CIVILIAN SECRETARIAT FOR POLICE SERVICE

DEMILITARISATION AND THE POLICING OF PUBLIC PROTESTS AND EVENTS

Are our POP and TRT Units militarised?

civilian secretariat
for police service

Department:
Civilian Secretariat for Police Service
REPUBLIC OF SOUTH AFRICA

NATIONAL
DEVELOPMENT
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NDP 2030

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ACRONYMS

CAT......................Counter Assault Team

CSP......................Civilian Secretariat for Police

CRS......................Compagnies Républicaines de Sécurité

IPOA....................Independent Policing Oversight Authority

ISU......................Internal Stability Unit

MTSF...................Medium Term Strategic Framework

NPKF...................National Peace Keeping Force

NDP.....................National Development Plan

NIU......................National Intervention Unit

NPS......................National Police Service

ORS......................Operational Response Service

POP......................Public Order Policing

RNP......................Rwandan National Police

SAPS....................South African Police Service

STF......................Special Task Force

TRT......................Tactical Response Teams

UN.......................United Nations

UNODC.............United Nations Office on Drugs and Crime

UPF.....................Uganda Police Force

EXECUTIVE SUMMARY

The past 20 years has seen the policing landscape in South Africa move from one of transformation to having to deal with high levels of crime, sophisticated organised crime, threats of terrorism, and violent protest marches. All of these have contributed to a gradual change in the use of police techniques, tactics and equipment. Added to that, has been the growth of specialised units in the police, including the Special Task Force (STF), National Intervention Unit (NIU), Counter Assault Teams (CAT), Public Order Policing (POP) units and the more recent Tactical Response Teams (TRT), dedicated to medium-to-high risk policing operations.

The changes in the policing approach and techniques in the past few years have attracted criticism from many areas. Factors such as incidents involving police violence, the spread of a militaristic ideology, confusion on the role of SAPS as a police service or police force, a change in SAPS rank structure, and confusion on the police approaches in managing crowds, has created widespread perceptions that the SAPS is a militarised organisation, and that the POP and TRT in particular are adopting military approaches in crowd situations. It is important to note that the transformation of SAPS in 1994 ensured that the model for policing was South African focused - in order to rectify the imbalances of the past – becoming community oriented and including policing by consent. For POP, the Belgian techniques supported the community oriented model of crowd 'management' and 'maintaining' public order, replacing the crowd control approach. In 2008, the French technique of 'restoring' public order was introduced into the SAPS to complement the Belgian model, which was inadequate regarding 'restoring' public order.

The discourse on militarisation and demilitarisation has raised various questions on the understanding of the concepts. This study aimed to determine what police militarisation and demilitarisation means in the South African context, whether the SAPS TRT and POP are militarised, and if so, to what extent the units are militarised. The scope of the study is limited to two focus areas of police militarisation which have become growing concerns internationally to democratic police departments:

- Whether the TRT are normalised in policing more generally
- Whether POP is reverting back to crowd control instead of crowd management

Much has been said about police militarisation within and international and local

context. Militarisation is understood as adopting and applying elements of a military model to policing. Demilitarisation is understood as an adherence to democratic principles, and dissociating policing from military applications. For South Africa, demilitarisation of the police is understood within the context of the provision the Constitution - respect for the law, adherence to human rights, and under constant civilian oversight. The golden thread in this line of demilitarisation is that of respect for human and constitutional rights.

The study demonstrated that TRT are being normalised into general policing and have been required to provide tactical support to POP in crowd situations. The levels of training provided to TRT, as well as the issuing and use of specialised tactical equipment to address medium to high risk threats does not lend itself to either general policing or crowd management or restoring.

The study also demonstrated that POP has progressively moved away from crowd management towards crowd control. Evidence of this lies in the continued challenges in poor command and control, minimal resources provided to carry out the mandate, and an inability to apply the prescripts related to negotiation with and management of crowds.

Based on the above findings, and coupled with the re-introduction of military ranks, incidents of police violence, and uncertainty as to the organisation status as a service or a force, a compelling argument can be made as to the militarisation of the units.

However, weak organisational and institutional structures, poor decision-making and command structures, poor resourcing, security concerns such as protests marches, insecure borders, and violent incidents related to protest actions and xenophobia refute the argument on the unit's militarisation.

The above have served to create the perception that the SAPS is a militarised organization. The NDP and the 2016 White Paper on Policing remain the current policy position on police demilitarisation. Any perceived changes towards militarisation of the police will for the future be superseded by the position of the NDP and the White Paper.

Recommendations

The following recommendations are offered to the SAPS with a view to strengthening the POP and TRT:

a) The following working definition to be used to take forward the discourse on demiltarisation:

"Demilitarisation of the police means to develop a police service that supports democracy and the creation of a responsive public-service orientation, adherence to the rule of law, protection of human rights, transparency and accountability with respect to the activities of the department and its people. A police service that reports to civilian authority that does not apply military models, that is professional and has a code of conduct that is well understood and accepted by the communities they serve".

b) The discourse on demilitarisation is not about the use of ranks but rather about the SAPS displaying an unwavering commitment to its constitutional mandate as a police embracing a human rights culture. Ranks are symbolic of the posture adopted by the department and as such it is recommended that a study be conducted to determine the impact of military ranks within the department and how the department is perceived by communities

c) The SAPS management should reinforce its position regarding the posture of the SAPS as a police service. This will assist it formalising strategies, training and equipment aligned to the doctrine of community centric policing.

d) TRT should not be included in any crowd management situation, even for the restoring of public order. This mandate should remain with the POP, the specialised unit trained to manage policing of crowds. Additionally, TRT should not be required to be involved or integrated into general day-to-day policing. The levels of training provided to TRT as well as the use of specialised equipment are to address medium to high risk threats. The techniques and tactics used by the units should be kept away from normal general policing as this may compromise the human rights of people. In order to ensure that TRT, POP and SAPS at large do not become militarised, safeguards need to be put in place. Kraska's model of assessing police militarisation is the recommended model.[1]

e) Public Order Policing has progressively moved away from crowd management towards crowd control. This shift in approach has to be rectified. It is recommended that the following be addressed:

• Clarity on the mandate of POP

- Clarity on the concept of maintaining and restoring public order

- Capacity of POP units

- Training addressing operational needs

- Resource shortages

- Competency level of commanders who lack the ability to provide the necessary advice and direction which leads to members being forced to act on their own, resulting in individual action not consistent with the departmental protocols and training. It is recommended that selection and appointment of commanders in these posts be based on an approved criteria and adhered to.

f) POP and TRT to undergo continuous assessments to ensure they proactively manage challenging elements that could lend it to militaristic positions and that they remain within acceptable thresholds of democratic policing[2]

g) The human rights culture be fostered and maintained during training and at the workplace and is cascaded to the communities they serve.

h) Communications between management and members and between the SAPS and the public must be improved. Any communication must be accompanied by action and resource support

i) SAPS management have to constantly engage in dismantling the elements that contribute to the perception of a militarised police service

Based on the recommendations of the Farlam Commission of Inquiry, a panel of experts has been appointed to address various areas in policing found to be a challenge during the managing of crowds. This exercise will also see the SAPS undergo a major transformation process. The following elements are critical in the success of the process:

- Management must have strategic vision on where they would like to position the organisation; in line with the vision of government.

- Sustained and committed leadership by top management, especially the most

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[1] See annexure A
[2] See annexure A

senior executive, to produce any important organisational change.

- The way in which the members of a police organisation are brought to do what policies call for; not through issuing orders or stating goals but through the creation of conditions that encourage, facilitate, and oblige people to do what is desired. This commonly involves developing appropriate programs of recruitment, training, promotion, resource allocation, supervision, research and evaluation, reporting, and work routines. The grain of the organization must be made to work with reform rather than against it.

- If the incidences of crime and disorder are thought to be unacceptable or increasing, police reform will be inhibited. The reform process must thus work in tandem with addressing the crime challenges.

