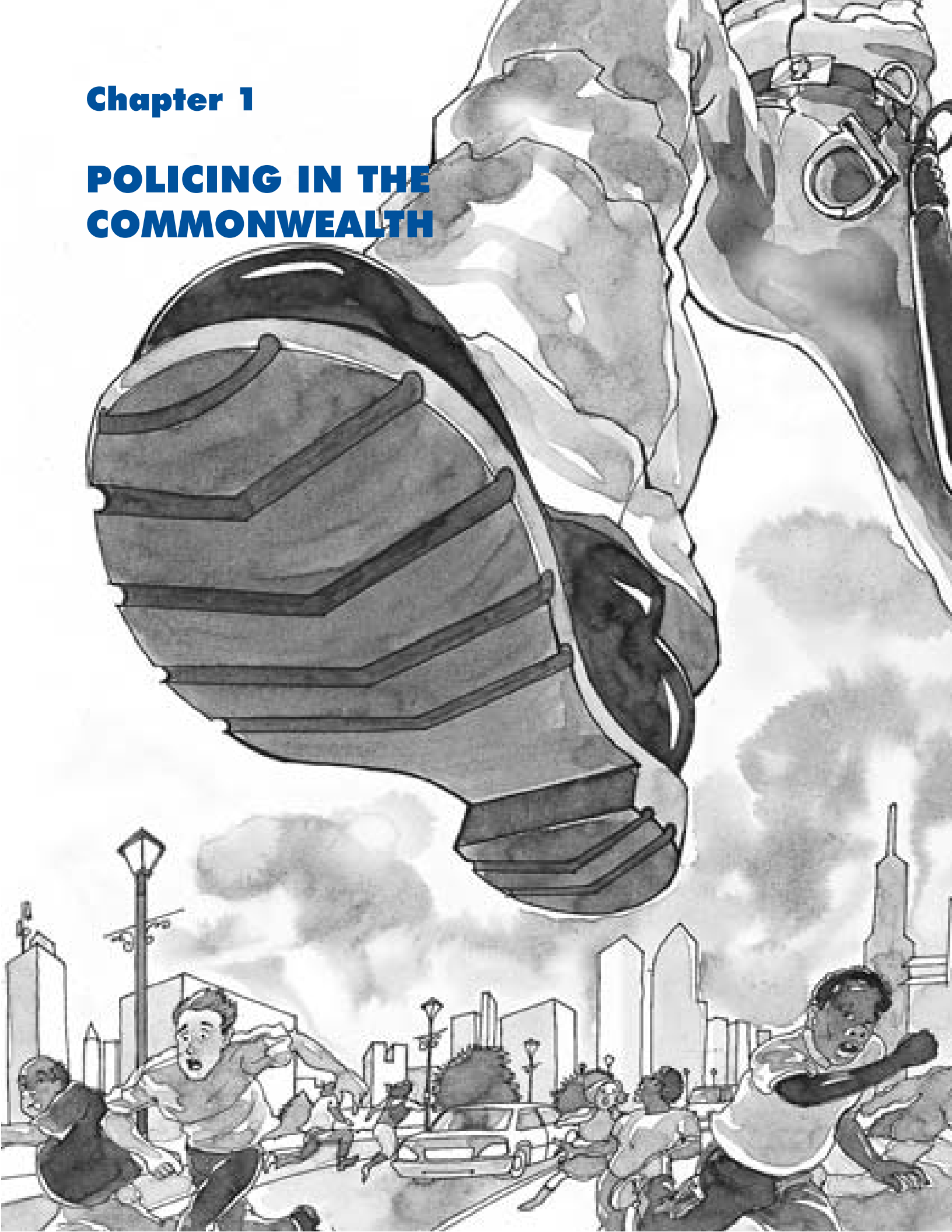


## Chapter 1

# POLICING IN THE COMMONWEALTH





Some of the best policing in the world is found in the Commonwealth, and also some of the worst. But by and large, its 1.8 billion people do not have the policing they deserve. Police reform is too important to neglect and too urgent to delay.

In too many countries, governments are failing in their primary duty to provide the public with an honest, efficient, effective police service that ensures the rule of law and an environment of safety and security. Today, membership to the Commonwealth is premised on countries practising democracy - and democratic governance requires democratic policing. The only legitimate policing is policing that helps create an environment free from fear and conducive to the realisation of people's human rights, particularly those that promote unfettered political activity, which is the hallmark of a democracy.

Nevertheless, barring a few honourable exceptions, there is too much wrong with policing in the Commonwealth for the association and its member states to persist in closing their eyes to the fact that the continued presence of unreformed policing - powerful, unaccountable, coercive, biased, and corrupt - remains a badge of a long gone colonial subservience rather than a mark of confident sovereignty.

