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Human Rights and the Militarization of Police: A Global Challenge to the International Legal Order

Los derechos humanos y la militarización de la policía: un desafío global al orden jurídico internacional

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ABSTRACT

This article explores the global trend of police militarization and its implications for human rights protections. By examining case studies from the United States, Brazil, South Africa, and the Philippines, the research uncovers how the increased use of military tactics, equipment, and personnel by civilian police forces exacerbates violence, suppresses dissent, and undermines community trust. Utilizing a human rights framework combined with political sociology and criminology, the study identifies systemic patterns linking militarization to abuses such as excessive force, arbitrary detention, and violations of civil liberties. The novelty of this work lies in its comprehensive comparative analysis that situates police militarization

within broader geopolitical and social contexts, highlighting its role in reinforcing authoritarian governance and social control. This article contributes to policy debates on law enforcement reform and the protection of human rights amid growing global security challenges.

Keywords *Police militarization*, *Human rights*, *Excessive force*, *Civil liberties*, *Authoritarianism*

RESUMEN

Este artículo explora la tendencia global de la militarización policial y sus implicaciones para la protección de los derechos humanos. Mediante el análisis de estudios de caso en Estados Unidos, Brasil, Sudáfrica y Filipinas, la investigación revela cómo el aumento del uso de tácticas, equipos y personal militar en fuerzas policiales civiles incrementa la violencia, suprime la disidencia y socava la confianza comunitaria. Utilizando un marco de derechos humanos combinado con sociología política y criminología, el estudio identifica patrones sistémicos que vinculan la militarización con abusos como uso excesivo de la fuerza, detenciones arbitrarias y violaciones de libertades civiles. La novedad de este trabajo radica en su análisis comparativo integral que sitúa la militarización policial en contextos geopolíticos y sociales más amplios, destacando su papel en reforzar el gobierno autoritario y el control social. Este artículo contribuye a los debates sobre reformas policiales y la protección de los derechos humanos ante los crecientes desafíos de seguridad global.

Palabras clave *Militarización policial*, *Derechos humanos*, *Uso excesivo de la fuerza*, *Libertades civiles*, *Autoritarismo*

A. Introduction

The dawn of the twenty-first century has witnessed a profound and unsettling transformation in the nature of domestic security: the global rise of police militarization. This phenomenon, characterized by the adoption of military equipment, tactics, and organizational cultures by civilian law enforcement, is no longer an isolated occurrence limited to authoritarian regimes. From the urban centers of established Western democracies to the rapidly developing metropolises of the Global South, the "soldier-policeman" has become a pervasive fixture of contemporary governance. This shift represents a fundamental departure from the traditional Peelian principles of policing by consent, replacing the "guardian" model of law enforcement with a "warrior"

paradigm that prioritizes force projection over community protection (Kraska, 2007).

The traditional legal and operational distinctions between military and civilian law enforcement are increasingly becoming blurred. Historically, the military was designated for outward-facing national defense against foreign adversaries, while the police were tasked with inward-facing domestic order and the protection of citizens' rights. Today, however, we see a blurring of boundaries as police units increasingly deploy armored personnel carriers, high-caliber weaponry, and surveillance technologies once reserved for the battlefield (Balko, 2013). This "mission creep" is often justified through the rhetoric of the "Global War on Terror" or the "War on Drugs," yet it effectively treats civilian populations—particularly those in marginalized or dissenting communities—as potential insurgents rather than rights-bearing subjects (Graham, 2010).

It is imperative to frame this issue as a profound concern of international human rights law (IHRL), rather than merely a matter of domestic policing policy or administrative discretion. Under the international legal order, states are bound by non-derogable obligations to protect the right to life, the right to bodily integrity, and the right to peaceful assembly. The militarization of police presents a systemic threat to these obligations, as military-style training and equipment are inherently designed for the application of maximum force and the neutralization of enemies, which stands in direct contravention to the IHRL principles of legality, necessity, and proportionality (Heyns, 2014).

This article seeks to address several critical research questions: *first*, how does the militarization of police fundamentally alter states' compliance with their international human rights obligations, specifically regarding the use of force and the prevention of arbitrary deprivation of life?, and *second*, what systemic patterns of rights violations emerge when analyzing police militarization across diverse political and legal contexts, ranging from liberal democracies to hybrid regimes?

The central thesis of this article argues that police militarization is not merely a tactical evolution but a structural challenge to the international legal order. It posits that the normalization of military-style policing creates an "internal state of exception" where human rights protections are systematically bypassed in the name of securitization (Agamben, 2005). The originality of this work lies in its comparative legal analysis, which connects the proliferation of military hardware with a decline in democratic accountability, arguing that the

militarization of the *means* of policing inevitably leads to a militarization of the *ends* of governance.

This inquiry is of paramount relevance to contemporary debates on security, governance, and human rights. As states navigate a post-pandemic world characterized by rising socio-economic inequality and civil unrest, the temptation to rely on militarized force to maintain order is significant. By examining the impact of these practices through a human rights lens, this article contributes to the urgent dialogue on how to reclaim civilian policing and uphold the integrity of the international legal order in an era of encroaching securitization (Sassen, 2014).

B. International Legal Framework Governing Policing and the Use of Force

The militarization of domestic law enforcement operates within a complex intersection of international legal regimes. While states possess a sovereign prerogative to maintain internal order, this authority is strictly circumscribed by the International Bill of Human Rights and specialized instruments governing the conduct of state agents. This section evaluates the normative architecture that distinguishes police action from military hostilities and identifies the legal stressors introduced by militarized paradigms.