- Continuous communication with the public that the reform process will not inhibit dealing with the day-to-day crime issues.

INTRODUCTION

In 2012, the National Development Plan (NDP) was adopted by Cabinet as the strategic framework for government planning towards attaining Vision 2030. The NDP impacts upon the landscape of policing in that it reaffirms the need for a police service that upholds, protects and champions the rights enshrined in the Constitution and Bill of Rights, that is demilitarised, professional, community-centric, and which forms part of an integrated criminal justice system.[3] The White Paper on Policing, adopted by Cabinet in 2016, reaffirms the imperatives of the NDP. These two macro policies form the basis of the position on police demilitarisation.

The South African Police Service (SAPS) of today is distinctly different from the police force that was used as a political tool during apartheid. The reform of the police service in 1994 put in place strong measures to ensure the SAPS was indeed a democratic police, demilitarised and civilian orientated. This was crucial for the development of a stable democracy, the creation of an open market economy and the development of political and social structures representative of the values and needs of society. Police are the most public manifestation of governmental authority. When they use that authority primarily to serve the interests of government, they believe the democratic promise of government for the people.[4] The most dramatic contribution police can make to democracy is to become responsive to the needs of individual citizens.

The past 20 years has seen the policing landscape in South Africa move from one of transformation to having to deal with high levels of crime, sophisticated organised crime, threats of terrorism, and violent protest marches. All of these have contributed to a gradual change in the use of police techniques, tactics and equipment. Added to that, has been the growth of specialised units in the police, including the Special Task Force (STF), National Intervention Unit (NIU), Counter Assault Teams (CAT), Public Order Policing (POP) units and the more recent Tactical Response Teams (TRT), dedicated to medium-to-high risk policing operations.

Specialised units with specialised functions dealing with medium-to-high risk policing operations are common in policing agencies all over the world. These units are required for high level threats that normal policing is unable to address. Given the nature of these operations, some level of militarisation is mandatory. The golden thread in the line of militarisation is that of respect for human and constitutional rights.

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[3]   National Development Plan 2030. Our Future-make it work. National Planning Commission. The Presidency. Pretoria.

[4]   Bayley D.H.(2001). "Democratising the Police Abroad – What to do and how to do it." National Institute of Justice.

The changes in the policing approach and techniques in the past few years have attracted criticism from many areas. Factors such as incidents involving police violence, the spread of a militaristic ideology, confusion on the role of SAPS as a police service or police force, a change in the SAPS rank structure, and confusion on the police approaches in managing crowds, has created widespread perceptions that the SAPS is a militarised organisation, and that the POP and TRT in particular are adopting military approaches in crowd situations. It is important to note that the transformation of the SAPS in 1994 ensured that the model for policing was South African focused - in order to rectify the imbalances of the past – becoming community oriented and including policing by consent. For POP the Belgian techniques adopted supported the negotiated management of public space and the community oriented model of crowd 'management' and 'maintaining' public order, replacing the crowd control approach. In 2008, the French technique of 'restoring' public order was introduced into the SAPS to complement the Belgian model, which was inadequate regarding 'restoring' public order.

The discourse on militarisation and demilitarisation has raised various questions on the understanding of the concepts. This study aims to determine what police militarisation and demilitarisation means in the South African context, whether the SAPS TRT and POP are militarised, and if so, to what extent the units are militarised. Evaluating police militarisation is a credible and important endeavour and can be accomplished through empirical evidence and rigorous scholarship.[5]

The scope of the study was limited to two focus areas of police militarisation which have become growing concerns internationally to democratic police departments:

- Whether the TRT are normalised in policing more generally.
- Whether POP is reverting back to crowd control instead of crowd management.

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[5]   Kraska PB. (2007). Militarisation and Policing—It's Relevance to 21st Century Police. Available: http://cjmasters.eku.edu/sites/cjmasters.eku.edu/files/21stmilitarisation.pdf

Figure 1: Picture depicting members of democratic South Africa Police Service

BACKGROUND TO THE STUDY

As mentioned above, the past few years have seen various issues within the policing domain that influence the perception that the SAPS are a militarised organisation. Incidents involving police violence or excessive use of force have frequently received attention in the media, by legislators, and even within civil and criminal courts. This behaviour, whether individual, or a pattern and practice of an entire police department, is condemned by law and public opinion. The growing problem of police violence has often been blamed on police militarisation. Berning and Masiloane argue that the SAPS has gone back to its military form since the dawn of democracy. They argue that the militarisation of the police in 2010 as a strategy to combat the perceived ill-discipline and ineffectiveness of the SAPS has worsened the situation.[6] These authors allude to the fact that the militarisation of the SAPS has had 'a wider impact on the culture, values, socialisation and mode of operations of the police, by incorporating stricter law enforcement than being community centred. Remilitarisation appears to have been a reversal of the initial efforts to transform the police service from one based on a militaristic culture (as was the case with the SAP) to one geared towards community policing. Consequently, they say the SAPS appear to have taken on the guise of a paramilitary police force.[7] Burger argues differently and states that the reason for brutality and excessive force that cause so much concern among South Africans have much to do with the structural weakness relating to leadership, internal accountability and quality of many of the officials recruited.[8] He further states that these weaknesses

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[6] Berning J & Masiloane D. (2011). Police militarisation: is South Africa disproving or failing to learn from police history. Acta Criminologica (Southern African Journal of Criminology) 24 (3) Pp.60-71

[7] Ibid

[8] Burger J. (2013). Militarisation for police brutality is aiming at the wrong target. Institute for Security Studies: Pretoria

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have been in existence for a long time and little has been done to address these fundamental weaknesses.

In the lead up to the 2010 Soccer World Cup, the crime rate in the country, in particular violent crimes, as well as high levels of community frustration and fear, necessitated serious interventions from the police. Trio crimes of carjacking, house robbery and business robbery had risen alarmingly since 2003/4 (58 per 100 000) peaking in 2008/9 (97 per 100 000). In that year cash in transit robberies also peaked with 386 reported incidents. Aggravating this was an outbreak of xenophobic violence and a series of violent service delivery protests. In 2008/2009 South Africa recorded the highest incidence of public violence in seven years (namely 1 500 incidents).

These trends brought into question South Africa's ability to hold a safe and peaceful Confederation Cup and 2010 Soccer World Cup. In order to effectively deal with the crime and violence, the SAPS in 2009 established Tactical Response Teams, to deal with medium to high risk policing operations. A downward trajectory to crimes set in prior to the international sporting events.

The above brings forth the discourse on the spread of the militarisation ideology which includes the establishment of more paramilitary policing units, trained in military techniques and mandated to adopt a 'zero tolerance' approach to fighting crime, including using maximum and/or lethal force in what are considered high-risk policing operations. Berning and Masiloane contend that militarisation of the SAPS has contributed to rising levels of police brutality in specialised units, and has had a deeper negative impact on the ability of the SAPS to root out police corruption, incompetence and inefficiency, all of which hamper the SAPS' efforts to effectively combat crime.[9] Some of the indicators of militarisation adopted in the past few years include the increasing use of the military in internal security matters, such as Operation Fiela[10], the growth in the establishment and deployment of elite police units that are modelled after military special operations units and that are paramilitary in nature, such as the SAPS Tactical Response Teams, and application of military models to domestic policing functions.

[9]   Berning J & Masiloane D. (2011). Police militarisation: is South Africa disproving or failing to learn from police history. Acta Criminologica (Southern African Journal of Criminology) 24 (3) Pp.60-71

[10]   Operation Fiela- Reclaim is a multidisciplinary interdepartmental operation aimed at eliminating criminality and general lawlessness from the communities. The fiela means to sweep clean, ridding the communities of crime and criminals so that the people of South Africa can and be safe. The operation is implemented by government to reclaim the authority of the state. South African Government. www.gov.za/operation fiela.

