Workshop Report
Policing Oversight
Advances, challenges and prospects

Edited and compiled by
Sean Tait, Cheryl Frank and Irene Ndung'u

Co-hosted by
the African Policing Civilian Oversight Forum (APCOF)

23–24 March 2011, Johannesburg, South Africa

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Contents

Abbreviations and acronyms

APCOF	African Policing Civilian Oversight Forum
AUC	African Union Commission
EAC	East African Community
COC	Code of Conduct
CSOs	Civil Society Organisations
FLS	Front Line States
HIV/AIDS	Human Immunodeficiency Virus / Acquired Immune Deficiency Syndrome
ICD	Independent Complaints Directorate
IGP	Inspector General of Police
IPID	Independent Police Investigative Directorate
ISS	Institute for Security Studies
NGO	Non-governmental organisations
NPF	National Police Force
OPDS	Organ on Politics Defense and Security
PEV	Post Election Violence
PSC	Police Service Commission
RISDP	Regional Indicative Strategic Development Plan
SADC	Southern African Development Community
SAPS	South African Police Service
SARPCCO	Southern African Regional Police Chiefs Council Organisation
SIPO	SADC Strategic Indicative Plan
UN	United Nations

Welcome and opening remarks

Francois Beukman, Executive Director, Independent Complaints Directorate (ICD), South Africa; Cheryl Frank, Director, Pretoria Office, Institute for Security Studies (ISS); and Sean Tait, Coordinator, African Policing Civilian Oversight Forum (APCOF) welcomed the participants.

In their opening remarks they stated that, with funding support from the United Kingdom (UK) Department for International Development (DFID), their three organisations aimed, through the opportunity presented by this workshop, to generate debate on police oversight, to share and compare experiences and to discuss how best to collaborate in order to strengthen police oversight.

The workshop brought together the statutory police, civilian oversight institutions and civil society to consider police oversight in the region with a view to charting a way forward and recommending ways to share knowledge and expertise that will build capacity and promote effective policing oversight in the region. In their opening address, the speakers acknowledged the concern for public safety in many southern African countries and especially in the cities, and stated that solutions required holistic strategies, but warned that without effective and accountable policing the situation was likely to deteriorate.

Unfortunately, policing in many countries across the region is still seen as politically partisan, corrupt, abusive and ineffective. Too often, the police are used in the service of particular governments or regimes and this, combined with the extensive record of police abuse and corruption, has contributed to the poor standing of most police agencies among their citizens. As long as poor policing remains the norm, the respect for rights and democratic, economic and social developments will be handicapped rather than enhanced. It is here that the oversight community has a vital role to play. Oversight of the police that clearly shows that complaints are taken seriously and errant officers disciplined is recognised as one of the more effective ways of building confidence in the police.[1]

Police accountability is not only a normative require-ment of the broader policing reform project. It is also a significant strategy for improving the effectiveness of policing. Public cooperation is critical across a range of situations that the police can be called upon to respond to, such as winning the fight against crime, successfully policing an election or addressing the threat of insur-gency or terrorist activities. This vital trust will be lost if policing is experienced as biased, brutal and ineffective. Without public trust, cooperation is lost. Furthermore, there are many examples of how vigilantism and other illegal means of 'doing justice' fill the void left by bad po-licing and reduce government control of public security – one of the most basic functions of any state.

Building police accountability is no easy task. Just as policing itself is multifaceted and challenging, so is policing accountability. Creating more and stronger policing oversight will need sustained expert support. Such support must be sensitive to local dynamics, and to continental and international political agendas, and appropriate to the capacity and constraints of local situations.

Effective policing oversight operates on three levels: state and government control; social or civilian control, and internal control.[2] Each of these spheres of oversight is important and together they are able to provide for a comprehensive system of accountability.

The workshop brings together practitioners from these spheres and across the continent to discuss the

status of police oversight in Southern Africa and to learn from useful and good practices on the continent. Specifically, the workshop aims to:

- Share knowledge and experiences on police oversight in the region
- Identify opportunities and challenges for building police oversight in the region
- Develop an action plan for building police oversight in the region

- Promote APCOF in Southern Africa
- Encourage networking and collaboration among stakeholders in the region
- Promote the development of a network on police oversight and accountability in Southern Africa

As such, the workshop is an important opportunity to examine the challenges facing police oversight in the Southern African region and to identify strategies on how to strengthen oversight mechanisms.

Policing oversight in Africa

Prospects, opportunities and challenges

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INTRODUCTION

There has been much discussion on police oversight in Africa over the past two decades. Correspondingly, there have been many attempts to develop institutional mechanisms of police oversight and accountability on the continent. These include police service commissions, police councils, specialised directorates (notably South Africa's Independent Complaints Directorate) and national human rights commissions with oversight powers over the police. The powers of these agencies vary from country to country. Perhaps the two most notable examples of these institutions are the Police Service Commission in Nigeria with powers to appoint, promote, discipline and formulate policy on one hand, and the South African Independent Complaints Directorate, which focuses exclusively on investigating police behaviour.

The development of these institutions has been driven by political and economic events in Africa that began in the mid to late 1980s. These events informed or advanced public discourse and government decisions on police reform and oversight.

The economic, political and social governance crises that occurred in most African states in the 1980s resulted in huge foreign debt; declines of domestic economies owing to the collapse of industries and infrastructures; growing unemployment and poverty; a brain drain; the emigration of semi-skilled and unskilled youths, accompanied in some cases by involvement in transnational crimes, and the deterioration of critical infrastructure in the health, education, energy and transportation sectors.

The intervention of the International Monetary Fund (IMF) and the World Bank, which demanded the implementation of a structural adjustment policy, led to further hardships for the poor, as well as the working and middle classes. At this time most African governments were beset with problems of corruption and authoritarianism – military or one-party or apartheid regimes that were not accountable to the citizens through periodic credible elections or institutional mechanisms.

In many African countries, mass revolts spurred by the crises of governance led governments to deploy security agencies to repress opposition demonstrators and protesters.

The collapse of the Soviet Union and the end of the Cold War meant a substantial decline in the support of the United States and Soviet Union for their crony dictatorial governments in Africa and this also encouraged change.

The subsequent whirlwind of demand for change from dictatorship to liberal democracy, which is generally referred to as the third wave of democracy, swept across Africa and other continents. Consequently, from the late 1980s to the 1990s, many repressive African governments (military, one-party and apartheid) collapsed as democratisation triumphed.

Although democratisation has been superficial and slow in some places and at certain times, a definite rhetoric as well as mechanisms have been introduced as foundations of transitional democratic governance. Police oversight is one example of this trend and is a matter which has attracted attention from both state and non-state actors in society.

The discussion on the prospects, opportunities and challenges of policing oversight in Africa must take cognisance of the above context, for it has directed both the demand for and resistance against policing oversight on the continent.

WHY SHOULD THERE BE POLICING OVERSIGHT?

The necessity for policing oversight stems from the nature, character and consequences of police and policing. The term 'police' is generally used to refer to an organisation with goals, tasks and powers associated with preserving public order and security. 'Policing' refers to an activity aimed at achieving and preserving public order, security and personal safety in society. Police services or forces are state organisations and personnel, while policing refers to the activities that can be undertaken by a variety of state and non-state actors, including (a) the government through its police; (b) commercial or private security agencies for their clients in return for fees; (c) communal organisations and associations, and (d) individuals, all with the primary aim of ensuring the safety and security of lives and property within a state, the community or a household.