1. *Law Enforcement Under International Human Rights Law*

The foundational principle governing the state's use of force is the sharp distinction between law enforcement and hostilities. Under International Human Rights Law (IHRL), the primary objective of policing is the protection of the right to life and the maintenance of public order through the minimum necessary intervention. In contrast, International Humanitarian Law (IHL), which governs armed conflict, is predicated on the neutralization of an adversary. Militarized policing threatens to collapse this distinction by importing the "conduct of hostilities" logic—where lethal force is a primary tool—into civilian contexts where it must remain a measure of absolute last resort (Melzer, 2010).

For any use of force by police to be considered legitimate under IHRL, it must adhere to four cumulative criteria: legality, necessity, proportionality, and accountability. The principle of *legality* requires a clear domestic legal basis for the use of force; *necessity* dictates that force is only used when non-violent means are ineffective; *proportionality* ensures the level of force matches the threat; and

accountability mandates rigorous post-incident review. Militarization often subverts these norms by providing equipment and training that encourage "pre-emptive" escalation, effectively bypassing the requirement for graduated response (Rodley & Pollard, 2009).

2. *Soft Law and Interpretive Standards*

Beyond treaty law, the international legal order relies heavily on "soft law" instruments to define the operational boundaries of policing. The most influential among these are the UN Code of Conduct for Law Enforcement Officials (1979) and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (1990). While these instruments are not formally binding treaties, they are recognized as authoritative interpretations of state obligations under the International Covenant on Civil and Political Rights (ICCPR). They establish that firearms should only be used in self-defense or defense of others against an "imminent threat of death or serious injury" (Universal Declaration of Human Rights, 1948).

The legal status of these guidelines has evolved through consistent reference in the jurisprudence of regional courts, such as the European Court of Human Rights (ECtHR) and the Inter-American Court of Human Rights (IACtHR). These bodies have increasingly viewed these soft law standards as evidence of *opinio juris* and state practice, effectively elevating them to the status of customary international law. Consequently, a state's failure to implement these guidelines within domestic police training and operational protocols can lead to international liability for rights violations (Ní Aoláin, 2000).

3. *Gaps and Ambiguities in Existing Legal Frameworks*

Despite a robust general framework, significant gaps and ambiguities remain regarding the specific regulation of militarized policing. Most international instruments were drafted before the mass proliferation of tactical military hardware to civilian units. As a result, there is limited specific regulation concerning the deployment of armored personnel carriers (APCs), military-grade surveillance (IMSI catchers), or the use of "less-lethal" weapons in a militarized, indiscriminate manner during assemblies (Bassiouni, 2010). This regulatory vacuum allows states to claim that such equipment is merely "protective" or "administrative," shielding them from the stricter scrutiny applied to firearms.

Furthermore, the rise of hybrid security models—where military units perform police functions or police units are integrated into military commands—creates profound challenges for legal attribution and oversight. In these "grey zones," states often exploit the ambiguity

between IHRL and IHL to apply whichever regime offers the least restrictive standard on the use of force (Murray, 2008). This legal "forum shopping" erodes the protection of civilians, as the stringent accountability mechanisms of civilian policing are replaced by the more opaque disciplinary structures of the military, leading to a climate of institutionalized impunity.

C. Conceptualizing Police Militarization as a Legal and Structural Problem

The transformation of domestic law enforcement into a militarized apparatus is not merely a change in aesthetics or equipment; it represents a fundamental shift in the legal and structural relationship between the state and the individual. To analyze this through the lens of international human rights law, one must first deconstruct the components that constitute militarization and understand how they reorganize the internal logic of the state.

1. *Defining Police Militarization*

Police militarization is defined as the process whereby civilian law enforcement agencies increasingly adopt the characteristics of military organizations. This includes the acquisition of military equipment, such as armored personnel carriers, high-caliber rifles, and specialized surveillance technology. However, equipment is only the most visible layer. More critical is the adoption of military tactics, such as "dynamic entry" raids and combat-style maneuvers, which are designed for battlefield neutralization rather than civil dispute resolution (Kraska, 2007).

Beyond hardware and tactics, militarization involves a shift in training and personnel. When police training emphasizes "warrior" mentalities—teaching officers to view the environment as a "combat zone" and citizens as "potential threats"—the psychological barrier against the use of lethal force is significantly lowered. This cultural shift often stems from the integration of former military personnel into civilian ranks without adequate de-escalation retraining, leading to a "combat-first" operational reflex.

From a legal and institutional perspective, militarization is characterized by a lack of transparency and a surge in administrative "grey zones." Governments often facilitate this transfer of power through specialized legislation, such as "1033 programs" or similar global initiatives, which bypass civilian oversight to funnel military surplus directly into local precincts. This institutional bypass creates a disconnect between the police's power and the democratic mechanisms intended to regulate it (Balko, 2013).

Militarization also manifests as an organizational mimicry of military command structures. Civilian police forces historically operated with a degree of decentralized community accountability, but militarized forces favor rigid, top-down hierarchies designed for mission-oriented execution. This structure discourages officer discretion and prioritizes "following orders" over the nuanced, rights-based judgment required in complex social environments.

The legal definition of militarization must also account for the increasing use of paramilitary units, such as SWAT teams, for routine police work. Originally intended for rare, high-stakes scenarios like hostage crises, these units are now frequently deployed for warrant service or narcotics investigations. This normalization of paramilitary intervention represents a structural shift where the "exceptional" use of force becomes a "standard" administrative procedure.

Furthermore, the militarization of policing is often coupled with the militarization of the legal discourse. Rhetoric such as "wars" on drugs, terror, or crime serves to frame domestic issues as existential threats. This framing provides a legal justification for the suspension of traditional civil liberties, as the state argues that extraordinary threats require extraordinary means, effectively treating the domestic territory as a theater of war (Ní Aoláin, 2000).

