

# ARTICLES

## Police reform in Africa: theory, policy and practice in the making?\*

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### ABSTRACT

The nature of police agencies on the payroll of the state in Africa remains ill-researched and by implication ill-understood. An Africa-wide police studies is still to be developed, although recent contributions are beginning to set instructive examples to those eager to participate. In search of more details regarding police reform, how it is conceptualised on the one hand, and practised on the other, this paper engages with the substantive deliberations of five workshops on police reform which took place in a number of locations in Africa between June 2006 and May 2007. Each of the five workshops is subjected to interpretative reading and comparative analysis. The aim is to highlight the kinds of issues around which discussion on police in Africa have been taking place. Each of the deliberations yields some insight into the state of the public police in Africa; the policy frameworks in terms of which police reform is articulated; the perceived opportunities for reform; the strategies devised by social actors; and the range of obstacles which reform interventions confront. In the concluding section, the challenges confronting the development of an African police studies are very briefly considered.

### Introduction

While regional armed conflicts remain one of Africa's most pressing (and depressing) calamities (the Horn of Africa, the eastern parts of the Democratic Republic of Congo, Sudan-Darfur-Chad to name just some of the current ones), the resolution of others has enabled a process of state building, or rebuilding, to start anew. Prominent among the issues is what might be called *Project Police Reform*. Attempts to come to grips with the establishment of effective public police agencies have

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given birth to a veritable cottage industry. Aside from the daily efforts on the ground in just about every sub-Saharan African state, the project brings together an increasingly diverse number of constituencies of national, regional and international persuasion at conferences, workshops and symposia, to plot the future of the public police.

Taking advantage of my attendance at a series of such gatherings recently, this paper attempts to provide a personal overview of the kinds of issues facing sub-Saharan public police agencies, as articulated both formally and informally during these meetings. Perhaps the main defence for such an approach lies in the fact that I was the only participant common at all of these meetings and can thus (modestly) claim that the overview has at least an element of novelty. The workshops reviewed here took place over a twelve-month period and comprised a national workshop on internal police complaints systems in Abuja, Nigeria; two regional seminars on the police (West and East Africa), one again in Abuja, and the other in Nairobi, Kenya; a more ambitious conference on the democratisation of police agencies in post-conflict African countries in Pretoria, South Africa; and lastly, an international symposium on labour relations involving African police agencies in Maseru, Lesotho.

While not exhaustive of all conversations on police reform over the past year, these gatherings were very much representative of the kinds of reformist debates on the police currently taking place in different regions of Africa. Methodologically speaking, there is a case to be made for treating conferences as research settings rich in detail. By drawing on my status as participant in, and *in situ* observer at each of the workshops, an attempt is made to provide a narrative analysis through the lens of 'conference ethnography' (admittedly 'thin' rather than 'thick').<sup>1</sup> In defence of this methodology I draw on a provocative piece that appeared over a decade ago in the *Scottish Journal of Criminal Justice Studies* by the well-known criminologist Stan Cohen.<sup>2</sup> Writing on academic conferences ('a meeting between live human beings'), Cohen<sup>3</sup>, in his inimitable style, noted how conferences have long been social events of ritual importance to academic constituencies. Since Cohen wrote, the further proliferation worldwide of conferences, workshops, round tables, breakaways (in South African jargon *indabas* or *bosberade*) has underlined just how routine these ceremonial events, catering for a wide range of constituencies, have become.

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<sup>1</sup> The notion of ethnography as 'thick description' was popularised by Clifford Geertz in *The Interpretation of Cultures* (1973). In this instance of 'conference ethnography', however, it is appropriate to emphasise the relative 'thinness' of the method utilised.

<sup>2</sup> S Cohen 'Conference life: The rough guide' (1995) 1 *Scottish Journal of Criminal Justice Studies* 33.

<sup>3</sup> Cohen op cit (n2) 33.

Conferences concerning the police (as with other issues) are organised around topical issues of a political or theoretical nature (police reform in post-conflict settings; police accountability; internal police discipline; police labour relations). They rely on linguistic codes, or 'discourses' to communicate ideas about the world. Workshops are convened by organising committees that represent the interests of particular constituencies. Looking at the five gatherings on police reform discussed here, such committees may draw on academics, human rights constituencies, police professionals, non-governmental organisations, development agencies, international policy networks, or a combination of all of these. Conference committees define their political agendas in more or less explicit terms (for example, to advance 'democratic policing'; identify 'best practices' for duplication elsewhere; raise 'public awareness' about police abuse of power; 'strengthen international assistance' for police reform; 'advance the labour rights' of police). Issues are pitched and conferences are packaged in ways conducive to attracting both political and financial support (*human rights* and policing, police *effectiveness*, strengthening police *disciplinary procedures*). Philanthropists are wooed, development agencies are courted, and the corporate sector persuaded — all with the view to securing a resource base for the holding of the event and giving the proceedings a political *edge*. Being able to demonstrate potential *policy* impact has become an almost standard requirement for obtaining financial backing.

Conferences have become expensive affairs. Delegates need to be transported, housed, fed, provided with conference packs (which include the obligatory shoulder bag preferably produced by some job-creation scheme), carted off on field trips, to tourist destinations or shopping malls where delegates can 'do' a bit of culture and a fair amount of shopping. The more diverse the conference attendees, the more tranquil and plush the conference location, the bigger the price tag attached to the event. Conferences don't just happen. Long before the actual event takes place ideas need to be exchanged, a core group of influential people mobilised, proposals drafted and high profile speakers identified. Only then is the conference event marketed more widely. When governmental buy-in is sought there are elaborate protocols to be obeyed. Political legitimacy, financial resources and administrative capacity are three critical ingredients upon which the health of conferences rely.

