Reforming the Law and Order Sector as a Key Element of the Public Service Transformation: Lessons learned from the South African Police Service

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1. Introduction

The objective of this paper is to highlight the transformation of the South African Police Service as a background paper on “Reforming the Law and Order Sector as a Key Element of the Public Service Transformation.” The maintenance of law and order and its importance cannot be emphasized enough in post-conflict recovery and transformation of societies to ensure security and the creation of conducive conditions for the relevant role players to create sustainable development. The South African Police Service played a critical role in the transformation of South Africa during the transition to democracy; and, even after the advent of democracy, it continues to play a vital role in ensuring our democracy matures. The South African Police Service itself underwent a painful transformation, while at the same time maintained safety and security of the country.

The year 1994 marked a watershed in the history of South Africa. It ushered in not only a new democratic order, but paved the way for revolutionary change in public service. During the years 1994 to 1998 extensive change was evident in South Africa and nowhere in the country was this change more dramatically felt than in the public service. The pressure for change in public service was to a large extent self-propelled by the new democratic government, but it also came vociferously from citizens, many of whom had voted for the first time in 1994, and had expectations of improved life conditions. Against this backdrop, South Africa faced many challenges and massive expectations. Among these were the needs to reduce poverty, redress historical imbalances, create employment, economic growth, create peace and stability, and develop investor confidence. In order for these needs to be realized, there needed to be a disciplined, honest, productive, and integrated public service committed to the process of reform.

The reform of the public service out of necessity had to focus on legislative as well as administrative reform. The legislative reform agenda had its roots in the principles drawn from the Interim Constitution of 1993, and the Constitution of 1996. Administrative reform focused on replacing the rule bound, command and control legacy of the Apartheid regime with one that focused on reorienting public servants to serve the public in a customer focused way.

Without transforming the public service, it was impossible to transform the government and therefore the State. The new era of true democracy ushered in a paradigm shift as reflected in the 1994 Reconstruction and Development Programme and later the White Paper on Transformation of the Public Service and the Constitution of 1996. The Reconstruction and Development Programme put in place a policy framework, which underpins the transformation of the South African society, while the Constitution of 1996 brought into focus the principles that should inform the broader transformation process.

Prior to 1994, there were eleven public administrations in South Africa, each with its own ethos, rules, conditions of service, and salary structures. With the birth of the new democratic
order these eleven administrations had to be amalgamated into one unified public service. This was achieved by means of promulgation, and all the former administrations have successfully been integrated into one public service. The service is now divided into 32 national departments and nine provincial administrations each comprising about ten or eleven provincial departments. Another sphere of public service is the local government system.

In transforming and reforming the public service, it was vital that the process was guided by a clear, comprehensive, and commonly accepted vision of the fundamental principles that should shape the new public service. To this end, the government adopted the following vision: "The Government is committed to improve the lives of the people of South Africa through a transformed public service which is representative, coherent, transparent, efficient, effective, accountable and responsive to the needs of the people" and the following mission: "The creation of a people centred and people driven public service which characterized by equity, quality, timeliness and strong code of ethics" which is reflected in the White Paper on Transforming Public Service 1995. Therefore government was committed to transforming the State from “an instrument of discrimination, control and domination, to an enabling agency which serves and empowers all the people of the country in a fully accountable and transparent way. These goals are also entrenched in the Constitution of the country.

In the new democratic order, South Africa demanded and deserved an accountable, effective, and service orientated police service. The rights enshrined in the Constitution, enacted in 1996, were to ensure safety by protecting citizens who came into contact with the law, and by obliging the state to provide adequate security from those who perpetrate crime. In the past, the majority of citizens were concerned with the abuse by the agencies of the state. With the advent of democracy, the public now also demanded the effective provision of safety. This meant that policing in a democracy now required a concerted effort by government, in partnership with civil society, to prevent crime before it occurs.

The immediate challenge of the new government in 1994 was to create a legitimate police service out of eleven police forces constituted under the Apartheid regime. Furthermore, an additional challenge was that political leaders had to affirm that police service would support the new democracy, rather than oppose or undermine it. Key to this process was ensuring that the police in future would act in ways which won the trust of citizens whom had once feared them.