Common colonial antecedents provide Commonwealth police structures a core resemblance but post-colonial histories have shaped present day policing in each country. The strengths and capabilities of police in the Commonwealth are now as diverse as the association itself. Sizes vary from less than 500 in tiny Dominica to more than a million in India. More importantly, population to police ratios vary: in South Africa for instance, there is one police officer per 404 people<sup>1</sup>; whereas in Bangladesh, it's one officer for every 1,200 people<sup>2</sup>. Some have huge financial and human resources to back them, while others must struggle to afford even basic stationery. Some - for example, Nigeria, Kenya and Canada - usually carry no lethal arms while others like South Africa, Jamaica, Sierra Leone and Northern Ireland routinely go armed. Some, like Malaysia, Trinidad and Tobago, and Fiji are strongly centralised while others are decentralised to state, provincial or local levels, such as Nigeria and the United Kingdom (UK). Some countries have a combination of national, state and local police forces. Canada and Australia, for instance, both have a federal police organisation, as well as state-level police organisations and Canada also has municipal police organisations. South Africa has one national police service and five separate municipal police services. India has 35 police forces and a proliferating number of paramilitaries and specialist forces, some directly under the control of the states while the ones at the centre fall under central government control.

The evolution of policing values has also been influenced by individual national histories. In a few countries policing has benefited from relative affluence and long unbroken periods of peace and stability. Elsewhere policing has been negatively influenced by long periods of dictatorship, apartheid, one party rule, coups, internal conflicts, overweening executives, militarisation and politicisation and everywhere policing is now being shaped by the recent preoccupation with terrorism. But perhaps above all, poor policing in unreformed jurisdictions has been perpetuated and even fostered by the temptation of ruling regimes - elected or self-perpetuating - to retain a force wholly in its control and designed to suppress opponents and dissent with a heavy hand. Such police have proved especially valuable apparatus in retaining power at election time when rivalries and threat perceptions are heightened. The regime bias in policing has helped ruling elites topple governments as has happened in the Solomon Islands, retain them in the Maldives and assist in keeping them safe from challenge in many more.

## WHAT AILS THE POLICE

As enforcers of the law, the police are commonly seen as the trusted embodiment of law, meant to protect the innocent, find the guilty and bring them to trial, and promote the means and ends of justice. They are expected to act righteously and rigorously in defence of the rule of law and adhere to its letter and spirit. But sadly, all too often police across the Commonwealth are cited for wrongdoing that ranges from individual misbehaviour to institutional criminality. Some of the commonest complaints against police - cited year after year by national and international human rights observers, other states, and experienced by the citizenry itself - are illustrated below.

### Due Process

Routine disobedience to procedural law is perhaps one of the most common feature of abuse of power. This includes detaining people without reasonable cause, or for longer than permissible without bringing them before a magistrate, or secreting them away in unknown 'safe houses' - or even taking innocent family members hostage to coerce those wanted for questioning to turn themselves in. The Law Commission of India's observation that "complaints of abuse of power of arrest is continuing unabated in the country and very often it is the poor and persons without official or political clout who become the victims of police excesses"<sup>3</sup> could be true of many jurisdictions where supervision and control over policing is lax.

Illustratively, so-called "Friday arrests" in Cameroon avoid the statutory need to bring the accused before a magistrate within 24 hours. Detainees must cool their heels in lockups till at least Monday when the court will sit. If arrests are made on private complaints, a little "speed money" will bring release.<sup>4</sup> In Kenya, citizens testified to a "total lack of security" in their daily lives because of the involvement of police in criminal activities and complained about arrests without warrant, illegal searches and seizures.<sup>5</sup>

According to a 2004 survey on Police-Community Relations in Ghana, many of those arrested were not informed of charges, 67% were not provided an opportunity to contact a lawyer, and 44% were presumed guilty from the time of arrest.<sup>6</sup> In the same year, a similar study in Mozambique found that 90% of the 2700 prisoners in Machaya Prison were not permitted access to legal counsel: an indictment on the police as well as the criminal justice system more broadly.<sup>7</sup>

### In The Name of Security

Only too swiftly after the September 11 attacks in America, new anti-terror laws have been enacted in many Commonwealth countries. Deplored by human rights groups the world over, these laws give police more procedural leeway, more powers to act on suspicion and more subjective discretion than accord with stringent and hard won international and national standards. The possibilities for abuse have increased manifold with vaguely-worded definitions of new offences, sweeping powers to hold people without charge or trial, often on the basis of secret evidence, and prolonged incommunicado detention - a factor that is well known in facilitating torture. These new laws come in addition to the basket of coercive powers that preventive detention, national security and official secrets laws already give police.

