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SCHOOL FOR ADVANCED LEGAL STUDIES

**THE 'MULTILATERALIZATION' OF POLICING:
A CASE STUDY OF RWANDA BEFORE AND AFTER THE 1994 GENOCIDE**

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Student's full name: Jean Pierre HABARUREMA

Student number: HBRJEA001

Course number: PBL6802

Degree: Master of Laws (LL.M.) in Criminal Justice

Supervisor: Ms Julie Berg

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DEDICATION

To almighty God, the source of life and intelligence;

To my dear father, gone so soon, and my beloved mother who supported my primary and secondary education and have always encouraged my vision of furthering my studies up to the highest level. Now, with the master's degree, the dreams are becoming a reality.

To my wife Appoline MUKABIRO for love, moral support and encouragement that you have always given;

To my sons: Lucky Oliver HABARUREMA, Peace Eric IRAMBONA, Happy Herman NIYORUREMA and Alvin Cédric HABARUGIRA whom I wish grow a great fondness of studying like the one I had and still have despite my age. May this remind you that hard working and perseverance lead to success.

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I have to note that, despite the moral and material support of the above mentioned persons, this work is the product of my own research.

Jean Pierre HABARUREMA

ABSTRACT

Since the creation of the world, in every organised society, security matters have been given importance. In small local communities, communal security was controlled by the community members themselves. This structure helped in preventing and punishing crime at that level.

However, since the 18th century, in Western countries, with urbanization and industrialization, crimes rate increased and reached a level that local policing was unable to control.¹ At this step, the state as the main regulator of security and order, created a centralised and organised police force, able to deal with violent crimes which were increasing day after day.² By doing so, the state wanted to monopolise policing but it did not realize its dream because the state police was unable to be omnipresent in all corners of the country where it was needed. As a result, for each time the state police was absent or far from the area where it was needed, the local population continued to find solutions to their security needs.³ Furthermore, since the 20th century, new ideas were developed that effective policing needs to be shared with the community for which security is kept. This philosophy, amongst other things, led to the restructuring of policing in many countries and the birth of ‘community policing’ as well as the birth and the development of private security companies and other non-state agencies engaged in providing security services. Some scholars argued that it was the era of the privatization of policing but Bayley and Shearing preferred to refer to what was occurring to policing as ‘multilateralization’⁴ rather than ‘privatization’. In this dissertation I rely on the works of these two scholars to discuss the issue of the ‘multilateralization’ of policing in the African context, in general, and in the Rwandan context, in particular.

In the African context, before the colonization period, policing had always been carried out by community members. Indeed, community members had their own way of

¹ Bruce Baker *Multi-choice policing in Africa* (2008) 12.

² *Ibidem*.

³ Tim Newburn ‘The commodification of policing: security networks in the late modern city’ (2001) 38 (5-6) *Urban Studies* 829 at 830.

⁴ The concept of ‘multilateralization’ of policing was used by Bayley and Shearing to refer to what occurred to policing. See David Bayley and Clifford Shearing ‘The New structure of policing: description, conceptualization and research agenda’ (2001) National Institute of Justice, Washington DC. Available at <https://www.ncjrs.gov/pdffiles1/nij/187083.pdf> [Accessed 11 June 2011].

dealing with crime prevention and punishment. In addition, they had their own way of resolving disputes within families and small neighbourhoods.⁵ With colonization, although the colonizer wanted to enforce the law by use of the state police, this system of local policing remained operational, especially in rural areas.⁶ Moreover, even after colonization, nothing changed, as many states had no means to deal with security issues using only the state police whose human resources were limited. Furthermore, the philosophy of community policing which was developed in Western countries in 1990s, reached African countries but its implementation in Africa is different from its application in Western countries.⁷ Moreover, apart from the state police and the voluntary participation of the community in security matters, private security companies offering their services for money also burgeoned in many African countries.⁸

This dissertation aims to discuss the issue of the ‘multilateralization’ of policing in general, with more emphasis on the Rwandan context, in particular. Different forms of policing which have taken place in Rwanda before and after the 1994 genocide will be discussed. The focus of the dissertation will thus be on the ‘security governance’⁹ systems in place in Rwanda before and after the 1994 genocide. Also, an analysis will be made of the legal framework which has regulated the Rwandan policing during the above mentioned period. The social, legal and political implications of those forms of policing will also be discussed.

⁵ Baker *op cit* (note 1) at 50.

⁶ *Idem* at 54.

⁷ Mike Brogden ‘Commentary: community policing: a panacea from the west (2004) 103 (413) *African Affairs* 635-649

⁸ Rita Abrahamsen and Michael C Williams ‘The privatization and globalization of security in Africa’ *International Relations* 21 (2) 131-141.

⁹ Les Johnston and Clifford Shearing *Governing security* (2003).

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LIST OF ACRONYMS AND ABBREVIATIONS

CLO	: Community Liaison Officer
COP	: Community Oriented Policing
CPCs	: Community Policing Committees
CSDF	: Civilian Self-Defence Force
DPC	: District Police Commander
DRC	: Democratic Republic of Congo
EAC	: East African Community
GBV	: Gender Based Violence
JP	: Judicial Police
JPI	: Judicial Police Inspectors
JPO	: Judicial Police Officers
LCs	: Local Councils
LDF	: Local Defence Force
LDFU	: Local Defence Force Unit
NPPA	: National Public Prosecution Authority
NWS	: Neighbourhood Watch Schemes
PMCs	: Private Military Companies
PPPs	: Public Private Partnerships
PSCs	: Private Security Companies
RNP	: Rwanda National Police
RPA	: Rwandese Patriotic Army
RPC	: Regional Police Commander
RPF	: Rwandese Patriotic Front
RPSI	: Rwanda Private Security Industry Association
UN	: United Nations
UNIFEM	: United Nations Development Fund for Women

CHAPTER ONE: INTRODUCTION

To the lay person, ‘policing’ refers to the activity of keeping order in a place by the police.¹⁰ This dictionary definition implies that policing is the business of governments only. The fact that governments have a responsibility for identifying security needs and developing institutions to meet them brings people to associate policing with the public police. Nevertheless, nowadays, policing presents a different picture and thoughts of monopolisation constitute an aberration of the concept of policing. People have abandoned the common perception and consider policing as ‘a much more integrated task undertaken by a variety of groups and individuals.’¹¹ With these new ideas, policing is being defined differently. That is why scholars like Mawby define policing as ‘the process of preventing, detecting crime and maintaining order,’¹² and according to Bayley and Shearing, ‘policing is the activity of making societies safe.’¹³

Yet, in light of the increasing pluralisation of policing, access to security is also a fundamental right which, normatively speaking must be provided by the state to its citizens. Indeed, it is argued that ‘no service for the government is more fundamental than protecting people’s bodies and possessions. Thus if people are not provided with protection at some minimal level, the government is not considered to exist.’¹⁴ However, considering the duties assigned to the public police, this mission cannot be achieved effectively without the cooperation and the participation of the community. In reality, as mentioned, policing is carried out by state and non-state agencies. Sometimes the community undertakes to carry out policing activities through what is called ‘popular policing’, a kind of policing located within the community rather than state or private sectors.¹⁵ In most cases, people refer to this kind of policing when there is a need to fill a gap that should be filled by state agencies especially by the police or when they challenge state policing. However, in other cases the state police can cooperate with the community in policing through what is referred to as ‘community policing’.

¹⁰ Oxford writing tutor *Oxford advanced learner’s dictionary* 8th edition (2010).

¹¹ Law Commission of Canada *In search of security: The future of policing in Canada* (2006) xiii.

¹² RI Mawby ‘Models of Policing’, in Tim Newburn *Handbook of policing* (2003) 15.

¹³ Bayley and Shearing *op cit* (note 4) at 1.

¹⁴ *Idem* at 30.

¹⁵ Centre of Criminology (2009) ‘Popular policing’ presented by Irvin Kinnes and John Cartwright, introduced by Clifford Shearing in *Trends in the governance of security*. Learning across borders series (video recording – DVD) part 4. Centre of Criminology, University of Cape Town.

The increasing multiplicity of policing agencies which carry out security services is what Bayley and Shearing call the 'multilateralization' of policing. Scholars such as Max Weber, who advocate for the theory of monopolization of the use of force, challenge this 'pluralization' of policing, arguing that it undermines the sovereignty of the state. However, I share the view with those who approve of the 'multilateralization' of policing basing their defence on the fact that policing does not undermine the role of the public police as the latter participate in policing and remains the main actor whose responsibility is the regulation of all forms of policing.¹⁶ In this regard, one can compare policing to a tree made up of a trunk and its branches, the state as the main actor, being compared to the trunk, and the branches being compared to the rest made up of non-state policing agencies that cooperate with the state in improving security.

1.1. Research focus

In light of the above, this dissertation aims to answer the following key issues. The first issue concerns the meaning of the term 'policing' and its different forms. The second issue is about the form that policing has taken in Rwanda between before and after the 1994 genocide. The third issue is about the legal framework that has regulated those forms of policing; and the fourth and last issue concerns the social, legal and political implications of those forms of policing in regard to the security governance in Rwanda.

This dissertation aims to do this by drawing on the literature that discusses the 'multilateralization' of policing, describing and critically analysing how Rwandan policing has been and is multilateralized by highlighting the various nodes involved, with emphasis on Rwandan policing before and after the 1994 genocide, discussing the legal and social implication of the 'multilateralization' of policing for delivering security for the public good and finally making some recommendations and strategies to improve the Rwandan policing in the future.

This study is thus delimited in time, in space and in field. Indeed, as mentioned, it will be focussed on different forms of policing which have taken place in Rwanda since its independence in 1962 up to 2010. This period covers thirty-two years before the 1994

¹⁶ Loader, Ian and Walker, Neil 'Policing as a public good: reconstituting the connections between policing and the state' (2001) 5 (1) *Theoretical Criminology* 9-35.

genocide and sixteen years after the genocide. Regarding the delimitation of space, this study is limited in the forms of policing which has taken place in Rwanda. As to the field, this work draws mainly on criminal justice.

Rwanda, being a post-conflict society, is important to study with respect to how it passed from regime policing dominated by a paramilitary policing serving the interests of the regime, to a new style of policing based on the partnership of the community through different mechanisms initiated by the state or the community itself as well as the private security companies, all operating hand in hand for the improvement of the security. This study may be useful in studying the forms of policing in other countries which passed through a situation which is similar to the one of Rwanda.

1.2. Contextualization

As this dissertation focuses on Rwandan policing, it is necessary to contextualize the country of Rwanda¹⁷ through discussing, briefly, its history with a particular focus on policing.

Before the arrival of colonizers, Rwanda had existed as a nation founded on a common history of its people, shared values, a single language and culture, extending well beyond the current borders of the country. Rwandan people were unified and shared common rites without any discrimination.¹⁸ The document on the Rwandan vision 2020 summarizes the recent history of Rwanda as follows:

[T]he 1884 Berlin Conference placed the Kingdom of Rwanda under German rule as part of Deutsch Ostafrika (German East Africa). During the subsequent

¹⁷ Rwanda is a land-locked country in East Africa, bordered by the Republic of Burundi in the South, the Democratic Republic of Congo (DRC) to the West, the Republic of Uganda to the North and the United Republic of Tanzania to the East. Following its policy of economic integration, Rwanda has recently joined the East African Community (EAC) made of Rwanda, Uganda, Kenya, Tanzania and Burundi. It is a small country with a land surface of 26.338 square kilometres. With its particularity of being a mountainous country topographically, Rwanda is also called a 'country of a thousand hills.' In 2002, when the last national census was carried out, the Rwandan population was recorded at 8.162.715 inhabitants. The population density was at 322 inhabitants per square kilometres. The population residing in urban areas represented 16.7% of the total population. However, records from the National Institute of Statistics of Rwanda show that the Rwandan population has since growth toward 9.831.501 inhabitants in 2008 and 10.117.029 inhabitants in 2009 (Quoted from National Census Service 'The general census of population and housing Rwanda:16-30 August: report on the preliminary results' (2003) 16. Available online at [www.countrystat.org/country/.../Rwanda %20 census%20results%202002.pdf](http://www.countrystat.org/country/.../Rwanda%20census%20results%202002.pdf) [Accessed 11 June 2011].

¹⁸ Ministry of Finance and Economic Planning 'Rwandan vision 2020' (2000) 8. Available at <http://www.grandslacs.net/doc/4164.pdf> [Accessed 11 June 2011]

partition of Africa in 1910, a big part of Rwanda was annexed to neighbouring countries. This caused the loss of 1/3 of the Rwandan internal market and a large part of its natural resources. Following the First World War and the defeat of Germany, Rwanda was given to Belgium as a trustee territory under the authority of the League of Nations. After the Second World War, the League of Nations became the United Nations and Rwanda became a UN Mandate trust territory, under Belgian administration, until 1962.¹⁹

During the colonial period, the Belgian administration divided the Rwandan population in order to rule them easily. This was done on the basis on an ideology of racial superiority which institutionalised discrimination among the Rwandan population. As a result, this distorted the harmonious social structure, creating a false ethnic division with disastrous consequences, eventually leading to a cycle of violence ended by the 1994 genocide.²⁰

Indeed, since 1959, Rwanda has been experiencing a cycle of internal violence which took the lives of many of its citizens and those who were not killed were obliged to leave their mother country and live as refugees in neighbouring countries. The Rwandan population suffered a series of different internal wars. Since 1959, one group of the Rwandan population (the Tutsi) was targeted and killed. Some of those who survived fled to different neighbouring countries. A strange thing is that these killings were organized by the political leaders of the time who were driven by a discrimination and hatred ideology of dividing the Rwandan population. This was done although the Rwandans have the same culture, the same language, the same religion and have always lived together in peace before this ideology was brought by the colonizers. In 1964 and 1973 other killings of the Tutsi population were organized by the political leaders of the country and the culminant period of this continuous cycle of killings was the 1994 genocide against the Tutsi.

