

MAC 91-74-1-3

Controlling the South African Police:

A Transitional Proposal

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Presented at the Conference on The Route to Democracy in the New South Africa held at the University of the Western Cape, 3 August 1991 in the session "In what ways should the legal system be community based?" This Conference was convened by the Civil Rights League, Black Sash, the Community Law Centre and the National Association of Democratic Lawyers (Western Cape).

Introduction

During the present phase of struggle, in which the South African Government is attempting to entrench, in a new South African constitution, a framework of governance that will maintain the privileges that apartheid has so successfully delivered to its minority constituency, the South African Police has maintained its position as a powerful weapon in the Government's arsenal. The South African Police is a critical repository of force within the State that the Government is able to use, and is using, to strengthen its hand at the negotiating table by supporting the allies of the government and by promoting conditions that make normal democratic political organization and activity difficult.

De Klerk has sought to ensure that control of the South African Police remains firmly in the hands of his government during the transition period by promising that it would do precisely what it is not doing, namely, act as a non-partisan force to preserve domestic peace. In the eighteen months since this De Klerk first made his promise violence and community disruption, some of it police inspired and initiated, has become the disorder of the day. Law and disorder reigns supreme. De Klerk quite clearly has not transformed the South African Police into a neutral crime-fighting force dedicated to protecting communities and promoting conditions for free and open political activity.

If the negotiations process is to proceed, and if it is to

produce a framework for governing that will not simply entrench minority privilege under another name, it is essential that the South African Police be transformed, and transformed quickly. That is, it is essential that mechanisms are established that will drastically reduce the space available for the Nationalist Party to use the South African Police as a tool for promoting its non-democratic objectives. This will require a complete about face for the South African Police who have, since their very inception been recruited, trained and organized to act as an explicit tool of minority rule within this country.

How can this be done, now, during the transition period?

Controlling the Police

There are in fact not many options and the ones that are available are well known.

* First, the Police must be placed under the direction and control of an authority that is not a partisan player in the transitional process. This requirement is reflected in the call being made for an Interim Government.

* Second, this authority must be provided with the advice it will require to transform the Police from an organization that has dedicated itself to promoting non-democratic values to one that will promote democratic ones.

* Third, the Police themselves must be provided with advice on what it means to police within a democratic country that respects human rights as this is something they know virtually nothing about.

* Fourth, local communities must be accorded a role in determining policing agendas so that the Police will act to support and protect people as they go about their business at home and at work.

* Fifth, the shroud of secrecy that has traditionally surrounded the South African Police must be lifted.

A Police Ombuds Body

Fortunately there is a well established and well tried mechanism available that would simultaneously:

* provided the authority responsible for policing, and the Police themselves, with advice,

* provide the community with an avenue it can use to set the police agendas, and

* make visible to the people of South Africa, and the world, the directions given to the Police by the governing authority and their response to them.

The suggestions I am about to outline arise out of discussions I have been conducting in the Cape Town area over the last few weeks in which I have invited people from a wide variety of community organizations to sit down with me and to identify and review the options available for controlling the police during the transitional period. I will be preparing an essay that will elaborate on the full package of proposals that these discussions are generating. The element of this package I want to consider here is one that has been universally endorsed in the discussions I have held to date and is one that draws heavily on principles that have emerged internationally in struggles over the control of the police.

What is required in South Africa is the immediate creation of an ombuds body responsible for overseeing the policing activities of the South African Police and the South African Defence Force. It is necessary to include the military within its ambit as it has long been heavily involved in policing both through its provision of persons and equipment and as a source of intelligence.

An ombuds body is an entity that both scrutinizes the activities of agencies, traditionally state agencies, and makes recommendations to them about how they should conduct their affairs. The results of its scrutiny, its recommendations as well as the agency's response to them are then reported. Modern ombuds bodies are typically submit their reports to an authority, such as a legislature, that is required to make them public.

During the transitional period in South Africa the ombuds body should have three principal functions:

- * First, it should accept and investigate complaints about policing from members of the public;

- * Second, it should be required to provide police commanders, at all levels of the police organization, with advice and recommendations as to how they should go about their activities;

- * Third, it should be required to scrutinize the activities of the police, including their response to its recommendations and advice, and report its findings to the people of South African and the international community through the publication of regular reports.

This ombuds body should operate under the jurisdiction of an international organization, such as the United Nations. In addition to local persons it should include among its officials progressive police officers drawn from the international community who will be required to:

- * provide the Police with advice,
- * investigate complaints, and
- * review police activity on its own initiative.

The Route to Peace and Democracy

In the view of the community groups with whom I have consulted it is only through the establishment of a system of external scrutiny that the people of South Africa will be in a position to keep tabs on the Police and, in the event that they do not police appropriately, be able to mobilize the international and local pressure that will be required to control them. The creation of an external oversight mechanism to review policing is the single most important step that can be taken to end the violence that is destroying peoples' lives and threatening the hope of a democratic future in a country in which human rights are guaranteed. It is only through the establishment of such a mechanism that South Africans will be able to create a police establishment that is both willing and capable of protecting the lives and property of South Africans and of promoting free and fair negotiations and elections.

All South Africans who share a vision of a peaceful transition to new democratic South Africa that respects human rights should join together now and demand that a Police Ombuds Body be established immediately.