Inevitably, the cumulative effect of these concessions has made significant inroads into due process protections. Where policing is already suspect, the all-encompassing mandate to 'fight terror' means there is ever more chance for abuse of power and more impunity for already abusive police forces. Even in strictly monitored jurisdictions, increased seizure, surveillance, tapping, interception, stop and search powers and preventive detention have caused outcries of misuse, racial profiling and victimisation of certain groups. In jurisdictions with already flimsy accountability mechanisms and fragile civil liberties protection such laws are a licence for abuse of police power, are regularly used to by-pass the rules of criminal justice systems and further embed extremely questionable police practices.

## Brutality and Torture

Torture is absolutely forbidden in all circumstances. Yet, regular reports from all the regions of the Commonwealth show that it is a commonplace, everyday incident of custody. Illustratively, in Cyprus police stand accused of "kicks and punches to the body and head; banging heads against a wall; blows with truncheons or wood bats; placing a pistol to the head and issuing death threats; and applying electric shocks to the body, particular the arm and ear."<sup>8</sup> Beaten and burned on arms and legs whilst being questioned in Cameroon, a suspect was then forced to drink kerosene and set on fire.<sup>9</sup> The variety and inventiveness of torture is chilling and includes: rape, electric shocks, destruction of soft tissue with pliers, chilli powder put in body orifices, burning with cigarettes, repeated dunking of the head in water, being hung by the thumbs or ankles, or being kept tied and crouching, or on ice for hours, and regular beatings with iron bars and bamboo sticks. In Mozambique, in the first five months of 2005 alone at least two prisoners died in custody due to police beatings.<sup>10</sup>

Levels of abuse seem to have few boundaries and the incidence of torture shows little sign of decrease. In fact quite the opposite: in Uganda, for example, there is documented evidence of an increase in torture.<sup>11</sup> In Trinidad and Tobago, complaints to the Police Complaints Authority of "battery" by police officers doubled over two years.<sup>12</sup>

### A First Hand Account

This account of 50 days behind bars in a small cell with 15 others by a Bangladeshi journalist charged with sedition for his part in making a film about the country's political situation typifies the intolerance for free expression, bias towards the ruling regime and conditions in custody in many countries.

"There was one squat toilet in the floor of the cell and neither soap nor drinking water. We were told to drink from the toilet tank. On the third day I got dysentery. We slept without blankets on the bare concrete floor. The mosquitoes were relentless... Every few hours I would be woken up and pulled from the cell to answer questions."

"I should kill you," the high-ranking Dhaka policeman said. He drew his pistol from his holster, shoved me to the floor and pressed the muzzle to my temple. "You are a traitor. You have betrayed your country. How dare you describe the nation as a haven for al-Qaeda and the Taliban?" "The same high-ranking officer who brandished his pistol would force me to sit on the floor with my legs extended so he could thrash my left kneecap with his baton."<sup>13</sup>

Police often make excuses for torture, citing the gravity of the circumstance, lack of alternate means for detecting crime or obedience to orders from above. But refusal to acknowledge its presence and the lengths to which police will go to hide it, clearly show that they know it is a crime. Sometimes the attempt to twist the tale is so bizarre that it allows for a hint of dark - if bitter - humour. In a case being investigated by the Ombudsman of Belize, a construction worker who survived a weekend in jail narrated his story: "I was beaten with boots, hit with a baton, electrocuted, gagged, tied up with rope, and taped up during the almost three-hour agonising period. And to add more insult to my injuries the two officers wanted me to write and sign a suicide letter."<sup>14</sup>

Of particular concern is the tacit acceptance by governments of such behaviour. The recent willingness of the UK government, for instance, to allow, in certain circumstances, evidence that may have been obtained under torture in third countries<sup>15</sup> has shocked, and sent a signal of encouragement for such practices and lowered standards. Torture is inexcusable in any circumstance and all countries of the Commonwealth have recognised this at the international level. Its widespread presence as an institutional device evidences the deep malaise within unreformed and unaccountable police systems.

## **Extra-Judicial Executions**

When outside the strict ambit prescribed for the use of force, killing in the course of policing is nothing less than murder. However, there are all too frequently reports of police resorting to extra judicial killings as a 'quick fix' device. Faced with mounting public frustration at their inefficacy in controlling crime or low-level conflicts, police seek to solve deep-rooted security and societal challenges by simply liquidating the problem without the need to go through the "inconvenience" of the legal process. Illustratively, in Jamaica, faced with high levels of violent crime, the police kill over 100 people each year.<sup>16</sup> During its first 100 days, Nigeria's Federal anti-crime taskforce "Operation Fire for Fire" killed 225 criminal suspects after shoot-on-sight orders in "difficult circumstances."<sup>17</sup>

The patterns of extra judicial killings bear striking similarity across the Commonwealth, as do police versions of events. The police invariably point to clear and present danger, the presence of armed resistance and dangerous suspects against whom the police responded with proportionate force and in self defence - providentially killing all. Undoubtedly, police often work with little support in dangerous situations and this lends credence to their stories, but too many times "dangerous suspects" turn out to be children, pregnant women, poor peasants, peaceful protestors or unarmed opponents and dissidents. Sometimes the victims may indeed be well known criminals or "most wanted", but the circumstances of their demise are too often suspect. Support for using illegal methods is evidenced by proud public pronouncements by seniors that the police have killed over 1500 "suspected armed robbers"<sup>18</sup> or the assertion that the presumption of innocence is just "semantics".

