

Implementing the Southern African Regional Police Chiefs Cooperation Organisation (SARPCCO) Code of Conduct

January 2011

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AFRICAN POLICING CIVILIAN OVERSIGHT FORUM

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Foreword

Any endeavour to monitor police performance and conduct requires an agreed standard against which to measure such performance and conduct. The SARPCCO Code of Conduct is an important yardstick in establishing what is expected from the police and how they should behave, not only in their national jurisdictions but across the Southern African region. This is important as we move to greater regional integration and cooperation.

The SARPCCO Code of Conduct provides a one of the earliest efforts by a regional police organisation in Africa to develop a unified code and has served as an example for other regions. However, the impact of the code is only as good as the efforts to aspire to and to uphold the values it espouses.

While training and popularising the code have featured regularly in the SARPCCO annual plans, related efforts to assess, track and hold police organisation accountable to meeting the objectives of the code have not been as robust. Part of the reason for this is that a clear set of monitoring indicators has not been available. Indicators are important tools because in order to apply the complex principles contained in the code, managers need to understand the component parts, identify where progress is being made and what challenges remain to achieve the full realisation of the principle in question.

By developing these monitoring indicators, APCOF seeks to deepen the application of the Code by disaggregating the individual principles of the code into a set of monitoring indicators.

As we celebrate 10 years of the SARPCCO Code of Conduct, APCOF hopes that this tool will be of use to all of those with an interest in the betterment of policing and the promotion of human rights in the region. It is intended to serve those who seek to work together, who wish to better understand the Code and those who strive to meet the objectives of the Code.

In conclusion, the indicators are not the final word on understanding and promoting the application of the Code; they are initial thoughts which with practice can be refined and further developed. APCOF would encourage all who use this tool to be free to add and amend indicators where practice deems appropriate.

Sean Tait
APCOF
January 2011



Introduction

Policing in the Southern African region has changed significantly in the last 25 years. Understandably, the nature and trajectory of these changes will have been influenced by the particular political and social factors in each country. Despite this, there are a number of characteristics that remain common across the region.

Policing in Africa in general has historically been defined by colonial rule and a typically military practice that is more concerned with upholding the interests of the colonial powers than in meeting the security needs of the local population.

The dismantling of colonial rule provided the opportunity to redefine the nature and practice of policing. However, this re-definition has been frequently impeded due, in part, to the legacy of colonialism, and also to civil wars and political, social and economic conflicts and constraints, that have plagued the region for the past 20 years. Post-colonial regimes have often placed emphasis on the development of military powers at the expense of developing civilian policing authority. At the same time, police have often been required to defend repressive regimes. Furthermore, the police in many Southern African jurisdictions have frequently been viewed by the civilian population as brutal and corrupt.¹

During the 1990s increased development aid to Africa was linked to an agenda of democratisation of governments, and with it came pressures for reform of security and stability systems in keeping with a human rights framework. This has created a greater awareness of the role of policing in democracy-building and has also provided the opportunity to engage in the reform and development of policing structures.² There has been an increasing emphasis on different forms of accountability and oversight. These include a democratic parliament, civilian oversight and oversight by independent bodies such as human rights commissions. Professionalism and efficiency of policing have been promoted, and concepts such as community policing have been introduced in many countries. This period has also seen the development of regional police cooperation in order to share crime information and strategies. There is increasing recognition of the important role that effective policing can play, either in transition or in the development of a democratic state. Police that uphold a human rights culture and enforce the law consistently, contribute towards faith in a democracy.

However, positive transition often introduces new, or increases former, challenges and problems. High levels of violence and crime are not uncommon. This is exacerbated by factors such as returning military veterans who are demobilised, often without the security of employment, as well as the availability of weapons and weakened social structures and law enforcement mechanisms. Most countries in the region currently experience pervasive inequality and poverty, and high levels of personal insecurity. Public and political pressure to respond to crime and restore a sense of security, such as in South Africa, has resulted in demands for harsher policing measures and a growing tolerance of human rights violations. There are often high levels of corruption within governance and law enforcement structures.

It is in this context that the African Policing Civilian Oversight Forum (APCOF) has developed this document in order to help strengthen policing according to democratic principles and within a human rights framework. This set of indicators is based on the Code of Conduct drafted by the South African Regional Police Chiefs Cooperation Organisation (SARPCCO). It aims to provide greater clarity on what the Code of Conduct means for police organisations in the region, and to assist them and all parties interested in policing to evaluate the extent to which police in the region have put in place measures to comply with the Code, as well as to assess the impact of these measures.

This document begins by outlining the development of the Code of Conduct by SARPCCO. It then defines indicators and some of their purposes, and how these were developed. Next, it

¹ Rauch & Van der Spuy (2006), p. 11.

² Rauch & Van der Spuy (2006).

provides a detailed set of indicators for each article expressed in the Code of Conduct. Each indicator is preceded by a brief description of the international and regional human rights principles that are embraced by the standards of each of the 13 articles. For those readers interested in finding out more about these norms and standards, the final section of the document outlines the international and regional human rights framework that forms the basis of the Code of Conduct and the principles related to democratic policing.

Southern African Regional Police Chiefs Cooperation Organisation (SARPCCO) and its Code of Conduct

SARPCCO³ was established in 1995 in order to foster better cooperation and mutual assistance between countries in Southern Africa. The objectives of SARPCCO are to:

- Promote, strengthen and perpetuate cooperation and foster joint strategies for the management of all forms of cross-border related crimes with regional implications;
- Prepare and disseminate relevant information on criminal activities to contain crime in the region;
- Carry out regular reviews of joint crime management strategies in view of changing regional needs and priorities;
- Ensure efficient operation and management of criminal records and effective joint operations on cross-border crime;
- Make recommendations to the governments of member countries in relation to effective policing in the Southern African region;
- Formulate systematic regional police training policies and strategies taking into account the performance requirements of regional police services; and
- Carry out relevant and appropriate acts and strategies for the purposes of regional police cooperation and collaboration as regional circumstances dictate.⁴

SARPCCO has a streamlined structure consisting of the Council of Police Chiefs and the Permanent Coordinating Committee. Additional committees and task units may be established on an ad hoc basis according to need. Legal and training subcommittees have been set up in this way.

The SARPCCO constitution defines certain principles of cooperation, which include respect for national sovereignty; equality of police services; non-political professionalism; observance of human rights; non-discrimination and flexibility of working methods; and mutual respect and goodwill.⁵

Recognising the observance of human rights as a central component of SARPCCO, a human rights workshop was organised in 2000 in Kasame, Botswana. The objectives of this workshop were to raise awareness and understanding of international human rights standards concerning police, and to highlight the critical role of command and management in promoting effective human rights practices in the police. It aimed to facilitate discussion and ideas on how police organisations managed human rights issues, and to formulate recommendations related to strengthening human rights policing practices in the Southern African Development Community (SADC). The workshop recommended the development of a protocol to strengthen and integrate human rights in both police training and practice.⁶ A draft Code of Conduct was developed and presented to the Council of Police Chiefs sitting at the 6th General Assembly of SARPCCO in Mauritius in August 2001 where it was accepted.⁷

The SARPCCO Code of Conduct is derived from a range of international and regional human

3 Member countries of SARPCCO are: Angola, Botswana, Lesotho, Malawi, Mauritius, Mozambique, Namibia, South Africa, Swaziland, Tanzania, Zambia and Zimbabwe.

4 SARPCCO & SAHRIT (2003), p. 19.

5 Ibid., p. 20.

6 Ibid., p. 22.

7 The Harare Resolution on the SARPCCO Code of Conduct for Police Officials was adopted at the 6th Annual General Meeting, 27–31 August 2001 in Mauritius.

rights instruments that are supplemented by specific guidelines on police. These treaties, covenants, guidelines, principles, standards and codes of conduct outline the detailed responsibilities and restrictions placed on law enforcement officials, and thus serve as a useful basis for the development of a set of indicators for policing in the Southern African region.

The Code of Conduct for Police Officials is a set of minimum professional standards for police forces and services in the region. The Code of Conduct refers to fundamental human rights principles, accountability and the management of police use of force and police power, and acknowledges police responsibilities in protecting and serving members of the public, irrespective of gender, ethnic or religious affiliations, and victims of crime. The Code of Conduct presents a commitment to encouraging ethical and professional policing in the region. Each member country undertook to implement the Code of Conduct nationally. SARPCCO has the responsibility to oversee the dissemination, promotion, and implementation of the Code of Conduct, as well as monitoring its implementation.

The Code is a valuable tool for civil society and oversight practitioners interested in policing in Southern Africa. It provides an agreed normative framework for policing to which the agencies themselves have subscribed. The Code is derived from international, regional and human rights principles, and is an expression of police commitment to adhere to these standards and the rule of law irrespective of political interference. However, like most normative codes, the Code of Conduct is a broad statement of principles, which is sometimes difficult to interpret and apply consistently. It is also difficult to monitor and assess the extent to which the Code has been implemented without a detailed set of guidelines of what police are expected to do in their day-to-day work.

The African Policing Civilian Oversight Forum (APCOF), which promotes oversight and accountability of policing on the continent, aims to assist not only oversight practitioners and civil society in the region, but also the police. To this end it has developed this set of indicators for the Code of Conduct. These indicators can be used as a tool to assist in achieving compliance with its standards. It is also a tool to help police officials and other interested stakeholders to assess achievements in its implementation. While the Code of Conduct is framed as an instrument for individual police officials, the indicators and suggestions on how to measure and verify them, have been developed for oversight practitioners, members of civil society and managers within the police, in order to assist police officials and policing units to meet their obligations in respect of the Code.

The indicators that have been developed are intended as a tool to help in the progressive realisation of the Code of Conduct. They have been developed taking into account human rights norms and standards and expectations of police performance in a democratic society. By outlining particular responsibilities related to each standard contained in the Code, the indicators aim to define, and elaborate on, the key requirements for meeting the standards.

Developing indicators based on the SARPCCO Code of Conduct

Increasingly, countries, institutions and international bodies and organisations are adopting indicators as a means of measuring performance. Generally, indicators provide information on how to meet obligations in a specified area, and are meant to track progress towards a defined objective and the implementation of a programme or policy.⁸ Indicators are important in order to determine the progress of the institution in meeting those objectives. More specific to the area that we are interested in, they can, for instance, help to evaluate how this progress affects the people with whom the police interact on a daily basis.⁹

Many countries experience difficulties in meeting all of the international and regional human rights commitments, or even the objectives determined by regional and national policing priorities. For example, in the SADC region police are often constrained by a lack of resources at all levels which naturally impacts on this ability. Indicators can help to identify specific action steps and

8 Parsons, Thornton, Bang, Estep, Williams & Weiner (2008), p. 3.

9 Human Rights Trust of Southern Africa (SAHRIT) (2005), p. 8.

objectives that countries need to take in order to achieve the larger goals and objectives. In this way, indicators can be seen as helping a country to reach the standards that it aspires to.

In order to usefully measure progress towards a defined objective or goal, one has to decide what is to be measured, and how this can most effectively be done. There are many different ways to measure performance. Indicators can be used at the highest policy levels to measure progress towards an overarching purpose, such as improved personal safety for all members of society. These are *strategic* indicators. At a second level are *institutional* indicators that measure institutional objectives or outcomes, such as increasing the number of convictions for violent offences. Finally, there are *activity level* indicators that measure an institution's daily activities, in order to help it to meet its institutional goals, such as the number of police officials trained in the investigation of violent crime.¹⁰ Since we are concerned with developing indicators that will assist oversight practitioners, civil society and police management, we focus primarily on indicators at the *institutional* and *activity levels*, though some *strategic* indicators have been included for the purpose of assessing overall strategic performance.

In developing this set of indicators we were guided by two notions:

- The indicators should assist external organisations, such as oversight bodies, non-governmental organisations, research bodies and the media, to understand and have oversight over the implementation of good policing conduct and human rights standards by the police.
- The indicators establish what standards police managers need to uphold in order to ensure adherence to fundamental rights and minimum standards of practice in terms of the Code of Conduct. The indicators should enable these managers to understand what their responsibilities are and what action steps they need to take in order to achieve defined objectives. They can measure their implementation of these standards over time. The standards can be used by police at various managerial levels, including at the station level, programme level, as well as for senior national managers, depending on their levels of responsibility and access to information.

Indicators should be able to take complex information and policies and make them understandable, so that information can be compared over time in order to track progress, or lack thereof. The indicators must also be able to measure whether policies are being implemented equitably across different sectors. They should be meaningful to a wide audience and be easy to use, as well as adaptable to change.¹¹ Indicators are not always able to directly measure the achievement, or not, of the desired outcome. For example, if an objective is to determine any change in the level of violent crime, then a measurement of the number of violent crimes reported to the police as an indicator of the volume of crime, may be affected by things such as; the number of crimes reported, the overall level of confidence in the police, as well as the number of violent crimes committed. It is important, therefore, to define a group of indicators that attempt to measure the particular desired objective.¹²

In developing the indicators we have focused on those aspects of policing work that fall within the sphere of direct control of the police, rather than more broadly under the control of the State. For example, legislation that enacts international instruments is an important indicator of a State's intention to adhere to human rights principles, but it is usually outside of the jurisdiction of the police to enact that legislation. The job of the police is to enforce and adhere to existing legislation, as well as to international and regional human rights standards regarding law enforcement. Notwithstanding this, our indicators do include looking at the country's legislation to determine the extent to which this reflects basic human rights principles, and to measure police performance against such legislation where it exists.

We have taken the standard or objective that has been determined and agreed upon by SARPCCO

¹⁰ Vera Institute of Justice (2005), p. 3.

¹¹ Parsons et al. (2008).

¹² Vera Institute of Justice (2005), p. 4.

and then developed a set of indicators to measure performance of that standard. Each indicator has a number of 'means of verification' that can be used to determine whether the indicator has been met. Our means of verification include a variety of possible sources of information, including administrative documents, legislation and policies, as well as documents from external sources.

Legislation and case law should be publically accessible, as should public documents such as annual reports that are submitted to parliament. Other forms of information may be more easily available to the police than to the public. Police management, and even a station commander may have access to administrative information at his or her own station level, such as disciplinary or human resource records, assets registers and custody registers.

To supplement police documentation, it is also important to gather information from a wide range of sources external to the police. This includes reports, statements and reviews by politicians, external organisations or non-governmental organisations, oversight bodies, research organisations and the media. Such reports often provide a more critical perspective of policing and may provide some balance to information obtained solely from the police. Some studies also help to consolidate information about policing and to analyse trends. The indicators could also be measured by means of surveys or research studies. For example, in order to measure whether police are practicing non-discrimination, it could be useful to survey members of the public on their perceptions of the police, or on their experience following a police encounter. Victims-of-crime surveys are useful to understand the nature and extent of crime and the perception the public have of the police or criminal justice system. Surveys are, however, costly and difficult to design and organise, but it may be possible for policing organisations or oversight bodies to ask researchers conducting more general community or countrywide surveys, to include questions that could provide information about attitudes or experiences of policing.