Policing is undertaken by state and non-state actors. However, attention is usually paid to the overseeing of policing by state actors because of political and historical factors. Politically, state police forces are the focus of the discourse on policing oversight because they wield enormous power and claim a monopoly to the legitimate use of force by the nation state. A cardinal feature of a democratic society is the guarantee of the fundamental rights of citizens, the protection and enforcement of which are constantly threatened by police powers. Policing accountability is, therefore, a mechanism for ensuring that fundamental rights are not threatened by police powers and policing operations.

Historically, policing by non-state actors diminished with the emergence of the nation state. As the nation state continued to develop its surveillance, regulatory and coercive capabilities, it assumed more policing functions and powers over diverse forms of political, social, economic and individual relations, actions and conditions. However, the last three decades have seen a gradual decline in the policing capacity of the state owing to the economic crisis and the ideological shift towards the government, groups and citizens sharing responsibility for security. The decline of the state policing capability led to the emergence or growth of policing by diverse non-state actors, a development that has been christened the growth of plural policing. Policing oversight discourse, however, has not adequately responded to the challenges of plural policing, as the emphasis and the statutory and policy instruments are still largely focused on overseeing state police forces.

Nevertheless, there are several reasons why effective policing oversight is necessary:

- Police powers are extensive, discretionary, intrusive, and subject to abuse. The police are vested with enormous powers. They may exercise their powers of arrest, investigation, search, seizure, interrogation, detention, bail and prosecution to promote or undermine the safety, freedom, rights and dignity of the citizens.[3]
- The police are subject to political, economic and social pressures from different groups, including rulers, to use their powers in ways that are inconsistent with democratic norms and governance. Without effective accountability and oversight mechanisms, the police are likely to succumb to partisan interferences to the detriment of democratic governance, public security, individual safety and rights.
- The police draw substantial resources from the state to carry out their mandates. The use of these resources must be accounted for, otherwise there will be pervasive corruption and resource misallocation that will lead to overall functional inefficiency.
- The police exist to carry out specific functions in order to promote and guarantee safety, security, peace, human rights and conditions necessary for economic development and equity in a nation state. There must be an effective mechanism to determine the effectiveness and efficiency of the police in their functional performance.

Accountability and oversight are often used as synonymous terms. However, they can be analytically distinguished from each other. Oversight is a broad term that means to oversee the activities, performance and conduct of individuals and organisations. Oversight therefore involves monitoring. An overseer may or may not have power of reward and punishment. Accountability, on the other hand, suggests that it is the duty of an organisation to be prepared to explain or justify its activities, utilisation of resources, performance, operations and conduct. The accounting authority may or may not be an external agency. The process of accounting may be used by an organisation to monitor its operations with a view to enhancing its responsiveness, effectiveness, efficiency and legitimacy.

Andreas Schedler defines accountability as 'the continuing concern for checks and oversight, for surveillance and institutional constraint on the exercise of power'.[4] The critical elements of accountability, according to him, are:

> answerability, the obligation of public officials
> to inform about and to explain what they are

doing; and enforcement, the capacity of accounting agencies to impose sanctions on power holders who have violated their public duties.[5]

Schedler uses the term 'accountability' to include the concept of oversight. The reverse can also be argued. What is clear is that both terms overlap considerably.

There are three broad levels of police accountability:

- Internal or departmental control. This refers to the rules and processes within police departments that are used to ensure compliance with rules; to investigate complaints, determine culpability of officers and to enforce dispositions.
- State or governmental control. This refers to institutions, rules and processes through which the government holds the police accountable for a range of issues – operations, actions, resources, performance and conducts.
- Social control or oversight by civil society. Groups within society constantly monitor the police's actions, performance, conduct and resource utilisation. This level may be referred to as watchdog. institutions or likened to linesmen who draw the attention of match referees to violations by players. This is why productive engagement between the civil society organisations and policing oversight agencies is important.

Police oversight mechanisms are institutions and processes outside the police departments that are introduced to ensure that the activities of the police are monitored and evaluated with regard to *effectiveness* (level of performance in the discharge of their mandates); *efficiency* (optimal return on resources expended in the discharge of their functions), and *integrity* (observance of laws and rules, respect for human rights, and avoidance of corrupt practices and abusive behaviours such as brutality, excessive use of force and extrajudicial killing, and law enforcement decisions based on prejudices against groups of individuals).

Police complaints mechanisms, whether within or outside the police force, aim mainly at ensuring police integrity. Mechanisms within the police force designed to receive, investigate and determine complaints against officers should be conceived as internal disciplinary measures. They are meant to enhance police integrity, which is an essential requirement for public confidence in the police, and to enforce discipline within the force, which is also necessary for effectiveness and efficiency. An effective internal police disciplinary regime enhances the accountability of the force to external oversight authorities and public audiences.

WHAT ARE THE PROSPECTS OF AND OPPORTUNITIES FOR POLICING OVERSIGHT IN AFRICA?

The prospect for effective policing oversight in Africa is very good. Indeed, the past decade has seen considerable initiatives in the area of developing police oversight mechanisms by state and civil society organisations. Highlights of the prospects of and opportunities for police oversight in Africa include the following:

- There is growing public enlightenment on the roles of the police in a democratic society.
- Public disaffection with the police is widespread because they are seen as corrupt, brutal and ineffective. The broadening political space in different countries has also created a growing demand for effective independent policing oversight.
- Global dissemination and exchange of information through modern information and communication technologies, especially satellite television and the internet, ensure that governments can no longer conceal repressive and violent policing.
- The end of the Cold War has denied authoritarian regimes support, including the supply of weapons, for repressive policing.
- Significantly, the domestic pressures for police reform and accountability have become increasingly intense and cannot be ignored by the governments on the continent.
- Growing networking among non-state and state actors aimed at understanding the nature of policing and developing appropriate agenda for promoting democratic policing constitutes a major opportunity. A good example of this development is the African Policing Civilian Oversight Forum, which comprises police oversight agencies and civil society organisations working in the areas of criminal justice reforms and democratic policing. Another development that points to the positive prospects of police oversight in Africa is the emergence of regional mechanisms aimed at establishing common standards for policing and policing accountability in eastern, southern and western Africa.
- Emergence and growing influence of governmental and non-governmental criminal justice research and policy institutions. The work of the Institute for Security Studies in South Africa, the CLEEN Foundation in Nigeria and the Centre of Criminology at the University of Cape Town is an example of this development.
- Growing numbers of scholars and researchers in African universities and research institutes, and the

emergence of independent researchers and consultants focusing on different aspects of criminal justice, policing, security governance, security sector reform and so on, are sources of advocacy and capacity. building for policing reform and accountability

■ Institutionalisation of periodic elections also means that politicians cannot ignore the views of citizens on police and policing.

These opportunities need to be harnessed and used to direct police organisations and governments in Africa towards attaining and sustaining democratic policing characterized by the following norms and practices:

■ Effective, efficient and equitable delivery of safety and security services
■ Transparency in decision making and accountability to legislative, judicial and executive authorities, and civic society
■ Professionalism
■ Relative autonomy of the police from partisan political control
■ Integrity management aimed at minimising corruption and the abuse of power
■ Fair representation of various salient identities, especially women and minority groups
■ Respect for the human rights of citizens by the police
■ Internal democracy within the police

WHAT ARE THE CHALLENGES OF POLICING OVERSIGHT IN AFRICA?