The inclination to take short cuts and usurp the role of judge, jury and executioner is also encouraged when senior leaderships express obvious scorn for established judicial processes. In Pakistan, the Deputy Inspector General Police justified an upswing in encounter killings with, "... police encounters, though inhuman and a clear violation of human rights and law of the land, are the only way to bring heinous crimes under control as the judicial system is too cumbersome to bring

### **Janice Allen, Public Enemy aged 13**

The story of Janice Allen of Jamaica is not untypical of incidents in too many countries of the Commonwealth. Thirteen-year-old Janice was shot in the back in a "shoot-out". She died of her injuries - allegedly after police refused to take her to hospital. A year after the killing, an investigation clearly showed that it was a policeman's bullet that killed Janice. Following the killing, Janice's family received death threats and intimidation from police. In 2001, Janice's brother was arrested without charge and detained incommunicado for over 12 hours. The family was denied access and not given information about his arrest.<sup>19</sup> There were also attempts at bribery as the family was offered money to not pursue the matter.<sup>20</sup>

In the preliminary enquiry the firearms register, a vital piece of evidence, was brought to court with the relevant pages missing. After prevarication and delay had held up the trial for four years, the Crown Council trial lasted just one hour. No firearms register was produced on the excuse that it had been burnt in a fire yet no evidence was given to show that there had actually been any fire. The identification parade had been faulty and the investigating officer was off the island and not expected to return. No finding of guilt was returned.

the criminals to justice."<sup>21</sup> The State's extreme reluctance or outright refusal to bring the police to book also indicates a willing tolerance for policing outside the law. In Jamaica, for instance, 650 people have been killed since 1999, and yet not a single police officer has been convicted of an unlawful killing while on duty.<sup>22</sup>

Police often justify "tough" policing by pointing to popular demand. However, once its brutality and consequences for the public are revealed, support dwindles rapidly and levels of insecurity increase as the public now fear arbitrary police actions in addition to high crime rates. In Jamaica the special unit created to deal with situations of extraordinarily high violent crime had to be disbanded due to excessive brutality by its officers.<sup>23</sup>

## **Corruption**

Along with other institutional weaknesses, corruption has become an embedded part of police functioning in too much of the Commonwealth. In 2004, the public in Cameroon, Ghana, Kenya, Malaysia, Nigeria, Pakistan and South Africa viewed their police as among the most corrupt public service sectors.<sup>24</sup> In Ghana, 68% of respondents believed that extortion or bribery was frequent, and 92% admitted to paying a bribe.<sup>25</sup> In Kenya, police officers are the most frequently bribed public officials, "at an average of 13 bribes per client per year."<sup>26</sup> In Nigeria, despite the government's campaign against corruption, citizens reported daily demands for bribes from armed police at roadblocks throughout major cities.<sup>27</sup> In South Africa, certain inner-city areas notorious for high levels of illegal immigrants, sex workers and drug dealers have been dubbed "ATMs (Automatic Teller Machines) for corrupt cops."<sup>28</sup> A 2005 government report on Malaysia's police ranked the police as the government's most corrupt agency.<sup>29</sup>

### **Yielding to Temptation**

Police corruption has a stubborn persistence even in more affluent jurisdictions. In Australia, Commissions of Inquiry in the 1980s, 1990s and most recently in 2003 have pointed to endemic police corruption in the states of Queensland, New South Wales and Western Australia.

In Toronto, Canada, in January 2004, six police officers from the drug squad were charged with extortion, theft, assault, conspiracy, attempt to obstruct justice and perjury following the largest corruption investigation in the history of Canadian policing, which lasted two and a half years.<sup>30</sup> The probe was ordered after provincial prosecutors dropped more than 200 drug cases and many of the accused drug offenders filed civil suits alleging drug squad officers beat them and stole their money. The affidavits filed in the court by the investigators alleged that "some police officers made up informants, stole hundreds of thousands of dollars, and were willing to launder money."<sup>31</sup> In the same year a plainclothes unit had to be disbanded in response to a major investigation into allegations that police officers had either demanded or accepted cash and sexual favours from downtown bars and restaurants in exchange for help in acquiring liquor licences or tips on upcoming police raids.<sup>32</sup> Criminal charges of corruption were laid against the president of the Toronto Police Association and by July 2004, the Toronto Police Service laid a total of 55 new disciplinary charges against eight officers in relation to these allegations.<sup>33</sup>

