



Policing in South Africa

"People sleep peaceably in their beds at night only because rough men stand ready to do violence on their behalf." ¹

George Orwell

1. Introduction

The men and women in blue, called to serve and protect, do so from a position in which their own humanity is often highlighted. Not only do they give up their lives to see that the people of South Africa are protected, but in many instances their experiences affect their entire lives. What is policing really like in South Africa today; what are the challenges for SAPS members and where are they failing? By looking at their role pre- and post-apartheid, as well as the ways in which the police can improve in the areas that they are struggling, this paper will seek to highlight issues of importance. While acknowledging that the police are meant to protect the public, there is also another side to the South African Police Service (SAPS), a violent aspect that has sometimes resulted in extreme brutality. Questioning the validity of investigations done by police officials, and further questioning the conduct of police officers towards ordinary lay people, is critical in ensuring that the SAPS is firmly focused on upholding justice. These were some of the issues tackled at a roundtable discussion on this topic co-hosted by the CPLO and the Hanns Seidel Foundation on 12th September.

2. The Role of the Police Pre- and Post-Apartheid

Police officers render an extraordinary service to the public. It must be acknowledged that order requires the assistance of a sentinel, and in a democratic South Africa this is provided by the SAPS. In essence, the police are a pillar of society. They ensure (as far as possible) that people are

protected and that, in any event, peace and good order are restored. Thousands of men and women are trained in the use of weaponry and other tactical skills to ensure that they are able to do this job. Ultimately, the use of force is an inevitable part of their work and the use of legitimate force by the state is meant to ensure that justice is upheld.

However, legitimate force must be employed according to the applicable laws and regulations. The Guidebook on Democratic Policing states that "the police must be guided by the principle that everyone shall be subject to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others..."¹. This highlights that all actions by police officials must be focused on securing the rights of the citizenry. The SAPS code of conduct requires the same: police officials commit to creating "safe and secure environments for all people [...] uphold the Constitution and law [...] and to act with integrity in rendering an effective service...."² These core attributes are central to being a model servant in the police service today.

Previously, the South African Police (SAP) existed within a historical context in which it was led and dominated by whites, and charged with maintaining the order necessary to sustain the apartheid regime. Dr Chandre Gould from the Institute for Security Studies (ISS) notes "[...] security forces, particularly the police, were used by the state to ensure that all South Africans lived in fear of the state, regardless of their race."³ Against that backdrop, it is understandable that many black, coloured and Indian people may still

feel anger towards those members of SAPS who previously supported a regime that left them excluded. Despite the now diverse group of men and women who serve in the police, the mindset of communities in certain areas has yet to change. In essence, for the police to function well it is necessary for the public to trust them and to turn to them for help. While the past has left its mark, there are also significant ways in which the police have proven that they deserve the trust of communities.

3. What the Police Have Been Doing

3.1. The good and the bad

There are many examples of ways in which the police have helped to bring down crime rates and restore order, but there are also several systemic and substantive problems with the way they function.

From the 2013/14 release of the national crime statistics it is clear that some types of crime are less prevalent. The total number of reported sexual offences in 2012/13 was at 66 387 and decreased to 62 649 in 2013/14. Similarly, common assault came down from 172 909 to 167 157. Arson decreased by 4.7% between these years along with crimes such as assault with intent to inflict grievous bodily harm, common assault, malicious damage to property, housebreaking at residential premises, and the theft of motor vehicles and motorcycles⁴.

In 2013/14 the treasury committed an amount of R69 billion to SAPS. While this may seem like a staggering sum to dedicate to one department, it shows that the government recognizes the urgent issues South Africa is dealing with, and its willingness to invest in solving and preventing them. Arguably, the above statistics indicate that the police have used the resources given to them to increase their productivity and improve their results

On the other hand, many crimes have increased during the 2013/14 period. The Institute for Security Studies provides a factsheet that shows some of the most alarming statistics. For instance, "incidents of murder increased from 16 259 in 2012/13 to 17 068 in 2013/14."⁵ This reflects an average of 47 murders per day and 809 more than in the previous year. Some of the other crimes that saw an increase include robbery with aggravating circumstances, carjacking, and commercial crime

incidents. Drug-related crimes increased by a shocking 24.4%. The figure surrounding public violence is also alarming. Every day in SA there are at least five incidents of public violence, which translates into a 57% increase in the past two years⁶. However, these acts of public violence are the result of factors that have nothing to do with the police, hence preventing them in future is a difficult task for the police to handle.

