



**RAOUL
WALLENBERG
INSTITUTE**
OF HUMAN RIGHTS AND HUMANITARIAN LAW

Strengthening Police Oversight and Accountability in Southern Africa
Reforço da Supervisão e Responsabilização Policial na África Austral
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Strengthening Police Oversight and Accountability in Southern Africa

Summary report on a workshop held in Johannesburg, South Africa
4–6 December 2013



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Acronyms and Abbreviations

APCOF	African Policing Civilian Oversight Forum
AU	African Union
CSO	Civil society organisation
EAC	East African Community
EAPCCO	Eastern Africa Police Chiefs Cooperation Organisation
EWS	Early Warning System [SADC]
IPCB	Independent police complaints body
IPCC	Independent Police Complaints Commission [UK]
IPID	Independent Police Investigative Directorate [South Africa]
MP	Member of Parliament
Organ	The Organ on Politics, Defence and Security [SADC]
RISDP	Regional Indicative Strategic Development Plan [SADC]
RWI	Raoul Wallenberg Institute of Human Rights and Humanitarian Law
SADC	Southern African Development Community
SADC PF	SADC Parliamentary Forum
SAPS	South African Police Service
SARPCCO	Southern African Regional Police Chiefs' Cooperation Organisation
SIPO	Strategic Indicative Plan for the Organ
SIPO II	Revised Strategic Indicative Plan for the Organ

Executive Summary

The ‘Strengthening Police Oversight and Accountability in Southern Africa’ workshop was held in Johannesburg, South Africa from 4–6 December 2013. It provided a forum for practice-oriented discussions among southern African parliamentarians, and aimed other key actors in the region, on police oversight, and to stimulate the increased involvement of regional and national stakeholders in promoting policing in southern Africa that is accountable and that meets international human rights standards.

The event was convened by the Southern African Development Community Parliamentary Forum (SADC PF), the African Policing Civilian Oversight Forum (APCOF) and the Raoul Wallenberg Institute of Human Rights and Humanitarian Law (RWI), with support from Swedish Development Cooperation.

The workshop was attended by 32 participants, including national members of parliament (MPs) responsible for police oversight in Botswana, Malawi, Mozambique, Namibia, Seychelles, South Africa, Swaziland, Zambia and Zimbabwe, and representatives of the SADC PF Secretariat, civil society organisations (CSOs) with an interest in police oversight and human rights, and national human rights institutions as well as other experts on police oversight.

The workshop provided for a number of expert inputs in plenary on:

- The role of the SADC PF in respect of supporting more accountable policing in southern Africa;
- SADC instruments and institutions for policing and security;
- The Southern African Regional Police Chiefs’ Cooperation Organisation (SARPCCO) Code of Conduct for Police Officials;
- The development of common policing standards in East Africa;
- Lessons learned and good practice internationally on independent police complaints mechanisms; and
- A policing oversight tool currently used by South Africa’s National Assembly Portfolio Committee on Police.

At the workshop, participants developed a plan of action to strengthen parliamentary oversight of police at the national and regional levels. The key issues raised were progressively refined and consolidated until broad agreement had been reached on nine areas of activity to take forward, namely:

1. Build the capacity of parliamentary committees to undertake effective police oversight.
2. Support networking among portfolio committees responsible for police oversight.
3. Develop a guide on parliamentary oversight of policing.
4. Reaffirm the importance of the SARPCCO Code of Conduct, undertake awareness-raising about the Code and monitor the implementation of the Code.
5. Actively promote and monitor the ratification of relevant international and regional treaties.
6. Encourage the SADC PF to promote its agenda actively, particularly with regard to police oversight.
7. Support the establishment of SADC Parliament.
8. Develop expert guidance notes on best practice and benchmarks for police human rights training and civilian oversight of policing.
9. Promote the inclusion of CSOs in police oversight and build working relations with CSOs.

This report presents, in summary form, the proceedings and outcomes of the workshop.

Introduction

Sean Tait
Coordinator, APCOF

Effective oversight of policing can play a key role in holding police accountable for exercising their power in ways that respect the rule of law and human rights. When policing is effective, respects the rule of law and respects human rights, police agencies are likely to enjoy the support of the communities they have been established to serve.

SADC recognises the importance of effective policing in the pursuance of its vision of a shared future in an environment of peace, security and stability, regional cooperation and integration, based on equity, mutual benefit and solidarity.

Regional norms and standards such as the SARPCCO Code of Conduct for Police Officials provide an important opportunity to promote accountability of police in the southern African region against a shared set of values. The Code of Conduct represents an agreed standard of operation by the police agencies of southern Africa. It clearly sets out principles of integrity, respect for life and of the law, which, if adhered to, could avoid or at least minimise human rights violations.

Systems of police oversight, essential in addressing misconduct and promoting compliance with agreed standards of behaviour in the police, exist in varying degrees in all southern African countries. These systems of oversight are characterised by a multiplicity of role players both in and out of the police and in and out of the state. Many suffer resource and capacity constraints, which negatively affect performance. Additionally, few opportunities are provided for these role players to share experiences and coordinate and maximise capacity and reach, nationally and regionally.

SADC PF seeks to achieve the realisation of respect for human rights and effective service delivery, and the promotion of good governance, transparency and accountability. Its mission includes promoting and facilitating the legislative, oversight and

representational roles of Parliament, at national and regional levels.

At regional level in southern Africa, the SADC PF accordingly presents itself as an important stakeholder in the development of police oversight and the sustained cooperation between oversight agencies with both state and non-state actors and between these constituencies and the police.

