

POLICE AS WORKERS

Police labour rights in Southern Africa and beyond

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Efforts by police organisations to unionise and to increase their social and labour rights is an international phenomenon, and one that is becoming more vigorous in the Southern African region. However, many governments are wary of police unions and limit their rights, or refuse to recognise them at all. This gave impetus to the formation of the International Council of Police Representative Associations (ICPRA), in September 2006. Two of ICPRA's aims are to assist and advise police unions all over the world and to provide the international police union movement with a voice for influencing policing futures. In South Africa, the Police and Civil Rights Union (POPCRU) is assisting police in the subregion and has become a symbol of what is possible for police even in repressive states. In a rapidly changing police labour environment, police unions have the capacity to confront existing (undemocratic) occupational cultures, to promote organisational accord and to forge positive reform.

In February 2007 a group of Swaziland police officers came together to form a police union. Unsurprisingly, the Swaziland government refused to recognise or register the union. The current Industrial Relations Act bars members of the police or the security forces more generally from joining or forming a union.¹ The Swazi police officers who have been advocating for the rights of the police to unionise have been threatened with arrest. They have turned to the Police and Civil Rights Union (POPCRU) in South Africa for strategic direction and legal advice. POPCRU, as the first police union to be formed and registered in Southern Africa, has become a signifier of the possibilities of social and labour rights for the police in the Southern African region.

At roughly the same time, the Mauritian Police Association approached POPCRU for assistance and

support in their efforts to have police included in the Mauritian Labour Relations Act. At present, while police officers in Mauritius have the right to collective representation through the Association, they have very limited rights to freedom of association and collective bargaining. The Mauritian Police Association is seeking recognition of police as workers with equal rights to other workers in the public and private sectors.²

These Southern African initiatives, while audacious in their regional context, fit well with international efforts by police officers to increase their social and labour rights. In September 2006 an international network of national police unions came together to form a network known as the International Council of Police Representative Associations (ICPRA). POPCRU is a member organisation of ICPRA as are national police

unions and associations from Europe, the USA, Canada, and Australasia.

Since the beginning of this year ICPRA has offered advice and support to the nascent police union in Swaziland as well as to police officers from the Guardia Civil in Spain whose rights have been limited by the Spanish government.³ ICPRA's aims include giving police on the frontline a voice and improving the conditions of service of police across the world. The best way to do this, ICPRA representatives believe, is to assist police in establishing and strengthening police representative organisations.

Police as workers

What is apparent is that in many parts of the world police are actively campaigning for their rights as citizens and as workers. This article takes as a given the point made by Robert Reiner in 1978 that police are workers. They sell their labour power and have little control over their work process. The state police have always been drawn from working class backgrounds, many from families with strong traditions of unions in the mine and railway industries.⁴ Today's police officers have dual self-identities as workers and as professionals.⁵

This article refers to face-to-face and telephone interviews, as well as e-mail correspondence, with police unionists from Canada, New Zealand, South Africa, Australia and the United States of America. It does not offer a comprehensive review of police unionism and its impact on police organisations. Rather, it is a discussion – intended to portray police as workers, to emphasise their labour rights and to foreshadow the positive role that police unions can play in securing these rights and participating fully in police reform initiatives.

It is hoped that this piece will stimulate discussions on police labour rights and prompt future research that interrogates the relationship between police labour rights, police productivity and the democratisation of policing.

Police as unionists

Police unions "have become an increasingly prominent feature of the modern agency and its

environment of interested parties".⁶ The expansion of police union networks both regionally and internationally is an indication that police officers are increasingly concerned with workplace rights and participation. Despite initial resistance to the unionisation of police, even in western liberal democracies, police unions have been remarkably successful in achieving benefits for their members. Such success has been achieved using what Freeman and Medoff would identify as the 'monopoly face of unionism'; the face that focuses on raising wages over and above the market value and achieving above par conditions of service.⁷

Police unions have had similar successes. Unions in places like Australia, New Zealand and even South Africa enjoy membership levels of almost 100%⁸ and they have become prominent 'insiders' in the employment relationship, particularly in the "determination of criminal justice policy and administration".⁹

Yet despite the long history of police union rights and the institutionalisation of police unions in many countries, police managers and employers continue to view police unions as disruptive entities, and as bodies that resist reform and challenge managerial prerogative.¹⁰ Their antagonism is not simply a response to police union defensiveness, but also a response to the reality that police unions have hastened the breakdown of militaristic aspects of police organisational culture.¹¹

In post-conflict and newly democratising countries, police unions are viewed as potentially insurrectionist bodies, threatening newly attained peace and stability. In countries with authoritarian governments such as Swaziland, unionisation within the police threatens unquestioning responsiveness to government orders. Police unions are viewed as undermining much needed discipline within police organisations¹² and as "crippling management's control".¹³

It is argued here that the challenges presented by police unions are positive. They have the capacity to confront existing (undemocratic) occupational cultures, to promote organisational accord and to forge positive reform.