As discussed above, the recent history of Rwanda is dominated by the genocide which occurred between 1990 and 1994. This genocide was stopped by the Rwandese Patriotic Army (RPA) in July 1994 after four years of a liberation war which was aimed to liberate the Rwandan people from the bad leadership that used to discriminate one group of the population (comparing their members to cockroaches which needed to be crushed). The genocide was stopped on 4th July 1994 when the Rwandese Patriotic Front liberated Kigali,

¹⁹ Ministry of Finance and Economic Planning *op cit* (note 18).

²⁰ *Ibidem*.

the capital of Rwanda, and the new government of Unity and Reconciliation was put in place on 19th July 1994.²¹ The genocide, which engulfed Rwanda, caused unprecedented bloodshed by taking the lives of more than one million people and those who survived were traumatised by living with those who had killed their relatives.

In light of Rwanda's history, policing thus comes to be seen as playing an important role in the development of a country. In this regard, although William Beveridge, a social economist scholar, mentioned the five giants of the governments as the eradication of want, idleness, ignorance, squalor and disease²² it is important to note he forgot a sixth important giant which is the eradication of personal insecurity based on the fear of anti-social behaviour, fear of crime and terrorism.²³ This sixth giant is policing which should be given as much importance as health, education, transport, environment, military and so forth. In this regard, as 'war is too important to leave to generals'²⁴; equally, 'policing is too important to leave to police chiefs.'²⁵ Therefore, as there are scholars who focus their research of health, science, education, law and so forth, it is also important to focus on policing issues and underline who are concerned by security issues. This is so important because nothing is possible in insecurity. Thus security is the cornerstone of the entire development sector of a country.

Hence, describing the different forms of policing and showing their social and legal implications as well as pointing out the role of the state and that of the community in any form of policing is fundamental as it is vital for the community to participate in security governance. The community has to bear in mind that the security of the nation as a whole begins by the security of a single citizen. So every person should feel concerned to participate in any policy which promotes security and peacekeeping. In the case of Rwanda in particular, the challenge for the new regime, considering that genocide had destroyed everything in the country, included developing the rule of law and state structures. It was thus for the government to begin a task of national reconciliation and to establish a policing policy which gives the necessary guarantees of peace and stability. Therefore the restructuring of policing

²¹ Ministry of Internal Security 'Internal security policy (2008) 12. Available at www.mininter.gov.rw [Accessed 11 June 2011].

²² William Beveridge cited in Ian Blair 'The Richard Dimbleby Lecture' (2005). Available at <http://news.bbc.co.uk/1/hi/uk/4443386.stm> [Accessed 11 June 2011].

²³ Blair *op cit* (note 22).

²⁴ Clemenceau, a French general, cited in Blair *op cit* (note 22).

²⁵ Blair *op cit* (note 22).

was necessary in order to restore the respect of human rights, the rule of law and the ending of the bad culture of impunity which prevailed in the former regime. The forms of policing adopted by the new regime after the 1994 genocide will be discussed in chapter five of this study, however, in brief, the reconstruction of the policing systems has involved the new government adopting a popular justice model by incorporating the participation of the local people into its security and justice structures.

1.3. Methodology

In order to address the issue of the multilateralization of policing in Rwanda before and after the genocide, the following methodology was employed. By 'methodology' is meant 'a set of methods and techniques that are used when studying a particular subject or doing a particular kind of work. It usually includes descriptions of the research design, sample design, and data gathering procedure and measuring instruments.'²⁶

A technique is a 'clearly defined procedure which has been tried, tested and accepted as at least partially successful in solving a particular problem or class of a problem.'²⁷ Indeed, the documentation technique is defined as a systematic searching form of any written document which is relevant to the field of research. Therefore, the documentation technique refers to the technique used to collect data and other information from written sources. The term 'documentation' refers to references of sources made within the text and bibliographical entries at the end of the paper. It offers the reader a way to trace the steps as a researcher and writer of the research work.²⁸

In this study, the documentation technique was my workhorse in the consultation of books, articles in journals, statutory provisions and various doctrinal texts relating to policing. During my research, I read many readings on policing but focus was put on those related to the structure and forms of policing in different countries with a particular emphasis on those about policing in African countries, post conflict countries and weak states. This helped me to acquire more knowledge on different forms of policing and permitted me to analyse forms of policing in Rwanda. Different internet sites were also visited.

²⁶ J R Grinnel and William *The unique methodologies* (1990) 137.

²⁷ *Idem* at 133.

²⁸ P Wilson *Research models* (1989) 3.

This research took me a period of six and a half months, from March 2011 to September 2011. The first two months was reserved for the reading of different books and articles for the acquisition of knowledge which were necessary for the redaction of the thesis proposal, the literature review chapter as well as the other chapters. Once the process of collecting data was completed, I selected the methods to be used in setting those which were relevant to my topic. With both inductive and deductive reasoning, concrete relationships between different data observed or reported were established. In this regard, some methods were used.

1.3.1. Analytical method

Analytical method is a type of method that enables a systematic analysis of information and data collected. This method helped me to make a clear work of analysing and criticising the data.

1.3.2. Exegetical or hermeneutical method

This method was used in the interpretation of legal texts which have regulated policing in Rwanda through the different periods of its history. Moreover, my own experience as a Rwandan who was living in the country during the period covered by my study has helped me. My experience on this topic was also based on eight years of work experience as a legal practitioner. Indeed, as a public prosecutor, I had always been working with the police in the investigation of some cases and this time has also helped me to learn about crime prevention policies. In addition to this, the Masters course on policing taken during my research period has also helped me to afford this research.

1.4. Chapter-by-chapter outline

This dissertation is structured into six main chapters. The first chapter is a general introduction. As presented above, it gives a brief thesis outline and contextualizes the Rwandan situation historically. It also talks about the key research questions, the aim of study as well as the relevance of the study. Moreover, it presents the methodology used in this research and the chapters that form this dissertation. The second chapter is focuses on the

conceptualization and the literature review. It defines some key concepts that may be unfamiliar to the reader of this dissertation. It also describes and discusses some theories with respect to policing as a public good and the challenges to policing reforms.

The third chapter describes and analyzes the organization and the functioning of different institutions which were in charge of policing before the 1994 genocide, especially between 1990 and 1994. Furthermore, the fourth chapter deals with the new restructuring of policing between 1994 and 2010. The fifth chapter discusses the implications of the restructuring of policing in Rwanda and the role of government in the new forms of policing. In this chapter, the discussion will be focussed on challenges of Rwandan policing: success, failure and how to make it better. The last but not the least chapter (i.e. the sixth chapter) is a conclusion made of a brief summary of the study and suggestions to the government authorities on how they may improve policing policy in the future for the good of all Rwandan citizens and all those who live or visit the country. A research agenda for future researchers is also proposed.

CHAPTER TWO: LITERATURE REVIEW

This chapter will describe and discuss the historic evolution of policing. Community policing as a new model of policing which involves a partnership between the police and the community, will also be discussed. Finally this chapter will close by discussing some of the challenges to the multilateralization of policing.

2.1. Policing

For a common person, the term ‘policing’ refers to the activity of keeping order in a place by the police.²⁹ This definition could be accepted if policing were monopolised by the state. Indeed, it is impossible for the state alone to prevent and control crime in all places where it is needed. The image of a public police responsible for enforcing the law in the public space is only one piece of the entire concept of policing. To be effective, policing needs to be a business not only of the state agencies in charge of security, but also, the business of every member of the community for which security is kept. As Tim Newburn has noted, ‘policing ...reflects the process of pluralism, disaggregation and fragmentation.’³⁰ Consequently, policing is defined as ‘any organized activity that seeks to ensure the maintenance of communal order, security and peace through elements of prevention, deterrence, investigation of breaches, resolution and punishment.’³¹ This definition tries to be complete as it includes both the state and non-state agencies as authorizers and providers of security services. Policing may be divided into repressive and preventive priorities or conflict resolution priorities.³²

Indeed, since the creation of the World, ‘policing’ has, broadly conceived, always existed and it has been organised within communities establishing their own crime control and maintenance of order. McMullan argues that:

[T]he basic weapon that the citizens of the early modern era learned to use to defend their security and combat danger was their own intense sociability—a complex of human relations and institutions predicated on collective, local,

²⁹ Oxford tutor *op cit* (note 10).

³⁰ Newburn *op cit* (note 3) at 835.

³¹ Bruce Baker *Security in post-conflict Africa: the role of non-state policing* (2010) 9.

³² Findlay cited in Eric Musiiwa Mudau *The implementation of sector policing in Limpopo Province* (2008) 29.

informal and voluntaristic reactions to disorder and law breaking... As a concept, police was a community duty.³³

This explains why, for many centuries, communal security was controlled by the community. Each community had to know its criminals and the way of dealing with them. Thus, non-state forms of policing existed before the state police who came after, with the desire of states to centralise and monopolize policing. This has, however, been met without success because communities continued to determine their own needs in terms of security and create mechanisms to reach their goals.

Indeed, since the 18th century, with urbanisation and industrialization, in the Western context, local community systems of policing were unable to deal with 'more violent crimes like highway robbery, murder, riots and brigandary.'³⁴ Faced with this situation, 'the state concluded that it needed a centrally organized military force which unlike local security forces, was armed, mobile, efficient, disciplined and above local influence.'³⁵ Therefore governments assumed primary responsibility for providing security. They determined what sort of security was needed and provided the means to achieve it. Thus, they formulated the demand for policing, and they were the providers who supplied it.³⁶ Policing was concerned with all government actions taken towards ensuring the well-being of the population. It was concerned with health policy, education policy, economic development and upholding the general physical safety of citizens. With this philosophy, governance meant 'state' and policing meant 'state police' seen as experts in dealing with crimes.³⁷

In creating such a police force, states aimed to monopolize the policing system but, as mentioned, this was not successful; in some areas and spaces, whenever the state hesitated to provide the security as it were needed by the inhabitants, local initiatives were always taken.³⁸ Thus, although some scholars argue that by the exercise of the legitimate force on the behalf of the state, the public state has enjoyed the monopoly of policing, this monopoly was 'only symbolic' since the state police coexisted with non-state initiatives of policing as it had

³³ J McMullan 'Social surveillance and the rise of the 'police machine'' (1998) 2 (1) *Theoretical Criminology* 93 at 95.

³⁴ Baker *op cit* (note 1) 12.

³⁵ *Ibidem*.

³⁶ Bayley and Shearing *op cit* (note 4) at 5.

³⁷ Centre of Criminology (2009) 'What is policing?' presented by Benoît Dupont, Michael Kempa and Phillip Stenning, introduced by Clifford Shearing in *Trends in the governance of security* Learning across borders series (video recording –DVD) part 1. Centre of Criminology, University of Cape Town.

³⁸ C Emsley *Gendarmes and the state in the nineteenth century Europe* (1999) 253.

for centuries.³⁹ In France, for example, ‘rural communities had their own means of dealing with offenders and minor trouble before the arrival of gendarmes’.⁴⁰ Therefore, in reality ‘the public “monopoly” over policing was always a fiction [and] the idea that sovereign states could guarantee crime control [solely] to their subject [was] was a myth.’⁴¹

The theory of monopolization of powers’ which prevailed in the 1960s, advocated that:

[S]tates have claimed exclusive sovereignty over their territory and the sole right to the legitimate use of force within it; have set a high value on their independence and security; have upheld their right to use force in self-defence; have tried to provide means for their defence and have conducted foreign policy with an eye of maintaining their security and independence.⁴²

According to Max Weber, the most well-known theorist of the monopoly of powers, the function of policing (meaning providing security), being one of the functions of government, should be monopolised as the state has the inclusive and powerful possession of the use of force. For this scholar, the function of policing can never be privatised.⁴³ One can notice that Max Weber defined the term monopoly as an economist. Indeed economists define the term ‘monopoly as the conditions that exist when a firm or an individual produces and sells [solely] the entire output of a commodity or a service’.⁴⁴ In terms of policing, although the legitimate monopoly of the use of force subsists in many countries where there is resistance to providing to other bodies the legal power to arrest, detain and charge on behalf of the state, if we do not consider this functional sense of the term policing and approach it in a broader sense⁴⁵, policing now belongs to everybody in activity, in responsibility and in oversight’.⁴⁶ This means that there is a multiplicity of policing agencies that varies from state to non-state, including individuals who take responsibility for keeping security for others, voluntarily or for cash. Therefore one can conclude as Jones and Newburn that ‘the monopoly of policing is really symbolic’.⁴⁷

³⁹ Newburn *op cit* (note 30) at 830.

⁴⁰ Emsley *op cit* (note 38) at 253.

⁴¹ Garland cited in Trevor Jones and Tim Newburn ‘The transformation of policing? Understanding current trends in policing systems’ (2002) 42 *British Journal of Criminology* 129 at 133

⁴² Paul Schroeder ‘Historical reality vs. neo-reality theory’ (1994) 19 (1) *International Security* 108 at 115.

⁴³ Bayley and Shearing *op cit* (note 4) at 5.

⁴⁴ Jones and Newburn *op cit* (note 41) at 133.

⁴⁵ *Ibidem*.

⁴⁶ David Bayley and Clifford Shearing ‘The future of policing’ (1996) 30(3) *Law and Society Review* 585 at 591.

⁴⁷ Jones and Newburn *op cit* (note 41) at 133.