In an increasingly competitive environment, organisers have to identify a niche, pick a lane on the highway of workshops, and target their efforts at particular constituencies (*African* scholars, *security sector reform* policy elites, *transnational* non-governmental organisations, or *criminal justice* practitioners at the *regional* level). The nightmare of logistics cannot be avoided: there are official letters of invitation

to be dispatched for visas to be secured, travel arrangements to be made *and altered*, and the dietary needs of carnivores, herbivores, and the lactose intolerant to be attended to. The conference programme will evolve and mutate, wax and wane in response to crises. As for format, there are the obligatory plenary sessions on the one hand and the multiple break away groups on the other. A small army of scribes and rapporteurs need to be briefed and kept under tight rein. In the light of all of this it is no wonder that conference events have given birth to professional events-organisers who will, for a generous slice of the overall conference budget, attend to at least some of the logistical headaches.

Conferences, workshops and symposia are social events at which purposeful interaction takes place. Such interactions are guided by social scripts. Beyond the tone and substance of formal presentations delivered from the plenary podium or in breakaway groups, there are the informal conversations that happen *outside* the conference venues. Doing ethnography on the margins of the formal venues can be rewarding, for informal conversations do not have to adhere to the performance scripts and tight rules of public presentations. Conferences yield opportunities for establishing contacts ('networking'), which may yield future dividends: an invitation to attend another conference, a proposal for some collaborative research or an offer for consultancy work. Social networking and the obligatory exchange of business cards are as important to the business of *conferencing* as the front loading and knowledge transfer that happens through (increasingly cryptic) Power Point presentations.

Conference settings provide layers of meaning to be de- or re-constructed. Such constructions have to be attentive to a wide variety of factors. Time is one such factor. For example, in mid-2006, in Abuja where 100 senior police convened to discuss strengthening internal disciplinary mechanisms, the conference tables displayed the trappings of modern technology: all senior police had two mobiles and a small select group sported three. 'Service providers were unreliable', I was told.<sup>4</sup> Throughout the proceedings the mobiles would ring, buzz, vibrate and flicker. The Nigerian police seemed ready for whatever action the service providers (the South African company, MTN included) could bring to their attention, provided, of course, that they could negotiate their way over the enormous potholes so characteristic a feature of Nigerian roads. One could not help but wonder about the challenges for essential services, such as the police, which this disjuncture between modern technology and rudimentary infrastructure posed.

Social context is a variable and always intriguing affair. In Abuja, the

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<sup>4</sup> Field notes, Abuja, Nigeria, 27 June 2006.

proceedings which were dominated by senior members of the Nigerian Police, started with prayers: Christian *and* Muslim. The seriousness and solemn nature of the ritual provided a cultural echo of practices to which the former South African Police adhered under an altogether different political dispensation. Seeking the blessing of Allah or God as a start to the proceedings is a cultural practice not readily found in modern secularised states. Yet the ritual says a fair amount about the cultural context within which the police have to operate and the quagmires that religious diversity and conflict present to the police as guardians of communal order.

Diverse locations dictate diverse practices. There is the important matter of food. In Nigeria you are likely to have meaty stews (goat, lamb, chicken) for breakfast instead of the designer fruit plates served at conference venues down south (Cape Town, Pretoria). 'Cold food is not real food. Real food is cooked food', explained one Nigerian colleague. Dress codes at workshops on the police vary from one location to the next: Afro-Parisian chic with head scarves twisted in elaborate swirls (Francophone Africa), to a combination of flowing African men's robes (in starched white, deep purple or very yellow), subdued power suits and brand name jeans (at get-togethers, for example in that capital of formality, Pretoria).

The social composition of both the performers *and* the audience for whom the performance is enacted has a bearing. In Africa, when politicians are in attendance, the protocols observed are elaborate. This is understandable in a region of the world where political office is imbued with the meanings of patronage. By contrast, in Lesotho where trade unionists were central, the proceedings were informal. Here the police delegates who were brought together to talk about workplace bargaining broke into song at each and every interval. They were slow rhythmic songs interspersed with references to 'comrades' engaging in 'shop floor' struggles.

As elsewhere, in conference settings too, meaning is contextual. The challenge for interpretative analysis is to slip inside the event itself, to become fully immersed and then to step outside and become disentangled from the proceedings. Interpretative analysis of what is being said, where, when, how and to whom is a challenging undertaking. But it is one worth pursuing, particularly in the absence of much else, like a basic sociology of police in Africa. Simply put, conference attendance, and narrative analysis of conference proceedings, can be construed as research by proxy.

For this commentary, based on such research by proxy, I rely on a mixture of graphic memories, notes, conference 'papers', ex-post facto symposia reports, and a battery of press releases. Here the aim is modest: to highlight the kinds of substantive issues around which dis-

cussions on police reform in Africa has been taking place. Each of the deliberations, I argue, yields some insight into the state of the public police in Africa (mostly deplorable); the policy frameworks or 'narratives' in terms of which police reform is articulated (both grand and vague); the perceived opportunities for reform (all too often minimal and always contested); the strategies (increasingly pragmatic) that social actors devise and the range of obstacles (very diverse indeed) which reform interventions confront.

### **Institutionalising police accountability and oversight in Africa: a Nigerian case study**

In recent conversations on police reform in Africa the issue of police accountability is writ large. This has much to do with the latest wave of democratisation that has brought the principles of 'good governance' to bear on political deliberations on state performance more generally and the performance of security agencies in Africa more specifically. The issue of accountability and oversight has emerged as a vocal point for lobbying and research on police in Africa. In this regard the efforts of the Commonwealth Human Rights Initiative<sup>5</sup> as well as the Open Society Foundation<sup>6</sup> deserve particular mention. So, for example, public debate on constitutional issues in Kenya formed the background for a conference on police reform in East Africa.<sup>7</sup> Co-convened by the Commonwealth Human Rights Initiative and the newly established Kenyan Human Rights Committee, the conference proceedings contain conceptual engagements with 'the dimensions and limits of police accountability' before turning to a comparative analysis of the challenges, which the quest for police accountability confronted in the region.