Labour rights in police organisations

According to the International Labour Organisation, freedom of association and the right to organise and bargain collectively are fundamental human rights.¹⁴ The ILO maintains that through encouraging the full realisation of these rights a 'decent work-cycle' is established, which has the potential to increase productivity, income, and profits for all concerned.

However, the guarantees provided in the ILO Conventions on freedom of association and collective bargaining do not apply automatically to the police and the armed forces. Instead, police labour rights are to be determined by national laws or regulations.¹⁵ These national frameworks are themselves dependent on a number of national dynamics including broad labour law legislation (at all levels of government), party political standpoints, social movement environments and the configuration of police organisations.

It is not surprising that while police unions are permitted in most (Western) liberal democracies, they are prohibited in societies with transitional or authoritarian governments. Where collective bargaining and freedom of association are proscribed (for example, in most African, South American and Asian countries and in many Eastern European countries), governments argue that access to core labour rights will negatively impact on the operational efficiency of the police. In these countries, government and police managers maintain that awarding police the rights to collective bargaining and freedom of association will diminish discipline and emasculate the chain of command.¹⁶

The next section will discuss basic labour rights, and the possibilities that extending these rights to the police hold for creating more democratic police organisations and practice.

Collective representation

Unions bring with them a range of benefits to both employers and employees that participative arrangements alone are unable to achieve. These include balancing the power relations within occupational organisations and promoting collective buy-in and morale.¹⁷ Police employment issues in

particular may be considered in light of the broader 'public good', that is, outside the organisation itself. If police officers are not happy with their employment conditions, industrial action or other activities may well impact on the community's safety and security. Despite the evidence on the positive contribution unions can make in any given workplace, antipathy toward police unions remains strong on the part of police managers and employers.

Long-standing police unions have made significant gains in terms of benefits for their members. They have secured greater rank-and-file engagement with the shaping of policy and practice. Police, through their membership of the union, are able to become active, participatory 'citizens' within police organisations and are able to negotiate important decisions that affect them individually and collectively. Such engagement, particularly at middle management level, is crucial for organisational buy-in at all levels, particularly during periods of organisational change.¹⁸

Having a 'voice' that is heard in an organisation that is typically hierarchical and centred on management prerogative helps to build both morale and organisational commitment. As Dale Kinnear, Director of Labour Services in the Canadian Professional Police Association, argues:

Unions provide a means for employees to vent frustrations and resolve contentious issues in the workplace. In so doing, concerns can be addressed by management and this can prevent issues from disrupting the workforce and the workplace. Unions are also a buffer on the operations of these quasi-military organisations. In any workplace, a union can help keep an employer on track and above board. When a mutual fear/respect relationship exists, management and employees keep each other centred.¹⁹

Police unions realign power balances within police organisations and keep a watchful eye in terms of professional integrity. They have also presented a much-needed challenge to the traditional

bureaucratic and hierarchical occupational culture of police organisations.²⁰

Unions also provide lower-ranking police officers with protection, particularly in disciplinary circumstances,²¹ boosting police members' confidence in their professional discretion. In the words of Ron DeLord, President of the Combined Law Enforcement Association of Texas, union membership is an 'insurance policy' for police members:

Where police do not have basic civil service rights, there is usually a lack of quality policing. Officers in these situations are always worrying about who and when to arrest and how police authorities will respond. Here, in Texas, we benefit from having a police union. We can write tickets for the governor when necessary and not feel threatened. The ability to act on behalf of the public as a whole is what shapes policing and if police have rights you are more likely to be able to serve the public without fear or favour...Not having a union in the police is like driving a car without insurance.²²

The unions play an important role in providing legal and collegial support when they operate outside of the interests of powerful individual members of society. This is extremely important if policing is to be independent of the requirements of political elites. For police representative organisations to provide these protections and to safeguard these rights, however, they need to have some relative autonomy from the police organisation.

Collective bargaining

The purpose of collective bargaining is to negotiate working conditions and terms of employment; to regulate relations between employers and workers; and to regulate relations between employers and worker organisations. Collective agreements can also pertain to broader policy issues that may not appear to be directly related to issues of salary and working conditions.²³

But what, specifically, are the benefits of collective bargaining for police organisations?

Pat Ntsobi, personal assistant to the Secretary General of POPCRU in South Africa points out that collective bargaining allows for broader involvement in problem solving and policy making. It creates an environment within police organisations where police managers and employee organisations are *partners* in the governance of the organisation:

Collective bargaining forces the employer and the employee organisation to officially seek a solution to problems affecting members. The bargaining structure also removes the bureaucratic red-tape that prevents management and workers from engaging as equal partners.²⁴

Police unionists argue that collective bargaining rights benefit all police stakeholders by promoting more harmonious relations, usually through the finalisation of collective agreements. As Mark Burgess, Chief Executive Officer of the Police Federation of Australia reckons:

Once you have collective representation and agreement, you are able to have a more consistent approach to the way that things are organised and the way that things are done. You will then get consistency in policy that can be applied equally to everyone. I think it is far better from a management point of view to be able to develop a framework or a process for dealing with a group of people across a whole jurisdiction. It benefits the industry generally. It leads to greater co-ordination and more effective management.²⁵