The first democratic election in 1994 did not bring a system of policing which was well placed to meet these objectives. Policing in South Africa was traditionally highly centralized, authoritarian, and of para-military form. While these characteristics ensured that the police were effective under the Apartheid regime in controlling the political opponents of the government, it meant that they were poorly equipped for crime control and prevention in the new democracy. Under the Apartheid rule the police force faced legitimacy and functioned as an instrument of control rather than as a police service dedicated to ensuring the safety of all citizens. Thus, historically, the police have had little interest in responding to crimes within “black” areas, and in 1994, 74% of the country’s police stations were situated in white suburbs or business districts.

The police who were situated in “black” areas did not aim to provide greater safety and security for their inhabitants. The police presence in townships was used to anticipate and
respond to collective challenges to the Apartheid regime. Such interventions typically involved the targeting of police resources for short periods of time in response to resistance to Apartheid rule. This mode of policing necessitated the mobilization of force, requiring skills and an organization very different from the skills needed for a police service in a democratic order, in which a government sought to ensure the safety of all citizens. This inheritance has had a number of important consequences that have weakened the ability of the Department of Safety and Security to combat crime immediately.

2. Background

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

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

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

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

2.1 HISTORICAL AND POLITICAL CONTEXT

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

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

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

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

In late 1987, the Apartheid state took its first public steps toward a negotiated settlement with the liberation movements, when it released ANC veteran Govan Mbeki from prison. This was a 'test case', and the security elites had not anticipated the massive popular reception Mbeki received. Shortly afterwards, a new wave exclusion and repression began, with police and courts charging thousands of people with political offences.

At the same time, international isolation of the Apartheid state intensified as sanctions took effect. In early 1988, the South African military was defeated in battle in Angola for the first time - a crucial symbolic moment. The repressive strategy had resulted in virtual civil war in South Africa's cities and rural towns, high levels of militarisation, fear and conflict between its citizens, and the alienation of an entire generation of black children from schools and most other institutions and symbols of authority, including their families and traditional social structures.

The influence of the security agencies began to wane within the Apartheid government, and a new breed of 'enlightened' Afrikaners began to emerge, advocating reform and dialogue with black leaders. In 1989, a more liberal wing of the ruling National Party took control and F W De Klerk was appointed State President. The following year he un-banned the African National Congress (ANC) and the other liberation movements, releasing ANC leader Nelson Mandela and other imprisoned leaders. This marked the commencement of a protracted period of negotiations towards democracy.

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

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

2.2 The Scope of Scale of Police Reform

In post-conflict, the scope of police reform is qualitatively different from what is usually
understood by the term in conventional northern debates on the topic. In the context transitions that take place amidst or in the aftermath of violent conflict, the depth of the reformist endeavours required to reform police agencies (in the image of their democratic and service-orientated western counterparts) is usually underestimated. In this regard, the concept of fundamental police reconstruction probably serves to better capture the potential scale of the reformist enterprise.

These case studies demonstrate that the reforms envisaged often involve changes in structure (from centralised to decentralised structural arrangements), function (from an emphasis on defending regime security to the protection of citizen security), and in the basis of legitimacy (from regime-based legitimacy to legitimacy based on popular consent and participatory modes of democracy). Yet while this goal of fundamental change may be one that the police leadership and practitioners must keep in mind, it is one that seems unreasonably demanding in situations where governments themselves have very limited capacity. This points to the need for on-the-ground pragmatism. This point was made by Eric Scheye in referring to post-conflict countries such as Sudan, Liberia and Sierra Leone. In such countries, he argues:

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

2.3 The intricacy of police reform

Given the institutionally underdevelopment nature of most police agencies in Africa, institutional change is a multilayered affair. It includes reconstruction of the material base of the police organisation, human resource capacity development as well as more ‘cultural’ aspects of reform. A reconstruction of the basic police infrastructure may involve re-building police stations, supplying paper, pens and uniforms, putting communication systems in place, providing vehicles and petrol, or developing more specialist infrastructure involving forensic laboratories and so forth.

