaluate how police officers relate to members of the public, to receive and examine public complaints and to ensure the promotion and protection of human rights. However, according to a Kenyan NGO, this unit has proved ineffective and lacks fairness lacks the capacity to investigate and act on complaints reported by citizens against police officers accused of abuse; their investigations produce scant information that fail to support any possible administrative or judicial punishment.

127 CHRI, 2006.
The 2003 – 2007 Kenya Police Strategic Plan recognises the inability of the police to do their job due to a historically-entrenched lack of accountability of the organisation. It expressly recognises the importance of upholding human rights and forging of partnerships, and identifies a need to improve individual and institutional accountability; including recommendations for a new independent oversight agency.

8.4.4 Selection and Appointment of New Police Leadership

Article 108(1) of the Constitution of Kenya gives the President absolute power to appoint and dismiss the Police Commissioner, thus ensuring the political support and loyalty of the police to the government of the day, which also creates the potential for interference in police operations. The lack of guiding public criteria for the appointment of the Police Commissioner, as well as the absence of a finite term of office for this post, make the authority the President holds over the Commissioner absolute. “Controlling the key coercive arms of the state strengthens presidential control over all other aspects of government operation.”

8.4.5 Change Management Capacity of the Police

Allegations of political interference, police corruption and abuse of powers have plagued the Kenyan police for many years. According to Daniel Woods of the CHRI Access to Justice Programme, corruption, torture and excessive use of force is still commonplace in East Africa:

In Kenya, use of torture by police was described in 2000 as "widespread and systematic" by the then United Nations Special Rapporteur on Torture, Sir Nigel Rodley. In 2003, a local organisation, the Independent-Medico Legal Unit, documented 358 cases of alleged torture. In 2004, three suspects being held at a scene for attempted robbery were shot dead by a senior officer who continued to claim his behaviour was justified after the event, on the basis that the victims were suspects. In 2004, capital remandees at the Nairobi Remand Prison claimed that torture by police was commonplace; police used force to obtain evidence or offered themselves as violence for hire - they were paid by prisoners and outsiders to settle scores.

According to the 2004 Kenya Bribery Index, the police are the most corrupt agency in the Kenyan government - 80% of respondents thought that the police were corrupt, 49% felt they were partial and 52% believed they colluded with criminals. A 2002 Transparency International survey reported that the average Kenyan paid 1,270 Kenyan shillings (about US$15) in bribes to police officers each month.

8.5 DONORS IN THE POLICE REFORM PROCESS

8.5.1 The Role and Impact of Donors on Police Reform

Kenya’s relationship with Western donors soured in the early 1990s, when donors as a whole distanced themselves from the Moi regime over problems related to Kenyan economic and political governance. Nonetheless, donors still maintained an important presence and, with few exceptions, most became less
critical of the government around 1994, thereafter becoming concerned mainly with economic governance.

Research conducted in Nairobi in 1998 and 2001 demonstrated that, above all, donors dreaded a collapse of the political and economic system in the country\textsuperscript{131}. With the election of the National Rainbow Coalition (NARC) into government, donors’ interests in Kenyan police reform reached a turning point in late 2002; and a number of donors have contributed to the development and transformation of the police sector. For example, DFID and the European Commission have identified the need to continue to assist reform programmes in support of improved security and police service delivery in Kenya, through their continued support to the GJLOS Reform Programme.

The NARC government initiated the Governance, Justice, Law and Order Sector (GJLOS) Reform Programme in 2003 as part of its commitment to economic growth in the country. The GJLOS was aimed at both the Kenya Police and the Administration Police. Through the funding of the GJLOS Reform Programme, the International Development Partners (IDP’s) have been directly funding police reforms in both agencies since mid-2004. Through the GJLOS governance structures, particularly its Thematic Groups, IDP’s have participated in the technical discussions around GJLOS work-plan priorities for both police agencies, which have provided a unique opportunity for all parties to participate in multi-stakeholder discussions around funding priorities.

However, opportunities for IDP’s to engage in policy dialogue with the Office of the President (OP) – the “super Ministry” under which control both agencies reside - have been fewer. This inevitably casts at least some doubt over the nature and depth of the Sector-Wide Approach espoused by the GJLOS Reform Programme, because effective and regular policy dialogue between Government and IDP’s is a key feature of a well functioning SWA.

Nonetheless, the role and impact of donors on police reform in Kenya, at least over the last 3 years has been considerable, as it has not only provided access to resources, but has also opened up the relevant government agencies to external input.

8.5.2 The Management of Donors and Technical Assistance

Donor assistance and funding of police reform processes in Kenya is co-ordinated and managed through the GJLOS programme. The Kenyan Treasury has the overall responsibility for the management and coordination of external development aid to the Government of Kenya, including the management of bilateral relationships, through the signing of bilateral financing agreements (that may include components of Technical Assistance), and management of high level national coordination. However, unlike some more established Sector Wide Approaches, donor coordination in the GJLOS sector appears to be mainly donor-led, as opposed to government-led.

8.6 TRANSITIONAL JUSTICE MECHANISMS

Not applicable.

8.7 ARRANGEMENTS FOR POLICING OF ELECTIONS

The most recent elections in Kenya were held on 27 December 2002. An Amnesty International mission to Kenya at that time found the "human rights situation to be generally peaceful with some relatively isolated incidents of election violence." Amnesty found that the Electoral Commission of Kenya had played a proactive role in taking appropriate action against candidates and parties involved in election violence. In some areas suspected perpetrators of politically-motivated violence were arrested by the Kenyan police, but no formal investigation was carried out to bring those responsible to justice.

"Overall, the mission found that the police and provincial administration provided adequate policing and security for political rallies and voters, demonstrating that they took the concerns raised by Amnesty International and other local human rights organisations seriously." 132

This was a marked improvement over the conduct during the 1992 and 1997 elections which were marred by politically-motivated violence and increased human rights abuses, with very few perpetrators ever being brought to justice 133.

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9. MOZAMBIQUE CASE STUDY REPORT

9.1 HISTORICAL AND POLITICAL CONTEXT

In its post-colonial phase, Mozambique constitutes one variation on a wider African theme. Political independence from colonial rule by Portugal was achieved in 1975. The liberation movement, Frente de Libertacao de Mocambique (FRELIMO), declared a ‘people’s republic’ based on a political doctrine of Marxist-Leninism. At the time of independence the one-party state, headed by Samora Machel, had a vision of building a ‘people’s police force’. Later events however precluded the realization of this goal.

Independence was followed by a civil war\(^\text{134}\) between two competing political formations: the socialist-inspired FRELIMO government and the rebel movement Resistencia Nacional de Mocambique (RENAMO). The rebel movement enjoyed considerable backing from apartheid South Africa and Ian Smith’s Rhodesia. As in many other civil disputes in Africa, in Mozambique too external interests emanating from neighbouring states helped to fuel the internal conflict.

Between 1975 and 1990, the one-party state spawned partisan security institutions. Furthermore, police and intelligence agencies were subservient to the military. The Mozambique People’s Police (PPM) was moulded as a loyal ‘regime police’. The fortunes of the latter remained tied intimately to FRELIMO.\(^\text{135}\) In the context of the civil war itself, internal and external security became blurred. As a consequence a paramilitary mindset shaped the police institution.\(^\text{136}\)

Fifteen years of civil conflict inflicted extensive damage, both economic and social. The war left one million people dead, 4.5 million displaced, the countryside in ruins, and the urban centres in a state of disrepair.\(^\text{137}\) From such infrastructural and social devastation emerged a fragile state which, in the new political environment, had to engage with the enormous challenges of reconstruction and reconciliation. In the event, the ‘revolutionary economic model’ was replaced ‘by the neoliberal capitalist model, which included both structural adjustment and the transition to multiparty democracy.’\(^\text{138}\)

9.2 POLICING ARRANGEMENTS (STRUCTURE OF STATE POLICE)

The adoption of a new Constitution in 1990 laid the foundation for political transition. Although the Constitution did not provide any explicit blueprint for reform of the security establishment, it made clear that the security forces were to be subordinate to national defence and security policy and to the Constitution. The President was to remain the Commander-in-Chief of the defence and security forces. Provision was made for the establishment of a national defence and security council and it was envisaged that the council would fulfil an advisory function. In accordance with the national Constitution


of 1990, the Police of the Republic of Mozambique (PRM) replaced the existing Mozambique People’s Police (PPM) in December 1992. Provision was made for a general command equivalent to a national police commissioner. In July 1991 the state secret police was abolished. The People’s National Security Service (SNAP) was replaced with the State Information and Security Services (SISE).

In 1992 a General Peace Agreement was signed in Rome. Protocol V of the Agreement (GPA) specified the responsibilities of the Police of the Republic of Mozambique (PRM):

(a) to ensure respect for and the defence of the law, and
(b) to maintain public order and tranquillity to prevent and suppress crime.

Whilst the Agreement formulated objectives relating to the ‘depoliticisation and restructuring of the police force’ (Protocol IV, Section IV) actions were slow to follow on the promises made on paper. For the next five years little concerted effort went into changing internal structures, oversight arrangements or operational ethos. Reform initiatives only gained momentum from 1997 onwards. So for example, the Defence and Security White Paper (which only appeared in October 1997) stipulated the roles and functions of the relevant security forces. The White Paper distinguishes between three components of security: external, internal and state security (intelligence). Internal security includes activities undertaken by the state to ensure law and order, public safety, security and tranquillity, to protect people and their property and to prevent crime. Such tasks associated with internal security were assigned to the PRM.

In 1994, Mozambique police numbered 18 047. The command structure was based at national headquarters in Maputo. Police services were being dispensed from eleven headquarters with 200 stations scattered across the various districts. In more rural parts of the country the police however, remained (and continue to remain) under-represented. By 2000 human resource capacity had increased to 18 500, which was still considerably less than the ‘projected target of 40 000’.

9.3 POLITICAL CONTROL/ INDEPENDENCE OF THE POLICE

In the new political dispensation internal security was to resort under the Ministry of Interior comprising the following components:

- The Criminal Investigation Police (PIC)
- Mozambican National Police (PRM)
- Special Forces - Rapid Intervention Force (RIF) and the Special Task Force and Border Control. The RIF reports directly to the Minister of Interior.

The General Commander of the PRM was to fall under the Ministry of Interior. Until 1994 the President himself was the General Commander of the Police. Only after 1994 was the General Commander appointed from the ranks of the police organisation itself – a development of some significance to the professionalisation and independence of the police organisation.

One structure of interest to oversight concerns the National Commission for Police Affairs (COMPOL). Established in 1992 COMPOL’s mandate was to oversee PRM activities so as to ensure adherence to

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the rule of law, justice and human rights. Its powers included the right to investigate any matter relating to the activity of the PRM held contrary to the legal order. COMPOL was to report to a Supervisory Monitoring Commission. On the available evidence, however, it would appear that the effectiveness of COMPOL was curtailed by lack of resources and authority. During the first phase of its operation however it succeeded in identifying critical challenges: lack of resources, inadequate training, corruption and lack of objective criteria in the selection of candidates.  

9.4 POLICE REFORM ISSUES

The peace process (either through deliberate design or by sheer default) opened up opportunities for reform of the security establishment. The challenges confronting institutional reform were many as the following synopsis of the state of public policing compiled in 1995 makes clear:

The organisation was structured in such a way that the Minister of Interior had direct lines of command with the provincial commander of the police...There was practically no police presence outside the cities. Personnel had been trained to operate under a different political and judicial system, and did not know how to operate in a state where the rule of law prevailed.

...The general level of education and training was low and the salary was very low. The infrastructure is what one would expect from a country after a violent internal struggle. Buildings destroyed or in a severe state of neglect... lack of police vehicles...The uniforms were old and ill fitting.  

Thus it is against the background of organisational underdevelopment that the reform of the police has proved a challenging undertaking. The conversion of a paramilitary party police agency into a civilian police institution required political determination and strategic capacity. In the early phase of the transition, both ingredients were apparently in short supply. Political commitment to reform the police in particular was lacking partly because a militarised police agency was thought an instrumental ally to fill 'the perceived security gap resulting from a weak defence force with dubious loyalty'. To complicate matters further, the rise in armed banditry and more organized forms of crime in the latter part of the 1990s further taxed the resolve and capacity of the police agency.  

9.4.1 INTEGRATION / AMALGAMATION OF POLICE AGENCIES

The General Peace Agreement stipulated that armed forces from government and the rebel forces be combined into a new army. All in all, some 95 000 soldiers were demobilized. As the rebel movement, RENAMO, had no police, there was not a similar provision aimed at integrating former adversaries into the Mozambique police. FRELIMO had in fact dispatched a battalion of its cadres for police-related training in Tanzania in 1974, in preparation for independence a year later. In the absence of any

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141 Ibid. p. 7.
143 '(A)s a matter of fact, police issues were non-negotiable during the negotiation and implementation phases, as the government alleged that some kind of sovereignty should be maintained. There is little doubt that the FRELIMO government were preparing a force like the Ninjas in Angola.' Chachiua, M. 2000. 'Internal security in Mozambique: Concerns over policies' African Security Review 9(1): p. 5.
144 Ibid. p. 8.
145 The crime wave has been fuelled by the glut of redundant weapons, the swelling of the ranks of the urban unemployed, consisting of a mixture of returning refugees and displaced people. Ibid. p. 2.
integration from former political adversaries, FRELIMO dominance within the police agency thus continued into the post-conflict era. There was evidence of a strong esprit de corps amongst senior police ranks interviewed in Maputo in October 2006 – a sense of solidarity rooted in a history of political struggle and in guerrilla training in Tanzania.

9.4.2 DEMILITARISATION/ CIVILIANISATION OF POLICE

The Fourth Protocol of the General Peace Agreement called for the creation of a new public security force. Most of the police had some form of previous military service. A considerable number of personnel and weapons were transferred from the army to the police – particularly to the Presidential Guard. Between 1993-4 ‘most of the demobilized soldiers were integrated into the police forces’. Such developments have led to concern in some circles about the militarisation effects on the police. In terms of the enabling legislating the PRM was created as a public body and paramilitary force responsible to the Ministry of Interior. The PRM continued to have a centralised organisational structure and military rank structure.

In recent years there has been more concerted talk of the need to civilianize certain postings in the police, to expand service delivery to citizens and to seek opportunities for police-community collaborations. All of these developments point in the direction of civilianization and may dilute the vestiges of a militarised policing past. In addition some significance is attached to the provision that lateral entries can now gain access to the Academy of Police Science (the ACIPOL).

9.4.3 POLICE TRAINING

In an evaluation report undertaken by a developing agency in 1999, the low level of education is mentioned specifically. Most of the 20,000 members were said to have only primary education. Against this background attraction of new and better recruits and the provision of intensive quality training became critical. Lack of resources however, have hampered reform initiatives in this area. A UNDP project focused heavily on training and retraining and at the end of the first phase a quarter of the police had benefited from a range of courses offered at the basic, middle ranks, senior ranks and specialist divisions. The reduction of anticipated project funds however curtailed the impact of developmental assistance in this field of capacity development.

The establishment of the Academy of Police Science (ACIPOL) is seen an important one in developing a cadre of senior officers who now has access to university level courses. More recently ACIPOL has been earmarked as a recipient in Swiss developmental circles.

9.4.4 OVERSIGHT AND POLICE ACCOUNTABILITY

In the early phase of police reform in Mozambique oversight and accountability remained of secondary importance. As a consequence there has not been a government-funded independent external mechanism established by law to investigate complaints against the police. The architecture of external civilian oversight and internal police accountability – such as it exists at present - remains underdeveloped. In recent discussions however, the need for creating such an oversight mechanism was acknowledged.

146 MOZ 53 Phase II (01/2002-06/2003) Support to the Mozambican Police Reform.
The White Paper affirms constitutional supremacy and obedience to the President as the Commander-in-Chief. Whilst the Constitution outlaws torture and inhuman and cruel treatment, human rights abuses continue. A Constitutional Amendment has proposed the introduction of an Ombudsman but it is unclear whether this office has been instituted. Little is known about the effectiveness of internal disciplinary guidelines to curtail police abuse of power and corrupt practices. Despite progress much still remains to be done as one observer makes clear:

At present the conduct of the Mozambique police is not consistently subject to the law, nor are they adequately accountable, accessible, impartial, representative or transparent. In a word, they lack legitimacy. Democratisation has brought only minor changes to the force. In this respect, they are typical of forces across the region. ... The consequence is that Mozambique's democracy is left incomplete.¹⁴⁸

In more recent deliberations the need for developing mechanisms of oversight and accountability are duly recognised. The Strategic Plan of the 2003 explicitly recognizes the need for promoting 'ethic education'; institutionalising a control and inspection system so as to fight corruption and indiscipline within the police and for advancing police integrity and for applying the Disciplinary Regulations of the PRM. ¹⁴⁹

9.4.4.1 Community Policing Councils

A further development which may in future yield benefits for police-community relations concerns community policing councils. Emulating South African experiments, lay involvement in crime prevention initiatives was boosted through the introduction in 2001 of non-statutory bodies called Community Policing Councils. There are currently 1 656 councils in existence throughout the country. Such councils draw on volunteers to assist the police in their crime control/preventative actions. It is envisaged that a national conference on community policing, to be held in the early part of 2007, will engage with various regulatory issues. At present the mandates of such lay structures seem ill-defined. In some areas their actions in pursuit of crime prevention have given rise to concerns about human rights abuses.¹⁵⁰

9 4.5   SELECTION AND APPOINTMENT OF NEW POLICE LEADERSHIP

After independence FRELIMO cadres who received police training in Tanzania in 1974 were appointed in leadership positions. They were apparently inducted into managerial positions by a number of Portuguese colonial police who agreed to stay on for a year. Efforts aimed at professionalizing training of the police in the years since independence must have made their effects felt in the selection and appointment of a new police leadership – but the details of such processes were not available at the time of the completion of the report.

9.4.6   CHANGE MANAGEMENT CAPACITY OF THE POLICE

Whilst commitment to change within the police organisation and amongst the political elite is evident, the capacity to manage change from within has been limited. Various evaluation studies have identified

the need for strengthening the capacity of police to manage. As reform of the Police in the Republic of Mozambique becomes more tightly linked to broader public sector reform processes (as outlined in the Strategic Plan of 2004), the efforts to toward building managerial capacity are likely to grow in importance.

9.4.7 CAPACITY FOR REGULAR POLICWORK AND CRIMINAL JUSTICE PROCESSES

As elsewhere, the fortunes of police reform are intimately tied to the capacity of the broader criminal justice system. Deficits in infrastructure, budgets and the absence of skilled staff are common ailments across the departments of the criminal justice system. Within the justice sector antiquated facilities, a critical shortage of trained court staff, an overload and backlog of cases, a lack of jurisprudence and weak financial management are amongst the range of factors contributing to the malaise. Behind such debilitating constraints there also lurks the more political issues relating to the independence and accountability of judges and lawyers. Deplorable conditions within prisons add another dimension to the reform agenda of the criminal justice system. On the resolution of this range of issues of course, depends the very possibility of entrenching the rule of law in Mozambique.

Predictably, the absence of a central database further complicates the work of criminal justice practitioners. The collation and analysis of the most basic of crime information is bedevilled by a lack of rudimentary systems and technical expertise. From an operational point of view the PRM seems to have been operating in an informational vacuum. The rise in crime - and organised crime in particular (trafficking in drugs and firearms) - in recent years (post-1997) poses further challenges to the guardians of law and order. The capacity of the PRM to address the upsurge in crime and more sophisticated forms of crime is considered limited in the face of ‘the lack of means and expertise within the PRM’.

However, the formation in 2001 of a new Coordinating Council for Legality and Justice (CCLJ) has been seen as an important development in pursuit of much more coordinated action to address the range of issues undermining the delivery of justice. The CCLJ is composed of representatives of relevant government ministries, the prosecutor general and the courts. Considerable faith has been placed in the Coordinating Council to pursue cross-sectoral agendas in the criminal justice system. Recent years have seen greater clarification of the policy frameworks within which governmental departments within the criminal justice cluster are to operate. So for example, a strategic plan for the justice sector has been developed but little efforts has gone into synchronizing such policy developments across the departments of the criminal justice system.

Within regard to police matters the most critical of policy developments concern the publication of the Strategic Plan of the Police of the Republic of Mozambique (SPPRM). The Strategic Plan defines the key principles to be pursued as those involving respect for human rights, impartiality, efficiency and effectiveness in service delivery. It also outlines the mission of the PRM as follows:

Contribute to peace, stability and development of the country, ensuring public order and security, based on the free exercise of citizenship rights, through constant modernisation, intensive of technological means, integration in the community and increase of the international cooperation in the prevention and fight against crime.

Linked to the wider Governance Programme of the government, the Strategic Plan is comprehensive in scope and detailed in its clarification of key programmes to be pursued. Again, the Strategic Plan reiterates the ‘low base’ from which organisational development has been instituted. The Plan spans four critical areas - organisation, operations, support services and social area - and is further divided into nine sub-programmes. Various mechanisms facilitated the formulation of the Plan as coordinated by the Coordinating Council within the Ministry of Interior and a steering committee. An equally elaborate Plan for Operationalising the Strategic Plan can be found in Volume 2 of the SPPRM with detailed time scales, a specification of the division of responsibilities and the anticipated costs involved in the design and re-engineering of systems and procedures.

Contained within the Plan is a proposal for the Creation of a National Observatory of Crime as an inter-sectoral research institution. This mechanism will be tasked with the responsibility of collating information on crime and developing policy responses. The Strategic Plan also inserts a victim-orientated dimension to policing so as to deal with violence against women and children on the one hand and attend to youth delinquency on the other. Also noteworthy is its detailed interventions to curb the spread of HIV/AIDS in the PRM ranks through educational and awareness campaigns, voluntary testing and medicine support. Some significance is attached to this work as the police exhibit higher rates of HIV than in the Mozambican population.

9.5 DONORS IN THE POLICE REFORM PROCESS

9.5.1 THE ROLE OF DONORS IN POLICE REFORM

In the first phase of reform political tensions between the government and foreign aid agencies contributed to reluctance on the part of the government to involve external actors in the reform of the police agency. Since 1997 however foreign assistance in aid of police reform has been forthcoming. On the whole donor assistance has had a positive impact on reform endeavours – particularly in the field of police training. In this regard the contribution of the Spanish Guardia Civil deserves particular mention as it had been centrally involved in not only developing a framework for international assistance in police training but also providing technical assistance. Infrastructural changes and the acquisition of new equipment however have lagged behind the needs on the ground – a function in part of the fact that the amount of funds actually committed (US $12m) fell far short of the estimated amount required to (US $60m) bankroll the reform efforts as outlined by a Spanish assessment mission in 1995.

- **United Nations**: The UN played a critical role in the run up to the first democratic elections. CIVPOL monitored the PRM and the Rapid Reaction Police during the first phase. In fulfilling this monitoring function CIVPOL made an important contribution to curtailing sectarianism in law enforcement.
- **Spain**: In 1995 officers from the Spanish Guardia Civil surveyed the needs of the police in Mozambique. From this audit there emerged a framework for developmental assistance focusing on four key aspects: organisational restructuring, selection and (re-)training, the provision of equipment and the building of infrastructure. This four pronged framework shaped developmental assistance in the following years. The contribution of the Guardia

To name a few of the weaknesses: lack of coordination across the criminal justice system, inadequate flow of information within the police organisation, lack of rules in careers, promotion and remuneration, corruption, abuse of authority; absence of intelligence police, specialised laboratories, lack of resources and equipment, no evaluation system of performance and praise, low wages and no benefits, insufficient resources and equipment, deficient service delivery, and poor public image. Budget deficit, little social assistance to the police, police not in control of their own budget.
Civil to the reform of the police in Mozambique is openly acknowledged in police circles with particular reference to their role in designing and delivering police (re-)training and providing technical assistance in PRM restructuring and performance management. Whilst other development partners were initially concerned about the paramilitary ethos of the Guardia Civil, one assessment suggests that the paramilitary affinities between the Guardia Civil and PRM proved conducive to cooperation.