Shortly thereafter the Commonwealth Human Rights Initiative published country-specific reports on police accountability in Tanzania,<sup>8</sup> Uganda<sup>9</sup> and Kenya.<sup>10</sup> Each of the reports provided a historical

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<sup>5</sup> Commonwealth Human Rights Initiative 'Police Accountability: Too Important to Neglect, Too Urgent to Delay' (2005).

<sup>6</sup> See for example, Open Society Foundation 'Report of Workshop on Civilian Oversight and Monitoring of the Police' (2003).

<sup>7</sup> Commonwealth Human Rights Initiative 'Police as a Service Organisation: An agenda for change'. A Report on the Roundtable Conference on Police Reform in East Africa, 24-5 April 2003 organised by the Commonwealth Human Rights Initiative in collaboration with the Kenya Human Rights Commission and the Kenya Police Force.

<sup>8</sup> Commonwealth Human Rights Initiative 'The Police, The People, The Politics: Police Accountability in Tanzania' (2006).

<sup>9</sup> Commonwealth Human Rights Initiative 'The Police, The People, The Politics: Police Accountability in Uganda' (2006).

<sup>10</sup> Commonwealth Human Rights Initiative 'The Police, The People, The Politics: Police Accountability in Kenya' (2006).

and political contextualisation of state policing and a discussion of the mechanisms involved in the oversight of the public police. Such research has provided much-needed baseline information on accountability arrangements and has been instrumental in informing policy frameworks for strategic interventions on a wider regional scale. The country reports and comparative assessments have informed the lobbying endeavours, spearheaded by the Commonwealth Human Rights Initiative at the Commonwealth Heads of Government Meeting in 2005, and more recently of a policy network (African Policing Civilian Oversight Forum) at the meeting of the African Commission on Human and Peoples' Rights in 2006.

Hence, the Nigerian deliberations on the topic of police accountability, which took place between 26 and 28 June 2006, need to be appreciated against a wider regional framework of debate on state building and police accountability.<sup>11</sup> The *Workshop on Police International Complaints System in Nigeria*, was organised jointly by the foremost human rights non-governmental organisation in Nigeria, the Centre for Law Enforcement Education<sup>12</sup> and the Ministry of Police Affairs (with financial support from the MacArthur Foundation).<sup>13</sup> This joint partnership is not without significance in a region where state-civil society collaborations around police issues are relatively few and far between. The workshop brought together senior officials of the Nigerian Police Force and a small handful of politicians and scholars in Abuja, the administrative centre of Nigeria. The most populous of all the states of West Africa, Nigeria's police force of 325 000 is responsible for 'serving' a population of over 128 million scattered across a vast and (in pockets) troublesome territory.<sup>14</sup> A comment made by a police officer, that the police in Nigeria are a 'hard commodity to sell', set the tone for the discussions on the shortcomings of the public police,

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<sup>11</sup> See C Stone 'Tracing police accountability in theory and practice' (2007) 11(2) *Theoretical Criminology* 245.

<sup>12</sup> The Centre for Law Enforcement Education was established in 1998. Its mission is to 'promote public safety, security and accessible justice in partnership with government and civil society.' For more details see <http://www.cleen.org>, accessed on 20 August 2007.

<sup>13</sup> The MacArthur Foundation is a large United States of America private philanthropic foundation supporting (through grants and loans) work in global security, human development and public-interest media. Nigeria is one of four countries earmarked for special assistance. The Foundation has been supporting the Centre for Law Enforcement Education's efforts to modernise the police in Nigeria with a particular emphasis on establishing accountability structures and practices. See <http://www.macfound.org> accessed on 20 August 2007.

<sup>14</sup> J Rauch and E van der Spuy 'Police reform in post-conflict Africa' (2007), an unpublished report tabled at the *Conference on Police Reform in Post-Conflict Africa*, held at Zebra Lodge, Pretoria, 12-15 March 2007 at 107.

shaped by the turbulent history, the intrigues of politics and the institutional woes of the Nigerian police itself.<sup>15</sup>

Nigeria's recent political history, and by implication the history of the Nigerian Police Force, is steeped in the legacies of military rule and civil war. To this one may add the observation that it is also a legacy common to security agencies in Africa. Despite a recent return in 1990 to constitutional democracy in Nigeria, the political system continues to be characterised by instability, corruption, and inefficiency. Whilst reform of the Nigerian Police Force has been a proclaimed aim of successive Nigerian regimes, both military and civilian, the police agency remains institutionally underdeveloped as well as being besieged by a wide range of challenges. It is against this structural background that the discussions in Abuja reiterated the necessity for effective systems of police accountability and considered, more specifically, the challenges confronting the strengthening of an internal complaints system within the Nigerian police.

The discussions illustrated the gap between the theory and actual practice of accountability. Mechanisms of accountability, which exist so neatly on paper, struggle to make their presence felt on the ground. A number of factors were said to exacerbate this state of affairs: resource constraints within oversight bodies; the absence of political will at the centre combined with undue political interference in policing; and weak capacity on the part of civil society. The hindrances to effective internal control were discussed at some length. The factors identified as impediments to professionalism ranged from widespread corruption to an attitude of indifference to rules and regulations, incompetence amongst senior officers, poor conditions of service, low levels of recruitment, and inadequate training. As it would turn out, there was little peculiarly *Nigerian* about this state of affairs.