The poorly functioning criminal justice systems of the South Asian region, which houses three-quarters of the Commonwealth's population, provides many an opportunity for the entrepreneurial police officer. It is estimated that police in Bangladesh alone earned nearly USD\$250 million in bribes in one year.<sup>34</sup> A bribe is often a prerequisite to registering a crime - or for looking away - and payments can help "steer" investigations. Aware that the proper and prompt registering of a case will guide its directions and the discretionary use of police investigative powers will decide its outcomes, police are often amenable to adding or omitting a name, a time, a place, or facts for a reasonable consideration.<sup>35</sup> Paying police to humiliate opponents and to avenge personal grievances is not uncommon and, in Pakistan, station house officers have been cited for operating arrest-for-ransom operations and have even established unsanctioned stations to increase illicit revenue collection.<sup>36</sup>

Scarce resources meant for public benefit are also diverted and purloined for private gain. Official vehicles routinely ferry family or influential contacts instead of being available for official work; weaponry is hired out into criminal hands; and overstretched personnel are deputed to work at domestic chores and as orderlies for seniors while crowded slums and high crime areas are under-policed for want of staff. Valued innovations such as toll-free hotlines for the public to report crime become private property as police use them to receive personal calls on a reverse charge basis, as has been reported in Papua New Guinea.<sup>37</sup>

Corruption has wider ramifications than diverting much-needed resources and fumbling investigations. Corrupt police personnel encourage and foster individual crime; suborn justice; sustain organised crime and the exploitation of victimised groups such as trafficked women, children, and refugees; and through their complicity, have been linked to encouraging insurgency and terrorist activities. In 2004, Jamaica experienced the highest level of violent crime in its history and police irregularities in the issue of gun licenses are said to have increased the rate of murder in the country.<sup>38</sup>

The existence of so much corruption and consequent police criminality demonstrates the inability or unwillingness of superiors and authorities to tackle the problem. Not least because of their own involvement: in Sri Lanka, a senior Deputy Inspector General who was in fact the police ombudsman, was himself faced with corruption charges when he could not account for USD\$30,000 in assets.<sup>39</sup>

## **Bias and Discrimination**

The guarantee of equal protection before the law is a fundamental Commonwealth value. Even-handed policing is both a legal obligation imposed by international and national law and a public expectation. Nevertheless actual and perceived bias in law enforcement remains a major cause for concern in Commonwealth policing. Apart from the predisposition of many police forces to act as instrumentalities of whichever regime is currently in power, the composition of an organisation often ensures that it carries within itself the long standing prejudices of the society it polices.

Police organisations in the Commonwealth are not, for the most part, representative of the rich diversities in the population. Lack of racial, religious, regional diversities affects the way routine policing is done, to whom services are provided, how conflict is handled and

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particularly affects the ability of the poor, minorities, women and vulnerable groups to access justice. Many police forces are attempting to consciously redress traditional imbalances. Efforts have been made in Northern Ireland to ensure both Catholics and Protestants are more evenly recruited. South Africa's affirmative action policies are geared to redress racial imbalances inherited from apartheid. To improve race relations the British Government has placed a duty on police services to promote diversity.<sup>40</sup> The New Zealand police have been one of the first government departments to respond to a national policy effort to take ethnic perspectives into account. With a strategic ethnic advisor in place the police actively seek to recruit across communities.<sup>41</sup>

### **Discrimination Against Minorities: It's Everywhere**

Almost everywhere, minorities - whether ethnic or religious - and vulnerable groups such as the poor and women, experience a more crushing weight of policing. Just a handful of examples include:

- In the UK, in 2003 black people were six times more likely to be stopped and searched than white people.<sup>42</sup>
- The ongoing conflict between Greek and Turkish Cypriots manifests itself in differential treatment for detainees by police and prison officers - in the Central Prison in Nicosia, for instance, there is little response to complaints by Turkish Cypriots and some are even denied medical care.<sup>43</sup>
- Fear and distrust between Guyanese of African, Hindu and Amerindian descent is mirrored in fear and suspicion of the police, which is considered biased towards the Afro-Guyanese majority, and discriminatory against the Indo-Guyanese.<sup>44</sup>
- In Australia, Indigenous people are 16 times more likely to be imprisoned than non-Indigenous adults;<sup>45</sup> in the state of New South Wales, they are 12 times more likely to be charged with assault;<sup>46</sup> and while indigenous people account for only 2% of the total population, indigenous people made up approximately one-third of the deaths in police custody in 2003.<sup>47</sup>
- In South Africa, as recently as 2005 the South African Human Rights Commission found that the Khomani San, a marginalized and poor indigenous community living in the Kalahari Desert, are subjected to discrimination and harassment by the South African Police Service.<sup>48</sup>