Equally, lack of clarity on the police posture as a 'service' or a 'force' builds on the perception of the police as militarised and poses real challenges regarding training, equipping and managing a police agency expected to do both. The 1994 democratic policing introduced the philosophy of a 'service' within the police organisation in order to serve the police. A police service is client-oriented, its operational code favours discretionary action, and it is regarded as a means of maintaining order and protecting people.[11] A police service emphasises an ethos of care and support. In contrast, a police force emphasises the ethos of control over the community.   According to Cilliers, the word 'force' refers to the exaction of obedience from those who are subject to authority by resorting primarily to punitive and deterrent measures. When policing functions as a force, it recognises the law as its only criterion of conduct, and therefore confines itself to the processes of prosecution, arrest and criminal investigation, with little room for discretion.[12]

Part of the transformation process of the SAPS since 1994 included a change in the rank structure of the police from military ranks to civilian ranks. This process was reversed in 2009 to accommodate the new approach in policing which sought to address the crime challenges facing the country. The question whether the rank change has positively impacted on the discipline and command and control of the police, or whether it has contributed to the remilitarisation of the police adds to the perception that the police have militarised. The Marikana Commission of Inquiry points out that, from the year 2000, the police service gradually started resembling a paramilitary force. This process was formalised with the reintroduction of military ranks in 2010. This took place against the backdrop of increasing violent crime, high levels of community frustration and fear, and a perception that the old military police ranks would command greater respect from communities. Furthermore, the Commission pointed out that these developments are inconsistent with the police's mandate in a modern democracy. They also neglect the challenges of developing greater competence and skills in the police to respond to growing complexity and changing patterns of crime.   The Marikana Commission of Inquiry recommended that the SAPS be demilitarised. The Commission argued that, the SAPS did not take issue with the contention that there had been a remilitarisation, and that demilitarisation was necessary, including in relation to ranks. The Commission further stated that demilitarisation should not be confined to police insignia, military ranks and force orders but should address the training and development curricula with a view to effecting a mental change required for policing

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[11]   Kraska. P. (2007). Militarisation and Policing –its relevance to 21st century policing. Policing 1(4) pp 501 – 13.
[12]   Cilliers. C.(2000). Fundamental Criminal Justice: Pretoria: University of South Africa (UNISA).

today and the future.

Since 1994, approaches towards the regulation and policing of gatherings have shifted from repressive approaches towards more tolerance, leading to a shift from 'crowd control' to 'crowd management'. Current events in the country has created a climate where public order policing is seen as reverting back to confrontation rather than negotiation in responding to dissent, which has paved the way for the perception that a more militaristic style of policing is employed by the SAPS.

Figure 2: Picture depicting the TRT units providing tactical support to POP at Marikana in 2012

METHODOLOGY OF THE STUDY

The study was conducted with the POP and TRT units of the SAPS in three provinces: Kwa-Zulu Natal, Western Cape, and Eastern Cape. Permission to conduct the research was obtained from the SAPS Divisional Commissioner: Operational Response Services (ORS). A combined qualitative and quantitative methodology was used. A questionnaire was developed and forwarded to all POP and TRT members for completion in the identified provinces. Focus group interviews were conducted with cluster commanders, provincial heads, unit commanders, operational commanders, platoon commanders, section leaders, section members, and team leaders to supplement the information obtained in the questionnaires. A local and international literature review was also conducted.

LIMITATIONS OF THE STUDY

The focus of the research was limited to TRT and POP units and not the entire SAPS due to time constraints. The three provinces that were identified for the study were chosen as they were not part of the Marikana deployment to the North West Province. The aim of this was to limit subjectivity of the Marikana experience of members on the study and to obtain objective points of views of members. Not all members responded to the questionnaires due to deployment requirements.

DEFINITION OF KEY CONCEPTS
POLICE MILITARISATION

Given the perception that the SAPS is a militarised organisation based on particular factors as described above, it is critical that the concept of police militarisation be defined and clarified within the South African context. There are strong signs that the concept police militarisation is being understood in the most superficial of senses, created by incidents of police brutality widely reported in the media which gives the impression that police brutality is rampant and that the entire police department across the country are out of control.

According to the Collins Concise Dictionary, militarisation means *"to convert to military use"* and *"to imbue with militarism"*. According to the thesaurus, militarisation means 'to equip or train for war'. One of the foremost academics on police militarisation, Peter Kraska, has defined militarisation of the police as *"the implementation of an ideology which stresses the use of force and threats of violence to solve problems, and using military power as a problem-solving tool"*.[13] Kraska further contends that to militarise the police means adopting and applying the central elements of the military model to an organisation such as the police or particular situational area within policing. Police militarisation, therefore, is the process whereby civilian police increasingly draw from, and pattern themselves around the tenets of the military model.

A military model is a set of beliefs, values, and assumptions that stress the use of force and threat of violence as the most appropriate and efficacious means to solve problems. It emphasises the exercise of military power, hardware, organisation, operations, and technology as its primary problem-solving tools.[14]

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[13]   Kraska PB. (2007). Militarization and Policing—It's Relevance to 21st Century Police. Available: http://cjmasters.eku.edu/sites/cjmasters.eku.edu/files/21stmilitarization.pdf
[14]   Ibid.

According to Colonel Dunlop (2001) the military and the police are meant to be kept separate. This is because the military tends to use indiscriminate force while the use of force by the police is meant to be governed by strict rules and regulations. Control of the police is often much more dispersed than control of the military, which is often under the political control of the head of state, which the government deems necessary to ensure strict control and rapid deployment.[15] The blurring of these functions can also be understood as an indicator of a shift towards greater control.

A <u>paramilitary police</u> is defined as *"the most obvious manifestation of the adoption of a militarised ideology of policing"* which tends to deploy as units rather than as individuals, seek training from military personnel, and adopt a system of rank that replicates the structure of the military.[16]

DEMOCRATIC POLICING

Democratisation highlights the prevalence of two main aspects: attitude towards the law and attitude towards citizens. A police force can be considered democratic if it respects the law and human rights, and if it is under constant external control and oversight, if in its mandate and in its practice equal attention is paid to the protection of citizens on the one side, and to the protection of the state and its institutions on the other, without any political, racial, ethnic or religious bias.[17] Democratic policing requires that the police be and consider themselves to be accountable to the citizens, their representatives, the State and the law. A civilian police service is defined as a functioning law enforcement and criminal justice system that upholds and enforces the rule of law and is adaptive to the needs of the of the people.[18]

LITERATURE REVIEW

Internationally, over the past two decades, there has been a growing evidence of a convergence of military and civilian policing functions, and more militarised responses

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[15] Colonel Charles Dunlop Jnr. (2001). 'The thick green line: the growing involvement of military forces in domestic law enforcement', in Peter Kraska (ed), Militarising the American criminal justice system: the changing roles of the armed forces and the police (North-eastern University Press, Boston,) p. 35.

[16] Kraska PB. (2007). Militarisation and Policing—It's Relevance to 21st Century Police. Available: http://cjmasters.eku.edu/sites/cjmasters.eku.edu/files/21stmilitarisation.pdf

[17] Nalla. M.K. (2009). Democratic Policing: A comparison of police officers perceptions of their role and function in transitional socities: Journal of Criminal Justice and Security: year 11.

[18] United Nations Civilian Policing Principles and Guidelines

to domestic problems. Incidents such as the World Trade Centre, the rise of the global justice movements, the events of 9/11, and the rise of anti-austerity protests, and the transnational character of policing of gangs, led to police developing new and harsh policing styles and drawing on military models to limit dissent. Policing, and public order policing in particular, began to revert back to confrontation instead of negotiation in their responses.

Globally, the military handles external security and the police handle internal security. Countries which have adopted democratic principles of policing as a result of being in transition tend to separate military and police duties. This creates a fertile soil for laying down democratic rule which places citizens at the centre. The impact of this on the policing system provides a yardstick to measure the training, equipment, deployment and presence of the military model in internal security functions. The ultimate failure of governments to clearly demarcate the duties of the military and police provide an indicator to measure the deficiencies of democracy within a particular country.

The global discussion on police demilitarisation focuses on France, Italy, Belgium, Australia; Spain, Brazil, India, Rwanda, Kenya, Uganda, Nigeria and Cameroon.