In spite of the prospects of and opportunities for policing oversight in Africa, there are several challenges that may hinder the transition to and consolidation of democratic policing in Africa. Some of the challenges include:

■ A repressive and paramilitary orientation embedded in state policing during the colonial era that has persisted as a critical component of police culture. The consolidation of democracy is a necessary condition for changing this orientation.
■ The tendency of politicians in power towards policing that favours the regime will continue to undermine policing oversight until the balance of power shifts in favour of ordinary citizens by entrenching a democratic political culture and good governance.
■ Policing institutions need to be enhanced and their capacity improved. During the past decade, many countries have established agencies for the oversight of policing. However, many of them are still very weak because they are denied the independence and

resources that they need to function as effective oversight mechanisms.
■ Crime and violence are widespread in most African societies. Under these conditions, citizens tend to condone, even sometimes demand, extra-legal crime control operations, including torture and extrajudicial killings, thus weakening the demand for and mechanisms of oversight.
■ Most police forces in Africa are characterised by poor intelligence and investigation capacity because of inadequate training and the lack of scientific and technological tools for crime prevention and control. Under these conditions, the police tendency to use torture and extrajudicial killings as methods of crime control remains high.
■ Entrenchment of ethnic and religious nepotism in the police forces. This involves favouring people from certain ethnic groups in recruitment, training, promotion and deployment to strategic and 'lucrative and powerful posts' without due consideration for merit and justice. In a few African countries with long-term rulers, security personnel are predominantly and disproportionately from the ethnic group of the head of state.
■ A government's manipulative emphasis on law and order as a priority over safety and the human rights of citizens tends to promote, condone and reward police vigilantism and impunity.
■ Low remuneration and the poor working environment of police tend to breed corruption, frustration and incivility that undermine professionalism and efficiency.
■ Political interference in policing persists in many countries and undermines the professionalism of the police and effectiveness of the oversight agencies.
■ The multiple system of non-state policing – private security companies and community-based crimewatch groups, militias and vigilantes that are often either poorly regulated or unregulated and uncoordinated – is a lacuna in many current oversight arrangements.
■ The multiplicity of security agencies with overlapping functions and without coordination – a carry-over from the era of autocratic rule – creates challenges for sector-wide security oversight
■ The public attitude that favours vigilantism by citizens and tough law enforcement by police agencies condones inappropriate action and human rights violations by police. This hampers effective police oversight.
■ There is a lack of public confidence in and cooperation with oversight agencies. Oversight agencies should engage with the police and civil society to

build an effective alliance to address these chal-
lenges appropriately.

STRENGTHENING POLICE OVERSIGHT IN AFRICA

The discourse on police oversight and accountability revolves around several interrelated issues, including the following:

- *How* can the police be made more accountable without hampering legitimate police duties and powers?
- *Who* should oversee how the police exercise the enormous, coercive and often intrusive powers and discretion entrusted to them under the law?
- *What* form or forms of oversight and accountability processes and mechanisms are effective?
- Should society rely on the internal control processes of the police or rather choose external ones, or should control processes reflect both?
- *What* form of internal-external configuration would work best?

The fundamental challenge to police reform and oversight in Africa is the resistance of rulers to transforming the almost standard repressive legal and operational structures that are entrenched in the police institutions and culture. This is because they (the rulers) still depend more on coercive state power than on the consent of the citizens to govern. Despite this challenge, there are several initiatives that need to be implemented to strengthen police oversight in Africa. They include:

- Adopting a pro-active approach aimed at preventing or reducing the incidence of police misconduct.
    - Developing and enacting appropriate legal instruments and normative standards of policing.
    - Developing and implementing appropriate curricula at police training schools and colleges at all levels of basic, refresher and professional courses.
    - Developing the supervisory, administrative, management and leadership competencies and capabilities of officers at the various levels of the police organisational hierarchy.
    - Developing a coherent, effective and just system of police control that ensures the fair dispensation of punishment and reward for misconduct and good performance respectively.
    - Developing efficient systems of consultation and information dissemination within the police

- Providing adequate training, remuneration and equipment for the police force.
    - Guaranteeing operational responsibility and autonomy of the police.
- Developing the capability of oversight agencies: the human, material, financial, technical, knowledge and managerial capabilities of oversight agencies should be developed and sustained, otherwise they become empty shells that are dysfunctional or counterproductive. Furthermore, it is critical to state mandates, strategies and operations.
    - In assigning responsibilities and powers to police oversight agencies, the following critical issues must be addressed:
        □ The sort of issues that should come before the oversight agency.
        □ How the oversight agency should deal with these – as the recipient of complaints or as an agency of appeal.
        □ The reporting mechanisms to be adopted in the relationships between the police and policing oversight agency.
        □ The sort of issues that it is essential to report to the policing oversight agency as well as the outcome of any investigations.
        □ The sort of issues the police oversight agency should investigate after a matter of essential concern has been reported (e.g. all cases of civilian or official deaths during operations; all cases involving the use of firearms; deaths in custody; bribery and extortion at a certain level; sexual violence; maltreatment of juveniles, etc.).
        □ The resources (in quantitative and qualitative terms) required for effectiveness and efficiency.
    - Developing institutional capacity and capability to deal with major issues that involve the exercise of police powers that may violate the fundamental rights of citizens. This includes creating, funding, staffing and equipping specialised divisions to address specific issues or areas, for example reviewing the reports on the police's reporting on various occurrences; investigating deaths in custody and the use of firearms, as well as the approach to sexual violence and maltreatment of juveniles; implementing research and planning and using statistics, including an information and communications technology (ICT) section that will ensure the acquisition of an efficient database of the oversight agency's areas of competence.
    - Networking and collaborating with governmental and non-governmental organisations, academia and researchers at the domestic, regional and continental levels to develop required capabilities.

■ Developing leadership that is patriotic, transparent, bold, democratic and visionary for the oversight agency.

In conclusion, the foundation of effective police oversight is a democratic approach and good governance. Although there have been democratic transition and political reform in most African countries over the past two decades, the level of democracy is still very superficial and the culture of democratic governance is yet to be consolidated. In many countries, the original dictatorial rulers have now emerged as pseudo-democrats presiding over state affairs. Under conditions of superficial democracy, bad governance, a weak foundation for the rule of law as well as a lack of recognition, protection and promotion of human rights, it will impossible to turn the police forces of African governments into the people's police. Therefore, the struggle towards and demand for democratic policing must be an integral part of the broader struggle to consolidate democracy and good governance in African nations.

Reviewing the SADC Strategic Indicative Plan (SIPO)

Implications for regional police oversight

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THE SOUTHERN AFRICAN DEVELOPMENT COMMUNITY (SADC)

The Southern African Development Community (SADC) was formed in 1992 as a regional multilateral institution to promote sustainable economic growth, democracy, and peace and security through regional integration.

The 1990s were a turning point for the region: Namibia became independent; South Africa's first national democratic elections were held; the Mozambique peace accord was signed and many countries held multiparty elections. These democratic changes took place against the backdrop of a post-Cold War international environment and international and regional calls for democratisation and good governance.

SADC, however, has its roots in the history of the region. In 1974, the Front Line States (FLS) formed the first informal security arrangement in Southern Africa. These states aimed to liberate the countries under colonial rule and to protect the sovereignty of those who were liberated.

The Southern African Development Co-ordination Committee (SADCC), a more formalised structure, was created in 1980. The objectives of SADCC were to reduce the dependence of member states on South Africa; to implement programmes that would have national and regional impact; and to develop collective self-reliance and secure international understanding and support. SADCC, therefore, focused primarily on the joint management of economic development issues. Political and security issues did not form part of the SADCC mandate, but were rather dealt with by the FLS, through their Interstate Defence and Security Committee (ISDSC), a ministerial body representing the ministries of defence, public security and state security of member states.

SADC, however, reflects the objectives of both the FLS and SADCC in its focus on military as well as political issues.

Two strategic frameworks, the Regional Indicative Strategic Development Plan (RISDP) and the Strategic Indicative Plan for the Organ (SIPO), provide the direction for achieving the goals of SADC.