All post-conflict police agencies require investment in the process of recruitment, selection, and training of police personnel. The human resource development needs are great at all levels of the organisation, from foot patrollers to middle-level managers and executive officers. The needs tend to far outstrip the resources available. This in turn requires a prioritization of needs in the light of what is feasible - which assumes a police leadership with the capacity to undertake such strategic planning. Beyond infrastructure and human resources, lies a further critical area of development. Equally important, and difficult, is the forging of a new ethos for policing in which the basic democratic values of the rule of law,
equality before the law, and accountability to democratically elected institutions are protected. Human rights training, for example, is a standard feature of interventions in transitioning police institutions.

Beyond the realm of basic democratic values, other reform principles also receive attention. New public management ideas are now routinely applied in the course of state reconstruction in Africa. This has resulted in an emphasis on ‘fiscal discipline’, ‘value for money’ and efficient ‘service delivery’ to the ‘clientele’ of the police. The reconstruction of security sector institutions under the direction of trans-national institutions (World Bank, UN) and donor agencies bears evidence of the current demand for efficiency and economy in the delivery of police services in addition to an emphasis on rule of law and human rights. Most of the case studies allude to the gap between what is and what should be.

The generalized state of despair and disrepute exuded by post-conflict police agencies stands in sharp contrast to the expansive demands for modernization of the police machine, the needs for further training of its incumbents, and the democratization of both the formal rules and the attitudes and practices of the informal police culture. Whilst the discipline of police studies has long insisted on the importance of the police subculture, little is known about the sub-cultural dynamics of African police institutions caught in the throes of political and organisational change.

As if the preceding problems were not enough, the dynamics of the transition to peace and early democracy usually provoke new realities that challenge police capacity. The national capacity to shape the agenda of police reform and translate policy into operational reality varies from one case to the next. At the national level, two ingredients are critical: political will at the centre, and civil society capacity at the extremities. The re-eruption of old conflicts; the emergence of new patterns of conflict (so often the by-product of democratic reforms) and the rise in crime more generally (a common feature of transitional societies) create social contexts within which the difficulties of sustaining reform efforts multiply.

The rise in crime, together with the emergence of new forms of organized crime and the increase in public insecurity produce complicated democratic reform efforts. In such contexts, as the comparative record stretching from Latin America to Eastern Europe to Africa suggests, more punitive and militarised responses to criminality are evoked. Crime policies often oscillate toward short-term crime control strategies at the cost of longer-term crime prevention objectives. Perhaps the most that can be hoped for is that the parties involved - the political and the police leadership in particular - accept that the institutionalisation of professional policing is a long-term goal that should not be sacrificed even where immediate circumstances throw up obstacles.

3. Transformation of the South African Police Service

3.1 Need for Transformation

It was common knowledge that the socio-political transformation that the country underwent on the 27 April 1994, together with prevailing levels of crime and violence, necessitated a new vision for and fundamental changes to policing in South Africa. Elements of this vision for policing were entrenched in the Constitution, the policies of the Government and the Policy Statement of the Minister of Safety and Security for South Africa.
The elements of this vision were that policing must create a safe and secure environment. This vision formed the essence of the transformation process. The development of this vision into a vision shared by all was a lengthy process which formed part of the transformation process. Externally the community and all role players also needed to share in this broad vision for future policing in order for the community to understand the role of the police, their role, the difficulties of policing and thus to generate support from the community for the new police service.

Internally the vision needed to be shared to facilitate the development of a "vision-driven organisation", to facilitate understanding of the true role of the police and the community. The vision also needed to be shared, so the support of the community and role players, which was desperately needed to create trust in the police was enhanced.

In this regard, the development of a shared vision, augmented by a mission and shared values was introduced by the top management of the police. The shared vision was developed through consultation and communication with internal and external role players.

An analysis of policing in South Africa reflected that even in the absence of a fully shared vision, there was still much improvement that was needed. Further analysis of constitutional requirements, the nature and style of policing, and the culture, structure, management style and policies and practices with the police environment led to an identification of a variety of areas which needed to be improved on an urgent basis.

This finding was further strengthened by the prevailing crime levels and the lack of government funds at that stage. Although the development of a shared vision and value system was the first priority in the process of transformation, the critical issues were identified so that a broad consensus, that community policing be fully implemented, in South Africa, warranted a process whereby a broad range of areas in policing be addressed immediately and simultaneously.