The reckoning then for the right to collectively bargain within police organisations is much the same as for any other industry, both public and private. Collective agreements provide police members with the opportunity to directly experience the benefits of partnership building, which has become a central tenet of new police governance arrangements.²⁶

The potential benefits that police unions and collective bargaining can bring to police organisations are shadowed by police management and employers' anxieties about

their capacity to be highly politicised, unruly and undermining of authority (both within the police organisation and more broadly). The Swazi government, for example, has stated that the move by police to unionise is a strategy to undermine the state and has declared this initiative to be criminal. The Swaziland Police Union chairperson has denied this, stating that the purpose of the union is "to enable members of the force to bargain collectively on all issues affecting their interest at the work place".²⁷

Addressing concerns

Yet, despite such reassurances, police unionism remains threatening in the eyes of police authorities. Below there is brief mention of two concerns (and there are others) of police authorities in regard to police unionisation, and also police union leaders' responses to these concerns.

Police managers and employers worry that if police have the right to unionise and to collectively bargain, they could choose to engage in strike action.²⁸ The reality is that police unions across the world have been reluctant to strike and generally police unions have not argued for the right to withdraw their labour.²⁹ Police unionists argue that the communities that the police serve are most harmed by strike activity, and that criminals are the ones who benefit from such action.³⁰

In the absence of the right to strike, police unions across the world have called for the institutionalisation of dispute resolution and arbitration processes.³¹ In most countries legislation constrains the boundaries of police industrial action. Grievance procedures, tribunals and conciliation and arbitration avenues are all designed to prevent 'aggressive industrial bargainers'.³² Police unions have been actively involved in shaping and promoting these alternative institutions and processes with positive results in terms of labour peace and social dialogue.

Finally, police managers worry that extending labour rights to the police will serve to undermine

management prerogative.³³ Police unionists interviewed, however, indicated that they did not feel the unions should have the right to interfere with operational matters. As Ron de Lord, a police unionist from Texas who was involved in the formation of ICPRA, put it:

The onus is upon police managers to indicate the limits of collective bargaining and to come to agreement with police labour organisations on this issue. We are primarily interested in 'flavour of the day management theories', political whims and management issues such as training, diversity management, disciplinary systems and professional opportunity – issues that impact on the way we do the job. We are not necessarily interested in operational issues unless they fall into those categories.³⁴

Police unionists recognise and value the police ranking structure as well as the importance of command structures and discipline. This is perhaps because police unionists and their members tend to identify themselves primarily as police officers, rather than as unionists. Ideally, according to one police unionist from Australia, police unions would prefer to leave operational decision-making to police managers and supervisors.³⁵

Perhaps this is, as Grimes argued four decades ago, because police unions don't want to take responsibility for any disastrous outcomes that may result from operational decision-making. The fear then that police unions will undermine the *operational* authority of police leaders seems unwarranted, although admittedly it is sometimes difficult to separate workplace issues from more operational matters.

Conclusion

Regional and international networks of police unions are growing in strength and influence. Even in countries characterised by extremely authoritarian governments, police officers are now using the language of rights and citizenship and are determined to have their collective voices heard.³⁶ While in Southern Africa at present the only country that awards police the right to unionise and

to bargain collectively is South Africa, there are moves from below challenging current police regulations and labour legislation. These efforts are likely to be supported and even advanced by organisations like POPCRU and international networks like the ICPRA.

Resistance to the extension of labour rights to the police is likely to continue. But what needs to be borne in mind is that, despite the apprehensions of governments and senior police management towards police unions, where they do exist and are strong, the sky has not fallen and chaos has not ensued. If international police union experience is anything to go by, management and employer fears about the strike imperative of police unions and the erosion of managerial prerogative seems unwarranted.

Through collective representation and access to collective bargaining, police unions have added considerably to the fabric of police organisations. Through collective representation police officers have been able to engage significantly in co-determination processes and participate in decision-making forums; often contributing significantly to improvements within the organisation and the bolstering of rank-and-file morale.

Interviews with police union leaders reveal a desire to work collaboratively with police managers to forge police organisations that embrace democratic reform, and to improve productivity. The presence of police unions may in fact facilitate smoother processes and decision-making within police organisations, given shared professionalism agendas and a climate of social dialogue. Police are more likely to be receptive to management initiatives if they have "reason to believe that the department will not treat them in an arbitrary fashion".³⁷

In 2005 Canadian criminologist Pat O'Malley recommended that police managers review their oppositional stance to police unions to consider them as 'mediums of change'. As partners, he suggests, police managers and unions could work together in moving away from "the old military guild of public police, toward the formation of a

public business corporation, and a privileged labour force, in a segmented policing market".³⁸

It is hoped that this article has opened some space for policing and employment relations scholars and also police managers to deliberate on the important role of police unions and police labour rights in a rapidly changing policing environment. Police organisations in the Southern African region should not avoid these deliberations. If they do, it is likely that reform initiatives from below will clash with those from above and ongoing instability in the police workplace will persist.

Endnotes

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