The objectives of SADC are as follows:

- Promote sustainable and equitable economic growth and socioeconomic development that will ensure poverty alleviation
- Promote common political values, systems and other shared values that are transmitted through institutions that are democratic, legitimate and effective
- Consolidate, defend and maintain democracy, peace, security and stability
- Promote self-sustaining development on the basis of collective self-reliance and the interdependence of member states
- Achieve complementarity between national and regional strategies and programmes
- Promote and maximise productive employment and utilisation of the resources of the region
- Promote the sustainable utilisation of natural resources and effective protection of the environment
- Strengthen and consolidate the long-standing historical, social and cultural affinities and links among the people of the region
- Combat HIV/AIDS and other deadly and communicable diseases
- Ensure that poverty eradication is addressed in all SADC activities and programmes
- Focus on gender issues in the process of community building

The SADC Directorate of the Organ on Politics, Defence and Security (OPDS) is located within the Secretariat and comprises various sectors, which include the politics and diplomacy sector, defence sector, public security sector, state security sector and the police sector. Other important institutions include the Regional Peacekeeping Training Centre and the Southern African Regional Police Chiefs Cooperation Committee (SARPCCO) based in Harare, Zimbabwe, which is being absorbed into SADC.

THE SOUTHERN AFRICAN REGIONAL POLICE CHIEFS COOPERATION COMMITTEE (SARPCCO)

The objectives of SARPCCO, which was established in 1995, include, inter alia, the following:

- Promote, strengthen and perpetuate cooperation and foster joint strategies for the management of all forms of cross-border and related crimes with regional implications
- Prepare and disseminate relevant information on criminal activities as may be necessary to benefit members in their attempts to contain crime in the region
- Conduct regular reviews of joint crime management strategies in the light of changing national and regional needs and priorities
- Ensure the efficient operation and management of criminal records and the efficient joint monitoring of cross-border crime, taking full advantage of the relevant facilities available through Interpol
- Make relevant recommendations to the governments of member countries in relation to matters affecting effective policing in the Southern Africa region
- Formulate systematic regional police training policies and strategies, taking into account the needs and performance requirements of the regional police services or forces
- Carry out any relevant and appropriate acts and strategies to promote regional police cooperation and collaboration as dictated by regional circumstances

The Council of Police Chiefs is the highest decision-making body on all policing matters and oversees regional police cooperation (although, with the incorporation of SARPCCO into SADC, it is not abundantly clear where decision making ultimately rests).

The Permanent Coordinating Committee (PCC) consists of the heads of the criminal investigation services of each member country. This committee coordinates, plans and executes joint crime-combating

operations. The legal sub-committee, comprising the heads of the legal units of the respective police forces or services, attends to all legal matters and works towards harmonising regional legislation. The training sub-committee is made up of the directors of the training institutions of the various police forces or services, and oversees training and the implementation of capacity-building interventions.[6]

THE ORGAN ON POLITICS, DEFENCE AND SECURITY (OPDS)

The OPDS was formed in 1996 and the Protocol on Politics, Defence and Security Co-operation (2001) placed it firmly within SADC structures. The objectives of the OPDS are to promote peace and security in the region. They also include promoting regional coordination and cooperation on matters related to security and defence as well as establishing appropriate mechanisms to achieve this. Measures aimed at realising the OPDS objectives include developing the peacekeeping capacities of national defence forces as well as the collective security capacity, and concluding a mutual defence pact to respond to external military threats. They also include developing close cooperation between the police and state security services of state parties in order to address cross-border crime; and promoting a community-based approach to domestic security, among other objectives.

STRATEGIC INDICATIVE PLAN (SIPO)

To realise the objectives of the OPDS, SADC mandated the OPDS to prepare a Strategic Indicative Plan (SIPO) in 2002. This was adopted in 2004. It has served as a management tool for the implementation of the 2001 Protocol over a five-year period and outlined the objectives, strategies and activities of the OPDS. The five-year period ended in 2009 and the OPDS is in the process of adopting a new plan.

The main objective of the SIPO is to create a peaceful, stable and secure political environment or an 'enabling environment'. Matters pertaining to the police are included under the heading of public security. Whereas the 2002 SIPO treated the police and military together, with the incorporation of SARPCCO in 2009 the police are now viewed as an entity in their own right.

The emphasis on public security through regional cooperation in the SIPO aims at combating cross-border crimes and the like. The Plan suggests the adoption of a number of activities to promote public security and enhance police actions such as regularly assessing the regional security situation, combating cyber crime and terrorism, building databases for law enforcement

agencies, managing smuggling across borders, combating illegal trafficking, implementing community-based policing initiatives and promoting the joint training of civil police for peace support missions.

To improve the governance of the police organisation, the Plan suggests promoting accountability to combat corruption and strengthen ethical practices; developing a common code of conduct; exchanging information and best practices; addressing the effects of HIV/AIDS on law enforcement; implementing joint training in law enforcement and human rights, and harmonising legal instruments in the region.

THE ROLE OF THE OPDS AND SIPO IN PROMOTING OVERSIGHT AND ACCOUNTABILITY OF THE POLICE IN SOUTHERN AFRICA

The SIPO does not directly address issues of security sector oversight or governance. However, since the OPDS, under which it operates, is the regional body charged with peace and security, security sector oversight or governance should be an important part of the OPDS's responsibility. That is, the OPDS should ensure that both regional and national oversight bodies and mechanisms exist and function properly.

Among the security sector challenges that need to be addressed in Southern Africa are outdated legislation, limited examples of integrated security strategies, limited focus on mainstreaming gender, weak oversight bodies and a lack of civil society organisations engaged in security sector issues, in particular in oversight.

The promotion of oversight can, however, be pursued on a number of levels. The OPDS can establish the enabling environment in which Southern African police services, the various governments and civil society can conceptualise and promote a desired form of policing for the region. To this end, the SIPO should develop and articulate a vision of desired policing in the Southern African region. Based on this vision, the SIPO should propose a common standard of policing across the region. Informed by this vision of the desired type of policing, this common standard can and should include the role of the police in protecting democratic rights. Furthermore, it should focus on the safety of citizens and have effective governance mechanisms in place including civilian oversight institutions.

The OPDS can promote greater police accountability by encouraging the police to comply with this standard through clear guidelines for its application and for reporting mechanisms; by encouraging sustained cooperation between oversight agencies, state and non-state actors; and by establishing a regional Human

Rights Commission as a mechanism to exchange ideas of best practice to promote police compliance with ethical and human rights across the region. The SADC Parliamentary Forum could potentially act as an oversight mechanism and should be fully integrated into SADC.

The SIPO, in turn, should strive to promote greater regional cooperation on violent crime. It should identify how the region as a whole can support local and national policing efforts to enhance safety and security, and the effectiveness, efficiency and integrity of the police. This last aspect can be fostered by sharing best practices and training for both transnational policing operations and local domestic crime-combating operations.

At this stage, however, SADC still has far to go to achieve these goals. Therefore, it is critical to address and overcome the lack of trust and to build public confidence in order to achieve desired outcomes.

DISCUSSIONS AND COMMENTS

In the ensuing discussion, comments and questions included the following:

- Human rights training for police needs to be made a priority along with other police training. If the police receive adequate training in human rights, it will change how they conduct themselves and how they relate to the people. It is important to address human rights early in the training process.
- There is need for a strong human rights organisation that has 'teeth' in the SADC region.
- Besides the need for police oversight and an effective police force, it is important to know why certain crimes prevail and what can be done to address the causes, drivers and facilitators of crime.
- SADC encourages the adoption of community-based policing. It is important to understand and explain what is meant by community-based policing.
- The rejection of oversight by the police is normally a defence mechanism on their behalf. The police will defend the inappropriate actions of their colleagues with a range of arguments, such as the impact of complying with human rights ideals on their effectiveness. It is important to promote police accountability in a way that does not impinge upon police performance.
- No single police oversight model can be recommended for all countries. No model works for all situations. However, the police tend to ignore an oversight institution that merely has an advisory role.
- Proactive and reactive approaches to police oversight are also important. A mechanism that continues to

monitor and evaluate, and that generates reports and engages the police in an effort to foster good relationships, is imperative to ensure police accountability and improved relations between the police and the public.