- **UNDP**: From 1997 onwards UNDP (with financial assistance from the Netherlands\(^{157}\) and Spain with Switzerland following later) signed a comprehensive project agreement with an emphasis on retraining, building management capacity and provision of equipment of the police – specifically the PRM.\(^{158}\) This has been the flagship project in the post-conflict era. Various evaluation documents speak to the successes and challenges which each phase of the overarching UNDP programme had to mediate.

- **Other institutions**: Swiss assistance to ACIPOL; French assistance (1996-2000) to drug and anti-crime squads and forensic laboratories; Portuguese assistance in higher education, German aid for equipment and community policing; UNICEF on domestic violence at four police stations. Italy too has been involved in the training of police. More recently, UNDP’s leading role in support of reform of the justice sector more widely has been overtaken by other agencies such as DANIDA, the World Bank and the USAID.\(^{159}\) Such contributions are critical in building the capacity of the police, courts and prisons in Mozambique. Italy too has been involved in the training of police.\(^{160}\)

### 9.5.2 THE MANAGEMENT OF DONORS AND TECHNICAL ASSISTANCE

By all accounts the UNDP has played the most critical of coordinating roles. It has also acted as an honest broker between the government and other donors. Through its efforts UNDP in particular seemed to have succeeded in building trust between the government and the international aid community – a not insignificant achievement given the level of mistrust which seemed to have existed in the early phase of reform. The formation of a steering committee consisting of representatives from the UNDP, the wider donor community, MIT and some civil society groupings appear to have functioned as a confidence building mechanism. UNOPS (United Nations Office for Project Services) has fulfilled various management responsibilities vis-à-vis the UNDP projects. The setting up in 1996/7 of a coordinating unit within the Ministry of Interior with Swiss funding and with the role of coordinating donor contributions has also helped to build internal capacity (Gabinete de coordinacao). Furthermore the creation of UTIPE (Unidade Tecnicade Implementacoa do Plano) is considered critical to the implementation of projects.

Given the importance of donor assistance to police reform efforts questions have been raised about the sustainability of the reform endeavours in the light of what is considered limited ‘absorptive capacity’ on the part of government.\(^{161}\)

### 9.6 TRANSITIONAL JUSTICE MECHANISMS RELATED TO POLICE

The peace process did not make provision for any transitional justice mechanisms.

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\(^{157}\) See [http://www.u4.no/projects](http://www.u4.no/projects)

\(^{158}\) See [http://www.ks.undp.org/Projects/civil_police/civ_pol_dev.htm](http://www.ks.undp.org/Projects/civil_police/civ_pol_dev.htm)


\(^{160}\) See [http://www.iss.co.za/Af/profiles/Mozambique/SecInfo.html](http://www.iss.co.za/Af/profiles/Mozambique/SecInfo.html)

10. NAMIBIA CASE STUDY REPORT

10.1 HISTORICAL AND POLITICAL CONTEXT

South Africa occupied the German colony of South-West Africa during World War I and administered it as a mandate territory until after World War II, when it annexed the territory. In 1966 the People’s Liberation Army of Namibia (PLAN), the military wing of the South-West Africa People’s Organisation (SWAPO), launched a war of independence. From 1970 onwards the political conflict between the apartheid government and the Namibian opposition became increasingly militarised. Pretoria relied on “military force, imposed martial law, created an indigenous army and deployed thousands of its own troops on the border.” During this period the various police agencies played a counter-insurgency role in the low intensity war. During the struggle of some 23 years 12 000 inhabitants were killed. In the northern part of the country a war zone prevailed. Police agencies operative in the occupied territory were deeply involved in the war. The largest of the forces deployed was none other than the South African Police. Between 1966 and 1974, the SAP rather than the South African army, had the main responsibility for controlling the northern border of the country. The specialist unit, Koevoet, under the control of the Security Branch of the SAP, played a particularly ruthless role. As in Rhodesia, the Namibian frontier with Angola provided the battleground within which the SAP developed its counter-insurgency capacity. After 1976 such capacities were exported back home to conduct the ‘total strategy’ in the struggle for control over the townships. In the context of South African peace negotiations, the police reform experiments of Namibia became an important point of comparative reference for South African efforts.

In 1988 South Africa agreed to end its administration in accordance with a UN peace plan for the entire region. A negotiated settlement led to the withdrawal of South Africa and a smooth and peaceful transition towards a constitutional democracy. Namibia won its independence in 1990. The Constitution was ratified on 9 February 1990 and became effective on 12 March 1990. The Constitution of the Republic of Namibia makes provision for a liberal democracy with a proportional representation system of voting and an independent judiciary. Fundamental human rights are enshrined in the Constitution. The bicameral legislature consists of the National Council and the National Assembly. The Cabinet is appointed by the president from among the members of the National Assembly. The president is elected by popular vote for a five-year term. Elections were last held on 15 November 2004. Whilst a multi-party democracy exists SWAPO has governed Namibia since 1990. The 2004 election results continue to point to the overwhelming dominance in electoral politics of SWAPO.

Namibia is a large but sparsely populated country with 2,044,147 people geographically scattered over an area that is more than 90% semi-arid to desert. Although a relatively advanced road and communication infrastructure exists, the liberal constitution was superimposed on a relatively weak socio-economic base. Independent Namibia inherited from its past a narrowly based economy. Deep

167 Representation in the National Council in percent of vote by party - South-West Africa People’s Organisation (SWAPO) 89.7%, United Democratic Front (UDF) 4.7%, National Unity Democratic Organisation (NUDO) 2.8%, Democratic Turnhalle Alliance of Namibia (DTA) 1.9%.
social inequalities follow the dividing line of race. Unemployment, high rates of illiteracy and inadequacies in the provision of education and health all constitute critical challenges. By 1995 economic growth had slowed to 2%. According to the UNDP's 2005 Human Development Report 34.9% of the population live on $1 per day and 55.8% live on $2 per day. The economy is heavily dependent on the extraction and processing of minerals for export. Mining accounts for 20% of GDP. Rich alluvial diamond deposits make Namibia a primary source for gem-quality diamonds. The Namibian economy continues to be closely linked to South Africa.\textsuperscript{108}

10.2 POLICING ARRANGEMENTS (STRUCTURE OF THE STATE POLICE)

In the pre-independence era the South African Police controlled the management and staffing and also shaped the counter-insurgency destinies of South-West African Police and other policing agencies.\textsuperscript{169} In 1980, responsibility for the South African Police in Namibia, excluding the security branch and the national intelligence services, was handed over to the Administrator General and the Council of Ministers. SWAPOL was formally inaugurated in April 1981 and soon thereafter gained new uniforms to distinguish the force from the SAP. But close working relationships, cooperation and support from South Africa continued. SWAPOL exhibited many of the features of a Bantustan-type police force created under the auspices of its colonial (white) master. The Police Act 7 of 1958 had been the guiding piece of legislation for SWAPOL. The force was headed by a Commissioner who reported directly to Cabinet. The organisation was divided into four branches: security, administration, criminal investigation and special operations (a task force and a guard unit).

After 1989, democratic principles and operational practices were invoked in the way in which the Namibian Police (NAMPOL) was to be governed. Article 115 of the Namibian Constitution and Section 2 (1) of the Namibian Police Act (Act 19 of 1990) established the Namibian Police under the Ministry of Home Affairs. The Police Act sets out the organisation, administration, powers and duties of NAMPOL. The functions of the Force include the following: the preservation of the internal security of Namibia; the maintenance of law and order; the investigation of any offence or alleged offence; and, the prevention of crime.\textsuperscript{170} Furthermore the Act regulates the appointment, promotion, discipline and discharge of police members. NAMPOL is headed by an Inspector-General, who is appointed by the President and supported by two deputies under the Ministry Safety and Security (prior to 21 March 2005, under the Ministry of Home Affairs). The organisation consists of seven functional divisions each headed by a commissioner (human resources, finance, procurement, logistics, force policy and planning, complaints and discipline, crime investigation service, special field force) and regional police headquarters headed by deputy commissioners or chief inspectors. The policy framework within which NAMPOL operates makes provision for both proactive and reactive policing. Recent amendments of importance to the role and function of the police include the following: In terms of Section 14 of Act 3 of 1999 the scope of police powers of search and seizure has been broadened; Act 5 of 2001 amended standards of physical and mental fitness. The rise in crime has resulted in occasional interaction between the police and military. In terms of provisions contained in the Defence Act of 2002 members of the National Defence Force can be deployed in support of various policing activities. Such provisions have given rise to debate about the desirability of joint police-military deployment.


NAMPOL has been described as a highly centralised police institution.\textsuperscript{171} By 2000, the total police strength amounted to 10 000 - a ratio of 6.1 police to 1 000 of population. Fifty percent of NAMPOL personnel are assigned to a paramilitary unit responsible for guarding duty, manning checkpoints, border guards and the maintenance of public order. By March 2004 the strength of the police stood at 11 547 members.\textsuperscript{172}

10.3 POLITICAL CONTROL/ INDEPENDENCE OF THE POLICE

The tradition of civil supremacy over security affairs has a long history dating back to both German and South African periods of rule.\textsuperscript{173} In terms of its Constitution Namibia ascribes to a liberal democratic model of governance of the security establishment and, by implication, of its police. In terms of this model security sector organisations are accountable to elected civil authorities who exercise democratic control over both operations and expenditure. Furthermore, various oversight mechanisms exist, which are outlined in Section 5.3 of the Constitution. A recent commentary on the governance of the security sector in post-independence Namibia paints a positive picture:

...Namibia broadly meets many of the criteria widely associated with democratic security sector governance. Prominent amongst these are: a robust legal and policy framework for the different security sector actors; political oversight of the security sector, particularly at the executive level of government; relatively clear systems and processes for political direction, policy setting, planning and budgeting; security sector institutions are accountable to elected civil authorities however, accountability is stronger toward the executive than the legislature, there are other established oversight agencies such as the Office of the Ombudsman, the Auditor-General and the Judiciary; security organisation operate in accordance with international law and domestic constitutional law, by and large there is a clear division of roles and responsibilities between the security forces and security force personnel are regularly trained to discharge their duties in a professional manner.\textsuperscript{174}

Whilst recognising the democratic achievements of post-independent Namibia, other commentators have argued that since 1995 state patronage and personal advancement have become more dominant features of political life. Like elsewhere on the continent an increasing concentration of power at the hand of central government may well in future create “potential for political interference in policing”.\textsuperscript{175}

\begin{itemize}
\item \textsuperscript{171} \texttt{http://www.state.gov} (Accessed 21/4/2006).
\item \textsuperscript{173} Lamb, G. 1999. Civil Supremacy of the Military in Namibia: A Retrospective Case Study. SACDI Defence Digest, Working paper no. 8.
\item \textsuperscript{174} Du Pisani, 2003 The Security Sector and the State in Namibia – An Exploration. FES Study. pp. 31-32.
\end{itemize}
10.4 POLICE REFORM ISSUES

The Namibian transition was relatively smooth and peaceful. The peaceful transition has been linked to the success of the peacekeeping activities as undertaken by the United Nations Transition Assistance Group (UNTAG). UNTAG attended to a wide variety of military and policing issues including the decommissioning of troops, “the maintenance of law and order, humanitarian assistance, creation of a fair legal apparatus, and ultimately the preparation and actual conduct of elections”. Only 1 500 UNCPOL members were deployed from 1989 to 1990. Their mandate was very limited: to monitor the elections and ceasefire, support and direct processes of DDR, help extract members of the SA police, and monitor and observe local police. During the transitional period international police monitors were charged with the responsibility of keeping SWAPOL under close observation.

The negotiated settlement embraced a policy of national reconciliation. As a consequence the new political elite did not opt for war trials and prosecution. A general pardon was extended to all parties concerned. Former employees of the state, including thus SWAPOL, were ensured protection of employment in accordance with Article 141 of the Constitution, which stated that all public servants would retain their jobs, irrespective of political affiliation. As a consequence of the policy of national reconciliation the Namibian pathway to police reform became integration. Unlike the military, the police of the former South West Africa was not disbanded. In fact, the structure and leadership of SWAPOL formed the foundation of the new Namibian police. The leadership of NAMPOL mainly comprised of white ex-SWAPOL officers. At the time of transition, NAMPOL was faced with various deficiencies in human resources. At independence there was an official complement of 6 000 police. The number of trained police was about 4 000, a large percentage of whom were seconded from the SAP. At independence many of them left Namibia. By April 1990 only 1 558 trained police officers and 751 constables remained on the books. The conversion of SWAPOL into NAMPOL required a modernisation of infrastructure, the professionalisation of roles and capacities, as well as the democratisation of systems and procedures. The challenges confronting such a conversion were daunting.

Not long after independence police reform endeavours had to contend with an increase in predatory crime as well as more organized forms of criminality. As elsewhere such developments contributed to a difficult policy environment within which democratic police reforms had to be pursued.

10.4.1 INTEGRATION/AMALGAMATION OF POLICE AGENCIES

The integration of police agencies into NAMPOL took place within the policy framework of demobilisation and demilitarisation. Broad-based political commitment to these processes and UNTAG’s constructive role ensured its overall success.

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177 The transition to independence started on April 1, 1998 and was nearly derailed as a fierce battle broke out between a large number of armed members of PLAN - SWAPO’s military wing – and South African troops and the South West African Police. Shortly thereafter South African forces were confined to base and PAN elements returned to Angola.
178 This constituted one of the first multidimensional (or so-called ‘second generation’) peace operations undertaken by the UN.
The withdrawal of South African military forces and their equipment back home and the absence of PLAN (SWAPO's military wing) bases within the country aided the process of military reconstruction.\textsuperscript{182} The old SWA Territory Forces (SWATF) and citizen commando forces were demobilized and their equipment deposited in drill halls guarded by UNTAG infantry.

Unlike its military counterpart, SWAPOL was not disbanded. The exodus of South African police personnel on secondment to SWAPOL created a huge shortage of trained police in Namibia. Through the creation of NAMPOL, existing SWAPOL members were incorporated into the police.

Amongst the most difficult of issues confronting UNTAG was the Koevoet issue. By October 30 South Africa had effectively demobilized 1 600 ex-Koevoet members of SWAPOL. Dzinesa\textsuperscript{183} argues that South Africa infiltrated about 2 000 of its 3 000 members into SWAPOL, “thereby bypassing the demobilization process.” This strategy resulted in a bloated police force of 6 300 instead of the 3 300 that was considered “proportional to the country’s population”.\textsuperscript{184}

In an attempt to augment the number of the police the recruitment of special constables took place as an interim measure. Most of these constables were ex-PLAN members trained in exile. By the end of 1990 NAMPOL numbers stood at 6 000 of whom roughly one-third was ex-PLAN combatants.\textsuperscript{185}

The new police service became a major field of employment for ex-combatants and a large number of returnees from exile. In 1996, the Socio-economic Integration Programme for Ex-Combatants (SIPE) was established.\textsuperscript{186} In terms of this programme ex-PLAN members were incorporated into NAMPOL. The plight of ex-combatants was again brought to political attention in 1998 through demonstrations, which took place throughout the country. Ex-combatants demanded employment by the government.\textsuperscript{187} By 2000, 9 095 ex-combatants had been placed in entry level positions in various ministries.\textsuperscript{188} Of this overall figure 31\% (i.e. 2 820 ex-combatants) were placed with NAMPOL.\textsuperscript{189}

The establishment of the Special Field Force (SFF) – a division of NAMPOL – in 1996 was a direct response to the public demonstrations by disgruntled demobilized combatants.\textsuperscript{190} Composed largely of former members of PLAN, SFF has been deployed in support of border protection, the suppression of illegal civil disobedience and the maintenance of law and order. In the early phase of national reconstruction in particular the deployment of this unit has been

\textsuperscript{186} Ibid. p. 11.
\textsuperscript{187} Ibid. p. 11.
\textsuperscript{190} Lamb, G. 1999. Civil Supremacy of the Military in Namibia: A Retrospective Case Study. SACDI Defence Digest, Working paper no. 8, p.32.
stalked by allegations of human rights violations, and accusations of indiscipline and lack of professionalism.

- A further 1,500 mainly former PLAN fighters were accommodated into the Border Guards. A presidential enquiry of 1990 lead to the dismantling of the border guards under the command of the police and their replacement with military units. A Presidential Guard unit has also been accused of conducting its business in a militaristic fashion.\textsuperscript{191} This body was integrated into the army and also some of it into the Police.

- By mid-1991 all special constables were converted into a body of Protection Officers who constituted a unit of assistant police officers. The vast majority of this group was ex-PLAN combatants, which in turn fed into perceptions of discrimination in employment practices.

An assessment of the state of policing affairs conducted two years into the new dispensation (1991) captured some of the deficiencies at the time. Among many new recruits, local and returnees alike, problems were experienced with differential standards of educational training. Many of the new recruits lacked the literary skills to perform basic administrative tasks. This contributed to various capacity deficiencies in the police agency. More recent Annual Reports document a variety of training initiatives targeting both basic and specialist divisions of the police. As elsewhere however, budgetary constraints have impacted negatively on personnel development plans as originally outlined in a strategic document dating back to 2001.

10.4.2 DEMILITARISATION/CIVILIANISATION OF POLICE

With regards to NAMPOL the transformation objectives as articulated by the new government included the following: a restructuring of the police away from its paramilitary structure and ethos into a model of civilian police service; a reorientation of police activities away from political counter-insurgency to routine crime prevention; the harmonisation of police-public relations to attend to issues of trust and confidence in the police on the part of the public; and, the building of co-operative relations with the public with the view to pooling resources in an effort to reduce rising crime levels. In the early phase of the transition various ministerial appeals to NAMPOL were publicised to change its ethos and to foster loyalty. At the time the emphasis was on reconciliation and the future requirement of a non-partisan police at the service of the public.

The various measures undertaken to pursue the above-mentioned aims included the following:

- New Uniforms etc: The replacement of military style uniforms and vehicles and rank designation to a civilianised model as well as the improvement of salaries of lower-level police to improve morale.

- Investment in Training: In the early phase of police reform, police training was prioritised by the Minister of Home Affairs in the face of the large percentage of new recruits; the existence of special constables from SWAPOL who were untrained and the paramilitary training of others. A new training programme for police recruits was prepared under the guidance of a British advisory police team.

- Restrictions on the use of lethal force: During the first year a new weapons policy was adopted in terms of which the police were no longer to carry guns in public. This was a symbolic move to

signal the departure from SWAPOL practices. Stringent restrictions with regards to the firing of weapons, only if one’s own life or another person’s is in danger, were imposed. The utilization of weapons in the course of police duty at the point of apprehension and arrest was curtailed. However, in mid-1991 NAMPOL was authorized to carry side-arms on duty.

- Creation of Detective Services: A criminal investigation unit was formed, and riot control training was only given to the Special Task Force.

- Fostering of police community relations: The creation of a Police Public Relations Advisory Council appointed by the Minister of Home Affairs and Public-Police Relations Committees in each of the ten police districts. Through these mechanisms NAMPOL aimed to promote public trust, dialogue, communications and co-operation. Such committees were supposed to also fulfil a watchdog function at the local level. In practice however, police continued to dominate this initiative with strong community input lacking.

Whilst the abovementioned initiatives point in the direction of demilitarisation the creation of the Special Field Force (discussed above) may point to a counter-tendency. In 2003 the strength of the SFF stood at 6,279. According to the Annual Report of 2003/4 this specialist division consumed almost one third of the police budget expenditure for the year.

10.4.3 OVERSIGHT AND POLICE ACCOUNTABILITY SYSTEMS

A recent overview study of oversight and police accountability systems provides the following relevant information:

“The Constitution of the Republic of Namibia was enacted in February 1990 and directly applies international human rights standards prohibiting torture, inhuman or degrading punishment or treatment as well as applying ‘rules of public international law and agreements binding upon Namibia’ – that is applying international and regional instruments. The Constitution also prohibits arbitrary arrest and detention and stipulates that arrestees should be brought before court within 48 hours of arrest.”

“...In terms of holding NAMPOL accountable for its actions, the Inspector General of Police has an important part to play. According to the Police Act, [Act 19 of 1990], as amended, the Inspector General is responsible for, amongst other things, discharging police force members and instituting disciplinary proceedings. Also, based on a mission statement of the Inspector General on the Namibian government website the Inspector General is committed to Constitutional tenets and he outlines the importance of NAMPOL providing a quality service and remaining in ‘unison with the principles and philosophy of the rule of law...with due consideration for...fundamental rights and freedoms’ as well as tackling crime based on principles of Community Policing. Furthermore, the Security Commission established by the Constitution and further mandated through the Security Commission Act of 2001, is responsible for making recommendations to the President in terms of the appointment of the Inspector General of Police.”

“There are Complaints and Discipline units in Namibia’s police regions which may investigate complaints and initiate legal and / or internal disciplinary proceedings.”

“An oversight mechanism which may hold the police accountable includes the Prosecutor General. The Office of the Prosecutor General is an independent body but falls under the Attorney General. According to the Constitution, the Prosecutor General is mandated ‘to prosecute, subject to the provisions of [the] Constitution, in the name of the


Republic of Namibia in criminal proceedings. Similarly, the office of the Attorney General plays a role in police accountability in that it has ‘final responsibility for the office of the Prosecutor-General.’

“Namibia’s Anti-Corruption Act of 2003 provides for an Anti-Corruption Commission nominated by Parliament, which has the duty to appoint investigators who are empowered to instigate investigations based on allegations of corruption. The Commission is required to report offences to the Prosecutor General who then decides whether to prosecute or not.”

“The Auditor General, who is answerable to Parliament, may also hold the police accountable through the power to carry out financial and performance audits of government departments.”

Namibia also has an Ombudsman who is appointed by proclamation of the President on the recommendation of the Judicial Services Commission and who annually reports to Parliament. The Ombudsman is empowered to access information, issue subpoenas, and fine or imprison those not co-operating with investigations. It is not clear to what extent the Ombudsman is successful in his/her duties but reports by Amnesty International in 2002 stated that the Ombudsman would ordinarily only conduct preliminary investigations and complaints against the police would be referred back to the Complaints and Discipline units, thereby to be dealt with internally by the police.

Namibia does not have a human rights commission but the activities of the Anti-Corruption Commission and the Ombudsman may account for this state of affairs. The media continues to play an active role in oversight of policing in the country.

According to the Annual Report of the Namibian Police 1,582 criminal cases involving police officials were reported to the Complaints and Discipline Division. There were 184 Departmental trials and 27 Boards of Enquiries were constituted.

10.4.4. SELECTION AND APPOINTMENT OF NEW POLICE LEADERSHIP

In the early phase of police reform, the selection and appointment of a new police leadership was shaped by the politics of reconciliation. This policy combined with the absence of police experience within SWAPO, contributed to the fact that the most senior police command came from SWAPOL. This resulted in a white top echelon within the police organisation and it soon became a source of political resentment. On the whole, controversy seems to have accompanied promotion policies: in the North of the country, police recruits were mainly ex-PLAN; whilst in the centre and the south of the country recruits were predominantly ex-SWAPOL. Only a very small percentage of the overall number of demobilised officers however was absorbed into NAMPOL. In an attempt to alter the racial composition of the top structures ex-PLAN members were fast tracked and promoted to senior positions. More details regarding this process however could not be established at the time of the completion of this report.

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196 ‘An estimated 32,000 combatants from PLAN and approximately 25,000 combatants from the South West Africa Territorial Force (SWATF) and its military units were demobilized in 1989, but only around 1,000 of these were absorbed into NAMPOL, which (temporarily) numbered about 6,000 in 1990.’ See Hills, A. 2000. Policing Africa: Internal Security and the Limits of Liberalization. London: Lynne Reiner. p. 126.
10.4.5  CHANGE MANAGEMENT CAPACITY OF THE POLICE

Whilst the issue of management capacity formed part of the package for assistance on offer from the UK, descriptive details with regards to change management processes and capacity were not available through electronic searches. The Annual Reports of the Namibian Police however, suggest that there has been ongoing attempts at modernising infrastructure from the upgrading of accommodation and training facilities to the provision of computers as well as efforts aimed at professionalizing policing capacity through a wide variety of training ventures targeting different layers of the organisation. The opportunities for interaction between Namibian senior command and their counterparts in the region have been enhanced through regional police structures such as SARPPCO as well as through Interpol.