EUROPE, SOUTH AMERICA & ASIA

Lutterbeck argues that in many European countries consisting of gendarmerie-type forces, there have been calls for the demilitarisation or civilianisation of these forces, to bring them closer to ordinary or civilian-style police from military style policing.[19]

- **France**

The French National Gendarmerie has been the model for most existing gendarmerie-type forces in many countries. While its main mission has always been to ensure law and order on the national territory, it has also been formally part of the armed forces, and its officers have the official status of soldiers. The French gendarmerie was controlled mainly by the Defence Ministry until 2002. Since 2009 it has moved to the Interior Ministry.[20]

The view that riots and other large-scale internal disturbances should not be repressed violently by military force, but rather managed in a more "civilized" manner by specialised police units, gave rise to the creation of the Mobile Gendarmerie, which subsequently became the main force responsible for dealing with large-scale demonstrations and similar public order challenges.[21]

While the main functions of the gendarmerie are in policing and law enforcement, it also has a five percent subsidiary military role in defence. A more far-reaching reform of the country's internal security system was launched in 2009, and involved a further strengthening of the powers of the Interior Ministry over the gendarmerie, by placing practically all aspects of its control and function within the remit of this ministry, including its budget, although not military missions or disciplinary matters.[22]

Having a police force with a military status is seen not only as a key element of France's dual police system, but the gendarmerie's typical characteristics such as its permanent availability and its strict sense of discipline are viewed as important assets which would be lost if it were to be fully demilitarised.[23]

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[19]   Lutterbeck. D. (2013). The paradox of gendarmeries: between expansion, demilitarization and dissolution. The Geneva Centre for the Democratic Control of Armed Forces. SSR paper 8.

[20]   Lutterbeck D. (2013). The paradox of gendarmeries: between expansion, demilitarization and dissolution. The Geneva Centre for the Democratic Control of Armed Forces. SSR paper 8.

[21]   Ibid.

[22]   Ibid.

[23]   Ibid.

- **Belgium**

During the 1980s, Belgium was experiencing growing threats from internal terrorism and rising criminality, and the country's law enforcement agencies were seen as ineffective in responding to these challenges. The Belgian gendarmerie was a police force with a formal military status, organised along military lines and controlled mainly by the Defense Ministry. However, in 1991 the Belgians began plans to demilitarise the police and to dissolve the gendarmerie, and paved the way for community policing approaches from which South Africa took lessons and adopted post 1994. The reform introduced new police organisations such as the federal police to deal with specialisation of the police and the local police to deal with community policing.[24]

Figure 3: Picture depicting the tactical, military technique employed by police when undertaking a medium to high risk operation

- **Austria**

The Austrian Federal Gendarmerie was originally controlled by the Defense Ministry and formally part of the armed forces of the Austro-Hungarian Empire. The Austrian gendarmerie was brought under exclusive control of the Interior Ministry in the late nineteenth century, severing its military status and its formal ties to the regular military. This occurred in the context of a major reform of the country's internal security system, initiated in 2002.[25] The reform and demilitarisation process focused on objectives such as strengthening the effectiveness of the Austrian Police in the fight against crime, simplifying the country's policing system and preventing duplications of functions,

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[24]   Bergman.D.(nd). Police and Gendarmerie – reform in Belgium: from police force to service. Belgium police. Access date 2nd February 2016.

[25]   Lutterbeck D. (2013). The paradox of gendarmeries: between expansion, demilitarization and dissolution. The Geneva Centre for the Democratic Control of Armed Forces. SSR paper 8.

refining its administrative structures, and focusing on having a stronger presence on the streets. The main goal was to enhance the effectiveness of police action.[26]

Figure 4: Picture depicting a militarised police force as demonstrated by the heavy equipment and uniform

- **Italy**

The Carabinieri are a hybrid organisation, somewhere between a police and a military force similar to the Brazilian and Indian situation. Even though most of its activities are in the area of policing and law enforcement, the Carabinieri is also an integral part of the Italian armed forces. The Carabinieri was formally part of the Italian army until 2000, when it was separated and became an armed force in its own right.[27]

In terms of weaponry the Carabinieri uses heavier equipment including light tanks, aircraft and machine guns. The Carabinieri has also been considerably more active in international peace operations. Italy has a total of five police forces at the national level: the Carabinieri, the State Police, the Finance Guard, the State Forestry Corps, and the Penitentiary Police.[28]

In terms of regulations, the Carabinieri operate in rural areas and the State Police in the cities. However, there are cases where the Carabinieri operate in cities, where its

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[26] Lutterbeck D. (2013). The paradox of gendarmeries: between expansion, demilitarization and dissolution. The Geneva Centre for the Democratic Control of Armed Forces. SSR paper 8.

[27] Lutterbeck D. (2013). The paradox of gendarmeries: between expansion, demilitarization and dissolution. The Geneva Centre for the Democratic Control of Armed Forces. SSR paper 8.

[28] Lutterbeck D. (2013). The paradox of gendarmeries: between expansion, demilitarization and dissolution. The Geneva Centre for the Democratic Control of Armed Forces. SSR paper 8.

activities often overlap with those of the State Police. Calls for demilitarising the Carabinieri and merging it with the State Police have been raised at a political level; however it has not been yet implemented.[29]

- **Spain**

The Spanish Guardia Civil is the third major gendarmerie-type force in Europe. It was also modelled on, and bears many similarities to, the French gendarmerie as is with other countries in the world. The Guardia Civil has a dual dependency between the Defence and Interior Ministries; the role of the Interior Ministry has traditionally been stronger, with the remit of the Defence Ministry basically limited to recruitment, careers and disciplinary questions.[30]

The military character of the Guardia Civil is less pronounced in the sense that it has only a limited amount of military-style equipment (mainly light infantry weapons), although in the context of its border control operations in particular it has in recent years used heavier equipment, such as helicopters and oceangoing patrol ships. In terms of training, some Guardia Civil officers receive military training.[31]

The Guardia Civil status within the Spanish internal security system indicate that it operates mainly in rural areas while responsibility for policing the cities falls to the country's other national police force, the National Police (Policia nacional). In their respective areas of operation, both forces cover all aspects of policing and law enforcement, although in certain specific issues they hold exclusive responsibility.[32]

While the Guardia Civil deals exclusively with issues such as weapons and explosives control, traffic control and monitoring of sea and land borders, the National Police is charged with issuing identity documents, control of border checkpoints and inspection of gambling facilities.[33]

Despite the fact that the Guardia Civil is already more "civilianised" than other countries, intense debate has emerged in recent years in Spain about its further demilitarisation. Demands to this effect have traditionally come mainly from the Spanish politicians and notably also within the Guardia Civil. However this has not been fully implemented.[34]

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[29]   Ibid.
[30]   Ibid.
[31]   Ibid.
[32]   Lutterbeck D. (2013). The paradox of gendarmeries: between expansion, demilitarization and dissolution. The Geneva Centre for the Democratic Control of Armed Forces. SSR paper 8.
[33]   Ibid.
[34]   Ibid.

Proposals for the "modernisation" of the Guardia Civil, many of which in fact focus on its demilitarisation included the transfer of the Guardia Civil to the exclusive control of the Interior Ministry, the nomination of a civilian director-general, the non-application of military regulations, including the military penal code, an end to military training, the right to join unions and equal working conditions to those of the civilian police.[35] Though many countries believe the creation of a multinational gendarmerie force for use in peace-support missions is a welcome development, the danger remains that it could create even more incentives to militarise policing on an international scale.[36]

- **Brazil**

Brazil has in each state two distinct police units, the Civil Police and the Military Police (PM). The PM are responsible for maintaining public order and immediately responding to crimes, while the Civil Police carry out investigations, detective work and forensics. Although the PMs are military-trained and also army reserve troops, they report to their state governments, not the Ministry of Defense. There are about 400,000 active PM members and 123,400 active members of the Civil Police.[37]

Brazil has a very strong para-militaristic approach to policing. In recent years the Brazilian activists have been calling for the change in the system of policing which was inherited from the military rule several episodes of PM violence during mass protests, accusations of numerous extrajudicial killings and abuses, and involvement in death squads.