The South African Police Service underwent a process of fundamental change that was a result of the direct outcome of the political transformation and it was aimed at:

- increasing the effectiveness of the police service;
- meeting the requirements of the Constitution;
- meeting the objectives of the government with regard to service delivery, as reflected in the white paper on Reconstruction and Development guidelines and the White Paper on Transforming Public Service;
- meeting the policy vision of the Minister of Safety and Security;
- satisfying the needs of the community, and
- satisfying the needs and expectation of the members of the South African Police Service.
3.2 Change Management Team

Due to the existence of eleven different policing agencies in South Africa, and in response to the Constitutional obligations placed on him, the Minister of Safety and Security appointed a change management team shortly after the first democratic elections of 1994, to facilitate the rationalization, amalgamation, and transformation of the South African Police Service. This change management team initiated the transformation process in consultation with the Ministry of Safety and Security, Ministerial Advisors, Members of Executive Councils of the nine provinces in charge of Safety and Security, Commissioners of various international police agencies, and later the National Commissioner and Management Forum of the new South African Police Service (SAPS).

Although a lack of clarity existed with regard to the responsibilities of the various role players, particularly in the provinces, the Members of Executive Councils for Safety and Security in the provinces played an important role in making capacity available, through guiding and monitoring the process within the nine provinces. A formal change management team was then established in the South African Police Service on 1 June 1995.

Given the fact that line functionaries were to be held responsible for the transformation, the change management team was seen as a resource to all functionaries. This team was attached to the Office of the National Commissioner and was assigned to assist and keep the National Commissioner informed of all developments on the terrain of transformation. It was also necessary that such a team exists independently of the Divisions and Provinces of the South African Police in order to ensure that all endeavours are aligned towards transformation objectives.

The role of the change management team was to monitor, evaluate, intervene, develop, and to align new principles and objectives, to assist where capacity does not exist, activate participation, create a climate conducive to change, and to manage resistance. It was with this in mind that the responsibilities were to be allocated and that the change management team was to be seen and utilized as a resource. In the pursuance of transformation objectives, the members of change management team were committed to assisting all functionaries and not to take over their functions or to interfere, but to develop capacity and to offer guidance where necessary.

The process and strategy for transformation took a similar form of a conventional and strategic planning process. This was necessary to form the foundation upon which the new police service was to be developed, to guide managers on transformational objectives and priorities, and most importantly to form the foundation which the management of change can take place.

3.3 Approach to Transformation

The approach and methodology, which of necessity included a preliminary process of strategic planning was as follows;

- environmental analysis and needs determination which included an analysis of the legal and policy framework, the environment, and the determination of the obvious
needs and expectations of the various stakeholders in the country;
- analysis (audit) of the state of policing;
- development by the change management team of a vision for policing in terms of the analyses, and facilitation of the development of a new vision, mission and values system by the leadership of the South African Police Service;
- formulation of principles whereby key transformation areas (key events) were to be managed and on which new policies were to be developed;
- gap analysis, the difference between pre 1994 policing and future policing in order to clarify what was needed;
- identification of focus areas which needed to be addressed;
- allocation of responsibilities to line managers (after it was initially allocated to technical teams comprising of mainly members of the various policing agencies);
- prioritization of key focus areas.

3.4 General Principles relevant to Transformation

In terms of the methodology guiding principles, they were developed whereby transformation areas were to be addressed and structures: police, practices, cultures, and management styles were designed. Such principles were embodied into guidelines which were developed and made available to each responsible manager. The following principles were also set:

- all actions were aligned with the Constitution, the policies of the government, reconstruction and development guidelines, the white paper on transforming the public service and the vision of the South African Police Service;
- top management/leadership led and drove the process and was responsible for the relevant focus areas, and for the communication of developments in his or her respective field of responsibility;
- all relevant role players and stakeholders were consulted both internally and externally;
- transparency (all actions and endeavours were communicated to the relevant role players and stakeholders);
- reconstruction and development principles and related projects were integrated into the activities and the functions of the police service.

The dynamics of the changing environment and the expectations of the community and members of the police service showed a systematic and inflexible approach to the areas to be addressed were not fully able to be implemented. The wide range of forces that was
influencing change and the changing priorities within the environment did not allow a planned approach. Various changes were continuously taking place in a “natural” manner, boosted by the spirit of reconciliation and goodwill that prevailed during the election.