In the 1990s the (Western) state ceases 'to be the directive core attracting to itself a monopoly of functions and, instead, begins to shed or share responsibility.'⁴⁸ Although this change of philosophy may be seen as a new thing, this is not the case because security services have been always carried out within small communities. Therefore, what occurred was a 'revitalization of the original principles' developed by Peel that the 'police and the community are one'⁴⁹ and that the police are 'only members of the public who are paid to give full attention to duties which are incumbent on every citizen.'⁵⁰ This was the era of the 'multilateralization' of policing, characterized by the birth and the expansion of private security agencies and other non-state and volunteer organizations engaged in the governance of security.⁵¹

Indeed, the term 'multilateralization', is formed from the adjective 'multilateral' and means a situation in which many groups take part. In the context of policing, 'multilateralization' refers to the situation in which policing services are carried out by a multiplicity of agencies, both state and non-state. Thus, the 'multilateralization' of policing refers to 'the variety of institutional forms, public, private, non-profit and hybrid, by which policing is delivered'.⁵² This restructuring of policing began in Western countries since the 20th century and has expanded all over the world. Some persons may think that the restructuring of policing is a kind 'privatization', but this is not true because privatisation would imply that the government is no longer concerned with policing, and this is not the case because the state is one of the different 'nodes' that compose policing. Therefore, the appropriate term to name what happened to policing would be 'multilateralization'.⁵³ It is argued that some of the factors resulting in 'multilateralization' are poor government performance, fear of crime, economic expansion, and political liberalization.⁵⁴ For the

⁴⁸ Pat O'Malley and Darren Palmer 'Post-Keynesian policing' (1996)25 (2) *Economy and Society* 137 at 141.

⁴⁹ Hunt cited in Pat O'Malley and Darren Palmer *op cit* (note 48) at 144.

⁵⁰ Peel cited in Pat O'Malley and Darren Palmer *op cit* (note 48) at 144.

⁵¹ Michael Kempa and Les Johnston 'Challenges and prospects for the development of inclusive plural policing in Britain: overcoming political and conceptual obstacles' (2005) 38 (2) *The Australian and New Zealand Journal of Criminology* 181.

⁵² Benoît Dupont, Peter Grabosky and Clifford Shearing 'The governance of security in weak and failing states' (2003) 3 (4) *Criminal Justice* 331 at 332.

⁵³ Bayley and Shearing *op cit* (note 8) at 5.

⁵⁴ Bayley and Shearing *op cit* (note 4) at 21.

African continent, one can add the scarcity of state police human resources to deal with crime, as well as inaccessibility, inefficiency and brutality of some state police.⁵⁵

Moreover, in the context of Africa, during colonisation, colonising authoritarian regimes tried to maintain the philosophy of monopolisation of policing as used in Western countries in the pre-industrialisation period but they failed because they had not enough means. They tried it in towns but in rural areas colonising policing systems co-existed with policing structures based on traditional procedures.⁵⁶ In addition, it is argued that even after colonisation, the Western authoritarian policing prevailed in African countries despite some initiatives of indigenous people to supplement the absence of the state police.⁵⁷ These local initiatives were informal and not recognised officially by the state administration although the latter recognised the importance of these local initiatives in keeping order and security in the local neighbourhoods. This situation remained until the 1990s when the new worldwide movement of policing restructuring leading to its ‘multilateralization’ reached the African continent and gave birth to more forms of non-state policing. Taken in the African context, the term ‘non-state policing’ is applied to a wide range of policing agencies which may be provided by customary leaders, religious organizations, youth groups, work-based associations, community policing forums, conflict resolution non-governmental organisations, the lowest levels of local government⁵⁸ or private security agencies. As a result, in many countries such as South Africa, private security outnumbers the public police. In other countries, including Rwanda, interactions in private properties are now governed by private security. Furthermore, private organizations and volunteers are active in policing in areas where the state police have not had a great deal of success.

In the light of what is described above, it is obvious that policing is authorised and provided by different ‘auspices’ and ‘providers’. Drawing further on the works of Bayley and Shearing, in terms of their description of the multilateralization of policing, ‘auspices’ of policing are referred to as ‘groups that explicitly and self-consciously take upon themselves the responsibility for organizing their own protection’.⁵⁹ ‘Providers’ of policing are referred

⁵⁵ Bruce Baker *op cit* (note 31) at 46.

⁵⁶ *Idem* at 7-8.

⁵⁷ Daniel Woods ‘The role of civil society in police reform in Uganda’ Presentation –Idasa conference in post conflict Africa. Available at http://www.humanrightsinitiative.org/programs/aj/police/papers/presentations/role_of_civil_society_in_police_reform_in_uganda.pdf [Accessed 20 June 2011]

⁵⁸ Baker *op cit* (note 31) at 10.

⁵⁹ Bayley and Shearing *op cit* (note 4) at 3.

to as ‘groups that actually do the policing asked for’.⁶⁰ It is to be noted that in some cases auspices and providers of policing may coincide. Thus, both public and private entities have assumed responsibility for authorizing and providing policing. Sometimes, private security companies work under the auspices of the public police as it is in the case of Rwanda, where private security companies are hired by the state institutions to keep the security of some state officials in the place of the state police.⁶¹ Moreover, even the citizens play an important role in authorizing and providing security especially when they are engaged in a variety of security activities such as neighbourhood watch groups engaged in protecting a group of residences.⁶²

2.2. Community policing

Community policing as one of the forms of multilateralized policing and which is developed in many countries, is discussed in this section.

Indeed, as presented above, in some cases, policing is carried out by voluntary community structures initiated by community members themselves or with the support of the state. The philosophy of community policing took birth in Western Europe and North American countries and was then exported worldwide.⁶³ The philosophy behind community policing is the desire of the state police to seek the support of the population in their mission of keeping security. This sections talks about the development of community policing in Western countries and how it was implemented in African countries.

Community policing, also called ‘community oriented policing or (COP)’ by some scholars⁶⁴ has been given different definitions but they all focus on the partnership between the police and the community in crime prevention. In this regard, Bayley and Shearing refer to community policing as ‘a strategy for encouraging the public to become partners with the police in controlling and preventing crime’⁶⁵ whilst Wilfred Schärf refers it to as ‘a sustained

⁶⁰ Bayley and Shearing *op cit* (note 4) at 3.

⁶¹ Ministerial order n°11/08 of 09/10/2008 on security of political leaders, article 5 and 6.

⁶² L. Johnston ‘Crime, fear and civil policing’ (2001) 38 (5-6) *Urban Security* 959 at 965.

⁶³ Nathan Pino and Michael D Wiatrowski *Democratic policing in transitional and developing countries* (2006).

⁶⁴ Brogden *op cit* (note 7) at 635.

⁶⁵ David H Bayley ‘Community Policing: the doctrine’ (2005). Available at <http://s21.anu.edu.au/conference/addrread/COMMUNITY%20POLICING%20-%20THE%20DOCTRINE.pdf> [Accessed 11 June 2011].

partnership, consultation and liaison between local residents and the local state police.’⁶⁶ As for Quint Thurman:

[C]ommunity policing is viewed as a substantive approach to serious community problems and their solution; an approach that attempts to involve a comprehensive partnership of police, other public officials and the public to improve community safety and quality of life.⁶⁷

Moreover, it is also argued that community policing is ‘a style and strategy of policing that appears to reflect local community needs’⁶⁸ The philosophy behind community policing is that the community determines its security needs and participates in resolving their disputes.⁶⁹ The mission of preventing, investigating and punishing crime, assigned to the police is unrealizable if the latter does not cooperate with the population. Using community policing, police:

[D]emonstrate to the public that they are prepared to respond to their security concerns, to value their advice and that they will act in a fair, honest and impartial manner. In exchange, police ask the public to assist them by providing information about crime, by contributing their time, resources and moral support for crime prevention programmes. In short, community policing views public cooperation as essential to successful crime control and develops programs for obtaining willing public assistance.⁷⁰

In this regard, it is argued that community policing has transformed police agencies ‘from organizations that have served to control citizens to organizations that are accountable to citizens’.⁷¹ Thus, without accountability of the police to the community, community policing is impossible. In a country where community policing is practiced, the role of community members is not limited in alerting the police when a crime occurs in their neighbourhood, but they also have to help in keeping their own security by carrying out policing activities such as crime prevention and detection, order maintenance, dispute

⁶⁶ Wilfried Schärf ‘Community Policing in Post-Apartheid South Africa’ (2001) 32 (1) *IDS Bulletin* 74

⁶⁷ Quint Thurman *Community policing in a community era: an introduction and exploration* First edition (2001) Abstract. Available at <http://www.ncjrs.gov/App/Publications/abstract.aspx?ID=186122> [Accessed 7 June 2011].

⁶⁸ Mike Brogden and Preeti Nijhar *Community policing: national and international models and approaches* (2005) 2.

⁶⁹ O’Malley and Palmer *op cit* (note 48) at 142.

⁷⁰ Thurman *op cit* (note 67).

⁷¹ Robert C Davis, Nicole J Handerson and Cybele Merrick ‘Community policing: variations on the western model in the developing world’ (2003) 4 (3) *Police Practice and Research* 285 at 286.

resolution and so forth, sometimes without involving the police.⁷² Therefore, an effective community policing strategy is a tool of reducing neighbourhood crime and decreasing citizens' fear of crime.⁷³ Through different forms of community policing, local communities determine the problems affecting their society and find solutions to them before they address the state institutions such as the police and the courts. Being based on the recognition that police will be much more successful in carrying out their responsibility for protecting society if they have the public on their side, by enlisting the cooperation of the public, police get improved information about crime, new material resources, moral support for their activities, and respect. Furthermore, community policing, in principle, is a good strategy for the police force which suffers from the problem of limited resources that is necessary for their visible effectiveness in fighting crimes and being on hand when emergencies occur.⁷⁴

In the African context, up to the 1990s, community policing was virtually unknown. However, as mentioned, 'citizen-led policing'⁷⁵ has always existed and was known as 'popular policing'. This term is used to designate forms of policing located within the community rather than within either the state or private sectors.⁷⁶ Sometimes it is referred to as 'civil society security governance' or merely 'civic policing'.⁷⁷ According to Daniel Nina the term 'popular policing' refers to different mechanisms of conflict resolution and ordering which operates outside the state law.⁷⁸ In most cases, people refer to this kind of policing when there is a need to fill a gap that should be filled by state agencies. Indeed, Daniel Nina and Wilfried Schärf argue that 'if sectors of civil society choose to, or are driven to create institutions that deal with their needs (...) it says something about the appropriateness of state institutions (...). It also indicates that the reach of the state into those domains is in fact more symbolic than real.'⁷⁹ This is what happened in South Africa during Apartheid when regulatory orders and structures such as the anti-apartheid political movement tried to keep

⁷² O'Malley and Palmer *op cit* (note 48) at 142.

⁷³ Bureau of Justice Assistance *Understanding community policing* (1994) vii.

⁷⁴ H Bayley *op cit* (note 65).

⁷⁵ Jones and Newburn *op cit* (note 41) at 138.

⁷⁶ Centre of Criminology (2009) 'Popular policing' presented by Irvin Kinnes and John Cartwright, introduced by Clifford Shearing in *Trends in the governance of security* Learning across borders series (video recording – DVD) part 4. Centre of Criminology, University of Cape Town.

⁷⁷ *Ibidem*.

⁷⁸ Daniel Nina 'Survey on community safety: Toward a safer environment in Gugulethu' in Daniel Nina(ed) *Perspectives on community safety* (1995) 43 at 43.

⁷⁹ Daniel Nina and Wilfried Schärf 'Introduction: The other law' in Daniel Nina and Wilfried Schärf(eds) *The other law: non-state ordering in South Africa*(2001) 1 at 10.

the state out of the African townships and replaced the state's role by different committees and people's courts operating within the neighbourhoods.⁸⁰

The above said 'citizen-led policing' activities consist in 'policing activities in the form of neighbourhood watch, citizen patrol and other community led crime prevention and policing initiatives.'⁸¹ Since the 20th century, with the new movement of community policing which began in Western countries, in many African countries, these community initiatives were reinforced and transformed into state "responsibilization strategies" whereby individuals and organisations outside the state apparatus are encouraged to take responsibility for crime prevention and security'.⁸²

Copied from the Western fashion of Neighbourhood Watch Schemes (NWS), the implementation of community policing has taken different forms such as Community Policing Forums (CPF), neighbourhood councils, crime prevention panels, community constables, prevention control associations and so forth.⁸³ According to Skogan and Harnett such community organisations that solve crime and disorder problems within the community should be empowered through sponsorship preventions programmes.⁸⁴ However, such sponsorship that should come from the state and its partners, is lacking in African community structures of policing due to financial problems. As a result, community policing agents offer their services voluntarily and there is a risk that may be demotivated or corrupt.

This community-based approach of policing 'presupposes the need to identify the nature of problems affecting the individuals and the community and to develop preventive mechanisms.'⁸⁵ According to many scholars community safety represents a friendly approach to more effective policing.⁸⁶ Everyone from the police to the ordinary member of community, come together to guarantee a safer environment.⁸⁷ Although the approach of community policing helps in ordering the community, its success requires a state control 'in a way that

⁸⁰ Nina and Schärf *op cit* (note 79) at 7.

⁸¹ Jones and Newburn *op cit* (note 41) at 138.

⁸² Garland cited in Jones and Newburn *op cit* (note 41) at 138.

⁸³ Brogden *op cit* (note 64) at 635-641.

⁸⁴ C Davis, J Handerson and Merrick *op cit* (note 71) at 285-286.

⁸⁵ O'Malley cited in Daniel Nina 'Creating safer environments' in Daniel Nina(ed) *Perspectives on community safety* (1995) 4 at 4.

⁸⁶ Stenson cited in Daniel Nina *op cit* (note 85).

⁸⁷ Crawford Hall et al and Loveday cited in Daniel Nina *op cit* (note 85).

does not present contradictions or limitations to the culture of democracy'.⁸⁸ Through the approach of community policing, all problems affecting the community and everyday life in the community may be discussed. Among the problems discussed one can mention dispute resolution, crime prevention and punishment of minor crimes, socio-economic problems such as garbage collection, canalisation of rain water and so forth.