Against this background, the SADC PF, APCOF and RWI decided to join forces to organise the workshop reported on herein to promote measures for increased professional accountability of the police services/forces of southern Africa. The three-day workshop intended to explore opportunities for increased involvement of SADC bodies as well as key regional and national stakeholders in promoting compliance with the SARPCCO Code of Conduct and building oversight of police in southern Africa.

In this vein, the workshop provided a forum for practice-oriented discussions to increase knowledge and awareness among key regional and national stakeholders about their role in and other means of promoting police accountability in the region, and to formulate recommendations and strategies on how policing and police oversight concerns in southern Africa can be more effectively addressed nationally and regionally.

The workshop proceedings are summarised in this report. In this respect, presentations made during the workshop are referenced in brief with respect to each speaker presenting as well as discussions held in connection with each presentation. The workshop resulted in a plan of action, with an implementation plan, to strengthen parliamentary oversight of police at the national and regional level (see Appendix A).

We hope this report and the key outcomes will be useful for a wide audience, and that they can serve to further enhance measures for increased professional accountability of the police in southern Africa.

Keynote Address

Dr Esau Chiviya
Secretary General, SADC PF

The establishment of the SADC PF was approved at the Summit of SADC Heads of State and Government Summit held in Blantyre, Malawi on 8 September 1997. The Summit noted that the main objective of the SADC PF was 'to constitute a Parliamentary Consultative Assembly, the ultimate goal being the establishment of a Regional Parliamentary Framework for dialogue on issues of regional interest and concern'.

For this reason, the SADC PF is advocating for the establishment of a regional parliament for the SADC region. Among other things, the SADC PF:

- Provides a platform for Members of Parliaments (MPs) from 14 SADC parliaments to consult about, consider and dialogue on matters of common interest;
- Advocates the harmonisation, ratification, domestication and implementation of SADC protocols and treaties at the national level; and
- Promotes the principles of human rights, democracy, peace and security, regional integration, human and social development, economic governance and gender equality through collective responsibility within the SADC region.

In terms of strengthening police oversight and accountability in the SADC region, the following parts of the Revised Strategic Indicative Plan for the Organ (SIPO II) are relevant:

- Objective 3 of the Police Sector chapter, which seeks to promote and establish accountable professional policing in the region through strengthening the implementation of the SARPCCO Code of Conduct for police officers;
- Objective 4 of the Political Sector chapter, which promotes the development of democratic

institutions and practices by state parties and encourages the observance of universal human rights through, among other things, identifying, encouraging and strengthening capacity of institutions that promote democracy and good governance within member states;

- Objective 5 of the Political Sector chapter, which encourages the implementation of the United Nations Charter and the African Union Constitutive Act through the ratification of relevant treaties and protocols; and
- Those parts of SIPO II that refer to the need for monitoring and evaluation of the implementation of the plan.

In its Policy Framework on Security Sector Reform, adopted in January 2013, the African Union (AU) advises:

[...] Member States to encourage and support their legislatures to oversee the work of the security sector (including the police) by holding the Executive accountable for the mandates, roles and missions of the security sector. Additionally, the legislature will make and approve laws, rules and regulations of the respective security sector institutions and will establish and mandate specialised Committees to exercise oversight on behalf of the legislature and regularly report thereto.

As the elected representatives of the people of their countries, MPs have a crucial role to play. There is a need to strengthen the capacity of MPs so that they are able to assess progress, identify gaps, highlight challenges and ensure that police budgeting and performance recognise and prioritise the national and regional imperatives contained in SIPO II.

SADC Instruments and Institutions for Policing and Security

Prof. Gavin Cawthra
Centre for Defence and Security Management,
Graduate School of Public and Development Management, University of the Witwatersrand

The SADC is a regional economic community recognised by the AU, and serves as a building block of the African Standby Force, which has military, police and civilian components. The SADC instruments and institutions for policing and defence must coordinate with the components of the African Peace and Security Architecture. In this respect, the SADC Early Warning System (EWS) in Gaborone reports, for example, to the AU Early Warning System in Addis Ababa. SADC frameworks are generally harmonised with AU frameworks, for example the AU Defence and Security Policy.

The SADC's forerunner (the Southern African Development Coordination Conference) was established in 1980 to pursue policies aimed at economic liberation and integration of national economies, adding to the existing cooperation between the countries in the region comprising the Frontline States. The SADC was established in 1992 and the SADC Organ on Politics, Defence and Security was established in 1996. The Organ, however, operated without a legal framework or clear objectives until the SADC passed the Protocol on Politics, Defence and Security Cooperation on 14 August 2001.

SADC has two parallel guiding instruments and structures – the Regional Indicative Strategic Development Plan (RISDP) and SIPO – and these policies do not 'talk to' each other. SIPO can be seen as a compact of states (policing, intelligence and heads of state) and the RISDP is a long-term framework to achieve social and economic development and poverty eradication in the Southern African region.

The SADC Organ is responsible for promoting peace and security in the SADC region. It is managed through a Troika Summit – the chairperson, incoming chairperson and outgoing chairperson – which reports

to the SADC Summit chairperson. The SADC Summit and the Organ Troika Summit are mutually exclusive structures.

SIPO I was the implementation plan for the SADC Protocol on Politics, Defence and Security Cooperation. It was drawn up between 2002 and 2004 by a committee of 'securocrats' who defined security broadly, including immigration and human security aspects, as well as inter- and intrastate conflict resolution. SIPO I supported cooperation between police and state security services (intelligence) around such matters as cross-border crime and community policing. It also aimed to promote the development of democratic institutions and practices, and to encourage the observance of universal human rights.