- **India**

The Indian security system is influenced by various security issues, particularly terrorist concerns in Pakistan, since the countries share a border. This results in the maintenance of the militarisation ideology of the internal security system. The Ministry of Home Affairs is the nodal agency for law enforcement and domestic security. However, the Constitution has placed Public Order and Police within each State. Both state and central governments maintain a variety of security agencies. All states have their own armed police, organised as paramilitary forces (specialised units). Even within the Civil Police, armed forces exist in every district. The Armed Forces Act allows these security agencies blanket authority to arrest without warrant and to fire to kill with impunity.

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[35]   Lutterbeck D. (2013). The paradox of gendarmeries: between expansion, demilitarization and dissolution. The Geneva Centre for the Democratic Control of Armed Forces. SSR paper 8.
[36]   Lutterbeck D. (2013). The paradox of gendarmeries: between expansion, demilitarization and dissolution. The Geneva Centre for the Democratic Control of Armed Forces. SSR paper 8.
[37]   Ibid.

AFRICA

Militarisation and demilitarisation of the police within the African continent has been shaped by various factors such as colonialisation and/or de-colonialisation, to achieve political independence from Western European countries. In addition to this, African countries have experienced a number of civil conflict and war, post-political independence. The post-colonial experience of many African countries has been one of transitioning to one-party states. Over the last 20 years most on these one party states have transitioned further to multi-party democracies. These transitions have been accompanied by a heightened sensitivity to observing individual rights and entrenchment of the rule of law and the improvement of governance in general.

Achievement of these objectives places a focus on the role and conduct of police forces.

Berning and Masiloane point out that police demilitarisation in Africa, as in other parts of the world, have been driven by the need to improve police efficiency and effectiveness.[38] However, countries are battling with restoring the basic functioning of the state, let alone transforming the police institutions.[39]

Furthermore, Downie argues that, the stability of key African regions such as Nigeria, Kenya, and South Africa is weakened by unprofessional policing of crisis situations (i.e. ineffective public order policing), which include Boko Haram terrorists attacks in Northern Nigeria, the post-election violence of 2007 and the Westgate Mall terrorist attacks of September 2013 in Kenya, and violent protests across South Africa and the killing of miners in Marikana during 2009.[40]

- **Rwanda**

In the case of Rwanda, until the end of the civil war and the genocide in 1994, state policing fell under three forces: the (paramilitary) gendarmerie, the (local) police communale, and the (investigation/prosecution office) known as the police judicidaire. Not only was there no harmonisation of training and standards, but, more seriously, the police were unaccountable, violent and sectarian. In addition, the President who ruled from 1973 to 1994, maintained a presidential guard who were specially recruited

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[38]   Berning J & Masiloane D. (2011). Police militarisation: is South Africa disproving or failing to learn from police history. Acta Criminologica (Southern African Journal of Criminology) 24 (3) Pp.60-71

[39]   Countries such as Liberia (conflict ended in 2003), Sierra Leone (conflict ended in 2002), South Sudan (conflict ended in 2005.

[40]   Downie R.(2013). Building police institutions in fragile states: case studies from Africa. Report of the Centre for the Strategic and International Studies (CSIS) African program. Washington DC.

and trained so as to defend him.[41] This in effect served to keep the President in power and was not focused on community needs.

During 2000 the Rwandan government introduced the Rwandan National Police (RNP) after the Government of National Unity decided to combine the former Gendarmerie Nationale, which was under the Ministry of Defense, with the former Communal Police under the Ministry of Internal Affairs and the Judicial Police under the Ministry of Justice (Baker, 2007:7). This process brought in new structural reform that allowed policing to be rightly placed.

- **Kenya**

The discourse on security sector reform in Kenya began in earnest after the 2007–2008 post-election crises. The reform debate focused on the Kenyan Police Force and the National Task Force on Police Reforms was established in May 2009 and mandated to make proposals for reorganising the police. Some of the major changes that resulted from the task force's work include the National Police Service Act, passed in August 2011. The Act placed limits on the use of force that police are allowed to exercise, stipulating that an officer may use force and firearms, if and to such extent only as is necessary.[42]

A Civilian Board was established to oversee the recruitment and appointment of police officers, to review standards and qualifications, and to receive complaints from the public and refer them to the Independent Policing Oversight Authority (IPOA) and other government entities.

In 2011, the domestic security situation in Kenya changed as a result of violent attacks by militant group al-Shabaab. There has been a radical shift in policing and public order through centralisation of power, which in turn has led to greater militarisation of the police.

According to Okech, during 2013, the Inspector General of Police repeatedly requested an increase in his powers, arguing that his management role is constrained by the current provisions, which give the National Police Service Commission responsibility

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[41] Baker B. (2007). "Conflict and African Police Culture: The Cases of Uganda, Rwanda, Sierra Leone". Book chapter, M. O'Neil and M. Marks, (eds.) Police Occupational Culture: New Debates and Directions, 2007, Oxford: Elsevier Science.

[42] Okech A. (2014). Beyond Westgate: Security and Accountability in Kenya. Available: http://issat.dcaf.ch/Share/Blogs/African-Security-Sector-Network/Beyond-Westgate-Security-and-Accountability-in-Kenya

over hiring and firing as well as disciplinary action.[43]

During 2014 President Kenyatta dismissed key security figures such as Kenya's Police Inspector General and the Head of the Ministry of Interior due to the failure of dealing with the Wesgate Mall attacks. Following their dismissal, the government of Kenya spoke of merging the Ministry of Foreign Affairs and the Ministry of Interior to create a Ministry of Homeland Security. The aim of this was to facilitate closer cooperation and coordination between the Kenyan Defense Force, the National Police Service (NPS) and the National Intelligence Service. Subsequent to this, there have been allegations that the Kenyan Anti-Terror Police Unit have been involved in extra judicial killings and torturing of communities.

The call for police to be able to exercise increased force has now been enforced in the wake of the Westgate attack under the guise of ascertaining security and fighting terror.

In fact, the demands by the police force to arm civilians, the police reservists and private security service providers were increased.

The Kenyan police have increased in numbers from 44,000 to 89,000, and the number of police stations has grown from 340 to 547.
The radical shift in police militarisation has rolled-back the police reform process of 2007-2008 post-election.[44]

- **Uganda**

The Uganda Police Force have established militaristic units such as the Rapid Response Unit and the Joint Anti-Terrorist Task Force since the issue of regional terrorism began spreading. Subsequently, the militarisation process led to allegations of brutal police tactics and human rights violations.[45]

There are various dimensions that indicate that Ugandan police seem to be highly militarised. First, the government has deployed military personnel in the police and appointed military generals to head it. Second, the police have adopted military

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[43]   Okech A. (2014). Beyond Westgate: Security and Accountability in Kenya. Available: http://issat.dcaf.ch/Share/Blogs/African-Security-Sector-Network/Beyond-Westgate-Security-and-Accountability-in-Kenya

[44]   Okech A. (2014). Beyond Westgate: Security and Accountability in Kenya. Available: http://issat.dcaf.ch/Share/Blogs/African-Security-Sector-Network/Beyond-Westgate-Security-and-Accountability-in-Kenya

[45]   Kagoro & Biecker .(n.d.). For whom do the police work?: The Ugandan police between militarization and everyday duties.
Available: http://paperroom.ipsa.org/papers/paper_32619.pdf

models, for example, shoot-to-kill operations and violence-centric means of problem solving. Third, there are indicators which suggest that the police are involved in political policing. Furthermore, new police recruits are taken for both intensive military training, and police training.[46]

Baker points out that despite Rwanda, Kenya and Uganda, having much in common ideologically, Rwanda still maintained its demilitarized position in the extent of the role assigned to their police. Furthermore, Rwanda was willing to transfer its internal security to the ranks of a new civilian policing force it could trust. Uganda and Kenya preferred to look to its army or para-military structures for policing serious crimes.[47]

Heads of States in these countries doubt the loyalty and discipline of the police, and have kept them under constraint and instituted an array of military-style organisations more directly under political control.