3.2. System failure

The 2012/13 crime stats reflected the arrest of 1 682 763 people, which arguably shows the efficacy of the police. However, this large number of arrests doesn't filter through to the court system, which highlights a gap between the criminal and judicial sphere. From the 1 682 763 arrests only 323 390 prosecutions were finalised.⁷ When massive amounts of criminals are arrested and then released it shows that perhaps the system is not working properly, and the public then gets the perception that in fact the police do not make a difference. Furthermore, when petty-crime offenders are arrested on such a large-scale it may "decrease crime rates in the short term, but increase the crime rate in the long term."⁸ In effect, arresting those who have committed insignificant crimes shows that targeting those who are marginalised – for example, someone who steals something to eat, or who has a little dagga for personal use – creates the space for further breakdown and disorder within communities.

4. Room for Improvement

It is necessary for the police to be able to separate themselves from politics and to promote South Africa's democratic principles. They are to uphold the Constitution and maintain order within the state, but not allow themselves to get involved in purely political matters; they must stand outside of the arena of political factions. Leaders within the police for example, should not side with a political party and allow citizenry to view them as biased towards a political party. When they do so, it is even harder for the police to earn the trust of the public.

Gareth Newham, of the Institute for Security Studies, notes "evidence supports the hypothesis that the less respectful police are towards suspects and citizens generally, the less people will comply with the law."⁹ With this in mind, there have been numerous torture and criminality cases brought before the Independent Police

Investigative Directorate (IPID) surrounding the behaviour of officers towards the public. Since 2002 to 2011/12 “cases against police officers recorded by IPID increased by 313%”¹⁰ and, the number of cases of assault and torture for the 2012/13 period reached an average of 11 per day. More statistics show that “of the 720 deaths reported to the IPID in 2011/12, there was evidence of criminality by police in 162 cases, or one in five.”¹¹ This highlights the other ‘face’ of the police, the one that creates a lack of trust from a society they are meant to serve. This also alludes to the Marikana massacre and the commission surrounding the events. Greg Marinovich and Greg Nicolson write that “Throughout the Marikana Commission, the SAPS has maintained it was committed to a peaceful resolution.” Media commentators have argued that the video footage capturing the events showed that despite the claims for the police that they “used lethal force as a last result [these] are clearly false.”¹² While the findings from the commission are yet to be released, it is necessary to note that this case is an example in which the conduct of the police has raised questions about how the police treat those they are meant to protect.

Similar to the system failures discussed previously, one finds that cases involving the police themselves also reflect some irregularities that raise even more questions. Over a five year period a total of “11 880 criminal cases opened with IPID...129 of these cases ended in convictions”¹³ and out of 5 861 hearings, 2 137 resulted in a withdrawal or a not guilty judgment. Not only did the rate of not guilty verdicts increase by 139%, but more than a third of hearings “end with no sanction”¹⁴. This shows the need to understand whether there are any irregularities when so many cases against police officers are not resulting in convictions, For example, the recent arrest of nine policemen in Cape Town for corruption indicates the need to investigate police officers and to ensure that cases are followed through properly. The Western Cape provincial commissioner, Lt-Gen Arno Lamoer, notes: “This [the arrest] will send out a strong message to all police officials that bad elements within the service will not be tolerated”¹⁵. Improving the police service must begin from within. Dealing with the misconduct of police officials requires that the culture of impunity be removed in order to allow justice to be maintained, and to ensure that SAPS members’ behaviour does not tarnish its image.

5. Challenges Faced by SAPS Members

Society often fails to see the man or woman behind the police badge. For example, many officers are parents who leave their children at home before going to work, and then have to deal with horrific crimes such as the rape of a minor. Indeed, just having to face violent crime every day can create trauma for these officers. In South Africa, this often results in suicide amongst police officers; the number reached 115 in 2012/13.

It is also necessary to deal with the problems of management within SAPS. Looking at what the National Development Plan calls “the serial crisis of top management”, it must be acknowledged that too many top officials, such as Jacky Selebi and Bheki Cele, have failed to lead the Service with integrity and respect for the SAPS code of conduct. How does the country deal with the failings of junior officers when the leaders themselves are accused of serious crimes?