Therefore, the definition must be understood as a globalized phenomenon. Through international security assistance programs, military tactics and equipment are exported across borders, often creating a homogenized, militarized policing standard that ignores local legal traditions. This global "security architecture" ensures that militarization is not just a domestic policy choice but a systemic feature of the contemporary international order.

2. *Militarization and the Transformation of Policing Functions*

The infusion of military logic into domestic law enforcement fundamentally alters the primary function of the police, shifting the objective from civilian protection to security and control. In a traditional civilian model, the police are members of the community whose primary duty is to uphold the law and protect rights. In a militarized model, the primary duty shifts toward the maintenance of "order" and the "neutralization of threats," often at the direct expense of individual liberties (Graham, 2010).

This shift has a devastating impact on democratic accountability. Military organizations are inherently insular and secretive, prioritizing operational security over public transparency. When police forces adopt this insularity, they become less responsive to civilian oversight

committees, and their internal disciplinary mechanisms often fail to address abuses. The "warrior" culture fosters a "blue wall of silence" that views external criticism not as a democratic right, but as a threat to operational integrity.

Functionally, militarization leads to the securitization of social problems. Issues such as poverty, migration, and political dissent are no longer seen as social challenges requiring political or humanitarian solutions; they are framed as security threats to be managed through force. This transformation justifies the use of "pre-emptive" policing strategies, where the state intervenes based on perceived risk rather than actual criminal conduct, a practice that frequently targets marginalized communities.

The impact on the Peelian principle of "policing by consent" is profound. Militarized policing relies on "policing by coercion." When a community sees its streets occupied by armored vehicles and officers in tactical gear, the trust required for collaborative law enforcement evaporates. This leads to a cycle of escalation where the community views the police as an occupying force, and the police, in turn, feel justified in using even more militarized tactics to maintain control (Balko, 2013).

Militarization also alters the institutional memory of law enforcement agencies. As agencies invest in military-grade equipment, they feel a "sunk cost" pressure to utilize that equipment. If a precinct owns an armored vehicle, it will find reasons to deploy it, leading to a permanent shift in operational standards. This creates a feedback loop where the presence of militarized tools dictates the strategies of the department, rather than the department's needs dictating its tools.

From a governance perspective, this transformation represents a redistribution of state power. Resources are diverted from social services and community programs toward the expansion of the security apparatus. This "hollowing out" of the social state in favor of the carceral state ensures that the only point of contact between the government and marginalized populations is a militarized police officer, further alienating the citizenry from the democratic process (Sassen, 2014).

Moreover, the militarization of functions often bypasses legislative debate. Decisions to acquire military equipment or adopt combat tactics are frequently made through administrative channels or executive orders, shielding them from the public scrutiny that is essential for democratic legitimacy. This "technocratic" militarization allows the police to expand their power without a clear mandate from the people they serve.

3. *Militarization as a Vector for Human Rights Violations*

The structural reality of police militarization acts as a primary vector for excessive use of force. When officers are equipped and trained for combat, they are more likely to perceive civilian interactions through a lens of lethal threat. The use of high-caliber weaponry and aggressive "no-knock" tactics inherently increases the risk of fatal encounters, as these methods provide little room for de-escalation or error. This systemic escalation leads to a rise in "summary executions" or extrajudicial killings that violate the fundamental right to life (Heyns, 2014).

Furthermore, militarization facilitates arbitrary detention and the suppression of dissent. During periods of civil unrest or political protest, militarized police units are often deployed to manage crowds. The use of "less-lethal" weapons—such as rubber bullets, tear gas, and sound cannons—in a militarized, indiscriminate manner often constitutes a form of collective punishment. These tactics serve to chill the freedom of assembly and expression, as the physical risk associated with protesting becomes a barrier to democratic participation.

The militarization of surveillance also leads to systemic violations of the right to privacy. The deployment of "stingrays" (IMSI catchers), drones, and military-grade facial recognition technology allows for the bulk collection of data on civilian populations. This persistent surveillance is often conducted without traditional judicial warrants, as the state classifies these tools as "security necessities," effectively creating a panopticon that monitors dissent and tracks marginalized individuals.

Militarized policing is also a vector for discriminatory treatment. Data consistently shows that militarized units are disproportionately deployed in low-income neighborhoods and communities of color. This creates a "tiered" system of citizenship where some populations are policed through community engagement while others are policed through paramilitary occupation. This violation of the principle of non-discrimination is a core failure of a state's international human rights obligations (Chetail, 2019).

The logic of militarization also undermines the right to a fair trial and the presumption of innocence. In a militarized operation, the "target" is often presumed to be a combatant or a threat to be neutralized rather than a suspect with legal rights. The violent nature of militarized raids—often involving property destruction and psychological trauma—functions as a form of pre-judicial punishment, regardless of whether a crime is ultimately proven in court.

Furthermore, militarization contributes to a culture of impunity. When abuses occur within militarized units, the hierarchical and insular

nature of these organizations makes internal investigation difficult. Prosecutors are often hesitant to challenge militarized departments, and "qualified immunity" doctrines frequently shield officers from civil liability. This lack of accountability sends a message that the state's security agents are above the law, further eroding the international legal order (Rodley & Pollard, 2009).

The psychological impact of militarized policing constitutes a violation of the right to health and bodily integrity. The constant presence of armored vehicles and tactical units in residential areas creates a state of perpetual "community trauma." For those who live under these conditions, the result is chronic stress, anxiety, and a breakdown of social cohesion. Human rights law recognizes that the state has a duty to provide a secure environment, but militarization replaces "security" with "intimidation," causing profound psychological harm to the civilian population.