- **Nigeria**

Olaniyan and Amao argue that in Nigeria one issue which has drawn criticism and public fury from Nigerians is the deployment of the military during the recent elections.[48] Rather than relying on the police to provide the security needed during the elections, the Nigerian Federal Government deployed large number of soldiers to assist and ensure peaceful conduct during the elections. Beside election policing, Nigeria is faced with a serious internal security issue particularly in the northern regions as a result of the militant group Boko Haram.

According to Adebayo the magnitude of insecurity in Nigeria has become so grave that the Army and Police Force, Air Force, and the Directorate of State Security have all been drafted into maintaining internal security. This has led to intense fear among the communities as security of lives and properties can no longer be guaranteed.

Adebayo furthermore, argues that the emergence of Boko Haram insurgency has introduced a terrorist dimension into the criminal space in Nigeria.[49] Series of bombings have been carried out by Boko Haram, as well as taking of hostage of innocent citizens. Boko Haram has created widespread insecurity across northern

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46   Kagoro & Biecker .(n.d.). For whom do the police work?: The Ugandan police between militarization and everyday duties.
        Available: http://paperroom.ipsa.org/papers/paper_32619.pdf

47   Baker B. (2007). "Conflict and African Police Culture: The Cases of Uganda, Rwanda, Sierra Leone". Book chapter, M. O'Neil and M. Marks, (eds.) Police Occupational Culture: New Debates and Directions, 2007, Oxford: Elsevier Science

48   Olaniyan A & Amao OB. (2015). Election as Warfare: Warfare: Militarization of Elections and the Challenges of Democratic Consolidation in Nigeria. International Affairs Forum Spring, Pp.70-81

49   Adebayo A A (2014). Implications of 'Boko Haram' Terrorism on National Development in Nigeria: A Critical Review. Mediterranean Journal of Social Sciences, Vol 5 No 16, Pp. 480-489

Nigeria, increased tensions between various ethnic communities, interrupted development activities, frightened off investors, and generated concerns among Nigeria's northern neighbours.

- **Cameroon**

In Cameroon, the Gendarmerie acts as the police and form part of the armed forces and are under the control of the Defence Ministry. There are three categories of forces in Cameroon:

- First Category Forces: consist of the Territorial Gendarmerie, Territorial Brigade and the Public Security Commissariats, and are the frontline police and army
- Second Category Forces: are made up of the mobile gendarmerie, and units of the Police, which are the easily deployable back-up forces.[50]

- Third Category Forces: are the Defence Force and they can only intervene as a last resort, and in support of the first two categories of forces.

During February 2008, riots erupted in Cameroon for the first time since the 1990's. The gendarmeries and policemen shot into the crowd and between 40 and 100 people were reported killed. Most of the deaths occurred in the Northern part of the country (Bagayoko-Penone, 2008).

The Cameroonian gendarmerie can also perform functions such as criminal investigations for the Ministry of Territorial Administration and for the Ministry of Justice, nationally, provincially and rurally, are also at the disposal of the chiefs of other Ministries. Its missions cover national defence, internal safety, military, and judiciary police.[51]

SUMMARY OF INTERNATIONAL REVIEW

The literature review demonstrates that while some countries remain para-militarised largely due to continuing ties with the Defence forces, and not much reform, other countries have undergone reform. The review further demonstrates that there is no evidence that high levels of militarisation of the police results in greater individual security. The Brazilian police for example demonstrates many elements of para-militarism, yet suffers high crime rates and violations of human rights. Belgium on the other hand is a good example of a transformed and demilitarised police and despite

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[50]   Bagayoko-Penone N (2008). Cameroon's Security Apparatus: actors and structures.
[51]   Bagayoko-Penone N (2008). Cameroon's Security Apparatus: actors and structures.

similar global security challenges; it maintains its demilitarised status - through strong structural and institutional organising and by applying more innovative human rights based responses to the challenges.

The review demonstrates that there is no uniform approach to demilitarisation. Countries have applied the process of demilitarisation based on customised, situational needs. However, the universal principles of human rights remain high on the list of reform.

South Africa finds itself at the crossroads of these two differing trends. It is a relatively new democracy, moving towards increased respect for human and constitutional rights, and a country were security concerns such as violent protests marches, insecure borders, and violent incidents related to xenophobia, can force it towards greater militarisation of the police. Of importance is the key question of the extent to which constitutional and human rights are traded off against security and governance priorities.

Figure 5: Picture depicting the police of today in the international context, from being community centred to becoming militarised

PUBLIC ORDER POLICING

The right to the existence of the Public Order Police units is founded in the Constitution of the Republic of South Africa, 1996 Section 205 of the Constitution stipulate the functions of the police as to prevent, combat and investigate crime; to maintain public order and to protect and secure the inhabitants of the Republic and their property, and to uphold and enforce the law. In terms of section 17(1) of the South African Police Service Act, 1995, the National Commissioner will establish and maintain a national public order capacity.

The Regulation of Gatherings Act, 1996, provides the legal framework, which entrenches the right to peaceful public expression and peaceful assembly and the right to State protection in the enjoyment of these rights. It sets down procedures for the management of public gatherings, of which a cornerstone is the appointment of a "convenor" of the gathering who must notify a responsible officer in the local authority that a gathering is planned. Negotiations may then be instituted with other interested parties, notably the police, to ensure the peaceful progress of the gathering and the protection of both participants and non-participants. The circumstances under which dispersal and use of force may occur are laid down in the Act. Provision is made for civil liability and for other penalties for infringement of regulations and agreements.

According to National Instruction 4 of 2014: Public Order Police: Crowd Regulation and Management during Public Gatherings and Demonstrations, POP is mandated to:

- Maintain public order by ensuring public order during public gatherings and demonstrations and
- Conduct, by intelligence, driven crime combating and prevention operations.

The purpose of the National Instruction (NI) is to regulate the crowd management environment and, if violence has occurred during any gathering or demonstration, the restoration of public order.

The NI proposes a centralized management approach as the most effective manner of managing POP to deal with public gatherings and demonstrations. This means that all units will function under the direct authority of the Divisional Commissioner: Operational Response Service (ORS). The NI further proposes that the SAPS must, in partnership with the community, Metropolitan Police services and other agencies, devise effective methods to promote public safety, as well as reassure the communities

that they are protected. To ensure this, the SAPS must play a pro-active role in attempting to identify and diffuse any possible conflict before it escalates into violence. This is to be done by playing a pro-active role in communicating with the public through Community Policing Forums or other channels.

Figure 6: The picture on the left shows the police as they were pre-1994. The picture on the right depicts that despite the transformation of POP after 1994, POP posture remains the same, apart from a change in uniforms.

SUMMARY OF RESEARCH FINDINGS ON PUBLIC ORDER POLICING UNITS

The following findings emanate from interviews conducted with POP members:

• The mandate of POP is confusing and misunderstood by members in terms of their role and function in the broader strategy of policing. Cluster commanders favour the use of POP for crime combatting as their performance is measured by the number of arrests made, with the result that the crowd management responsibilities are being neglected.

    • Members also alluded to the negative impact and low morale the restructuring processes have had on them. The SAPS management continuously restructured the units from 1993 until 2008, with the result of a huge loss of experienced and trained members. To make up the deficit, members are currently redeployed from other units and police stations into the POP units without proper recruitment and selection processes being followed

    • Proper policing strategies and tactics cannot be implemented by the POP Unit due to a lack of human and physical resources. Members are required to

deploy to crowd management situations with minimal resources. The crowd management deployments are contrary to the tactics and techniques that POP members are trained to execute, resulting in increased use of force to compensate for the shortage of resources

- The lack of less-than-lethal equipment for crowd management limits members options, which results in members being forced to resort to using rubber bullets and stun grenades to disperse crowds

- Command and control is a challenge at the units mainly because members appointed into senior positions do not possesses the necessary knowledge, skills and experience required of the job and to give the proper commands

- The integration of other law enforcement agencies and divisions of the SAPS such as Municipal Police, Private Security, TRT and VISPOL, into the public order policing space, has created challenges with regards to command and control.