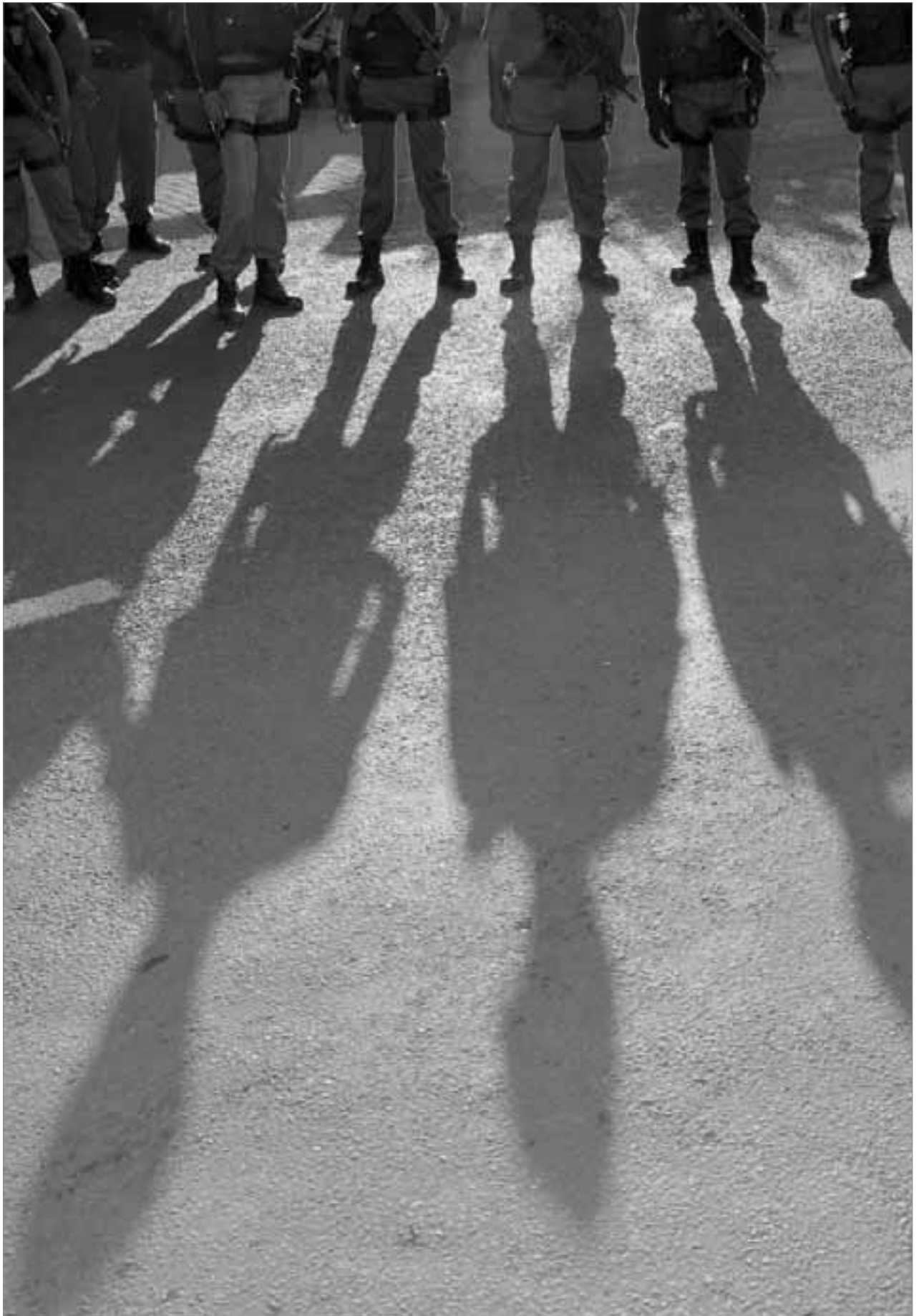
Challenges in Gathering Information

It may be difficult to gather information from all the possible sources mentioned in the means of verification (see indicators below). Where this is the case, the user of the indicators should try and collect as many means of verification as possible, bearing in mind that some information may be available one year, and unavailable the next. The inability to use some of the means of verification for specific indicators will not invalidate the overall exercise if a balance in information can be obtained overall. In many countries the documents suggested as means of verification may not exist or may not be up to date. It may be necessary for the police manager or an independent researcher to conduct interviews with relevant people to obtain the required information.

In gathering data for the means of verification, information may be obtained which appears to present a negative picture of the police. For example, when ascertaining what procedures are followed against police accused of corrupt activities, the means of verification requires the number of police disciplined and dismissed. A large number of officials so disciplined may convey a sense of a high level of corruption. However, it is more likely that this reflects an effective system that is functioning well to identify and respond to corruption within the police, and so may be seen as a positive indicator of police accountability.

Specific Indicators

The Code of Conduct consists of 13 articles pertaining to different aspects of human rights and policing. SARPCCO has defined minimum standards of conduct for each article that are drawn from international and regional instruments. Before outlining the indicators for each article we give a brief explanation of the key human rights and policing principles relevant to the standards – in so doing we aim to help the reader to better understand what is intended. Articles 8, 10 and 11 are dealt with collectively as they share many similar characteristics. Further information on the human rights instruments can be found in the final section of this document.



ARTICLE 1: Respect for Human Rights

STANDARD: In the performance of their duties, police officials shall respect and protect human dignity, maintain and uphold the human rights of all persons.

Human dignity, freedom, security and equality, can be said to be the foundations of our understanding of human rights. Human dignity lies at the cornerstone of the International Bill of Rights,¹³ and is the foundation of many other treaties and standards. Article 1 of the Universal Declaration of Human Rights (UDHR) states that, 'All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.'¹⁴

There is no clear and absolute definition of the term 'human dignity'. One understanding is that, 'respect for the intrinsic worth of every person should mean that individuals are not to be received or treated merely as instruments or objects of the will of others'.¹⁵ Importantly, human dignity also means that people have the right to be treated with equal concern and equal respect. Human beings have the ability to reason for themselves, and therefore to participate in their own governance, and to give themselves meaning in their lives.¹⁶

The International Covenant on Civil and Political Rights (ICCPR)¹⁷ specifically provides that all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.¹⁸ The human dignity of detained persons is further protected by the Basic Principles for the Treatment of Prisoners¹⁹ and the Body of Principles for the Protection of all Persons under any form of Detention or Imprisonment.²⁰

The UN Code of Conduct for Law Enforcement Officials provides that: 'In the performance of their duty, law enforcement officials shall respect and protect human dignity, maintain and uphold the human rights of all persons'.²¹ Adherence to human rights standards and conduct is inherent in professional and effective policing.

Article 5 of the African Charter on Human and People's Rights²² elaborates and provides that in addition to the right to being treated with respect for human dignity, every individual shall have the right to recognition of their legal status. It also prohibits all forms of exploitation and degradation of people, particularly slavery, slave trade, torture, and other cruel, inhuman or degrading treatment or punishment.

The concept of human dignity should therefore underlie every interaction which the police have with members of the public in whatever situation they encounter them, be they suspects or victims, or an ordinary member of the community.

13 The 'International Bill of Human Rights' is a collective name given to three primary human rights instruments: the Universal Declaration of Human Rights; the International Covenant on Civil and Political Rights; and the International Covenant on Social, Economic and Cultural Rights.

14 Adopted by the UN General Assembly Resolution 217 A (III), 10 December 1948.

15 Schachter (1983), p. 849.

16 Woolman (2005), p. 36–13.

17 Both the ICCPR and ICSECR were adopted by the UN General Assembly Resolution 2200 A (XXI) on 16 December 1966, and entered into force in 1976.

18 ICCPR, Art 10.1.

19 Ibid., Art 1.

20 Principle 1, Body of Principles for the Protection of all Persons under any form of Detention or Imprisonment, General Assembly Resolution 43/173, 9 December 1988.

21 Article 2, UN Code of Conduct for Law Enforcement Officials, adopted by the UN General Assembly Resolution 34/169, 17 December 1979.

22 Adopted by the Organisation of African Unity on 27 June 1981.

INDICATORS A1	Measure	Means of verification
Police actions are based on law and human rights.	<ul style="list-style-type: none"> • Police operational documents and standards reflect and promote human rights values; and give clear guidance to police officials about what dignity and rights mean. • Number and nature of cases filed against the police. • Number and nature of findings and judicial rulings or out of court settlements based on a finding of excessive use of force or other human rights violations by the police. • Percentage of unauthorised use of arrest and searches cases brought against the police. 	<ul style="list-style-type: none"> • Constitution and legislation. • Policy documents and other police policy and operational documents. • Media reports, court records, administrative police documents. • Police annual reports and answers to questions in parliament.
Police are trained in human rights.	<ul style="list-style-type: none"> • Training on human rights is incorporated in the basic, in-service and management training. • Training includes theoretical as well as practical skills training on human rights based on scenarios related to daily practice. • Civil society and human rights experts are involved in human rights training. • Percentage of police officials who receive fundamental human rights training in their basic training, and/or receive refresher training in the last two years, disaggregated according to race, gender, ethnic group and rank. 	<ul style="list-style-type: none"> • Reports of training colleges, training and academic curricula and materials and reports by civil society actors.
Violations of human rights are identified and addressed.	<ul style="list-style-type: none"> • Number and type of reported complaints of human rights violations by police. • Number and type of sanction imposed on police officials for abuses of human rights, both judicial and disciplinary: sanctions are disaggregated according to nature of complaint, type and severity of sanction, and rank of police official and number of years in service. 	<ul style="list-style-type: none"> • Police records and statistics, NGO/civil society reports, records of independent complaints monitoring mechanisms. • Information established by: <ul style="list-style-type: none"> – Regional and international monitoring mechanisms; – Media articles; – Police human resource records; – Police annual reports; – Court records.
Human rights and dignity of police officials is respected.	<ul style="list-style-type: none"> • Police members enjoy the same rights as citizens. 	<ul style="list-style-type: none"> • Records of grievances by police officials. • Media articles, surveys of police trade unions/professional associations.

ARTICLE 2: Non-discrimination

2

STANDARD: Police officials shall treat all persons fairly and equally and avoid any form of discrimination.

The right to non-discrimination and equal application of the rights is recognised by the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR), as well as the International Covenant on Economic, Social and Cultural Rights (ICESCR) which contain identical provisions regarding rights to equality.²³ The African Charter provides for equal application of rights without distinction as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.²⁴ In addition, the ICCPR and the ICESCR and the African Charter provide that every individual shall be equal before the law and is entitled to equal protection by the law.²⁵ Although police should avoid profiling the population based on stereotypes, particularly minority groups, they do have a responsibility to protect certain vulnerable groups.

The Convention on the Elimination of all Forms of Racial Discrimination imposes duties on the State, and hence on police officials, to prevent racial discrimination of any kind.²⁶ However, States may take economic, social, or other concrete measures to ensure the development and protection of certain racial groups in order to guarantee their equal enjoyment of human rights and fundamental freedoms. Likewise, the Convention on the Elimination of Discrimination Against Women prohibits discrimination against women and obliges States to take measures to promote the development and protection of women.²⁷ The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa²⁸ also seeks to combat discrimination of women and requires States to take institutional, legislative and other measures. It also calls on States Parties to commit themselves to modifying cultural patterns of conduct of women and men through public education and communication with a view to eliminating harmful cultural practices and other practices which are based on assumptions of superiority of either of the sexes or stereotyped roles for men and women.²⁹ The Convention on the Rights of Persons with Disabilities (CPRD) provides for respect of the human dignity, individual autonomy and independence of people with disabilities. This includes people with long-term physical, mental, intellectual or sensory impairments which hinder their full and effective participation in society on an equal basis with others.³⁰

As a result of conflict, natural disasters, drought, and socio-economic issues, millions of people in Africa are forced to leave their homes, and often their countries, in search of other safer and more viable places to live. There are currently around 17 million refugees and internally displaced people in Africa. Many of them live in designated refugee camps or areas, while others are forced to try and integrate with the local population. Since many of them are undocumented and do not have legal permission to live in their host countries, they are often subject to a range of challenges, from looking for work, schooling for their children, finding safe accommodation and adequate health care. They are also often the target of discrimination and prejudice and are vulnerable to being arrested and subject to unwarranted police harassment or bribery.

There are a number of international conventions pertaining to refugees.³¹ Regionally, the OAU Convention Governing Specific Refugee Problems in Africa deals with the reception and settlement

23 Both the ICCPR and ICSECR were adopted by the UN General Assembly Resolution 2200 A (XXI) on 16 December 1966, and entered into force in 1976.

24 Article 2 of the UDHR, the ICCPR and the ACHPR.

25 Article 3 of the ACHPR.

26 Adopted by the UN General Assembly Resolution 2106(XX), 21 December 1961.

27 Article 3 of Convention against the Elimination of all Forms of Discrimination against Women (CEDAW), adopted by the UN General Assembly on 18 December 1979.

28 Adopted in Maputo on 11 July 2003.

29 Article 2.

30 Adopted by the UN General Assembly on 13 December 2006.

31 These include the UN Convention Regarding the Status of Refugees (1951) and the Protocol Relating to the Status of Refugees (1967).

of refugees and asylum seekers.³² The African Union has recently adopted the Convention on the Protection and Assistance to Internally Displaced Persons in Africa.³³ The Convention prohibits arbitrary displacement, such as on the basis of racial or ethnic discrimination or ethnic cleansing, and States Parties have a primary responsibility to offer assistance to internally displaced persons. States Parties must ensure that such people live in safety and dignity without discrimination, and must assist with their humanitarian needs.

The police encounter people from different backgrounds and with differing needs in their day-to-day work, and they may be required to respond appropriately as the situation demands.

In addition to migrants, displaced people, and women there are other vulnerable groups that may require particular attention. These groups include children, the elderly, the disabled and victims of sexual or violent crimes. Particular attention also needs to be paid to the policing of minority and marginalised groups of any kind, be they minorities on the basis of ethnic, gender, culture, language, or religious grounds. People may also be disadvantaged on the grounds of economic, social or educational status, or sexual orientation.

The principle of non-discrimination and equality of treatment also applies to the recruitment, management and treatment of police personnel.



32 Adopted in Addis Ababa on 10 September 1969. There is also the 1994 Addis Ababa Document on Refugees and Forced Population Displacement.

33 This was adopted at the Special Summit of Heads of State and Governments on Refugees, Returnees and Internally Displaced persons in Africa, held in Kampala in 23 October 2009.

INDICATORS A2	Measure	Means of verification
The laws are enforced equitably.	<ul style="list-style-type: none"> Vulnerable groups such as refugees and undocumented migrants are received and treated fairly and are not subject to discrimination, harassment or arbitrary arrest. 	<ul style="list-style-type: none"> Media reports or independent studies regarding police treatment of vulnerable groups.
Discrimination is reported and addressed.	<ul style="list-style-type: none"> Internal and independent oversight mechanisms have the mandate to investigate or report on inequality or discrimination by the police. Percentage of complaints made about police regarding discriminatory, unfair or unequal treatment and the nature of complaints made. Disciplinary, criminal or civil claims outcomes of complaints of discriminatory treatment. 	<ul style="list-style-type: none"> Legislation or police oversight mechanisms. Reports of oversight mechanisms. Special register to record discrimination complaints, occurrence books or other complaints registers. Media reports on unfair treatment. Reports/records of any independent complaints mechanism or human rights commission. Police administrative documents, court records, media reports, research reports and independent studies.
Police are properly trained to deal with diversity.	<ul style="list-style-type: none"> The police's basic and in-service training incorporates elements of sensitivity training, equality and managing diversity. Number, gender and age of police who attend specific training dealing with discrimination or the treatment of specific vulnerable groups. 	<ul style="list-style-type: none"> Police training manuals and the training courses given to police. Police annual reports, reports from training academies and colleges.
Police recognise the importance of providing specific capacity to meet the needs of special groups.	<ul style="list-style-type: none"> The existence or establishment of specialised units to deal with crimes against vulnerable groups (such as victims of sexual offences, children, refugees or the disabled). 	<ul style="list-style-type: none"> Annual reports of the police. Reports from civil society organisations on the nature and functioning of these units.
Police resources are distributed equitably.	<ul style="list-style-type: none"> Police resources are distributed fairly^a according to physical area, population size and crime levels. Percentage of people who say they have access to the police (measured in travelling distance and difficulty in reaching the police) disaggregated by ethnicity, class, gender and region.^b 	<ul style="list-style-type: none"> Police reports on the distribution of police stations, personnel, cars, firearms, etc., measured against geographic area, population size and population distribution. Population surveys.
Police members are not discriminated against on the basis of ethnic, racial, language and gender diversity.	<ul style="list-style-type: none"> Recruitment, selection and promotion practices of the police reflect the ethnic, racial, language and gender diversity of the national population and policing organisation. Disciplinary processes do not discriminate against minority groups. 	<ul style="list-style-type: none"> Human resource reports of the police reflecting the composition of the police service across the different levels of seniority and in different sectors of the police. Reports/interviews with police unions or representative bodies.