Five years later, it was argued that the environment had changed; that SIPO had not been implemented successfully; that member states should be willing to undergo peer review every five years; and that certain donor concerns had not been incorporated in the plan. SIPO II was finalised in 2010 and accepted by the SADC Summit in 2012.

SIPO I incorporated policing in its Public Security Sector chapter; SIPO II has its own Police Sector chapter. SARPCCO's incorporation, in 2006, into the SADC security structures, reporting to the SADC director on Politics, Defence and Security, made more space available in SIPO II for policing.

The Police Sector chapter of SIPO II acknowledges the difficulty of dealing with crime and cross-border crime, and argues for much greater cooperation between police in the region on a normative basis. It speaks about the importance of codes of conduct and locates the police sector squarely within a human rights framework under international law.

Discussion, comments and observations

The discussions that followed the presentation focused on how to address factors at regional level that potentially affect the stability in the SADC region, such as the increasing number of youth, who, if lacking opportunities, can be a destabilising factor. It was highlighted that Objective 1 of the SIPO II Public Security chapter refers to the need to conduct regular assessments and evaluations of the regional public security situation and that certain structures for proactive crisis management and mediation have been established within the SADC. The effectiveness of the SADC to detect potential crises is, however, not clear. SIPO II refers to the importance of exchange of information and sharing of experiences between police, state security and other law enforcement agencies, which could form the basis for effective violence prevention initiatives in the SADC.

On the issue of the implementation status of SIPO II, it was pointed out that the vast number of strategic priorities (about 130) included in this plan is likely to be a factor which has constrained adequate implementation. With a smaller number of priorities and key goals, as well as a plan for gradual implementation and making use of the monitoring and evaluation mechanisms envisaged in SIPO II, prospects for a higher rate of implementation would improve.

Generally, the lack of full implementation of plans, mechanisms, structures and frameworks of the SADC

was noted. It was also put forward that any regional organisation is only as strong as its member states and the democratic practices prevailing in these states. Whereas national parliaments in the region would have a role to play in overseeing implementation of agreements reached in supra-national fora, the weakness of SADC parliaments generally was mentioned as an obstacle, including the ability to hold the executive to account.

This notwithstanding, the workshop reinforced the important role that parliaments and parliamentarians should play in exercising oversight functions. Parliament should in this respect also be seen as an interface between civil society and the state, which is why parliaments have public hearings on bills and public consultations on all matters of public importance. The need to enhance cooperation between parliament and CSOs was pointed out, seeing that civil society has the ability to undertake research and advocacy, both of which are potentially valuable for parliamentary oversight. MPs should act as a kind of early warning system of problems in a country, and they can only do that if they know what is going on.

Against this background, and while it was understood that MPs face resource constraints and at times political pressure, the workshop proceeded to seek to identify those opportunities that MPs have to effectively monitor and exercise oversight of policing nationally and regionally, as well as the support role that the SADC PF could play.

The SARPCCO Code of Conduct for Police Officials and Indicators for Monitoring Compliance

Louise Edwards and Sean Tait
Research Officer/Coordinator APCOF

SARPCCO has 15 member states,¹ all of which are also members of the SADC. Greater regional cooperation through SARPCCO has the potential to generate an emerging set of shared goals, programmes, practices and standards for policing in southern Africa – a kind of policing which is informed by democratic principles and respect for human rights. This is strongly supported by Objective 4 of the Police Sector chapter of SIPO II, which reads:

To promote the development of democratic institutions and practices within the territories of State Parties and encourage the observance of universal human rights as provided for in the Charters and Conventions of AU and UN.

The SARPCCO Code of Conduct (see Appendix D) was written by police officers for police officers, using a framework of 13 minimum standards, namely:

1. Respect for human rights;
2. Non-discrimination;
3. Appropriate use of force;
4. No torture or other cruel, inhuman and degrading treatment or punishment;
5. Protection of persons in custody;
6. Appropriate treatment of victims of crime;
7. Respect for the rule of law and code of conduct;
8. Trustworthiness;
9. Preventing corruption and abuse of power;

1 Angola, Botswana, Democratic Republic of Congo, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Swaziland, Tanzania, Zambia and Zimbabwe.

10. Diligent performance of duties;
11. Professional conduct;
12. Confidentiality; and
13. Respect for property rights.

These standards were drawn from international, continental and regional legal instruments and democratic policing standards, including various UN instruments, the African Charter on Human and Peoples' Rights and relevant SADC agreements. Most of the articles are already reflected in the domestic law of SADC member countries. The AU Policy Framework on Security Sector Reform also mandates the AU to develop, amongst other tools, codes of conduct for African security institutions.

On the basis of academic research,² APCOF has developed a set of indicators linked to the 13 minimum standards which aim to enable stakeholders to:

- Understand what compliance with the indicators means in practice;
- Monitor their performance so that they can see where they are achieving their goals and where they need more investment;³
- Assess the performance of SARPCCO members against the standards in the Code of Conduct; and

2 See Dissel A & Tait S (2011) *Implementing the Southern African Regional Police Chiefs Cooperation Organisation (SARPCCO) Code of Conduct*. African Policing Civilian Oversight Forum, Cape Town.

3 If, for example, all officers receive human rights training when they join a police force but human rights infringements continue, this could indicate that there is a need for refresher courses. Once such a training need has been identified, the training must be planned, budgeted for and implemented.

- Make complex information and policies understandable so that progress in the southern African region can be tracked over time.

