

Chapter 6

Tackling Police Brutality Through Non-Violent Strategies in South Africa: In Search of a Holistic Approach

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ABSTRACT

The chapter examines the non-violent strategies that could be used to tackle police brutality. While the existing literature has focused on why police brutality is taking place, the primary objective of this chapter is to bridge the knowledge-gap with reference to non-violent strategies using three levels (strategic, tactical and operational). The chapter reviews current scholarly arguments. Two theoretical perspectives were employed to dissect variables of police brutality. The chapter argues that although non-violent strategies may appear to be effective in theory, they seem to be ineffectual in practice owing to implementation challenges. The failure of non-violent strategies is attributed to a disjuncture between policy objectives and implementation. The chapter concludes that lack of resources, lack of police transformation and lack of police accountability remain the key hindrances in the fight against police brutality. The chapter also recommends that partnerships need to be strengthened among oversight bodies and regulatory frameworks.

INTRODUCTION

Police behaviour is central to the state's ability to function in an effective and efficient manner (Bradford, Huq, Jackson and Roberts, 2014). Whilst this statement may hold true in certain countries, it needs not to be put explicitly and definitively when assessing South Africa's criminal justice system. While the Crime Intelligence is crucial in making sure that the police perform effectively and efficiently, the Crime

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Intelligence Division of the South African Police Service (SAPS) is ailing (Burger, 2013). Although the police's main prerogative is to prevent crime and maintain order in society, the brutal use of power and force has negatively affected the image of police officers in many countries, including South Africa. Under apartheid, South Africa was known for police brutality (Bruce, 2005). As a result, the emphases on "effective and democratic policing increased immensely in the 1990s in response to a plethora of security concerns raised by ex-socialist and transitional societies..." (Bayley, 2001 cited in Sung, 2006, pp.347-348). Due in part to conspicuous fledgling democracies and institutional fragility, most transitional societies have increasingly become vulnerable to criminality (Shaw, 2002). Part of this increased vulnerability to crime could be attributed to the poor conception of democracy. Under transitional situations, there has always been an increased pressure on the police to crack-down on crime. More often than not, this pressure unwittingly leads to repressive and authoritarian police responses (Shaw, 2002). This is despite the adoption of the Constitution which sought to ensure greater accountability and transformation within the SAPS, increasing police brutality and criminal activities among the police officers epitomise the mishandling of increased pressure. The social disorganization perspective negates Shaw's analysis in the sense that increased pressure does not only come from a pressure to transform, but also from the hostile and socially disorganised nature of communities. Between 1997 and 1999, many death cases were reported due to police action. In this regard, "deaths as a result of police action or use of force/violence by police constituted 65 per cent of more than 4,600 recorded deaths since 1997" (Bruce, 2005, p.142). This resulted in the establishment of the Independent Complaints Directorate (ICD), which was tasked to report consistently on these cases. Between 2008 and 2011, reported cases of police brutality increased by 31.6 percent (Burger, 2014). The criminal cases against the members of the police also increased by 18.6 percent between 2008 and 2011. The overall cases against members of the police remain at an unacceptably high level.

The cases of police brutality are occurring despite increased demand in most fully-fledged democratic states and transitional societies for police officers to constantly exercise power within the ambit of the law (Berg, 2005). Berg's analysis could not be accepted at first value without conscientious scrutiny because the system of democracy alone cannot be a panacea to police brutality. The continued occurrence of police brutality implies that it is a matter that is not simplistic but one that is engulfed many complexities. These complexities make it difficult for police officers to fully understand democratic and undemocratic practices when they carry out their functions. This is especially the case in transitional democracies. The police should not violate the human rights. Under the era of democracy, it is further argued that rights can be violated by the police only in circumstances where it is deemed legally permitted and when it is done in the best interest of protecting innocent people (Berg, 2005). Amid the rapidly rising forms of police brutality, the regulatory frameworks have been put in place by many governments (both in developed and developing countries) to constrain, monitor, evaluate and regulate police behaviour. The Independent Police Investigative Directorate (IPID) in South Africa and the Independent Police Complaints Authority (IPCA) in Botswana are classic examples of regulatory frameworks which sought to encourage the police to exercise self-restraint in their day-to-day operations (Rauch & van Der Spuy, 2006). The IPID is different from the ICD because its duty is to conduct an independent and impartial investigations of specified criminality committed by of SAPS, Members of Parliament (MPs). After conducting an investigation, the IPID makes appropriate recommendations. These frameworks are in accordance with non-violent strategies. However, despite the presence of regulatory frameworks, numerous studies have demonstrated that many officers continue to contravene the law (consciously and unconsciously) due to bad behaviour which is often displayed when dealing with suspects (Newham,

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