Notes to the table:

a Bruce & Neild (2005), Indicator 19.

b Vera Institute of Justice (2005), p. 5.

ARTICLE 3: Use of Force

STANDARD: Police officials may only use force when strictly necessary and to the extent required for the performance of their duties and adhering to national legislation and practice.

The International Bill of Rights recognises a person's right to life, and to freedom, as well as their right to security. Police, and other law enforcement officials, are entitled to use proportionate force only when strictly necessary and in the exercise of their lawful functions.³⁴ The UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials was developed to ensure the proper role of law enforcement personnel in balancing their responsibilities with their use of force.

The Basic Principles provide that State agents must, as far as possible, apply non-violent means before resorting to the use of force, but they may 'use force and firearms only if other means remain ineffective or without any promise of achieving the intended result'.³⁵ Police should exercise restraint and the use of force must be 'in proportion to the seriousness of the offence and the legitimate objective to be achieved'. The police must also minimise damage and injury, and must respect and preserve life, and ensure that medical assistance is given to any injured or affected person at the earliest possible moment.³⁶

Intentional lethal force or firearms may only be used when strictly unavoidable in order to protect life. In particular, the Basic Principles state that: firearms should not be used against persons except in self-defence or defence of others against imminent threat of death or serious injury; to prevent the perpetration of a particularly serious crime involving grave threat to life; to arrest a person presenting such a danger who is resisting authority; or to prevent his or her escape when less extreme measures are insufficient to achieve these objectives.³⁷ In these circumstances, police are required to identify themselves and give a clear warning of their intention to use their firearms. They must give sufficient time for their warning to be observed unless to do so would create a risk of death or serious harm to other people or would be inappropriate in the circumstances.³⁸

The Basic Principles require States to adopt rules and regulations on the use of force and firearms by law enforcement officials.³⁹ Governments must ensure that arbitrary use of force and firearms is punished as a criminal offence under law,⁴⁰ and superior officers must be held responsible if they know or should have known that law enforcement officials under their command resort to unlawful use of force or firearms and did not take measures to prevent, suppress or report the use.⁴¹

State rules and regulations must clearly specify the circumstances when police are authorised to carry firearms and ammunition in order to: ensure that firearms are used only in appropriate circumstances and in a manner likely to decrease the risk of unnecessary harm; regulate the storage and issuing of firearms including procedures to ensure that officials are accountable for the use of firearms and ammunition; provide for warnings to be given before firearms are discharged; and to provide a system of reporting whenever police use firearms in the performance of their duties.⁴²

Governments and law enforcement agencies are required to ensure that all police are selected following proper screening procedures in order to ascertain whether they have appropriate moral, psychological and physical qualities for the effective exercise of their function. Once selected, police need to receive continuous and thorough professional training. Training must include ethics and human rights, but must pay particular attention to alternatives to the use of force and firearms. Training must include the peaceful settlement of conflicts, and understanding crowd behaviour, and methods of persuasion, negotiation and mediation. States should also take note of particular

34 Article 3 of the Code of Conduct for Law Enforcement Officials, adopted by the UN General Assembly, Resolution 34/169, 17 December 1979.

35 Article 4 of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August – 7 September 1990.

36 *Ibid.*, Article 5.

37 *Ibid.*, Article 9.

38 *Ibid.*, Article 10.

39 *Ibid.*, Article 1.

40 *Ibid.*, Article 7.

41 *Ibid.*, Article 24.

42 *Ibid.*, Article 11.

incidents involving the use of force and make any necessary changes to law or procedures.⁴³ Firearms are often discharged under stressful situations. Police officials who are stressed may also be more disposed to resorting to using their firearms. For these reasons the Basic Principles provide that law enforcement agencies must make stress counselling available when officials are involved in situations using force or firearms.⁴⁴

The Basic Principles recognise the right to lawful assembly and provide for policing of lawful and unlawful assemblies. In the dispersal of unlawful but non-violent assemblies, law enforcement officials must avoid the use of force, but where this is not practicable, they must restrict the use of force to the minimum extent necessary.⁴⁵ In respect of unlawful violent assemblies police may use firearms when less dangerous means are not practicable but again only to the minimum extent necessary. The principles governing the use of firearms apply equally to the policing of unlawful assemblies.⁴⁶

The Basic Principles provide that exceptional circumstances such as political instability or other public emergencies do not justify a departure from these principles.⁴⁷

The Basic Principles deal with the use of force in respect of persons in custody or detention.⁴⁸ The Standard Minimum Rules for the Treatment of Prisoners provide that no force may be used with prisoners except in self-defence or in cases of attempted escape or active or passive physical resistance to an order based on law or regulation. No more force than is necessary must be used, and it must be reported immediately to the head of the institution. Except in special circumstances, staff performing duties that bring them into direct contact with prisoners should not be armed, and no one should be provided with arms unless they are trained on how to use them.⁴⁹

43 Ibid., Article 20.

44 Ibid., Article 21.

45 Ibid., Article 13.

46 Ibid., Article 14.

47 Ibid., Article 8.

48 Ibid., Articles 15–17.

49 Rule 54, Standard Minimum Rules for the Treatment of Prisoners, adopted at the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders held at Geneva in 1955, and approved of by the Economic and Social Council in its Resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977.

INDICATORS A3	Measure	Means of verification
Legislation, policy and practice support the principles of proportionate minimum use of force.	<ul style="list-style-type: none"> • Legislation criminalises the arbitrary and abusive use of force. • Number of police officials effectively prosecuted under the domestic legislation or common law for excessive use of force. • Obedience to a superior officer's orders does not excuse arbitrary or abusive use of force. 	<ul style="list-style-type: none"> • Domestic legislation and common law. • Regulations/standing orders regarding the use of weapons • Public statements of senior police officials regarding the use of force against suspects. • Media reports. • Police records, court records, media reports, independent studies. • Legislation, policy and police disciplinary records.
Police are trained in the principles of minimum use of force.	<ul style="list-style-type: none"> • Percentage of police officials who annually receive training and re-training on the principles of minimum use of force, on the use of weapons and firearms, and on the use of non-violent conflict resolution methods. • Number of police re-qualified in the use of weapons per year as a ratio of the number of police issued with a firearm. 	<ul style="list-style-type: none"> • Training manuals. • Human resource or training academy records. • Media, police or civil society reports on the successful use of non-violent conflict resolution methods. • Police policy/regulations/standing orders. • Police administrative reports, training records, weapons re-qualification records.
Non-lethal weapons are available.	<ul style="list-style-type: none"> • Non-lethal weapons are available to the police and are used in accordance with policy. 	<ul style="list-style-type: none"> • Weapons' registers.
Strict control is exercised over the use, storage and distribution of firearms.	<ul style="list-style-type: none"> • Weapons are only issued to personnel who are mentally, physically and morally fit to use them. • There is automatic review and investigation of incidents of the use of force resulting in death or serious injury, and the investigations are conducted impartially and with integrity. • Police records on the number of people injured or killed during the course of police action, as a ratio of statistics of serious crimes reported, overall number of reported crimes, number of police officers, and number of officers wounded or killed on duty. 	<ul style="list-style-type: none"> • Weapons' registers. • Disciplinary records on the number of police charged with inappropriate use of lethal and non-lethal weapons, the types of incidents involved, and the outcome of disciplinary processes. • Investigation/review reports and the outcome of the investigation. • Complaints registered regarding allegations of inappropriate or excessive use of force. • Coroners' or forensic pathologists' reports on the cause of death. • Incident-based reports from NGO or civil society, or independent bodies.
Public order policing complies with principles of minimum force.	<ul style="list-style-type: none"> • Policing of lawful and unlawful assemblies complies with principles of minimum use of force. • Police are trained in and apply non-violent conflict resolution and dispersal methods in cases of unlawful gatherings. 	<ul style="list-style-type: none"> • Police policy/regulations/standing orders. • Media reports on policing of assemblies. • Incident reports on policing of assemblies, and nature of assaults or injuries sustained during these incidents.

ARTICLE 4: Torture and Cruel, Inhuman and Degrading Treatment or Punishment

STANDARD: No police official shall, under any circumstances, inflict, instigate or tolerate any act of torture or other cruel, inhuman or degrading treatment or punishment of any person.

The use of torture and ill-treatment is prohibited in the founding International Bill of Rights, as well as in the African Charter on Human and People's Rights.

Most of the SARPCCO member countries are party to the UN Convention against Torture, and other Cruel, Inhuman and Degrading Treatment or Punishment (UNCAT).⁵⁰ Torture is defined as any intentional action by, or with the consent of, a public official which causes severe pain or suffering, whether mental or physical, for purposes which include obtaining information or a confession, punishment, intimidation or coercion, or for any purpose based on any form of discrimination. It excludes pain or suffering arising from, or incidental to, lawful sanctions.⁵¹

The Convention obliges States Parties to take legislative and administrative measures to prevent acts of torture. The Convention places an absolute prohibition on the use of torture. No exceptional circumstances may be used to justify torture, nor may an order from a superior officer or public authority be used as a justification of torture.⁵² States Parties must also make torture or an attempt to commit torture a criminal offence and punishable with appropriate penalties under law.

As a preventative measure, States must include education and information regarding the prohibition of torture and ill-treatment in the training of police and other law enforcement personnel, and other officials involved in the custody and interrogation of any person subject to arrest or detention.⁵³ All interrogation rules, instructions, methods and practices must be regularly reviewed, as must all arrangements for the treatment of arrested, detained and imprisoned people.⁵⁴ The Body of Principles for the Protection of all Persons under any form of Detention or Imprisonment deals with interrogation of detainees and prohibits undue advantage being taken of the fact of a detainee's imprisonment by compelling him to confess, or to incriminate himself or another person. No person may be subject to violence, threats or methods of interrogation that will impair his capacity of decision or judgment.⁵⁵ The duration and interval between interrogations must be recorded, as must the names of any people present during the interrogation.⁵⁶

An important principle in preventing torture is allowing detainees and prisoners access to their legal counsel. The Principles provide that a detained or imprisoned person must have the right to consult with his or her lawyer and to have adequate time and facilities to do so. Visits and communications with a legal counsel must be confidential and should occur without delay, and are subject only to reasonable restrictions. If a detained person does not have a lawyer of his or her own choice, and if the interests of justice require it, then a lawyer must be assigned by a judicial or other authority without delay and without requiring the detained person to pay.⁵⁷

A competent authority must conduct a prompt and impartial investigation whenever there are reasonable grounds to believe that an act of torture has been committed.⁵⁸ The Convention also provides that any person should have the right to lodge a complaint about any allegation of torture and have their case examined by competent authorities. Complainants and witnesses must be protected against any intimidation or ill-treatment as a result of their allegations.⁵⁹ A victim of torture

50 With the exception of Angola and Zimbabwe.

51 Article 1 of Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), adopted by the UN General Assembly, 10 December 1984.

52 *Ibid.*, Article 2.

53 *Ibid.*, Article 10.

54 *Ibid.*, Article 11.

55 Principle 21 of Body of Principles for the Protection of all Persons under any form of Detention or Imprisonment, General Assembly Resolution 43/173, 9 December 1988.

56 *Ibid.*, Principle 23.

57 See Principles 11, 17 and 18.

58 Article 12 of CAT.

59 *Ibid.*, Article 13.

must have the right to obtain redress and compensation.⁶⁰

States are also obliged to prevent other acts of cruel, inhuman or degrading treatment or punishment (also referred to as ill-treatment) which do not amount to torture when these acts are committed by or with the instigation, consent or acquiescence of a public official.⁶¹ Cruel, inhuman and degrading treatment or punishment is not defined in the Convention, but international bodies often distinguish ill-treatment from acts of torture by the nature, purpose and severity of the treatment applied.⁶² The UN Committee Against Torture stated that, 'in comparison to torture, ill-treatment may differ in the severity of pain and suffering and does not require proof' of any specific purpose.⁶³ The Committee has also found that the definitional threshold between torture and ill-treatment is unclear, and that experience has shown that acts which give rise to ill-treatment frequently facilitate torture. It has also stated that the obligation to prevent torture is indivisible from the obligation to prevent other forms of ill-treatment. The prohibition against ill-treatment is also a non-derogable right.⁶⁴

Regionally, the African Commission on Human and Peoples' Rights has adopted the Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa (also known as the Robben Island Guidelines).⁶⁵ The Robben Island Guidelines draw on the international treaties mentioned above as well as the African Charter, and call upon States Parties to take steps to become party to these treaties and to incorporate their principles into domestic legislation. It reiterates the call for the criminalisation of acts of torture in domestic legislation, and calls upon States to pay particular attention to the prohibition and prevention of gender-related forms of torture and ill-treatment, as well as in respect of young people.⁶⁶

The Guidelines specify that the following are not justifications or lawful excuses for torture or ill-treatment: state of war, threat of war, internal political instability or other public emergency, necessity, national emergency, public order, and superior orders.⁶⁷

The Guidelines provide for the establishment of accessible and independent mechanisms of complaint and investigation of torture allegations.⁶⁸

Part two of the Guidelines outlines measures that States should take in order to prevent torture. These include basic procedural safeguards for those deprived of their liberty, safeguards during the pre-trial period, conditions in detention, oversight mechanisms, and training and empowerment for law enforcement officials as well as civil society. Part three deals with appropriate responses to victims of torture. Each of these provisions has implications for policing and the police.

The Optional Protocol to the CAT Convention requires States Parties to establish independent mechanisms to conduct regular visits to places of detention with the view to preventing torture and other ill-treatment.⁶⁹

60 Article 14 of CAT.

61 *Ibid.*, Article 16.

62 United Nations Human Rights Committee (HRC) (1992). For a discussion on the definition of Torture and Cruel, Inhuman and Degrading Treatment or Punishment, see Dissel, Jensen & Roberts (2009), pp. 10–13.

63 Committee Against Torture (CAT) (2008), paragraph 10.

64 *Ibid.*

65 Resolution of the 32nd Ordinary Session of the African Commission, October 2002.

66 Article 5 of the Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa (also known as the Robben Island Guidelines), Resolution of the 32nd Ordinary Session of the African Commission, October 2002.

67 *Ibid.*, Articles 9, 10 and 11.

68 *Ibid.*, Articles 17, 18 and 19.

69 Optional Protocol to the Convention against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment (OPCAT), adopted by the General Assembly on 9 January 2003 and entered into force on 22 June 2006. By the end of 2009 only one SARPCCO member country, Mauritius, had ratified the protocol. South Africa is a signatory.