Community policing was well welcomed by many African countries that viewed it as a solution to problems related to rising crime rates, the scarcity of human and financial resources as well as the image of the police towards the population; but its implementation in some African countries failed because of many factors. In Uganda for example, it is argued that the causes of the failure of COP were, amongst other things the tendency of the state police to consider COP as means of instructing the population about crime prevention rather than listening to them.⁸⁹

Moreover, it is argued that, in some other African countries such as Kenya, COP agents violate human rights of the population and COP has 'served to reinforce undemocratic and oppressive structures' and that it has encouraged the police 'to exercise extra legal powers to intervene in social affairs'.⁹⁰ On this point, other scholars view community policing as 'an attempt at surveillance and control of communities by the police.'⁹¹ In my opinion, the simple fact that community policing is exported from Western countries is not a problem. The problem is its implementation in some African countries that did not consider their context in terms of tradition and local priorities that have to be determined by the local communities themselves.⁹²

However, broadly speaking, some scholars argue that in countries where community policing practised, it has made it possible for the police to cooperate with communities who used to fear and distrust them.⁹³ Thus, community policing, it is argued, has 'made an impact on how citizens feel about law enforcement and that is a positive step in the right direction'.⁹⁴

⁸⁸ Nina and Schärf *op cit* (note 79) at 13.

⁸⁹ Brogden *op cit* (note 64) at 642-645.

⁹⁰ Ruteere and Pamerolle cited in Brogden *op cit* (note 64) at 635-636.

⁹¹ O'Malley and Palmer *op cit* (note 48) at 137.

⁹² In weak states where there is no regulation, one may assist in the development of popular policing initiatives.

⁹³ C Davis, J Handerson and Merrick *op cit* (note 71) at 299.

⁹⁴ *Ibidem*.

2.3. Challenges of the 'multilateralization' of policing

In many respects, the 'multilateralization' of policing is challenged because of having created a gap between those who can afford a high quality of protection and those who have not the same resources.⁹⁵ Indeed, with the 'multilateralization' of policing, some security services are 'commodified'⁹⁶ and put on market like other commodities. This commodification 'allows those with buying power to determine individual and common interests and to exercise choice in the manner these interests are secured.'⁹⁷ In such a situation, wealthier persons and corporate entities can purchase these services to the detriment of poor people who are unable to pay the cost of these services although they need them. Newburn argues that the commodification of security contributes to creating inequality and creates 'a world in which the rich increasingly seek to insulate themselves from the poor, hiding behind the barriers of gated residential communities and working within protected environment.'⁹⁸ I believe that this situation is normal in a capitalist world and the solution remains to the state that has to put in place different mechanisms of policing which can cater for the poor. This situation is very relevant in many African towns where there is inequality in terms of living conditions between wealthy people living in the centre of towns and the poor living in townships. While private security services are only affordable by those who are wealthier it is argued that 'those who are less fortunate are left to their own devices since the public police have other business to handle.'⁹⁹ In this regard community policing or community-based mechanisms are to be encouraged in order to fill the gap between the security for 'the rich' and the security for 'the poor'. Indeed, this solution has also been proposed by many scholars' research on policing in Africa such as Marks, Shearing and Wood who propose, as a solution to the above mentioned problem 'the development of non-governmental institutions of social control which might include inter alia street committees, traditional courts and neighbourhood patrols.'¹⁰⁰ In other words, these scholars propose the implementation of different forms of community policing as 'the private security for the poor'.¹⁰¹

⁹⁵ Baker *op cit* (note 1) at 175.

⁹⁶ Ian Loader 'Consumer culture and commodification of policing and security' (1999) 33 (2) *Sociology* 373-392.

⁹⁷ Baker *op cit* (note 1) at 176.

⁹⁸ Newburn *op cit* at 840-841.

⁹⁹ Peter Grabosky 'Community policing, east and west, north and south' (2009) 10(2) *Police Practice and Research* 95 at 97.

¹⁰⁰ Peter Grabosky *op cit* (note 99) at 97.

¹⁰¹ Bayley and Shearing *op cit op cit* (note 4) at 31.

The ‘multilateralization’ of policing can also be the source of risk of formation of criminal enterprises especially for non-state policing agents who, in many cases are ill trained and have no deontology of the use of firearms.¹⁰² In some cases non-state policing agents are involved in the theft in their place of work, especially those who guard the banks.¹⁰³ In addition, some people argue that, if there is no strict oversight of private security companies that use firearms, in weak states, they may be used by those who wish to overthrow the existing government. Moreover, the issue of accountability is also raised because whilst the state police are accountable (at least in principle) to state institutions and indirectly to the population one can ask a question: to whom are non-state forms of policing accountable? Strategies to overcome these challenges will be discussed in chapter six of this study.

2.4. Conclusion

In this chapter, the concepts of policing and its forms of governance were discussed. Moreover, this chapter has also discussed some of the challenges with respect to the ‘multilateralization’ of policing. Broadly speaking, policing, being considered as a form of governance, its ‘multilateralization’ is advocated by many scholars such as Clifford Shearing and Jennifer Wood who advocate for a ‘nodal governance’¹⁰⁴ approach to security. According to them, a nodal conception of the governance of security is recommended rather than a state-centred conception of governance of security.¹⁰⁵ The nodal governance of security is made of three nodes which are the state, the corporations or business agencies and non-governmental organizations and voluntary associations engaged in policing.¹⁰⁶ Each of these nodes contributes and cooperates with others to the governance of the security. Practically, in our time, this is the way in which policing is being carried out in all democratic countries

¹⁰² Baker op cit (note 1) at 178.

¹⁰³ On this point, in 2008, in my work as a prosecutor in Rwanda, I assisted in a case in which a private security agent had helped the theft of a bank and had disappeared with the thieves after the operation. The company that employed him was facing a case of damages caused to the bank by that security agent. If one conducts field research, one can find more cases.

¹⁰⁴ Clifford Shearing and Jennifer Wood ‘Nodal governance, democracy and the new ‘denizens’’ (2003) 30 (3) *Journal of Law and Society* 400-419

¹⁰⁵ *Idem* at 404.

¹⁰⁶ *Ibidem*.

CHAPTER THREE: RWANDAN POLICING BEFORE THE 1994 GENOCIDE

3.1. Introduction and overview

This chapter describes and analyses the organization and the functioning of different institutions which were in charge of policing before the 1994 genocide in general and during the 1994 genocide, in particular. Rwanda was colonized by Belgium and got its independence on the 1st July 1962. It is clear that the Rwandan policing system was influenced by the system of Belgian policing.

Indeed, the Belgian policing system was, and is still, structured into three regular police forces: the constabulary (or municipal police), the state police (*Gendarmerie*) and the judicial police (*Police Judiciaire*) attached to the Public Prosecution.¹⁰⁷ It is this form of policing which was copied by Rwanda after its independence and it prevailed until 2000 when the government of Rwanda decided to restructure its policing system and created the Rwanda National Police (RNP).

The first Rwandan National Police Force was established in 1969 by the Presidential Decree n°50/02 of 23 April 1969. With the 1973 '*coup d'état*' the National Police was removed and its members were integrated in the army.¹⁰⁸ To fill the gap left by the members of the National Police who were integrated into the national army, another force was created. This is the National Gendarmerie, a paramilitary police which was answerable to the Ministry of Defence. This force was established by the Legislative Decree of 23 January 1974 establishing the National Gendarmerie.¹⁰⁹ As the National Gendarmerie was not able to keep order and security up to the lowest level of the administration, an idea came to create a municipal police which would be operational at the level of the commune (equivalent of the current district). Therefore in 1977, a communal police force was established by the Presidential Order n°285/03 on the organization of communal police.¹¹⁰

¹⁰⁷ Christian Eliaerts et al 'Community policing in Belgium'. Available at www.vub.ac.be/SCR/downloads/Eliaerts/Boaker/communitypolicingBelgium.pdf [Accessed 11 June 2011].

¹⁰⁸ Presidential Decree n° 86/08/08 on the integration of the police in the Rwandan armed forces in *Official Gazette 1974* p177.

¹⁰⁹ Legislative Decree of 23 January 1974 establishing the National Gendarmerie in *Codes et lois du Rwanda*, Volume 2 (1979) 415- 417.

¹¹⁰ Presidential order n°285/03 of 04 October 1974 on the organization of the communal police in *Codes et lois du Rwanda*, Volume 2 (1979) 489.

Moreover, besides the national gendarmerie and the communal police, there was a judicial police unit whose task was to make criminal investigations and transmit files to the prosecutor. The judicial police was made by the Judicial Police Inspectors (JPI) and Judicial Police Officers (JPO). The former were civilians affected at the communal level to make investigations and records relating to contraventions (offences that are punishable by the law to a sentence of imprisonment not exceeding two months and a fine not exceeding two thousand francs or to both¹¹¹); while the latter (the Judicial Police Officers) was in charge of investigating misdemeanours (offences that are punishable by the law to a sentence of imprisonment exceeding two months and not exceeding five years and a fine of more than two thousand francs, or one of these penalties¹¹²) and crimes (offences that are punishable by the laws to a sentence of the death penalty or imprisonment for more than five years¹¹³).

3.2. Structure and functions of Rwandan policing prior the 1994 genocide

3.2.1. The communal police

As presented in the introduction, the communal police was a local police operating at the level of the commune. Article 1 of the presidential order n°285/03 on the organization of the communal police stipulated that the ‘communal police force is formed at commune level. It is under the authority of the mayor who uses it in its task of maintaining peace and restoring law and order and the enforcement of regulations.’¹¹⁴

The number of communal police officials was not specified by that presidential order but each commune was free to engage the number of police officials which it would be able to support in terms of paying salaries. Therefore police officials were operating on the level of the commune but they would intervene in the lower level (i.e. sector and cell level of administration) when they were alerted; otherwise the population had to meet them at the commune premises only. This absence of the police presence at the low level was a factor of failure in the prevention and prosecution of crimes because criminals were not afraid to be caught by the police who had long distances to travel before reaching the scene of crime. In

¹¹¹ Rwandan criminal code, article 18.

¹¹² *Idem*, article 19.

¹¹³ *Idem*, article 20. Note that the death penalty is no longer applicable in Rwandan law.

¹¹⁴ Presidential order n°285/03 *op cit* (note 110) article 1.

addition, because of their abuse of authority, the police were feared by the people and no one could approach them. This made it impossible for the police to gather information on crimes committed in different parts of the country. In short, there was no collaboration between the local police and the population which is nonetheless useful in the prevention, investigation and prosecution of crimes.

The organization, operation and control of the body of the local police were assumed by the mayor with the help of the Brigadier. It appears from this article that the mayor was considered 'the boss' of the communal police. As a result, many police officers have committed genocide at the instigation of the mayor who abused his authority over them. Communal police officials were paid salaries from the fund of the commune. As a result each commune could not have the same number of police officials. That number was determined by the commune council according to the commune revenues.

The communal police officials were recruited within the commune by the communal council. Lots of time, as discrimination was the policy of the government authorities, that recruitment was characterized by ethnic discrimination so that few Tutsi people, if not any, were recruited. On this point, the first Commissioner General of the Rwanda National Police, in an interview with Bruce Baker in 2006, mentions that 'the local police was locally recruited, locally managed—which brought in the other negative sentiments of sectarian recruitment and corruption'.¹¹⁵ The same discrimination was also in practice during the recruitment in the national army and in the national gendarmerie.

3.2.2. The National Gendarmerie

It is argued that after colonization, all African countries inherited authoritarian and paternalistic states institutions. With paramilitary police agencies, most have tended to put more resources into the military than the police and in such a situation; it is unrealistic to expect from the state a high level of service delivery.¹¹⁶

¹¹⁵ Baker *op cit* (note 31) at 72.

¹¹⁶ Wilfried Schärf 'Policy options on community justice' in Wilfried Schärf and Daniel Nina (eds) *The other law: non-state ordering in South Africa* (2001) 39 at 42.

The National Gendarmerie was a paramilitary force to keep interior security. It had a pyramidal military hierarchy centralized at a national level headed by a '*chef d'état major*' answerable to the Minister of Defence. It was established by the Legislative Decree of January 23, 1974 on creation of the National Gendarmerie.¹¹⁷ In terms of article 2 of this legislative law 'the body of the National Gendarmerie is under the responsibility of Ministry of National Defence. Members of the National Gendarmerie shall be subject to orders, regulations and discipline of military courts.'¹¹⁸ In addition, article 4 of the same legislative law stipulated that 'the national gendarmerie is a military force established to maintain order and law enforcement.'¹¹⁹ As for article 48, it stated that '(...) the insignia of rank [of gendarmes] are the same as those of the army.'¹²⁰

The National Gendarmerie had twelve territorial units, which were operating in each prefecture of the country. Each territorial unit was led by a commander and, as in the army, the unit was subdivided in companies and brigades that could be found only in the prefecture and sub-prefecture headquarters. However, they would intervene in security matters wherever it was required. As a paramilitary force, the gendarmes were behaving like militaries and as a result, they were committing different abuses. In many cases, this type of police is challenged because of its brutality. With the culture of militaries, police officers of paramilitary police have a tendency to consider the wrong-doer as the enemy to be destroyed. This idea resulted in the paramilitary police force being feared by the population and became the enemy of the population. According to Scraton, Sim and Skidimore, 'people may be criminals, they may be violent, but they are not enemies to be destroyed.'¹²¹ Consequently, paramilitary police used arbitrary force against the population and this had a negative impact on police-community relations.

The National Gendarmerie had policing functions. Indeed, article 10 of the legislative decree on the creation of the National Gendarmerie stipulated that 'The National Gendarmerie is responsible for preventing crime, to seek and arrest the perpetrators of the crimes in the way provided by law.'¹²² In this regards, some members of the Gendarmerie

¹¹⁷ Legislative Decree of 23 January 1974 *op cit* (note 109).

¹¹⁸ Legislative Decree of 23 January 1974 *op cit* (note 109) article 2.

¹¹⁹ *Idem*, article 4.

¹²⁰ *Idem*, article 48.

¹²¹ Phil Scraton, Joe Sim and Paula Skidimore (eds) 'Introduction' in Tony Jefferson *The case against paramilitary policing* (1990) 1.