At the end of the three-day deliberations, the priority areas for strategic 'action' were defined, and a conference committee was established to pursue a number of interventions. The list of proposed interventions were modest but challenging nevertheless: developing a database to track complaints against the police; making public the budgetary allocation for oversight mechanisms; synchronising the efforts of external and internal oversight structures; compiling an information booklet on disciplinary mechanisms to educate civilians; and creating opportunities for rewarding good performance amongst the police. The coordinating role for such follow-up efforts was assigned to the Centre for Law Enforcement Education Foundation, no doubt in recognition of the brokerage role in the arena of criminal justice reform it has carved out for itself over the past decade.

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<sup>15</sup> Field notes, Abuja, Nigeria, 27 June 2006.



In retrospect, the Abuja discussions were of particular interest for a number of reasons. Here police personnel themselves (rather than civilian outsiders or human rights critics) were dissecting the challenges confronting their own organisation. Furthermore, this workshop engaged with police accountability in the trickiness of its implementation. At this occasion reified and abstract engagements with oversight and accountability as sacred principles, free-floating from actual contexts, were largely absent. In Abuja, the discussions were characterised by pragmatic assessments of the range of challenges that confront the translation of accountability principles into everyday practices. In contrast to other kinds of deliberations where there is a tendency to focus on external mechanisms of accountability superimposed on the police agency, this workshop emphasised the importance of developing oversight capacity within police structures. In this view police themselves were active agents in forging (or sabotaging, for that matter) an institutional culture of accountability. As such the discussions reflected a growing realisation that mechanisms of accountability imposed from above require compliance and cooperation from below. Such compliance and cooperation amongst police officials had to be crafted, bit by bit, through constructive and collaborative engagements. Finally, the Abuja discussions also pointed to the critical role that competent and credible non-governmental organisations (in this instance, the Centre for Law Enforcement Education Foundation) can play as honest brokers in discussions on police reform in which the police themselves are active and vocal participants.

### **Audits of the police in Africa: regional engagements**

The dearth of reliable information and basic research about the size and shape of police forces and the organisational challenges police agencies in Africa face is widely recognised. Thus the contributions of two regional engagements were of much value in this regard. In the first, some 80 delegates from a wide range of West African countries were brought together at a *Regional Seminar on Police and Policing in West Africa*, held in Abuja, from 11 to 13 December 2006. The Centre for Legal Enforcement Education Foundation again took responsibility for organising the seminar, in collaboration with the Nigerian Ministry of Police Affairs, the Open Society Initiative and a very recently formed advocacy body, the African Policing Civilian Oversight Forum.<sup>16</sup>

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<sup>16</sup> The African Policing Civilian Oversight Forum was established in 2004. It consists of a network of African policing practitioners drawn from state and non-state institutions, and seeks to promote civilian oversight over policing. Its objectives are to develop a culture of human rights, integrity, transparency and accountability within the police, promote police-community interaction and promote good working conditions in the police. Over the past year the Forum has been interacting with the African Commission on Human and Peoples' Rights with the view to placing the issue of police accountability more firmly on the African agenda.

The seminar provided a platform to share ideas on and experiences of police reform and to map priority areas for programmatic intervention in a region where post-conflict reconstruction was very much underway. Country teams consisting of a representative from government, the police and civil society made submissions on issues relating to the legal framework for police, internal control systems, and the state of civilian oversight and community partnerships. Before long it became starkly evident that in post-conflict settings (such as in Rwanda, Sierra Leone, Liberia) police-building, like state-building more generally, confronted enormous challenges. Cross-cutting concerns from Togo to The Gambia and Cameroon converged around, *inter alia*, the deplorable state of public police agencies; the frailty of the state apparatus itself; the resource constraints confronting reconstruction in all spheres of life; the overall fragility of the rule of law; and the weakness, too, of civil society to engage with state reform, including reform of its armed formations.

Listening to the tales of woe one could not but be struck by the subtext of the conversation, namely, that the political economy of underdevelopment constituted the structural context within which reform of the police had to be designed. The West African region is one to which dire poverty and underdevelopment (Cameroon, Togo, The Gambia), civil strife (Sierra Leone, Liberia), and general state weakness are no strangers. As the conversations gained momentum, the dispassionate observer could not but wonder to what extent the standard templates for police reform, designed in the laboratories of advanced democracies, simply fail to appreciate the very conditions with which police reform in post-conflict quarters of the developing world have to contend.

But the dilemma around the police and its reform in Africa is not a singular thing. Different colonial legacies injected a measure of diversity into the conversation on the pathways for police reform. The latter point was brought to the fore by delegates from French-speaking Africa in particular. For example, the discussions touched on the French tradition of policing as reflected in the structure, function and accountability arrangements of police systems in Burkina Faso, Togo and Senegal. Such traditions pose particular challenges to reform templates based on British models and pursued by the policy experts attached to, for example, the United Kingdom's Department for International Development. Future engagements with police reform in Africa have to come to terms with both commonalities and differences across the colonial divisions of Francophone, Lusophone and Anglophone Africa, and to consider the impact of divergent traditions on contemporary reform efforts.

Towards the end of the proceedings a West African Policing Reform Network was created with the view to sharing information and good practices in the region. Both the Centre for Law Enforcement Education Foundation and a regional advocacy network (the African Policing Civilian Oversight Forum) pledged its support for the work of the West African Policing Reform Network. It was through the formation of this network that the advocacy and lobbying agenda of the overall proceedings were given both content and a basic structure.