D. Comparative State Practice: Selected Case Studies

1. *The United States: Surplus Hardware and the Warrior Culture*

The United States serves as a primary global exporter of the militarized policing model, characterized largely by the systematic transfer of Department of Defense equipment to local law enforcement via the "1033 Program." Since the 1990s, billions of dollars in military hardware—including Mine-Resistant Ambush Protected (MRAP) vehicles, high-caliber rifles, and thermal imaging—have been distributed to over 8,000 agencies (Balko, 2013). This material transfer has created a "dependency" where local departments prioritize tactical responses over community engagement because the availability of equipment often dictates the operational strategy (Kraska, 2007).

Legally, this process is facilitated by a lack of stringent federal oversight regarding the utilization of military gear once it reaches civilian hands. While the U.S. is a signatory to the International Covenant on Civil and Political Rights (ICCPR), the implementation of these rights is often hindered by the domestic legal doctrine of "qualified immunity." This doctrine shields officers from civil liability unless they violate "clearly established" law, creating a barrier to accountability that conflicts with the international requirement for an effective remedy (Amnesty International, 2020).

The impact of this militarization is most visceral in the context of protest control. During the 2020 racial justice protests following the death of George Floyd, the deployment of tactical units in "battle dress uniforms" (BDUs) using military-grade chemical agents demonstrated a battlefield approach to First Amendment activities (Human Rights

Watch, 2021). These interventions were often designed for "territorial dominance" rather than crowd safety, utilizing tactics such as "kettling" and the deployment of kinetic impact projectiles that caused permanent injuries to non-violent civilians.

Furthermore, militarization in the U.S. is deeply tied to racialized social control. Statistically, SWAT teams are deployed in Black and Hispanic neighborhoods at rates significantly higher than in white neighborhoods—often for routine warrant executions rather than high-stakes hostage situations. Data indicates that in certain jurisdictions, Black residents are up to 40 times more likely to experience a SWAT raid than white residents (ACLU, 2014). This "paramilitary occupation" serves to alienate residents from the state, reinforcing the perception of the police as an adversarial force.

The "warrior" mindset is reinforced through private training seminars that teach officers to treat every interaction as a potential lethal encounter. This training emphasizes the "killology" approach, which prioritizes officer survival above all else, including the constitutional rights of the suspect (Balko, 2013). This psychological priming ensures that when an officer is equipped with military hardware, they are predisposed to use it with minimal provocation, leading to the normalization of "no-knock" warrants which often result in the arbitrary deprivation of life (Heyns, 2014).

2. *Brazil: The Pacification Model and Urban Warfare*

Brazil presents a stark example of police militarization where the boundary between "crime fighting" and "urban warfare" has almost entirely collapsed. The Military Police (Polícia Militar) are constitutional entities acting as auxiliary forces to the Army while maintaining daily domestic security. This structural integration means that Brazilian policing has never truly transitioned to a civilian-first model, even after the end of the military dictatorship in 1985 (Graham, 2010).

In cities like Rio de Janeiro, public security is managed through "pacification" operations in *favelas*, which are treated as "enemy territory" rather than residential zones. These operations frequently involve the use of "Caveirões" (armored vehicles) from which officers fire high-caliber weapons. This operational style is a direct violation of the IHRL principle of proportionality, as heavy weaponry in dense urban areas inevitably leads to high civilian casualties (Sassen, 2014).

The persistence of lethal force in Brazil is a systemic crisis. In 2023, police were responsible for over 6,000 deaths, a figure exceeding the combined total of most other democratic nations (Forum Brasileiro de Segurança Pública, 2024). The legal system facilitates this through the use of "autos de resistência" (resistance acts), allowing killings by

police to be dismissed without thorough investigation if the victim is alleged to have resisted arrest.

Racial disparity is at the heart of Brazilian militarization. Approximately 82.7% of those killed by police are Black or Pardo, reflecting a historical legacy of state violence against Afro-Brazilian populations (Forum Brasileiro de Segurança Pública, 2024). This systemic discrimination violates the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) and demonstrates how militarized policing maintains racial hierarchies under the guise of "public order."

Impunity is institutionalized through the Military Justice system. When Military Police officers commit crimes against civilians, they are often tried in military courts rather than civilian ones. These courts are notoriously lenient, creating a "climate of impunity" (Amnesty International, 2015). Furthermore, the use of aerial platforms, such as snipers firing from helicopters into *favelas*, treats the urban landscape as a three-dimensional battlefield, violating the right to life and bodily integrity (Heyns, 2014).

3. South Africa: From Apartheid Repression to Democratic Securitization

South Africa's policing history is a cautionary tale of how the structures of an authoritarian past can persist within a democratic present. During Apartheid, the police operated as a fully militarized wing of the state. After 1994, the South African Police Service (SAPS) was constitutionally mandated to be a "civilianized" and community-oriented body. However, the late 2000s saw a dramatic re-militarization of the SAPS in response to rising crime rates (Ní Aoláin, 2000).

This shift was signaled by the re-introduction of military-style ranks and "shoot to kill" rhetoric from political leadership. This re-militarization culminated in the 2012 Marikana Massacre, where police deployed R5 military assault rifles against striking miners, killing 34 men—many of whom were shot in the back while fleeing (Commission of Inquiry into the Marikana Incident, 2015). This revealed that tactical units had retained the lethal culture of the old regime, prioritizing state order over the right to life.