10.4.6  CAPACITY FOR REGULAR POLICEWORK AND CRIMINAL JUSTICE PROCESSES

Commentators take care to acknowledge key aspects of reform of the Namibian police agency since independence. The public image of the police has improved considerably and the regime, as Hills point out, seems more or less satisfied with the performance of NAMPOL. The Annual Reports of the Namibian Police for the period 2002 to 2004 paint the picture of a modern police institution functionally differentiated into a wide variety of specialist units. The extent to which both budgetary and capacity constraints impact on service delivery however, could not be established at the time of completing the report.

A rise in crime more generally and the rise in organized crime more specifically, has contributed to an overall deterioration in the security environment. A dramatic increase in number of offences committed between 1989 and 1991 (theft up 211%, motor theft up 122%, stock theft 120%, fraud 178%, assault 396%, murder 64%, robbery 320% and rape 78%) provide a sobering angle onto the contextual realities that NAMPOL have to confront. Furthermore an increase in organized crime involving the illicit diamond trade, stolen vehicles and narcotics, exacerbated by weak border controls has placed further demands on the police agency. The roots of the crime problem are of course deeply structural. Stark income disparities and high rates of unemployment - particularly amongst young people - continue to characterise life in Namibia.

The findings of a crime survey point toward growing public concern about corruption within the ranks of the state, increasing political interference in policing and perceptions of overall law enforcement ineffectiveness. Police under-resourcing in the urban centre of Windhoek is particularly pronounced. But in the countryside too access to justice more generally remains inadequate. Court delays and insufficient prison accommodation further tax the operation of the criminal justice system. In addition, the role and capacity of the traditional courts have been undermined by its politicization under South African rule and their current dubious legality under the current Constitution. An independent Ministry of Prisons and Correctional Services was established in 1995 and the Namibian Prison Service was established in 1998. However, the Ministry was dissolved in March 2005 and the Departments of Prison and Police were merged and form part of the new Ministry of Safety and Security. Each department

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operates under its original Act of Parliament. Penal Reform International has become involved in the development of an eight-point action plan project aimed at creating alternatives to prison. 202

The government is drafting a formal crime prevention policy. Violence against women has been identified as an area requiring specific policing strategies. The formation of a Gender Desk within the Namibian Police, and the development of a Gender Policy on the part of police, is linked to the existence of a National Gender Policy at central government level. 203

109.5 DONORS IN THE POLICE REFORM PROCESS204

10.5.1 THE ROLE OF DONORS IN POLICE REFORM

United Kingdom: Shortly prior to Namibia’s independence a presidential request was made to the UK government to assess the organisational structure of NAMPOL, and to consider its manpower and training requirements. An ex-Inspector General (Colin Sampson205) undertook this assessment. This led to the secondment of a UK police training team to Namibia with a view to:

- improve levels of proficiency within the new police service;
- affect a cultural change through a change in the ethos toward community-based policing; and
- foster positive police-community relations.

The project ran from 1990-1995. Training focused in particular on the handling and use of firearms, human rights, and public relations. Basic training courses were conducted for 2,367 officers. A range of other training courses were attended by 2,314 members some of whom took part in exchange training programmes to the UK. Thereafter the project was widened with the view to providing policy support to the Ministry and Police Head Quarters. At the time of the second phase of developmental assistance, dramatic shifts in the policy frameworks, which were to guide aid to police in transitional states, were underway.206 By the end of the first phase of UK assistance, the Second Inspector General of the Namibian Police raised reservations regarding the suitability of the ‘soft’ model of policing exported from the UK and the lack of emphasis on “rigid discipline”.207

In the second phase of UK aid, technical assistance resulted in various proposals for affecting organisational change and provided support in the drafting of mission statements and a Police Bill. Assistance also focused on critical aspects of management: job descriptions were formalized; performance standards defined; job appraisal systems implemented, and an equity policy was finalised. DFID appeared to also have had a hand in the establishment of the CID and Special Branch.

By the late 1990s and in its attempt to come to terms with the demands placed on policing by dramatic increases in crime, NAMPOL came to look toward South Africa for comparative lessons.

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**European Union:** Between 1996 and 2000 the European Commission, through a Democracy and Human Rights Programme, made Euros 1.17 million available for general support to the election process, and for the training of police and lawyers on civil rights of the citizenry. In addition advocacy support also featured. In the case of EU assistance, the funds were channelled through an NGO, Legal Assistance Centre, in Windhoek.\(^{208}\)

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**10.5.2 THE MANAGEMENT OF DONORS AND TECHNICAL ASSISTANCE**

From the available information it is not clear whether the issue of a more proactive management of developmental assistance on the part of the recipient country had featured at all in debates or practices over the past decade.

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**10.6 TRANSITIONAL JUSTICE MECHANISMS RELATED TO POLICE**

No transitional justice mechanisms were adopted in the light of the national policy of reconciliation based on the principle of ‘forgive and forget’ as espoused by the new democratic government. As a consequence issues relating to past human rights abuses and violations on the part of the South African security forces and the liberation movement did not feature in the process of national reconstruction.

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11. NIGERIA CASE STUDY REPORT

11.1 HISTORICAL AND POLITICAL CONTEXT

Nigeria is the most populous of all the states of West Africa, by far. The 2005 Census results yielded a figure of 128,771,988 people. Despite three decades of large revenues from oil, it remains poor, with an estimate in 2000 of 60% of the population below the poverty line. It is both ethnically and religiously a very plural state. Three main ethnic groups, the Yoruba in the southwest, the Igbo (formerly referred to as Ibo), in the southeast, and the Hausa in the north, have traditionally dominated politics. That still leaves an estimated further 250 ethnic groups in the country, some of them very large and politically influential. Around half the population (mainly in the north of the country) are Muslim, around 40% Christian, and 10% profess indigenous beliefs.\(^{209}\)

Gaining independence from Britain in 1960, with a federal Constitution comprising of three states, Nigerian politics has witnessed a series of military coups d’état, the first in 1966, and the most recent in 1993. In 1999, the military regime returned the country to constitutional democracy. The Nigerian People’s Party and its leader, former army General Olusegun Obasanjo, received the most votes. Obasanjo accordingly became President under a new constitution that provides for a relatively strong presidential regime, on paper. He subsequently gained re-election for a second term, and his civilian administration has become the most durable since 1960.

Post-independence Nigerian politics have run a very rocky course. The 1966 coup d’état, itself the outcome of bitter ethnic conflict involving in the main the Igbo and the northern Hausa, was followed by an even more bitter civil war. Some two million people died as Federal forces battled to suppress an attempted secession by the Igbo-dominated southeast, including the oil-producing region of the Niger Delta. Since the end of the war in 1971, successive military regimes have attempted to restructure the country in an effort to harness ethnic tensions, most notably by the division of the political system into many more sub-federal states. At present, the Nigerian Federation consists of 36 states.

Oil, which began to yield significant income in the 1970s with the spiralling price of the commodity, has done very little to raise overall standards of living. The oil-producing Niger Delta region itself is one of the most unstable areas in a country characterised by many local - and violent - conflicts. The political system as a whole is notorious for its instability, corruption, inefficiency, and brutality. Economically, infrastructure is of a low quality, the political elites have squandered oil revenue, and, like so many other African states, Nigeria had to accept a series of structural adjustment programmes (SAPs) from the 1980s onwards at the behest of the international financial institutions and donor community. There has been little diversification away from an overdependence on the capital-intensive oil sector, which provides 20% of GDP, 95% of foreign exchange earnings, and about 65% of budgetary revenues.\(^{210}\)

Nigerians themselves often consider that the Federation is on the brink of disintegration, and there is a movement currently calling for a National Conference to restructure the relationships between the Federal government and the lower-level authorities, in an attempt to satisfy such grievances as those of the peoples of the Niger Delta.


\(^{210}\) Ibid.
11.2 POLICING ARRANGEMENTS (STRUCTURE OF POLICING)

Nigeria inherited a national police force and some local police forces on independence in 1960, albeit with marked regional decentralisation. The new government moved to complete Federal centralisation of the police, culminating in 1971 with the final establishment of a unitary Nigeria Police Force (NPF).

Currently, the Nigeria Police Force is centralised and federally administered. The current Force size is around 325 000 with a ratio of police to population of 1: 400. The overall operational control is vested in the President in accordance with the 1999 Constitution and the Police Act (a new Police Bill is under consideration). The head of the NPF is the Inspector-General of Police, whom the President appoints. Under the direction of the Inspector-General are 36 state commissioners of police, the executive heads of the NPF in each state. In principle, state police commissioners are responsible to the Inspector-General and the Assistant Inspector-Generals, not the state Governor, for operational decisions.

A further layer of upward management consists of the grouping of three or four states into police Zones, of which there are twelve. Each Zone is under the command of an Assistant Inspector-General. As regards downward management, each state Command is divided into smaller Area Commands, which in turn control divisional police stations headed by a Divisional Police Officer.

Over the years since 1960, political leadership has created a number of Specialist Divisions within the NPF. They include a special public-order and anti-riot unit, the 30 000-strong Mobile Police (MOPOL), operating under a parallel, non-state authority structure and headed by a Commissioner of Police. Other Units include the National Drug Law Enforcement Agency; the Customs and Immigration Service; the Economic and Financial Crimes Commission; and an intelligence agency.

The functions of the Nigeria Police Force as outlined in Section 4 of the Police Act (Laws of the Federation of 1990) are as follows: the prevention and detection of crime; the apprehension of offenders; the preservation of law and order; the protection of life and property; the enforcement of all laws and regulations with which they are charged; and military duties within or without Nigeria as may be required of them.

Several laws in the country especially the Police Act, Criminal Procedure Act (CPA) and the Criminal Procedure Code (CPC) grant the police wide powers: to take measures to prevent crime; to investigate crime; to interrogate suspects; to prosecute suspects; to search properties and persons in order to prevent crimes, detect or investigate crimes, detect and apprehend offenders, and collect evidence for prosecution; to grant bail to suspects pending investigation or arraignment in court; to serve summons; to regulate processions and assemblies; and to disperse ‘illegal’ or ‘unlawful’ procession and assembly.

11.3 POLITICAL CONTROL/ INDEPENDENCE OF THE POLICE

Like many other former African colonies, Nigeria inherited a system of policing based to a considerable extent on a quasi-military - or paramilitary - pattern. Training was similar to that of soldiers, with a great emphasis on drill. This form of training persisted after independence, but its quality deteriorated steadily after the 1970s. The police organisations in the country were under the control of the colonial

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212 Osiwaju, K. (n. d.) Police Accountability in Nigeria. Lagos: CLEEN Foundation. pp.3-4
administration, although some traditional rulers, especially in the North, continued to direct local forces. The function of the police, many commentators have alleged, was in the first place the protection of the colonial order itself, with conventional crime-fighting a secondary priority. Senior police officials up to Independence were mainly drawn from Britain. Given the relative underdevelopment of education and the economy, the rank-and-file police in Nigeria at independence were poorly educated and paid, and did not enjoy a secure status in the eyes of the general public. Matters did not improve after independence. As Hills put it, the NPF remained “an archetypal, urban force, inferior in status and resources to the military”.214

Under the general conditions of the society since the 1960s, political control of Nigerian policing has been a complex and unsatisfactory affair. The Police Act bestowed operational control of policing on the President, and there were few if any non-partisan and independent civilian checks and balances on the police. Little or nothing came of the ‘Western’ ideal of an autonomous force, acting more or less under the rule of law, with effective, reasonably non-partisan civilian oversight. One major factor in the past four decades has been the dominance of the military and the tense relationship with the NPF. Generally much better equipped, staffed and paid, the Nigerian army has dictated the terms of the relationship. This is all the more the case as the country has endured more than two decades of de facto military dictatorship, with the police leadership co-opted when and if the Generals thought fit.

Hills has argued that successive Nigerian regimes, like elsewhere in Africa, have adopted a policy of the deliberate “under-resourcing” of the NPF.215 A strong police force constituted too great a challenge to the succession of insecure governments whose main priority, after the ‘developmentalist’ decade of the 1960s following independence, has been the security and enrichment of the incumbent leadership.

The NPF has proved ineffective in checking what became a steadily rising rate of violent crime, and more recently, an almost endemic set of regional and local conflicts posing severe public order problems. Nationwide, social instability has become pervasive, and the NPF has become a hapless bystander in many cases of conflict. The eruption of communal violence between Christians and Muslims since 1999216 and the more recent ethnic conflicts have contributed to political unease and public perceptions of social anarchy.217 As the economy has declined and the population has swollen, land issues have become a major source of ethnic tension. Local communities have increasingly defined themselves as ‘indigenous’ and regard incomer individuals and groups as ‘settlers’ with no rights to land or other benefits of communal membership.

Further complicating the situation has been the growth of trans-national organised crime, which now involves drugs, fraud, and human trafficking. In the Niger Delta, oil bunkering has become a major problem. This term refers to the activities of criminal gangs that steal large amounts of crude oil from pipelines and ship it on river barges to larger craft offshore. “It is a massive industry, with high-end estimates of its value ranging from $4 billion to $6 billion a year, or over 10% of Nigeria’s oil production.”

The situation in the Niger Delta has over the years become altogether explosive, with crime and public disorder moving hand-in-hand. This has led to the disruption of oil supplies through sabotage, the

214 Ibid. p. 41.
215 Ibid. p. 45.
abduction of oil industry personnel, and organised resistance to the petroleum companies and
government by communities aggrieved by environmental degradation, little compensation for the land
expropriated for oil-drilling, and the ensuing security force repression - including the notorious Odi
massacre by security forces in 1999. Secessionist tendencies are once again evident, as the Niger
Delta peoples claim that their land provides the basis for the exploitation of oil and the bulk of national
revenues, for which they see little return from the Federal authorities.

Even with the return of civilian rule under an ostensibly constitutional democracy after 1999, research
suggests that the public continue to hold the police in low esteem, and are fearful of their brutality,
 extortion, and ineffectiveness. International organisations have documented torture, excessive use of
force, and police killings. During the course of 2004 and 2005, public concern about extortion on the
part of the police featured prominently. In 2004, 900 police officers involved in extortion were
dismissed. In 2005 none other than the Inspector General of Police was forced to resign when
charged with involvement in the theft of $98 million by his own Economic Crimes Unit. Road blocks are
the predominant means of extortion and corruption, and appear still to persist despite the
announcement by the head of the police in 2004 that they were abolished with immediate effect. Public
disdain of the capacity of the NPF to secure law and order has given rise to widespread
vigilantism in which the public in a number of states has welcomed the decision by state politicians to
institutionalise the role of vigilante groups, as with the famed ‘Bakassi Boys’ in the states of Anumbra
and Abia in eastern Nigeria.

In addition to vigilantism, there is the rapid growth in commercial security. The formal private security
has mushroomed in Nigeria, as in South Africa. A fairly recent development is the arrival of international
private security companies, such as OSL which is part of the South African originating company
Group4Securicor. Tension between local and international security firms for the lucrative high-end
market is growing. At present the industry is regulated and unionized but not truly monitored. The
Private Guards Act of 1986 prohibits employees of private security companies from carrying arms.
Companies thus apply to the Inspector General of Police for a specific number of armed police to
provide the armed component of their service company. Police usually second members of MOPOL
who are armed with automatic rifles. Many security companies have a certain number of MOPOL
permanently seconded to their company - resulting in the privatisation of public police.

The privatisation of public police is most extensive in the oil industry in the Delta region. Police are used
to train security personnel, called the Spy police. In addition to the use of MOPOL members, armed
National Police members and dog handlers are employed by the oil industry - Shell has approximately
600 National Police and MOPOL members guarding their installations. The oil industry also uses the
military to protect their installations – particularly Navy patrols in the Delta, both inland and out at sea.

A recent study highlights the institutional deficiencies of the police in no uncertain terms. The study by
the NGO, Centre for Law Enforcement Education (CLEEN), *A Desk Study of the Role of Policing as a
Barrier to Change or Driver of Change in Nigeria* found that police are a barrier to change through
inefficiency and ineffectiveness in crime prevention, control, detection and apprehension; poor rule of

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220 Ibid.

International Politics, University of Wales, Aberystwyth.

222 Ibid. p. 11.

223 Ibid. p. 13.

Role of Policing as a Barrier to Change or Driver of Change in Nigeria. (Report prepared for DFID). Lagos: CLEEN.
law record; violation of rights; lack of accountability; incivility and corruption; and a lack of concern for the welfare of the citizenry.

11.4 POLICE REFORM ISSUES

Reform of the NPF has been a proclaimed aim of successive Nigerian regimes, both civilian and military. Little came of these proclaimed intentions. The transition to civilian rule in 1999 "marked the first real efforts or opportunity to undertake reform of the Nigerian Police Force." The new government declared its intention to reorganize the NPF, to increase staff through a massive recruitment drive, to promote officers, to train and to increase salary scales. Another round of attempts to expand the force and increase working conditions began in 2002. In 2002, under a new Inspector General, Tafa Balogun, reform efforts went hand-in-hand with a much more "belligerent policing strategy" that issued from an eight-point anti-crime campaign. The controversial ‘Operation Fire-for-Fire’, which Balogun personally endorsed, appears to have merely confirmed the NPF in its lack of respect for civil rights and the use of deadly force, arbitrary arrests and torture and deaths in custody. Balogun’s own support for a variety of reforms was however comprised when he was forced to resign after accused of stealing some $ 98 million of public funds. The Human Rights Watch 2005 Report concluded that

While it is too early to judge the impact of these proposed reforms, looking back at efforts since 1999 and comparing the rhetoric and the reality, it is difficult to observe any significant changes in the conduct and attitudes of the Nigerian Police Force … While there have been improvements in the salary and welfare package for officers and an increase in the size of the force, local human rights organisations and lawyers say there has been no marked reduction in the level of human rights violations, such as torture, killings and extortion committed by the police since 1999.

The need for addressing police-community relations was profiled in 2000 with the publication by an NGO (CLEEN) of research data on the nature, extent and scope of contact between civilians and police. The report highlighted the adversarial nature of police-community relations. Shortly thereafter the Minister of Police, with support from USA and DFID, introduced a five-year development plan with six goals involving the introduction of community policing; fostering a partnership with civil society; improving inter and intra communications; the provision of adequate resources and infrastructure; an improvement of leadership; and a reduction of violent crime and fear of crime. The introduction in 2003 of further measures such as the Police Complaints Bureau, the Human Rights Desk and a pilot community policing project in the Enugu federal state was again aimed at addressing police-public relationships. Further initiatives were also undertaken in 2004. In-depth evaluations to assess the impact of such endeavours must still be made.

226 Ibid. Ch 5.
227 Plan to recruit 40 000 new members; 70 000 officers promoted; one year’s arrears alary paid out; building of barracks; pledge to improve welfare package of police.
229 Ibid. Section XI, 2.
232 Ibid.
233 Obasanjo launched community policing with six key components: 1) create awareness of community policing in force and society; 2) skills development and leadership training in local police; 3) examine structures and organisation; 4) review
The appointment of a new Inspector General of Police led to the announcement in early 2006 of yet another ten-point reform plan, which contained various promises for the modernisation and professionalism of the force, better police infrastructure, increased policing capacity and addressing corruption and indiscipline.\textsuperscript{234} The Minister of Police inaugurated a twelve-member Presidential Committee on Nigerian Police Reform with a three-month mandate, headed by a retired Deputy Inspector General of Police. A wide mandate was provided by the terms of reference for the Committee to review the structure, administration, internal morale and external image, as well as the actual operation of the force with the view to crime control and prevention effectiveness.\textsuperscript{235}

Civil society organisations such as CLEEN have taken up the opportunity to engage with the Committee. In its memorandum it has expressed concern about the lack of local ownership of the DFID-funded community policing programme.\textsuperscript{236} It makes eight recommendations for reform in which they point in particular to the need for insulating police leadership from partisan political control, civilianisation of non-core police functions, and a response to gender-based violence in the proposed review of the Police Act, which has remained largely the same since its first promulgation in 1943 under British rule.

### 11.4.1 OVERSIGHT AND POLICE ACCOUNTABILITY SYSTEMS\textsuperscript{237}

In theory, the NPF is subject to a wide range of oversight mechanisms situated at the political, legal, and police institutional level and within civil society. In practice, however, the exercise of this oversight is constrained by a number of factors, the most important of which appear to be the lack of political will, the lack of institutional capacity within the mechanisms, and an overall lack of coordination.

**Internal Control Mechanisms:** The Nigeria Police Force has a multi-layered internal disciplinary system that can theoretically be invoked by members of the public that are aggrieved by acts of police misconduct. These mechanisms include verbal or written complaints to any superior police officer, and if the complainant is dissatisfied then there is an appeal to higher officers up to the Inspector General of Police. There is also the Public Complaints Bureau (PCB) in the police public relations department of every state police command, and the police Provost Department at the Force headquarters. The police provost department is also responsible for conducting orderly room trials against erring police officers.

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addition, there is also the X-Squad made up of plain clothes police personnel who occasionally conduct surveillance on the activities of patrol officers and those on checkpoint or stop and search duties. Successive Inspectors General of Police also established ad hoc monitoring units that reported directly to them and are usually called the IGP’s Monitoring Unit (MU).

A review of these internal disciplinary mechanisms within the Nigeria Police Force reveals that they are highly discriminatory against the poor, reactive in nature instead of proactive, accorded less priority attention and are unwieldy or haphazard in coordination. In general, only high-profile or altogether shocking cases will receive attention; the rest are simply ignored. There is little top management support for disciplinary measures to call the worst offenders to account. Finally, these internal review mechanisms usually lack any dedicated budget, and often lack basic resources and office equipment. The variety of review and oversight mechanisms is also a problem, with little or no attempt made to coordinate action among them, and standardised recording procedures for complaints do not exist.

**External oversight:** Nigeria has a wealth of bodies, which have the power and functions necessary to exercise some degree of oversight over the Nigerian Police Force. Many of these are government agencies and as such lack the independence necessary to carry out real external civilian oversight duties. However, there are some institutions, in particular the Police Service Commission, which have the potential to play a significant role in ensuring effective oversight, facilitating police reform and building public confidence.

In principle the Constitution with its Bill of Rights provides for the possibility of effective judicial oversight. Many of the provisions have a bearing on the mechanisms and processes of police accountability. The Constitution guarantees the rights to life and dignity and due process and also prohibits torture and unusual punishment; and guarantees rights of accused person to be presumed innocent until adjudged guilty by a competent court and so forth. It also guarantees freedom of movement, religion and association amongst other things. But the potential benefits of these provisions have not been realized because of widespread poverty that prevents aggrieved persons from taking civil action against the police, and there is yet no complaints review board that is effective and accessible.

Police officers who abuse their powers are liable to civil and/or criminal proceedings, depending on the nature of the abuse. Sections 341 and 374 of the Police Regulations make individual police officers liable for abuse of power. In the case of criminal liability, either the Nigeria Police Force or the Attorney-General of a state or of the Federation can invoke the process, but they will do this only in a case they consider serious and in which the power exercised by an officer is considered unjustified. Again as in the constitutional provisions, the likelihood of anaggrieved citizens taking recourse to civil action is in practice very limited.

The role of the media is perhaps more important than the existing internal review mechanisms sketched above. The Constitution, Section 22, in principle protects the right of the media to “be free to uphold the fundamental objectives contained in this chapter (chapter two) and uphold the responsibility and accountability of the Government to the people”. Thus the right of newspapers, radio, and television to reveal police abuses enjoys Constitutional support. In this task, publicity is often the most effective and popular way of criticising police behaviour given the scepticism of the general public regarding the review mechanisms within the NPF itself. The very existence of the media and the investigative potential of journalists may at times act as a deterrent to illegal police behaviour.