- The deployment strategies of POP are not consistent with POP policies, which have resulted in the increased use of force, for example, in the KZN student protest incident; two POP members were deployed to police a crowd of 200 protesting students at the University of Kwa-Zulu Natal for the # Fees Must Fall Campaign in February 2016. This incident has placed in focus the unrealistic demands placed on POP members which resulted in their inability to effectively implement their operational protocols.

- There is a lack of modernisation and professionalisation of the POP units, and no advancements with regards to international trends and developments. The only advancements were introduced during the 2010 FIFA world Cup, but these were not sustained and the new equipment are not serviceable

- The level of violent protests has been steadily increasing and the burden this has created on policing is not being adequately addressed by SAPS management. Additionally, the change in attitude and behaviour of protestors has not been dealt with by government leaders

- Members raised concerns regarding the formally adopted recruitment and selection process of POP members as these are not being implemented. This has resulted in the recruitment and appointment of members with less knowledge and inexperience

- The formal and in-service training provided is not addressing the operational needs of POP. The training tactics and techniques cannot be implemented at ground level due to lack of resources and the will of senior members

- Members indicated that political interference in policing is negatively

impacting on command and control of POP as they are required to act against their operational doctrines to comply with the political request.

• Members are choosing the adoption of the <u>easy approach</u> to resolving issues. They are resorting to using stun grenades and rubber bullets to disperse crowds, rather than the long drawn out process of management and negotiation as prescribed by the Regulations of Gatherings Act

• The community policing approach, which requires joint problem solving to dealing with issues is not being implemented, with the result that POP is expected to deal with these

• The age and mental attitude of members is a hindrance to operations. Young members do not have the requisite experience to conduct their jobs, and older members are burdened with the issues such as the Marikana incident, and have adopted to changing their responses

• Of particular importance is the constant inquiry by members as to whether public order policing had really transformed. This inquiry suggests that members are confused about a range of issues which is not being addressed by management. The only evidence members see is the change in the name of the units, while the rest is business as usual

• There is no evaluations and debriefing of actions of members once incidents have occurred which has resulted in deviations from operational standards over time being adopted as the norm for maintaining public order

• Members strongly believe that a reform process is needed which must be supported by the necessary resources

It is evident from the findings above that lack of clear strategic direction, lack of support with regards to resources, and poor competency levels and weak command and control has inhibited the full transformation of public order policing to meet the needs of a democratic country. Public order policing has also with time moved away from crowd management towards crowd control.

TACTICAL RESPONSE TEAMS

The Tactical Response Teams was introduced into the SAPS in 2009 to address the rising crime rate in the country, in particular armed robbery and cash-in-transit robberies. The primary function of the TRT is crime combating, focussing on addressing crime through well planned intelligence driven operations, while the secondary function is to

restore public order. Additional functions include escorting of dangerous criminals, providing tactical assistance to other units within the cluster, policing of sporting events and provide support during disaster and incident management.

The units, once established, were required to address the critical response gaps identified so that adequate medium-to-high risk tactical support could be afforded to front-line policing at cluster and station level. This meant that the TRT would be utilised when a particular situation was beyond the capability of general police, for example for cash-in-transit robberies. The TRTs were never intended to conduct general policing as that training they were equipped with went beyond the scope of general policing.

The teams were capacitated with knowledge, skills, and specialised equipment to effectively deal with these medium to high risk demands. The tactical training was based on the training standards used for the NIU and was to be supplemented with crowd management, with an emphasis on 'restoring' public order. This crowd management training could not be provided in 2009 due to the operational demand of establishing the TRT unit and only commenced in 2012.

Figure 7: Picture depicting the specialised TRT members executing high risk operations

Figure 8: Picture depicting TRT being normalised into general policing, conducting searches

SUMMARY OF RESEARCH FINDINGS ON TACTICAL RESPONSE TEAMS

The following findings emanate from interviews conducted with TRT Unit members:

- There was confusion with regards to the mandate, role and function of the Units. Members strongly believe that they have not occupied their rightful place in the broader policing strategy

- TRTs are currently conducting two tasks in the policing strategy to address crowds:

  o As first responders to crowd incidents

  o Providing tactical support to POP units

- Members are not clear on their role and function with regards to the second task, that of providing tactical support to POP units, as they are not trained and resourced to carry out this function. This has resulted in concerns regarding their operational readiness, as demonstrated at Marikana

- TRT are being normalised into general policing to supplement day-to-day policing. Members raised concerns that these deployments, coupled with the specialised lethal equipment provided to them is not supportive of this role and function, and has contributed largely to the perception of police militarisation

- Cluster commanders raised the concern of the day-to-day demand on policing interventions which forces them to deploy TRT units to make up the deficit in general policing

- Cluster commanders deploy the units according to their own operational needs which are to address the high crime rates, with the intention of striking fear into the communities by employing the zero tolerance approach

- Command and control is constantly a challenge and has been the main contributor to the incidents of police violence reported in the media

- TRT have also become more involved in situations often accompanied by violence, where force is used not only in force-reaction situations, but in situations where the police choose to use extreme tactics, even if the situation is not high-risk. This approach is the preferred approach of commanders as it yields better results

- The recruitment and selection criteria of TRT require members to be below the age of 30 which allows only junior members to be recruited into the units. Given this criteria, the ranks of members at entry level are that of Constable and Sergeant. This low rank status conflicts with the command and control structure when TRT are deployed to operations with other units, as only members who have higher ranks, such as Warrant Officers and higher, are required to give commands. Additionally, the requirement for young members confines the criteria in relation to experience

- TRT members have only received training in the tactical environment and have been ignored with regards to skills development in the broader policing environment

TRT are trained for medium-to-high risk tactical operations. The study shows that TRT are not confined to high-risk operations but are being normalised into general policing and for the policing of crowds.

CONCLUSION

This study aimed to determine what police militarisation and demilitarisation means in the South African context, whether the SAPS' TRT and POP units are militarised, and if so, what is the extent of the militarisation. The study also determined whether the TRT units have been normalised into general policing, and whether POP is reverting back to crowd control instead of crowd management.

Militarisation is understood as adopting and applying elements of a military model to policing. Demilitarisation is understood as an adherence to democratic principles, and dissociating policing from military applications. For South Africa, demilitarisation of the police is understood within the context of the provision of the Constitution - respect for the law, adherence to human rights, and under constant civilian oversight. The golden thread in this line of demilitarisation is that of respect for human and constitutional rights.

The study demonstrated that TRT are being normalised into general policing and have been required to provide tactical support to POP in crowd situations. The levels of training provided to TRT, as well as the issuing and use of specialised tactical equipment to address medium to high risk threats does not lend itself to either general policing or crowd management or restoring of public order.

The study also demonstrated that POP has progressively moved away from crowd management towards crowd control. Evidence of this lies in the continued challenges in poor command and control, minimal resources provided to carry out the mandate, and an inability to apply the prescripts related to negotiation with and management of crowds.

Based on the above findings, and coupled with the re-introduction of military ranks, incidents of police violence, and uncertainty as to the organization status as a service or a force, a compelling argument can be made as to the para-militarisation of the units.

It can be further argued that specialised units can be paramilitary in nature, as they rely on rank structure for command and control, their members wear the same uniform, they have access to substantial weaponry, and are all working towards a common purpose. However the Constitution requires the police service to adopt a democratic policing posture that is community-centric. Acceptable thresholds of democratic policing must cater for the police's operational demands with regards to medium to high risk policing operations. The creation and use of specialised units must be controlled and regulated.