¹²² Legislative Decree of 23 January 1974 *op cit* (note 109) article 10.

exercised the function of Judicial Police. To that effect, article 42 stipulated that ‘every officer and non-commissioned officer of the National Gendarmerie is coated with the quality of Judicial Police Officer (...)’.¹²³

3.2.3. The Judicial Police (JP)

This was the third policing agency whose task was to investigate criminal cases and handover the files to the prosecution. There were two groups of Judicial Police officials. The first group was made of Judicial Police Inspectors (JPI), who reported to the Minister of Justice. They were deployed in each commune and their task was to investigate and make files of minor criminal cases (those punishable of less than five years of imprisonment). On the level of the prefecture, JPis were supervised by the prefecture chief prosecutor.¹²⁴ The second group was made of Judicial Police Officers (JPO) from the National Gendarmerie. The latter were working under the gendarmerie brigade and reported to the Minister of Defence. On the level of the prefecture they were supervised by their hierarchical superiors but they reported also to the prefecture chief prosecutor. They were responsible for investigating major crimes (those punishable of more than five years imprisonment).

3.3. The role of the population in policing activities

Like in other authoritarian regimes, the Rwandan policing before 1994 was controlled mainly by the government paramilitary police whose primary objective was to protect the regime in place. However, despite this monopolistic ideology, the state was unable to intervene in all security matters in all the corners of the country. Therefore, within their neighbourhoods, the local population was taking in hand security matters through traditional mechanisms of keeping security and resolving disputes and through the initiatives of their local leaders. There was no direct collaboration or cooperation between the state policing agencies and local population. This cooperation existed only between the policing officials and the local leaders who received orders from their superiors and transmitted them to their fellows.

¹²³ Legislative Decree of 23 January 1974 *op cit* (note 109) article 42.

¹²⁴ At the time he/she was called ‘*procureur de la Republique*’, equivalent to the District Attorney in the English system.

The local population all over the country were involved in civic work (*umuganda*) every Saturday¹²⁵ which consisted of constructing roads, schools, medical health centres, anti-erosion activities and so forth. During the nights, in the absence of the public police, they were obliged to keep their own security against thieves and other wrong doers. This was done by neighbouring night patrols in which all adult men participated according to a programme established by the local leaders. Disputes were resolved within the families or by local leaders in what is traditionally known as '*gacaca*'.¹²⁶ I have to note that, before the 1994 genocide, any private security company was operational in Rwanda. This form of policing began in Rwanda after the 1994 genocide.

During the genocide, in the beginning, despite the sensitization made by local leaders and *interahamwe* militias, many people did not want to kill their neighbours with whom they used to share everything in their neighbourhoods. Faced with this abstention of the population to commit genocide acts, genocide planners who were in fact the administration leaders from the highest level to the lowest level,¹²⁷ in the name of restoring order and security, created a new institution which they called the Civilian Self-Defence Force (CSDF). The latter called upon all the young Rwandan to the so called self-defence activities in order to help the army to fight against the 'enemy'. The mission of the CSDF was 'to assist regular troops in protecting the population and the public property, to obtain information on the enemy presence in their community [and] to denounce infiltrators and accomplices of the enemy.'¹²⁸

In reality, during that period, the term 'enemy' meant the Rwandese Patriotic Army members who were fighting the genocidal regime and 'accomplices' meant all Tutsi and Hutu who were against the killings. It is obvious that the mission of the CSDF was to help military and militias in their plan of killing innocent population. Therefore they joined militias on the barriers and patrols whose task was to catch Tutsi who were trying to flee or to hide. They were hardly trained by communal policemen and the former soldiers and

¹²⁵ The rest of the days were supposed to be reserved for the daily work for every individual person.

¹²⁶ This is a form of dispute resolution based on the Rwandan tradition. In old times it consisted of '[a] court ...which settled disputes arising from families between neighbouring families; on ordinary matters in the peoples living conditions such as temporary separation between a man and a wife, the cattle causing damages to somebody's crops etc. Severe offences were tried before the chief village.' (Quoted from 'Report on reflection meetings held in the Office of the President of the Republic' (1999) 53 Kigali, Rwanda. Available at <http://www.grandlacs.net/doc/2378.pdf>. [Accessed 26 August 2011].

¹²⁷ At the time the lowest level of administration was the cell led by a '*responsable*' of the cell.

¹²⁸ Alison Desforges 'Leave none to tell the story: The genocide in Rwanda' (1999) 217. Available at <http://www.grandlacs.net/doc/1317.pdf> [Accessed 17 June 2011].

although most of them were armed with bows, arrows, spears and machetes they were drawn to combat against RPA and of course suffered heavy casualties.¹²⁹

3.4. The responsibility of policing officers in committing genocide

When the civil war began on 1st October 1994, all the soldiers and gendarmes (who were acting before as a paramilitary police) participated together in the fight against the Rwandese Patriotic Army. Internal security activities remained in the hands of communal police officials helped by *interahamwe*¹³⁰ militias. During the genocide, both gendarmes and communal police officials participated also in the killings of innocent civilians during the genocide. Indeed, between April and July 1994, the planners of genocide used local administration leaders (from the highest level to the lowest level of the administration), the security agencies (including the army, the gendarmerie and the communal police) as well as the militias, to execute their genocidal plan. On this point Alison Desforges, the human right activist writes that:

[S]oldiers, National Police (gendarmes) former soldiers and communal police played a larger part in the slaughter than [it] is generally realized. In addition, to leading the first killings in the capital and other urban centres, soldiers and National Police directed the major massacres throughout the country.¹³¹

Although they were usually few in number at the site of massive killings, these security agents, directed killings. On this point Alison Desforges from the Human Right Watch noted:

[U]sing their tactical knowledge and their use of the weapons of war, including grenades, machine guns, and even mortars, contributed to the death tolls in these massacres. It was only after the military had launched attacks with devastating effect on masses of unarmed Tutsi that civilian assailants, armed with such weapons as machetes, hammers and clubs, finished the slaughter. In addition, the military encouraged, and when faced with reluctance to act, [they] compelled both ordinary citizens and local administrators to participate in attacks, even travelling the back roads and stopping at small marketplaces to deliver the message.¹³²

¹²⁹ Desforges *op cit* (note 128) at 219.

¹³⁰ *Interahamwe* was a militia formed by the existing regime of MRND, the political party that was in power in Rwanda before the genocide) to help them to accomplish their genocidal plan of exterminating the Tutsi population and all political opponents.

¹³¹ Desforges *op cit* (note 137) at 11.

¹³² Desforges *op cit* (note 137) at 12.

While the meaning of policing is keeping security and order, it is a pity that in this situation policing agents were involved in causing disorder and insecurity to those whom they were supposed to protect.

3.5. Conclusion

In this chapter I have argued that before the genocide, policing activities were dominated by the state agencies. The collaboration with the community was limited to the instructions given to the local leaders who had to transmit them to the population. Such a structure of policing leads one to think that policing was carried out, not in the interest of the community, but in the interest of those in power. Apart from the communal police that was operating at the level of the district, the fact that policing activities were carried out by the National Gendarmerie, a military wing that reported to the Ministry of Defence, made it a paramilitary police whose activities were not different from the army. The results were the abuses committed by security officers within the community whom they were in charge to protect. Many of those security officers participated in the genocide, killing people and stealing their properties. In a situation where the state fails in its duties the change was necessary; and this was one of the main reasons advanced by the Rwandese Patriotic Front (RPF) and its army, the Rwandese Patriotic Army (RPA) in liberating the country.¹³³ Therefore, after the 1994 genocide, the restructuring of policing agencies was strongly required.

¹³³ Defending the sovereignty of the country and ensuring the security of people and property was one of the nine objectives of the Rwandese Patriotic Front.

CHAPTER FOUR: RWANDAN POLICING AFTER THE 1994 GENOCIDE

4.1. Introduction

This chapter will describe the restructuring of policing after the 1994 genocide. It will mainly focus on the activities of different agencies involved in policing between 1994 and 2010.

The newly established government had a difficult task in re-establishing internal security by instituting an adequate model of policing. Thus, their first priority was security because they were bearing in mind that no development is possible without security.

Indeed, it is common that in many countries, when a political class has survived a civil war, it relies on outside bodies such the United Nations to rebuild the state police to make it able to assume the role of a main provider if not the sole provider of internal security.¹³⁴ Contrary to this, Rwanda has taken a different approach of incorporating the local population and local government leaders into the structure of security and justice.¹³⁵ This choice was very profitable for the new police force which was suffering from a lack of human resources necessary to provide efficient policing needs for a country torn by the genocide. Furthermore, it served as an instrument of healing for both the aversion to state police caused by the previous oppressive regime and positively stimulating reconciliation and social cohesion through mutual cooperation.¹³⁶

This policy of maximising the participation of the population in security matters is mainly advocated by Albie Sachs, who argues that ‘the people solve their problems, applying progressive new kinds of norms and they achieve a very large degree of involvement and support from the community in general.’¹³⁷ According to Mugambage, developing partnerships with the community places an emphasis on social control as opposed to legal action, which recognizes informal control mechanisms in addition to the state police, which

¹³⁴ Baker Bruce ‘Reconstructing a policing out of the ashes: Rwanda’s solution’ (2007) 17 (4) *Policing and Society* 344 at 345.

¹³⁵ *Ibidem*.

¹³⁶ *Idem* at 346.

¹³⁷ Albie Sachs cited in Baker *op cit* (note 134) at 346.

remain an essential component of restoring and maintaining order.¹³⁸ In this regard, the state police alone, using traditional methods of crime prevention and deterrence, cannot succeed in maintaining order and security without the help of the local population, organised in their informal and formal structures. Among the mechanisms of social control that helps the police to enforce the law, I can mention the Local Defence Force Unit (LDFU) that was created to supplement the scarcity of police officers.

In addition, in all of this restructuring of policing, community confidence and relations with the community was to be built. This was made possible by the implementation of a community policing approach within the national police and the creation of Community Policing Committees. All these structures are supplemented by private security companies and work-based association that carry out security services in commercial spaces. All these issues are discussed in this chapter.

4.2. State policing: Rwanda National Police (RNP)

4.2.1. Structure

As presented in the previous chapter, prior to the 1994 genocide, policing activities were carried out by three different state agencies. This fragmented and scattered police system lacked coordination, as each policing agency was reporting to its tutelage Ministry. On this point Bruce Baker quotes *The Monitor* (Kampala, 26 July, 2004) and writes what Frank Mugambage, the former Rwandan General Commissioner of Police had said:

[I]n the case of Rwanda, until the civil war and the genocide ended in 1994, state policing was under three forces: the (paramilitary) gendarmerie, the (local) police communale, and the (investigation/prosecution office) police judiciaire. Not only was there no harmonization of training and standards, but, more seriously, the police were unaccountable, violent and sectarian. And in the case of the police communale, being locally recruited and managed allowed the entry of 'negative sentiments of sectarian recruitment and corruption. They were doing what they were not supposed to do. The people were afraid to approach [them].¹³⁹

¹³⁸ Frank Mugambage cited in Security sector reform resource centre 'Rwanda country profile' (2010) 3. Available at <http://www.ssrresourcecentre.org/wp-content/uploads/2010/country-Profile-Rwanda-April-7.pdf> [Accessed 16 June 2011].

¹³⁹ Bruce Baker 'Conflict and African police culture: the cases of Uganda, Rwanda and Sierra Leone' in M O'Neil and M Marks (eds) *Police occupational culture: new debates and directions* (2007)1 at 2.

The transitional phase, before restructuring the Rwandan police, took at least six years. Indeed, prior to 2000, the former state police structure formed by the National Gendarmerie, the Communal Police Force and the Judiciary Police was still operating. The coordination of these different units was difficult because, as mentioned, the National Gendarmerie was under the Ministry of Defence, the Communal Police under the Ministry of Local Administration and the Judiciary Police under the Ministry of Justice. On this point, Frank Mugambage, the first Commissioner of Rwanda National Police, interviewed by the Monitor on 26 July 2004, responded that:

[T]o merge these otherwise scattered services under different ministries was really a well thought out one because it aimed at making sure that we bring the service together, set the mission very clearly, harmonize the training, put in better and efficient use of the equipment; because in a scattered way it was very obvious that the efficiency was being undercut. Previously the local police was locally recruited, locally managed—which brought in the other negative sentiments of sectarian recruitment and corruption, lack of harmonization in situation building, promotions and all these other things—we moved from that.¹⁴⁰

In 2000, the state police was reformed by merging the three forces to form one unified Rwanda National Police. This reform made a break from military influences as the new police force was put under the authority of the Minister of Internal Security while the National Defence remained under the responsibility of the Minister of Defence.¹⁴¹ Moreover the fusion of those three policing agencies was needed for a better coordination.

4.2.2. Discipline

The discipline of Rwandan police officers is regulated by the law establishing the National Police¹⁴² especially in its articles 6(3), 8(iv) and 11.

¹⁴⁰ Interview with Frank Mugambage Cited in Bruce Baker *op cit* (note 134) at 350.

¹⁴¹ Bureau of Democracy, Human Right and Labour cited in Julie Berg 'Audit of police oversight in the East Africa region' (2005)19 Institute of Criminology, University of Cape Town. Available at <http://www.apcof.org.za/File/uploads/file/EastAfricapolicing.pdf> [Accessed 16 June 2011].

¹⁴² Law n°09/2000 of 16/06/2000 on the establishment, general organization and jurisdiction of the National Police in *Official Gazette n°29/06/2000*.

Furthermore, article 6(3) of that law provides that:

[T]he Commissioner General shall plan, organise, coordinate, lead and control all the activities of the National Police and shall in particular (...) ensure that the members of the force carry out their duties in accordance with the law and regulations made under it and ensuring that discipline is maintained.¹⁴³

The application of this provision is made possible by the organization of the police from the top to the lowest level which is the police post led by a police post commander. Furthermore, article 7 and 8(iv) of the above law institutes a police council and one of its tasks is ‘to exercise general disciplinary control over members of the force.’¹⁴⁴ As for article 11, it mentions that any unreasonable act or any act of negligence by a police officer shall be punished. In practice, strong measures including disciplinary measures and prosecution of those are suspected of theft or bribery.¹⁴⁵ This added value of the Rwanda National Police was noticed by Amnesty International which noted that the government is committed ‘to root out corrupt police officials through identification and dismissal’.¹⁴⁶

4.2.3. Public confidence and community relations

Contrary to the situation before 1994, when a person who met a police officer or a gendarme would run away because these security agents were brutal and were feared, the situation has changed after 1994. This was made possible by the decentralisation of the state police up to the level of the sector and different meetings between police and the population where the latter talks about its mission and seeks for cooperation and collaboration of the population for its fulfilment. This cooperation is recommended by the Rwandan constitution which provides that the National Police has to develop a ‘harmonious collaboration with the community’ and to ‘inform the population on how it is fulfilling its mission’.¹⁴⁷

¹⁴³ Law n° 09/2000 of 16/06/2000 *op cit* (note 142), article 6(3).