In term of external political checks, one potentially important body is the House Committee on Police Affairs. This committee of the House of Representatives is charged with oversight of matters affecting
the Nigeria Police Force, and is composed of MPs. They are also charged with the responsibility of formulating, passing and ensuring the implementation of appropriate legal frameworks and policies that would assist the Nigeria Police Force carry out its constitutional duties. The Committee at different times has considered cases of police abuse of human rights and produced independent reports. The Committee also has exercised some form of budgetary oversight on the police, and the NPF presents its annual budget to the House Committee through the Ministry of Police Affairs, the parent ministry of the police. Recently, the House Committee on Police Affairs held a one-day interactive forum with other stakeholders on policing to discuss the review of the Police Act. One of the major outcomes of the interactive forum was the setting up of a 10-man committee to work on the review of the Police Act with a view, inter alia, to promote accountability in the policing system in Nigeria.

The **Ministry of Police Affairs** is the parent ministry of the NPF. It has oversight powers on the budget and disbursement of funds to the Police. The budget for the police is prepared in the Ministry and the disbursement takes place from the ministry. The ministry is also tasked with the responsibility of the welfare of the police officers. Recently the Minister of Police Affairs established the **Police Performance Monitoring Unit** (PPMU). The purpose of the Unit is to receive and collate complaints against members of the Nigeria Police Force; and process such complaints through to the relevant police disciplinary units for investigation and discipline. The Unit will monitor the actions taken by the relevant disciplinary bodies and give feedback to the complainants. However, the PPMU is purely an advisory body. Its jurisdiction stops at the Police high command and the Police Service Commission’s doors.

The **National Human Rights Commission** (NHRC) was established by the Human Rights Act 1995. In June 1996 the Commission was inaugurated. The Commission was established during the military era and therefore lacked credibility with both local NGOs and international human rights organisations. It has however worked hard to build credibility. The Commission reports directly to the President and the National Assembly.

The mandate of the Commission includes: the monitoring and investigating of all alleged cases of human rights violations in Nigeria and to make appropriate recommendations to the Federal Government for prosecution and other such actions, as it may deem expedient; assisting victims of human rights violations and providing appropriate redress and remedies on their behalf; commissioning studies on all matters relating to human rights; and assisting the Federal Government in the formulation of appropriate policies in order to guarantee human rights. The Commission is supposed to publish regular reports on the state of human rights protection in Nigeria. The police, prisons and other detention centres are one of the thematic areas the NHRC concentrates on. They are also actively pursuing some cases concerning police violations of human rights. But the lack of resources, staff, independence and, crucially, power to prosecute, leaves the NHRC unable to fulfil its potential as an oversight institution.

The 1999 Constitution established the **Nigeria Police Council**, as was the case in the 1963 Constitution but omitted in the 1979 Constitution. The Police Council consists of the President as Chairman; the Governors of the states of the Federation; the chairman of the Police Service Commission; and the Inspector General of Police. The Constitution defines the functions of the Police Council to include the supervision of the organisation and administration of the Nigeria Police Force, but not operational or disciplinary concerns, and advising the President on the appointment of the Inspector General of Police. Section 216(2) of the Constitution requires the President to consult the Nigeria Police Council before making an appointment to the office of the Inspector General of Police and before
removing him or her. The state governors constitute an overwhelming majority of the membership of the highest organ of control of the Nigeria Police Force.

The Council is the highest organ of state responsible for the policy on organisation and administration of the police. It could be an important organ of police accountability. It can, for example, act proactively by closely monitoring the reports on police by the public, mass media and other civil society organisations and in that light undertake annual evaluation of the Force with a view to dealing with structural and organisational factors that engender police abuse of power. More important, the Council has the power to hold the police accountable for the implementation of policies and programmes that it introduced. However, there appears to be no political will to establish strong mechanisms for accountability at this level. The Council as it exists presently is merely treated as a ‘fire-brigade’ contraption available to the president for addressing his concern on security and safety and for confirming his nominee for appointment into the office of the Inspector General. There have been arguments from various quarters that there is need for the Council to establish a strong and effective office for policy development, and implementation in order to be poised to exercise its oversight function effectively over the affairs of the Nigeria Police Force.

Some of the responsibilities of the Council have been delegated to the Minister of Police Affairs. However, the bureaucratic structure of the Ministry gives the impression that its responsibilities are limited to sourcing funds for the payment of police salaries and pensions, for executing capital projects like building and renovating barracks, purchasing vehicles and so forth. Irrespective of the above, the Ministry can potentially serve as an institution for holding police accountable for allocated public funds, if it is for its own part transparent.

In addition to being accountable through the institutions above, Section 215(3)(4) of the Constitution makes the police directly responsible to the President and State Governors in matters and directions on “maintenance and securing public safety and public order”. This is significant because the President is the Chairman of the Nigeria Police Council and state governors are also members of the Council. Their membership affords them the opportunity to translate their experiences with the police into policy development for policing - but sadly this has not come about. The danger of the provision must also be realized. It is capable of turning the civil police into a political police as an instrument of the President and Governors rather than a public agency pursuing the common good.

The Police Service Commission has been in existence since 1960, but was awarded wider powers with a broader membership in the 1999 Constitution of the Federation. It consists of a Chairman and such number of other persons, not less than seven but not more than nine, as may be prescribed by an Act of the National Assembly. The Commission, according to the Constitution, shall have the power to appoint persons to offices (other than the office of the Inspector General of Police) in the Nigeria Police Force, and to dismiss and exercise disciplinary control over persons holding police office. The Police Service Commission (Establishment) Act, No. 15 of 2001, in Section 6 further charged the Commission with the responsibility of formulating the guidelines for the appointment, promotion, discipline and dismissal of officers of the NPF; for identifying factors inhibiting and undermining discipline in the NPF; for formulating and implementing policies aimed at efficiency and discipline within the NPF; for performing such other functions as, in the opinion of the Commission, are required to ensure optimal efficiency in the NPF; and carrying out such other functions as the President may from time to time direct.

The membership of the Commission includes representatives of the human rights community, the organized private sector, women and the media as well as a retired justice of a superior court of record. If strengthened - organisationally, financially, materially and staff-wise - and allowed to function as an independent organisation as provided for by the Constitution, the Police Service Commission would be one of the most powerful and autonomous civilian oversight institutions in the world. The power to
dismiss and discipline individual police officers, coupled with the statutory obligation to establish an investigative department, provides the Police Service Commission with the ability and legal powers necessary to receive complaints on police conduct, investigate these complaints, and enforce any disciplinary measures it deems fit. Although it has no powers of criminal prosecution, it is able to dismiss officers and refer their cases for criminal prosecution where appropriate. It also has the powers to develop and implement policy for the Police Force, making a significant contribution to setting higher standards in the Force as a whole.

With its role in the promotion of police officers the PSC has the power to ensure promotion is based on merit, therefore providing more incentives for police officers to maintain good conduct. It also has the opportunity to build public confidence in the police by showing that they cannot act with impunity. It provides an avenue for citizens to exercise some control over one of the institutions which exist to serve them. However, the Commission has not been able to realize its full potential as an effective external oversight body due to the lack of resources, the delegation of some of its powers to the police, the absence of an adequate legal framework, and the interference of politicians.

There is undoubtedly a role to be played by civil society organisations, such as NGOs, in ensuring effective oversight, both through giving support to oversight institutions and also through the exercise of oversight itself. The leading NGO, CLEEN Foundation, has been involved in various projects that would strengthen internal and external accountability of the police. For example, it was concerned with the project to revive the PCBs in some pilot states in the country. The aim of the project was to ensure an effective internal investigative complaints system whereby members of the public could seek restitution from within the NPF, in order to improve overall confidence in the police and for handling the majority of complaints that do not constitute massive abuses of power. The project has already achieved much, which led to the Inspector General's announcement that all State-based Police Public Relations Offices must revive their PCBs, but it must be said that there is still work to be done. Next steps include bringing the programme down to the local level to make it more accessible to local communities.

11.5 DONORS IN THE POLICE REFORM PROCESS

11.5.1 THE ROLE / IMPACT OF DONORS ON POLICE REFORM

Foreign developmental aid earmarked for the police has been a long-standing feature of developmental relationships between Nigeria and its former colonial power, the UK. With the democratisation of 1999, more aid from other donors has been forthcoming. This discussion focuses on the most recent examples of assistance.

**United Kingdom:** The largest aid agreement in the field of criminal justice is that of the Security, Justice and Growth Programme, managed by British Council. This five-year programme funded to the tune of $55 million is based on a “holistic approach” to police reform through the institutionalisation of community policing. Influenced by CLEEN’s study on ‘Policing as a barrier to change or driver of change in Nigeria’, the programme takes a sector-wide approach and includes a focus on conflict prevention and links between security and growth (referred to as the NEEDS and SEEDS strategies). Key aspects of DFID’s intervention in creating and institutionalising community policing include the

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following: 1) The creation of a Community Policing Project Team; 2) Conducting multi-rank sensitization workshops with 1,300 attendees; 3) Training 50 Community Policing Developers.240

**United States:** A Bilateral law enforcement assistance and co-operation agreement of $ 2.6 million encompasses police reform through technical assistance, equipment and training. US aid concentrates on training to combat drugs and corruption. It has provided operational rehabilitation in cases. 241

The US also funds NOPRIN - the Network on Police Reform in Nigeria – which consists of civil society organisations.242 It assists NOPRIN in working with the Ministry of Police to ensure police transformation and has identified six critical areas for reform: 1) police legislation and standing orders; 2) community-police relations; 3) police operations and accountability; 4) human resources, training and development; gender and policing; police welfare and conditions of service. 243

**European Union:** The EU has been a major donor but has concentrated its efforts in a small number of key states, of which several are in the oil-producing region. Its aid has been mainly for social service delivery and economic reform, but has included a governance and human rights component.244

### 11.5.2 THE MANAGEMENT OF DONORS AND TECHNICAL ASSISTANCE

From the available data, this aspect is not clear.

### 11.6 TRANSITIONAL JUSTICE MECHANISMS RELATED TO POLICE

Not applicable, given the peaceful transition from military rule.

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240 Ibid.
12. RWANDA CASE STUDY REPORT

12.1 HISTORICAL AND POLITICAL CONTEXT

A small country in the East-Central Rift Valley in Africa, Rwanda was the site of the largest genocide in recent years, with as many as 800,000 men, women, and children slaughtered over a period of weeks. Like its southern neighbour Burundi, with which it shares many commonalities of ethnic composition and historical evolution, Rwanda’s origins go back centuries to the settlement of cultivators (Hutu) and pastoralists (Tutsi) in a region formerly inhabited by hunter-gather peoples. Oral history suggests that around 500 years ago the Hutu Iron Age farmers were invaded by pastoralists from the north-east, who quickly erected a system of domination over the former that has left its imprint up to the present. A dominant Tutsi elite, comprising a relatively small fraction of the overall population of between 10-15%, created kingdoms in what are now the republics of Rwanda and Burundi. While this domination was mitigated by intermarriage and the merging of the Tutsi with the majority Hutu linguistically, culturally, and finally in terms of livelihood, the scars of Tutsi lordship remained when the first Europeans arrived, precursors of the white colonisation of the whole of East Africa.

Contested by Britain, Belgium and Germany, the region was at first parcelled out to German East Africa in the 1890s. After the defeat of Germany in 1918, Belgium was awarded trusteeship of both Rwanda and Burundi, then going under the name of Ruanda-Urundi. The Belgian occupation was marked by its cooption of Tutsis as a bulwark against the black majority. In a famous administrative decision in 1933, the Belgian authorities issued ID cards on which the alleged ethnicity of all the inhabitants was inscribed – Tutsi, Hutu, and Twa (a remnant hunter-gather group). Historians and social scientists still debate to what extent these three divisions rested on actual differential ancestry and the colonial myth of the tall, noble Tutsi. Real or not, both the future societies of Rwanda and Burundi functioned as if the two major groups were social realities in the eyes of both the colonisers and the colonised.

With the advent of African decolonisation in the 1950s, Belgian policy shifted from its former accommodation with, and encouragement of, Tutsi hegemony to a pro-Hutu stance. In this the authorities were supported by a similar shift among the influential Roman Catholic hierarchy in the region. Hutus now received the preference in education, employment and administration formerly enjoyed by Tutsis. This change was motivated in large part by the realistic perception that the overwhelming Hutu demographic majorities in both territories would dominate any new system installed by popular vote. By the late 1950s, as the winds of change swept Africa, both Rwanda and Burundi were the scene of intense ‘ethnic’ mobilisation with both Hutu and Tutsi movements accentuating pre-existing divisions, and the beginnings of inter-communal violence.

In 1962 a reluctant Belgian administration oversaw the transition to independence of Rwanda and Burundi. In the case of Rwanda (the situation was to differ quite markedly in Burundi for a number of complex reasons), electoral competition resulted in a strong Hutu-dominated administration and the festering of Tutsi resentment. Widespread violence and killings broke out after an abortive Tutsi-led coup in 1963, and Rwanda entered a phase of instability and reciprocal brutality that it has struggled to shake off ever since, with little success as the culminating massacres of 1994 were to demonstrate.

Among the many factors that underlay this stormy period, two in particular deserve mention. In the first place the advent of Hutu dominance with independence and the events of 1963 led to a massive exodus of those considered Tutsi to neighbouring countries, from where armed incursions were to be launched by Tutsi militants. A state of de facto civil war thus hung over the territory for several decades.
Second, Rwanda is the most densely populated rural society in Africa, thanks to various favourable climatic and geographic conditions. With a high birth rate even by continental standards, the pressure on land for farming became increasingly acute. Landholdings dwindled rapidly in size, until by the 1990s most families were lucky to occupy even an acre of cultivable land. This situation affected Hutu and Tutsi alike; and accentuated an already highly polarised society. Thus massive economic deprivation and a ferocious struggle for survival added to the group tensions. It is noteworthy, for example, that with the genocide of 1994 even in some predominantly Hutu regions large-scale massacres still occurred as the poorest vented their anger on the less poor and seized their land.

In 1973, a coup resulted in the formation of a one-party state under a Hutu-led government. In 1990, this regime began to be challenged by Hutu opposition parties of various political complexions – from moderate reconciliationists to Hutu nationalist ultras. Beyond the borders, the number of Tutsis in exile had risen to around 600,000. Some 7,000 of them formed the Rwanda Patriotic Front (RPF) army in Uganda, to assist Museveni to take power in Uganda. Later in 1990, Tutsi exiles, with the RPF army, declared their intention to return home, by force of arms if necessary. The FAR (Rwandan state army) assisted by French government forces, drove the RPF back into Uganda, but this was followed by various incursions into Rwanda by the RPF.

12.1.1 THE ROAD TO GENOCIDE

In April 1992, opposition parties forced the government to enter into peace talks with the RPF, which resulted in the formation of an Interim Government. Following the MRND government’s refusal to sign a brokered peace (formalised in the Arusha Accord of that year) it began to provide the army, police and some civilians with heavy weaponry; and to train a civilian militia known as the interhamwe. In early 1993, the first attacks on Tutsi and pro-peace Hutu civilians were followed by a major RPF attack, marking the end of its Arusha Accord ceasefire. By August 1993 the government - bankrupt and under significant international pressure - signed the Arusha Accord. An RPF invasion from Uganda in contravention of the ceasefire was also intended to force the government to sign the Accord. After the signing, a UN peacekeeping mission (United Nations Assistance Mission in Rwanda – UNAMIR) consisting of over 2,500 troops, was sent to enforce the accords.

The MNRD was not willing to share power with opposition parties, and particularly not with the RPF; and fanned ethnic hatred via the public broadcasting system and the public administration. The official identity documentation system required all Rwandans to carry an ID card detailing their ethnic origin. The genocide was being planned, interhamwe trained and armed, and weapons procured, in violation of the Accords and in anticipation of their total failure.

In January 1994, the UNAMIR forces located huge stores of weapons in civilian hands, which they attempted to confiscate. However they failed, in the face of massive demonstrations by the interhamwe and the refusal of the police to act. UNAMIR sent warnings to the UN of likely further conflict in Rwanda, but the UN refused to act. On 6 April 1994, MRND leader Habyarimana’s plane was shot down at Kigali airport, killing him and the Burundian President as they returned from Senegal. The police and army then killed the President, who represented an opposing Hutu party, and various high-ranking Hutu opposition leaders. These events unleashed the planned genocide; beginning with the first massacres in the city of Kigali, led by the Presidential Guards and involving the FAR (army) troops, the National Police and the interhamwe. Within five days, 20,000 Tutsi and moderate Hutu had been killed.

Large-scale conflict started in Kigali and then spread across the country, which is the most densely-populated in Africa. All the major massacres were directed by the FAR and the National Police.  

While there are no reliable statistics concerning the extent of the police force’s participation in the genocide, their participation is evident from the numbers of former police officers now in prison charged with genocide and by the fact that out of a force of about 500 officers before the war, fewer than 50 reported for duty after the genocide ended.

Immediately after the 1994 genocide, national security rested solely in the hands of the RPF’s armed wing, the Rwandan Patriotic Army, while the National Gendarmerie (newly formed from the few remaining officers of the Gendarmerie who had reported for duty and who had not been implicated in the genocide) was responsible for providing police services. This remained so until the Communal Police was restored in 1995.

After the genocide, as the Rwandan Patriotic Front (RPF) drove the Hutu genocidaires from the country, the latter sought to loot or damage government offices. The courts and all their equipment were destroyed; and similar damage was inflicted on other institutions of state and justice, leaving the post-genocide society with few resources for the administration of justice and provision of safety. According to government statistics, the number of judges fell from 750 before the genocide to 244 after, prosecutors from 87 to 14, and investigators from 193 to 39.

### 12.2 POLICING ARRANGEMENTS (STRUCTURE OF STATE POLICING)

Prior to 2000, there were three police organisations in Rwanda:

- The National Gendarmerie, a paramilitary force established in 1973, which reported to the Minister of Defence.
- The Communal Police, which resided under the Ministry of Interior/Home Affairs. The Communal Police (or local/municipal police) had been established in 1963, and originally reported to the local Commune (municipal structure).
- The Judicial Police Inspectors, which reported to the Minister of Justice, specifically to help cope with the large volume of genocide cases, and related victim and witness protection.

In June 2000, legislation disbanded the three existing police structures, amalgamating them into the National Police, which reports to the Minister of Interior.

The National Police is now headed by a Commissioner-General, and comprises a number of ‘Directorates and Divisions’ (including a Division for the promotion and monitoring of Human Rights, and one for Community Policing), a number of ‘Services’ as well as a number of ‘Units’ – the twelve territorial units, five support units (such as medical services, the air wing, and an intervention force) and five specialised units (such as traffic police, air and border police).

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247 Ibid.
249 Ibid. p. 3.
Criminal Investigation (detective) work is carried out by the Judicial Police, which now operates as a directorate or division of the National Police.

12.3 POLITICAL CONTROL OF THE POLICE

A new Constitution was adopted in 2003. The Council of Ministers (Cabinet) is appointed by the President.

12.4 POLICE REFORM ISSUES

12.4.1 INTEGRATION / AMALGAMATION OF POLICE AGENCIES

In addition to the institutional integration of the three police agencies into the new National Police, the reform of the police institution also required a new approach to ethnic diversity within the police. Before the 1994 genocide, the government of Rwanda was characterised by ethnic discrimination at all levels. For example, in the Gendarmerie, ethnic divisiveness was pervasive, from the recruitment phase to the service phase, and few, if any, Tutsi (reliable figures do not exist) were recruited.

The new Rwandan National Police is more ethnically inclusive than ever before.

12.4.2 DEMILITARISATION / CIVILIANISATION OF POLICE

The RNP’s mission statement states that:

- the RNP is committed to friendly relationships and reassurance and dedicated to delivering a high quality service, working in partnership with our communities and being accountable to them for safeguarding the human rights of all people in Rwanda, upholding the law firmly and fairly, protecting people and their property and defeating offenders.

The four foundations of the new Rwandan policing model are:
- response
- targeted action
- partnerships (with government and the public), and
- local focus.

Furthermore, Article 2 of the Police Act stipulates that Police services shall be delivered to the people on the basis of the following principles:
- the importance of safeguarding the fundamental rights guaranteed by law
- the need for cooperation between the Police and the communities they serve
- the responsibility to account for their activities to the community.

These reforms are a clear departure from the militarised and partisan police of the post-colonial years.
12.4.3 OVERSIGHT AND POLICE ACCOUNTABILITY SYSTEMS

According to Berg\textsuperscript{251}, there are a number of independent oversight mechanisms provided for in Rwandan law. However, it is not known which of these play meaningful roles in oversight of the police agency:

- The Office of the Auditor-General – created in the 2003 Constitution and answerable to Parliament.
- The National Commission for Human Rights – created in the 2003 Constitution, and which is responsible, \textit{inter alia}, for examining and investigating human rights violations committed by state organs and public officials using their duties as a cover. The Commission is responsible for submitting human rights abuse cases to the courts, if appropriate.
- The Office of the Ombudsman – created in the 2003 Constitution, whose duties include the receipt and examination of complaints against the acts of public officials or organs.

12.4.4 SELECTION AND APPOINTMENT OF NEW POLICE LEADERSHIP

A desk-based search yielded no information in this regard.

12.4.5 CHANGE MANAGEMENT CAPACITY OF THE POLICE

A desk-based search yielded no information in this regard.

12.4.6 CAPACITY FOR REGULAR POLICEWORK AND CRIMINAL JUSTICE PROCESSES

A desk-based search yielded no information in this regard.

12.5 DONORS IN THE POLICE REFORM PROCESS

12.5.1 THE ROLE / IMPACT OF DONORS ON POLICE REFORM

In August 1994, immediately after the genocide, UNAMIR (United Nations Assistance Mission in Rwanda) began their Rwandan Police Training Program, which continued to operate until December 1995. During that time, 919 gendarmes and 750 police officers received training.\textsuperscript{252} Various training manuals were prepared and handed over to the Rwandan authorities in order to ensure sustainability of the project. However, according to a UNDP report, “inadequate CIVPOL [civilian police] trainers, lack of French-speaking personnel and insufficient resources hampered the training initiative.” As a result of these difficulties and ongoing friction in UNAMIR’s relationship with the Rwandan government, the Program was formally terminated in May 1996.

\textsuperscript{251} Berg, J. 2005. \textit{Audit of Police Oversight in the East Africa Region. Institute of Criminology: University of Cape Town.}

Parallel to the UNAMIR efforts (co-ordination between the programs was limited or entirely absent), a similar program was established by the United Nations Human Rights Field Operation for Rwanda (HRFOR) aimed at training a new generation of Gendarmerie officers. The HRFOR mission was closed in 1998 following a dispute between the Office of the High Commissioner for Human Rights at the United Nations - who wished to retain HRFOR’s function as a monitor for human rights - and the Rwandan government, which felt there should be a greater emphasis placed on capacity-building, technical cooperation, training, and education.\footnote{253} 

In addition to the efforts of the UN agencies, several other international initiatives were intended to assist with Rwandan police reform.

- The UNDP sponsored various activities such as provision of training, administrative materials, uniforms, transportation, and communication equipment.
- USAID financed the recruitment of police trainers from Uganda, who “assisted in the development of a detailed training curriculum for both the Gendarmerie and the Communal Police, and provided training for criminal investigators, and organisational development and training for mid-level police officers.”\footnote{254} 
- Several other African and European countries - notably Uganda and Tanzania - made efforts to support Rwandan police reform.
- Teams from the United Kingdom’s Bramshill Academy went to Rwanda to assess the training needs of the Rwandan National Police (RNP) within the framework of institutional co-operation.
- The government of the Netherlands implemented a project aimed at renovating living quarters and offices that had belonged to the defunct Communal Police.
- The Danish government provided human rights training for the National Police.
- Swedish SIDA had assisted with the restructuring of the national police prior to 2004.\footnote{255} 
- Between 2004 and 2009, USAID has committed itself to provide training to the police in gender issues, especially gender violence.

\subsection*{12.5.2 THE MANAGEMENT OF DONORS AND TECHNICAL ASSISTANCE}

The lack of donor co-ordination on police reform issues was problematic in the early period.