Despite some positive change, asymmetries remain in many countries. To illustrate a single one: the composition of police organisations across the Commonwealth is overwhelmingly male. Modernising organisations are trying to redress the balance. Sierra Leone's newly constituted police force already has 15% women and at 28.6%, the South African Police Service has the highest representation of females in any police service in the world.<sup>49</sup> But others lag behind. In India, for example, women make up only 2.2% of one of the largest police forces in the world.<sup>50</sup>

Such skewed compositions play their part in poor policing. Crimes against women abound across the Commonwealth but are too often met with very poor response, with stereotypes and traditionalist attitudes prejudicing the way the predominantly male bastion handles cases. Rapes, domestic violence and trafficking are all under-policed not only because silence, suffering and shame prevent them being brought forward, but also because of the



unsympathetic response they commonly receive. Victims of domestic violence are routinely belittled and even the presence of special legislation mandating police to protect its victims does not prevent women being turned away and refused relief. Women in custody are often vulnerable to sexual abuse - and increasing occurrences of such incidents prompted India to pass legislation that creates a presumption that where a woman is in custody, any sexual intercourse amounts to rape unless proven otherwise by the custodian.<sup>51</sup>

Across South Asia, often socially acceptable forms of violence against women such as forced marriages of minors, dowry deaths and rape as a means of family revenge are often left to the rough justice of the community or hushed up with police connivance, unless highlighted in the media. In Bangladesh for example, the low rate of convictions for violence against women is blamed on the inability of police officers to investigate cases.<sup>52</sup> In Pakistan, despite strong campaigning by women's groups, deep resistance remains within the police establishment to act vigorously against the premeditated murder of women, which are widely viewed as "honour killings." Elsewhere, even otherwise exemplary forces are not immune from individual aberration and confirm that gender bias is slow to change. In New Zealand, a Royal Commission of Inquiry was recently established to investigate allegations of rape by police officers and how the complaints were handled by police.<sup>53</sup>

Where bias and discrimination in policing is accepted and left unattended, public alienation and non-cooperation undermines the security environment and makes policing harder and harsher, creating a downward cycle of events that often leads to open conflict or quiet and continuous victimisation.

## CONSEQUENCES OF POOR POLICING

Perhaps the greatest public resentment and disappointment over bad policing is reserved for impunity - the safety from punishment provided by authorities and supervisors to errant police and the lack of accountability. In addition, this includes a boundless tolerance for poor performance in delivering safety and security and protecting the rule of law.

When deprived of the assurance of state protection, people do not have the confidence to approach the police and instead increasingly opt for self-help. While the rich may choose to buy the expensive services of the booming private security industry to protect themselves, vigilantism becomes a viable option for the poor.<sup>54</sup> Disaffected communities breed violence and the inability of police to tackle public resentment with finesse and diplomacy further exacerbates the situation, sometimes spiralling it out of the sphere of negotiation into open confrontation. The rule of law is undermined and the economic development process is impeded.

Bad policing also affects civil liberties not only because people are not able to go about their work and leisure free from fear, but also because it increasingly prompts governments to pass restrictive legislation full of



discretions that put ever more power into the hands of the police without holding them strictly to account. While it is ordinary people who are most affected by poor policing, politicians who think they have control over the police may also find themselves vulnerable to police arbitrariness when they are no longer in power.

Excuses for not stopping impunity are many and varied. Dangerous times, insurgency, or civil conflict are often used as a reason for giving police free reign - based on the rationale that questioning police excess will somehow undermine their authority at a time when it is particularly vital for them to look invincible. This ignores the fact that violence and abuse of power are not restricted to moments of high national emergency but are everyday occurrences. Arguments are put forward that prosecution and frequent disciplinary proceedings will demoralise the organisation. This puts a few bad people above the whole population, as well as above the law. In their own defence, the police will often shun responsibility for wrongdoing by assuming helplessness in the face of "orders from above", ignoring the fact that their mandates are strictly limited to obeying only lawful direction.

Once condoned, habits of impunity become so deeply rooted within the organisation that the best personnel cannot function without impediment and the worst find themselves protected in a way that demoralises the bulk of ordinary good police personnel from working with honesty and commitment.

## **WHO IS AFRAID OF POLICE REFORM?**

In the end, the frequent unfair protection afforded to police evidences a close nexus between bad policing and bad governance. Given that the police are largely governed by the political executive - and in many jurisdictions closely controlled by them - impunity persists not by accident, but by design. Too often, police officers are not held to account only because of patronage they enjoy from various elites and the mutual benefits derived from this. Despite strong evidence that poor policing contributes to the notable sense of lawlessness and insecurity felt by citizens around the Commonwealth, resistance to change has been stubborn and persistent.