INDICATORS A4	Measure	Means of verification
<p>Legislation and police policy prohibit torture and cruel, inhuman and degrading treatment or punishment.</p>	<ul style="list-style-type: none"> • Police code defines torture and outlines detailed steps the police must take to prevent torture and ill-treatment and to respond to any allegations. • Domestic legislation prohibits torture, and the extent to which it adheres to the definitions and provisions set out in the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. • Obedience to a superior's order is not allowed as a defence to an act of torture or cruel, inhuman or degrading treatment or punishment. • Any statement made as a result of torture may not be used as evidence in any proceedings, except that in the case of a person accused of torture then evidence may be led that the statement was made as a result of torture. 	<ul style="list-style-type: none"> • Police code/policy. • Domestic legislation. • Case law/percentage of suspects convicted on the basis of a confession made as a result of torture. • Media reports. • Law of evidence. • Complaints of suspects.
<p>The police provide training on the prohibition and prevention of torture.</p>	<ul style="list-style-type: none"> • The prohibition of torture and ill-treatment is included in the training of all law enforcement personnel. The training stresses the human rights principles establishing the origin of the prohibition at international, regional and domestic law (where this applies). The training provides practical examples of what constitutes torture and cruel, inhuman and degrading treatment, and provides information and skills on how to avoid torture through evidence-based investigation. • Percentage of police trained on recognising torture and torture prevention. 	<ul style="list-style-type: none"> • Basic and advanced training manuals and course curricula of the police. • Outcome assessment of police officials. • Records of police training academies, police annual reports or human resource reports.
<p>Police action and processes are designed to minimise potential for torture.</p>	<ul style="list-style-type: none"> • Procedural safeguards exist to prevent the use of violence, threats or intimidation during interrogation or interviewing of suspects and witnesses. • The number of visits conducted to places of detention by independent visitors or bodies, the nature of places visited and the findings and recommendations of such visits. • The extent to which tape and video recording equipment is available and is used during interviewing of suspects and witnesses. • Police development projects support building the capacity to investigate crime through the collection of evidence. 	<ul style="list-style-type: none"> • Legislation, police and operating procedures. • Complaints by suspects. • Police dockets, witness/suspect statements or court records or cases. • Reports by independent oversight bodies, police annual reports. • Police dockets, police station site visits, interviews with suspects. • Reports on police capacity-building projects indicating activities related to medical and forensic analysis, ballistics testing, DNA testing and building a database. • Annual reports and independent studies evaluating the use of scientific evidence collection methods.

INDICATORS A4	Measure	Means of verification
<p>Allegations of torture are thoroughly investigated.</p>	<ul style="list-style-type: none"> • The number and nature of complaints of torture and cruel, inhuman and degrading treatment, as submitted by individual complainants, and by NGOs or organisations external to the police. • The number and nature of complaints of torture made by police officials about their colleagues. • All complaints of torture or cruel, inhuman and degrading treatment made against the police are diligently and thoroughly investigated by an impartial body using the highest professional standards. • The number of officers disciplined or charged with torture or other ill-treatment, and convicted as a ratio of the number of complaints made, and the sanctions given. 	<ul style="list-style-type: none"> • Reports of independent complaints bodies, NGO reports. • Reports of independent oversight or complaints mechanisms. • Civil society reports. • Police statistics. • Police human resource or disciplinary records. • Case records. • Media reports. • Police records, court records.

ARTICLE 5: Protection of Persons in Custody

5

STANDARD: Police officials shall ensure the protection of the health of persons in their custody and, in particular, shall take immediate action to secure medical attention when required.

The SARPCCO Code of Conduct refers to the protection of people in custody, placing an emphasis on the protection of their health. However, it is important also to look more broadly at general conditions and treatment in custody that may affect the physical and mental wellbeing of inmates.

People in custody are very vulnerable in that they do not always have immediate access to their families, lawyers and other outside support systems. They are dependent on the police or their custodians for the provision of their food, water, sanitation and basic necessities, as well as having their day to day movements controlled by their custodians. In most countries in Africa, police detention facilities and prisons are overcrowded, understaffed and under-resourced, and in many cases the conditions infringe on numerous basic human rights such as the right to be treated with human dignity, privacy, and safety and security. The excessive use of pre-trial detention and long periods spent in pre-trial detention exacerbate this problem.⁷⁰

A number of international and regional instruments pertaining to the treatment of people in detention have been developed to protect the rights of detainees and to establish basic principles and best practice regarding their treatment. The principle expressed in the Universal Declaration of Human Rights of the right to be treated with human dignity, is a principle that applies to all human beings, including the detained. Prisoners have all the same rights as other people, except that their freedom of movement is limited due to their detention or imprisonment.⁷¹ In situations of restrictions of liberty, there is always a danger that other fundamental human rights might be infringed. According to the UN Special Rapporteur on Torture, 'this is the reason why international human rights law establishes strict limits on the power of States to deprive human beings of personal liberty and guarantees the right to human dignity for all detainees'.⁷²

Article 9 of the International Covenant on Civil and Political Rights prohibits arbitrary arrest or detention, and requires that people are deprived of their liberty only in accordance with a lawful procedure and only as a last resort. It also provides that every arrested person must, at the time of arrest, be informed of the reasons for the arrest and the charges against him or her. The Covenant provides for *habeas corpus* and stipulates that every prisoner must also be brought before a judge or judicial officer within a reasonable time, or is entitled to be released. Any detained person should be entitled to have access to a court to decide on the lawfulness of their detention, and to order their release if it is unlawful.

Article 10 holds that all persons deprived of their liberty must be treated with humanity and respect for their inherent dignity. Convicted and un-convicted persons must be segregated, and juveniles should be segregated from adults. Un-convicted persons should be given separate treatment in accordance with the principle of being presumed innocent until proven guilty.⁷³

The ICCPR also prohibits torture or ill-treatment⁷⁴ (see Article 4 above) as does the Convention against Torture or Cruel, Inhuman and Degrading Treatment or Punishment and the Robben Island Guidelines. These provide for measures to prevent ill-treatment as well as torture. The ICCPR also prohibits slavery and holding someone in servitude. No one is to perform compulsory labour, except where imprisonment with hard labour has been imposed as a form of punishment by the court.⁷⁵ However, later principles move away from the idea of 'hard and punitive labour' and talk

70 See for example the reports of the African Commission on Human and Peoples' Rights Special Rapporteur on Prison Conditions and Detention, and the UN Special Rapporteur on Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment.

71 Principle 5 of the Basic Principles for the Treatment of Prisoners, adopted by General Assembly Resolution 45/111, 14 December 1990.

72 Interim report of the Special Rapporteur on Torture and other Cruel, Inhuman and Degrading Treatment or Punishment. Submitted to the UN General Assembly pursuant to Resolution 63/166. a/64/215, 3 August 2009.

73 Article 14 of the International Covenant on Civil and Political Rights (ICCPR), adopted by the UN General Assembly Resolution 2200 A (XXI) on 16 December 1966, and entered into force in 1976.

74 Article 7 of the International Covenant on Civil and Political Rights.

75 Article 8.

about enabling prisoners to undertake meaningful remunerated work which would facilitate their reintegration into the country's labour market and contribute to their own financial support and that of their families.⁷⁶

In addition to the basic human rights and rules applicable to all prisoners, special provision must exist for child detainees and prisoners. The Convention on the Rights of the Child provides that children must be held separately from adults and treated in a manner that is in accordance with their age.⁷⁷ It is prohibited to subject children to the death penalty or to life imprisonment without the possibility of release.⁷⁸ Article 40 of the Convention provides other protections for child detainees. The UN Rules for the Protection of Juveniles Deprived of their Liberty sets out minimum standards regarding children. Children should be provided with meaningful activities and programmes that serve to promote and sustain their health and self-respect, and to foster a sense of responsibility.⁷⁹

The Basic Principles for the Treatment of Prisoners provides a succinct list of essential rights for prisoners. In addition to those already dealt with, these include the right to participate in cultural activities and education aimed at the development of human responsibility,⁸⁰ and access to health services without discrimination as to their legal status.⁸¹ States should also take measures to abolish solitary confinement as a form of punishment.⁸²

The Standard Minimum Rules for the Treatment of Prisoners (SMR) and the Body of Principles for the Protection of all Persons under any form of Detention or Imprisonment, outline standards relating to nutrition, accommodation, health care, exercise, visits and access to legal counsel. The SMR has a special section dealing with the rights of detainees under arrest and awaiting trial.⁸³ In addition to the basic principles stated above, un-convicted prisoners may pay to have food brought in from the outside, they may be allowed to wear their own clothing if it is clean and suitable, and should be offered the opportunity to work, though they should not be required to do so. They must also be allowed to buy their own books, newspapers and writing materials. These prisoners must also be allowed to apply for free legal aid where this is available and to receive visits from their legal advisor. Visits between prisoner and legal advisor may be within sight of prison or police officials, but may not be within their hearing. Detainees who are arrested or detained without charge must be accorded the same rights as un-convicted prisoners and must be considered innocent until proven guilty.⁸⁴

The Body of Principles also protects detainees during interrogation and prohibits undue advantage being taken of the fact of a person's imprisonment by compelling him/her to confess, to incriminate himself/herself or another person. No person may be subject to violence, threats or methods of interrogation which could impair his or her capacity of decision or judgment.⁸⁵ The duration and interval between interrogations must be recorded, as must the names of any people present during the interrogation.⁸⁶

Police officials may not use force against people in detention or custody unless strictly necessary for the maintenance of security and order within the institution, or when personal safety is threatened. Firearms may not be used unless in self-defence, defence of others against immediate threat of death or serious injury, or when necessary to prevent the escape of a person presenting such a threat.⁸⁷

76 See Principle 8 of the Basic Principles for the Treatment of Prisoners (1990), Article 71–76 of the Standard Minimum Rules for the Treatment of Prisoners (1957). See also the Kampala Declaration on Prison Conditions in Africa 1996 and the Ouagadougou Declaration on Accelerating Prison and Penal Reform in Africa 2002, and the Plan of Action, p. 12.

77 ICCPR Article 10(3) and Article 37(c) of the Convention on the Rights of the Child (CRC), adopted by the UN General Assembly Resolution 44/25 of 20 November 1989. Children are persons under the age of 18 years of age.

78 Article 37(a) on The Convention on the Rights of the Child.

79 Article 12 of the UN Rules for the Protection of Juveniles Deprived of their Liberty, General Assembly Resolution 45/113, 14 December 1990.

80 Principle 6 of The Basic Principles for the Treatment of Prisoners.

81 *Ibid.*, Principle 9.

82 *Ibid.*, Principle 7.

83 Section C, Rule 84–93.

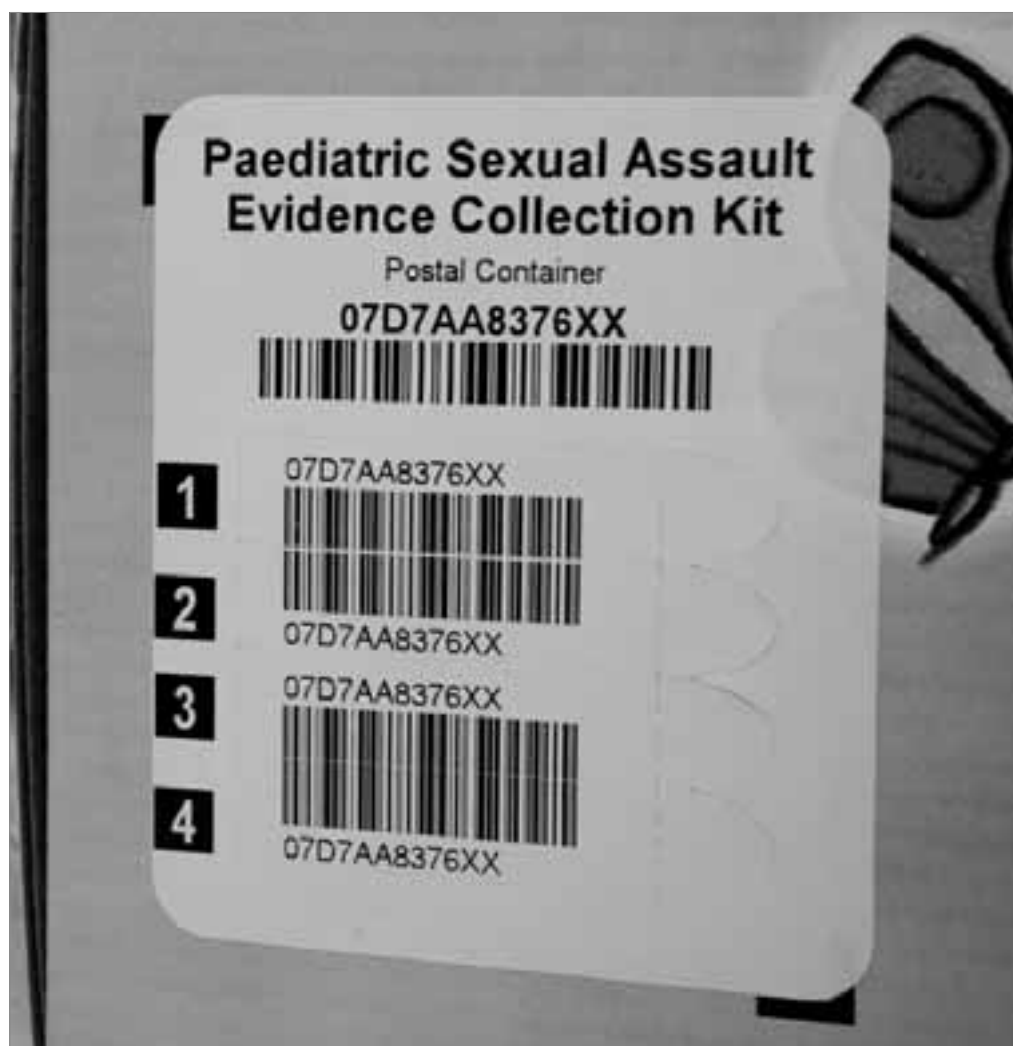
84 Rule 85 of the Standard Minimum Rules for the Treatment of Prisoners. Rule 95 provides that these prisoners should be accorded the same rights and protections as are set out in part I (Rules of General Application) and Section C. Provisions of Part II Section A are applicable where they are of benefit to detainees arrested without charge.

85 Principle 21 of the Body of Principles for the Protection of all Persons under any Form of Detention or Imprisonment, General Assembly Resolution 43/173 of 9 December 1988.

86 *Ibid.*, Principle 23.

87 Principle 15 and 16 of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

The international instruments also deal explicitly with the health care of detainees and prisoners. The Body of Principles provides that a proper medical examination must be offered to a detained person as soon as possible after admission and medical treatment must be provided when necessary. Medical care and treatment must be provided free of charge.⁸⁸ A prisoner or detainee, or his or her counsel, may request a second medical examination or opinion. It must be recorded when a person has a medical examination.⁸⁹ The Standard Minimum Rules for the Treatment of Prisoners provides that in penal institutions there must be qualified medical personnel. Sick prisoners who require specialist treatment must be transferred to civic hospitals or specialised institutions.⁹⁰



88 Principle 24 of the Body of Principles for the Protection of all Persons under any form of Detention or Imprisonment, General Assembly Resolution 43/173, 9 December 1988.

89 *Ibid.*, Principles 25 and 26.