However, weak organisational and institutional structures, poor decision-making and command structures, poor resourcing, security concerns such as violent protests marches, insecure borders, and violent incidents related to protest actions and xenophobia, refute the argument on the unit's militarization status.

The above have served to create the perception that SAPS is a militarised organisation. The NDP and the 2016 White Paper on Policing remain the current policy position on police demilitarisation. Any perceived changes towards militarisation of the police will for the future be superseded by the position of the NDP and the White Paper.

RECOMMENDATIONS

The following recommendations are offered to the SAPS with a view to strengthening the SAPS approach to demilitarisation and to address the challenges facing the POP and TRT units:

The following working definition be used to take forward the discourse on demilitarisation:

"Demilitarisation of the police means to develop a police service that supports democracy and the creation of a responsive public-service orientation, adherence to the rule of law, protection of human rights, transparency and accountability with respect to the activities

of the department and its people. A police service that reports to civilian authority that does not apply military models, that is professional and has a code of conduct that is well understood and accepted by the communities they serve"

1. The discourse on demilitarisation is not about the use of ranks but rather about the SAPS displaying an unwavering commitment to its constitutional mandate as a police embracing a human rights culture. Ranks are symbolic of the posture adopted by the department and as such it is recommended that a study be conducted to determine the impact of military ranks within the department and how the department is perceived by communities.

2. The SAPS management should reinforce its position regarding the posture of the SAPS as a police service. This will assist it formalising strategies, training and equipment aligned to the doctrine of community-centric policing.

3. TRT should not be included in any crowd management situation, even for the restoring of public order. This mandate should remain with the POP, the specialised unit trained to manage policing of crowds. Additionally, TRT should not be required to be involved or integrated into general day-to-day policing. The levels of training provided to TRT as well as the use of specialised equipment have been provided to address medium to high risk threats. The techniques and tactics used by the units should be kept away from normal general policing as this may compromise the human rights of people. In order to ensure that TRT, POP and SAPS at large do not become militarised, safeguards need to be put in place. Kraska's model of assessing police

militarisation is the recommended model.[52]

4. Public Order Policing has progressively moved away from crowd management towards crowd control. This shift in approach has to be rectified. It is recommended that the following be addressed:

o   Clarity on the mandate of POP

o   Clarity on the concept of maintaining and restoring public order

o   Capacity of POP units

o   Training addressing operational needs

o   Resource shortages

o   Competency level of commanders who lack the ability to provide the necessary advice and direction which leads to members being forced to act on their own, resulting in individual action not consistent with the departmental protocols and training. It is recommended that selection and appointment of commanders in these posts be based on an approved criteria and be adhered to.

a. POP and TRT to undergo continuous assessments to ensure they proactively manage challenging elements that could lend it to militaristic positions and that they remain within acceptable thresholds of democratic policing[53]

b. The human rights culture be fostered and maintained during training and at the workplace and is cascaded to the communities they serve.

c. Communications between management and members and between SAPS and the public must be improved. Any communication must be accompanied by action and resource support

d. SAPS management have to constantly engage in dismantling the elements that contribute to the perception of a militarised police service

e. Based on the recommendations on the Farlam Commission of Inquiry, a panel of experts has been appointed to address various areas in policing found to be a challenge during the managing of crowds. This exercise will also see the SAPS undergo a major transformation process. The following elements are critical in the success of the process:

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[52]   See annexure A

[53]   See annexure B

5. Management must have strategic vision on where they would like to position the organisation; in line with the vision of government.

6. Sustained and committed leadership by top management, especially the most senior executive, to produce any important organisational change.

7. The way in which the members of a police organisation are brought to do what policies call for; not through issuing orders or stating goals but through the creation of conditions that encourage, facilitate, and oblige people to do what is desired. This commonly involves developing appropriate programs of recruitment, training, promotion, resource allocation, supervision, research and evaluation, reporting, and work routines. The grain of the organisation must be made to work with reform rather than against it.

8. If the incidences of crime and disorder are thought to be unacceptable or increasing, police reform will be inhibited. The reform process must thus work in tandem with addressing the crime challenges.

9. Continuous communication with the public that the reform process will not inhibit dealing with the day-to-day crime issues.

10. Continuous communication with the public that the reform process will not inhibit dealing with the day-to-day crime issues.

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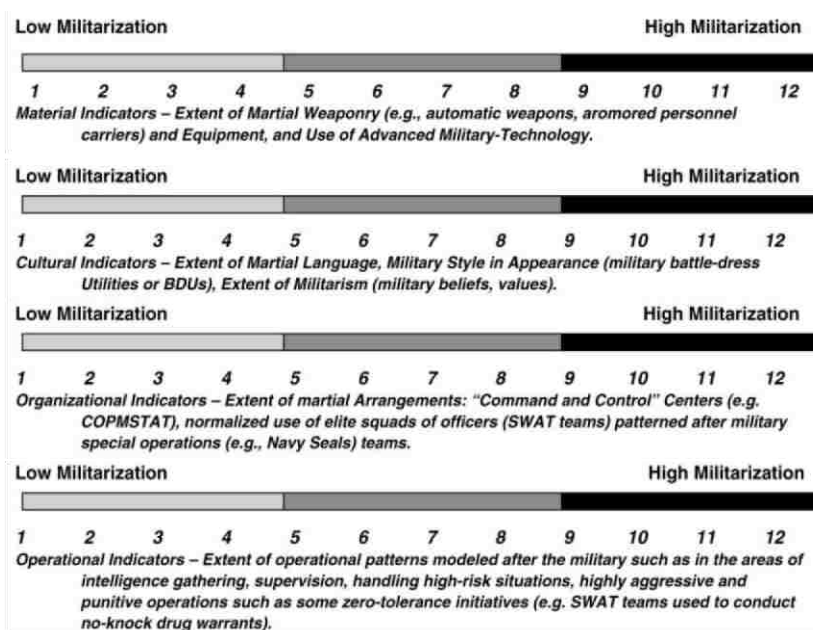
ANNEXURE A

Kraska maintains that militarisation of a policing agency can be measured on a continuum of indicators ranging from:
- Material indicators: (the extent of martial language);(the extent of martial weaponry);
- Cultural indicators: (the extent of martial language);(the extent of martial weaponry);
- Organisational indicators: (the extent of martial arrangements) and
- Operational indicators: (the extent of operational patterns modelled after the military).

Material indicators determine what the public sees and includes uniform and weaponry, which gives the impression whether police are militaristic and non-militaristic. Cultural indicators determine what methods police use to communicate, such as using war talk for example, 'shoot the bastards'. Organisational indicators determine how an agency is organised including its structure, teams and rank, and conveys the organisations response. Operational indicators determine the way police work, such as adopting a 'zero tolerance' approach.

The table below demonstrates the indicators of militarisation ranging from low to middle to high level. The indicators are critical in that they should be used as a dashboard to constantly assess organisations priority areas, interventions, processes and goals, amongst others.

Figure 9: Picture depicting the specialised TRT members executing high risk operations

Figure 1 Assessing Police Militarization Using Continuums*

ANNEXURE B

EXAMPLE OF ACCEPTABLE THRESHOLD FOR SPECIALISED UNITS

All Australian police services have a SWAT team-equivalent, but their deployment is controlled and regulated. For instance, the Victorian Special Operations Group (SOG) requires the permission of an Assistant Commissioner to deploy. The Queensland Special Emergency and Response Team can only be deployed to pre-planned operations that are high-risk situations by a deputy commissioner or delegate.[54] This system ensures that normalization of specialized units into general policing is avoided and perceptions of police militarisation is avoided.

ACCEPTABLE THRESHOLD

PRINCIPLES AND GUIDELINES ON ACCEPTABLE THRESHOLD:

- **SITUATIONAL APPRIORIATENESS:** is police action going to sort the problem or create a bigger one.
- **LEGALITY:** is police action warranted based on the execution of a legal mandate as prescribed by law.
- **PROPORTIONALITY:** is police response aligned to the threat (intelligence based).
- **OPTIMISATION:** is this intervention the best option to solve the problem.

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