¹⁴⁴ *Idem*, article 8(iv).

¹⁴⁵ This statement is from my own experience as a prosecutor who assisted in such cases but which may be confirmed by field researches. However, it is also noted by the human right report (see note 146 *infra*).

¹⁴⁶ Bureau of Democracy, Human Right and Labour cited in African Police Civilian Oversight Forum *An audit of policing oversight in Africa* (2008) 56.

¹⁴⁷ Constitution of the Republic of Rwanda, article 70 and 71.

Moreover, these constitutional provisions are repeated by article 2 of the law n° 09/2000 of 16/06/2000 on the establishment, general organisation and jurisdiction of the National Police which stipulates that:

[P]olice 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 [and] the responsibility to account for their activities to the community.¹⁴⁸

In practice the RNP strengthens this good relationship with the community by holding different meetings between them and the local communities. As developed above, in these meetings the police explain to the population its mission of keeping security and order and seek the community participation for its fulfilment, because security is not the business of the police only but the business of every citizen. On the same occasion the population profit to explain to the police about their security concerns and what they want the police to do in terms of resolving them. This dialogue put in practice the accountability of the police toward the community for which they serve. Most of the time, the meetings said above are held on the last Saturdays of every month after the population have finished their traditional civic communal work of cleaning their locality known as '*umuganda*'.¹⁴⁹ Sometimes, 'police weeks'¹⁵⁰ are organized and police officers meet the population in community service aiming to build bridges, schools, medical centres and so forth. Indeed, this sensitization is very important in terms of security as the security of the whole nation begins with the security of the smallest neighbourhood.¹⁵¹ This is to say that without the security of the neighbourhood, the security of the whole nation is a dream.

Moreover, the cooperation between the police and the population is also made possible by a permanent communication through a free telephone hotline which is used by any person, in his/her village to call the police officer and ask him/her to intervene in an

¹⁴⁸ Law n° 09/2000 of 16/06/2000 *op cit* (note 142), article 2.

¹⁴⁹ Such civic communal work and meetings are held every last Saturday of the month all over the country, in each village or *umudugudu*.

¹⁵⁰ In Rwanda, sometimes each state institution such as the police, the army, the National Revenue Authority and so forth organize a week to meet the population in civic communal work. Such events help the organizer institution to explain to the population their mission and vision towards the development of the country and to what kind of assistance they want from the population to achieve that mission.

¹⁵¹ Bair *op cit* (note 22).

urgent matter which arises in the village. This helps especially in reporting sexual offences and gender based violence.

4.2.4. Oversight and police accountability

Berg argues that there are a number of independent oversight mechanisms provided for in Rwandan Law.¹⁵² Referring to the Rwandan constitution, those mechanisms are:

- 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 inter alia for examining and investigating human rights violation committed by the state organs and public officials using their duties as a cover (...) and
- 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.¹⁵³

Indeed, the Office of the Auditor General is used to oversee divisions of public institutions which are in charge of using the public funds. Therefore, in the National Police, the Auditor General's office deals only with the finance department. However, both the National Commission for Human Rights and the Office of the Ombudsman play a meaningful role in over-seeing the police agency. For example, concerning, the National Commission for Human Rights, it carries out regular visits in different houses where the police detains suspects of crimes to see if the rights of suspects persons are respected, especially the right to be free from any form of torture and the one concerning the duration of pre-trial detention. These visits are also effectuated in prisons.¹⁵⁴

As for the Office of the Ombudsman, it receives complaints from the population as to abuses committed by state officials. Some of the complaints received by that office are related to the acts of police agents. In this matter, the Office of the Ombudsman makes a report to the hierarchical superior of the wrong doer and serious measures are taken against him/her through an internal oversight, exercised by the Commissioner General (and his/her

¹⁵² Berg *op cit* (note 141) at 20-21.

¹⁵³ Constitution of the Republic of Rwanda, article 177, 182, 183 and 184 cited in Berg *op cit* (note 152).

¹⁵⁴ I was not able to get an official report from the above said commission; this is from what I know from my experience.

subordinate staff) as well as by the police council.¹⁵⁵ Nevertheless, some little problems of corruption and discipline are reported within the police force but the government is committed to root out corrupt police officers.¹⁵⁶

4.2.5. Human resources and effectiveness in combating crimes

The Rwanda National Police does not have enough human resources. Indeed, by 2009 when the Ministry of Internal Security published its strategic plan of 2009-2013, the RNP had reached a total of 6,515 persons of whom 5,949 were males and 566 were females (representing approximately 9% of the total police staff).¹⁵⁷ This gives Rwanda a police to population ratio of 1/1600, which seems to be low, compared to the security needs in the country.¹⁵⁸ However, this challenge of lack of sufficient number of officers is not a handicap to the crime prevention because this insufficiency is supplemented by the informal structures of social control such as community policing committees and Local Defence Force members and local administration.¹⁵⁹

4.3. Private Security Companies (PSCs)

In Rwanda, private security companies are in their embryonic stage. However, the industry of private security is growing in giant steps. Indeed, currently only eleven private security companies are operational.¹⁶⁰ Those companies are: KK Security Company, Intersec Security Company, Garsec Security Company, Topsec Security International, Excel Security Company, Fodey Security Company, AGEPRO Security Company, ARMOR Group, Blue Hackle, Alarm Systems and Kigali Veterans Security Company.¹⁶¹ All these PSCs operating in Rwanda are organized in Rwanda Private Security Industry Association (RPSI) which is created to unify the voices of PSCs and stand on their behalf before the state organs.

¹⁵⁵ The Commissioner General and Police council exercise the general disciplinary control over the member of the police force (see article 6 and 8 of the law n° 09/2000 of 16/06/2000 mentioned on note 142).

¹⁵⁶ Bureau of Democracy, Human Right and Labour cited in Julie Berg *op cit* (note 141) at 20.

¹⁵⁷ Ministry of Internal security *Strategic plan: year 2009-2013* available online at http://www.mininter.gov.rw/IMG/pdf/STRATEGIC_PLAN_OF_MININTER.pdf [Accessed 11 June 2011].

¹⁵⁸ Ministry of Internal Security *op cit* (note 168). *Ibidem*.

¹⁵⁹ More details on these institutions will be given in section 4.4 of this chapter.

¹⁶⁰ Ivan R Mugisha Rwanda: Police support to security companies in *The New Times* 18 August 2010. Available at [www.http://allafrica.com/stories/201008180286.html](http://allafrica.com/stories/201008180286.html) [Accessed 9 June 2011].

¹⁶¹ This number is still very few if we compare it with the 300 000 PSCs registered in South Africa, 58 in Uganda and 45 in the Democratic Republic of Congo. This information is quoted from Sabelo Gudmede (ed) *Private security sector in Africa* (2008) viii.

The security services provided by private security companies in Rwanda include mainly guarding for preventing theft and robbery. They also offer rapid intervention force which they are required to do by their customers. In cases where private security personnel apprehend a criminal suspect, they hand him to the nearest police unit.

In Rwanda, private security companies offer their services mainly in private spaces (banks, insurance companies, supermarkets) but their activities are expanding toward public spaces (alongside road parking, markets). These services consist in watching, guarding and patrolling. Supplementing the scarcity of state police officers, they are also employed as escorts by the state institutions in keeping the security of high political leaders. Such activities are provided by the ministerial order no11/08 of 09/10/2008 regulating the security of high political leaders.

4.3.1. Regulation of PSCs in Rwanda

In Rwanda, the activities of private security companies are regulated by the ministerial order n°01/07 of 19 June 2007 regulating the functioning of private security companies and the law n°33/2009 of 18/11/2009 relating to arms.

4.3.1.1. Ministerial order n°01/07 of 19 June 2007 regulating the functioning of private security companies

Under article 3 of that law, before starting a private security company, the company must submit a written request to the Minister with the police in his/her duties. Furthermore, article 4 lists the documents that must be included in the application package such as the full address of the applicant (i.e. the company's owner or shareholders, the status of the company and its record of trade and so forth. Article 5 provides that after the analysis of the case by the National Security Committee, the permission to start the private security company is issued by the Minister of Internal Security. In this case the company must register with the National Police in a period not exceeding three months.

With regard to the recruitment of security personnel, article 8 provides that before their recruitment, the list of candidates must be presented to the police to make sure it

contains no former employees of public security instances that have been revoked due to indiscipline. The rest of the candidates, are to receive from the police in partnership with the federation of private security companies, guarding lessons on safety and security. Moreover, regarding the use of firearms by staff of private security companies, it is prohibited by article 16 of this law except in cases of extreme necessity defined by this provision, and even in this case, it is necessary to inform the nearest police station commander.

Considering that in the Rwandan laws, the preliminary investigations of offenses and all situations likely to be offense are the monopoly of the police,¹⁶² article 22 of this law prevents private security agents from engaging in investigations of any suspected situation (all information is to be given to the police).¹⁶³ Moreover, article 23 obliges private security companies to provide quarterly and annual reports to the Commissioner General of the police and clarify the status of their firearms, the offenses they have prevented and those committed to their clients. Finally, article 25 provides that, at any time, the National Police may conduct inspections of private security companies and that the National Security Committee may decide on the suspension or the cancellation of a private security company that does not meet standards set by law.

4.3.1.2. Law n°33/2009 of 18/11/2009 relating to arms¹⁶⁴

Article 3 of this law provides that the license to possess firearms is issued by the Commissioner General of the Police upon request of the interested person. Article 7 provides that private security companies are amongst persons eligible for license for firearms possession and carriage. As for license to import arms, ammunitions and other related materials it is issued by the Minister in charge of National Police.¹⁶⁵ Finally article 34 provides that any holder of firearm who shoots it has to notify this to the nearest police station authorities and reserve a copy to the Commissioner General of the Police.

¹⁶² Article 22 of the law n° 13/2004 of 17/5/2004 on criminal procedure in Official Gazette Special n° of 30/07/2004 as modified and completed up today.

¹⁶³ I believe that this monopoly of the police in investigation matters is justified because the aim of such investigation is to prosecute offenders, a function which is done by the police and the prosecuting authority in the name of all the population. Such monopoly still exists in many other countries.

¹⁶⁴ Law n°33/2009 of 18/11/2009 relating to arms in *Official Gazette n°52 bis of 28/12/2009*.

¹⁶⁵ Law n°33/2009 of 18/11/2009 *op cit* (note 164) article 12.

4.3.2. Partnership between private security companies and the state police

The partnership between RNP and private security companies is characterised by regular meetings held between police officers and leaders of PSCs with the aim of sharing information related to tracking criminals that may undermine security.¹⁶⁶ In general RNP empowers the capacity of PSCs to further strengthen the country's security in general.¹⁶⁷ Moreover, in this regard, article 13 of the law regulating the functioning of private security companies provides that a partnership between the National Police and private security companies is necessary to discuss all situations that have disrupted the security in a certain period of time and that require the intervention of the National Police.

Another sign of partnership is showed by article 5 of the ministerial order n°11/08 of 09/10/2008 which states that vetting of private security companies must take place for those that are given the market of guarding residential premises of political leaders.¹⁶⁸ The use of private security companies in guarding premises of political leader at the place of the state police supplements the scarcity of human resources in the RNP.

4.4. Community policing

Like in other African countries, policing within the community has always existed. However, community policing as a new form of policing that consists of partnership between the state police and community initiatives in policing was developed in Rwanda during the liberation war between 1990 and 1994 and was used by the Rwandese Patriotic Army (RPA) as a means of approaching the population and getting information from them. This partnership between security agencies and the population was strengthened after the genocide and some of its forms were even regulated as is the case for the Local Defence Force and Community Policing Committees as well as local administration leadership. In different work spaces, work-based associations were developed as a new form of policing for those who

¹⁶⁶ R Mugisha *op cit* (note 160).

¹⁶⁷ *Ibidem*.

¹⁶⁸ Article 2 of the ministerial order n°11/08 of 09/10/2008 related to security of high ranked politicians provides that politicians whose residential premises are guarded in this way are Ministers, State Secretaries, Governors, the Mayor of Kigali City and the two Vice-Presidents of the Parliament.

operate in those places. Each of these entities will be discussed in further detail below to shed further light on the nature of the multilateralization of policing in the Rwandan context.

4.4.1 Community policing committees (CPCs)¹⁶⁹

Being aware that ‘policing is no longer the sole responsibility of the police’ but ‘everybody’s business,’¹⁷⁰ in Rwanda, community policing was implemented with the aim of mobilising the local population in crime prevention and in the preservation of order. This implies that the RNP is persuaded that it cannot alone protect the security and safety of the Rwandan society without the collaboration of the population.¹⁷¹ With successful community policing, the population will no longer fear the police but will cooperate and collaborate with them in crime prevention. Therefore, this may enhance the image and the accountability of the police toward the local population. This philosophy coincides with the Rwandan constitution in its article 171 which provides that, as mentioned, there must be a ‘harmonious collaboration between the National Police and the community which it serves’ and that the National Police has to be accountable to the community.¹⁷²

The approach of community policing is found in many other African countries such as South Africa and Liberia where Community Policing Fora (CPF) have been created or in Mozambique where Community Policing Councils (CPCs) have been created. Like CPFs in South Africa, Rwandan CPCs aim ‘to promote police accountability to and cooperation with the local communities, monitor police effectiveness and efficiency; advise the police regarding local policing priorities (...).’¹⁷³ . However, the achievement of this mission needs these committees to be independent and not to be dominated by police officers.