■ Most often, police work with civil society organisations (CSOs) is characterised by suspicion and prejudice. CSOs must educate their members in police work and the members must base their interactions with the police on fact. This will help build confidence between the CSOs and police organisations.

■ Outdated police Acts need to be revised to conform to UN policing standards.

Developments in Southern Africa

Case study – South Africa

LEGISLATIVE DEVELOPMENTS

the Independent Police Investigative Directorate Bill and Civilian Secretariat of Police Bill

South Africa has an elaborate infrastructure of civilian oversight that includes an internal police disciplinary process, a vibrant civil society and media, an independent judiciary, an ombudsman, public protector and Human Rights Commission, and importantly, two dedicated police oversight bodies, namely the Civilian Secretariat of Police, which oversees policy and performance, and the Independent Complaints Directorate (ICD), which investigates police transgressions. Police civilian oversight in South Africa was further developed and strengthened in 2010 through re-engineering the Civilian Secretariat of Police and expanding the mandate and powers of the ICD.

These developments are taking place against a backdrop of the police reverting to military ranks and from a service to a force, and calls that the Criminal Procedure Act provisions for the use of force be reviewed. The developments are indicative of the dynamic nature of the policing and police oversight environment.

INDEPENDENT POLICE INVESTIGATIVE DIRECTORATE BILL

Moses Dlamini
ICD

The ICD will be re-established as the Independent Police Investigative Directorate (IPID). Its main objective will be to ensure the effective independent oversight of the South African Police Service (SAPS) and the municipal police services.

The debates within the ICD, parliament and civil society on strengthening the ICD recognised the following:

- The ICD should focus its resources on investigating those matters that will have a lasting impact on transforming the police
- The extended mandate of the ICD should focus on the more serious crimes committed by members of the SAPS
- The amendment to the ICD legislation should address current lacunas such as the need for the SAPS to respond to the ICD's recommendations
- The management structure of the ICD needs to be improved
- The reporting and accountability practices in the ICD need to be improved
- A formal liaison mechanism needs to be established between the ICD and the Secretariat of Police

The rationale for the name change is to rebrand the Directorate as an investigative-driven organisation. The IPID Bill also addresses some important shortcomings of the ICD, in particular the need for the police to respond to ICD recommendations for disciplinary processes to be initiated against officers accused of errant behaviour, and the need for more regular and formal communication between the ICD, the Secretariat of Police and the police.

The power of the IPID has also been expanded from the mandatory investigation of only deaths in custody as a result of police action to include:

- Any deaths in police custody or deaths as a result of police action

- Rape by a police officer, whether the police officer is on or off duty
- Rape by another complainant while the complainant is in police custody
- Any complaint of torture
- Complaints regarding the discharge of firearms
- Systemic corruption by the police
- Any matters that are referred to it by the Minister or the Executive Director
- Matters of criminality involving the police

The new bill also makes it an offence to interfere with, hinder or obstruct the Directorate in the exercise or performance of its powers or functions, and sets penalties and liabilities for police officers who fail to comply with reporting obligations or to cooperate.

It was anticipated that the new bill, which is currently going through a process of parliamentary review, would be enacted by the middle of the year.

POLICE CIVILIAN SECRETARIAT

Meshack Mogatusi
Civilian Secretariat of Police

The Civilian Secretariat derives its mandate from section 208 of the South African Constitution, which requires the Minister of Police to establish a Police Civilian Secretariat that operates directly under his or her direction and authority. The present Minister of Police, Nathi Mthetwa, has indicated in several meetings that, in view of the new policing environment, the Secretariat's oversight function should be strengthened.

The mandate of the Secretariat is to advise the Minister in the exercise of his or her powers and the performance of his or her duties and functions, and to perform such functions as the Minister may consider necessary or expedient to ensure civilian oversight of the SAPS.

The Secretariat is being restructured and reorganised so that it will perform its functions better, and a new legislative framework is being finalised in this regard. The Secretariat has developed five key

components or areas of operation: policy development and research; monitoring and evaluation; partnership management; support services; and the Office of the Secretary.

The Secretariat's primary focus and priority for the coming year is developing a five-year strategic plan, as well as fulfilling its key priorities while implementing its mandate.

The key role and functions of the Secretariat are to:

- Provide the Minister with policy advice
- Monitor and audit the police
- Provide support services to the Minister
- Mobilise role players, stakeholders and partners outside the Department

The Secretariat covers its key functional areas with respect to civilian oversight and provides policy advice to the Minister through its components in the following manner:

- Policy and strategy. The Secretariat engages in strategic and indicative planning and research to formulate departmental policy proposals, which, when approved by the Minister, guide the activities of the SAPS.
- Audit and monitoring. This includes monitoring the Department's budget to ensure that it is aligned with the policies approved by the Minister. It also monitors the effective and efficient implementation of these policies.
- Ministerial support services. It provides ministerial support services, including managing international and stakeholder liaison and providing legal services.
- Communication. It implements a communication strategy aimed at informing and mobilising role players, stakeholders and partners outside the Department with regard to ensuring safety and security.
- Accountability. It is accountable to the Minister and parliament on issues and activities from time to time or as requested.

Developments in East Africa

Case study – Kenya

Ms Florence Simbiri Jaoko

Chairperson, Kenya National Human Rights Commission

Policing in Kenya has been difficult and culminated in the experience of the post-election violence (PEV) in 2008. Following the PEV, the Human Rights Commission investigated certain institutions to ascertain the causes of the poll chaos. Recommended reforms included those of key institutions such as the police force. A task force or team was subsequently established that included members of civil society organisations such as the Kenya Human Rights Commission to look into police reforms. This task force made over 200 recommendations.

The task team clearly established that institutional, policy, legislative and administrative reforms needed to be undertaken regarding the police.

There are two police forces in Kenya, the regular police service and the administrative police. The task team noted that, when it came to operations, roles were duplicated and it recommended merging the two police organisations. However, no decision was taken regarding this recommendation, but when the new constitution was passed, although the two forces were retained, they were brought under one command.

In their investigations, the task team established the existence of a number of unsatisfactory conditions pertaining to the Kenyan police: they have poor data records; police professionalism is a challenge and the public is often perceived as the enemy of the police; the police lack a clear and comprehensive code of conduct; internal politics impede police capacity to perform; labour issues such as transfers affect morale and also have negative implications for the investigation and conclusion of cases; there is a weak grievance procedure; totally non-core tasks are sometimes assigned; communication and strategies regarding police activities are poor; the police force is politicised and misused by politicians; and the force has a repressive structure with little room for nurturing new ideas and career growth.

The task force recommended, among other things, changes in the police curriculum and improving police training, including extending its duration; and making appointments on merit, especially for the post of Police Inspector General.

Good progress has been made. A new training curriculum for the police has been introduced and five bills drafted and submitted for comment. The bills are currently in the parliamentary process and include the following:

- The Police Service Bill, which unites the two police services and establishes criteria for the appointment of the Inspector General of Police (IGP)
- The Police Service Commission Bill, which places promotion and recruitment under a system of civilian oversight
- An independent police oversight authority, which establishes an oversight agency
- The Private Security Industry Bill
- The Coroners Bill, which provides for a new authority to handle non-core police business

However, there are still significant challenges, ranging from popularising and establishing ownership of the code of conduct developed by the police without consultation, to the ongoing lack of forensic capacity to removing prosecutions from the role of the police. Politicians remain among the biggest impediments to police reform, along with the culture of the police, poor training and weak communication between management and members.