On the *East African* side of the equation, some 70 delegates (from Burundi, Rwanda, Sudan, Kenya, Zanzibar, Uganda and Tanzania) convened in Nairobi in June 2007 to engage with issues relating to the *accountability* and *effectiveness* of police. Whilst the workshop was closely modelled on its West African counterpart, this time round the issue of police accountability was coupled with that of effectiveness — a not insignificant move. Co-convened by a national human rights structure (the Kenya National Commission on Human Rights), a regional advocacy structure (African Policing Civilian Oversight Forum) and an international research/advocacy network (Commonwealth Human Rights Initiative), the discussions were focused on police accountability and effectiveness in three contested spaces: the policing of elections, the policing of serious crime, and the policing of terrorism.

In the event, the Nairobi discussions of June 2007 could not have been more pertinent to the actual situation prevailing on the streets of the capital city itself. In the week prior to the workshop, media attention focused on violent police reprisals against Mungiki ‘gangsters’ in informal settlement areas in the city. As the opening speech at the conference, delivered by Chief Justice Gicheru got underway, reports of a foiled bomb blast in the centre of the city made headlines. Television coverage of security agencies’ responses to the terror alert provided a visual angle onto the display of a policing force in a country which was, by all accounts, experiencing yet another security crisis. The streets of Nairobi provided a real, as opposed to simulated, laboratory for the discussions on police accountability and effectiveness, which took place in a tranquil and securitised part (a golf estate) of the troubled city.

A last minute decision on the part of the Kenyan Police *not* to participate in the workshop (due to some alleged protocol violation on the part of the Kenya Human Rights Commission) also led to a withdrawal of police delegates from neighbouring countries. As a consequence, civil society held forth on matters of concern in the complete absence of police officials — a far cry from the situation that prevailed in the 2003 Commonwealth Human Rights Initiative Conference in Nairobi

and in West Africa where representatives from the police constituted an integral part of most of the country teams.<sup>17</sup>

Here the voices of human rights bodies from Kenya, Uganda, Rwanda, Burundi and Sudan were particularly vocal. In the discussions, the tricky politics underlying the interaction between oversight bodies and security agencies were brought to the fore in some detail. Interesting variations in the nature of the relationship (adversarial or cooperative) between the police and oversight bodies from one national location to another became evident. The dominant themes that emerged during the discussions reaffirmed problems relating to weak police institutions, the dearth of professional skills and the lack of resources affecting police agencies.

Furthermore, country-based presentations made clear the extent to which police practices in the region continued to converge around the naked fist. Continental guidelines prohibiting the use of torture (such as the Robben Island Guidelines<sup>18</sup> drawn up in 2002) notwithstanding, policing in the region remains characterised by a reliance on force, the routinisation of torture, and confession-based police practices. 'But how else', asked one Ugandan delegate, 'if the police lack the most basic of professional expertise and infrastructural capacity on which evidence-based policing in the West relies?' 'How do we get criminals to confess, if we don't torture?'<sup>19</sup> was the question which, according to a member of the Ugandan human rights body, the police in Uganda posed to the oversight body in all sincerity.

Admittedly, the taste for force was not only a police problem. 'Society too' as another delegate commented 'had a little bit of sympathy for the use of force and torture'.<sup>20</sup> Piled on top of such proclivities were widespread corruption amongst the police and overall lack of trust in the police. (Moses, the taxi-driver who took me to the Rift Valley, concurred. Along the way there and back we passed through a total of five check-points. 'What are they there for?' I asked. 'Bribery', he replied. 'Nothing else.' Looking in his rear view mirror, he added: 'In this country, police is a major source of insecurity.'<sup>21</sup> I thought about his choice of words: *police as a major source of insecurity*. What challenges, I wondered, do police agencies as sources of insecurity pose to the larger project of police reform?)

<sup>17</sup> Field notes, Abuja, Nigeria, 27 June 2006.

<sup>18</sup> The Robben Island Guidelines refer to the Resolution on Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel and Inhuman or Degrading Treatment or Punishment in Africa, which was adopted by the African Commission during its 32<sup>nd</sup> session, in Banjul, Gambia 17-23 October 2002.

<sup>19</sup> Field notes, Nairobi, 12 June 2007.

<sup>20</sup> Ibid.

<sup>21</sup> Field notes, Nairobi, 14 December 2006.

At the East African proceedings political interference in and manipulation of the police for sectarian political ends emerged as another central theme, which criss-crossed national borders in the region. Delegates from Uganda elaborated on the issue in considerable detail. Reflections on the partisan role of the police during Nigeria's recent general elections added further detail regarding the way in which regime policing continued to conduct itself in the contested spaces of elections. Furthermore, the implications of a global anti-terrorism agenda for civilian policing were explored at some length through country presentations. The national implications of the new global concern with terror seemed obvious enough: security agencies were claiming more powers, more discretion and were being granted more immunity for strong arm actions against so-called terror suspects. In countries where accountability of security agencies remains weak, the anti-terrorism agenda creates new impetus for undermining human rights protection. A representative of the Commonwealth Human Rights Initiative brought comparative evidence from elsewhere in the Commonwealth to bear on the topic.<sup>22</sup> She argued the point as follows:

'The problem of the internationalised agenda of anti-terrorism is the permissiveness it creates for policing practices that violate human rights and the rule of law. Additional challenges include the militarization of policing. This is a significant challenge to civil society seeking to hold police to account. It is also a challenge for the police, as they struggle to operate in joint military-police forces with unclear or undetectable chains of command, and with agencies other than those traditionally engaged in security for the state. These agents bring different training and different objectives to the landscape of civilian policing.'<sup>23</sup>

As the conversations evolved, the parallels between the policing of serious crime, elections and terror became more evident. For each policing context seems to provide new opportunities for security agencies to militarise their operational strategies, to compromise on the principles of legality, and to violate the rights of suspects. That the securitisation of policing in the face of local crime or global terror concerns should eat into the dividends that democratisation has brought, is to be expected — particularly in national contexts where the notions of accountable and effective police sit uneasily on rather ramshackle organisations operating in shallow democracies. Each new 'war' seems to create space for regimes to harass political opponents under the pretext of defending state security.