Resultant from the fact the South Africa was previously divided into independent states and self governing territories, each with its own police force, and that the Interim Constitution prescribed the rationalisation of the eleven police forces into one national police service, the transformation process was managed in three phases.

These were:
Phase 1  -  Rationalisation

To ensure effective administration at national and provincial levels of government as prescribed by the Constitution;

Phase 2  -  Amalgamation

The physical amalgamation of the various existing policing agencies into one national police service;

phase 3  -  Change

The transformation of the South African Police Service into a professional, representative, efficient and effective, impartial, transparent, and accountable service.
The new police service was to uphold and protect the fundamental rights of all people, which carries out its mission in consultation and co-operation with, and in accordance to the needs of the community (principles embodied in the vision and mission)

3.4.1 Rationalisation

Interim finance and logistical boards, and procurement and provisioning systems were established at both national and provincial levels. These interim structures were phased out and replaced with more permanent structures after the appointment of senior personnel. The different budgets for policing were integrated. Minimum requirements for the establishment of effective administration at both national and provincial levels in terms of the Constitutional requirements were met by 1 April 1995.

A proclamation for the rationalisation of the South African Police Service (No 16239-R5.1995) was promulgated on 27 January 1995 to strengthen the South African Police Service. Six schemes for the rationalisation, reorganization, and consolidation of the South African Police Service were determined and issued by the Ministry of Safety and Security. These schemes created an enabling organisation and post structures for the South African Police Service.

The enabling organisational structures and post structures from the level of Deputy Director (Senior Superintendent) and above was first finalised. This resulted in new rationalised posts that were created and filled after being advertised both internally and externally of the police service. This was done according to the newly designed selection and appointment
criteria and appointment process, whereby members in management posts were appointed according to skills, competence, and potential rather than seniority. This resulted in the establishment and appointment of an entirely new management echelon and an increase in the demographic representation (Blacks, Indian, coloured males and females) although small.

These organisational structures, although seen as enabling structures for the purpose of rationalisation, established: a sound basis to secure empowerment and greater accountability at the lower levels, the phasing out of superfluous levels, shorter communication lines and given the facts that a new police service was being established, the transfer of as many resources as was possible to lower levels to enable the greatest effect on crime.

Post structures were developed for the levels of captains and superintendents and these posts were advertised. After the selection and appointment process of these officials into rationalised posts, the remainder of the personnel were transferred into rationalised posts of the police service. Further rightsizing and continuous optimising of the service prevailed and was dealt as part of the transformation and reform of the police service.

3.4.2 Amalgamation

The standardisation of systems, policies and procedures necessary for the amalgamation of the eleven police agencies was completed and received continuous attention until it began to operate effectively. Where possible issues dealt with were aligned to the Interim Constitution, the Minister’s policy statement and transformation guidelines. Policies which required substantial work or extensive consultation or negotiation was dealt with in phase three. In this context, certain policies and practices were retained as interim policies and practices to be reviewed during the change (transformation) phase. The physical amalgamation of the eleven policing agencies was successfully completed.

3.4.2.1 Key Areas of Amalgamation

- **Legislation**

  Proclamation R5 of 1995 (Par 3.1 above) was promulgated to provide for senior appointments and transitional arrangements for the command and control of the Service during the amalgamation phase.

  A new police act, the South African Police Service Act, Act no 68 of 1995 was promulgated on 4 October 1995 to provide for the establishment, organisation, regulation, and control of the South African Police Service, and to provide for matters in connection therewith. The promulgation of the act was preceded by a lengthy consultation process involving a wide range of interested parties.

- **Personnel Issue**

  The personnel issues of all members of the Service were computerised on the centralised personnel and salary system. Salaries of all members were paid from a
centralised system.

- **Conditions of Service**

  The standardisation of service conditions with regard to salary, allowances, and benefits were concluded. A new salary structure that provided improved remuneration, particularly at the lower level was implemented.

- **Medical Aid Scheme**

  A revised medical aid scheme was implemented.

- **Personnel Acquisition**

  Standardised recruitment policy and procedures were developed and implemented to remove discriminatory measures and to ensure uniform standards for the employment.