In the late 1990s there was UNDP ‘Trust Fund’ (a ‘basket’) of funding where various countries contributed to the Fund, which was managed by the UNDP. However some donors felt that this was an inefficient mechanism.\footnote{256} 

Rwanda’s leaders have shown again and again that they would prefer to risk doing it their own way and suffer the consequences than to rely on an international community many see as capricious and hypocritical.\footnote{257} 

The Rwanda National Poverty Reduction Programme currently provides a vehicle for donor co-ordination and there is now a unit in the Ministry of Justice dealing with co-ordination and alignment.\footnote{258}

\begin{footnotes}
\item[254] Ibid.
\end{footnotes}
As part of this Poverty Reduction Programme, there is movement towards a sector-wide approach, with ‘clusters’ on justice and good governance.

12.6 TRANSITIONAL JUSTICE MECHANISMS RELATED TO POLICE

There have been three main mechanisms for genocide justice in Rwanda:

Domestic genocide trials: Domestic genocide trials began in 1996 under the Organic Law No. 08/96 on the Organisation of Prosecutions for Offences Constituting Genocide or Crimes against Humanity Committed. However the massive volume of cases (over 120 000 suspects in custody between 1996 and 1998), and the extremely limited capacity of the Rwandan court system meant that few cases were processed, resulting in experimentation with various alternatives. These included the early release of some suspects (such as those suffering terminal illnesses), group trials, and the extension of the legal period of awaiting-trial detention. There was wide support from Rwandans to pursue and conclude the judicial process, and victim/survivor groups were extremely unhappy with the release strategies and any approaches that were seen as privileging suspects accused of genocide.

Approximately 5 800 of the remaining 116 000 suspects were tried between 1998 and 2001, and 30 000 genocide suspects confessed.259 At that rate, according to a Rwandan Minister of Justice, it would have taken over a century to process every person accused of genocide. Hence other approaches needed to be pursued. However, even after the implementation of the gacaca genocide courts, the regular courts retained the power to prosecute the most serious genocide offences, which could not be heard in the gacaca courts.

International Criminal Tribunal for Rwanda: The International Criminal Tribunal for Rwanda (ICTR) was established by Resolution 955 of the UN Security Council under Chapter VII of the Charter of the United Nations on November 8, 1994, and is located in Arusha, Tanzania. The ICTR is modelled on the International Criminal Tribunal for the Former Yugoslavia (ICTY) in The Hague.

The mission of the Tribunal is to prosecute individuals who committed genocide and violations of international humanitarian law in Rwanda and neighbouring states between January 1 and December 31, 1994. As of March 2005, the ICTR has handed down seventeen judgments involving 23 accused. Twenty of them were convicted and three acquitted. The judgments delivered so far involve one prime minister, four ministers, one prefect, five burgomasters, and several others holding leadership positions during the genocide of 1994.260 It is not known whether any of these were police officers.

Gacaca: Numerous problems with the ICTR process led to the development of an alternative transitional justice process, based on Rwandan traditional institutions. This process is called gacaca (‘on the grass’, from the Kinyarwanda word umucaca), a dispute resolution and management mechanism that dates to the pre-colonial period in Rwanda.

After the genocide, most communities were left without any formal system of justice, and reverted to the use of traditional gacaca for dispute resolution, as gacaca had, in any event, continued to be used in some communities throughout the post-colonial period. During this time the gacaca was used for local community dispute-resolution and problem-solving, such as theft, fights, looting, family abuse, land

259 Jean de Dieu Mucyo, Minister of Justice, as quoted in Villa-Vicencio and Savage, 2000.
260 See ICTR website at www.ictr.org
redistribution, and debt administration and for dealing with social issues; and not for genocide-related matters.

In 1998, the Rwandan government began an engagement with civil society leaders concerning the use of *gacaca*, which led to the development of the ‘genocide *gacaca* courts’, which were implemented across the country in 2002. Only certain categories of genocide offences could be heard by these courts. The Rwandan government stated four main objectives for the new *gacaca* genocide courts:

- to establish a true account of the genocide
- to speed adjudication of genocide suspects
- to eliminate impunity in the country, and
- to reconstruct Rwandan society.  

The process of judging genocide suspects in *gacaca* courts occurs in four stages, each one open to the public.

- Information is gathered regarding the victims of, and suspected perpetrators of, massacres. This is done by the ‘General Assembly’ - the general membership of the community structures.
- The *gacaca* courts gather information on each suspect and classify them according to the four categories of responsibility outlined in the law.
- Cases are allocated to courts at the appropriate level for the categories of genocide involved, using the jurisdictional policy provided.
- The trial process begins.

According to Mironko and Rurangwa,

In 2001 a great majority of Rwandans (95% percent) were ready to participate in the *gacaca* courts. These high levels of perceived legitimacy are the result of *gacaca*’s deep roots in the communal world of the Rwandan people; in contrast to ‘foreign’ Western-based programs, the notion of conflict resolution presided over by local wise men is an essential part of Rwandan culture and history.

The pilot phase of implementation of *gacaca* courts was delayed between 2002 and 2004; and the full complement of 8 000 such courts only became operative in 2005.  

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13. SIERRA LEONE CASE STUDY REPORT

13.1 HISTORICAL AND POLITICAL CONTEXT

Sierra Leone began as a settlement of freed slaves, like its neighbour Liberia, with whom its recent history has been inextricably linked in cross-border violence and civil war. It is one of a number of relatively small states, both in population and area, running along the coast west of the African giant of Nigeria. Sierra Leone is one of the least developed countries in the world despite sizable interventions on the part of the development community. Subsistence agriculture has traditionally been the main source of income of two-thirds of the working age population of around six million people (2005 estimate). The presence of significant diamond deposits in the eastern part of the country was a catalyst for the involvement of both local and foreign forces, mainly of a malign character. The implementation of the ‘Kimberley’ process led by the UN to certify rough diamonds has helped of late.

Like other British colonies, Sierra Leone gained independence in 1961 under a political system modelled on the Westminster type of parliamentary democracy. The slide towards ‘authoritarian and predatory rule’ commenced from the mid-1960s. The All People’s Congress (APC) took power in 1968 and brought about a one-party state. It maintained a repressive rule with military support and was only overthrown in 1992 in a military coup. The weakness and near-collapse of the state was reflected in economic stagnation in the 1980s and the outbreak of a protracted and bitter civil war between 1991 and 2002, when the war was officially declared over. A series of military coups ensued between 1991 and 1997. The human costs associated with the civil war were enormous: internally displaced people amounted to 600,000 and up to 50,000 were killed while many others were brutally mutilated. Among the casualties were some 900 members of the Sierra Leone Police.

A mêlée of armed groups operating at one time or another during the chaotic conditions of the civil war is described by Hills:

If conflict levels are high, neither the status nor the resources of the police allow state policing. For instance, the police cannot operate in the type of situation common in parts of Sierra Leone in the mid-1990s. Several shadowy armed groups were active in the countryside around Freetown in 1996, mostly operating for profit. The groups included Sobels, operating in groups of thirty to fifty, who were soldiers by day and rebels by night; irregulars, or bands of fifty to seventy young fighters under the patronage of senior army officers; 80-100 escaped prisoners from a jail in Eastern Province; bands of fifty or more Revolutionary United Front (RUF) dissidents who manned freelance roadblocks for money; and, from Liberia, 50-100 old fighters from the United Liberation Movement for Democracy. On the government side, there were various foreign forces filling gaps left by the army. These included about 1000 Nigerian troops, men from the security company Executive Outcomes, and traditional hunters from the south and east... [In addition] Citizen action through a system of patrols, as developed in Bo, Sierra Leone’s most important provincial town, is one... case of regime-condoned policing. The risk of rebel attack meant that this was more a military than a policing operation, but local people clearly took responsibility for their own safety... Such patrols, known as Kamajor militia, were eventually uncomfortably absorbed into state structures in order to balance the power of the unruly army.265

The collapse of the Cold War and the shifts in global power relations created new challenges. A strengthening of regional collective mechanisms such as the Economic Committee of West African

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States (ECOWAS) enabled the intervention of West African troops to counter the non-state actors such as the Revolutionary United Front, the main rebel group. The Lomé Peace Agreement of 1999 was signed between the Government of Sierra Leone and the rebel group, The Revolutionary United Front. In terms of the peace agreement, a UN Peacekeeping mission was deployed in the country, filling the gap left by the withdrawal of the Nigerian troops who had made up the main body of the West African intervention force known as ECOMOG, deployed in Sierra Leone in 1998. The agreement was limited to the armed parties, with civil society agencies largely excluded. But the peace secured by the Lomé agreement turned out to be a fragile one.

Shortly after the signing of the agreement, a RUF attack on Freetown and the hostage taking of 500 UN peacekeepers in 1999 brought a new spate of violence. International peacekeeping forces were deployed initially to ‘stabilise’ the situation. Beyond the immediate objective of stabilisation however, lay the much larger challenge of reconstruction. A number of external agencies became involved in a range of post-conflict activities ranging from Demobilisation, Demilitarisation and Reintegration; Security Sector Reform; Military and Police Reform, and the Small Arms and Light Weapons Programme. Free and fair elections were held in May 2002, returning the incumbent President to power.

13.2 POLICING ARRANGEMENTS (STRUCTURE OF STATE POLICING)

The central piece of legislation, which still guides the functioning of the Sierra Leone Police, is the Police Act of 1964. Designed to suit the policing needs of an earlier context it is ill-suited to the changed policing environment. The paramilitary disciplinary provisions and weak police accountability mechanisms in particular, are considered outdated. There is wide agreement about the need for a new statute governing the organisation, direction, control, financing and duties of the Sierra Leone Police.

Starting in 1997, with interruptions due to renewed violence in 1999 and 2000-2001, external efforts have aimed at a thorough restructuring of the existing police, rather than creating a force de novo. The model of police pursued was that of an unarmed constabulary supported by an armed support division (Operations Support Division). The Operations Support Division consists of 2 500 officers (about one-third of the police) and provides mobile armed support. The responsibilities of this unit include riot control, VIP protection, and collaboration with commercial security companies. The Operations Support Division has seven sub-groups including the Police Support Group (responsible for public disorder) and the Mobile Armed Response Group (which provides an armed back-up).

The Sierra Leone Police is currently deployed throughout the country – in itself this constitutes no small achievement. Unarmed general duty officers are supported by three branches: the Criminal Investigation Division, the Traffic Police and Family Support Unit. The National Recovery Strategy of 2002-3 made clear the intention to expand the capacity of the force to pre-war strength – i.e. 9 500. The present strength of the force is 8 000 of which 6 000 are operational police officers. The target envisaged is a force of 9 500 police, but finding suitable recruits has been a problem. By comparative standards the ratio of 1.3 police per thousand citizens is considered low.

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13.3 **POLITICAL CONTROL/ INDEPENDENCE OF THE POLICE**

The Constitution of Sierra Leone, 1991 (Act no. 6 of 1991) sets out the mandates and responsibilities of the police. The Sierra Leone Police resides under the Ministry for Internal Affairs (MIA). Questions have been raised about the role and capacity of the elected government to direct the governance of security institutions. The MIA is thought to be poorly funded and suffering with low capacity. It is currently unable to perform its accountability role, either in terms of democratic oversight or budget setting/audit, allowing the police to operate within a policy vacuum.

13.4 **POLICE REFORM ISSUES**

In Sierra Leone military and police reform took place in a context where political conflict proved difficult to contain. The sporadic eruption of armed conflict posed enormous challenges to reform efforts that have been on the cards since 1999. The post-conflict environment too has been taxing. The ravages of civil war had brutalised the population and imposed a large number of casualties on the police.

In 1997 at the time of the arrival of the Commonwealth Community Safety & Security Project (CCSSP) the Sierra Leone Police Force was thus ‘a force in crisis’ in almost all possible senses of the word. In 1997 at the time of the arrival of the Commonwealth Police Development Task Force (CPDTF), the Sierra Leone Police Force was thus ‘a force in crisis’ in almost all possible senses of the word. It had long been treated as a ‘poor relative’ of the military. Its institutional ailments were multiple: the legacy of militarism had shaped its character, the poor quality of personnel combined with the overall underdevelopment of policing skills, a crumbling infrastructure and insufficient budgets had contributed to low morale and endemic corruption. The dismal state of affairs is captured by one observer as follows:

*By 1999 Sierra Leone had the illusion of a police force but one that lacked the confidence of the public and the equipment, skills and training to provide security in the country.*

13.4.1 **INTEGRATION/AMALGAMATION OF POLICE AGENCIES**

The Lomé Agreement makes only brief reference to issues relating to the re-integration of ex-combatants into the restructured national armed forces. Provisions relating to the disbandment and restructuring of the police hardly feature in the Agreement. On the available evidence it would appear that no purposeful police integration programme was initiated. The DDR Programme in Sierra Leone itself has been described as the “largest project supporting overall efforts to support the peace process”. Important players have been the World Bank, UNICEF and DFID’s Conflict and

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270 So deeply implicated in the spoils of civil war, the police also became a target of attack by rebel groups. During the ten-year civil war many of its members were decimated; see Baker, B. 2005. ‘Who do People Turn to for Policing in Sierra Leone?’ *Journal of Contemporary African Studies*, 23 (3): pp. 371 - 390.


273 Ibid. p.12.
Humanitarian Assistance Department’s Operations Team (CHAD OT). Whilst considerable progress has been made with demobilisation of ex-combatants, issues relating to reintegration however took a backseat to demobilisation and disarmament.\textsuperscript{274} Efforts have focused on downsizing of the Republic of Sierra Leone Armed Forces from 14 000 to 10 517 by the end of 2007. Further reductions are envisaged to 7 000.\textsuperscript{275} In contrast to the army, as noted the SLP were expanded. Efforts to expand civil police capacity however, have been a source of tension within the security sector. There has been considerable resentment in military circles to the plans to increase the fortunes of the police whilst the military has been subjected to radical downsizing. The process of increasing the size of the SLP has however meant that former combatants from different and opposing groups have been among the new recruits to the police ranks.\textsuperscript{276}

13.4.2 DEMILITARISATION / CIVILIANISATION OF POLICE

In the early phase of reform (characterised by an ongoing rebel war) centralised command and control within the Sierra Leone Police was considered politically expedient. In the current context, however such centralised arrangements are no longer considered functional. The need for organisational restructuring is acknowledged. A decentralisation of policing structures is underway, the principles of devolving policing powers have been set in motion and a reduction in the ranks of the police is on the cards.\textsuperscript{277} There has been talk of the need for redefining the role of Headquarters Operation, its mandate and authority, in the direction of coordination and facilitation. In turn, this would require new terms of reference for regional commissioners.

Post-1997, policing policy has been brought into line with contemporary notions of an accountable, democratic police agency. As in other post-conflict jurisdictions there has been an emphasis on a reorientation of policing objectives towards service delivery and the need for fostering police community relations. Concerted efforts have been directed toward a reorientation of the mission of the police and a clarification of policing objectives in support of future peace-building. Such efforts are aimed at establishing police ‘primacy’ in Sierra Leone. At the start of political negotiations a decision was made to restructure rather than disband the police. In August 1998, President Kabbah made public plans for the development of the Sierra Leone Police with the view to “developing an accountable and professional police service, which will operate in a manner consistent with the wishes of the people it serves”.\textsuperscript{278} According to the ‘Policing Charter’ of 1998 the aim of reform was to create “a community police service, which is accountable to the people and is not an organ of the government.”\textsuperscript{279} The Policing Charter of 1998 encapsulates the changes in policing philosophy and objectives. The Policing Charter informs the Mission Statement\textsuperscript{280} of the police agency and is meant to provide clear terms of reference for its strategic development. Various structures have been put in place to attend to strategic planning. So for example, a SLP Planning Team with representation from the Ministry for Internal Affairs and Local Government is responsible for a draft of the Strategic Development Plan for the police organisation.

\textsuperscript{278} See internal document directed to The Hon. Minister for Internal Affairs and Government, Charles Margai, on The Role of the Ministry of Internal Affairs and Local Government, dated 18 August 1998.
\textsuperscript{279} Ibid. p. 2.
\textsuperscript{280} A SLP Mission Statement was prepared and titled A Force for Good.
Whilst various policy changes pointing in the direction of demilitarisation and civilianisation of the police are thus underway, substantive details on the above-mentioned policy guidelines and the actual deliberations of newly created policy mechanisms are lacking.

The above-mentioned efforts have had positive returns. The SLP has made considerable progress. There has been a marked improvement in police-civilian relations, with many more people reporting an improvement in the image of the SLP. This makes of the SLP one of the ‘few success stories’ in Africa of late. Widespread concern has however been expressed about the impact of the withdrawal of UNAMSIL on the law enforcement capacity of the Sierra Leone Police. In a comparative assessment of police reform in post-conflict settings Stone et al., conclude that in Sierra Leone “police reform has come the farthest.”

Bits and pieces of research ‘evidence’ (for example, a small survey conducted amongst four urban constituencies) indicate considerable improvement in public perceptions of SLP behaviour. However, the most recent informed overview of reform of the SLP cautions that further progress in improving policing in the country faces formidable obstacles. In this analysis Baker concludes that the resources available - current and likely future ones - to the SLP do not permit the government to ‘exert effective control over, nor is it able to deliver state policing services to, significant parts of its own territory’. In addition, while the initial phase of reform has been relatively successful, it may well prove to be have been the most tractable of the necessary stages in bringing about long-term adequate policing. He notes that that the government was only able to commit around one-third of the funds that the SLP leadership viewed as necessary to continue on its set path, and that already the sustainability of the new force’s integrity can be questioned in the light of insufficient money to maintain the modern equipment delivered to it through donor aiding (including, crucially, police vehicles). He concludes that ‘donor support diminishes leaving poor countries with a wages bill and equipment maintenance costs that are beyond their capacity to sustain.

13.4.3 OVERSIGHT AND POLICE ACCOUNTABILITY SYSTEMS

Considerable progress has been made in institutionalising the principles of oversight and accountability within the security sector more widely, and within the police more specifically, but the challenges for aligning practice to the theory of accountability are of a long-term nature. With this caveat in mind the discussion now turns to a brief consideration of some important structures.

The Sierra Leone Police fall under the Minister of Internal Affairs and Local Government. The Minister is a member of the Police Council, the main policy mechanism. The secretariat of the Police Council is provided by the Permanent Secretary of the Ministry for Internal Affairs and Local Government. However, the Constitution does not prescribe a role, other than membership of the Police Council, for the Minister of Internal Affairs and Local Government. Furthermore the institutional capacity of the Minister is considered weak.

The Inspector General of the Police is responsible for the operational control and administration of the SLP, and accounts to the Police Council on matters relating to the administration of the Police Discipline Regulations 2001. The Inspector General is also be a member of the National Security Council. He/she is accountable to the President, the Attorney General and the Minister for Justice. The Police Complaints Commission and the Complaints, Discipline and Internal Investigations Department (CDIID)

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both hear complaints against police officers. The CDIDD received over 400 complaints in 2005 and disciplined approximately 150 police officers.\(^{283}\)

The **Police Council**\(^ {284}\) has the responsibility for advising the President on the appointment of the Inspector General of Police, and on all major matters of policy relating to the role of the police, police administration and financing, and any other matter as the President may require. It is composed inter alia the Vice President, Minister of Internal Affairs, Inspector General, and a representative of the Bar Association. The Police Council is vested with the power of appointment, promotion, dismissal of police officers from the rank of assistant superintendent up to and including Deputy Inspector General of Police. In respect of all other ranks the Police Council has similar powers but is required to take advice from the Inspector General of Police. The Police Council is also empowered to make regulations for its own operation and to promulgate regulations for:

- the control and administration of the SLP
- the ranks of officers and men in each unit and the use of uniforms
- the conditions of service of members of the SLP
- the authority and powers of command of officers and men of the SLP
- the delegation to other persons of powers of commanding officers to discipline members of the SLP.

At present the Police Council does not provide effective civilian oversight nor is it a “sufficiently robust mechanism of accountability.”\(^ {285}\)

The need for a new police statute is widely acknowledged. Such a statute will provide opportunities to define the mechanisms of accountability and oversight. It will have to clearly demarcate the powers of the Police Council, set national policing objectives, stipulate mechanisms for performance measurement, create an independent body to inspect performance, build capacity to investigate complaints and develop local civilian oversight.

An **Anti-Corruption Commission** (ACC) exists, but its operation is hampered by a lack of resources and the absence of prosecuting powers.\(^ {286}\) Lack of political will is also a major emerging theme, with suggestions that the ACC is no longer able to fulfil its function. The Commission has more recently worked on implementing a national anti-corruption strategy, which also includes a preventative component. Whilst an Office of the **Ombudsman** exists on paper, it has “neither facilities nor staff at his disposal.”\(^ {287}\)

The Lomé Agreement made provision for the creation of an autonomous quasi-judicial national **Human Rights Commission**. It was envisaged that technical and material assistance be sought from the UN High Commissioner for Human Rights, the African Commission on Human Rights and other relevant international organisations. Furthermore it was suggested that provision be made for a consortium of local human rights and civil society groups to help monitor human rights observance. Legislation to establish the HRC of Sierra Leone, however, was only passed in July 2004.\(^ {288}\)

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\(^{283}\) Information supplied by expert on Sierra Leone, Johannesburg, September 2006.

\(^{284}\) See National Constitution of Sierra Leone, Act No.6 of 1991 Chapter X Part II.


In future a number of other structures may provide opportunities for oversight, such the National Security Council and various substructures such as the National Security Council Coordinating Group, District Security Committees which enjoys representation from all agencies in the security sector, as well as a Justice Sector Task Force with representation from civil society and all sectors. The formation in late 2002 of a Way Forward Committee was meant to bring together justice sector ministries.\(^{289}\) The Committee has been renamed and is now referred to as the Steering Committee comprising of the heads of all the key institutions in the justice sector. The Inspector-General of Police is a member of this committee which is headed by the Vice President and the Chief Justice. There is also a Task Force made of representatives of the middle management of all of the justice sector institutions. The Task Force is currently headed by Kadi Fakondor, Assistant Inspector-General of Police. The Steering Committee and Task Force are part of the Justice Sector Development Programme (JSDP), a Government of Sierra Leone programme, financed by DFID and managed by the British Council, aimed at helping to improve the performance of key justice sector institutions, policies and practices and by strengthening the justice sector’s ability to create an environment where grievances can be addressed, economic growth can be stimulated and poverty reduced. The Goal of the JSDP is the improved safety, security and access to justice for the people of Sierra Leone.

Looking beyond the public police, the private security sector plays a critical role in the provision of security. Private Security Companies provide a significant source of employment with an influx from former combatants, police officers and soldiers. With regards to issue of regulation, the National Security and Intelligence Act of 2002 stands central. The Office of National Security (ONS) is responsible for licensing and regulation of PSCs. Currently qualifications and training of private security companies are not regulated. In the absence of strong government regulation the private security sector remains largely unsupervised.\(^{290}\) Issues relating to the governance of this sector are considered external to the wider process of Security Sector Reform. Due to the UN arms embargo of 1998 the private sector is unarmed. The arming of Private Security Companies however is a hotly contested issue - particularly so in the mining sector.

### 13.4.4 SELECTION AND APPOINTMENT OF NEW POLICE LEADERSHIP

In 1997 on the request of President Kabbah, a UK Inspector (Keith Biddle) was appointed to the position of Inspector General for the Sierra Leone Police. From this strategic position Biddle was to direct and oversee an ambitious programme of basic institution-building and radical restructuring of the police organisation. The UK became the most important sponsor of police restructuring. The decision to appoint a foreigner to the key position within the police agency was driven by politics. In the climate that prevailed at the time such an external appointment had political dividends, as it minimised the potential for political interference into policing. Secondly, an external player was much better suited to the difficult task of negotiating tensions and facilitating coordination between the police and military. The appointment of an external Inspector General was an interim arrangement. A handover of duties to a local police Inspector General was envisaged and such a handover took effect in 2003.

Not much more is known about the strategies and practices relating to the selection and appointment of new police leadership in Sierra Leone.