90 See Standards 22 to 32.

INDICATORS A5	Measure	Means of verification
<p>Legislation, police code and operational policies specify under what circumstances a person can be detained, the period of detention, and their basic rights in detention.</p>	<ul style="list-style-type: none"> • Law and policy outline the basic human rights to which detainees and prisoners are entitled. These include: <ul style="list-style-type: none"> – The right to be informed of the reason for their arrest and any charges brought against them; – The right to inform a third person of their arrest; – The right to have immediate access and consultation with a lawyer of their choice; – The right to have access to a medical doctor, including a doctor of their own choice if they so wish. – The right not to be held in detention indefinitely without trial; – Arrested persons are brought promptly before a judicial authority, and are released if their detention is unlawful. – Every detainee is tried within a reasonable period of time. – The right to be visited and correspond with members of his or her family. 	<ul style="list-style-type: none"> • Constitution, law, policy, and police guidelines or instructions. • Complaints by people in custody. • Survey of lawyers or legal aid agencies.
<p>The police provide training in custody management.</p>	<ul style="list-style-type: none"> • Percentage of police officials who have received training as a proportion of police officials, and as a proportion of the annual number of detained people. • Specialised training deals with caring for people in custody, particularly in respect of vulnerable groups, such as the elderly, the mentally and physically ill, disabled, children and females. 	<ul style="list-style-type: none"> • Police training manuals, curricula or reports from training academies.
<p>Detainees are held in conditions of humane detention.</p>	<ul style="list-style-type: none"> • Detainees are held in official places of detention and for the statutorily limited period. • Detainees of different categories are held in separate accommodation: this includes separation of males from females; children from adults; and sentenced from unsentenced prisoners. • Basic standards of care are upheld regarding adequate accommodation, nutrition, hygiene, clothing, and exercise. • Measures are put in place to ensure the safety of detainees while held in custody, including regular monitoring visits by police to the places where they are accommodated. • The number and nature of civil judgments or out of court settlements as a result of infringement of a detainee's basic rights. 	<ul style="list-style-type: none"> • Properly completed custody records. • Police reports on the official places of detention. • Number and nature of complaints from detainees and suspects. • Reports by independent oversight bodies. • Reports by independent observers or civil society on conditions and treatment in police custody. • Reports or complaints by detainees. • Reports by independent observers or civil society on conditions and treatment in police custody. • Police records, court records, media reports.

INDICATORS A5	Measure	Means of verification
Management of detention facilities is in accordance with legal provisions.	<ul style="list-style-type: none"> • A custody register exists to record the details of all detained people and the date and time of their admission and release, and of any time that they are removed from detention for the purposes of investigation or interrogation. • Records on the number of complaints made by detainees as a ratio of the number of detainees. 	<ul style="list-style-type: none"> • Custody register and the extent to which it accurately records details of detainees. • NGO and civil society incident-based reports. • Police policy on admission of detainees. • Complaints and requests register and a register of how these were dealt with. • Police human resource or disciplinary records. • Annual reports of the police. • Media reports. • Reports by independent oversight bodies.
Detainees receive prompt and adequate health care.	<ul style="list-style-type: none"> • The percentage of detainees seeking medical attention, and the nature of medical treatment given. • The number of independent medical assessments and number of detainees receiving medical treatment from their own practitioners. • The number of detainees transferred to civil or specialised hospitals for treatment. 	<ul style="list-style-type: none"> • Detainee medical records, custody records. • Registers or reports from state medical practitioners assigned to treat detainees. • Reports by academics, NGOs and medical experts. • Hospital records.
There is ongoing independent oversight of police custody.	<ul style="list-style-type: none"> • There are regular visits of detainees and places of detention by independent observers, organisations or individuals to monitor and report on conditions in detention and the treatment of detainees. • Any deaths occurring in police custody are reported and diligently, impartially and independently investigated. Investigators are given unimpeded access to detention places where deaths have occurred. • The percentage of investigations that result in sanction of the perpetrator or further action being taken by or against the police, and the nature of that action. • Number of applications for compensation as a result of unlawful detention as a percentage of people detained or arrested, and the percentage of these cases where compensation is ordered and paid. 	<ul style="list-style-type: none"> • Reports by independent observers. • Reports of independent oversight bodies. • The number of investigations conducted as a proportion of deaths recorded. • Police records. • Records of independent investigation bodies. • Civil claims lodged – reports by attorneys or legal aid agencies. • Police annual reports, disciplinary records of the police. • Annual statistics on people arrested and detained by the police. • Police complaints registers. • Police records on payments made. • Media reports.

ARTICLE 6: Victims of Crime

STANDARD: All victims of crime shall be treated with compassion and respect. Police officials shall ensure that proper and prompt aid is provided where necessary.

An important component of police work is to engage with, protect and assist victims of crime and criminal abuses of power. Victims require special handling as they may be injured or traumatised by the crime event; they may be afraid of the perpetrator and of intimidation should they report the crime; and many victims are also afraid of the police and of interacting with the criminal justice system. Sensitive handling of victims may enable them to be more cooperative with the investigative process and so help the police to identify, investigate and apprehend the alleged perpetrator.

The UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power⁹¹ provides standards for the treatment of victims. A victim is someone who may have suffered physical, mental or emotional harm, or economic loss, or impairment of their fundamental rights.⁹² A victim is a victim whether the perpetrator is known or unknown, and regardless of whether they have been apprehended, prosecuted or convicted of any crime. The term 'victim' is expansive and includes family members and friends of the direct victim, or anyone who may have intervened to help the victim.⁹³

The Declaration affirms that victims should be treated with compassion and respect for their dignity. They are entitled to access mechanisms of justice and to prompt redress for the harm they have suffered, as provided for by national legislation.⁹⁴ In order to do so, the Declaration provides that judicial and administrative mechanisms must be established, using formal or informal procedures that are expeditious, fair, inexpensive and accessible. Victims must also be informed of their rights in seeking redress.⁹⁵ This should include information on the role that the victims should play in the redress or criminal justice process, the procedures available and applied in their case, and the time frames in which the process will unfold. Victims must be given the opportunity to express their views and concerns, and where their personal interests are affected, these should be considered. Their privacy should be protected and any inconvenience to the victims minimised. Victims must be provided with proper assistance during the legal process. Unnecessary delays must be avoided in the disposition of cases. Victims, and their families or witnesses, should be protected from intimidation and retaliation.⁹⁶

Victims should receive support through governmental, voluntary or other means to provide for their medical, material, psychological and social needs. In providing services, particular attention should be given to those with special needs. Police and other officials must receive training sensitising them to these needs and be given guidelines on providing prompt and proper aid,⁹⁷ and on making referrals to appropriate agencies who can provide the needed assistance.

While the formal criminal justice process may be utilised in most cases, and most likely when it comes to more serious crimes, victims should also be able to access more informal mechanisms for the resolution of disputes, including mediation, arbitration and customary or indigenous practices. These mechanisms should be used to facilitate conciliation and redress for victims.⁹⁸ The Declaration provides that States should review laws, policies and practices to enable offenders to make restitution to the victims or their families.⁹⁹ The Declaration also encourages States to make provision for the payment of compensation by the State where no restitution is available from the offender, and where the victim has received substantial physical or mental injury.¹⁰⁰

91 Adopted by the General Assembly Resolution 40/34, 29 November 1985.

92 Paragraph 1 of The UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power.

93 Ibid., Paragraph 2.

94 Ibid., Paragraph 4.

95 Ibid., Paragraph 5.

96 Ibid., Paragraph 6.

97 Ibid., Paragraphs 14–17.

98 Ibid., Paragraph 7.

99 Ibid., Paragraph 8 and 9.

100 Ibid., Paragraph 12.

Several international instruments contain provisions entitling victims of abuse of power, victims of infringement of their human rights,¹⁰¹ or victims of torture, to remedies and compensation for these abuses. The Declaration calls on States to proscribe abuses of power and to make remedies available to victims.¹⁰² The Robben Island Guidelines call on States to ensure that victims of torture and ill-treatment, their witnesses and those conducting the investigation, are protected. It also provides that victims should be offered reparation, including medical care, social and medical rehabilitation and compensation and support.¹⁰³



¹⁰¹ See for example Article 2(3) of the International Covenant on Civil and Political Rights.

¹⁰² *Ibid.*, Paragraphs 18–21.

¹⁰³ Part III, Articles 49 and 50 of the Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa.

INDICATORS A6	Measure	Means of verification
Police are sensitised to the impact of crime on victims and on their particular needs.	<ul style="list-style-type: none"> • Police receive training on the handling and obtaining of information from victims with special needs, such as children and the disabled, and those who have been sexually abused, and they apply the principles in practice. 	<ul style="list-style-type: none"> • Police training outlines or manuals. • Policy documents. • Policy and operation statements by senior management. • Independent research on treatment of victims and witnesses.
Victims are treated with dignity and respect.	<ul style="list-style-type: none"> • Victims receive prompt and courteous assistance from the police, and give their statements in private in sensitive cases. • Victims are not discriminated against on the basis of gender, race, nationality, ethnic group, disability or sexual orientation. • The privacy of victims is respected. • Victims are given timely information regarding victim services and medical treatment. • Victims are given accurate and timely information: <ul style="list-style-type: none"> – about how they should interact with the criminal justice system, and what they can expect; – about the progress of any criminal investigation following their victimisation; – about the trial process; – about any pending release of the accused from police detention or prison, or if the accused escapes. • Victims receive clear information about their role as witness and what they can expect. • Police support victims and witnesses to obtain witness protection where necessary and where available, and are protected from contact with the accused person. • Victims are informed and referred to service providers offering impartial, informal mechanisms of complaint resolution. 	<ul style="list-style-type: none"> • Survey of victims who have come into contact with the police. • Incident reports from NGOs or civil society. • Police policy and procedure documents. • Case file notes. • Existence of service providers in the governmental and non-governmental sectors, as well as customary, indigenous or religious sectors. Number of victims assisted by these organisations. • Police documents listing organisations to which victims may be referred. • Reports and/or statements by victim assistance organisations. • Media statements and reports by civil society organisations.
Restitution and compensation is available for victims.	<ul style="list-style-type: none"> • Number of victims paid compensation as a percentage of number of reported crimes. 	<ul style="list-style-type: none"> • Legislation enabling offender restitution or payment of compensation. • Police or state reports/records on civil claims paid, the amounts paid and reasons for payment. • Police dockets or court records on out of court settlements with perpetrators.

ARTICLE 7: Respect for the Rule of law and Code of Conduct

STANDARD: Police Officials shall respect and uphold the rule of law and the present Code of Conduct.

The rule of law essentially means that no one is above the law and everyone is equal before the law regardless of social, economic, or political status. Its purpose is to prevent arbitrary or discriminatory action. When police officials, and other law enforcement personnel, undertake their policing duties, they often restrict the liberties and human rights of the people they police. It is therefore extremely important that they are guided and adhere to the law in the exercise of their duties. The United Nations Secretary General defined the rule of law as:

... a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards. It requires, as well, measures to ensure adherence to the principles of supremacy of law, equality before the law, accountability to the law, fairness in the application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness and procedural and legal transparency.¹⁰⁴

The UN Code of Conduct for Law Enforcement Officials provides that law enforcement officials shall, at all times, fulfil the duty imposed on them by law. Consistent with the high degree of responsibility required by their profession, they must serve the community and protect all people against illegal acts.¹⁰⁵ Importantly, the rule of law means that the police should not uphold the law if it is unjust or arbitrary,¹⁰⁶ but that law enforcement officials must respect and protect human dignity and uphold the human rights of all people.¹⁰⁷ The international human rights law provides a framework for policing duties and responsibilities. These are described elsewhere in these indicators, but include the rights to liberty, freedom and security of the person and freedom from discrimination. Domestic legislation and codes of conduct are important for establishing a legal framework for policing in each country.

Police officers are required to exercise some discretion in the performance of their duties, but they should not be allowed to circumvent the law in doing so.

Any person whose rights and freedoms are violated must have a remedy, notwithstanding that a violation has been committed by a person acting in an official capacity.¹⁰⁸ Victims of abuse may pursue redress through the courts, or other judicial or legislative authority. Each country should also establish internal and external mechanisms for accountability and oversight. These include the police disciplinary procedures, as well as mechanisms for complaint and investigation of complaints. As mentioned elsewhere in this document, States are required to establish effective reporting and review procedures when the use of force results in injury or death.¹⁰⁹

¹⁰⁴ Secretary General to the Security Council (2004) quoted in Vera Institute of Justice (2008), p. 3.

¹⁰⁵ Article 1, Code of Conduct for Law Enforcement Officials, adopted by the General Assembly Resolution 34/169 of 17 December 1979.

¹⁰⁶ There are different perspectives on what the rule of law means. From a 'formalistic perspective', law must be prospective, well-known, and have characteristics of generality, equality, and certainty. It is not a necessary requirement that laws are just or humane. A 'substantive interpretation' holds that the rule of law has substantive outcomes based on fairness and justice. A 'functional approach' to the rule of law focuses on how well the laws and legal system work. Brief prepared Matthew Stephenson of the Harvard University Department of Government and Law School for the World Bank, *Law and Justice Institutions*. Available on <http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/EXTLAWJUSTINST/0,,contentMDK:20763583--menuPK:1989584--pagePK:210058--piPK:210062--theSitePK:1974062,00.html>, accessed 28 October 2009.

¹⁰⁷ Article 2 of the UN Code of Conduct for Law Enforcement Officials.

¹⁰⁸ Article 3 of the ICCPR.

¹⁰⁹ Principle 22 of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

INDICATORS A7	Measure	Means of verification
Police adopt and promote the Code of Conduct.	<ul style="list-style-type: none"> • Training for police officials includes training on the Code of Conduct. • Percentage of police who have access to visible posters and pamphlets reminding officials of the Code of Conduct. • Percentage of police who have signed the Code of Conduct. • The Code of Conduct is promoted and made available to the public. • Code of Conduct is available in libraries, law associations and offices, and on the internet. 	<ul style="list-style-type: none"> • Police training manuals. • Records of police training academies. • Site visits to police stations. • Police website, media statements by police, distribution at public events.
Police adhere to the principles of the rule of law.	<ul style="list-style-type: none"> • Police enforce the law irrespective of social or gender status or the political influence of suspects.^a • Police enforce court orders. • Police have clarity about the legal parameters for operational practices, including stop and search, arrest, detention, interrogation, intrusive surveillance, and the use of force, and they adhere to these parameters.^b 	<ul style="list-style-type: none"> • Public perception survey. • Media review. • Analysis of case law. • Legislation, police regulations, police policy. • NGO reports and independent studies.

Notes to the table:

a Bruce & Neild (2005), Measure 28.

b Ibid.

ARTICLE 8: Trustworthiness

STANDARD: The public demands that the integrity of police officials be above reproach. Police officials shall therefore behave in a trustworthy manner and avoid any conduct that might compromise integrity and thus undercut the public confidence in a police force/service.

8

ARTICLE 10: Performance of duties

STANDARD: Police officials shall at all times fulfil the duties imposed upon them by law in a manner consistent with the high degree of responsibility and integrity required by their profession.

10

ARTICLE 11: Professional conduct

STANDARD: Police officials shall ensure that they treat all persons in a courteous manner and that their conduct is exemplary and consistent with the demands of the profession and the public they serve.

11

Articles 8, 10 and 11 of the SARPCCO Code of Conduct flow from the requirement that police officials adhere to the rule of law and human rights standards. The three standards embraced by the articles seek to guide *the manner* in which police conduct themselves and carry out their functions. These sections will be dealt with collectively.

Integrity of police officials, and of the police institution as a whole, is an important component of these three standards. Integrity in this sense means that police officers should be honest, and that there should be a general inclination to resist the temptation to abuse the rights and privileges of their occupation.¹¹⁰ A culture of integrity can be defined by the existence of clearly understood and implemented policies, rules, procedures and standing orders. The cooperation of officials is essential to detecting breaches of integrity, but this is difficult as loyalty often makes police officers reluctant to report their colleagues. Police work gives police officers a large amount of power and authority. Even where police are imbued with a high degree of individual integrity it may be difficult to resist temptation, particularly where the organisational culture turns a blind eye to the abuse of power. Integrity management takes the view that instead of adopting a punitive approach and focusing only on transgressions, officials should be encouraged to work towards a positive notion of integrity. Following extensive research, the US Department of Justice arrived at four recommendations for improving police integrity:

1. Integrity is driven by an organisational culture: this places responsibility on police seniors and line managers to create and sustain a culture of organisational integrity.
2. The rules governing misconduct must be explained and police officers trained to adhere to them.
3. How police managers detect, investigate and discipline misconduct will indicate to the organisation how seriously they consider the misconduct.
4. Administrators should expressly require their officials to report misconduct: this is to discourage a culture of silence. In addition, officials should be warned of the serious consequences of lying in an investigation against themselves or other officials.¹¹¹

¹¹⁰ Gonzales, Schofield & Schmidt (2005).