In the context of Rwanda, the objectives of CPCs are to:

- sensitize all the members of the community about their role in safeguarding their own security

¹⁶⁹ Established by the ministerial decree n°02/07 of 18 October 2007 establishing community policing committees.

¹⁷⁰ Baker *op cit* (note 31) at 71.

¹⁷¹ Rwanda National Police ‘Community policing and community policing committees in Rwanda’. Available at www.rnp.gov.rw [Accessed 16 April 2011].

¹⁷² Constitution of the Republic of Rwanda, article 170.

¹⁷³ Baker *op cit* (note 31) at 73.

- enhance cooperation between the public and the police and make the public be aware that the police is theirs
- analyze and find solutions to the problems that cause or may cause insecurity within their community
- make sure that information about the crimes is given to the police on time.¹⁷⁴

CPCs are operational at the lowest levels of the local administration (i.e. the village and the cell) and are managed by local community leaders in consultation with the Community Liaison officer (CLO). The latter is in charge of all committees at the Sector level. As a coordinator, he advises and trains the members of the committees and finds a rapid solution to problems raised by them.

Indeed, at the level of the village, the CPC is composed by the village leader who is its chair person, the person in charge of security in the village who is the secretary of the CPC and three other persons elected by the village members.¹⁷⁵ On the level of the cell, the CPC is composed by the cell Executive Secretary who is the chair person of the committee, all chair persons of the CPCs in all villages composing the cell, all persons in charge of security in all the villages composing the cell, the person in charge of youth in the cell, the person in charge of gender in the cell and the leader of local defence force in the cell.¹⁷⁶

Reports of the committees are addressed to the nearest Police Unit. At the District level, the District Police Commander (DPC) coordinates the Sector Community Policing Committees in the District. At the Provincial and Kigali City level, the Regional Police Commander (RPC) represents all committees in the Province or Kigali City.¹⁷⁷

While the philosophy of community policing is built on the partnership between the local community and the state police, in analysing the mission and the structure of the Rwandan CPCs, it seems that it aims to build the partnership between the police and the local leaders, rather than between the police and the population itself which is the final source of information in crime prevention. I believe that the good way to obtain the partnership between the population and the police is not to pass through the local leader rather passing

¹⁷⁴ Ministerial decree n°02/07 of 18 October 2007 *op cit* (note 169), article 2.

¹⁷⁵ *Idem*, article 8.

¹⁷⁶ *Ibidem*.

¹⁷⁷ *Ibidem*.

directly to those who are concerned. For this reason, I suggest that CPCs should be composed by the persons elected by the population for this purpose rather than the local leader. Moreover, to be effective, these committees should be independent and not dominated by the leaders and police members. More discussion and suggestions on this point will be presented in chapter five and six of this dissertation.

4.4.2. Local Defence Force (LDF)¹⁷⁸

The LDF is a local service responsible for assisting in the maintenance of security among the local communities in which members of the local defence live. Local defence members are selected by their fellow citizens according to their good behaviour and integrity. They receive short training from the police in order to be able to provide support to administrative and security organs, mainly the state police, with regards to the acts of maintaining security of the people and their property. Members of the Local Defence are accountable to the community and the local administration that approves them. The activities of local defence members are voluntary and they are allowed to carry out other duties like their fellow citizens.

Article 7 of the law establishing local defence defines their mission, which is to:

- 1° collaborate with the residents, in maintenance of security of people and their property;
- 2° informing the nearest administrative organs anything that he or she may find as a threat to security;
- 3° assist, if considered necessary, other organs responsible for security of the people and their property;
- 4 ° arrests any person caught red handed disrupting security and handing him or her to the administration or to the nearest police station.¹⁷⁹

Being present in each village of the country and always in touch with the police through direct communication, I may conclude that Local Defence members are like a supplementary force to the state police.

¹⁷⁸ Established by Law n°25/2004 of 19/11/2004 establishing and determining the organisation and functioning of the local service in charge of assisting in the maintenance of security referred to as "local defense" in *Official Gazette n°1 of 1st January 2005*.

¹⁷⁹ *Idem*, article 7.

4.4.3. Local government administration

Following the popular policing model, in Rwanda the lowest local government administration is one of the most influential policing agencies, the one that most people look for their everyday problems related to policing. The lowest local administration leader has a wide responsibility including the mobilisation and sensitisation of the local community in law and order matters, organising night patrols within his/her locality, dealing with minor anti-social behaviour, disputes and crimes or directing them upwards (to the higher level of the local administration, to the mediation committee, to the police or to the court), organizing the civic community work (*umuganda*) held every last Saturday of the month and other needs of the local community.¹⁸⁰

Between 1994 and 2006, the smallest entity of local administration was a '*nyumba kumi*' (a Kiswahili word meaning ten houses) led by a *nyumba kumi* leader, responsible for ten houses. The higher level of local administration was a zone led by the 'chef de zone', and the following level was a cell led by a '*responsable*' (a French word meaning responsible), supplemented by a committee of five people. The task of all these leaders, each one on his level, is similar to the ones of a *nyumba kumi* leader.¹⁸¹

In 2006 there was administrative reform which removed the local administration levels of *nyumbakumi* which was replaced by villages (*umudugudu*).¹⁸² The zone level was removed while the cell level was enhanced by being given an executive secretary that has to work permanently and receive a monthly salary. The tasks which were allowed to a *nyumbakumi* leader before the administrative reform are the same as the ones allowed to the current village leader with a small difference that a village leader is supplemented by a committee of five persons among them one in charge of security matters, one in charge of gender based violence and one in charge of community policing. All of them work voluntarily.

¹⁸⁰ Baker *op cit* (note 134) at 358.

¹⁸¹ This model of policing based on the administrative structures and collective responsibility is similar to the policing system developed in England the early 18th century (for details on this form of policing see TJ Van Heerden *Introduction to police science*, page 21).

¹⁸² See ministerial order n°006/07.01 of 16/08/2006 determining the boundaries of villages in *Official Gazette n° special of 16 August 2006*.

4.4.4. Work-based associations

These are associations of traders or other people working in the same areas of business and who decide to put their force together in order to protect their interests, to police and discipline their own members and settle disputes between traders themselves or between them and their customers. Traders in the same market make associations and elect a committee whose task is to control the conduct of traders, the settlement of disputes between traders and customers or between traders themselves. The market committee is in charge of security matters within the markets and it establishes a system of avoiding theft. During the night it hires night guards who are paid with the money contributed by each trader. This system of policing the market spaces is uniform in all Rwandan markets. In case of a serious problem, the market committee reports it to the nearest police station.

Moreover, such associations are also found in other sectors of business. For example, in Kigali Town, in the sector of transport of persons, drivers' associations do the same in policing their work places. In this regard, the Rwandan Association of Motorbike Drivers (ASSETAMORWA) sorts out disciplinary matters of motorbike drivers while the association of taxi-minibus drivers (ATRACO), controls minibus taxi drivers and all taxi parks across the country. Like the traders' associations, the drivers' associations deal with the problems related to drivers, passengers as well as the theft in their place of work.

4.5. Conclusion

The issue of security is very fundamental and concerns every citizen. As presented in this chapter, the state police, with its scarcity of human resources cannot pretend to be the sole guarantor of peace and order. In a system of multilateralized policing, different modes of security governance join their efforts to keep security and order in their place of work or residence. In such a contest, the police or other state agencies are called to intervene where the community is unable. However, the coordination is necessary to regulate all kinds of policing in order to avoid any kind of abuse which may be a cause of disorder. In Rwanda, such coordination is undertaken by the RNP, which is in fact the main provider of policing activities in Rwanda. However, this form of coordination of policing services by one of the

nodes that compose policing is challenged.¹⁸³ These challenges will be discussed in the following chapter and a solution will be suggested.

¹⁸³ These challenges are obvious since the state police may, in some cases, be the source of abuse.

CHAPTER FIVE: DISCUSSION

This chapter aims to discuss the main issues raised in this dissertation mainly those related to the concept of policing and the ‘multilateralization’ of policing, community policing as one of the forms of policing, the challenges of the ‘multilateralization’ of policing and the Rwandan policing before and after the 1994 genocide.

Indeed, as presented in this dissertation, there was a time when policing was understood wrongly as the work done by the police. However, these ideas were based on the symbolic monopoly of the use of force, but this was a utopian ideal because in reality the state police could not be omnipresent in all situations where it was needed. Therefore, local communities continued to solve their security issues whenever the state police could not solve them. This brought scholars to define policing in a broad sense as ‘any activity that is expressly designed and intended to establish and maintain (or enforce) a defined order within a community.’¹⁸⁴ This broad definition implies that policing may be carried out under state auspices, such as the state police, or non-state auspices such as private security companies and other non-governmental organizations, sometimes based on community and voluntary initiatives. Such situations of multiple agencies that currently authorise and provide policing services have been labelled differently by different scholars as ‘privatisation’, ‘pluralisation’, ‘multilateralization’, ‘network governance’ and ‘nodal governance’.¹⁸⁵ In this dissertation, while discussing this variety of agencies that provide policing services worldwide and in Rwanda in particular, I relied on the term ‘multilateralisation’ as used by Bayley and Shearing.

Moreover, as presented in this dissertation, the ‘multilateralization’ of policing has been the object of challenges. The main challenge is that non-state agencies of policing lack a ‘democratic accountability and legitimacy’.¹⁸⁶ This issue is raised because whilst the state

¹⁸⁴ Joe Hermer et al ‘Policing in Canada in the twenty-first century: Directions for law reform’ in Dennis Cooley (ed) *Re-imagining policing in Canada* (2005) 22 at 23.

¹⁸⁵ Majid Yar ‘From the ‘governance of security’ to ‘governance of failure’: refining the criminological agenda’ 2011 (2) *Internet Journal of Criminology*. Available at www.inernetjournalofcriminology.com [Accessed 2 September 2011]

¹⁸⁶ Yar *op cit* (note 185) at 7.

police is accountable to internal and external state mechanisms of oversight (at least in theory), such mechanisms are absent in the case of non-state state providers of policing. Without advocating for a 'state-centred' policing as it prevailed in the 18th century, Loader and Walker accept that 'policing and security are, for the good or ill, now delivered by dispersed networks' but they suggest that this networked governance must be coordinated and regulated by the state in order to safeguard communal interests as policing is a public good¹⁸⁷.

However, according to Yar this suggestion is not practical if one considers the bureaucracy and the inefficacy of the state, particularly weak states. This scholar argues that the state is not in 'a privileged position' to coordinate policing activities and that it should 'take its place within a 'polycentric' network of inter-dependent actors' rather than being the main actor, a fact which can make policing become 'state-centred'.¹⁸⁸

On this point, I believe that, in a multilateralized policing system, it is obvious that in some cases, providers of policing, be it state and non-state agencies 'have a tendency to use tactics that undermine the principles of human rights'.¹⁸⁹ Therefore, there is a need for the establishment of an independent and neutral statutory institution that moderates and coordinates the activities of all policing agencies. This is so important because all policing agencies 'should be accountable for their plans and actions geared toward crime prevention and apprehension, and answerable to accusations of violations of rules, laws and civil and human rights'.¹⁹⁰ Consequently, this would improve policing and make it effective by preserving civil and human rights.¹⁹¹

Therefore, the state police, as one of the nodes of policing, being also able to commit abuses, is not in a good position to oversee other policing agencies. In this regard, I share the same view with the Law Commission of Canada, in suggesting that an independent 'policing board' should be created by statutory provisions and be given the mission to oversee the activities of all policing agencies.¹⁹²

¹⁸⁷ Yar *op cit* (note 185) at 6-7.

¹⁸⁸ *Ibidem*.

¹⁸⁹ Monique Marks and Jennifer Wood 'South African policing at a crossroads: the case for a 'minimal' and 'minimalist' public police' (2010) 14(3) *Theoretical Criminology* 311 at 313.

¹⁹⁰ Pino and Wiatrowski *op cit* (note 63) at 86.

¹⁹¹ Baker *op cit* (note 1) at 179.

¹⁹² Law Commission of Canada *op cit* (note 11) at 133.

Indeed, in the context of Rwanda, before the 1994 genocide, the oversight and accountability mechanisms of the three scattered state policing agencies were difficult to maintain if not impossible. However, in a democratic state, any state institution such as the state police should be held accountable in order to avoid abuses. In this regards, after the 1994 genocide, the reforms undertaken in Rwandan policing included the establishment of internal and external oversight mechanisms such as the National Police Council¹⁹³, the National Commission of Human Rights and the Office of the Ombudsman. However, in the context of Africa, in general, Rauch and Spuy argue that such mechanisms are under-resourced and unable to make significant impact.¹⁹⁴

Coming back to the context of Rwanda, although I do not dismiss the work done by the above institutions in charge of overseeing the state police and other state institutions in general, I believe that it should be better to create a specific statutory organ in charge of coordination and regulation of policing activities only, including those carried out by state police and non-state policing agencies. By doing so, the challenge of oversight of non-state policing agencies which is actually exercised by the state police whilst it is also one of the nodes composing policing should be given a solution. However, this suggestion does not mean that I advocate for the removal of the existing internal and external mechanisms of controlling the state police, but the latter may collaborate with the suggested institution in charge of coordination and regulation of all policing agencies, both state and non-state. Therefore such an institution should be composed by members representing all policing agencies and those of the public to be policed. This is possible in Rwanda because such institutions in charge of regulating and coordinating activities in a particular domain are established in other domains such as education where there is an education board in charge of regulating all educational issues. For the safeguard of the public good, the suggested policing board should be a public institution.

I believe that, in the context of Rwanda, it would be a utopian ideal to think that the accountability of the state police toward the population is made possible through the CPCs

¹⁹³ This commission is provided by article 7 of the law n°09/2000 *op cit* (note 142). Amongst its functions provided by article 8 of the above mentioned law is to exercise general disciplinary control over members of the police and to deal with complaints by members of the public against the police.