Despite strong evidence that poor policing contributes to the notable sense of lawlessness and insecurity felt by Commonwealth citizens, resistance to change has been stubborn and persistent. The main obstacle to reform is the lack of political will.

Again, the justifications are many and may include an honest lack of finances, personnel and know-how. Tardiness in bringing about change also comes from the inability of in-country police and political bosses to access knowledge about the nuts and bolts of how accountability can be achieved. Lack of safe platforms for dialogue on challenge and response, context and innovation, problems and solutions can also impede initiatives for change. The inability to undertake comprehensive reforms encompassing the whole criminal justice system is also sometimes used as an excuse not to attempt even the most elementary efforts. But the greatest resistance comes from the same powerful elements that benefit from the status quo and the main obstacle to reform is surely the lack of political will.

### **Where There is No Will... No Way!**

The response to the cry for better policing is a telling marker of the political will to reform and the levels of resistance encountered. In 1997, no less than the Home Minister of India wrote a letter urging every state's Chief Minister to begin the process of reforming their police. This occurred in light of a series of reports published between 1979 and 1981 that had looked at all aspects of policing, found them wanting and made cogent recommendations for reform. Not a single Chief Minister replied and less than a handful have taken meaningful steps in the quarter century since these reports were published to do more than make tinkering changes. The comprehensive 8-volume report that carefully analyses many of the same frailties, causes and effects that plague policing in Commonwealth jurisdictions lies firmly buried. Periodically, other commissions and investigations add to the literature on the need for reform but little by way of seminal change has been persuaded. Police performance remains unsatisfactory and unmeasured against the vast amounts spent by the central government to the states each year to 'modernise' the force. In desperation two public spirited ex-police officers have finally gone to the Supreme Court asking the court to instruct the government to implement the recommendations of the National Police Commission especially those related to insulating the police from illegitimate political pressures.<sup>55</sup>

## **POLICE REFORM EXISTS IN THE COMMONWEALTH**

The reform of law and order and justice systems is only possible if governments - and the public at large - accept that reform is necessary and important. Though too many resist change, the Commonwealth has some inspiring examples of governments and police hierarchies making concerted efforts to bring about reform - and succeeding in the face of strong resistance and limited budgets.

Some police organisations have undergone varying degrees of modernisation. In the more affluent democracies, emphasis has been placed on streamlining police organisations to make them more effective and ensure value for money. This has often been accompanied by "culture change" programmes that contribute to changing attitudes and behaviour to align them with human rights and a more appropriate service orientation. In Canada, the combination of a highly diverse population, a liberal rights culture, and decentralised local policing has led to some of the most progressive developments in community policing and local-level accountability. Tightly controlled Singapore has nevertheless developed a trusted and community friendly police. Ironically, the UK, which introduced policing to most Commonwealth countries, has developed a policing model diametrically opposite to the one it left in place in its former colonies.

Impetus for reform has come from public concern over rising crime, or from incidents of police abuse or failure, accompanied by a willingness to learn and address changing contexts. The end of conflict in Northern Ireland, for instance, brought with it the need to re-build popular confidence in a police force that was seen as partisan and brutal. Despite resistance from within, the occasion provided a moment for redesigning a new kind of police capable of sustaining support from the community as a whole.

Similarly allegations of institutional racism in Canada and Britain pushed governments to re-examine and dramatically improve recruitment policies, training and community relationships. In Australia, persistent corruption in some of its state forces and a disproportionate number of deaths in custody of indigenous people led to several reform commissions and the adoption of sophisticated police accountability practices. Similarly, countries such as Fiji, Nigeria, South Africa and Sierra Leone that have undergone dramatic transitions from authoritarianism to democracy, have begun to showcase some of the seminal lessons for police reform.

### **Global Collaboration on Policing**

The interest of international donor agencies in police reform is on the rise, with more and more Commonwealth countries receiving aid packages that require or support police reform, often as one component of sector-wide criminal justice reform. The World Bank and a host of other donors have assisted countries to produce Poverty Reduction Strategy Papers which often involve strengthening criminal justice systems within a larger poverty-reduction scheme. Many Commonwealth countries are implementing police reforms related to justice-sector programmes of the Poverty Reduction Strategies. These countries include Lesotho, Kenya, Tanzania, Bangladesh, Pakistan, Sri-Lanka, Guyana and Dominica.

In the Pacific - Fiji, Solomon Islands, Papua New Guinea and Vanuatu - donor-driven police reform programmes are led primarily by AusAid, the Australian government development agency. These programmes focus on reforming Police Acts, strengthening internal investigative capacities and providing training in key operational areas as part of a wider governance strategy for the region.