¹¹¹ *Ibid.*, pp. 8–9.

The UN Code of Conduct for Law Enforcement Officials requires law enforcement officials to fulfil their duties by serving the community and by protecting all persons against illegal acts, consistent with the high degree of responsibility required by their profession.¹¹² The police are a professional body in two senses. On the one hand, high degrees of knowledge, skill, sound judgement and practices are required from individual officers. On the other hand, professional conduct implies a set of qualities in an individual officer's personal behaviour that is displayed in work-related situations.¹¹³ Professional conduct is that which is courteous, conscientious and businesslike. Professional requirements demand rigorous standards around the recruitment, selection, training and development of police officials, career advancement opportunities, and the adherence to a code of conduct. The UN Code of Conduct for Law Enforcement Officials and the SARPCCO Code of Conduct establish important values and principles for the operation of their professional duties. The State must implement accountability mechanisms to ensure that police adhere to these standards and to hold them to account.

The UN Economic and Social Council has established Guidelines for the Effective Implementation of the Code of Conduct for Law Enforcement Officials.¹¹⁴ The Guidelines set out four specific issues to help governments implement the Code of Conduct. Firstly, the selection, education and training of officials must be given prime importance; secondly, all law enforcement officials should be adequately remunerated and provided with appropriate working conditions; effective mechanisms should be established to ensure internal discipline as well as external oversight; and provision should be made for the receipt of complaints from members of the public. These mechanisms must be made known to the public.¹¹⁵

Governments are required to make the Code of Conduct available to all officials in their own languages, and to disseminate it and make the public aware of it. In considering the application of the Code of Conduct, governments should arrange symposia on the role and function of law enforcement officials in the protection of fundamental rights and the prevention of crime.¹¹⁶

Also relevant to police officials is the International Code of Conduct for Public Officials. This instrument makes it clear that public officials must be loyal to their country and exercise their duties efficiently, effectively and without preferential treatment or discrimination of any group or individual.¹¹⁷ Public officers are prohibited from using their office for personal gain and must declare any activities which might result in a conflict of interests.¹¹⁸ They must also maintain confidentiality and refrain from engaging in political activities that would impair public confidence and the impartial performance of their functions and duties.¹¹⁹

112 Article 1 of the Code of Conduct for Law Enforcement Officials, adopted by General Assembly Resolution 34/169, 17 December 1979.

113 Professional Knowledge Centre (2002). *The Seven Balancing Acts of Professional Behaviour in the United States*. Grovewell Leadership Solutions. Available on <http://www.grovewell.com/pub-usa-professional.html>, accessed on 29 October 2009.

114 Guidelines for the effective implementation of the Code of Conduct for Law Enforcement Officials, UN Economic and Social Council Resolution 1989/61, 15th plenary meeting, 24 May 1989.

115 *Ibid.*, Part 1B.

116 *Ibid.*, Part 11A.

117 Principles 1–3, International Code of Conduct for Public Officials, General Assembly Resolution 51/59, annex, 12 December 1996.

118 *Ibid.*, Principles 4–6.

119 *Ibid.*, Principles 10–11.

INDICATORS As 8, 10, 11	Measure	Means of verification
Police officials are recruited, appointed and promoted according to clear and professional criteria.	<ul style="list-style-type: none"> • Screening instruments exist to ensure the selection of candidates who exhibit appropriate moral, physical and psychological qualities, and these are applied. • Police promotions are based on competence and merit. • All police officials have clear job criteria. 	<ul style="list-style-type: none"> • Police service recruitment policy. • Police reports on appointments and promotions. • Reports by police unions. • Media reports. • Police human resource policy. • Complaints by police officers or police representative bodies. • Job descriptions of police personnel.
Effective and accessible training is provided to police.	<ul style="list-style-type: none"> • Percentage of police who receive training and re-training according to professional standards on human rights and the rule of law, and on their professional responsibilities, and code of conduct, disaggregated according to seniority, gender, rank and function within the police service. • Percentage of middle and senior level police officials who receive leadership and management training on or before promotion. 	<ul style="list-style-type: none"> • Training curricula of police training academies. • Records of training academies or human resource management.
The police have a clear set of values, and efforts are made to ensure these are upheld.	<ul style="list-style-type: none"> • Values are incorporated into the police service core documents, such as mission statements, code of conduct and disciplinary code.^a • Police officers take an oath to uphold these values, and they are reinforced through training and regular communication. • Managerial and operational practice supports and reflects adherence to these values through positive measures, performance appraisals, evaluations, warnings and discipline.^b 	<ul style="list-style-type: none"> • Police force/service policy documents. • Police internal communication documents and public addresses given by police management and leadership. • Surveys among police. • Customer satisfaction survey and independent research reports on police conduct.
The police have a clear mandate.	<ul style="list-style-type: none"> • There is a clear and effective chain of command, particularly in the first line of supervision of police officers.^c • Legislation clearly defines the police mandate in terms of its responsibilities to protect life, liberty and security of the person; to maintain public safety and social peace; and to adhere to the rule of law and uphold fundamental human rights.^d • Police are responsive to the needs of the public and provide assistance in terms of their legal requirements. 	<ul style="list-style-type: none"> • Standing orders. • Human resource policy and performance management systems. • Legislation, constitution. • Customer satisfaction surveys. • Public perception surveys. • Reports of civil society or independent bodies. • Media articles.

Notes to the table:

a Bruce & Neild (2005), Measure 29.

b Ibid., Measure 29.

c Ibid., Measure 17.

d African Policing Civilian Oversight Forum (APCOF) and Commonwealth Human Rights Initiative (CHRI) (2009), p. 9.

INDICATORS As 8, 10, 11	Measure	Means of verification
<p>The police have a system of performance review and discipline.</p>	<ul style="list-style-type: none"> • Police are subject to regular performance monitoring and review in accordance with policy: percentage of police who are reviewed on an annual basis. • Performance appraisals form the basis of promotions and designation to particular units. • A clear disciplinary procedure exists in law and practice. • There exists a clear framework indicating what actions of police officials are considered as misconduct or offences. It is included in their training and they are aware of the consequences of violating the rules. • Police officials are encouraged to report acts of misconduct committed by their colleagues. 	<ul style="list-style-type: none"> • Police human resource policy and records. • Legislation. • Data on disciplinary procedures brought against officials, and the outcomes of this action. • Police policy/human resource policy. • Training materials and curricula. • Periodic reports of independent oversight or complaints bodies. • Percentage of disciplinary proceedings initiated as a result of reports by police officials.
<p>The police are free of partisan political interference.</p>	<ul style="list-style-type: none"> • The police are not subject to political interference. • Police officers are prohibited from holding public office or positions within political parties, and from publicly associating themselves with political parties, objectives and activities. • The police service has a budget adequate to carry out its mandate: annual budget of the police service, as a proportion of the national budget and analysis of major items of expenditure. • The budget is spent according to approved budget expenditure items. 	<ul style="list-style-type: none"> • Media reports. • Public survey. • Legislation. • Reports by rights-based NGOs. • Review of ministerial directives and speeches. • Oversight bodies or other structures of accountability. • Police policy and code of conduct. • Annual reports and audited statements of the police service.

ARTICLE 9: Corruption and abuse of power

STANDARD: Police officials shall not commit or attempt to commit any act of corruption or abuse of power. They shall rigorously oppose and combat all such acts.

There are several fairly recent instruments dealing with the corruption of law enforcement and public officials. The UN Code of Conduct for Law Enforcement Officials provides that officials must not commit acts of corruption and must rigorously oppose and combat all such acts.¹²⁰ Though national law may define corruption differently, under international law it is understood to encompass the commission or omission of an act in the performance of an official's duties in response to the receipt of gifts, promises or incentives demanded or accepted; or if these are received after the commission or omission of an act.¹²¹ This includes any attempted corrupt act. The Code of Conduct also requires that the law must be enforced fully in respect of any official who commits an act of corruption.¹²²

The International Code of Conduct for Public Officials, while not explicitly referring to corruption, deals with conflict of interest. It prohibits public officials from using their official authority for the improper advancement of their own or their family's personal or financial interests;¹²³ requires that they declare any business, commercial or financial interests of activities undertaken for financial gain that may raise a possible conflict of interest; and they may not improperly use public moneys, property, services or information acquired in the course of their official duties for purposes unrelated to their work. After leaving their official positions, they must comply with the law to ensure that they do not take improper advantage of their previous office.¹²⁴

The UN Convention against Corruption also applies to police officials, as they are recognised as public officials in terms of the Convention.¹²⁵ The Convention aims to promote and strengthen States' measures to prevent and combat corruption more effectively, and to promote integrity, accountability and proper uses of resources.¹²⁶ The Convention sets out anti-corruption policies and practices which must be implemented by States Parties. These include: the development and implementation of effective anti-corruption policies that promote the inclusion of society and promote the rule of law; proper management of public affairs; and accountability and transparency.¹²⁷ States Parties must establish independent bodies to ensure the effective implementation of these policies, and where possible, to oversee and coordinate the implementation of these policies. They should also disseminate information about the body and the policies to the public.¹²⁸

In the public sector, parties to the Convention must strengthen systems for the recruitment, hiring, retention, promotion and retirement of civil servants that are: based on principles of efficiency, transparency and criteria such as merit, equity and aptitude; include procedures for the selection and training of individuals for positions considered especially vulnerable to corruption, and the rotation of such individuals to other positions; that promote adequate remuneration and equitable pay scales; and that promote education and training programmes to enable officials to meet the requirements of correct, honourable and proper performance of public functions, enhancing their awareness of the risk of corruption. This may include codes or standards of conduct. States Parties should establish and maintain systems that promote transparency and prevent conflict of interest.¹²⁹

Prevention strategies listed in the Convention include those dealing with public procurement and the management of public finances; transparency through reporting to the public; and involvement

¹²⁰ Article 7 of the Code of Conduct for Law Enforcement Officials, adopted by the UN General Assembly Resolution 34/169, 17 December 1979.

¹²¹ Commentary to Article 7.

¹²² *Ibid.*

¹²³ Principle 4 of the International Code of Conduct for Public Officials, General Assembly Resolution 51/59, annex, 12 December 1996.

¹²⁴ Principle 5–7 of the International Code of Conduct for Public Officials, General Assembly Resolution 51/59, annex, 12 December 1996.

¹²⁵ Article 2 of the Convention against Corruption, General Assembly Resolution 58/4, 31 October 2003.

¹²⁶ *Ibid.*, Article 1.

¹²⁷ *Ibid.*, Article 5.

¹²⁸ *Ibid.*, Article 6.

¹²⁹ *Ibid.*, Article 7.

of society outside of the public sector in the prevention or fight against corruption. This includes enabling society to make a contribution to decision making, providing access to information, and promoting the freedom to seek, receive and publish information concerning corruption.¹³⁰

Chapter III of the Convention deals with criminalisation and law enforcement of corruption. States Parties must adopt legislation which makes it a criminal offence to intentionally promise, offer or give to a public official an undue advantage for the official or any other person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties. Legislation should also be enacted to make it a crime for a public official to solicit or accept an undue advantage for him or herself or any other person or entity so that the official act or refrain from acting in the exercise of his or her official duties.¹³¹ Similar offences should be created in relation to interaction with foreign public officials.¹³² The Convention also deals with criminalisation in respect of: embezzlement, misappropriation and diversion of property; trading in influence; abuse of functions; increase in the assets of a public official that cannot be explained; and obstruction of justice.¹³³ In addition, States Parties must put in place sanctions with due regard to the severity of the crime; provisions for the freezing, seizure and confiscation of the proceeds of corruption.¹³⁴ They must also provide for the protection of victims, witnesses and experts and officials investigating corruption.¹³⁵ Since corruption is often a crime that involves parties from different countries, it includes provisions prohibiting, preventing and combating international corruption as well. Chapter V deals with recovery of assets that are the proceeds of corruption.

Importantly, the Convention makes technical inputs on the prevention of, and combating, corruption. This includes special training for those involved in preventing and combating corruption, which would in many cases involve members of the police.

Interpol also views corruption as one of its key priority crime areas. It promotes regional cooperation for eradicating the causes and effects of corruption, which is defined as, 'any course of action or failure to act by individuals or organisations, public or private, in violation of law or trust for profit or gain'.¹³⁶ In support of UN initiatives to combat corruption, Interpol established the Interpol Group of Experts on Corruption (IGEC) in 1998. It is also in the process of developing the Interpol Anti-Corruption Office (IACO) and the International Anti-Corruption Academy (IACA). These components aim to establish policies and standards, and to conduct or assist with education, research, training, investigations and asset recovery operations.

The IGEC has developed a Code of Conduct, as well as a draft of Global Standards to Combat Corruption in police forces/services.¹³⁷ The Global Standards contain an extensive definition of corruption. Its principles are to: make corruption within the police a high risk crime; to promote and maintain a high standard of honesty, integrity and ethical behaviour within the police of each Member of Interpol; and to foster the recruitment and training of police officers with high levels of integrity, honesty, ethical standards and expertise.¹³⁸ Specific standards are outlined in respect of each of these principles. It also calls upon Interpol members to establish oversight bodies to monitor and measure the systems for preventing and combating corruption, and for designating an external or internal authority for investigating and bringing to justice those who engage in corruption or dishonesty.¹³⁹

130 *Ibid.*, Article 13.

131 *Ibid.*, Article 15.

132 *Ibid.*, Article 16.

133 *Ibid.*, Articles 17, 18, 19, 20, 25.

134 *Ibid.*, Articles 30, 31.

135 *Ibid.*, Articles 32, 33.

136 Interpol.

137 Interpol.

138 Article 3 of the Convention against Corruption, General Assembly Resolution 58/4, 31 October 2003.

139 *Ibid.*, Articles 4.14, 4.15.

INDICATORS A9	Measure	Means of verification
Police officers with high levels of integrity, honesty, ethical standards and expertise are employed.	<ul style="list-style-type: none"> • The recruitment, appointment, promotion and termination of police officers and other employees of the police are not arbitrary, but are based on standards of fairness, openness, ability and performance. • Remuneration for police officials should be sufficient for them to maintain a reasonable standard of living for themselves and their families. 	<ul style="list-style-type: none"> • Human resource policy. • Extent to which the human resource policy is implemented and justifiable reasons are provided for the recruitment, and promotion of personnel. • Average salaries of police officials when compared with average salaries for civil servants in the region. • Police budget and human resource statements on salary bands. • Salary bands/surveys/reports on civil servant salaries in the region.
There is a clear policy on anti-corruption in the police organisation.	<ul style="list-style-type: none"> • Police officials are made aware of and are bound by a code of conduct. • Percentage of disciplinary cases that involve an infringement of the code of conduct. • Number of police officers who receive training annually, as a percentage of the total number, on ethical standards and conduct applicable to the performance of their lawful duties. The basic and in-service training includes components dealing with ethics and the code of conduct. 	<ul style="list-style-type: none"> • Records indicating that officials have signed a code of conduct. • Places where code of conduct is visibly on display. • Site visits to police stations and administrative buildings. • Media reports. • Police disciplinary records. • Records of training academies. • Reports from police human resource departments. • Training curriculum. • Police annual reports.
Conflict of interest is recognised and addressed.	<ul style="list-style-type: none"> • Police officials are required to declare their business, financial and commercial interests – percentage of police who make declarations; whether the register is regularly updated; whether it is accessible to the public. 	<ul style="list-style-type: none"> • Register of declarations.