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<sup>22</sup> T Boyd-Caine 'Security at what price?' Theme paper on counter-terrorism and police accountability delivered at the *Police Accountability and Effectiveness in Eastern Africa Conference*, Nairobi, East Africa 11-13 June 2007, available at [ea\\_police\\_rtc\\_nairobi\\_2003.pdf](#), accessed 20 August 2007.

<sup>23</sup> Boyd-Caine op cit (n 22) 2.

## Democracy and police in post-conflict Africa: trends and issues

An ambitious continent-wide conference on *Police Reform and Democratization in Post-Conflict African Countries* was held outside Pretoria, from 12 to 15 March 2007. Organised by the Institute for Democracy in South Africa in collaboration with components of the South African Police Service, with financial support from the Japanese International Co-operation Agency,<sup>24</sup> discussions focused on the historical and political context within which police reform in post-conflict settings took place; examined more closely the policy frameworks that currently guide police reform in Africa; and made some bold attempts to engage with the practices and consequences associated with the ongoing politicisation of the police in Africa.

The introductory session attempted to set the scene of the deliberations. It chose to do so by making some broad observations about the character of politics and the nature of the state in Africa.<sup>25</sup> The first point related to the frequency and lethality of war in Africa and the extent to which the police were drawn into the battlefields of civil war and the implications thereof for reform agendas. The second point touched on the need for engaging with the character and shape of the state as an institution in Africa, which continues to exhibit features at odds with its modern rational-bureaucratic counterpart in the West. Thirdly, there was reference to the fact that the shape, size and mentality of the public police in Africa remain under-researched and ill-understood. As a consequence, deliberations on police and its reform+ in Africa all too often take place in a vacuum. It was concluded that coming to terms with historical legacies (colonialism, post-colonial developments, civil war, et cetera), the nature of state-police political relations, and the actual cultural mentalities of the police as organisation in post-conflict situations, were necessary if templates for reform were to be contextually relevant.

With regard to policy frameworks all of the case studies profiled at the conference illustrated the extent to which the agenda and strategies for police reform are shaped by broader policy frameworks. In many

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<sup>24</sup> The involvement of the Japan International Co-operation Agency in this event had much to do with strategic decisions on their part to develop a developmental presence in Africa, including on security issues. Against this background, financial investment in a continent-wide conference on *Police Reform in Post-Conflict Africa* would provide a strategic innings of sorts in the contestations over turf between developmental agencies such as the United Nations, the Department of Foreign International Development (United Kingdom) and the European Union.

<sup>25</sup> See E van der Spuy 'Setting the scene: Police reform in post-conflict Africa'; E Alemika 'Police reform in Africa: Issues and challenges.' presentations to the Conference on *Police Reform and Democratization in Post-Conflict African Countries*, Pretoria, 12-15 March 2007.

of the cases reviewed, peace agreements set the terms of reference for post-conflict reconstruction of both the military and (to a lesser extent) the police. Peace agreements vary in terms of the extent to which they make explicit the role of security agencies in the new political order. In many post-conflict situations, restructuring of the police forms a part (either explicitly or implicitly) of the process of demobilisation, disarmament and reintegration.

It is against this background that processes of integration of new personnel or former combatants, the amalgamation of paramilitary formations, the demilitarisation of habits and structures, and civilianisation of police agencies had to be understood. In many instances the introduction of community policing is pursued as part of a strategy to both demilitarise and civilianise the police. What became clear from the country reports, however, was the contradictory impulses to which police reform were subject. Economic and political imperatives may dictate, for example, that former fighters are integrated or paramilitary formations amalgamated into the police agency. Yet such strategies may not serve the strategic objectives of either demilitarisation or civilianisation of the public police.

In the new millennium, police reforms are increasingly pursued as components of Security Sector or Justice Sector Reform.<sup>26</sup> The opportunities for and challenges confronting police reform as a sub-component of security sector reform or justice sector reform were deliberated on at some length. The gap between elaborate policy frameworks and grand concepts (such as Sector Wide Approaches) and messy local realities was commented on time and again. In the event, the conference provided scope for a more forceful engagement with the large gap between policy and practice in security sector reform circles.<sup>27</sup>

In post-conflict societies external agencies (that is the donors) are playing an extremely significant role in shaping police reforms in most of the post-conflict countries. In cases where domestic capacity is limited, police reform is defined, shaped and steered by transnational institutions. Again, the role and function of such agencies to set the agenda for police reform in Sierra Leone, Liberia and the Democratic Republic of Congo (to name but three pertinent examples) were deliberated at

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<sup>26</sup> See N Ball 'Policing in the context of African SSR theories and debates'; A Tejan-Cole 'Police reform: An issue for the security sector or justice sector?' presentations to the Conference on *Police Reform and Democratisation in Post-Conflict African Countries*, Pretoria, 12-15 March 2007.

<sup>27</sup> See also G Peake and O Marenin 'Their reports are not read and their recommendations are resisted. The challenge for the global police policy community' (forthcoming) *Police Practice and Research*.

length.<sup>28</sup> In the end, the need for local ownership or reform templates was (rather predictably) reiterated. Yet, given limited capacity on the part of recipient institutions, the prospects for local ownership of the form and content of reform programmes looked dim. On this score too, South African capacity to steer developmental assistance in locally defined directions seemed an exception to the wider rule operative elsewhere in Africa.