Each indicator is linked to measures (the yardstick to determine whether an indicator has been met) and means of verification (the information needed to determine whether the indicator has been met). Indicators are of three types: 1) strategic indicators at the highest level of policy – for example, an improved level of safety; 2) institutional indicators – for example, increasing the number of convictions; and 3) activity-level indicators – what activities need to be performed to help reach the goal, for example training of police in investigative skills.

Once the indicators had been developed, APCOF tested them but found that information is not easy to obtain. Some of the measures were chosen on the basis of what information could realistically be obtained. Statistics of the performance of a police organisation might not be kept, or may be kept secret. The researchers used a variety of sources of information – police information, media information, study reports, etc.

A study of compliance with the Code of Conduct in ten countries published in 2012⁴ found that:

- The Code has had little impact in the countries surveyed;
- International principles, treaties and guidelines and regional and international accountability mechanisms appear to have had a greater impact on systems of policing;
- SADC states are not required to report to SARPCCO;
- Very little information is available;
- Insufficient funding also affects the quality and extent of independent, as well as internal, monitoring and oversight over the police; and
- Excessive use of force and abuse by police officials is a concern affecting all the countries in the region. Arbitrary arrest, excessive use of force

during public demonstrations, the use of lethal force, and torture and abuse during investigation and interrogation of suspects are widespread in southern Africa.

There is a need to bridge the divide between the police who are expected to protect and serve people and the people who are scared of the police. This is a fault line that may result in instability in southern Africa. APCOF's recommendations are as follows:

- Encourage compliance with the SARPCCO Code of Conduct by developing clear guidelines for application and regular and institutionalised mechanisms for reporting on compliance;
- Encourage sustained cooperation between oversight agencies with both state and non-state actors, including structures such as the SADC PE, to share best practice and build knowledge and skills;
- Promote dialogue between the Organ on Politics, Defence and Security Cooperation, CSOs and police on policing and security issues in the region; and
- Encourage the development of African knowledge and practice on policing and police oversight.

Discussion, comments and observations

In the discussions, issues relating to extracting information from suspects by the police were debated. The importance of the SARPCCO Code of Conduct in this respect and generally for human-rights-compliant policing in the region was put forward, including the role that MPs can play in holding the police accountable. The Code of Conduct is about what needs to be done to achieve democratic and accountable policing that respects human rights.

A key obstacle is the culture of impunity that protects perpetrators from facing the consequences of their actions. It is the role of parliaments to criminalise torture, but stopping torture requires more than criminalisation. Improving policing is a multifaceted challenge that requires dealing with all the stakeholders who can contribute, for example, to training, developing capacity for intelligence-led investigations, forensics, internal and external

⁴ See further Dissel A & Frank C (Eds) (2012) *Policing and Human Rights: Assessing southern African countries' compliance with the SARPCCO Code of Conduct for Police Officials*. African Policing Civilian Oversight Forum, Cape Town.

accountability mechanisms, budgeting, resources and mandates. In addition, the recruitment strategy of a police service needs to take into account whether the system is capable of training and absorbing new recruits.

While the SARPCCO Code of Conduct was considered a valuable tool that MPs can use, it was noted that progress in adherence has been slow, even if the Code is easy to understand and apply, considering that the Code has been in existence for 12 years. In such cases, a champion – an individual or small group of individuals to champion the Code and publicise it – is often required. It is of key importance that there is public consent and confidence. An audit of compliance should be conducted every year to encourage the police to behave better, which will lead to a more satisfied public. If the public is more satisfied, they will trust the police more, and this will

make policing easier. An example of restoring public confidence from Northern Ireland was shared, in which the police invited the International Committee of the Red Cross to attend every human rights training session for police officers and to witness that this training was delivered properly.

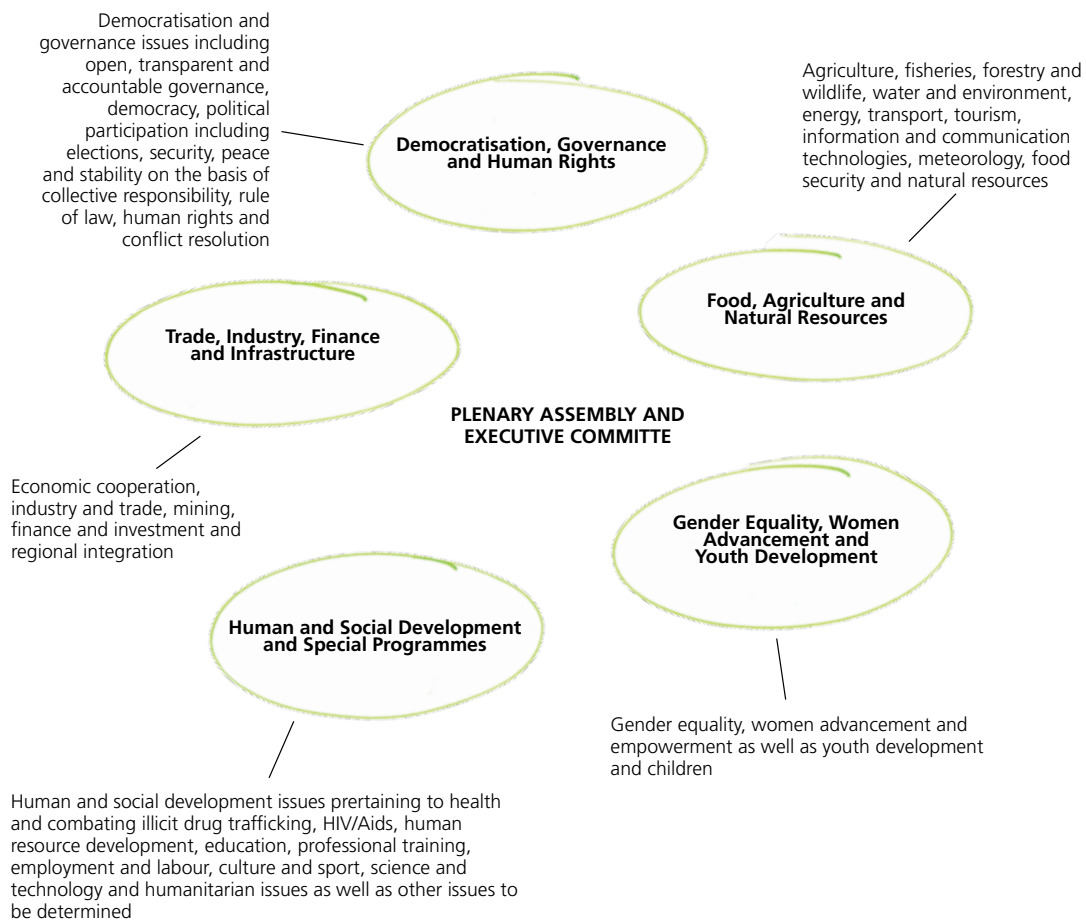
Most of the provisions of the Code of Conduct are already included in the domestic law of SADC member countries and the Code is aligned with these countries' human rights obligations under the AU and international legal instruments. Efforts to obtain accurate information about compliance need to be continued to find more objective data. An annual audit by a group like the SADC PF would be useful to interrogate measures taken, and to give them more weight within the SADC. This would help to deepen and strengthen the implementation of the Code of Conduct in southern Africa.