INDICATORS A9	Measure	Means of verification
<p>Appropriate action is taken following allegations of corruption and abuse of power.</p>	<ul style="list-style-type: none"> • Corruption is listed as a serious disciplinary and criminal offence. • Clear policy exists relating to the sanctions to be handed to officials found to be corrupt, which reflects the gravity of the offence. • All allegations of corruption and abuse of power are investigated by an appropriate authority, either internal to the police, or an external body. • Number of cases of corruption reports, number investigated, and the percentage of these cases which result in further action being taken against the alleged perpetrator. • Percentage of police charged with corruption who are dismissed. • Number of people making use of police whistle blowing policy and evidence that these people are not discriminated against or victimised by others/the system. • Number of corruption cases where assets are forfeited and the number of police officials whose assets are forfeited assessed. • Clear information is available to the public on complaints received by the police, which are disaggregated by policing area, type and number of complaints, disposition and corrective action. • There is an independent and external oversight body that monitors and reports on police investigation of allegations of abuse of power and corruption; and to ensure that measures and strategies are put in place to prevent and combat police corruption. 	<ul style="list-style-type: none"> • Legislation and regulations. • Police service human resource/ disciplinary policy. • Police reports on the numbers of disciplinary proceedings and their outcomes. • Legislation and regulations. • Police reports on corruption complaints, investigations and outcomes. • Police annual reports. • Independent research or reports on corruption. • Media reports. • Victimization or public perception survey. • Police records. • Statutory framework. • Media. • Case law. • Civil society reports. • Independent oversight body. • National legislation. • Records of police discipline and human resource department. • Records of police asset management. • Police annual reports or other public statements or documents. • Reports of independent oversight bodies.

ARTICLE 12: Confidentiality

STANDARD: Matters of a confidential nature in the possession of police officials shall be kept confidential, unless the performance of duty and needs of justice strictly require otherwise.

The UN Code of Conduct for Law Enforcement Officials contains a provision prohibiting the exposure of confidential information that mirrors the SARPCCO Code of Conduct.¹⁴⁰ The Commentary to the Code of Conduct explains that due to the nature of their responsibilities, law enforcement officials obtain information that may relate to the private lives of others, and could be harmful to the interests or reputation of others. Such information must be safeguarded and used carefully. Information should only be disclosed in the performance of duty or to serve the needs of justice and, 'any disclosure for other purposes is wholly improper'.¹⁴¹ The International Code of Conduct for Public Officials explains that public officials occupy a position of trust implying that they must act in the best interests of the public.¹⁴² This Code also contains a provision regarding confidentiality similar to the one expressed in the SARPCCO Code, but also adds that national legislation may determine when information of a confidential nature might be disclosed.¹⁴³

Victims of crime should be treated with compassion and respect for their human dignity, and their rights and privacy should be protected.¹⁴⁴ (See Article 6 on the treatment of victims.)

Confidentiality is one aspect of policing work, however it is also imperative to explore when it is necessary to release information to the public. The Convention against Corruption, for example, calls on States to enable active participation of individuals and groups outside of the public sector in the fight against corruption. These groups include civil society, non-governmental organisations and community-based organisations. The participation of these groups should be strengthened by enhancing the transparency of public decision-making, as well as by promoting public participation in it, ensuring the public has access to information, and undertaking public information activities that contribute to non-tolerance of corruption programmes. States must also respect, promote and protect the freedom to seek, receive, publish and disseminate information concerning corruption. These freedoms should only be restricted as is provided by national law and only where necessary to respect the rights and reputation of others, and for the protection of national security, public order or public health or morals.¹⁴⁵

An important facet of policing is the collection and analysis of data and scientific research in order to better understand the crime challenges facing the police, and to assist in the development of more effective policing strategies and methods.¹⁴⁶ The involvement of experts from civil society and members of the public is encouraged in order to assist in assessing crime prevention and policing needs and priorities, as well as for assistance in evaluating policies and programmes.¹⁴⁷

The UN Guidelines for the Prevention of Crime calls for well-planned crime prevention strategies to prevent crime and victimisation and to promote community safety and contribute to the sustainable development of countries.¹⁴⁸ The Guidelines encourage States to adopt a partnership approach given the wide-ranging nature of the causes of crime, and the skills and responsibilities to address them. This involves working across ministries and between authorities, community organisations,

140 Article 4 of the Code of Conduct for Law Enforcement Officials, adopted by the UN General Assembly Resolution 34/169, 17 December 1979.

141 Commentary to the Code of Conduct for Law Enforcement Officials.

142 Principle 1 of The International Code of Conduct for Public Officials, General Assembly Resolution 51/59, annex, 12 December 1996.

143 Principle 10.

144 Principle 6(d) Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, General Assembly Resolution 40/34, 29 November 1985.

145 Article 13 of the Convention against Corruption (CAC), adopted by the UN General Assembly Resolution 58/4, 31 October 2003.

146 See for example the various declarations and comments made by the United Nations congresses on the prevention of crime and the treatment of offenders. The Guiding Principles for Crime Prevention and Criminal Justice in the Context of Development and a New International Economic Order, adopted at the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders. See Principle 17 and 20, adopted by the General Assembly Resolution 40/32, 29 November 1985.

147 Op. cit., see Principle 20 of The Guiding Principles for the Crime Prevention and Criminal Justice in the Context of Development and a New International Economic Order.

148 Article 1 of the Guidelines for the Prevention of Crime – Economic and Social Council Resolution 2002/13, annex.

non-governmental organisations, the business sector and private citizens.¹⁴⁹ The development of crime prevention strategies should be based on a broad, multi-disciplinary foundation of knowledge about crime problems, their multiple causes and proven practices.¹⁵⁰ In order to do so, governments and civil society should provide the information necessary for communities to address crime problems; support the generation of practically applicable knowledge; sharing of knowledge among researchers, policy makers, educators and practitioners; and apply this knowledge in replicating successful interventions. Data systems should be established to help manage crime prevention more cost-effectively. This should include regular surveys on crime and offending.¹⁵¹ The Guidelines also call for States to undertake or support rigorous evaluations of strategies to determine what works and why.¹⁵²



149 Ibid., Article 9.

150 Ibid., Article 11.

151 Ibid., Article 21.

152 Ibid., Article 23.

INDICATORS A12	Measure	Means of verification
Police officials maintain confidentiality of information that is of a sensitive nature, particularly information in respect of victims of crime.	<ul style="list-style-type: none"> • There is a clear framework for how police should treat information of a confidential nature. • Confidential information is only disclosed if: there is a legal requirement to do so; if it is in the interests of justice and in the performance of policing duties to police officials or other justice agencies; and then only to the minimum extent necessary. 	<ul style="list-style-type: none"> • Police policy. • Complaints by victims, and the extent to which they are resolved and further action taken in the event of a breach of confidentiality. • NGO reports. • Police and interagency cooperation agreements regarding sharing information on crime and policing strategies. • Media reports.
Information important in understanding and addressing crime is not withheld.	<ul style="list-style-type: none"> • Information on crime trends, statistics and crime information is available to the public, the police and other criminal justice agencies to the extent that it does not disclose the details and particulars of individual crimes or crime victims. • Access to crime information may be permitted, after application, to researchers and institutions for the purpose of conducting studies on trends and patterns of crime or policing, but only after careful consideration on the ethics, motivation and qualifications of the applicants. • Care is taken to ensure that the personal details of crime victims are not published without the permission of the victims. • Crime and crime prevention information is shared amongst a range of stakeholders in order to assist with the development and implementation of crime prevention strategies. 	<ul style="list-style-type: none"> • Police crime statistics. • Annual reports. • Media reports and reports by NGOs and academics. • Percentage of applications for permission to conduct research that is granted to researchers. • Published academic or research reports on crime and policing, and the range of topics covered. • Applications for research or information. • Reports from academics, civil society and oversight bodies. • Community policing forums. • Public stakeholder consultation workshops. • Public dissemination of crime information.

ARTICLE 13: Property Rights

STANDARD: In the performance of their duties police officers shall respect and protect all property rights. This includes the economical use of public resources.

Police officials often have access to the property and assets of others during the course of their policing operations, and if measures are not put in place, opportunity is created for abuse of power and mishandling of property. Police may often be required to confiscate property for the purposes of collecting crime-related evidence, or to collect property forfeited to the State. In addition, police officials, as public officials, use public property such as cars, office equipment and weapons in the performance of their duties. This use needs to be carefully monitored and all items of property accounted for at all times. The International Code of Conduct for Public Officials provides that public officials may not use public monies, property, services or information that is acquired in the performance of, or as a result of, their official duties, for activities not related to their official use.¹⁵³

The Convention against Corruption deals extensively with the handling of property (see Article 9 on Corruption). Property is defined as including assets of every kind, whether corporeal or incorporeal, movable or immovable, tangible or intangible, and legal documents or instruments evidencing title to, or interests in, such assets. The Convention calls for each party to take steps to establish appropriate systems of procurement based on transparency, competition and objective criteria in decision-making that are effective in preventing corruption. The system must deal with the public distribution of information relating to tenders; establishment in advance of selection and award criteria; tendering rules and their publication; an effective system of public review; and measures to regulate the personnel responsible for procurement. These officials may be required to declare their interests in particular public procurements and undergo screening and special training.¹⁵⁴ The Convention also calls on States to create or establish criminal offences dealing with embezzlement, misappropriation or other diversion of property by a public official.¹⁵⁵

¹⁵³ Principle 6 of the International Code of Conduct for Public Officials, General Assembly Resolution 51/59, annex, 12 December 1996.

¹⁵⁴ Article 9 of the Convention against Corruption (CAC), adopted by the UN General Assembly Resolution 58/4, 31 October 2003.

¹⁵⁵ *Ibid.*, Article 17.

INDICATORS A13	Measure	Means of verification
Use of state and police property is properly managed.	<ul style="list-style-type: none"> • There is clear budget for police expenditure, and a policy rationale for how the budget supports policy and creates efficiencies approved of by the legislature.^a • Police adhere to integrity controls including on public bidding of major procurements, and conduct effective audits.^b • Clear rules and procedures exist for the use of police and state resources, and these are followed. • Officials only use equipment that they have been trained in and are licensed to use, including the use of firearms and weapons. • The disciplinary code and procedure includes taking steps against police officers who have abused state or police resources. Number of police who have been disciplined for abuse of police resources as a ratio of the total number of police in the police service. • The police service maintains its equipment in good working order, and faulty equipment is repaired in the shortest time possible. 	<ul style="list-style-type: none"> • Annual police service budget. • Independent unit or station budgets and expenditure reports. • Audited financial statements. • Reports of, or complaints against, tender awards. • Police policy on the use of resources. • Registers recording how equipment and resources are signed out to police officers and collected after use. • Police financial audit reports on the use of public assets. • Disciplinary code. • Records of disciplinary processes – human resource records. • Police annual reports. • Media reports. • Assets register. • Maintenance records.
Private and non-state property is respected.	<ul style="list-style-type: none"> • There is a clear framework for how the property of others may be used, handled or damaged during the course of policing duties. • Property that has been confiscated by the police for the purpose of investigation or evidence, or because it constitutes illegal possession, is taken into safe custody of the police, and is released to its owners when it is no longer required, or by court order – percentage of items returned to their owners in the condition in which they were confiscated or otherwise. • Registers are maintained providing detailed descriptions of the items taken into custody, the alleged owners of the property, where it was found, date of confiscation, etc. • Confiscated assets are only forfeited to the State following the terms of the law and due process. 	<ul style="list-style-type: none"> • Legislation, regulations or standards. • Contracts between lessors and the police. • Inventory of police assets and their use. • Police registers. • Survey of people whose assets have been confiscated. • Public perception surveys. • Percentage of assets deemed to be forfeited to the State from the number of applications for forfeiture. • Legislation. • Complaints by affected individuals. • Media reports. • Records of assets forfeited.

Notes to the table:

a Bruce & Neild (2005), Measure 11.

b Ibid.

A Framework for Human Rights Policing in the Region

The SARPCCO Code of Conduct is derived from a range of international and regional human rights instruments that are supplemented by specific guidelines on policing. These treaties, covenants, guidelines, principles, standards and codes of conduct outline the detailed responsibilities and restrictions placed on law enforcement officials, and thus serve as the basis for the development of a set of indicators for policing in the Southern African region. The major instruments are outlined below. They are further elaborated on in the discussion of the thirteen standards in the Code of Conduct.

International Instruments

The International Bill of Human Rights is the informal name given to the three primary human rights instruments of the United Nations. These are: the Universal Declaration of Human Rights (UDHR)¹⁵⁶ which sets out the general principles and standards on human rights; the International Covenant on Civil and Political Rights (ICCPR); and the International Covenant on Economic, Social and Cultural Rights (ICESCR),¹⁵⁷ which defines the specific human rights and their limitations. These instruments have formed the backbone of many subsequent international and regional instruments, as well as national constitutions and legislation.

The Universal Declaration of Human Rights is the founding articulation of human rights applicable to all human beings and has the force of binding international law. It guarantees the rights to dignity and equality, and life, liberty and security of the person. It also prohibits torture and cruel, inhuman and degrading treatment or punishment, and arbitrary arrest and detention – rights which often lie at the intersection of policing responsibilities. The ICCPR seeks to create conditions in which people can enjoy civil and political freedom and affirms and provides more detail to the rights contained in the UDHR. An important principle of these instruments is that of the indivisibility of rights. In other words no single right is considered as being more fundamental than any other right. Many of these rights are again directly affected by policing. For example, in relation to people deprived of their liberty, the ICCPR outlines the rights of detained and arrested people which includes the right to be treated with humanity and respect for the inherent dignity of the person. It stresses the principle that everyone charged with a criminal offence shall be presumed innocent until proven guilty, and sets out the rights of an accused person. The ICCPR also deals with rights such as privacy, and the rights to freedom of speech, movement, peaceful assembly and association. Importantly, it provides for equal protection before the law and protection by the law without discrimination of any kind. In ratifying the International Covenant on Civil and Political Rights (which all SARPCCO member countries have done) a State is obliged to take legislative and other measures to give effect to these rights.

The ICESCR expands on the economic, social and cultural rights by promoting a reasonable standard of living and cultural life free from discrimination.

A range of other instruments were developed to deal with particular rights, limitations and responsibilities. These include the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT),¹⁵⁸ the Convention on the Rights of the Child (CRC),¹⁵⁹ the Convention against Corruption (CAC),¹⁶⁰ the Convention on the Elimination of all Forms of Racial Discrimination (CERD),¹⁶¹ the Convention against the Elimination of all Forms of Discrimination against Women

¹⁵⁶ Adopted by the UN General Assembly Resolution 217 A (III), 10 December 1948.

¹⁵⁷ Both the ICCPR and ICSECR were adopted by the UN General Assembly Resolution 2200 A (XXI) on 16 December 1966, and entered into force in 1976.

¹⁵⁸ Adopted by the UN General Assembly, 10 December 1984.

¹⁵⁹ Adopted by the UN General Assembly Resolution 44/25, November 1989.

¹⁶⁰ Adopted by the UN General Assembly Resolution 58/4, 31 October 2003.

¹⁶¹ Adopted by the UN General Assembly Resolution 2106(XX), 21 December 1961.