The Pretoria conference too confirmed that *oversight and accountability* (to parliament, human rights bodies, external and internal oversight mechanisms, and the media) are prominent features in debates on police reform in post-conflict settings. Comparative assessments confirm that some oversight and accountability measures are provided for in transitional arrangements and new legislative frameworks. In practice, however, such mechanisms continue to be weak. Whilst the difficulties associated with the establishment of appropriate political control and management of the police were broached in country reports, it was left to Alice Hills to put the issue of politicisation of Africa's police in stark perspective. As this pioneering scholar of policing in Africa observed:

‘In an ideal world, Africa’s police would be governed according to the norms and processes promoted by donors such as the UK’s Department for International Development (DFID) and the Organisation for Economic Development (OECD). They would be accountable to representative civilian authorities, and their operating practices would be developed between government departments and civil society... The reality is different. Africa’s police are accountable to their presidents alone, and references to democratic forms of accountability are rarely more than tactical concessions or gestures to donors on the part of political elites.’<sup>29</sup>

On the whole, argued Hills,<sup>30</sup> conversations on police reform in Africa do not seem to appreciate the nature of the political relationship between elites and police agencies and the impact of intimate political relationships on the quest for accountability and effective police. Facing up to these political realities and institutional proclivities may force pro-reform constituencies to re-consider the applicability of the very model of accountable and professional policing, hatched in Western policy think-tanks and exported via Security Sector Reform consultants, to Africa.

<sup>28</sup> D Cure ‘International technical assistance in transforming police organisation’; E Venter ‘Donor coordination: Best practices among national governments and police organisations’, presentations to the Conference on *Police Reform and Democratisation in Post-Conflict African Countries*, Pretoria, 12-15 March 2007.

<sup>29</sup> A Hills ‘Police commissioners, presidents and the governance of security’ (2007) 45 (3) *Journal of Modern African Studies* 403.

<sup>30</sup> Ibid.



The challenge posed by Alice Hills hovered in mid-air for a while before other thematic issues of interest pushed it aside. In retrospect, however, the intervention made explicit the dire need for a more comparative and structuralist enquiry into the business of police reform in post-conflict Africa. It is a challenge that scholars, policy elites and practitioners should take seriously in the near future.

### **The police as 'bearers' of rights? Talking about unionisation of police in Africa**

Scholarly interest in the importance of police unions in the quest for professional, and more recently, democratic policing, is of a recent making.<sup>31</sup> For Marks and Fleming<sup>32</sup> the 'right to unionize, the right to bargain, and the right to democratic policing' must be linked. Elsewhere they lament the absence of any recognition in the literature on democratic policing of the importance of the 'labour and social rights of police employees.'<sup>33</sup> Approached 'normatively', they argue that police labour unions can advance not only the narrow workplace interests of police as state employers, but also broader social justice objectives. Police unions need not be 'bastions of conservative normative order' but can, argues Marks<sup>34</sup> be 'catalysts for fundamental cultural change'. It is against the background of recent scholarly interest in police unionisation that the Lesotho deliberations are relevant.

The *International Symposium on Police Labour Relations*, held in Maseru, Lesotho 6-7 November 2006, was inaugurated with a gala banquet to celebrate the 17<sup>th</sup> anniversary of Police and Prisons Civil Rights Union. Co-organised by the Lesotho Mounted Police Service Staff Association, the Police and Prisons Civil Rights Union of South Africa, and the Transformation Resource Centre in consultation with the International Labour Organisation, the symposium brought together about 100 delegates (the vast majority of which were members of police organisations) from nine African countries. The Lesotho deliberations represented the second phase of a Police and Prisons Civil Rights Union-initiated process of social dialogue and networking with police

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<sup>31</sup> See for example, how the notion of 'police as citizens' is inserted into the discussion on 'democratic policing' by D Bruce and R Neild *The Police That We Want: A Handbook for Oversight of the Police in South Africa* (2005).

<sup>32</sup> M Marks and J Fleming 'The right to unionize, the right to bargain, and the right to democratic policing' (2006) *Annals, AAPSS*, 605.

<sup>33</sup> M Marks and J Fleming 'The untold story: The regulation of police labour rights and the quest for police democratization' (2006) 7 (4) *Police Practice and Research: an International Journal* 309.

<sup>34</sup> M Marks 'Police unions and their influence: Subculture or counter-culture' in M O'Neil, M Marks and A-M Singh (eds) *Police Occupational Culture: New Debates and Directions* (2007) 245.

in the region, which was embarked upon in the early 2000s. Here the intention was to examine the state of labour relations amongst police in Southern Africa, and to devise a strategic plan for action so as to advance the opportunities and capacity for collective bargaining amongst police in the region.

In both tone and substance the symposium differed from the other workshops discussed in this paper. It was the notion of the police official as 'worker', as a recipient of 'economic and social rights',<sup>35</sup> and as a bearer of human rights in the context of a democratic political dispensation, which gave a very different texture to the discussions. Country presentations focused on the current state of police labour relations and the challenges for building collective bargaining structures in police agencies. In the introductory discussions there was a brief engagement with the question as to how the police needed to be defined — as a repressive instrument of state power or as a collectivity of 'workers' who had to mobilise against the exploitive impulses of capitalism. In a continent where police agencies have a long history as protectors of regime interests, this question tapped into real controversies. Unionisation, argued one delegate, could serve a political function of insulating police as workers from naked regime manipulation.