Currently, South Africa struggles with the militarization of crowd control. Public Order Policing (POP) units frequently deploy to manage "service delivery" protests, often using rubber bullets and tear gas in a manner that violates the UN Basic Principles on the Use of Force. With thousands of protests occurring annually, a large portion of the

citizenry experiences the state primarily through militarized confrontation (Human Rights Watch, 2024).

The SAPS "Tactical Response Teams" (TRTs), known as the "Amaberet," are notorious for aggressive behavior in townships, often conducting autonomous "search and seizure" operations that involve physical assault (IPID, 2022). Accountability is managed by the Independent Police Investigative Directorate (IPID), but it is chronically underfunded and faces political interference, leading to a massive backlog and few successful prosecutions. This structural impunity ensures militarized officers feel little pressure to adhere to human rights standards (Gready & Robins, 2014).

4. *The Philippines: The "War on Drugs" and Institutional Hybridity*

The Philippines illustrates the extreme consequences of an executive-led "War on Drugs" using police as a paramilitary execution squad. Under the administration of Rodrigo Duterte, the Philippine National Police (PNP) became the primary instrument of Oplan Tokhang, a campaign encouraging police to "neutralize" suspected drug users. This institutionalized a "shoot-to-kill" policy that ignored the IHRL principles of necessity and proportionality (Human Rights Watch, 2024).

Estimates for the death toll range from the official government figure of 6,252 to independent NGO estimates exceeding 30,000 (Amnesty International, 2022). Many deaths occurred in "police operations" where the narrative of "nanlaban" (the suspect fought back) was used to justify lethal force despite evidence of staged crime scenes. This environment represents a total collapse of the rule of law.

Institutional hybridity is a key feature, as the PNP and Armed Forces frequently conduct joint operations, blurring lines between domestic policing and counter-insurgency. This allows the state to apply a "combatant" status to drug suspects, stripping them of the presumption of innocence under the ICCPR (Chetail, 2019). The practice of "red-tagging" targets human rights defenders as "terrorists," facilitating their harassment by militarized units.

Accountability is virtually non-existent at the domestic level, leading the International Criminal Court (ICC) to open a formal investigation into potential "crimes against humanity" (ICC, 2021). The government's withdrawal from the Rome Statute further demonstrates a disregard for the international legal order. The impact on urban poor communities is devastating, as "Tokhang" raids specifically target marginalized neighborhoods where residents lack access to legal defense, creating a "geography of exclusion" (Sassen, 2014).

E. Comparative Analysis and International Legal Implications

The case studies analyzed in the previous section reveal that police militarization is not a series of isolated domestic policy shifts, but a global trend that fundamentally reconfigures the relationship between the state and the international legal order. This section synthesizes these patterns to assess the broader implications for international law and state responsibility.

1. *Converging Patterns Across Diverse Legal Systems*

Despite the vast differences in political systems and legal traditions between the United States, Brazil, South Africa, and the Philippines, there is a striking normalization of exceptional measures. In all four contexts, military-grade hardware and tactics—originally designed for the extreme conditions of war—have been integrated into the "standard operating procedure" of domestic law enforcement. This represents what Agamben (2005) identifies as a permanent "state of exception," where the emergency logic of national security is used to justify the routine suspension of ordinary civil liberties.

This normalization is driven by an expansion of executive discretion. In most jurisdictions, the decision to deploy paramilitary units or acquire military surplus occurs through administrative channels that lack robust legislative or judicial oversight. This "administrative militarization" allows the executive branch to bypass the traditional checks and balances intended to regulate the state's use of force. Consequently, the legal threshold for "necessity" and "proportionality" is often defined unilaterally by the security apparatus itself, rather than by an independent judiciary (Murray, 2008).

2. *Militarization, Authoritarian Governance, and Social Control*

The shift toward militarized policing is rarely neutral; it frequently serves as a potent instrument of political power. By equipping police with the tools of war, states effectively transform social and political problems into security threats. This "securitization" of domestic policy allows governments to delegitimize dissent by framing protesters and marginalized communities as "internal enemies" or "insurgents" (Graham, 2010). In this paradigm, policing ceases to be a service for public safety and becomes a mechanism for the preservation of the existing political and economic order.

The most direct impact of this shift is the erosion of freedom of expression and assembly. Militarized crowd control tactics—such as the use of armored vehicles, long-range acoustic devices (LRADs), and indiscriminate kinetic impact projectiles—are designed to intimidate and disperse, not to facilitate democratic participation. When the state treats the public square as a battlefield, the "chilling effect" on dissent is profound. Citizens are less likely to exercise their rights under the ICCPR when the perceived cost of participation is physical injury or death at the hands of a paramilitary force (Ní Aoláin, 2000).

3. *Implications for State Responsibility*

Under international law, the militarization of police carries significant implications for state responsibility. States have not only a negative obligation to refrain from the arbitrary deprivation of life but also a positive obligation to prevent, investigate, and remedy violations. When a state systematically equips its police with military hardware and training without implementing commensurate oversight and de-escalation protocols, it can be held responsible for creating the structural conditions that make human rights abuses inevitable (Heyns, 2014).

The persistent failure to investigate and remedy violations committed by militarized units is a cornerstone of this legal crisis. As seen in the case studies, domestic mechanisms—such as military courts in Brazil or qualified immunity in the U.S.—often provide a "shield of impunity" for state agents. Under the principles of state responsibility, this domestic failure triggers the jurisdiction of international accountability mechanisms.

When domestic courts are "unwilling or unable" to provide justice, the international community has the mandate to intervene through bodies such as the UN Human Rights Committee or the International Criminal Court (ICC). The ongoing investigations into the Philippines and the scrutiny of Brazilian police violence demonstrate that militarization is no longer a matter of domestic "sovereign choice" but a subject of global legal accountability (Bassiouni, 2010).