(CEDAW),¹⁶² and the International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families (CMW),¹⁶³ the Convention for the Protection of all Persons from Enforced Disappearances (CED),¹⁶⁴ and the Convention on the Rights of Persons with Disabilities (CPRD).¹⁶⁵

Once conventions are ratified by a State they become binding on them. Even for non-State Parties, these conventions contribute to customary international law and might have some impact on the courts when it comes to interpretation of national legislation. The conventions carry international moral authority. They establish international guidelines for acceptable conduct by a State, and they aim to encourage States to work towards the implementation of the standards. Several of these conventions also have optional protocols which create additional obligations and guide States Parties on the implementation of the rights expressed in the conventions. These are optional in the sense that States which are party to the conventions are not automatically party to and bound by the optional protocols.¹⁶⁶

There are also a number of guidelines, principles and declarations governing specific aspects of human rights. These do not necessarily have the same power as international law and are not legally binding, but are seen as affirmations of intention to implement the measures contained within them. They are often used to provide further details on how to implement the primary international obligations contained in binding instruments. These are sometimes referred to as 'International Soft Law'. Some examples containing provisions relevant to policing are:

- Standards related to professional conduct and the use of force, such as: the Code of Conduct for Law Enforcement Officials;¹⁶⁷ and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.¹⁶⁸
- Instruments dealing with the treatment of detainees and prisoners include: the Standard Minimum Rules for the Treatment of Prisoners;¹⁶⁹ the Basic Principles for the Treatment of Prisoners;¹⁷⁰ and the Body of Principles for the Protection of all Persons under any form of Detention or Imprisonment.¹⁷¹ The UN Standard Minimum Rules for Non-Custodial Measures (the Tokyo Rules) outlines standards in respect of individuals in conflict with the law, but who are not in custody.¹⁷²
- Standards governing the treatment of children in conflict with the law: the Standard Minimum Rules for the Administration of Juvenile Justice (also known as the Beijing Rules);¹⁷³ and the Rules for the Protection of Juveniles Deprived of their Liberty.¹⁷⁴

Regional Instruments

The human rights framework for the African region is based on the International Bill of Human Rights and is developed along the lines of the international system, but with a regional focus. The founding document is the African Charter of Human and Peoples' Rights¹⁷⁵ and it reiterates the

162 Adopted by the UN General Assembly, 18 December 1979.

163 Adopted by the UN General Assembly Resolution 45/158, 18 December 1990.

164 Adopted by the UN General Assembly, 20 December 2006.

165 Adopted by the UN General Assembly, 13 December 2006.

166 An example is the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. State parties to the Convention have the discretion whether or not to sign and ratify the Optional Protocol as well.

167 Adopted by the UN General Assembly, Resolution 34/169, 17 December 1979.

168 Adopted by the Eighth United Nations Congress on the Prevention of Crime and the treatment of Offenders, Havana, 27 August to 7 September 1990.

169 Adopted at the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders held in Geneva in 1955, and approved of by the Economic and Social Council in its Resolutions 663 C (XXIV), 31 July 1957 and 2076 (LXII), 13 May 1977. Though this instrument sets out standards for an adequate penal system, it applies to all categories of prisoners, criminal and civil, untried and convicted, including prisoners subjected to security measures, and thus applies to detainees in police custody as well as to those in prisons.

170 Adopted by General Assembly Resolution 45/111, 14 December 1990.

171 General Assembly Resolution 43/173, 9 December 1988.

172 General Assembly Resolution 45/110, 14 December 1990.

173 General Assembly Resolution 40/33, 29 November 1985.

174 General Assembly Resolution 45/113, 14 December 1990.

175 Adopted by the Organisation of African Unity, 27 June 1981.

rights outlined in the UDHR. However, it differs from the United Nations instruments in two major respects: it recognises that development of civil and political rights cannot be dissociated from social, economic and cultural rights; and it introduces the concept of 'peoples' rights in addition to the recognition of individual rights. The Charter calls upon member states, which are also members of the African Union, to take legislative and other measures to give effect to the rights expressed in it. The African Commission on Human and Peoples' Rights monitors the implementation of the African Charter by States Parties.

As a regional body the African Union aims to promote peace, security and stability on the continent; to promote democratic principles and institutions and good governance; and to promote and protect human rights in accordance with the African Charter.¹⁷⁶ The African Union has adopted a number of treaties and conventions, as well as the less binding declarations emerging from the sittings of the African Union and African Commission on Human and Peoples' Rights. A relevant instrument includes the African Union Convention on Preventing and Combating Corruption.¹⁷⁷ Another important instrument in Africa is the Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa (also known as the Robben Island Guidelines).¹⁷⁸ Also of relevance are the Principles and Guidelines on the Rights to a Fair Trial and Legal Assistance in Africa.

Sub-regional Instruments

At the sub-regional level, the Southern African Development Community (SADC), to which all SARPCCO member countries belong, also has the vision of improving standards of living and quality of life, ensuring freedom and social justice, and peace and security for people in Southern Africa.¹⁷⁹ An objective is also to promote common political values, systems and other shared values that are transmitted through institutions which are democratic, legitimate and effective.¹⁸⁰

The SADC has no specific declarations dealing with civil and political rights, but has a Charter on Fundamental Social Rights in the SADC, and protocols dealing with regional cooperation on various issues, such as corruption; combating of illegal drugs; control of firearms, ammunition and related matters; extradition; and politics, defence and security-related matters.

Mechanisms for International and Regional Accountability

The United Nations instruments have created mechanisms for States Parties to report on their implementation of the treaties. The Human Rights Committee, established by the International Covenant on Civil and Political Rights, requires States Parties to report on measures adopted to give effect to the rights contained in the ICCPR. Other committees dealing with specific conventions include the Committee against Torture and the Committee on the Rights of the Child. The Human Rights Council (HRC) is an intergovernmental body consisting of 47 Member States and is responsible for strengthening and promoting the protection of human rights across the world. In 2006, the HRC introduced a new mechanism called the Universal Periodic Review (UPR), which is a process in which each Member State is required to report every four years on what steps it has taken to improve its human rights situation and to implement its human rights obligations. The United Nations also has several special mechanisms for the protection and promotion of particular rights. This is mainly through the appointment of Special Rapporteurs, or Working Groups. These bodies have a more restricted mandate to engage in communication with countries in regard to

176 African Union, Objectives of the African Union. Available on http://www.africa-union.org/root/au/AboutAu/au_in_a_nutshell_en.htm, accessed 19 October 2009.

177 Adopted by the African Union in Maputo, 11 July 2003.

178 Resolution of the 32nd Ordinary Session of the African Commission, October 2002.

179 SADC. Available on <http://www.sadc.int/>, accessed 19 October 2009.

180 The Treaty of the Southern African Community, as amended, Article 5.

specific individuals or issues, to undertake fact-finding missions, and to submit regular reports on their activities.

At a regional level, various institutions are responsible for the protection of human rights, including the African Commission on Human and People's Rights, the African Court on Human and Peoples' Rights, and the African Committee on the Rights and Welfare of the Child. The African Commission, established in terms of Article 30 of the African Charter, has a wide mandate to promote and protect human rights. It operates through the adoption of resolutions on particular countries or thematic issues, the holding of seminars, and the undertaking of promotional visits by commissioners to states in order to highlight the work of the Commission. It may also receive complaints from states, individuals, NGOs or groups alleging violations of the rights in the Charter. States are required to submit reports to the Commission every two years explaining the legislative and other measures they have taken to implement the Charter.¹⁸¹

There are also special mechanisms that have been created, such as the Special Rapporteur on Prison Conditions and Detention, the Working Group on the Death Penalty and the Committee on the Prevention of Torture in Africa (CPTA) formerly known as the Robben Island Group follow-up Committee – which undertake country visits and respond to particular issues.

Democratic Policing

Police reform is a long-term project requiring ongoing engagement and support. The international human rights framework provides a clear set of rules and norms for policing, but it does not always address the managerial and operational requirements. Recent developments around the notion of democratic policing have helped to establish a normative framework for police which recognises the operational structures and processes required in policing, as well as the relationship between the police and the State and the members of society. Bayley¹⁸² defines democratic policing as requiring police to act in accordance with the following norms:

- Police must give top operational priority to servicing the needs of individual citizens and private groups.
- Police must be accountable to the law rather than to government.
- Police must protect human rights, especially those that are required for the sort of unfettered political activity that is the hallmark of democracy.
- Police should be transparent in their activities.

Authors Bruce and Neild (2005) note that democratic policing requires that, 'police adhere to high standards of conduct while also providing high standards of service'. In addition, democratic policing is also concerned with how the police themselves are treated. In order to fulfil the demands of democratic policing, police should be equipped with professional skills and working conditions.¹⁸³

¹⁸¹ Murray (2008), p. 204.

¹⁸² In Bruce & Neild (2005), p. 16.

¹⁸³ Ibid.

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- African Charter of Human and Peoples' Rights, adopted by the Organisation of African Unity on 27 June 1981.
- African Union Convention on Preventing and Combating Corruption, adopted by the African Union in Maputo on 11 July 2003.
- Basic Principles for the Treatment of Prisoners, adopted by General Assembly Resolution 45/111 of 14 December 1990.
- Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August to 7 September 1990.
- Body of Principles for the Protection of all Persons under any form of Detention or Imprisonment, General Assembly Resolution 43/173 of 9 December 1988.
- Code of Conduct for Law Enforcement Officials, adopted by the UN General Assembly Resolution 34/169 of 17 December 1979.
- Convention against Corruption (CAC), adopted by the UN General Assembly Resolution 58/4 of 31 October 2003.
- Convention against the Elimination of all Forms of Discrimination against Women (CEDAW), adopted by the UN General Assembly on 18 December 1979.
- Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), adopted by the UN General Assembly on 10 December 1984.
- Convention for the Protection of all Persons from Enforced Disappearances (CED), adopted by the UN General Assembly on 20 December 2006.
- Convention on the Elimination of all Forms of Racial Discrimination (CERD), adopted by the UN General Assembly Resolution 2106(XX) on 21 December 1961.
- Convention on the Protection and Assistance to Internally Displaced Persons in Africa, adopted at the Special Summit of Heads of State and Governments on Refugees, Returnees and Internally Displaced persons in Africa, held in Kampala on 23 October 2009.
- Convention on the Rights of the Child (CRC), adopted by the UN General Assembly Resolution 44/25 of 20 November 1989.
- Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, adopted by the General Assembly Resolution 40/34 of 29 November 1985.
- Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa (also known as the Robben Island Guidelines), Resolution of the 32nd Ordinary Session of the African Commission, October 2002.
- Guidelines for the Effective Implementation of the Code of Conduct for Law Enforcement Officials, UN Economic and Social Council Resolution 1989/61, 15th plenary meeting, 24 May 1989.
- Guiding Principles for Crime Prevention and Criminal Justice in the Context of Development and a New International Economic Order, adopted at the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders. Adopted by the General Assembly Resolution 40/32 of 29 November 1985.
- International Covenant on Civil and Political Rights, adopted by the UN General Assembly Resolution 2200 A (XXI) on 16 December 1966, and entered into force in 1976.
- International Covenant on Social, Economic and Cultural Rights adopted by the UN General Assembly Resolution 2200 A (XXI) on 16 December 1966, and entered into force in 1976.
- International Code of Conduct for Public Officials, General Assembly Resolution 51/59, annex, 12 December 1996.
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- Kampala Declaration on Prison Conditions in Africa 1996.
- Ouagadougou Declaration on Accelerating Prison and Penal Reform in Africa 2002; and the Plan of Action.
- SARPCCO Code of Conduct for Police Officials, adopted at the 6th Annual General Meeting of SARPCCO, 27–31 August 2001 in Mauritius.

Standard Minimum Rules for the Treatment of Prisoners, adopted at the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders held at Geneva in 1955, and approved of by the Economic and Social Council in its Resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977.

Treaty of the Southern African Community, as amended.

Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, adopted in Maputo on 11 July 2003.

UN Convention Regarding the Status of Refugees (1951), and the Protocol Relating to the Status of Refugees (1967).

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UN Rules for the Protection of Juveniles Deprived of their Liberty, General Assembly Resolution 37/194 of 18 December 1982.

UN Standard Minimum Rules for Non Custodial Measures (the Tokyo Rules), General Assembly Resolution 45/110 of 14 December 1990.

UN Standard Minimum Rules for the Administration of Juvenile Justice (also known as the Beijing Rules), General Assembly Resolution 40/33 of 29 November 1985.

Universal Declaration of Human Rights (UDHR), adopted by the UN General Assembly Resolution 217 A (III) of 10 December 1948.



AFRICAN POLICING CIVILIAN OVERSIGHT FORUM

APCOF is a network of African policing practitioners drawn from state and non-state institutions. It is active in promoting police reform through civilian oversight over policing. It believes that the broad values behind the establishment of civilian oversight is to assist in restoring public confidence; developing a culture of human rights, integrity and transparency within the police; and promoting good working relationships between the police and communities. It achieves its goal through raising awareness and sharing information on police oversight and providing technical assistance to civil, society, police and new and emerging oversight bodies in Africa.

APCOF was established in 2004 as a coalition of police oversight bodies and practitioners in Africa. APCOF was registered in 2006 as a not-for-profit company (section 21) under South African Company law.

The objectives of APCOF are to:

- » create and sustain public confidence in police;
- » develop a culture of human rights, integrity, transparency and accountability within the police;
- » promote a good working relationships between the police and communities.

The structure works on a range of issues such as:

- » promoting fair treatment of citizens by police agencies within the continent;
- » the exchange of information and better practices among oversight bodies;
- » campaigning for the establishment of police oversight bodies in countries where they do not currently exist; and
- » encouraging and supporting the formation of networks to promote police reform.

The current directors of APCOF reflect the continental expertise from both state and civil society in promoting policing reform:

- » Florence Simbiri-Jaoko, Chairperson, Kenya National Commission on Human Rights, Kenya
- » Prof. Etannibi Alemika, Chair: Criminology, Department of Sociology, University of Jos, Nigeria
- » Edith Kibalama, Executive Director, East Africa Centre for Constitutional Development, Uganda
- » Innocent Chukwuma, Executive Director, Cleen (Center for Law Enforcement Education Network), Nigeria
- » Parry Osayande, Chair Police Service Commission, Nigeria
- » Francois Beukman, Executive Director, Independent Complaints Directorate, South Africa
- » Tommy Tshabalala, Head of Investigations, Independent Complaints Directorate, South Africa
- » Ababacar Ndiaye, Project Officer, Senegalese Commission on Human Rights, Senegal
- » Amir Suliman, Executive Director, Khartoum Centre for Human Rights and Environmental Development, Sudan

- » Tito Rutaremara, Ombudsman, Office of the Ombudsman, Rwanda
- » Prof. Erena van der Spuy, Centre for Criminology, Faculty of Law, University of Cape Town, South Africa
- » Sean Tait, Coordinator

Some milestones:

- » 2006 Lobbying for the adoption of a resolution on Police Reform, Accountability and Civilian Police Oversight In Africa, adopted by the African Commission on Human and Peoples Rights at its 40th Ordinary Session held in Banjul, The Gambia from 15–29 November 2006.
- » 2006 Establishing a network on police reform in West Africa.
- » 2007–2008 Undertaking audits of policing oversight in Africa.
- » 2009–2010 Support to nascent networks on police reform in East and Southern Africa.
- » 2009 Support to police reform initiatives in Kenya and Uganda.
- » 2009 Working with the East African Police Commissioners Coordinating Committee (EAPCCO) and the East African Community to articulate common standards for policing in the East Africa Community.
- » 2010 Developing monitoring indicators for the Southern African Police Commissioners Cooperation Organisation (SARPCCO).
- » 2010 Developing a training material of investigative skills for independent police oversight.

APCOF

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