- **Police Reserve**

  The call up system for ex-police members was abolished due to the discriminatory manner in which it was managed and the mandatory military training was also eliminated (white males were given a choice to do compulsory military training or join the police service to serve their two year term during pre 1994).

### 3.4.2 Administrative Transformation

A newly designed, standardised police appointment certificate was introduced for all the personnel. The Transitional Arrangement Acts of 1995 standardised discriminatory practices with regard to issuing of firearms. Forms and registers from the eleven policing agencies were standardised and new forms and registers were phased in. A new management information system for loss control was implemented and a new uniform with new police insignia was introduced in a phased approach.

A new logistical support that provided for more efficient and effective support was introduced and sub-committees were established to investigate the effectiveness and efficiency of the procurement, accommodation, warehouses, mechanical services, radio technical services, and maintenance of arms and policies.

Information technology was investigated and the feasibility of alternative models/frameworks for rendering the most cost-effective and efficient information technology were investigated.

### 3.4.3 Change

Although transformation was originally defined as the process consisting of rationalisation, amalgamation, and change, it has with the adoption of the White Paper on Transforming Public Service Delivery, become necessary to redefine the process in order to align it with the
approach adopted more generally in a government, which is contained in the White Paper on Transforming Public Service.

Transformation was seen as a dynamic, focused and relatively short term process, designed to fundamentally reshape the public service for its appointed role in the new dispensation in South Africa. This is complemented by the process of reform, which is considered to be a broader and longer term and ongoing process than transformation, which is required to ensure that the South African Police Service keeps pace with the changing needs and requirements of the domestic and international environment.

It is against this background that the status of the transformation process was set out and the overall transformation of the objectives for the public service as prescribed by the White Paper on Transformation of the Public Service was carried out.

The White Paper focussed on six areas as follows:

- Restructuring and Rationalisation;
- Institution Building and Management;
- Representativeness and Affirmative Action;
- Transforming Service Delivery;
- Human Resource Development and Training;
- Promotion of a Professional Service Ethos;
- Democratizing the Workplace.

3.4.4 Key Elements of Police Reform in South Africa

a) In South Africa the new police service was created out of 11 police services that were established in terms of Apartheid policy and this required that questions of integration and reorganising command structures and personnel be given priority. Other key aspects of the reform process included:

i) Addressing issues that discuss the demographic representivity of the police service in terms of representation of different population groups as well as of men and women;

ii) The introduction of a new system of labour relations;

iii) Improving accountability and the regulation of police conduct including provision for parliamentary oversight, the creation of national and provincial secretariats, and the creation of an civilian oversight agency, the Independent Complaints Directorate;

iv) Addressing community hostility to police through the creation of community policing forums and the adoption of community policing as the operational philosophy of the South African Police Service;

v) Changing police symbols such as the rank system, uniforms, insignia and the colour of police vehicles;
vi) Improving access to police services particularly in communities that had previously been discriminated against under the Apartheid regime;

Vii) the introduction of a new selection system; the revision of the basic training curriculum; introduction of a human rights training programme; introduction of a code of conduct; development and introduction of an anti-torture policy; and the reorganisation and retraining of public order police and introduction of new weaponry.

4. Origin of Community Policing in South Africa

In order to form a coherent understanding of community policing in South Africa, it is necessary to look back at the pains of its birth. In the vicious political violence that engulfed the country shortly after the liberation movements were no longer restricted in February 1990, the shape of South Africa’s community policing was set.

During the first months of 1991, increasing violence was destabilising Kwa-Zulu Natal and large areas of the Transvaal (now Gauteng), and evidence of police collusion in the violence was mounting. To address this, the African National Congress (ANC) began to advocate for a peace summit at which a formally binding agreement between themselves, the Inkatha Movement, and the government could be struck. Following long and often bitter negotiations, the ANC, Inkatha, and the government signed a National Peace Accord on 14 September 1991. The agreement contained ‘general provisions’ which included the following:

“The police shall endeavour to protect the people of South Africa from all criminal acts and shall do so in a rigorously non-partisan fashion, regardless of the political belief and affiliation, race, religion, gender, or ethnic origin of the perpetrators or victims of such acts... the police shall be guided by the belief that they are accountable to society in rendering policing services and shall therefore conduct themselves so as to secure and retain the respect and approval of the public. Through such accountability and friendly, effective, and prompt service, the police shall endeavour to obtain the cooperation of the public whose partnerships in the task of crime control and prevention is essential.” In addition a code of conduct for the police was included in the provisions of the National Peace Accord.