¹⁹⁴ Janine Rauch and Elrena van der Spuy 'Police reform in post conflict Africa: a review' (2006) 162. Available at <http://www.aprn.org.za/policereform/IDASA/pdf> [Accessed 20 July 2011]

since the latter, as one of policing nodes, needs also to be accountable. In addition CPCs cannot exercise control over the police since they are under its control and have to give regular reports. Therefore, as suggested above, there is a need for an independent organ 'able to evince a transversal civilian oversight capability, service delivery and resourcing'¹⁹⁵ of both the state police and non-state policing agencies.¹⁹⁶ The same proposition was given by the Independent Commission on Policing for Northern Ireland that suggested a 'creation of a Policing Board that is responsible for regulating the activity of all the agencies involved in the multilateral process of governing security and not simply the activities of the public police.'¹⁹⁷

Moreover, it is argued that in the case of private security companies offering their security services for cash, citizens are made a 'consumer market' and one can wonder how the equity and equality of access to security is assured 'for the most financially disadvantaged individuals and communities.'¹⁹⁸ On this point, it is argued that such a policing system is 'a breach of the constitution in ensuring that some citizens are more protected than others.'¹⁹⁹ I believe that this inequality is normal in a world dominated by the capitalist system and that it is for the state to assure policing for those who are unable to afford private policing. One of the ways to make it possible is to organize different mechanisms such as community policing. This proposed solution brings some scholars to argue that, as mentioned 'community policing is the private policing for the poor'.²⁰⁰ In Rwanda, the same solution is used in dealing with policing issues in the spaces where the state police is unable to reach because of its scarcity of human, material and financial resources.

Indeed, the Rwandan mechanisms of community policing (i.e. CPCs, LDF members and local leaders) help the state police to get information about what is happening in different villages of the country and to intervene rapidly wherever it is required. Such community policing mechanisms may be considered as 'the eyes and ears to alert the police to anything untoward.'²⁰¹ This is criticised by some scholars who argue that these forms of policing are

¹⁹⁵ Marks and Wood *op cit* (note 189) at 326-327.

¹⁹⁶ In South Africa such an organ exists but it exercises a civilian oversight over the state police only. It is called the Police Civilian Secretariat (see Monique Marks and Jennifer Wood *op cit* note 189 at 326-327).

¹⁹⁷ Independent Commission on Policing for Northern Ireland cited in Bayley and Shearing *op cit* (note 4) at 31.

¹⁹⁸ Yar *op cit* (note 185) at 6-7.

¹⁹⁹ Brogden and Nijhar *op cit* (note 68) at 154.

²⁰⁰ Blair *op cit* (note 22).

²⁰¹ Brogden and Nijhar *op cit* (note 68) at 6.

‘a part of a larger state apparatus of control’²⁰² and that ‘some aspects of civil society should remain private from policing’.²⁰³ On this point, in the Rwandan context, Bruce Baker argues that Rwanda is ‘a highly supervised society’ but that this supervision organised in ‘a community system makes an excellent source of intelligence for crime prevention and investigation.’²⁰⁴ Filip Reyntjens goes further and accuses the government authorities of imposing ‘total control in a short space of time without liberal ideals’²⁰⁵ thus using authoritarian means. However, I believe that this re-establishment of order and security in a short time in a country which was coming from genocide, is an issue for Rwandans to be proud of because the control of their society is a safeguard to avoid any disorder which can move back the country to what happened in genocide and become an ungovernable country like Somalia. Besides, even in Western countries the control exists through non-human policing by use of surveillance camera installed everywhere and which can be considered as ‘an unwanted intrusion’ of the police in civil affairs and ‘as part of process which has led successive governments to introduce a range of measures designed to enhance the powers of the state in regulating social activities...’.²⁰⁶

Furthermore, despite the different achievements of the Rwandan policing after the 1994 genocide, some challenges cannot go amiss. On the one hand, the insufficiency of the Rwanda National Police, human resources is a handicap in fighting crime effectively. Even though the state police officers are reinforced by the Local Defence Forces in keeping security and order, the LDF cannot effectively replace the National Police officers as the former are sometimes unpaid, especially those operating in rural areas. This situation makes them easily corruptible. On the other hand, local defence members do not have enough training in keeping security, deontology of using firearms and respecting the human rights, while executing their duties. Consequently, some of them misuse of the guns they are given to keep security and sometimes they shoot and kill in situations which are not necessary. Moreover, in some cases the LDF members are implicated in armed robberies. This situation may also happen to some PSC agents, who are, in some cases accused of complicity of theft on their places of work, especially those who keep security of premises.

²⁰² Brogden and Nijhar *op cit* (note 68) at 14.

²⁰³ Brogden and Nijhar *op cit* (note 68) at 14.

²⁰⁴ Baker *op cit* (note 134) at 347.

²⁰⁵ Reyntjens cited in Alice Hills *Policing post-conflict cities* (2009)144.

²⁰⁶ Newburn *op cit* (note 30) at 843.

In addition, as all the community members engaged in the different forms of popular policing do it voluntarily, there is risk of corruption, carelessness and lack of interest. Indeed, although Finnegan, Hickson and Rai argue that the 'concept of volunteering needs to be engendered in local communities' and that they 'should be made to understand that the reward' for their service is a safer community'²⁰⁷. However, I am of the same view of Bruce Baker that 'anything dependent on volunteers (...) has a tendency to be unrealisable and in the long term unsustainable'.²⁰⁸ What is more, this is the point of view of the government leaders as it may be noticed in the interview of Bruce Baker with Senator Aloysie Inyumba²⁰⁹ who said that 'to sustain voluntarism is a great challenge. The spirit of voluntarism is very high here now. But we are worried about how to sustain it. So many served their country for no pay—women, youth; but when they get married and both go out to work, will it continue?'²¹⁰

Furthermore, the fact that the Rwandan CPCs are led by local leaders who set up priorities in consultation with the CLO on the sector level makes it to seem like a partnership between the local leaders and the police rather than between the local population and the police. I believe that CPCs should be composed by the local population working independently from local leaders because if they remain composed of the local leaders, the needed partnership between the police and the local population will not be achieved because of this lack of a direct link. Working independently, this committee should meet the CLO not to give report but to address their needs to the police and the latter should now address the needs of the police to the population. I believe that it is only this direct collaboration which can enhance the image of the police toward the population.

Finally, it is important to mention that in Africa, in general and in Rwanda in particular, there is a political control over the state police, since the latter is under the Ministry of Internal Security. In this regard, Rauch and Spuy note that the ministries in charge of police, led in most of case by civilians 'do not have much independent capacity, and tend to rely on the police for information and advice.'²¹¹ This brings the two scholars to suggest that these civilian ministries should be strengthened in order to build a democratic

²⁰⁷ Finnegan, Hickson and Rai cited in Bruce Baker *op cit* (note 31) at 80.

²⁰⁸ *Ibidem*.

²⁰⁹ Currently Aloysie Inyumba is the Minister of Gender and Family Promotion.

²¹⁰ Interview of Bruce Baker with Senator Aloysie Inyumba on 28 February 2006 in Bruce Baker *op cit* (note 134) at 359.

²¹¹ Rauch and Van der Spuy *op cit* (note 194) at 162.

state police. I believe that this would be the same for the Rwandan Ministry of Internal Security which is in charge of the police.

CHAPTER SIX: CONCLUDING REMARKS AND SUGGESTIONS

This final chapter is concerned with a brief summary of the whole study and some suggestions.

6.1. Concluding remarks

This dissertation has discussed the trends and the evolution of policing on the international scale in general but focussed on Africa and Rwanda in particular. I have argued that although Western countries' governments have tried to monopolise policing services, this has been unsuccessful because the state police was unable to satisfy the needs of all the population in term of security services. This has led to the rebirth and expansion of community and non-state initiatives of policing as well as private security companies.

In African countries and in Rwanda in general, I have argued that, before colonization, policing was carried out by traditional structures of policing led by family chiefs and local administration leaders. During and even after colonization, these structures co-existed with the state policing structures copied from the colonizing countries. In the 1990s, these citizen-led initiatives were developed by state policies and adapted to Western models of community policing to build a partnership between the police and the community and to supplement the scarcity of state police in preventing crimes. This has succeeded in some countries where it was implemented according to the local context but in others it has failed.

This dissertation has focussed on Rwandan policing before and after the 1994 genocide. In this regard, I have argued that before the 1994 genocide, Rwandan policing was dominated by a paramilitary police force that was feared by the population. This made it impossible to approach the population and as result they lacked information to assist in preventing crime prevention, which is the main mission of the state police. In the absence of the state police, security issues within the community were carried out by traditional structures. Although no private security company was operational in the country; one cannot say that policing was the monopoly of the state police.

Apart from the lack of cooperation and collaboration between the police and the population, I have argued that the state police was organised in three scattered agencies: the communal police, the National Gendarmerie and the Judicial Police, under responsibility of different Ministries and this made their coordination impossible. After the genocide, Rwandan policing was restructured. In this dissertation I have argued that this restructuring concerned first the creation of a new National Police different from the army. This was made by the fusion of the three existing policing agencies. It was also concerned with rebuilding the image of the state police towards the community by implementing different structures of community policing such as the Local Defence Force, Community Policing Committees, local administration leaders and other local initiatives like work-based associations. This post-genocide period was also characterised by the birth and the expansion of private security companies that provide security services mainly in commercial spaces. Such non-state policing agencies make the state police 'minimal police'²¹²; a police that intervenes only on the demands of the community when their expertise is required. Marks and Wood argue that this contributes towards the enhancement of the image of the police and boosts the police morale since they are welcomed and respected by the population rather than being feared.²¹³

Finally, despite the improvements made in policing after the 1994 genocide some challenges and strategies need to be discussed for a better improvement of Rwandan policing in the future. This will be discussed in the following section.

6.2. Suggestions

For a better improvement of the Rwandan policing policy in the future, I would like to present the following suggestions as solutions to the challenges presented in chapter six of this study.

Indeed, I have argued that that LDF members lack skills in terms of deontology of use of firearms and human rights principles. The solution that I propose is that there should be the organisation of regular training on those issues and the application of severe sanctions to those who break the laws. Moreover, for the challenge that all community members involved in popular policing (i.e. lowest local leaders, LDF and CPCs members) do it voluntarily, there

²¹² Monique Marks and Jennifer Wood *op cit* (note 189) at 322.

²¹³ *Ibidem*.

is a risk of corruption or lack of interest in their activities. The solution should be that they should be encouraged by receiving small salaries or prizes. This may be made possible by establishing a public fund in this domain or charging some sum of money from persons who receive their service. The money received may be put apart and serve the above mentioned purpose. This solution that I suggest has worked and succeeded in some other countries such as Mozambique and South Africa. In Mozambique for example, Community Policing Councils, discontent with lack of state remuneration, resorted to monthly community fees and contributions from businesses.²¹⁴ In South Africa, for every gathering held by peace committees, a sum of money is provided and 50 per cent of that money is paid to the members who facilitated the gathering and the rest of money is used in small community development project projects such as child care, waste disposal etc. As a result, these projects profit all members of the community.²¹⁵ As committees are paid R400 (approximately \$40) if they organize at least ten gathering per month, they receive money that can 'put food on the table'.²¹⁶ The same charges are also asked in Uganda where Local councils²¹⁷ charge 500 shillings per month to all households.²¹⁸ This helps motivate them and serve the community effectively. Therefore, I suggest the reform of the law n°25/2004 of 19/11/2004 establishing and determining the organisation and functioning of the local service in charge of assisting in the maintenance of security referred to as "local defence" and the ministerial order n°02 of 18/10/2007 establishing Community Policing Committees to incorporate the proposed provisions. In addition the ministerial order establishing CPCs should be transformed into a law in order to strengthen the CPCs. The latter should work in partnership with the local leaders and the police, but remain independent from them.

Moreover, considering that 'the only legitimate policing is policing that helps, creates an environment free from fear and conducive to the realization of human rights...'²¹⁹ the regulation of different policing agencies is necessary in order to prevent all forms of abuses in providing policing services. The state police, being one of the nodes that compose policing, would not be given such powers to oversee other providers of policing, it would be

²¹⁴ Baker *op cit* (note 31) at 81.

²¹⁵ Clifford Shearing and Jennifer Wood *op cit* (note 104) at 417.

²¹⁶ Dupont, Grabosky and Shearing *op cit* (note 52) at 344.

²¹⁷ In Uganda Local Councils act like local police as well as like local courts.

²¹⁸ Baker *op cit* (note 31) at 117.

²¹⁹ Commonwealth Human Initiative 'Strengthening democratic policing in the commonwealth pacific' (2006)1. Available at http://www.humanrightsinitiative.org/publications/police/strengthening_democratic_policing_in_cwpacific.pdf [Accessed 02 September 20011].

better to create an independent 'policing board'²²⁰ different from the existing Police Council as provided in article 7 and 8 of the law establishing the National Police²²¹ or any other statutory institution more powerful than the state police²²² whose task would be to coordinate, regulate and handle all policing issues without any distinction between the state and non-state policing agencies. In Rwanda, such an institution should be decentralized up to sector level.

Finally this is not the last word on the forms of policing in Rwanda. On an international scale, policing is gradually growing and as Rwanda is not an island; some new forms of policing may arise.²²³ Therefore, it is an invitation to other researchers to further research especially on the topic of effectiveness and accountability of policing in Rwanda, community justice and access to justice and so forth.

²²⁰ Clifford Shearing 'A new beginning for policing' (2000) 27 (3) *Journal of Law and Society* 386 at 389

²²¹ It is thought that this internal mechanism composed by police officers may only serve to conceal the abuses committed by their colleagues or themselves. Therefore a neutral organ is needed for better accountability.

²²² Neil Walker cited in Trevor Jones 'The government accountability of policing' in Tim Newburn (ed) *Handbook of policing* (2003) 603 at 619.

²²³ Here I think of the current development of information and technology where in developed countries policing has reached the level of non-human policing using automatic instruments in keeping security. The allusion can also be made to cybercrime policing.

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