The Role of the SADC PF in Promoting Police Oversight in Southern Africa

Shueneri Kurasha
Programme Manager, Democracy and Governance, SADC PF

The SADC PF and its structures can be outlined as follows:

SADC PF Standing Committees and Programmes



Key instruments developed by the SADC PF include:

1) Norms and Standards for Elections in the SADC Region (2001); and 2) Benchmarks for Democratic Parliaments in Southern Africa (2010).

With respect to promoting police oversight in southern Africa, the Democratisation, Governance and Human Rights component of the SADC PF plays the following roles:

- Building and strengthening capacity and knowledge of MPs and parliamentary staff at national and regional level;
- Developing common and regional normative standards for legislation, policy and practice, and implementation;
- Promoting networking, collaboration and sharing of experiences and good practices among MPs and with other stakeholders, such as CSOs, the media and development partners at regional and national level;
- Enhancing research capacity and information-sharing at national and regional level;
- Enhancing the role of parliaments and parliamentary committees responsible for oversight of police; and
- Establishing and coordinating a regional programme on parliamentary oversight on the security sector, including the police.

The SADC PF does this within the broad mandate of southern African parliaments and the five chapters of SIPO II; Article 5 of the SADC Treaty; the SADC Protocol on Politics, Defence and Security Cooperation; and in compliance with national and international human rights frameworks.

Discussion, comments and observations

In discussions, it was pointed out that SADC election observer missions use MPs because, as elected representatives, they may have insights into election processes that other observers do not. Careful attention is paid to ensuring that missions are balanced in terms of political party and gender representation. Observer missions can, however, not be expected to solve complex problems that go beyond their mandates. The SADC's norms and standards for elections are not legally binding. The African Charter on Democracy, Elections and Governance has been signed and ratified by only three SADC member countries: Lesotho, South Africa and Zambia. AU election observers use the Charter even in countries which are not parties to the agreement.

For effective oversight, the capacity of MPs and parliamentary staff would also need to be further developed, at national and regional level. By referring to Objective 4 of the Police Sector chapter of SIPO II, it was moreover suggested to develop standards specifying the minimum human rights content for training material aimed at police officers in SADC member countries. Minimum standards could also be developed for handling complaints concerning the police. This would ensure that SADC citizens receive the same treatment in all SADC countries. A proposal to set up a SADC PF reporting team on policing oversight to hold police heads accountable in the region was also put forward in relation to this.

The Development of Common Standards for Policing in East Africa

Anne M Makobo
Executive Director, Impact on Lives Africa

A key aim of the East African Community (EAC) Treaty is the promotion of peace, security and stability in the region. Achieving this requires policing in member states that provides safety and security and also upholds and promotes human rights to support democratic governance and development.

The EAC is in the process of developing a protocol on good governance, which would include provisions, calling for the harmonisation of strategies, policies and programmes to promote respect for the rule of law as well as laws facilitating effective systems of administration of justice that promote social justice, political stability, peace and prevention of conflicts.

In pursuance of these regional objectives, and based on the obligations in respect of policing for the countries of the EAC derived from international and regional instruments, the EAC and the Eastern Africa Police Chiefs Cooperation Organisation (EAPCCO) have collaborated to develop common standards for policing in East Africa. These standards aim to: 1) support the harmonisation of policing in the region; 2) complement ongoing defence and security integration strategies of the region; 3) promote ongoing regional dialogue; and 4) forge and strengthen regional networks.

The initial activities to establish common standards for policing in EAC countries involved research to establish provisions across the EAC, either substantially derived from, or informed by, relevant international and regional conventions, protocols, declarations and other instruments to constitute a framework, premised on human rights and the rule of law, for the creation of an environment for policing that is governed by rules that are common to the countries.

The desktop research was supported by broad consultation with key stakeholders in the EAC, including discussions with police and CSOs in all

five countries. The input and feedback from the consultations were incorporated into a set of draft standards, which, following expert review, resulted in the 2010 Common Standards for Policing in East African Community attached as Appendix E.