Post-conflict countries, such as Mozambique, Sierra Leone and South Africa demonstrate the immense impact that donors can have in shaping police reform during a transition to peace. The imprint of donors during a transition can, however, be as problematic as earlier colonial legacies if donors themselves are not adhering to best practices in international development work.

Despite the globalisation of ideas about policing, much has been learned from the attempts to export "models" from the developed world. There is a healthy reluctance to accept first-world models in most parts of the Commonwealth, and a sensitivity to the need for policing to respond to specific local conditions. Regional collaboration include regional associations of Police Chiefs in the Pacific, Southern Africa and the Caribbean that meet regularly to discuss key policy and operational issues. The Pacific, in particular, has taken trans-national policing even further, with a Regional Assistance Mission to the Solomon Islands. The Mission is Australian-led, involving New Zealand, Fiji, Papua New Guinea, Tonga, Samoa, Vanuatu, Kiribati and the Cook Islands, and its operation is endorsed by the Solomon Islands government as well as all of the Pacific Island Forum member states. In its first phase, it involved about 330 police officers, backed by around 1800 military personnel, working to disarm the militants and cleanse the Royal Solomon Islands Police Force of its criminal members.

### **From Regime to Democratic Policing**

Over the past three decades, the notion of policing has evolved from a narrow preoccupation with protecting the security of the state and its rulers to including a broader concern with ensuring "human security" for all.<sup>56</sup> The protection of human security places emphasis on policing by state and non-state actors, such as community groups and private security businesses, that together create an environment where freedom from fear and freedom from want is respectively assured and contributed to.

Reform requires a shift from "regime" policing to "democratic" policing: an approach founded on principles of equity and equality, accountability, transparency, participation, respect for diversity, the accommodation of dissent, protection of individual and group rights, and encouragement of human potential. Democratic policing not only protects democratic institutions and supports an environment where democratic activities can

flourish but also demonstrates democratic values in its own institutional structures and processes. Ideally, holistic reform requires attention not only to police but also to the criminal justice system.

Across the Commonwealth, reforms have ranged from replacing outdated police Acts with new legislation that reflects the country's constitutional imperatives, to putting in place new management systems that work to improve police performance and move the police from a state force to a public service. Depending on the context, police reforms have entailed wholesale review and redefinition of role and function as well as organisational restructuring aimed at making the organisation less militaristic and hierarchical and more merit based. Reform has sought to change the internal sub-culture in matters of ethics and discipline and has focussed on bringing about changes in attitude aimed at shifting the police from its frequently fortress-like mentality to becoming inclusive and responsive.

Other changes have been to recruitment to make it more representative. Training has gone beyond the military march and baton drill to inculcating knowledge of human rights, nurturing initiative, honing new skills and creating professional specialisations. Reform has also addressed service conditions of rank and file and paid attention to their career advancement based on good performance rather than patronage.

Reform has also harnessed technology, reassessed available financial and human resources and devised strategies to make optimum use of these scarce resources while paying particular attention to putting in place rigorous oversight systems that ensure financial integrity. Vital to new systems is their ability to insulate police from illegitimate outside interference and permit officers functional autonomy coupled with management responsibility for delivering good policing services to the community. This has involved careful demarcation of roles between political authorities and other security agencies.

At the heart of all reform efforts lies the need to create effective mechanisms of accountability: the strength and impartiality of these mechanisms creates strength and credibility for the police.

### **What's in a Name?**

It is not without significance that most Commonwealth Acts refer to police organisations as "police forces" but some use the term "police services" - for example South Africa, Ghana, Lesotho, Trinidad and Tobago, Australia, Canada, parts of England and Northern Ireland. Each has gone some way to "democratising" its police.

Since the word "force" had unhappy connotations of violence in 1965, after independence Trinidad and Tobago abolished the designation of a "Police Force" replacing it with "Police Service". Cosmetic though it may be, name changes signify the underlying aspirations of what the public wants of its police - that the police exist to serve the public and not to control them. Within the organisation, the name change is intended to ground a change in attitude to a more "service-oriented" approach in which the police see themselves as servants of the community rather than merely those who impose order. Name changes also underline the fact that the police are a public service paid for through taxes and are accountable to the people for the performance they deliver.

At the heart of all reform efforts lies the need to create effective mechanisms of accountability and performance evaluation that can transform police organisations from oppressive engines of a few powerful interests to a service for all. The best initiatives at improving structure, processes and management can have no meaning unless underpinned by strong guarantees of improved accountability.

Where it has taken root, democratic policing is subject to multiple layers of accountability: transparent internal police mechanisms deal with discipline, ethics and performance standards while external oversight extends across parliament, the judiciary and the executive, to the community and newer independent institutions such as human rights commissions and ombudsmen. Working in tandem, the strength and impartiality of each of these mechanisms creates strength and credibility for the police.