Civil society tends to think they can engage the police effectively, but more often this is not the case. To reiterate the point made earlier, civil society and civilian oversight must educate themselves regarding the work of police organisations and policing to be able to engage with them effectively.

Developments in West Africa

Case study – Nigeria

Dr Otive Igbuzor
Nigerian Police Service Commission

Oversight agencies in Nigeria include the National Assembly, the Nigeria Police Council, the Ministry of Police Affairs (formerly Interior), the Police Service Commission and the police force. Internal oversight is governed by the Police Act, police regulations and the Code of Conduct.

Nigeria became independent in 1960. However, after only six years of civilian rule, the military took over power in 1966. The military ruled until 1999, a period of about 30 years, with a brief period of civilian rule between 1979 and 1983. Before independence, the 1954 Littyleton Constitution gave the Governor General the power to appoint, promote, discipline, post and transfer all officers of the Nigerian Police Force (NPF). The 1960 Constitution established a Police Service Commission to appoint, promote, transfer, dismiss and exercise disciplinary powers over all police officers from the rank of constable to the Inspector General of Police (IGP). The Commission was made up of between two and four members appointed by the Governor General, one of which was a High Court judge. The 1963 Constitution vested the power to appoint members of the Commission in the president on the advice of the prime minister. During military rule, the military took over the chairmanship of the Commission. The 1979 Constitution removed the power of the Commission to appoint the IGP and vested it in the President.

On the return of civil rule to Nigeria in 1999, the constitution clearly provided for civilian oversight of the police. There was to be a Police Service Commission (PSC) comprising a chairman, a retired Supreme Court judge, a retired police officer, and representatives of the press, women, NGOs and the organised private sector. Parliament then enacted the Police Service Commission Establishment Act of 2001, which outlined the PSC's functions:

- Appoint and promote all police officers (except the IGP)
- Dismiss and exercise disciplinary control over all officers (except the IGP)
- Formulate policies and guidelines for appointing, promoting, disciplining and dismissing officers
- Identify factors inhibiting or undermining discipline in the NPF
- Formulate and implement policies aimed at enhancing the efficiency and discipline of the NPF
- Perform such other functions which, in the opinion of the PSC, are required to ensure the optimal efficiency of the NPF
- Carry out such other functions as the president may from time to time direct

Between 2002 and 2006, the PSC was set up with the structures necessary to perform the functions allocated to it. It prepared guidelines for recruitment, promotion and discipline, and monitored the 2003 elections. However, it also faced significant challenges in terms of the usurpation of its functions by the IGP and presidency. Between 2006, the expiry date of the commissioners' terms of office, and 2008, when new commissioners were appointed, there was no Commission in operation.

Since 2008, with the induction of the new Commission, to the present, the PSC has formulated principles to guide its operations. These principles include upholding the rule of law and following due process, justice and equity in all its dealings and deliberations; ensuring that the conduct of police operations respect the rights of citizens; protecting the integrity and merit of the NPF by making sure that appointments and promotions are based on seniority, merit and equity, and that appointments, promotions

and disciplinary processes are clearly defined, fair and transparent; and working with and helping the IGP to maintain discipline and high ethical standards within the NPF.

The PSC has also formulated a new strategy with the vision of a highly motivated, professional, disciplined and accountable police service that upholds human rights, as well as a mission of working to improve service delivery in the NPF by promoting transparency and accountability in the police. To this end the standing committee of the PSC was restructured to form a new committee with a strategy and development plan. The PSC has also implemented recruitment, promotion and discipline in line with its principles and professionalism: in 2008, 888 cadet inspectors and Assistant Superintendents of Police (ASPs) were appointed; 12 936 constables were appointed; 6406 senior police officers were promoted, and 127 police officers went through disciplinary measures. In 2009, 3 783 recruits were appointed; 7 000 rationalised officers were reviewed and 1 588 were recalled; 2 236 senior police officers were

promoted, and 150 senior police officers went through disciplinary measures.

Four new policies have been formulated and approved for the police, namely a domestic violence policy; an in-custody death policy; a death during police operations policy, and a gender policy.

In summary, the Police Service Commission has existed in one form or another in Nigeria since independence, and civilian oversight of the police is gradually taking root despite initial challenges. Ways of strengthening police oversight include extending the reforms within the police (recruitment, training, logistics, management); strengthening the institutions of oversight in terms of human resources, capacity building and funding; clarifying and understanding the roles of the various institutions and agencies; formulating strategies for each of the agencies; translating the strategies into costed work plans, programmes and projects; and establishing a forum where all the agencies can share and learn. The CLEEN Foundation recently initiated such a forum and supports it.

Developments in North Africa

Case studies from Sudan, Egypt, Tunisia, Libya, Algeria and Morocco

Amir Suliman

Regional Director, African Centre for Justice and Peace

The region is in a state of turmoil and flux. This has a significant impact on policing and police oversight. The form and architecture of police oversight will certainly change dramatically in the coming months and years. Torture is a significant problem in policing across the region and highlights the need for legal and institutional reforms.

In Egypt and Tunisia police brutality and torture are major challenges. Police have also been accused of being involved in rigging elections and suppressing freedom of expression. In Tunisia, the oversight mechanism for policing has been the Constitutional Council for Human Rights, set up in 2001. Reforms are anticipated following the revolutions in these countries earlier in the year.

In Libya, most of the police force has been under public committees. There are no accountability mechanisms and police torture is common. The country is currently in a state of civil war and the outcome will determine how the police and police oversight develop.

Algeria and Morocco also experience human rights violations by the police. In Morocco, the Transitional Justice Committee, set up in 1999 to investigate human rights violations since independence, as well as an advisory council for human rights are some of the oversight mechanisms. This too is likely to change in the process of constitutional review underway.

In Sudan, the 2005 Constitution and the Sudanese Police Act spell out the role and functions of police. There are internal and external police oversight mechanisms. Internal mechanisms include a complaints department within the police force and police courts, which deal with cases of violation by the police. External oversight mechanisms include an advisory council on human rights, the National Human Rights Commission and civil society organisations (CSOs).

Building oversight capacity

Strengthening investigator skills

Thomas Tshabalala

Head of Investigations, ICD

The African Policing Civilian Oversight Forum (APCOF), the Independent Complaints Directorate (ICD), the Kenya National Commission for Human Rights and the Commission for Human Rights and Good Governance in Tanzania, with funding from the German Gesellschaft für Internationale Zusammenarbeit (GIZ) Trilateral Fund Cooperation, collaborated to develop a training course in investigative skills for independent police oversight investigators.

The partners consulted and contributed to structure the manual, while researchers with extensive knowledge in the field were appointed to write the content. The ICD provided the practical investigation experience support and conducted pilot training to test, review and refine the manual.

The focus of the manual is basic investigation skills, including gathering evidence, securing the scene, interviewing witnesses and dealing with the police. It is aimed at investigators from oversight bodies such as human rights organisations, but is also useful for the police to enhance their understanding of police oversight, and for civil society monitors. Training is given during a four-day residential course, with interactive sessions incorporating role-play and case studies. The manual comprises a ring-binder file with additional material available on CD.

Feedback from the training has been very positive and beneficial even to office-based investigators who deal with the registration of cases over the telephone.

Some of the lessons learnt are that, despite unique and specific contexts, the transfer of knowledge across jurisdictions is possible and desirable. Having the police and prison authorities participating in the training together with civil society and the oversight institutions showed that relationship building is an important additional benefit. Policing and police oversight are politically sensitive issues and, as such, the training process has to be consultative and inclusive. Since the training is potentially difficult to replicate in the workplace if it is not supported by senior personnel, champions should be identified to ensure the success of this course. The material should be generic to enable broad application and remain relevant over time. It must be adaptable so that it can be easily transferred.