Country presentations emphasised the extent to which the right to associate and to enter into collective bargaining remained elusive despite country ratifications of International Labour Organisation Conventions. The Nigerian police, as someone put it, 'live in a democracy they cannot enjoy.'<sup>36</sup> The prohibition of unionisation or any other collective association remains in force amongst police in Malawi and Botswana. Whilst strike action amongst junior police in Lesotho in 1997 led to the creation of a Police Negotiation Forum, political resistance has curtailed its role. In the Lesotho discussion, South Africa again proved an exception to the African rule, where formal employment outside the state remains small and unionisation underdeveloped. Given this state of affairs, it was understandable that there was, in the end, little discussion on the capacity of unions to advance human rights and social justice more broadly. The issue of police labour rights in Southern Africa, however, is likely to benefit from the efforts of both international and South African labour networks to continue to build capacity in the region.<sup>37</sup>

## Conclusion

In recent years conversations on police and its reform in Africa have

<sup>35</sup> Field notes, Maseru, Lesotho, 6 November 2006.

<sup>36</sup> Ibid.

<sup>37</sup> M Marks 'Police as workers: Police labour rights in southern Africa and beyond' (2007) 19 *SA Crime Quarterly* 13.

multiplied, as this showcasing of African gatherings has hopefully demonstrated. What sense is there to be made of such conversations — particularly on the part of those interested in the development of an African police studies fine-tuned to time, location (structural context) and institutional dynamics?<sup>38</sup> Although this paper cannot hope to rise to the challenge of articulating core tenets of an African police studies, some broad observations at least can be made.

### *Police reform practices*

Each of the conferences or workshops profiled above provides evidence of initiatives underway in Africa to reform, reconstruct, and/or re-engineer police agencies. Such initiatives may aim, *inter alia*, at the modernisation, professionalisation and, in many instances, at the democratisation of police institutions. On the ground initiatives are often *ad hoc* and incremental. Such initiatives tend to fall far short of what is required. The obstacles confronting such initiatives — particularly in post-conflict settings — are, by any international standards, enormous. Police reform has to contend with immediate logistical constraints. Then there is also political resistance to be negotiated and institutional blockages of a more cultural nature to be mediated. The effort and resources required to facilitate the switch from regime police to civilian policing are generally underestimated.

### Policies informing police reform

The policy ideas that shape reformist interventions draw on a common pool of referents, such as: good governance, due process, human rights, accountability, effectiveness (more recently), community-based policing or problem-solving policing (very recently). The policy networks at work in the industry of police reform in Africa are diverse. Through such networks national, regional and international constituencies are mobilised and their intellectual and social capital utilised. Regional mechanisms are useful in so far as they may provide political leverage at a national level. Regional policy networks in turn draw on transnational partners to provide both political and financial backing for continental engagements. The drawing of cross-national lessons is a deliberate strategy deployed to show progress and to shame those who seem reluctant to join the social movement for police reform. In the policy deliberations, the police too are increasingly recognised as a constituency worthy of being wooed at conference venues. More recently, cadres of senior police too have become active (and at times) reflective

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<sup>38</sup> J Chan 'Making sense of police reforms' (2007) 11 (3) *Theoretical Criminology* 323.

agents in the discussions. It also seems that the policy frameworks which guide the discussions have become increasingly standardised.

In the African context the role of transnational think-tanks aligned to foreign development agencies is particularly pronounced. Security sector reform, pursued under the political umbrella of 'good governance', has had a formative impact on how police reform is currently conceptualised. To some extent this paradigm has also come to shape programmatic interventions on the ground. Yet the hegemony of the security sector reform agenda should not be assumed. Police institutions and their reform are increasingly subject to contradictory imperatives. Capacity-building of law enforcement agencies in an era of growing international concern with terror may have very little to do with the progressive and reformist agendas, which human rights constituencies have in mind. Furthermore, the gap between the theory of reform and the practice of routine policing can no longer be ignored. Whilst the policy industry is flourishing under the entrepreneurial direction of a wide variety of policy elites, its impact on practice, however, is far less certain.

### *Theories on which police reform is built*

Whilst reform practices — big and small — are earnestly in the making and policy elites, frameworks and networks seem to flourish from Kinshasa to Pretoria, the least developed of all are *theories*, which supposedly inform the passionate narratives on the reform process. Discussions on police reform in different corners of the continent take place in the absence of any real theoretical contemplation of the state to which the police belongs, the society within which it operates or the nature of the organisational beast (the police) itself.<sup>39</sup> Africans have begun to take a measure of ownership of project police reform. In order to move forward however, more than just political goodwill and passion is required.

If the area of African police studies is to develop, consolidate, and mature, it will have to do at least three things. First, it will have to bring the state much more squarely 'back' into its discussions.<sup>40</sup> This is no small challenge. Secondly, it will be well advised to confront head-on the structural conditions within which the state and its armed

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<sup>39</sup> O Marenin 'Restoring Policing Systems in Conflict-Torn Nations: Problems and Pitfalls' (2005) Occasional Paper. Geneva Centre for the Democratic Control of the Armed Forces.

<sup>40</sup> For inspiration it may be worthwhile to go back to the political scientist Theda Skocpol's seminal piece titled 'Bringing the State back in' PB Evans, D Rueshemeyer and T Skocpol (eds) *Bringing the State Back In* (1984).

formations are bound to operate in the foreseeable future. Thirdly, the discussions should engage much more seriously with the 'culture' of police organisations in Africa.

Police culture in Africa has been moulded by civil strife, war, and genocide, on the one hand, and by political traditions at odds with western notions of 'police independence' and 'professional autonomy' on the other. Coming to terms with the peculiarities of institutional police culture would also seem desirable. In fact, a theory of the state, of the society, and of the police organisation itself can no longer be neglected if the prospects of the democratisation of public police agencies are to be properly understood.