Discussion, comments and observations

It was pointed out that the Standards have become an important instrument for the EAC, even if they have not yet been formally adopted at the regional level and as such incorporated into the regional legal framework. And while SARPCCO is now part of the SADC, EAPCCO is not yet formally part of the EAC.

With agreement reached on aspirational standards, the EAC and EAPCCO have set out to develop, as the next step, Standard Operating Procedures to give practical expression to the Standards. Five areas have been prioritised: stop and search; arrest and detention; use of force; public order policing; and counter-terrorism.

The workshop also discussed the opportunities presented by the emerging regional standards for stakeholders in the region to consider how they are progressing in comparison to other countries in the region, and some positive reform measures on national level, based on the regional standards, were indicated in this respect.

The EAC had not yet developed a training toolkit for the deployment of police in peacekeeping missions and the terms of engagement for peacekeeping missions depend on the relevant United Nations Security Council directive. While SADC peacekeepers can rely on the SARPCCO Code of Conduct, the East African Standby Brigade does not have similar documents to which to refer.

Independent and Effective Police Complaints Mechanisms: Lessons Learnt from the European Context

Graham Dossett

Independent Consultant in the field of policing and human rights

MPs have a critical oversight role to play in policing in their countries. Police complaints mechanisms can make a positive contribution to police accountability if they are independent, effective and credible, and if they have public support. They must play a 'judicial' role (i.e. they must be able to come to conclusions about complaints), their findings must be enforceable, and they must be able to sanction offenders. The foundation of a complaints system is a code of conduct that clearly sets out expected standards of behaviour as well as sanctions and possible punishments. A code of conduct should refer to a complaints and investigation system, something the SARPCCO Code of Conduct does not do. It will probably require a champion in each member country to establish such mechanisms in the SADC.

The 2009 opinion of the Council of Europe Commissioner for Human Rights concerning independent and effective determination of complaints against the police holds that an independent and effective police complaints mechanism is necessary to ensure there is no impunity for police misconduct. It must appropriately and proportionately deal with a broad range of allegations against the police. It should be open and accessible. It should have positive regard for minorities and vulnerable people. It should be efficient and properly resourced. If such a system works well, it will enhance public confidence in the police. The five key requirements according to the opinion are:

- *Independence* – there should not be institutional or hierarchical connections between the investigators and the officer complained against and there should be practical independence;
- *Adequacy* – the investigation should be capable

of gathering evidence to determine whether the police behaviour complained of was unlawful and to identify and punish those responsible;

- *Promptness* – the investigation should be conducted promptly and in an expeditious manner in order to maintain confidence in the rule of law;
- *Public scrutiny* – procedures and decision-making should be open and transparent in order to ensure accountability; and
- *Victim involvement* – the complainant should be involved in the complaints process in order to safeguard his or her legitimate interests.

Best practice is an independent police complaints body (IPCB) working in partnership with the police. An IPCB should have oversight of: 1) visibility and oversight of the system; 2) procedures for the notification, recording and allocation of complaints; 3) mediation of complaints that are not investigated; 4) investigation of complaints; and 5) resolution of complaints and review.

The purpose of such a system is to: 1) address complainants' grievances; 2) identify police misconduct and, where appropriate, provide evidence for criminal proceedings, disciplinary proceedings or other management measures; 3) provide the police with feedback; 4) prevent police ill-treatment and misconduct; 5) set, monitor and enforce policing standards with the police and other bodies; and 6) learn lessons about police policy and practice.

After a complaint has been investigated, there might be: 1) no further action; 2) criminal proceedings; 3) disciplinary proceedings; 4) police management action; or 5) a change in police practice.

The complainant should be informed orally or in writing about the resolution.

With regard to the situation in the United Kingdom (UK), there has been incremental change in police complaints mechanisms. Every time a body came to be seen to be ineffective or not independent enough, it was replaced. Until 1977, complaints were made to the police themselves. In 1977 the Police Complaints Board was established but it had limited powers. The Police Complaints Authority was established in 1985 and was replaced in 2004 by the Independent Police Complaints Commission (IPCC). Systems are continually being revised to improve them.

The IPCC oversees the whole police complaints system and is independent of the police and government. It has a monitoring and oversight function and investigates most serious complaints, incidents and allegations of misconduct. The police deal with less serious complaints. The IPCC's Learning the Lessons Committee ensures that lessons are fed back into operational policing and it communicates regularly with the public to show that it is working properly.

The IPCC can: 1) manage a police investigation into a complaint; 2) supervise a police investigation into a complaint; 3) independently investigate the most serious complaints and incidents; 4) issue statutory guidance to forces and local bodies on complaints-handling; 5) analyse information from cases and research complaint trends; 6) use its call-in powers for the most serious cases; 7) use its monitoring and oversight function; and 8) work in partnership with police services to drive improvements.

The IPCC is run in an open and transparent way. It has approximately 400 staff members. The ten IPCC commissioners must adhere to a code of conduct and must declare their business interests as well as any gifts or hospitality that may be seen to compromise their judgement.

When a complaint has been made, police will consider and decide whether to record it. They should advise the complainant within 15 days of whether the complaint has been recorded and, if not, why. If the complaint has been recorded, the police will decide whether or not it can be investigated and resolved locally or if it needs to be referred to the IPCC. All serious matters must be referred to the IPCC.

The Police Ombudsman for Northern Ireland is an independent, impartial complaints system set up by legislation and accountable to the Northern Ireland Assembly. Its work is governed by many statutory rules and it is completely separate from the police. All complaints about the police must be referred to the Ombudsman's office.