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13.4.5 CHANGE MANAGEMENT CAPACITY OF THE POLICE

The Acting Inspector, Keith Biddle, at one point described the largest challenge facing the SLP as that of personnel management. Institutionalising a culture of management within the SLP was a necessary yet difficult undertaking. The 2002 Strategic Plan for the SLP too paved the way for an emphasis on building capacity for the management of manpower and resources. Executive and middle-level managers had been a target of training efforts and considerable success in building police management capacity has been achieved.

13.4.6 CAPACITY FOR REGULAR POLICEMAN/ CRIMINAL JUSTICE PROCESSES

The predicament confronting the state in the delivery of security is spelt out in no uncertain terms in the following assessment:

There are serious questions about the capacity of Sierra Leone’s police to manage internal security and its military to secure borders in a context of potential regional conflict. Though the country is making progress, many problems remain, especially in the realm of security. The army still lack the logistical, communication, accommodation and transport capacity necessary to work effectively across the whole of the country.

The problems confronting policing however are replicated in other quarters of the justice system. The civil war had made its impact felt in the system as a whole. Both geographically and in terms of capacity, the reach of the formal justice system has long been limited. Its “remoteness and slowness” has meant that the formal justice system has had limited practical relevance for most people. In the absence of the state, Sierra Leone citizens have relied on local and informal mechanisms of ordering. A comprehensive overhaul of the justice sector and the court system in particular, is yet to take place. Such a radical overhaul of the judicial system is required to be able to address infrastructural decay, rampant inefficiency and large-scale corruption. Both DFID and the World Bank are poised to make substantial contributions to such a process. A more inter-sectoral approach is built into the expansive policy frameworks for Justice and Security Sector Reform, which are being hatched in developmental circles. Such frameworks attest to the importance of ‘whole of government’ and ‘inter-sectoral’ approaches to police reform. Sierra Leone in fact seems to provide a key site within which the UK (DFID in particular) can put its latest policy innovations to the test. Whatever the outcome of such field experiments, in future police reform seems likely to be pursued in tandem with reform of the courts and prisons.

292 Ibid. p. 3.
297 The Poverty Reduction Framework Arrangement of 2002-3 embraces a ten year bilateral aid program between the governments of the UK and Sierra Leone. It too includes reference to the need for strengthening the relationship between police, justice and prisons but provides no indication as to how this is to be pursued. See International Crisis Group. 2003. ‘Sierra Leone: The State of Security and Governance’. Africa Report No. 67. (2 Sept). p. 21.
DFID is currently involved in the development of a five-year Justice Sector Development Programme to meet the needs of people and aligned its to Poverty Reduction Strategy Paper. Judicial and penal reform has been a core objective of the UK Government’s Law Development Programme. The latter involves the training of judges and lawyers and the provision of legal assistance in the prosecution of corruption cases. UNDP has been involved in the renovation of courts and the training of justice of the peace officials. ICRC has provided funds for the construction of prisons. Human rights training is provided by UNAMSIL.

13.5 DONORS IN THE POLICE REFORM PROCESS

The bill for the post-war reconstruction of Sierra Leone had been footed by the international community, with the UK and USA as the two most central players. Given the sheer scale of post-war reconstruction much of its success remains dependent on the future availability of foreign international aid to consolidate and sustain reform efforts. This general observation also holds true for foreign assistance in support of reform of the Sierra Leone Police.

13.5.1 THE ROLE / IMPACT OF DONORS ON POLICE REFORM

With regards to the restructuring of policing, Sierra Leone has been a recipient of generous support from the United Nations and the United Kingdom. (The bulk of funding forthcoming from the UK government’s African Conflict Prevention Pool set aside for Security Sector Reform, has gone toward Sierra Leone.) In the unstable political region of West Africa Sierra Leone is the only case in West Africa that has received dedicated assistance from a committed external actor. As such it thus comprises a critical case study in the West African region of the decisive role that foreign assistance plays in the overhaul of the civil police agency.

The lead for police reform was taken in 1998 by the Commonwealth Police Development Task Force (CPDTF). This initiative was funded in whole by the UK government. The Task Force first convened in July 1998 and utilised the expertise of senior police officers from Canada, Sri Lanka, UK and Zimbabwe. Out of this developed the Commonwealth Community Safety and Security Programme (CCSSP), the most prominent of initiatives. In the initial phase, assistance focused on the re-establishment of a visible policing presence in Freetown, and building capacity for the policing of elections. Since then a widening of the reform agenda has occurred. Between 2000 and 2002, CCSSP again provided most of the training and management support to the SLP with the view to “re-establish the SLP as an effective and accountable civilian police service.” The CCSSP delivered operational support to the SLP over a five year period with almost 50% of programme funds spent in support of the SLP. The UK government was and is also supporting security initiatives through their Sierra Leone Security Programme (SILSEP) and the funding of the International Military Training Team (IMATT), together with a number of smaller programmes e.g. support to Anti-Corruption Commission; Law Development Programme etc. SILSEP has been central to the UK development effort. Outcomes have included the establishment of a National Security Council, and a series of comprehensive support structures.

298 This includes both the United Nations Mission in Sierra Leone and the UNDP.
299 Between 2001 and 2005 some 68.7 million Pounds out of a total of 82.2 million pounds spent on SSR programmes in Africa, went toward Sierra Leone. Correspondence with SSR specialist attached to DFID, October 2006.
The role of the United Nations Mission to Sierra Leone (UNAMSIL) has been critical in supporting the Sierra Leone Police in maintaining law and order in recent years. Seventeen thousand members were deployed in the early phase of peace-keeping. The UNCIVPOL component of UNAMSIL has acted in support of training as well as in operational deployment of Sierra Leone Police particularly in contested areas of the country. There was a very large UNCIVPOL component to UNAMSIL, who did support police operations and development. UNAMSIL drew-down at the end of 2005 to be replaced by UNIOSIL. The UNIOSIL mission has 20 UNCIVPOLs. Six of whom work in the districts and the remainder at SLP HQ. There has been growing evidence of cohesion between their efforts and that of JSDP and SILSEP police activities.

The relationship between CCSSP and UNCIVPOL has not always been clear. The revision of the mandate of UNCIVPOL and the increase in officers deployed (from 60 to 185) seem to have created some confusion about mandates and overlap. Better coordination between SLP, UNCIVPOL and CCSSP has been identified as a critical issue requiring attention with the view to aligning efforts. In addition, as Baker notes, tensions arose ‘from the fact that the police advisers and personnel [came] from countries whose police models, standards and training differ from one another and from the host country. In Sierra Leone, for example, the 170 CivPol officers came from 17 different countries and many lacked adequate experience or expertise’.

In 2004 the UK opted for a more holistic approach to justice reform and in May 2005 the Sierra Leone Justice Sector Development Programme (JSDP) was established. This programme is managed by the British Council and has a budget of £25 million over five years. Its main task is to support the Government of Sierra Leone in producing a Justice Sector Strategy which will be aligned to the ongoing Medium Term Expenditure Framework (MTEF). Design of the strategy is ongoing, though in the meantime various support initiatives to individual parts of the justice sector have been provided. One of these initiatives is a pilot programme in Moyamba District.

The JSDP is very much concerned with the delivery side of policing and its connection to the remainder of the justice sector (prosecutions, courts, prisons etc). Given that state security is considered a legitimate role for the police, the SLP also receive UK assistance for policing from SILSEP. Coordination between these separate programmes is of critical importance.

13.5.2 MANAGEMENT OF DONORS AND TECHNICAL ASSISTANCE

Various forums now engage with issues of coordinating: Concerted efforts towards the coordination of reform activities are a feature of the post-2002 environment. The UK High Commissioner to Sierra Leone currently acts as a coordinator of all UK departments in Sierra Leone with the view to streamlining security.
Furthermore, the National Security Council Coordinating Group serves a coordinating role with representation from the armed forces, police, Office of National Security, and two international military teams. At district level there are now in place District Security Committees consisting of all agencies of the security sector. A new Justice and Sector Task Force, which also makes provision for civil society representation meets regularly and has, according to Stone et al.309 become influential in giving direction to DFID’s support. The Inspector General of Police now attends monthly steering committee meetings with UNCIVPOL and project managers of CCSSP. 310

Whilst the principles of ‘joined up’, holistic and sector-wide approaches are part of the SSR discourse, realities on the ground continue to point toward fragmentation. Coordination is required at a number of levels: across the government departments of donors; across the justice and security sector of the recipient country and amongst donors too.

13.6 TRANSITIONAL JUSTICE MECHANISMS RELATED TO POLICE

Article IX of the Lomé Agreement granted amnesty to combatants and collaborators in respect of anything done by them in pursuit of their objectives, up to the time of the signing of the Agreement. Furthermore the Government of Sierra Leone undertook to ensure that no official or judicial action is taken against any member of the Revolutionary United Front, ex-Armed Forces Revolutionary Council, ex-Sierra Leone Army or Sierra Leone Civil Defence Force in respect of anything done by them in pursuit of their objectives as members of those organisations, since March 1991, up to the time of the signing of the Agreement. In addition, legislative and other measures necessary to guarantee immunity to former combatants, exiles and other persons, currently outside the country for reasons related to the armed conflict shall be adopted ensuring the full exercise of their civil and political rights, with a view to the reintegration of offenders. This blanket provision led to the withdrawal of UN support for the peace agreement. Whilst transitional justice provisions were thus built into the peace agreement, the absence of an implementation timetable has been seen as a critical shortcoming.311

Clear provisions for addressing human rights violations exist. In this regard two mechanisms of importance to transitional justice have been created. In terms of a provision contained in the Lomé Peace Accord of 1999, a Truth and Reconciliation Commission (Article XXVI) was created in 2002 to address impunity and provide a forum for both the victims and perpetrators of human rights violations ‘to tell their story.’ This Commission is expected to deal with the question of human rights violations since the beginning of the Sierra Leonean conflict in 1991. Membership of the Commission made allowance for representation from a cross-section of Sierra Leonean society with the participation and some technical support from the International Community. The TRC made some findings regarding the police force. 312

Furthermore the UN Special Court for Sierra Leone - modelled on the hybrid international-domestic courts of Yugoslavia and Rwanda - has also been formed. In the case of Sierra Leone however, the UN Special Court operates within a narrower mandate and its jurisdiction does not, unlike its counterparts in Yugoslavia and Rwanda, extend to accused outside of the borders of Sierra Leone. Court proceedings against those “who bear the greatest responsibility for war crimes” commenced in June 2004.

309 Ibid.
310 Ibid.
14. CHAD CASE STUDY REPORT

14.1 HISTORICAL AND POLITICAL CONTEXT

In a continent of imposed borders, Chad stands out for the artificiality of its territorial boundaries. Pacified and brought under French colonial control only by 1913, the territory’s population of around six million “make up one of the most ethnically diverse social mosaics in Africa”. While reference is often made to a rough divide between a Christian, Animist and Francophone south and a Muslim, Arabic-speaking north (as in other countries of the Sahel), this cleavage is far from decisive in determining the shifting patterns of political alliances and opposition. Almost perennial conflict from the nineteenth century on has fragmented even the loose agglomerations of ethnically groups, with clan and village often more decisive than the wider ethnic identity. At any given time, whoever is in power in Chad must rely on some form of coalition building that attempts to accommodate societal heterogeneity.

An arid country with only spare patches of fertile ground, mostly in the south, this fifth largest country by size in Africa (1.28 sq km) is consistently rated at one of the poorest on earth. Colonialism and endemic conflict have left behind only a rudimentary infrastructure and widespread illiteracy, poverty and insecurity. Paradoxically, Chad at the same time has the fastest growing economy in the world, but this phenomenon is completely a function of the opening of oil wells in the far south of the country after construction of a 1,000 kilometre-long pipeline through Cameroon to the coast. Although obliged by lenders such as the World Bank to put in place legislation committing 70-80 percent of the revenue from oil to the reduction of poverty, the government of Chad under President Idrissi Deby has circumvented this requirement and syphoned off funds inter alia for the purchase of arms. For the moment, little of the oil revenue has found its way down to the average inhabitant, while political power struggles now enjoy the added incentive of access to undreamed-of wealth.

At first under the rule of a southerner at independence, rebellion against central rule began in 1965 in the north, and has continued off and on ever since. By 1980 governmental control had been so reduced that commentators ranked Chad as one of the continent’s “collapsed states”. Some vestiges of central government control and the assertion of state authority were brought about after another rebellion under the northerner Hassan Habre succeeded in imposing its presence by military prowess. Under the brutal regime of Habre, Chad regained a sense of statehood, albeit partly through the presence of a French expeditionary force.

Overthrown by another rebellion by one of his lieutenants (Deby) in 1990, Habre fled the country, and now is standing trial for crimes against humanity in Senegal. Deby has proved a shrewd and durable political operator, and under a facade of democratisation has retained power up to the present. His party (Movement for Patriotic Salvation – MPS) commands a majority in the country’s parliament and Deby himself has been returned three times to power in presidential elections whose integrity has been increasingly suspect. Bolstered by an inner circle of ethnic compatriots from the wider Zagawa ethnic grouping in eastern Chad, Deby has consistently sought to co-opt and conciliate potential opposition leaders. Several

attempted assassinations and coups d'état have been averted, in part again due to French military support, the latter apparently stemming from the belief that the current leadership is about the best that could be hoped for under the conditions prevailing in Chad. Under Deby the country has enjoyed relative peace, at least in comparison to the twenty years before his accession to power. Nevertheless, rebel groupings remain, and one such formed in Sudan with that country’s tacit support continues to makes incursions into the country, most recently in April 2006 up to the outskirts of the capital city of Ndjamena.

Given the porous, artificial nature of the country’s borders and the fragility of state control, incumbent regimes appear to have been driven above all by the desire to maintain Chad’s territorial integrity against outside powers, most notably Libya, which at times in the 1980s was in de facto control of around one-third of the country through armed intervention in the north. Currently the major threat to territorial control emanates from the east, where Chad's army attempts to ward off incursions of the semi-official Sudanese raiders known as the Jinjawid which Khartoum has been using as a proxy to repress rebellion in its own western province of Darfur, while at the same time guarding as best it can against the rebel invasions to which reference has already been made. One of the most serious issues facing the government in Ndjamena is the presence of several hundred thousand refugees from Darfur who have fled to camps in eastern Chad. These refugees, and the civilians in whose area they live, are constant targets for Jinjawid raiding. The government deploys its security forces largely to counter possible rebel attacks, and as a consequence is in no position to use the army in defence of the inhabitants of the east.

Thus while Deby’s regime has brought about a measure of stability and introduced democratic structures, Chad qualifies as a “post-conflict” state only by the most generous of assessments. Neither the stability nor the limited democratisation enjoy an assured future. Few commentators are optimistic that the new old wealth will provide the basis for social reconstruction rather than elite enrichment and military consolidation. Nor are much hopes held out for a shift from the ‘pseudo-democratic’, the ‘semi-authoritarian’ and ‘neo-patrimonial’ nature of the regime, as it has variously been labelled. Yet the fact that even the limited advances towards democracy have occurred make of Chad a borderline case, not conflict-free but not an out-and-out oppressive dictatorship.

14.2 POLICING ARRANGEMENT (STRUCTURE OF STATE POLICING)

Little literature is available on policing in Chad. Most of the questions with which this Report is concerned cannot be answered by the research methodology, but require site visits and the knowledge of informed observers and practitioners.

Chad inherited its structure of policing from French colonial rule, and the police today still bear some features traceable to the colonial factor. As in France, policing is undertaken by a plurality of organisations whose nomenclature and nature have changed over the years since independence. Whatever the agency concerned, however, there appears to be general agreement that police officials, as with the Army, are relatively unconstrained by the paper guarantees of civil liberties, as for example contained in the Décret n°269 du 04 avril 1995 portant code de déontologie de la police nationale or the various constitutions adopted after 1990. As has been the case elsewhere, the police have acted as one of the instruments of the elite in power, with numerous incidents of political harassment, coercive action against the press and political parties. Accusations of extortion and sexual assaults by serving police seem quite common.

At independence various policing agencies existed, some with a remit extending over several French colonies, such as the National Security Police or Sureté. In addition, a Territorial Police (renamed the Nomad and National Guard in 1968 and reconstituted in 1996) was entrusted with security for government officials, premises and regional posts. A National Gendarmerie, formally a military unit, was responsible for rural security, while a national police force of uncertain nature also existed. The onset of rebellion led to the restructuring of existing units and the creation of new ones. Under President Habré, a political police known as the Direction de la Documentation et de la Securité (DDS) came into being and is alleged to have been largely responsible for the extra-judicial killings of up to 40,000 people that occurred under this President, and for which he is now standing trial.

By the Deby era, policing had come to be parcelled out among a number of units whose activities were largely under the control of the closest henchmen of the President. These units included the State Police Force or Gendarmerie, a National Police force, the Nomad and National Guard, the Rapid Intervention Force, the Republican Guard and the Presidential Security Force. Our research was unable to turn up any details as to the size, function and command structure of these units. It would however seem that the gendarmerie and the Rapid Intervention Force were formally part of the National Army of Chad (ANT), itself perhaps the real seat of coercive power at the disposal (subject to favourable treatment) of the ruling elite. In general, foreign media reports regarding policing in Chad refer merely to 'the police' without distinction as to the specific unit.

14.3 POLITICAL CONTROL AND INDEPENDENCE OF POLICE

The use of police in the harassment and repression of opposition supporters and the very critical private newspapers in Ndjamena during the Deby era is well enough documented to make clear that an independent and professionalised form of policing does not exist in Chad.

14.4 POLICE REFORM ISSUES

There is no evidence that reform of the police is on the agenda of the current government, despite the adoption of civil rights measures by parliament.

14.5 DONORS IN THE POLICE REFORM PROCESS

No evidence was found that the international donor community has launched any police reform projects in conjunction with the government of Chad. However, the US Embassy in Chad does recount some form of aid to various elements of the Chad police, mainly training, and apparently under the umbrella of the US-led 'War on Terrorism'.

14.6 TRANSITIONAL JUSTICE MECHANISMS RELATED TO THE POLICE

No such mechanisms have as yet been instituted, as far as could be ascertained.

14.7 ARRANGEMENTS FOR POLICING OF POST-CONFLICT ELECTIONS

Press reports suggest that while not outrageously repressive at election time, police actions at times were aimed at curtailing free opposition assembly. One report stated that the generally ‘free and fair’ parliamentary elections of 1997 were a result of the resident French expeditionary force taking a hand in their organisation.
15. ETHIOPIA CASE STUDY REPORT

15.1 HISTORICAL AND POLITICAL CONTEXT

Ethiopia, one of the poorest countries in the world, is home to some 76 ethnic groups. During the course of the twentieth century, Ethiopia has been subjected to autocracy, military dictatorship, civil war, border wars with Somalia and Eritrea and drought-induced famine. Political life has been steeped in a long tradition of centralised and brutal rule. In 1974 the monarchic era - so intimately associated with the person of Haile Selassie - came to an end. Monarchic rule was replaced by that of a military autocracy under the Dergue, which lasted for fifteen years.

The authoritarian Dergue military dictatorship was defeated in mid-1991 by an insurrection which brought to power the Ethiopian People’s Revolutionary Democratic Front (EPRDF). As a political formation, the latter became dominated by Tigrayan ethnic forces. The insurrection ushered in four years of transitional rule and saw the adoption of an Interim National Charter.

In 1995, the National Assembly adopted a new federal Constitution that professed a broad commitment to democratic rights, rule of law and a pluralist political system. The polity is organized along ethnic federalist lines with power devolved to nine regional states. Despite federalist arrangements centralizing tendencies remain strong. The National Assembly is the highest decision-making structure, while central political authority continues to rest with the President. The legislature consists of the House of Federation and the House of People’s Representatives.

Critical issues in the post-civil war era were demobilization of the army, rebuilding of the infrastructure, and the establishment of law and order. In 2000, the World Bank committed itself to an Emergency Demobilisation and Reintegration Project, which was intended to target 150 000 veterans and contribute to social reconstruction. Although a multiparty political system is now in operation, the transition has also been accompanied by new insecurities. The latter pose particular challenges to efforts to democratize both state and society.

15.2 POLICING ARRANGEMENTS

The transitional national government of the early 1990s recognized the need for a new police force under the direction of the nine self-government regions. Fourteen regional forces have since been created each with their own regional police commanders.

15.3 POLITICAL CONTROL AND INDEPENDENCE OF THE POLICE

In 1995 the Ministry of Internal Affairs, which previously had responsibility for police policy formulation, standardisation of procedures and quality of police training, was abolished. Thereafter, the national (federal) police organisation became accountable to the Ministry of Justice. The Federal Police now falls under the Federal Police Commission, headed by the Police Commissioner. The Commission is accountable to the Ministry of Federal Affairs, which in turn reports to Parliament.

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Ethnically, Tigrayan Ethiopians still remain in control of the security and political apparatus. Policing remains politicized, according to Hills; for example, recruitment and selection continue to be influenced by "politics and party concerns", despite a commitment by the new government to end such practices.320

15.4 POLICE REFORM ISSUES

Ethiopia has always been a difficult society to police, and brutality has been a standard feature of its policing system.321 Furthermore, the linkage between internal security and regime concerns was always tight.322 Against this political background reform of the police toward a civilian style of policing was limited by political and cultural factors, both inside the police organisation and in society more broadly.

15.4.1 DEMILITARISATION/CIVILIANISATION OF POLICE

There is a complex history of amalgamation between the police and the military in Ethiopia, which also informs the issues related to demilitarisation and civilianization. During the Dergue’s rule, the police was amalgamated with the military, had a centralised, national character and carried out paramilitary functions. During this period public order was enforced by the army. After the EPRDF insurrection brought an end to Dergue rule, many of the police, particularly the senior officers, fled the country and those police officers that remained were detained in screening camps.323 Policing duties were taken over by former EPRDF freedom fighters. At one stage, large-scale demobilisation of the army led to many demobilized fighters from the TPLF becoming police officers.324

There has been a longstanding blurring of functions between army and police in Ethiopia. Hills makes the important point that the state-police relationship has not changed much over the decades. The punitive and reactive features of policing – so characteristic of an earlier period – continue in some form at present.325 Policing remains an essentially urban service, training is uneven, and the police budget under-funded.

A trend toward civilianization has been more evident from 1996 but this has been limited by the combination of two factors: a very powerful executive branch of government, underpinned by the ongoing involvement of the EPRDF party’s military wing in internal security, and, secondly, a weak judiciary that cannot effectively contain the politicization of the police.326

Ongoing violence emanating from rebel and insurgent groups in Ethiopia constitutes a barrier to demilitarisation, as it requires a high level of response capacity and readiness for conflict. Police rank structures continue to be influenced by military habits that are more suited to a situation of war. More significantly, the insecurity in the larger society militates against a smooth demilitarisation of the police agency.

320 Ibid. p.106.
321 Ibid. p.102.
322 Ibid. p.109.
325 Ibid. p.102.
326 Ibid. p. 110.
15.4.2 POLICE ACCOUNTABILITY

Under the Ethiopian Constitution, human rights are protected. The House of People’s Representatives sets the mandate of the various arms of the security establishment and has the responsibility of investigating infringements of human rights by such forces. The Auditor General has regulatory authority in respect of financial matters. Provision has been made for a National Human Rights Commission and Ombudsman office but it is unclear whether such mechanisms have been established. The Human Rights Council also has a monitoring role to play in cases where human rights are violated.

15.5 DONORS IN THE REFORM PROCESS

DFID (the UK government’s development agency) has been involved in providing aid to the Ethiopian police, following a fact-finding mission in 1992. DFID advocated a strategic approach, with emphasis on the development of police management capacity, combined with professional police training and some logistical hardware. The DFID program between 1993 and 1996 placed emphasis on organisational structure, transport, training, central bureau services (forensic science and fingerprinting) and communications. The second phase of the program emphasised the need for an open and accountable civil police service responsive to the community.327

The sometimes difficult political relationship between the governments of Ethiopia and the United Kingdom has resulted in a ‘stop-start’ approach to development support for the police in particular and security sector generally. Small SSR projects have been supported over the past ten years, though to date no sectorwide approach has materialized.