F. Reassessing International Human Rights Law in the Context of Militarized Policing

The global proliferation of paramilitary policing necessitates a rigorous re-evaluation of the normative frameworks that govern state violence. As the boundaries between military and police functions dissolve, the traditional interpretations of International Human Rights Law (IHRL) face unprecedented strain. This section argues for a shift

from a reactive, incident-based legal analysis toward a structural critique that addresses the very architecture of militarized security.

1. *Limits of Existing Use-of-Force Standards*

The foundational challenge in the current international legal order is that existing use-of-force standards were largely developed for a civilian-police model that is increasingly becoming obsolete. The core IHRL principles of legality, necessity, and proportionality are predicated on the assumption that the police officer is a "guardian" whose primary reflex is de-escalation (Kraska, 2007). However, when officers are equipped with military hardware and trained in combat-oriented "warrior" mentalities, the operational baseline shifts from the preservation of life to the neutralization of perceived threats.

Traditional legal tests for "proportionality" often fail to account for the technological escalation inherent in militarized gear. While the law asks if the force used was proportional to the threat at the moment of the encounter, it rarely scrutinizes the state's prior decision to deploy a tactical unit or an armored vehicle to a scenario that could have been handled by social services or unarmed mediators. This "upstream" militarization effectively pre-determines a violent outcome, rendering the subsequent legal analysis of the "moment of impact" insufficient for protecting the right to life (Heyns, 2014).

Furthermore, the "imminence" requirement—the cornerstone of the right to self-defense—is being diluted by the military logic of pre-emption. In militarized policing, the "threat" is often identified through bulk surveillance and risk-profiling before a physical encounter even occurs. This allows state agents to justify lethal force based on a "perceived" combatant status rather than an actual, immediate act of aggression. Such a shift moves domestic policing closer to the "conduct of hostilities" framework of International Humanitarian Law (IHL), where the rules of engagement are significantly more permissive (Melzer, 2010).

The legal standards for "less-lethal" weapons also remain dangerously underdeveloped. The mass deployment of kinetic impact projectiles (rubber bullets) and chemical agents (tear gas) is often treated as a "minor" interference with bodily integrity. Yet, when these weapons are used by militarized units in an indiscriminate manner, they cause permanent injury and collective trauma. The current lack of a specific, binding treaty on the trade and use of paramilitary equipment allows states to exploit a "regulatory grey zone," claiming these tools are non-lethal while utilizing them as instruments of systemic suppression (Rodley & Pollard, 2009).

Existing standards also struggle with the secrecy of tactical operations. Many jurisdictions allow militarized units to operate under "operational security" exemptions that shield their training manuals and equipment specs from judicial review. This creates an information asymmetry where the court cannot accurately assess the "necessity" of a specific tactic because the state refuses to disclose the tactical logic behind it. Without transparency, the principle of *legality* becomes a formalistic shell rather than a substantive check on power (Balko, 2013).

The human rights framework must also grapple with the globalization of policing standards. Through international security assistance, militarized tactics are exported from powerful states to weaker ones, often without the accompanying (albeit flawed) domestic oversight mechanisms. This "normative leakage" creates a global homogenized security culture that prioritizes state stability over individual rights, effectively subverting the local constitutional protections that IHRL is meant to reinforce (Sassen, 2014).

Moreover, the focus on individual officer accountability in IHRL often misses the institutional liability of the state. If a state systematically provides combat training to its police without also providing robust human rights education and de-escalation tools, the resulting violations are a result of state policy, not just "rogue" individuals. The law must evolve to recognize "militarization by design" as a distinct form of state-sponsored rights violation that triggers high-level international responsibility (Yamin, 2016).

The current legal paradigms are ill-equipped to handle hybrid security actors. In many regions, private military and security companies (PMSCs) or state-sponsored vigilante groups perform police functions. The existing use-of-force standards are tailored for uniformed state agents, leaving victims of hybrid violence in a jurisdictional vacuum where neither IHRL nor IHL provides a clear path to remedy. This fragmentation of the security apparatus is a hallmark of militarization that requires a unified, actor-neutral legal response (Murray, 2008).

2. *Strengthening Positive Obligations*

To counter the structural risks of militarization, the international community must strengthen the positive obligations of states to proactively protect rights. It is not enough for the state to refrain from illegal killing; it has a duty to organize its entire security apparatus in a way that minimizes the need for force. This requires a move beyond "compliance training" toward deep-seated institutional reform that de-militarizes the culture, equipment, and organizational structure of law enforcement (Hathaway, 2021).

A primary positive obligation should be the mandatory implementation of civilian control and transparency. All acquisitions of military-grade equipment must be subject to public debate and legislative approval. States should be required to conduct "Human Rights Impact Assessments" (HRIAs) before deploying tactical units for domestic tasks. By forcing the security apparatus to justify its militarization in the public square, the law can re-establish the principle of policing by consent and ensure that "exceptional" gear remains truly exceptional (Amnesty International, 2020).

Institutional reform must also address the demographics of policing. Militarized policing often flourishes in environments characterized by racial and socio-economic exclusion. Positive obligations under the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) require states to dismantle the discriminatory structures that lead to the disproportionate deployment of paramilitary units in marginalized communities. True de-militarization is impossible without addressing the underlying inequalities that the state currently manages through force (Chetail, 2019).