It is necessary to ensure that all police forces are held accountable at the local, national, regional and international level. SADC can build on international experience when clarifying the SARPCCO Code of Conduct and ensuring that it is enforced.

Discussion, comments and observations

Discussions about the independence of police complaints mechanisms acknowledged that it could be more difficult for any complaints body to act independently in a smaller country. In such a case, it was suggested to seek to ensure that: 1) a public debate was kept open between police, lawyers and investigators to give regular feedback on which cases are being investigated, what is being done and why; and 2) someone from another country was asked to oversee the system and report once a year on how it is working. It was also acknowledged that MPs in general play a valuable role in overseeing police accountability.

Concerning the IPCC in the UK, it was pointed out that all of the information about the IPCC is on the IPCC website (www.ipcc.gov.uk), including information about all the members and their interests, incomes and gifts. Members are appointed by the Home Secretary, who is a member of government in charge of a ministry. Appointments could be seen as political, but this is a public matter, and there would be a public outcry if the appointments were political. There is also a mechanism for complaints about IPCC commissioners. The IPCC enjoys public respect and politicians and chiefs of police generally do not complain when the Commission releases a finding. Chief constables and the Chief of the Metropolitan Police are in the Queen's domain to appoint, but there is a well-documented scheme for promotion and candidates must have demonstrated the necessary skills and neutrality. The Prosecution Service is now independent from the police. Generally, it will prosecute if the IPCC recommends a prosecution.

Practical Tools for Parliamentary Oversight: The South African Police Service and the Standardised Monitoring Tool

Annelize van Wyk

Chairperson, National Assembly Portfolio Committee on Police, South Africa

South African government departments and their ministers are accountable to portfolio committees in the National Assembly, and to select committees in the National Council of Provinces. The oversight work of the portfolio committees is structured against a review of the department's budget and performance. Once the annual budget has been tabled in February every year, each department tables its departmental budget and annual performance plan with relevant performance indicators. Approximately six months later, each department tables its annual report for the previous financial year.

Fifteen years ago, the Portfolio Committee on Police would call in all senior police managers to interrogate the police department budget and performance plan, hold hearings and ask questions. The entire process was over in half a day. The process of interrogating the annual report later in the year also took about half a day. At that time, the Committee had only one researcher and one secretary.

In 2013, the Portfolio Committee on Police had two researchers, a content advisor with a doctorate in the field, a committee secretary and a committee assistant. The Committee spends time at the beginning of each year preparing to focus on what will make a lasting improvement in people's lives in that year. The police comprises about 200 000 staff and the annual budget is approximately ZAR 67 billion. Researchers develop research papers and outside experts highlight issues of concern. This enables the Committee to be of one mind across party lines once hearings on the budget and annual plan begin.

The Committee support staff members enable the Committee members to engage with very large

amounts of information so that they can interrogate every programme of the plan and its budget in very fine detail. The process of interrogating the budget and annual performance plan now typically takes five full days. Interrogating the annual report also takes five full days. This level of detailed interrogation is what enables the Committee to do its job of oversight so effectively. The Committee has the power to subpoena persons if necessary, ask the Minister of Police oral questions in the National Assembly, and put questions in the National Assembly to the Minister for written reply.

Some years ago, the Committee focused on the building of new police stations in disadvantaged areas because it wanted to bring the South African Police Services (SAPS) closer to the people. Through working with researchers and asking parliamentary questions, Committee members were able to expose massive corruption in the building of stations. An investigation was launched and the building of stations is now managed by project officers operating under strict deadlines. Regular site visits take place.

In 2012, the Committee focused on detective services. It held a 'detective dialogue' with experts and detectives to find out what they need to do their jobs properly. The outcome of this intervention was that, in 2013, all SAPS detectives had a cell phone, a camera and a laptop, and there was one vehicle for every two detectives.

When the Committee makes recommendations, it presents them to the National Assembly so that they become a resolution of Parliament. The Committee also summons the SAPS every quarter to account for its spending and explain any deviations. Parliamentary

committees have recently acquired the power to amend budgets and can use their recommendations to the National Treasury as a way of exercising pressure on departments.

Since 2005, the Portfolio Committee on Police has been using a standardised questionnaire for visits to police stations to ensure more effective and coordinated oversight. This means the Committee can gather its own information instead of having to rely only on information provided by the SAPS. The tool also enables the Committee to identify problems, make recommendations for improving police functioning and monitor progress over time at a station, in a region or in a province. The tool also assists in maintaining continuity in the Portfolio Committee on Police's work from one five-year term in Parliament to the next.

The tool was initially developed with outside support, and then debated and adopted by Parliament. Visits have been made to stations in all provinces except the Free State. No police manager may refuse to allow a Portfolio Committee visit, whether it is announced or not.

The questionnaire is divided into four sections.

1. *Station management*, including the experience of the station commander; the demographic profile of the area; the crime profile of the area; the level of training of the station commander and other training requirements, such as whether the station has field training officers; how well station orders etc. are communicated to members working at the station; general infrastructure and satellite offices; and stakeholder interaction, for example with unions and community policing fora.
2. *Community service centre*, including the physical condition of the building and accessibility; the implementation of policy and legislation (e.g. the Domestic Violence Act, Child Justice Act, Firearms Control Act and Second Hand Goods Act); general staffing and personnel issues such as vacancies and leave; the level of training provided to members working at the station; disciplinary and grievance procedures, including interaction with the Independent Police Investigative

Directorate (IPID) and public complaints; the state of vehicle availability at station level; and operational equipment, like bulletproof vests.