15.6 TRANSITIONAL JUSTICE MECHANISMS

In 1992, a Special Prosecutor’s Office was introduced in Ethiopia, to attend to past human rights abuses and deliver justice. The office only became operative in 1996. Seventy-two top-ranking Dergue officials were put on trial in late 1997, facing charges of war crimes and crimes against humanity. A total number of 5 198 people have been charged, most for genocide and war crimes. However, the significant backlogs in the court system are likely to affect the progress of these cases.

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327 Ibid. p. 45.
16. LIBERIA CASE STUDY REPORT

16.1 HISTORICAL AND POLITICAL CONTEXT

Liberia’s essentially one-party state was overthrown in a military coup in 1980, led by Samuel Doe. Doe’s repressive style of government resulted in armed rebellion (the invasion of the National Patriotic Front of Liberia – NPFL- in December 1989), heightened tension and magnified conflict. The conflict lasted until 1997, when elections were held, and won by Charles Taylor. Taylor’s rule was tyrannical, ruthless and corrupt, resulting in yet other groups taking up arms against him,- a further 14 years of civil war in which 150 000 Liberians died, 100 000 were displaced within the country, and a further 150 000 sought protection in neighboring Sierra Leone, Guinea and Cote D’Ivoire. Two decades of civil war led to the collapse of the state, economy and society. Liberia is now rated as one of the world’s poorest countries. It is significant that the armed and security forces were, at each of these critical moments in Liberia’s history, essentially instruments of oppression and fear, despised and feared by the populace.  

A Comprehensive Peace Agreement was signed by the warring parties in August 2003, providing for the formation of a transitional government (National Transitional Government of Liberia), and a National Transitional Legislative Assembly (parliament). The UN Mission to Liberia (UNMIL) was established at the end of the conflict in 2003, in an attempt to bring international assistance to the project of rebuilding the Liberian state and society. However, the process of reconstruction of Liberia has been slow, hampered by various factors. The most significant recent milestone was the democratic election of 2005 and the subsequent the inauguration of Mrs. Ellen Johnson Sirleaf as President.

16.2 THE CRIMINAL JUSTICE AND SECURITY SECTORS IN LIBERIA

The Liberian justice system suffered from an historical lack of independence from the executive and failed to operate impartially, even prior to the civil conflict that began in the 1980’s. Presently, the justice system is in a severe state of disrepair; and incidents of vigilantism and ‘mob justice’ are, according to the International Crisis Group, “a direct result of lack of faith in the police, corrections systems, criminal investigations and the justice system as a whole.”

The Liberian justice system is an amalgam of internal and imported statutory law; US common law; state-sponsored African customary law, (in which chiefs and local administrators exercise judicial powers on behalf of the state); and another form of customary law that operates beyond state oversight, within ethnic Poro and Sande power associations, councils of elders, and other systems of traditional dispute resolution. These two forms of customary justice have continued and even thrived despite the disruptive effects of the war. In Liberia, customary law is the primary arena in which citizens look for justice, but also believed to be corrupt and problematic in some respects.

A 2002 public opinion survey conducted by the Center for Criminal Justice Research and Education (part of the first extensive study of the Liberian Criminal Justice System), found that

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331 Approx. 1 400 respondents were surveyed in Monrovia and surrounding areas.
• over 90% of respondents said they were fearful of crime;
• 46% of respondents said they were afraid of both criminals and security/law enforcement officials;
• 38% agreed with the statement that police officers are usually intimidating, brutal and aggressive; and
• 68% of respondents said they had little or no confidence in the law enforcement agencies to prevent crime, while 65% said they had little or no confidence in law enforcement agencies to solve crime.

During the war, the Liberian security sector decayed dramatically, and effective command and control was absent when the new government took power in 2005. According to DCAF (2005), the following factors limit the prospects for sound democratic governance of the security sector in Liberia:
  o Lack of adequate constitutional framework;
  o Conceptual and implementation gaps between SSR and the broader governance framework;
  o Lack of mechanisms for making the reform process accountable to Liberians;
  o Inadequate parliamentary oversight;
  o Lack of genuine and effective civilian leadership and management capacity in the Ministry of Defence (MoD);
  o Inadequate civil society involvement in the reform process;
  o In the recent past, a gap between the Liberian population and the leadership of UNMIL.  

16.3 POLICING ARRANGEMENTS (STRUCTURE OF STATE POLICING)

A system of formal state policing was introduced in Liberia after 1920. There are now numerous state agencies with policing powers in Liberia. Law enforcement agencies with national jurisdiction include:
• The Liberia National Police
• The Special Security Service, which is essentially a Presidential Protection Unit but also has law enforcement powers
• The Ministry of National Security which is tasked with the preparation of intelligence and security briefs for the President, monitoring and giving guidance to the operational activities of the various security services, and coordinating the activities of all security services.
• The National Security Agency which has police, subpoena and law enforcement powers and its remit includes ‘internal security’.
• The National Bureau of Investigation, which investigates ‘major crimes including homicide (except vehicular homicide), illegal entries into the country, robbery, arson, rape, grand larceny,

kidnapping, burglary, embezzlement, forgery, smuggling, violation of the narcotics law, counterfeiting, theft of government property.336

- The Bureau of Immigration & Naturalization
- The Drug Enforcement Agency, and
- The Liberia National Fire Service.

The capital also has its own municipal police, the Monrovia City Police.

In addition to the state police agencies listed above, several public corporations and government Ministries have had their own security units to provide protective services to buildings, facilities or installations, to provide VIP protection for senior executives, assist National Security Agencies with investigations, and perform other duties relating to law enforcement. These include:

- National Ports Authority (the Liberia Seaport Police)
- Liberia Petroleum Refining Company
- Liberia Produce Marketing Corporation
- Liberia Telecommunications Corporation
- Roberts International Airport
- Ministry of Finance
- Ministry of Foreign Affairs
- Ministry of Education
- Ministry of Planning & Economics Affairs
- Ministry of Internal Affairs
- Ministry of Public Works
- University of Liberia
- Monrovia Consolidated School System.

By the early 1990s, most security units of public corporations were more developed than security units of government ministries, in terms of structure and logistical support. Some of the public corporations had the capacity to generate funds and thus were able to provide uniforms and other logistical support for their security personnel. By contrast, the Security Units of government Ministries had serious manpower shortage and logistical problems.337

16.4 POLICE REFORM ISSUES

Numerous challenges are paralysing the Liberian justice system. The statutory law system and the state-sponsored customary law system do not work in partnership, and executive oversight of customary law through the ministry of internal affairs has meant that there is no judicial review of chiefs’ judgments or their abuses of power. Liberians remain uninformed of their rights and how to pursue them.338 The multiplicity of police agencies presents one of the core challenges for police reform.

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According to a report produced by the International Legal Assistance Consortium (ILAC) in late 2003, the criminal justice system - which includes various of the above-mentioned police agencies - in Liberia is characterised by the following problems:

- absence of any separation of powers;
- the absence of principles of transparency and accountability;
- the withholding of remuneration of public employees and the implications of this for those attempting to access the justice system;
- the disparity of access to education;
- the absence of a basic understanding of human rights and gender issues;
- challenging security conditions; and
- the limited integration of traditional law and custom with the Anglo-American legal system.

The 2002 study by the Center for Criminal Justice Research and Education had identified the following problems in the law enforcement system in Liberia:

- Politicisation of law enforcement,
- poor recruitment procedures and appointment without due consideration to the qualification of the appointees,
- ineffective management and supervision, and absence of internal rules, policies and guidelines,
- duplication and overlapping functions between the various law enforcement agencies,
- ad-hoc systems for promotion and reward (resulting in some cases in police agencies having more officers than non-commission officer personnel) and low salaries,
- lack of training,
- lack of logistics,
- abuse of officers’ rights, and
- lack of motivation and morale among law enforcement officials.

According to DCAF’s 2005 assessment, Liberia’s early transition period (2003-2005) did not produce a discernible national security policy, but instead was characterised by the lack of a coherent and comprehensive framework for the reconstruction of the security sector; and a compartmentalisation of reform and of the reform process. (For example, according to DCAF, despite an emphasis on reforming the police, there was no corresponding effort on the reforming the judiciary and correctional services, resulting in an over-burdened judiciary and congested prisons). A more recent assessment adds that the SSR process to date has only focused on the Army, Police and Special Security Service, and lacks local ownership.

16.5 CURRENT DEVELOPMENTS IN POLICE REFORM

The CPA makes specific references to the security agencies that should be restructured, and its Article VII refers specifically to the Liberia National Police and other security services such as the Immigration service, Special Security Services, custom security guards and other statutory security units. The other document that directs police reform in Liberia is the UN Security Council Resolution 1509 of 19

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342 Article VIII Section 1 of the *CPA*, 2003: p. 16.
September 2003, which states that the UNMIL should assist “the transitional government of Liberia in monitoring and restructuring the police force of Liberia, consistent with democratic policing, to develop a civilian police training programme, and to otherwise assist in the training of civilian police, in cooperation with ECOWAS, international organisations and interested States”.\textsuperscript{343} This places UNMIL in a prominent position in the future process of police reform in Liberia.

The new government of Liberia has already given some indication of its intention to reform policing, including likely rationalization of the number of law enforcement agencies. There has been a good deal of work already on the technical aspects of the reform of the Liberia National Police and elements of the security services, but this has not, so far at least, been matched by equivalent work on legislative overhaul nor civil society involvement.

This period is the most hopeful in recent Liberian memory. Justice reform can succeed if the government puts it prominently on the agenda, community-based approaches to justice are taken, and donors deliver money quickly and in sufficient quantities.\textsuperscript{344}

Despite the government's desire for change, there is currently a perception of confusion as to how it might be achieved. To address this, the UN Secretary General's Special Representative and the UNMIL in Liberia are working to develop proposals for assisting the Liberian government with a programme of police / security sector reform. In October, the Liberia Governance Reform Commission document (cited earlier) on Security Sector Reform was the subject of discussion between members of the legislature, Ministry of Defence, Ministry of Justice and civil society organisations. This document raises the following 'Issues and Concerns' which are relevant to police reform:

- overlapping mandates between the multiple law enforcement agencies
- Lack of Infrastructure
- Budgetary Constraints
- Poor Human Resource Capacity
- Oversized Security Sector
- Skewed Civilian Oversight
- Skewed Security Sector Reform, focusing on Military reform
- Politicisation of the Security Sector
- Need for increased Local Ownership of the SSR process.\textsuperscript{345}

The GRC document recommends that, “based on the general consensus emerging out of the assessment exercise, the GRC should continue to provide intellectual leadership over the policy debates of the SSR process. It should evolve a national policy through a participatory and inclusive process that will involve civil society, government institutions including security agencies, the national legislature, and UNMIL, UNDP and other appropriate and interested agencies.”\textsuperscript{346}

The GRC also recommends that a national (Liberian) task force on SSR should be formed, headed by a Technical Expert. “This should comprise not more than seven persons drawn from the Government and Civil Society, and possibly UNMIL. This group will steer the national debates under the supervision of the GRC through its Executive Director and the Chair. This group will also be supported by the


proposed Security Transformation Facilitation Team for Liberia (STFT), a core group of the African Security Sector Network (ASSN). The main objectives of the STFT are to: provide policy advice to the GRC with regard to governance dimensions of the SSR; and provide technical assistance to security oversight-related committees in the legislature. The STFT will comprise representatives of the CSDG and the Liberia Working Group at King’s College, ASSN, ASDR, Centre for Democracy and Development and DCAF.”

The ‘Liberia National Law Enforcement Association’ (LINLEA) is one of the few local civil society role-players in the field of security sector reform, lobbying government around elements of police reform such as accountability.

16.6 DONOR INVOLVEMENT IN POLICE REFORM IN LIBERIA

The Comprehensive Peace Agreement of 2003 called for donor assistance with security sector reform (which would include police reforms):

The Parties request that ECOWAS, the UN, AU, and the ICGL provide advisory staff, equipment, logistics and experienced trainers for the security reform effort. The parties also request that the United States of America play a lead role in organising this restructuring program”.

Donors are currently formulating plans for their involvement in possible programs of police reform, as part of the wider SSR initiative – this has been delayed by the slow pace of SSR program development in Liberia. DFID and UNDP are likely to get involved.

16.7 CURRENT DEVELOPMENTS IN TRANSITIONAL JUSTICE

The Liberian Truth and Reconciliation Commission (TRC) officially began its work in June 2006, modelled in large part on South Africa’s truth commission. Liberian President, Ellen Johnson-Sirleaf, said that full accountability for human rights atrocities is a necessary first step toward lasting peace in Liberia. It is not known to what extent current and former police officials may be held to account for police actions in the past.

According to DCAF, the removal of Taylor from exile in Nigeria to face the Special Court for Sierra Leone (where he faces 17 counts of war crimes and crimes against humanity, including killings, sexual violence, forced conscription of child soldiers, forced labour and attacks on UN peacekeeping personnel) should go a long way in ensuring peace and security in Liberia. It may also give ‘teeth’ to some of mechanisms for transitional justice which will be needed to overcome the legacy of Liberia’s history – mechanisms which may also used against military and police officers guilty of gross abuses during the prolonged civil war.

348 Article VII Section 1 (b) of the CPA, 2003: p. 15.
The International Centre for Transitional Justice (ICTJ), based in New York, has been active in assisting LINLEA and other Liberian roleplayers with dialogue on issues of police accountability and security sector reform.
17. SUDAN CASE STUDY REPORT

17.1 HISTORICAL AND POLITICAL CONTEXT

The Sudanese civil war has been Africa’s longest-running conflict, fuelled by persistent underdevelopment of marginalised areas of Sudan (such as the South of the country), and competition for access to political and economic power, which is dominated by a northern, Arab, Muslim elite. Following independence from Britain and Egypt in 1956, southern discontent with the northern-dominated political order evolved into guerrilla warfare across the south. Since 1983, the two principal parties to the conflict have been Garang’s SPLMA and the sovereign Government of Sudan (GoS) in Khartoum; but in the 1990s other roleplayers entered the conflict.

The Comprehensive Peace Agreement of January 2005 resulted in the formation of an interim Government of National Unity (GoNU) between the National Congress Party (earlier the National Islamic Front) the dominant party of northern parts of Sudan, and the Southern People’s Liberation Movement and Army (SPLM/ SPLA); and the creation of a separate Government of Southern Sudan (GoSS). It also requires the rebuilding of the State level of government.

However, the Peace Agreement did not deal with the crisis in the Darfur region in the West of Sudan, where two rebel groups, frustrated at being left out of the North-South peace talks, had embarked in 2003 on an offensive in Darfur against the Northern National Congress Party (NCP) government, in response to which the NCP government armed local Arab militia (Janjawid) to fight the rebels. This developed into a separate war from the older Sudanese conflict. The militia used harsh tactics against black villagers suspected of harbouring rebel groups, which resulted in the first wave of refugees fleeing from Darfur to Chad in 2003.

There was an international outcry about the situation in Darfur in 2004, but the then-government of Sudan refused to allow a UN Mission to Sudan. Instead, the African Union sent a peacekeeping mission. The international pressure and scrutiny related to the Darfur conflict was one of the factors that created conditions for the Comprehensive Peace Agreement (CPA) in 2005. However, the Darfur conflict has not been resolved, and continues to escalate in 2006.

The CPA provided for an interim government in Khartoum (the GoNU), and an Interim Constitution for a six-year period with Ministries being shared between the NCP and the SPLM according to a power-sharing ratio. Both the Ministries of Defence and Interior (Police) are held by the NCP. It was also agreed that there should be a Government of Southern Sudan (GoSS), with its own Constitution and Ministries. These Ministries have to be developed with no prior state infrastructure to build on. The South of Sudan is historically less-developed than the north, and donors have pledged over $4 billion to support the interim government and the GoSS. According to the Peace Agreement, the GoSS must receive 50% of the oil revenues generated in Southern Sudan.

351 The contents of this paragraph are taken from a January 2006 report of the Middle East & North Africa Research Group for the Foreign and Commonwealth Office. Sudan: Background to The North-South Civil War And Peace Process.
The Agreement makes provision for possible cessation of Southern Sudan after the interim period, depending on the outcome of a referendum.

The CPA has not been thoroughly implemented. The Commission that will establish the official border between North and South Sudan had not been established by April 2006. The establishment of the Civil Service Commission was delayed, resulting in delays in incorporation of SPLM members into civil service institutions, such as the police and the army.

In respect of the Darfur conflict, the African Union’s request for a transition from its AMIS Mission to a UN operation in Darfur was authorised by the UN Security Council in March 2006. In May 2006, a new peace agreement provided for the disarmament of the Darfur rebels as well as the Janjawid militia, but two of the smaller Darfur rebel groups refused to sign, demanding more concessions from the Sudanese government in Khartoum.

17.2 POLITICAL CONTROL/INDEPENDENCE OF THE POLICE

In the Interim arrangement contained in the Comprehensive Peace Agreement, the Ministry of Interior in the northern GoNU is held by the NCP. Most aspects of policing in the South are delegated to the Police of Southern Sudan. In Southern Sudan, there is a Minister for Safety, Security and Police.

17.3 POLICING ARRANGEMENTS (STRUCTURE OF POLICING)

The Director-General of Interior in Khartoum reports directly to the Minister of Interior; and is in charge of the Police Forces of the 26 States as well as a wide range of ‘Authorities’ such as the Traffic Authority, the Customs Authority and the Criminal Investigation Authority; as well as various generic and specialist components such as Legal Affairs, Engineering, Training and Quality Control.

Most aspects of policing in the South are delegated to the Police of Southern Sudan. The Inspector General of the Police of Southern Sudan is based in Juba.

Each of the states Police Forces is commanded by a police officer at the level of Major-General, with a structure that includes responsibility for police ‘localities’ (districts/regions), as well as functions such as CID, crime statistics and public order.

17.4 POLICE REFORM ISSUES

A police agency must be re-established in Southern Sudan, as the police institution had virtually ceased to function during the 22 year conflict. The old police stations were almost destroyed and now require re-building, as do all the central, training and management institutions for the police. UN Security Council Resolution 1590 established a UN Police Mission with the function of training and assisting the police of Sudan, with priority given to the South. This effort is financed through a Multi-Donor Trust Fund (MDTF) and the GoSS, to the tune of $32 million.

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17.4.1 INTEGRATION / AMALGAMATION OF POLICE AGENCIES

The UNDP has publicised a planned amalgamation process for the Police Forces of Southern Sudan which is expected to consist of four stages:

- Analysis of the respective structures of the two police forces
- Identification of existing views about the amalgamation process
- Proposals concerning possible amalgamation modalities (followed by the selection of one modality by the GoSS)
- Development of an implementation plan for the selected mode of amalgamation.

In respect of the military and DDR, the United Nations Mission in Sudan (UNMIS) is mandated to support certain ceasefire and security elements of the CPA:

- Monitoring and verification of the implementation of the Ceasefire Agreement and investigation of ceasefire violations
- Liaison with bilateral donors on the formation of the Joint Integrated Units (JIUs)
- Observation and monitoring of the movement of armed groups and redeployment of forces in the areas of UNMIS deployment, and
- Support to disarmament, demobilisation and reintegration

The planned DDR process will see the creation of a number of Joint Integrated Units (JUI's) comprised of army personnel from both the North and the South. The SPLA estimates that it has 360,000 troops but has been unable to do an actual headcount.

17.4.2 DEMILITARISATION / CIVILIANISATION OF POLICE

A desk-based search did not yield any information on this aspect.

17.4.3 OVERSIGHT AND POLICE ACCOUNTABILITY SYSTEMS

The Constitution of the Republic of Sudan contains various due process and human rights provisions. Recent changes made to the Criminal Code Procedures and the National Security Act of 2002 however, have increased the powers of the police to arrest and detain suspects in ways which may create conditions within which human rights are violated. It is also not clear how effective mechanisms such as the Office of the Auditor General, the Attorney General, the Public Grievances and Correction Board, the Advisory Council for Human Rights, and the human rights committee of the National Assembly are in protecting citizens against governmental abuse of power. Human rights organisations based in civil society have been raising public awareness (local and international) about abuse of power on the part of the agents of government, including its armed formations.355

17.4.4 SELECTION AND APPOINTMENT OF NEW POLICE LEADERSHIP

A desk-based search did not yield any information on this aspect.

17.4.5 CHANGE MANAGEMENT CAPACITY OF THE POLICE

There is little capacity inside the police forces of the Sudan, and much of the expertise on change management is provided through multilateral and donor support.

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The UN Mission in Sudan (UNMIS) Police (UN Police) is mandated to provide technical assistance to the police reform processes in Sudan. The UNDP / MDTF Police Support Project also provides various forms of specialist technical expertise to the process of rebuilding a police force in Southern Sudan.

### 17.4.6 CAPACITY FOR REGULAR POLICEWORK AND CRIMINAL JUSTICE PROCESSES

This capacity is being built as part of the overall effort to build the Police Force of Southern Sudan. It is also part of the content of technical assistance from many of the donor countries listed below.

### 17.5 DONORS IN THE POLICE REFORM PROCESS

#### 17.5.1 THE ROLE / IMPACT OF DONORS ON POLICE REFORM

The following donors and technical advisors have been active in supporting policing in Sudan (mainly in the South):

- DFID- training for 250 police and correctional officers in Southern Sudan.\(^\text{356}\)
- The British Council was involved in procuring uniforms and vehicles for the Police of Southern Sudan.
- DFID-funding for planned workshops by African Security Sector Network (ASSN), a group of civilian and academic experts, to advise Sudanese authorities on security sector reform\(^\text{357}\) - one workshop planned for GoNU and one for GoSS.
- UNICEF training session for Sudan police on child victim issues in July 2004, (related to Darfur conflict) – was intended to be expanded to all members of the police, with assistance from the police of Jordan.\(^\text{358}\)
- UNDP – Justice and Security Sector Reform programme – training for police in human rights issues.\(^\text{359}\)
- UNDP- Pilot projects related to the reconstruction of police stations and training facilities.\(^\text{360}\)

The South African Police Service has been assisting with training and providing technical assistance to the government of Sudan.\(^\text{361}\) Some of the funding for the SAPS assistance has been provided by other bilateral donors such as DFID. The South African government has a Bilateral Commission with the Government of Sudan, and, within that, a Sub-Commission on Policing. Relations between the SAPS and both the Sudanese Police and the Police Force of Southern Sudan are well-developed, and there have been numerous exchange visits between police in the two countries. The South African government was asked\(^\text{362}\) to assist Sudan with:

- Training
- Exchange of technical experience and technology
- Assistance with some specialist areas e.g. policing of terrorism, drugs, forgery, economic and commercial crimes, arms, ammunition, explosives, wildlife, joint investigations,

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\(^{357}\) Private correspondence from Eboe Hutchful of the African Security Sector Network.

\(^{358}\) www.unicef.org/media_22501.html

\(^{359}\) www.undp.org/bcpr/jssr3_projects/index.htm


\(^{361}\) Private correspondence from Johan Burger, SAPS.

sabotage, police aviation, police special forces, civil defence, protection of key national interests (e.g. petroleum industry) and maritime policing.

The UNDP manages a Multi-Donor Trust Fund (MDTF) Police Support Project, which aims to build the capacity of the police of GoSS. This is a $32 million project with the following outputs planned:

- Build and equip 130 police stations
- Build and equip nine police training centres
- Develop a Book of Rules relating to the internal organisation of the police of GoSS
- Develop and reproduce a Code of Conduct for the police of Southern Sudan
- Develop a Strategic Plan for Training for the police of Southern Sudan
- Develop Feasibility Studies for a Police Academy and a Police College for police of Southern Sudan
- Develop and reproduce a Field Training Manual
- Training of 720 Field Training Officers
- Training of 400 managers
- Basic training of 4 800 police staff at a Basic Police Training Academy.

17.5.2 THE MANAGEMENT OF DONORS AND TECHNICAL ASSISTANCE

The multilateral Police Support Project to the Police of Southern Sudan is managed through a Multi-donor Trust Fund (MDTF) administered by the UNDP’s Rule of Law programme. The design of the Project involved key Sudanese roleplayers in a GoSS Working Group (including the Deputy Inspector General of Police and the Director of the Department of Training), as well as two foreign police advisors brought in by the UNDP, and was developed through a Pilot period and several rounds of consultation.