The provisions of the National Peace Accord and Code of Conduct went a long way in providing a vision for the fundamental transformation of policing in the country. The key principles in the document were accountability, integrity, impartiality and an effective service. This accounted for the willingness of the police to accept the provisions of the National Peace Accord and the Code of Conduct. Faced with a major and growing legitimacy and credibility crisis, senior officers saw the need for change, and before the Peace Accord was signed began to implement a new approach.

The Peace Accord established structures by which a more representative and legitimate input from political and community organisations could be acquired at local, regional, and national levels. These included Regional and Local Dispute Committees which reported to a National Peace Secretariat, as well as a Police Board. The mandate of these structures was essentially one of monitoring and advice. Despite this limitation, these structures provided the means for the first time, by which political and community organisations could make an input,
albeit limited in policing planning. Thus the Peach Accord initiated, for the first time in South
Africa’s history, a structured framework for police accountability; however, the issue of the
legitimacy of the police remained one that required attention.

4.1 Community Policing Policy

The first formal reference to ‘community policing’ as the prescribed approach, style, or
methodology for policing in a democratic South Africa is found in the Interim Constitution (Act
No 200 of 1993). In Section 221 (1) and (2), the Constitution directed that an Act of Parliament
was to “provide for the establishment of community police forums in respect of police
stations”, which would include the following functions:

a) the promotion of the accountability of the service to local communities and co-
operation of communities with the service;

b) the monitoring of the effectiveness and efficiency of the service;

c) advising the service regarding local policing priorities;

d) the evaluation of the provisions of visible policing services, including -
   - the provision, siting and staffing of police stations,
   - the reception and processing of complaints and charges,
   - the provision of protective services at gatherings,
   - the patrolling of residential and business areas;
   - the prosecution of offenders; and
   - requesting enquiries into policing matters in the locality concerned.

In section 22, the Constitution directed that the act was to provide for the establishment of an
independent complaints mechanism to ensure that police misconduct could be
independently investigated. Thus, the political prerogative informing community policing was
one of democratic accountability. The police were to be democratised and legitimised by
enhancing oversight and accountability generally, and particularly by enhancing,
interaction, consultation, and accountability at local or police station level.

The emphasis on accountability was continued with the publication of the new government’s
first formal policy statement on safety and security, the Minister’s draft policy document
entitled Change, in mid 1994. It placed emphasis on the democratic control of the police
service and community involvement in safety and security issues. In doing so, the policy
statement conceptualised the transformation of the police within the ambit of community
c Policing.

These principles were subsequently entrenched in the South African Police Service Act (No 68
of 1995) which formalised the rationalisation and amalgamation of the eleven existing police
agencies into a unified national South African Police Service (SAPS) with a single budget and
command structures. The Act formally established a civilian secretariat for Safety and Security
with oversight and monitoring functions and created an independent Complaints Directorate
to ensure independent investigation of complaints of police abuses.

The act formally established and detailed the functioning of Community Police Forums (CPF).
In terms of this act, the functions of the CPFs remained as those outlined in the Interim Constitution. It became the responsibility of the police, particularly Station, Area and Provincial Commissioners, to establish Community Police Forums at police stations, and Area and Provincial Community Policing Boards. Community consultation and input were therefore structured throughout the command structure of the new South African Police Service.

In 1997, the Department of Safety and Security published its formal policy on community policing, the Community Policing Policy Framework and Guidelines. Developed through a consultative process over a three-year period, the Policy Framework defined community policing in terms of a collaborative partnership based approach to local level problem-solving.

4.2 Diversity and Transformation of South African Police Service

The transformation of the South African Police Service (SAPS) was started by the country’s first democratic elected government in 1994. During that period the police was confronted with a huge legitimacy problem with the majority of South Africans as a consequence of decades of Apartheid policing, use of brutal force, and racist policing practice. The organisation carried out the government’s racist policing policy and non-white officers were primarily used and exploited as cheap labour. With the inception of democracy, one of the biggest transformations took place; the police force was transformed into a democratic institution that reflected the demographic diversity of the country and served the interest of all South Africans.