Furthermore, the state has an obligation to provide trauma-informed oversight. This means that bodies like police ombudsmen and civilian review boards must be equipped with the technical expertise to evaluate militarized tactics. Oversight should not be restricted to "post-mortem" investigations of fatal shootings but should include the proactive auditing of training curricula and tactical doctrines. The goal is to identify and "prune" militarized reflexes before they manifest in street-level violence (Gready & Robins, 2014).

The training of police must be fundamentally re-oriented from "warfighting" to "human rights-based policing." This involves moving beyond the rote memorization of legal rules toward a practical "capabilities approach" (Nussbaum, 2000). Training should emphasize that the primary metric of a successful police operation is not the "capture" or "neutralization" of a target, but the preservation of the life and dignity of all parties involved, including the suspect. This requires an investment in psychological resilience and de-escalation that equals the investment currently made in tactical hardware.

Access to effective remedies must also be strengthened to overcome the "shield of impunity" often enjoyed by militarized units. This includes the abolition of "qualified immunity" doctrines and the establishment of independent, specialized prosecutors for police crimes. When the state provides an officer with military weaponry, it incurs a "heightened duty of care" and a correspondingly higher standard of accountability. The law must ensure that the "warrior" who

violates rights faces a judicial process that is as rigorous as the tactical mission they were trained for (Costello, 2016).

Furthermore, states have a positive obligation to remedy community-level trauma. The constant presence of militarized policing is a form of state-inflicted harm that goes beyond individual incidents. Remedies should include public acknowledgments of the harm caused by militarized occupation and investments in community-led security models that prioritize social support over carceral intervention. This "transformative justice" approach is essential for restoring the social contract in communities alienated by militarized force (Yamin, 2016).

The principle of transparency must extend to the international level. States should be required to report on their police-militarization levels as part of their Universal Periodic Review (UPR) at the UN. This international transparency creates a peer-pressure mechanism that can discourage "arms races" between domestic police forces and ensure that the global trend toward paramilitarism is documented and challenged at the highest levels of governance (Bassiouni, 2010).

3. *The Role of International Institutions*

International institutions have a critical role to play in monitoring, reporting, and norm development to address militarization as a systemic risk to the global legal order. UN bodies and regional human rights courts must move beyond a case-by-case approach and begin to issue "thematic" guidance on the risks of paramilitary policing. By identifying militarization as a cross-cutting threat, international institutions can provide the normative "vocabulary" for domestic activists and judges to challenge the expansion of state violence (Milanovic, 2011).

The UN Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the rights to freedom of peaceful assembly and of association should coordinate to develop a set of "Global Standards on the De-militarization of Policing." These standards would provide clear benchmarks for what constitutes military equipment and tactics, and under what rare circumstances they might be used. Such a "soft law" instrument could eventually harden into a binding convention, similar to how the UN Basic Principles on the Use of Force have become part of customary international law (Heyns, 2014).

International financial and security institutions, such as the World Bank and INTERPOL, must also be integrated into this effort. These bodies often fund or facilitate the infrastructure of militarization through "modernization" grants or data-sharing networks. International institutions should adopt a "Do No Harm" principle,

ensuring that their support does not inadvertently contribute to the paramilitarization of domestic police. This requires a shift from viewing security as a "technical" issue to recognizing it as a "human rights" issue at every stage of international cooperation (Betts & Collier, 2017).

Furthermore, the International Criminal Court (ICC) serves as the ultimate "backstop" for accountability. When domestic militarization leads to widespread or systematic attacks against civilian populations—as seen in the "drug wars" of the Philippines—the ICC must be ready to step in. The mere threat of an ICC investigation can act as a deterrent against the most egregious forms of militarized violence, signaling to political leaders that the "internal state of exception" does not grant them legal immunity on the global stage (Bassiouni, 2010).

Regional human rights courts, such as the ECtHR and the IACtHR, are uniquely positioned to develop "substantive" jurisprudence on militarization. These courts can go beyond the "moment of force" to examine the entire "legal life" of a militarized unit, from its founding legislation to its training protocols. By ruling that militarized structures are *inherently* prone to rights violations, regional courts can provide the legal impetus for domestic governments to dismantle paramilitary departments and return to civilian models of order (Moreno-Lax, 2017).

International institutions should also facilitate the exchange of de-militarization "best practices." There are numerous examples of successful community-based security models—from Northern Ireland's post-conflict police reforms to the de-militarization of the municipal police in certain Latin American cities. By documenting and disseminating these models, international bodies can show states that "security" does not have to be synonymous with "force," and that effective policing can be achieved through community partnership rather than paramilitary occupation (Ní Aoláin, 2000).

Moreover, international institutions must address the surveillance dimension of militarization. The trade in "dual-use" technologies—such as spyware and biometric tracking—is currently a global "Wild West." International bodies should push for a moratorium on the sale of military-grade surveillance to police departments until a global regulatory framework is established. This would prevent the creation of a "digital state of exception" where the right to privacy is permanently suspended in the name of security (Sassen, 2014).

The international community must recognize that police militarization is a systemic risk to global peace and security. When domestic populations are policed through war-like means, the resulting instability can lead to civil war, mass migration, and regional contagion. By integrating de-militarization into the UN's "Sustaining Peace" agenda, the international legal order can acknowledge that human

rights and state security are not in conflict, but are mutually reinforcing pillars of a just and stable world (Aleinikoff & Zamore, 2019).

G. Conclusion

This study concluded that the global proliferation of police militarization represents a structural crisis for the international legal order, rather than a mere shift in domestic tactical preferences. The central argument posits that the adoption of military hardware, combat-oriented training, and "warrior" mentalities by civilian law enforcement creates a permanent "state of exception" that subverts the foundational principles of international human rights law (IHRL). By collapsing the distinction between law enforcement and the conduct of hostilities, militarized policing replaces the "guardian" model of the state with a "warrior" paradigm, where the use of force is pre-emptively prioritized over de-escalation, necessity, and proportionality.