Currently this initiative does have limitations: the impact of the training is limited since there are no relevant legislative frameworks to support it; nor is the impact of the training and follow-up courses monitored, a limitation that will be addressed with the further development of the manual. Importantly, however, the training manual represents one of the first African examples to build hard skills in independent police oversight investigation.

Building knowledge through networking

Prof Etannibi EO Alemika

University of Jos, Nigeria and Director of APCOF

The West African Police Reform Network (WAPORN) is an example of a network for sharing policing knowledge and advocating on issues of common concern. It was formed in 2006 and comprises the police, policing oversight bodies and civil society in West Africa. It is an essential structural component of the African Policing Civilian Oversight Forum (APCOF) network and allows participants to engage with unique regional challenges while having access to continental experience and platforms.

Some of the challenges facing police reform on the continent are an ambivalence and lukewarm attitude towards policy-led governance; a relative lack of policy planning and implementation based on evidence; the unavailability of statistical data; poor monitoring and evaluation of implementation and of evaluation itself; and a lack of information sharing among African countries. These factors severely reduce the opportunities for the sharing or transplantation of progressive ideas.

Networking, however, is an area of growth that could have important benefits for policing in Africa. Information and experiences can be shared even if the simple transfer of knowledge from one jurisdiction to another proves to be difficult.

One of the first activities of WAPORN was to encourage greater communication between anglophone and francophone West Africa and to make available information in French and English.

Among the resolutions at the first WAPORN meeting were the following:

- There is a need to expand research on police systems in Africa
- The networking of stakeholders must be encouraged and sustained
- There is a need for effective mechanisms to promote police reform in West Africa that involves all stakeholders

- Reform should focus on such critical issues as:
  - Political context of policing
  - Legal framework of policing
  - Internal control systems
  - Community partnerships in policing
  - Legal accountability, civilian control and oversight of policing
  - Adequate resourcing for developing the effective investigative, intelligence and operational capacity of the police and law enforcement agencies
  - Regional oversight mechanisms of policing in West Africa
  - Promotion of the monitoring and evaluation of policing

A recent project by CLEEN on internal police controls demonstrated the impact and importance of networking when they used network partners in conducting their research and to promote the results. This meant a project with regional value could simultaneously be used at a local level.

A recent network meeting of WAPORN in Dakar, Senegal, highlighted some important lessons for networking. These include:

- The need to have a competent and well-resourced organisation leading the network, and to have a structure that all members feel they belong to. This may mean being able to shift the leadership in the network or to create multiple sites of leadership.
- Network members rarely generate projects from within the structure, therefore one way of dealing with this challenge is to have a project with enough commonality to be executed at different sites.
- The network must allow for diversity.

The benefits of WAPORN clearly demonstrate the need to form similar networks elsewhere on the continent.

Building a common agenda through regional standards and codes of conduct

Sean Tait

Coordinator APCOF

Regional networks on police and police oversight should focus on issues that are common to the region, and around which network members can coalesce, and from which they can draw mutual benefit through their participation. Developing and then applying and monitoring a common standard for policing in East Africa represents one such opportunity for the police, civil society and civilian oversight organisations in the region to act together.

At both an international and a regional level, extensive efforts have been made to construct a framework for policing that promotes a rights-based approach to security to support democratic governance and development. The African Policing Civilian Oversight Forum (APCOF), in partnership with the Commonwealth Human Rights Initiative, reviewed this framework as it applies to the five countries of the East African Community (EAC) in order to understand and articulate the standards that are common to policing across the five countries. While policing is a feature of the EAC integration strategy and part of the ongoing debate on strengthening the defence and security of the region, a unified regional approach to policing remains largely unarticulated. From desk-based research and focus group meetings with key stakeholders in the five countries of the EAC, the researchers identified and published a set of common standards. The benefit of this approach is the clear statement of standards in a single document for use by all stakeholders, including the EAC, East African Police Chiefs Cooperation Committee (EAPCCO), the police, national human rights institutions, policy and lawmakers and civil society.

Researchers from APCOF and the Commonwealth Human Rights Initiative (CHRI) worked in partnership with EAPCCO and in collaboration with the EAC on this project.

As a starting point, the researchers reviewed the following:

- All international treaties, conventions, protocols, standards, guidelines, codes of conduct and declarations that are common to the five states of the EAC
- All regional treaties, conventions, protocols, standards, guidelines, codes of conduct and declarations that are common to the five states of the EAC
- Significant jurisprudence that was not necessarily binding on the five states of the EAC, but which enables the interpretation of those international and regional instruments of which they are members

The desk-based research was supported by broad consultation with key stakeholders in the EAC. Specifically, the researchers attended EAC consultations on human rights and security held in Bujumbura, Burundi, in October 2008; a civil society consultation on good governance, also held in Bujumbura on 19–20 August 2009; and a conference on a protocol for peace and security held in Kampala on 5–7 October 2009.

The researchers developed and refined their methodology in two preliminary focus groups. They then invited representatives from the police, the government, national human rights institutions and civil society to participate in focus group discussions in Nairobi and Kampala during December 2008 to test the methodology, the assumptions and the preliminary findings of the project.

A more comprehensive analysis of the international and regional framework followed these initial focus group meetings and a draft set of standards emerged from this analysis. The researchers then called a second series of focus group meetings in Bujumbura, Dar es

Salaam, Kampala, Kigali and Nairobi in March and April 2009 to discuss the standards and the framework within which they are presented. At these focus group meetings, the participants were asked to respond to five questions:

- Do these common standards reflect the reality of policing?
- Is this the right way to frame the common standards?
- Are there any standards missing?
- Any commentary?
- What types of approach can you suggest for taking these standards forward?

The feedback from the five focus groups was incorporated into the standards and the first complete draft was subjected to an expert review.

The common standards project was endorsed at the November 2008 EAPCCO 10th Annual General Meeting (AGM) and the 8th Meeting of Ministers of Security of the EAPCCO countries. The EAPCCO acknowledged that the common standards are an important tool to promote and support police cooperation in the region. The member states of the EAPCCO have committed themselves to a number of international agreements, including the Universal Declaration of Human Rights. In that context, standards for policing do exist and the EAPCCO believes that compliance with these standards at the regional level must begin with police training. Currently there is a great variation in the quality of training in the EAPCCO countries and this issue has been tabled at the EAPCCO meetings. Better trained police will defend and uphold human rights, which, in turn, will impact on community confidence, build trust and promote partnerships between different sectors and the police in combating and preventing crime, and enhancing community safety. Accordingly, the EAPCCO has expressed a strong interest in developing both a code of conduct for policing and human rights training based on the common standards.

Common codes of conduct and common regional standards provide opportunities for networking that transcend national boundaries. They also provide common agendas for discussing shared challenges.

DISCUSSIONS AND COMMENTS

In the ensuing discussions comments included:

- There are very few documented case studies or resources on what is happening in terms of oversight in each country and regionally. The earlier audit by the African Policing Civilian Oversight Forum (APCOF) on police oversight needs to be updated and a second edition published.
- APCOF is a good forum for strengthening good governance in policing. However, it is not clear whether its full potential has been maximised. This also depends on adequate funding.
- It is important to document experiences and lessons learnt, and share these with forum members and even more broadly. Documenting success stories, good news or challenges would be a good start and a way forward.
- It is also important to document processes and discussions pertaining to police oversight that takes place on the continent. This information could then be fed back into oversight structures and processes in order to improve them.
- Most oversight mechanisms are headed by lawyers, as is the experience in Kenya, and they sometimes take firm positions in a win-lose scenario. This can create tension in an oversight organisation and between the organisation and its partners and the police. Oversight practitioners need to embrace police officers and be more appreciative of the role and skills they offer.
- The investigator training manual is an important tool because it brings everyone to the same level regardless of their previous professional background.