17.6 TRANSITIONAL JUSTICE MECHANISMS RELATED TO POLICE

A desk-based search did not yield any information on this aspect.

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364 Ibid.
18. TANZANIA CASE STUDY REPORT

18.1 HISTORICAL AND POLITICAL CONTEXT

When the colonial state of Tanzania was created, it was made up of two territories - Tanganyika on the mainland, and the islands of Zanzibar and Pemba. These two territories have different histories, religions, cultures and governments; hence the police organisations in the two areas evolved quite differently.

The first police force on the islands of Zanzibar was established primarily to enforce anti-slavery laws. It consisted of a mix of the British colonial forces and those created by the Sultan of Zanzibar, Seyyid Barghash. In 1877, a British officer was to lead a trained force of over 1,000 (of whom 300 were Africans) in duties that included coast guarding and patrols against outlawed slave trade practices in and around the Zanzibar Isles.

The Tanzanian mainland (then called Tanganyika) was initially a German colony established by the German East African Company. In 1916, the Trading Company initiated the first European-style policing system in the country by importing a contingent of 31 members of the South African Mounted Rifles for “civil police duties” in German settler areas. In August 1919, when the British took control of Tanganyika, the South African Mounted contingent was replaced by a newly-constituted Police Force. In 1920, the first Police Training School was established in Morogoro; and the first Police recruits were trained in 1921. During this time, the first fifteen white Police Inspectors were commissioned.

When Tanzania celebrated its independence from colonial rule in 1961, the strength of the Force was approximately 6,000. In May 1962, the last colonial Commissioner of Police was replaced by the first Tanzanian Commissioner, E.N. Shaidi, and eight colonial Provisional Police Commanders were replaced by African officers, marking the beginning of the Force’s ‘Africanization’ phase.

Between 1964 and 1992, state policing in Tanzania was deeply politicised. Each police region and division had its own party-political TANU/CCM Committee, whose chairperson was the regional or divisional Police Commander. Likewise, police districts had party District Committees, whose chairperson was the Officer Commanding the District (OCD). At Branch Committee level, the local Officer Commanding Station was the local party chairperson, conducting and coordinating political education and party issues.

In 1971, in response to the shortage of police, the government adopted the ruling Chama Cha Mapinduzi (CCM) Party policy guidelines (Mwongozo) on involving the public in issues of defence and security. The Mwongozo Party Guidelines stated:

> the basis of development of defence and security in Tanzania, is on the Tanzanian themselves, and in particular every patriotic Tanzanian. The country has no ability to employ a big force to manage defence and security affairs.366

The policy has since remained a cornerstone for Party and government policies on defence and security and was published as the Party Guidelines and Election Manifestos for both the 1995 and 2000

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multiparty elections. It has also resulted in the development of informal civilian policing units, such as Sungusungu and Wasalama. Sungusungu (or ‘neighbourhood watch’ groups) emerged as traditional defence groups, volunteering to fight cattle rustlers, witchcraft, banditry and other crimes associated with rural life in the Tabora, Shinyanga, Mwanza, Mara and Singida rural regions between the mid-1970s and the early 1980s. They were an organic local reaction to increasing crime and inadequate law enforcement. By the late 1980s, Sungusungu had spread to a dozen other regions in mainland Tanzania, and was generally deemed to be successful in crime prevention, and minor criminal proceedings in which suspects were arrested, and stolen property seized and returned.

In 1989, the People’s Militia Laws (Miscellaneous Amendment) Act gave statutory recognition to the Sungusungu and placed them under the jurisdiction of the Ministry of Home Affairs. The powers granted are similar to those granted to police officers of the rank of Police Constable, including powers of arrest, search and seizure of property in relation to crimes that have been or are about to be committed.

With the emergence of multi-party politics in Tanzania in 1992, the Sungusungu, which had been closely associated with CCM party ideology, experienced a decrease in local participation. In 1997, the Sungusungu was revived in Dar es Salaam as part of a United Nations HABITAT Safer Cities Program, involving the Sungusungu in night patrols, static guarding and income-generation projects.

After the multi-party system was introduced in 1992, formal depoliticisation of the police commenced and it became illegal for police officers to join any political party or engage in any political activity while in active service.

### 18.2  POLICING ARRANGEMENTS (STRUCTURE OF STATE POLICING)

Since independence, police have been a Union or central government concern. Police fall under the political authority of the Ministry of Home Affairs (which is administered by a Permanent Secretary), and under the line command of the Inspector General of Police (IGP).

There is a Police Force and Prisons Service Commission[367] that advises the President and deals with matters such as promotion, removal, dismissal, and discipline in the Police Force and Prison Service.

At Headquarters, the IGP has four Commissioners of Police in charge of:
- Police Zanzibar
- The Criminal Investigation Department
- Administration and Finance
- Operations and Training.

Outside of Headquarters, the Field Establishment consists of the Regional and District Establishment (divided into 26 regions and 97 districts across Tanzania), and the Divisional Establishment in Specialized Units and Training Institutions.

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[367]: Composed of the Minister, Deputy Minister, Permanent Secretary, Inspector General of Police, Principal Commissioner of Prisons, Commissioner of Police Zanzibar, Commissioner of Police in Charge of Administration and Finance, Commissioner of Prisons in Charge of Legal and Prisons Affairs and Two Other Members Appointed by the Minister.
In addition to the Tanzania National Police, Tanzanian law makes provision for Auxiliary Police - local police organisations, designed to police and enforce local government laws, bylaws and regulations. At present there are fifteen Auxiliary Police organisations in Tanzania, most notably the Dar Es Salaam Municipal Auxiliary Police.

In terms of parliamentary oversight, there is a National Assembly Standing Committee on Defence and Security established under Article 96(1) of the Constitution with composition and functions in accordance with Article 92(2). The Committee deals with both the Defence Force and the Police Force. It reviews police performance and adherence to professional ethics and engages with public views about the police. The Committee conducts a financial review of the Police budget before it is presented in the National Assembly for approval, prior to the commencement of each financial year.

The police are also answerable to:
- the Public Leadership Code of Ethics Secretariat
- the Prevention of Corruption Bureau
- Local Defence and Security Committees (at local, regional and district levels).

At the central government level, the National Defence and Security Council is the highest decision-making body dealing with issues of national security and defence, including police and policing. In each of the 26 regions in the country, there are Regional Defence and Security Committees. Regional Commissioners of Police are the Chairpersons of these Committees, and Regional Police Commanders are members. At all levels, Defence and Security Committees are intended as a bridge between local and central government structures, and the local communities.

18.3 POLICE REFORM ISSUES

Following the 1996 World Bank-sponsored report of an assessment of the key legal institutions in Tanzania (excluding the police), the government adopted a Legal Sector Reform Programme (LSRP) in 1999, as part of its Medium-Term Strategy (2002-2005). A variety of funders supported the strategy, but the quality of legal services remained problematic. After a 2003 appraisal, the key role of the police was recognised and a comprehensive, sector-wide approach to all aspects of justice sector (including police) reform was developed.

In 2004, the Ministry of Justice and Constitutional Affairs produced a Medium-Term Strategy for the Justice Sector (the Justice, Law and Order Sector, JLOS, Strategy) in line with the government’s overall Poverty Reduction Strategy Paper (PRSP), which had earlier recognised the connection between peace and security. To address personal safety and access to justice, the Strategy was founded on community-based security mechanisms, including community policing.

The parallel Public Expenditure Review committed the Tanzanian government to increase its expenditure on key agencies within the justice sector, including the Police, Prisons, Judiciary, Attorney-General, Law Reform Commission and the Commission for Human Rights and Good Governance.

368 The Auxiliary Police are provided for under the Auxiliary Police Ordinance Cap.266, Act 16/1996.
The JLOS Medium-Term Strategy for 2004/5-2006/7 identified “priority target outcomes”, some of which may impact on policing, such as:

- Reform of the national legal framework, including
  - ensuring independence for legal sector institutions with a view to promoting transparency and accountability among these institutions
  - separating investigation and prosecution functions, and modernising and strengthening each of these functions
  - improving the quality and relevance of legislation.

- Access to justice for juveniles (including training for police officers on the administration of juvenile justice).

- Human Rights - improving compliance of human rights by the law enforcement agencies, through training, the revision of standing orders and the production of guideline booklets.

- Improving infrastructure, remuneration and transport arrangements across the sector, including for police officials.

The issues being addressed in the arena of police reform include:

- Improving police efficiency and effectiveness
- Adopting a policing style appropriate for the multiparty democracy of Tanzania (particularly during elections)
- Improved resourcing and logistical support for the Tanzania Police – including increasing the number of police officers, improved living conditions, and increasing equipment
- Integrated regional policing approach in SADC and East Africa.
19. CONCLUSION

19.1 AMALGAMATION AND INTEGRATION

Throughout these case studies, we have used the term ‘integration’ to mean the inclusion of new personnel (individuals) into existing police agencies, whereas we have used the term ‘amalgamation’ to indicate the amalgamation of various police or military organisations, to create a new police agency.

In post-conflict situations, inclusion of combatants from all sides can assist in building the legitimacy of police institutions which were previously led or dominated by one group; and collaboration among former enemies in service of a post-settlement government can be a powerful symbol of national reconciliation and peace-building. Integration and amalgamation are fairly common features of post-conflict police reforms in the countries surveyed for this report.

In three cases (South Africa, DRC and Rwanda) pre-existing police organisations were amalgamated into the ‘new’ police agency; in Rwanda, the Gendarmerie, Communal Police and Judicial Police were merged in 2000 to form the National Police; in South Africa, eleven racially-based police forces were merged in 1994 to form the new Police Service; and in the DRC, the 1997 amalgamation of the Civil Guard and Gendarmerie is likely to be followed a decade later by the integration of the Presidential and Vice-Presidential protection units and some former combatants into the National Police. Some forms of amalgamation are also likely in South Sudan and in Liberia, which has a multiplicity of law enforcement agencies.

This type of organisational merger is often motivated by the quest for efficiency (particularly cost-efficiency); or to reduce potential armed power bases for opposition groups or particular ethnic communities who may have grievances against the new government in power. The change management capacity required for successful amalgamation is huge, and beyond the means of many of the police forces reviewed in this report. In many instances, disparities in organisational culture or in human resource practices remain after the processes of amalgamation are formally complete; legacies which provide fertile ground for potential future division within police organisations and conflict between sections of the police and the government.

Integration of former combatants (individuals rather than entire organisations) from opposing sides of the conflict is an altogether different matter. It sometimes forms part of the DDR strategy, but most often is a highly symbolic political gesture signifying the compromises reached in peace negotiations or political settlements. In Angola, for example, some UNITA troops were integrated into the police after the end of the civil war. In South Africa, integration of former liberation movement personnel was limited to a couple of hundred individuals, into a police organisation comprising over 100 000 members. In Ethiopia, many demobilized fighters joined the police.

In South Africa, Mozambique and Namibia, integration of some former combatants was part of the process of taking independent national ownership of the police in a post-settlement or post-independence period. There were, however, important differences between the approaches adopted in these three countries:

- In South Africa, the exiled liberation movements did not prepare any cadres to work in the police (unlike the Defence and Intelligence sectors); and after the transition, sent just over a hundred of its cadres to join the police intelligence and VIP protection components. Few of
these people subsequently attained positions of influence within the police organisation; and the ANC government had to rely on other means to exert political control over the police in the early post-transition period, as it did not have the trusted staff to take the reigns of the police institution.

- In Mozambique, FRELIMO sent a battalion of its cadres for police-related training in Tanzania in 1974, in preparation for independence a year later. After independence, some of the managers in the Portuguese colonial police agreed to stay on for a year, for a process of handover and training of the incoming FRELIMO group.
- In Namibia, the loss of South African personnel and the pressure from ex-combatants led to the intake of fairly large numbers of former insurgents into the national police.

The preparation of cadres from the newly-elected majority party emerged from this survey as one of the critical variables in the development of a new police leadership; and more detailed study of such processes is required.

### 19.2 DEMILITARISATION AND CIVILIANISATION

Most of the countries surveyed in this report inherited a colonial policing style, which was by its very nature militarised. Even where the police were traditionally separate from the military, there was therefore some imperative for demilitarisation of police style and culture at least. The introduction of community policing, which is a fairly universal component of modern police reforms, has required some element of this type of demilitarisation. Some of the actions which have been taken to achieve this type of demilitarisation include symbolic changes to the names of ranks and to police symbols and uniforms.

In some of the countries surveyed, the police emerged from a particularly close relationship with the military, or even from direct control by the military. In these cases, the imperatives for demilitarisation were slightly different, and included the development of independent police chains of command, separate from the military.

In some of the countries, notably South Africa and Tanzania, there was an additional imperative to depoliticise the police. This involved removing the police from direct control or influence by the ruling party, and establishing multi-party or independent mechanisms of oversight and accountability. Again, this is in line with the modern discourse of community (or ‘democratic’) policing, which sees the police as serving the community as a whole, rather than merely serving the government in power.

### 19.3 OVERSIGHT AND ACCOUNTABILITY OF THE POLICE

Many of the police reform initiatives described in this report include a significant component of oversight and accountability. Again, this is in line with the modern approaches to democratic policing; which emphasizes police accountability to democratically-elected structures like parliaments or local governments; but it is often also a direct response to previously-unaccountable or abusive police practices.

Many mechanisms for improved oversight and accountability of the police were evident in these case studies, but they commonly fall into one of the following categories:

- Democratic political oversight and accountability – for instance, to Parliaments, through police reporting systematically to Parliament on their plans, budgets and performance;
- Human rights oversight – commonly exercised by National Human Rights Commissions or similar bodies, who are specifically interested in monitoring police abuses of power or compliance with human rights instruments;
- Accountability for misconduct – generally this takes the form of some sort of specialised body which investigates (or oversees investigations into) police misconduct and public complaints against the police. The creation of some form of specialist oversight body along these lines is an increasingly common feature of police reforms in the countries surveyed.
- Oversight of personnel management practices inside police organisations is less common, but Nigeria offers an exceptional model in the form of its Police Service Commission, which deals with matters such as promotions and discipline. In South Africa, the police labour unions play an internal role in monitoring personnel management policies and practices, and can make visible unfair management practices.

In most of the countries surveyed, parliamentary oversight of the police is weak, and this is certainly an area where assistance to parliaments would be useful. In general, even where mechanisms of oversight are provided for in legislation, these bodies are under-resourced by governments and therefore unable to make significant impact. In countries where the police previously routinely engaged in abusive practices (such as torture) or corruption (such as extracting bribes), misconduct tends to continue, posing one of the greatest challenges to the police reform enterprise. The sheer scale of the problem can overwhelm new oversight agencies.

19.4 POLITICAL CONTROL OF THE POLICE

In most of the countries surveyed, the police organisation falls under the political direction and supervision of a civilian Minister in the Cabinet; most often a Ministry of Interior or Home Affairs, or a dedicated Ministry for Police or Safety. However, in Liberia, there are multiple law enforcement agencies, with different chains of command and accountability to different Ministries; and in Nigeria, Sudan, Ethiopia and South Africa, different types of political control are exercised by Federal (national) and Provincial (state) governments.

In general, the Ministries responsible for police organisations do not appear to have much independent capacity, and tend to rely on the police for information and advice. For this reason, the strengthening of civilian Ministries is beginning to be a more regular feature of the programmes of democratic police reform, for instance in South Africa (where the experiment with National and Provincial Secretariats for Safety and Security to support the National and Provincial Ministers is beginning to falter), the DRC and South Sudan.

The chief of police is generally appointed by the head of State, and this represents another significant form of political control of the police.

In Tanzania, Kenya and South Africa, the dynamic between appropriate political control and direction of the police, versus inappropriate political interference by the ruling party is well illustrated. Finding the balance between a politically-neutral, professional police organisation, and appropriate accountability to the democratically-elected government and the fundamental legal framework of the country remains one of the central challenges for police reform on the continent. The British doctrine of ‘police independence’ is often mooted as the model for resolving this conundrum, but is itself undermined by the legacy of British colonial policing in Africa, which saw politicized police forces directed solely in service of the colonial powers, and often abusive of the rights of the majority of citizens.
19.5 TRANSITIONAL JUSTICE IMPACTING ON THE POLICE

Most police reform initiatives do not significantly engage with the transitional justice initiatives which may be under way simultaneously – or may come later and destabilise the reform processes. Issues such as lustration or amnesty for perpetrators, vetting out perpetrators of past abuses, and compensation for victims of past violations tend to be ignored or marginal in the design of large police reform programmes. Similarly, enforcement of peace agreements, management of post-settlement conflict or public disorder and transitional justice arrangements are seldom planned for as part of the police reform agenda. These deficiencies demonstrate once more the centrality of police reform processes in transitions to peace and democracy.

Where the police were involved in gross human rights violations as part of the conflict (for example Rwanda and South Africa), mechanisms for transitional justice – such as Truth Commissions or criminal trials for past violations – can play a useful role in holding police officials accountable for these violations, thus laying the foundation for a new style of policing which emphasizes accountability and which will not tolerate such abuses in the future.

Retrenchment packages or transitional justice devices can be useful in ridding the police organisation of individuals who are not likely to support the future trajectory of police reforms, or who are likely to oppose the policies of the new government.

However, in most of the countries surveyed, transitional justice mechanisms were absent, or, where they exist, did not pay significant attention to the role of the police in the previous conflict, or to making forward-looking recommendations about future police conduct. Some of the countries surveyed are only now commencing transitional justice processes, and these are opportunities to develop a new approach which links accountability for past violations to the creation of a new culture and style of policing which supports democratic accountability and discourages abuses.

19.6 THE ROLE OF DONORS IN THE POLICE REFORM PROCESS

Donors are playing an extremely significant role in shaping police reforms in most of the countries surveyed for this report. Foreign role players in the police reform processes surveyed included representatives of observer missions and the donor community, policy consultants and foreign police advisors. One of the key lessons from the South African experience was that domestic capacity (both in government and in civil society) for engagement with issues relating to police reform is critical to its success. In post-conflict contexts, such capacities are often in short supply. It is against this background that the role of international and regional agencies has become increasingly important. The case studies illustrate the extent to which external agencies, such as donors, play a critical role in the design and implementation of policing policy. In the absence of much domestic capacity, transnational institutions (World Bank, United Nations), global think-tanks and development agencies (European Commission, USAID, DFID-UK and so forth) tend to define, shape and steer police reform.

In most of the case studies documented here, the UK DFID plays a leading role in supporting police reforms (albeit generally as part of a wider process of Justice Sector or Security Sector reforms). DFID’s intellectual contribution to African thinking about these reform processes is extremely significant, possibly outweighing even its large financial contribution.
In some of the case studies, notably in East Africa, police reform is part of a wider process of governance reform linked to a national Poverty Reduction Strategy. These are often shaped by the World Bank, which offers interesting potential to bring an approach to police reform which is influenced by the Bank’s previous experiences with police and security sector reforms in Latin America, rather than the post-British-colonial model which tends to dominate in Africa.

**19.7 DONOR CO-ORDINATION AROUND POLICE REFORMS**

The imperative for improved co-ordination among donors involved in Security Sector Reforms (SSR) or police reforms is only relatively-recently beginning to actually manifest in more co-ordinated practices on the ground. One concrete example of this is the ‘basket fund’ approach, which sees a number of donors contributing to a collective fund to support the reform programme. In most cases where a ‘basket fund’ is being used, it is administered by a multilateral donor agency such as the UNDP or the EU.

Support to the policing of recent elections in the DRC demonstrates one of the best models of donor co-ordination in Africa’s history, which saw donors themselves practising a more co-ordinated approach. It seems that similar co-ordination is likely to emerge in South Sudan and Liberia. By contrast, the early period of police reform in South Africa saw a multiplicity of donor efforts, with very limited co-ordination.

**19.8 SECTOR-WIDE APPROACHES**

Increasingly, police reforms are a component of Security Sector Reform (SSR) or Justice Sector Reform, rather than a free-standing area of public sector transformation. This is largely the result of donors insisting on support for ‘sector-wide approaches’ (SWA’s), and terminating support where police reforms are not linked to reforms in other components of the security or justice systems. Poverty Reduction Strategy Papers (PRSP’s) are a key driver for sector-wide approaches; the Kenyan Governance, Justice, Law and Order Strategy is probably one of the best current examples on the continent.

Post-colonial police reforms such as those in Mozambique in the 1970’s and Namibia in the 1990’s were not driven by sector-wide imperatives, as the Independence governments tended to have separate policies for transformation of the inherited militaries and police agencies. The earlier cases of police reform documented here – notably Namibia in the 1980’s, and South Africa in the 1990’s – were not conducted as part of sector-wide approaches, which have tended to be a post-2000 phenomenon, in respect of the criminal justice sector at least. These two Southern African cases illustrate the potential for police reforms to be speedier and perhaps more radical when police institutions were the sole focus, rather than being slowed down or diluted by sector-wide pace and acceptability. In these two cases, donor assistance to police reforms was facilitated by having to negotiate with only one Ministry and one state institution (the police), rather than with a wide range of government representatives from the criminal justice or security sectors.

**19.9 OVERVIEW: PROSPECTS FOR THE REFORM OF AFRICAN POLICING**

The current fragile gains for police reform in sub-Saharan African countries offer at least qualified evidence that the process may be a continuous one in coming years in some countries. There are many provisos, however. It should not be forgotten that police reform is a dependent variable in the African context rather than an autonomous factor. Much hinges on the growth of a political culture that rejects
violence in politics – even if only the result of war-weariness and chronic fears of a return to fratricidal conflict amongst the population at large and among the key elites now in or surrounding the corridors of power. Another context-shaping force is that of the economy. In recent years many African economies have returned to a positive growth path, albeit still vulnerable and propped up by international aid. Economic growth – a complex process of course involving much more than mere positive fiscal balances – is essential if African publics are to regain a sense of opportunity and progress that marked the 1960s. A further if rather intangible factor is the continuation of an international climate in which a consensus on the virtues of democracy and the rule of law retain at least a rhetorical hegemony, and to which African governments find themselves obliged to make a minimal accounting.

It is important that the international community at large, and the most influential donors in particular, recognise that reform of the police is a long-term project marked by differing stages of consolidation, and not the fruits of a once-off short term intervention. In many ways democracy is an expensive form of government, and it is probably no accident that South Africa and Botswana have maintained reasonably democratic regimes. It must therefore be acknowledged that police reform will continue to require subventions from the richer countries if it is to have any chance at all. It is now recognised that such support – monetary, political and diplomatic – should address not only the policing agency itself, but also the wider criminal justice system, parliament and NGOs. As already remarked in this Conclusion, financial aid that is too widely diffused may serve very little purpose; nevertheless, the interdependence of the police and society must remain at the forefront of the reformist mentality. In this respect, the strengthening of the institutional capacity of the state police needs to be counterbalanced by the creation or rejuvenation of a lively civil society, where NGOs, academics and the media can safely scrutinise and criticise governmental and policing performance. Here the international community has an obvious and powerful role to play.

Much of the current foreign support and international intervention up to and including that of the United Nations has been in response to actual armed conflict and bloodshed. That remains the case in countries such as Sudan, Chad, Somalia and the DRC. But even if peace were suddenly to descend on the African continent, police reform will still be one of the major priorities facing all the countries of the region, and hence the need for sustained support, not only material but also moral.

This Report is one very modest attempt to survey the current landscape of African policing in order to identify problems and point out the large gaps in our information regarding this topic. As already mentioned much earlier in the document, more information exists in the public international realm that the writers of the Report at first envisaged. But still there is much more to discover than is readily available to hand. There is also the need to deepen what limited knowledge we possess, by more detailed accounting of the operational health and viability of the many national policing agencies as well as the context in which such agencies act. The creation of a vibrant field of African policing studies, analogous to that which has grown up in South Africa, would be one step in that direction. Another is the pooling of knowledge among the practitioners of reform, whether among aid agencies, technical personnel seconded to the continent and similar sources. Given a concerted effort along these lines, our current ignorance of much of the detail of policing in Africa could be overcome in a comparatively short time.