This research contributes to the growing body of IHRL scholarship by moving beyond incident-based legal analysis to a structural critique of security architectures. While existing literature often focuses on individual acts of police brutality, this article establishes that the "upstream" decisions regarding equipment acquisition and tactical doctrine constitute a violation of the state's positive obligation to protect the right to life. By providing a comparative analysis of diverse legal systems—from the United States to the Philippines—this study identifies a global convergence of "administrative militarization," where executive discretion is expanded at the direct expense of judicial and legislative oversight.

The findings of this research suggest an urgent need for the normative evolution of international standards. The international community must move toward a binding legal framework that regulates the trade and domestic deployment of paramilitary equipment. Future legal development should focus on institutionalizing "Human Rights Impact Assessments" (HRIAs) as a prerequisite for police modernization programs. Furthermore, the jurisprudence of regional and international courts must evolve to recognize that the systematic militarization of a police force is *prima facie* evidence of a state's failure to organize its security apparatus in a manner compatible with its treaty obligations under the ICCPR.

Furthermore, as the global security landscape continues to evolve, future research must expand to address the intersection of militarization with emerging technologies. Three specific avenues warrant immediate attention:

1) The Digitization of Militarization: Investigating how military-grade artificial intelligence, biometric surveillance, and predictive policing algorithms create a "digital state of exception."
2) The Gendered Dimensions of Tactical Policing: Analyzing how the hyper-masculine "warrior" culture impacts the handling of gender-based violence and the treatment of vulnerable populations.
3) Climate Change and Securitization: Exploring how states utilize militarized policing to manage "climate-induced unrest" and migration, potentially using environmental crises as a new justification for paramilitary expansion.

H. References

Agamben, G. (2005). *State of Exception*. Chicago: University of Chicago Press.

Aleinikoff, T. A., & Zamore, L. (2019). *The Arc of Protection: Reforming the International Refugee Regime*. Stanford, CA: Stanford University Press.

American Civil Liberties Union (ACLU). (2014). *War Comes Home: The Excessive Militarization of American Policing*.

Amnesty International. (2020). *United States: The World is Watching: Abuses of Peaceful Protesters by US Law Enforcement*.

Balko, R. (2013). *Rise of the Warrior Cop: The Militarization of America's Police Forces*. New York: PublicAffairs.

Bassiouni, M. C. (2010). *The Pursuit of International Criminal Justice: A World Study on Conflicts, Victimization, and Post-Conflict Justice*. Antwerp: Intersentia.

Betts, A., & Collier, P. (2017). *Refuge: Transforming a Broken Refugee System*. Oxford: Oxford University Press.

Chetail, V. (2019). *International Migration Law*. Oxford: Oxford University Press.

Costello, C. (2016). *The Human Rights of Migrants and Refugees in European Law*. Oxford: Oxford University Press.

Dauvergne, C. (2008). *Making People Illegal: What Globalization Means for Migration and Law*. Cambridge: Cambridge University Press.

Forum Brasileiro de Segurança Pública. (2024). *Anuário Brasileiro de Segurança Pública 2024*.

Graham, S. (2010). *Cities Under Siege: The New Military Urbanism*. London: Verso.

Gready, P., & Robins, S. (2014). *From Transitional to Transformative Justice*. Cambridge: Cambridge University Press.

Hathaway, J. C. (2021). *The Rights of Refugees under International Law* (2nd ed.). Cambridge: Cambridge University Press.

Heyns, C. (2014). *Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions*. UN Doc. A/HRC/26/36.

Human Rights Watch. (2024). *World Report 2024: Events of 2023*. Seven Stories Press.

International Criminal Court (ICC). (2021). *Situation in the Philippines: Prosecution's Request for Authorization of an Investigation*.

Kraska, P. B. (2007). Militarization and Policing—Its Relevance to 21st Century Police. *Policing: A Journal of Policy and Practice*, 1(4), 501–513.

Melzer, N. (2010). *Interpretive Guidance on the Notion of Direct Participation in Hostilities under International Humanitarian Law*. Geneva: ICRC.

Milanovic, M. (2011). *Extraterritorial Application of Human Rights Treaties*. Oxford: Oxford University Press.

Moreno-Lax, V. (2017). *Accessing Asylum in Europe*. Oxford: Oxford University Press.

Murray, D. (2008). *Practitioners' Guide to Human Rights Law in Armed Conflict*. Oxford: Oxford University Press.

Ní Aoláin, F. (2000). *The Politics of Force: Conflict Management and State Violence in Northern Ireland*. Belfast: Blackstaff Press.

Nussbaum, M. C. (2000). *Women and Human Development: The Capabilities Approach*. Cambridge: Cambridge University Press.

Rodley, N. S., & Pollard, M. (2009). *The Treatment of Prisoners under International Law*. Oxford: Oxford University Press.

Sassen, S. (2014). *Expulsions: Brutality and Complexity in the Global Economy*. Cambridge, MA: Harvard University Press.

United Nations. (1979). *Code of Conduct for Law Enforcement Officials*. G.A. res. 34/169.

United Nations. (1990). *Basic Principles on the Use of Force and Firearms by Law Enforcement Officials*. Eighth UN Congress on the Prevention of Crime.

Yamin, A. E. (2016). *Power, Suffering, and the Struggle for Dignity: Human Rights Frameworks for Health and Justice*. Philadelphia, PA: University of Pennsylvania Press.

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