Group discussions

A plan of action

Participants were divided into three groups and each group discussed both the following topics:

- What are the key challenges for achieving effective police oversight in Africa in relation to the national, regional and continental levels? Please identify the 5 most important challenges to discuss at the plenary session.
- What are the most important opportunities for addressing these challenges? Please focus on opportunities that are within the power of the workshop participants to achieve. Please identify the 5 most important opportunities to discuss at the plenary session.

During the group feedback session, the plenary identified the following general challenges and opportunities for achieving oversight in Africa:

CHALLENGES

Political

- Lack of political will
- Impunity

External oversight mechanisms

- Limited independence of oversight mechanisms
- Limited skills and capacity of police oversight institutions

Police organisations

- Negative and excessively defensive attitude of police

- Lack of opportunities for regular reporting and feedback between police oversight institutions and civil society
- Lack of and often ineffective internal police oversight mechanisms

Public participation

- Poor public awareness of the opportunities open to them to address errant police behaviour

Networking

- Local context often makes the transfer of knowledge and practice difficult

OPPORTUNITIES

Opportunities to address some of the challenges raised existed in:

- Education and training. Sharing generic knowledge and tools was a cost-effective way to begin building skills. Joint training with police and civilian oversight practitioners could also be explored.
- Networking and regional coordination and collaboration between oversight agencies. Developing, implementing and monitoring codes of conduct provided one way of focusing regional collaboration.
- Building public awareness and publicising the work of oversight institutions. This should include documenting case studies, which, in turn, could be a useful training tool.
- Legislative reform including the promotion of police oversight.

The three groups were then required to consider the opportunities and challenges identified above and offer practical ways forward. Some of the suggestions included:

1) **Education and training:**

- As a start, conduct audits on what current education and skills training exists on police oversight in Africa and how human rights and accountability training is offered.
- Develop material to cover identified gaps. Training should cover areas such as investigation skills and use of force, and training manuals should cover all aspects of investigation. Training should also be contextualised to reflect local contexts.
- Develop a model syllabus of human rights for the police.
- Offer targeted training to police and oversight agencies.
- Ensure that oversight agencies understand policing and oversight concepts, models, challenges, etc.
- Encourage oversight agencies to institutionalise standard operating procedures and best practices.

2) **Publicising the work of oversight agencies (national, regional and international):**

- Use UN and AU Commission reports on human rights as a basis and produce accessible plain language reports and brochures. The report by the UN Special Rapporteur on extrajudicial killings and Philip Alston's report on police civilian oversight would be a good place to start.
- Publicise annual reports from investigative directorates and human rights commissions.
- Use the media such as newspapers and radio to publicise the work of oversight bodies.

3) **Regional coordination and collaboration between oversight agencies:**

- Work with regional networks focused on peace and security and seek ways to collaborate on a police oversight and governance agenda.
- Explore opportunities that already exist such as the SADC parliamentary forum.
- Build collaboration around the assessment of the Southern African Regional Police Chiefs Cooperation Organisation (SARPCCO) Code of Conduct being undertaken in Southern Africa by the African Policing Civilian Oversight Forum (APCOF).

4) **Awareness and advocacy:**

- Offer targeted engagements with the police and public through round-table meetings, jointly organised workshops and meetings with police, policy makers and donors. As an initial step, Lesotho, with the support of APCOF members, could host such a workshop to review the Lesotho Mounted Police against the SARPCCO Code of Conduct.
- Bridge the gap between the police and oversight bodies, for example through collaboration in a joint project as a trust-building exercise.
- Use training and agreed codes, for example the SARPCCO Code of Conduct, to promote interaction on police oversight, etc.
- Identify ways of sustaining debates over long periods and identify possible lead organisations.
- Monitor what is being achieved and how attitudes are changing.
- Gain the attention of the police leadership and have them facilitate discussions.
- Use existing policies and legislation for leverage, and try to understand why the police are resistant to oversight. Give the police a chance to respond to reports; invite police leadership to seminars and workshops; involve the police oversight community.

5) **Research and documentation:**

- Encourage oversight bodies to develop and maintain their databases and to improve their capacity for maintaining their databases. Maintaining databases of police human rights violations and complaints, for example, can help identify trends and, in turn, inform policy and advocate for reform. Oversight reports need to be of a good quality.
- Work towards improving the understanding of issues and investing in proper research to support the activities of the police. The stated intention of South Africa's Civilian Secretariat of Police of collaborating with research institutions is a good example of what can be done.
- Document and make available case studies on police oversight from various countries on the continent. Documenting case studies will provide models of oversight in Africa.

6) **Networking:**

- Promote relationships between the oversight community and police organisations at the regional and domestic level.

- Use existing regional instruments such as the SARPCCO Code of Conduct and the Bill of Rights in the EAC to build relations.
- Invite NGOs to engage with the police at organised events tacked onto regional meetings
- Hold fringe events along with those of human rights councils and the African Commission.

- Share developments on police reform in various countries and use networks to encourage comment and interaction.
- Organise national workshops on case studies of oversight from other countries.

Concluding and closing remarks

Sean Tait and Cheryl Frank

In his concluding comments, Mr Sean Tait reiterated the need for the forum members to have a point of contact for communication purposes. He also stressed the importance of keeping the network active in terms of participation and urged the forum members to keep themselves updated on policing issues taking place on the continent.

Ms Cheryl Frank offered the closing remarks for the workshop. She urged the forum members to make use of the *African Security Review*, a journal published by the Institute for Security Studies (ISS), as a tool to highlight or publicise their work. She also offered a vote of thanks to APCOF for its part in organising the workshop and the participants for the rich discussions. She encouraged them to use the report of the workshop as an advocacy tool for oversight in their various countries.

*With thanks to Irene N'dungu for her assistance in the compilation of this report.

Notes

1   DW Perez, *Common sense about police review*, Philadelphia: Temple University Press, 1994.

2   C Stone and R Ward, Democratic policing, A framework for action, *Policing and Society* (10) (2000).

3   Etannibi EO Alemika, Police, policing and rule of law in transitional countries, in Lone Lindholt, Paulo de Mesquita Neto, Danny Titus and Etannibi E. Alemika (eds), *Human rights and the police in transitional countries*, The Hague: Kluwer Law International, 2003.

4   Andreas Schedler, Conceptualizing accountability, in Larry Diamond, Marc F Plattner and Andreas Schedler (eds), *The self-restraining state – power and accountability in new democracies*, Boulder, CO: Lynne Rienner Publishers, 1999, 13.

5   Schedler, Conceptualizing accountability, 14.

6   Further details on the structure and functioning of SARPCCO can be found in Cheryl Hendricks and Takawira Musavengana (eds), *The security sector in Southern Africa*, Monograph 174, Institute for Security Studies, 2010.

Group photo

List of participants

Nr	TITLE/NAME	ORGANISATION	DESIGNATION
BOTSWANA			
1	Mr Kelennetse Moloko	Directorate on Corruption and Economic Crime (DCEC), Botswana	Principal Anti-Corruption Officer
2	Prof Mpho Molomo	University of Botswana	Professor, Centre for Strategic Studies
KENYA			
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5	Chairman D B Seetulsingh	National Human Rights Commission, Mauritius	Chairperson
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22	Mr Moses Dlamini	Independent Complaints Commission (ICD), South Africa	National ICD Spokesperson
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