During 1999, when the second democratic election took place, an independent inquiry took place which found that structural racism still existed in the South African Police Service. Following the appointment of a new Commissioner in that same year, SAPS pursued employment equity and affirmative action policies with renewed vigour. By 2005, SAPS looked significantly different in terms of its racial profile. Diversity programs were put in place and it became compulsory for all races and cultural groupings to attend this diversity program. This assisted in the transformation of the police with regard to diversity, however, it must be understood that this has not necessarily eliminated structural racisms completely, because the organisation had other priorities to attend to at the same time. However, the diversity program is still in place and SAPS members still attend these workshops to date.

5. Mechanisms for Police Oversight in a Democracy

The transformation of the South African Public Sector, the Criminal Justice System, and specifically the police, was critical for the democracy of the country. Good governance demands that a sound judicial system operates in an environment where the services are rendered in a manner that is transparent, accountable, and responsive to the citizens’ needs, while at the same time ensuring equal treatment. The bodies responsible for civilian oversight of the police had an important contribution to make.

The three primary mechanisms of civilian oversight are Community Police Forums at Local Level, Secretariats for Safety and Security at National Level, and the Independent Complaints Directorate (ICD) which also operates at provincial and national levels. The above mechanisms of civilian oversight are provided for in relevant pieces of legislation and/or the
Constitution.

In addition to the provision of civilian oversight at local, provincial and national level, the legislation allows for oversight over police operations. The legislative provisions relating to CPFs permit them to encourage members of the public to work with the police in order to build good relationships and trust between the police and community.

Similarly, the Independent Complaints Directorate was established as an independent body, which investigates cases of abuse of force and misconduct in relation to the public, and makes policy recommendations in this regard. The role of the secretariat for safety and security was more focussed on monitoring the SAPS and conducting oversight at the policy and strategic level.

The rationale behind establishing civilian oversight institutions was primarily to ensure that the police would never again be used as they were prior to 1994. Oversight structures would hold the police accountable for their actions and civilian oversight centred on the appointment of people from the community. Many of the people staffing the secretariats had worked in non-governmental organisations, which influenced the nature of the secretariats and how they went about their business.

The first national Secretary for Safety and Security was appointed in 1995, and the national and provincial secretariats were established thereafter. The Constitution directed that a civilian secretariat for the police must be established under a Cabinet Minister responsible for policing. The mandate of the secretariats is spelt out in the South African Police Services Act 68 of 1995.

This directed that the Minister of Safety and Security in the exercise of his powers, and promoting democratic accountability and transparency in the secretariats was to ensure police compliance with transformation. To achieve this they needed to overcome resistance from senior ranking officers and place transformation at the centre of the police service.

There was a need for improved relations between the South African Police Service and oversight bodies. The police and the oversight structures had to engage in activities to find common ground and recognise that their roles were complimentary. It was important for all structures to realise that they were aiming for a professional police service that effectively combats and prevents crime while treating all people with respect within the law.

Ultimately, both the SAPS and oversight structures could only benefit from supporting and promoting professional policing and removing or correcting the behaviour of problematic officers. This relationship between the external structures and the SAPS remains part of the challenge to transforming policing in South Africa.

6. Key Lessons Learned

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

- Clear political direction on key transformation issues is essential, in order to prevent delayed implementation of changes;
The main focus of the police must remain combating crime. Police managers must find a balance between delivering on combating crime, service delivery and transformation/development issues;

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

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

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

Stick to the basics. Keep it straight and simple;

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

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

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

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

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

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

Communicate, consult, and explain (again and again)!

7. Managing uncertainty and Resistance

Any process of transformation/reform brings with it uncertainty and in many instances resistance, which must be managed.
The following tactics (among others) were used to manage uncertainty and resistance among police officials, during the transformation of the SAPS:

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

8. Conclusion

The South African case illustrates that a wide range of role players both internally and externally played a role in the successful transformation of the South African Police from a paramilitary organisation into a service. Domestically, police reform drew on inputs from political parties across the political spectrum, key NGOs, research-based institutions, the corporate sector and from within the police itself. The political will from both the political spectrum, and the police played and continues to play a role in the transformation process of the evolution of the new South African Police Service.
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