The recent O’Regan Commission of Enquiry into Policing in Khayelitsha considered no less than 171 complaints lodged against the police at three stations in the township, many of them indicating a history of impunity and non-accountability. The Commission has offered several recommendations to improve policing and to ensure that the conduct of the police is in future held to the correct standards.

Apart from internal struggles, it is also necessary to engage with the challenges that SAPS faces externally, and the way that different communities place different demands on the police. According to one senior officer, some communities expect the police to be “pastor, parent and provider” – to provide social work services, to sort out domestic problems, and to deal with a whole range of issues arising from poverty, unemployment and other causes completely outside their area of responsibility.¹⁶ She clusters different geographical spaces as follows: affluent areas, informal areas, rural communities and gang areas. These classifications may assist the police in understanding how to deal with each area; the socio-economic issues faced by each community are different and therefore the challenges the police face in each area are different too. Residents in affluent areas for example, do not participate in activities that contribute to the safety of the community as a whole. Often, the focus is more on hiring security systems that provide a safety-net for a single family than on being concerned about others in the area.

In rural communities, there is a lack of understanding of the gang culture that has recently been found in these areas. The influx of gangs has resulted in rural communities having to come to terms with what urban communities have long been accustomed to. Understanding that for SAPS every environment brings its own set of obstacles that must be faced allows communities to engage on these issues to ensure greater assistance with crimes. In informal settlements for example, a problem often dealt with is that Community Policing Forums (CPFs) do not function well because of leadership and power struggles within some of these communities. In addition, culture can play a large factor in the way police can fulfil their roles. It is not easy for women to report sexual offences and this hampers what the police can do. Another factor is that traditional healers often trump the role that police play and the SAPS ends up being only a secondary solution to the crime problem.

6. The Way Forward

Police officers come from the same places as everyone else; they grew up in communities where ordinary citizens have grown up; to see the police as 'them' compared to the rest of 'us' would be a disservice to the goals South Africans have for a peaceful society. Recently, National Police Commissioner Riah Phiyega stated that the police have a firm handle on crime.¹⁷ However, the recent crime statistics show otherwise. There is much work that needs to be done within the police and the challenges that they face are evidence of how much work they need to do to earn the trust of community members.

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¹ Policing in South Africa. (2014). Presentations at the CPLO/HSF roundtable discussion on policing held on the 12th September 2014.

² SAPS. (nd). Code of Conduct. http://www1.saps.gov.za/saps_profile/code_of_conduct/code_of_conduct.htm

³ Gould, C. 2014. Why is crime and violence so high in South Africa? <http://africacheck.org/2014/09/17/comment-why-is-crime-and-violence-so-high-in-south-africa-2/>

⁴ SAPS. (2014). Crime Statistics April 2013- March 2014.

http://www.saps.gov.za/resource_centre/publications/statistics/crimestats/2014/crime_stats.php

⁵ Institute for Security studies. (2014). Factsheet: South Africa's official crime stats for 2013/14.

<http://www.dailymaverick.co.za/article/2014-09-19-factsheet-south-africas-official-crime-statistics-for-201314/#.VF50FmUdqU>

⁶ Policing in South Africa. (2014). Op.cit.

⁷ Policing in South Africa. (2014). Op.cit.

⁸ Policing in South Africa. (2014). Op.cit.

⁹ Policing in South Africa. (2014). Op.cit.

¹⁰ Policing in South Africa. (2014). Op.cit.

¹¹ Policing in South Africa. (2014). Op.cit.

¹² Marinovich, G; Nicolson, G. (2014). Marikana Commission: Police's defence collapsing.

<http://www.dailymaverick.co.za/article/2014-09-09-marikana-commission-polices-defence-collapsing/#.VF5yt mUdqU>

¹³ Policing in South Africa. (2014). Op.cit.

¹⁴ Policing in South Africa. (2014). Op.cit.

¹⁵ SAPA. (2014). Ten arrested in Parow cop corruption probe. <http://www.enca.com/south-africa/ten-arrested-parow-cop-corruption-probe>

¹⁶ Major-General Sharon van der Westhuizen, Deputy-Commissioner, SAPS Western-Cape, speaking at the CPLO/HSF roundtable on policing.

¹⁷ SANews. (2014) South Africa: Police in Control of Crime- Piyega. <http://www.sanews.gov.za/south-africa/police-control-crime-phiyega>