3. *Station operational components*, involving the detective branch of a station, including the facilities, training, vehicles, caseloads, missing dockets, informants, crime scene management and general relationships with first respondents; holding cells, including the general condition of cells, whether children are held in holding cells, reported deaths while in custody and escapes from police custody; general crime prevention activities; Section 13 (evidence) stores; the state of archive stores; specialised units; and the implementation of sector policing.
4. *Service delivery perceptions*, the section that records the impressions of persons at the station by asking questions about the general impression of the police in the area. It is suggested that a minimum of four people be interviewed.

The Committee acts so strongly that police officers trust it and provide it with sensitive information. Misleading Parliament is an offence punishable by up to a year in prison. In its oversight, the Committee takes on the officials who are responsible; this is not criticism of the government or a member of the executive. The Committee is an oversight body that works with integrity and without fear or favour.

Discussion, comments and observations

In discussions, it was further informed that the National Commissioner of Police in South Africa is appointed by the president. The National Development Plan has suggested that the appointment process should in future be open, for example by advertising for candidates, holding panel sittings, etc.

There is no separate parliamentary committee on recommendations emanating from the work of the Portfolio Committee. If a report is debated by Parliament and it is adopted with or without debate, the Speaker writes a letter to the Minister to inform him or her of recommendations made by the Portfolio Committee and deadlines for their implementation.

The Speaker's office keeps track of those letters. Departments do not like getting letters from the Speaker.

The IPID and the Civilian Secretariat for Police take close cognisance of the Committee's recommendations and focus on problems it has identified.

Parliament in South Africa develops the capacity of MPs to understand legislation and parliamentary procedures, but not how to become an expert in the field that the committees oversee. Members must develop their own capacity in the specialised areas on

which their respective committee focuses by reading and learning by doing, for example by engaging in site visits. Effective oversight requires MPs to have more knowledge of a subject field than the departments they are overseeing.

It was noted that the way in which the Portfolio Committee carries out inspections is similar to the work of the European Committee for the Prevention of Torture and that the latter could be a model for a regional approach in the SADC for a southern African inspection body.

Towards an SADC PF Programme to Strengthen Police Oversight and Accountability

Following the presentations made and discussions as summarised above, the workshop during its second and third day comprised further discussions on the opportunities for SADC PF and key stakeholders to contribute to effective police oversight in the southern African region while also seeking to formulate strategies and recommendations in this respect.

Nine key interventions on strengthening police oversight at the national and regional level were raised and progressively refined and consolidated over the workshop:

1. Develop a guide to parliamentary oversight of policing.
2. Build the capacity of parliamentary committees to undertake effective police oversight.
3. Support networking among portfolio committees responsible for police oversight.
4. Reaffirm the importance of the SARPPCO Code of Conduct; undertake awareness-raising about the Code and monitor the implementation of the Code.
5. Actively promote and monitor the ratification of the treaties mentioned in SIPO II.
6. Encourage the SADC PF to promote its agenda actively, particularly with regard to police oversight.
7. Support the establishment of an SADC Parliament.
8. Develop expert guidance notes on best practice and benchmarks for police human rights training and civilian oversight of policing.
9. Promote the inclusion of CSOs in police oversight and build working relations with CSOs.

These intervention areas were elaborated in an action plan and captured in a matrix attached as Appendix A. It was agreed that the implementation plan would be further developed after the workshop and the participants also requested further initiatives in this area.

Appendix A: Draft Implementation Plan

Intervention	Responsible	Time frame	Indicators	Comments
i. Develop a guide on parliamentary oversight of policing				
Develop a harmonised or standardised reference manual or handbook on best practices in the region. Collect data on best practices in member states.	Process managed by SADC PF by utilising available resources including researchers in various countries, for example South Africa, where monitoring processes are well-developed.		Reference Book	Utilise a process-oriented approach to drafting the handbook. Circulate draft to member countries, test in member countries, collect comments from member countries, review across the region.
Conduct research into how individual SADC states manage oversight, including tools for monitoring performance, police budgets, police performance and public participation in monitoring the performance.	Human Rights Commissions in SADC countries to assist the process.			Launch final handbook at national level. This will provide direct mandates for parliaments in member states to start utilising the handbook.
Gather structured feedback on the handbook and how it is being used to improve future editions.	SADC PF			
2. Build the capacity of parliamentary committees to undertake effective police oversight				
Lobby for the adoption of generic curricula for effective oversight, including managerial skills (to oversee police management); peace and security studies; financial management (to oversee police budgets and expenditure); IT and associated technology skills.	SADC PF	Ongoing	Training Parliamentary Police Oversight held	
Conduct regional best practice seminars and training on police oversight.				
Provide access to relevant resources via an e-library.				
Conduct an annual policy-oriented research review on countries in the region and tools for benchmarking.				
Consider how the South African Parliament's Portfolio Committee on Polices' monitoring tool could be adapted for use in other SADC countries.				

Intervention	Responsible	Time frame	Indicators	Comments
3. Support networking among portfolio committees responsible for police oversight				
Facilitate exchange visits, study tours and team-building.	Committee clerks and a maximum of five visitors per visit.	Ongoing	Exchange visits facilitated	
4. Reaffirm the importance of the SARPCCO Code of Conduct, undertake awareness-raising about the Code of Conduct and monitor implementation of the Code of Conduct				
Conduct an awareness campaign that facilitates understanding of the Code. Facilitate awareness-raising workshops at regional and national level.	SADC PF through member states. Member states to ensure institutions are informed; report-backs to SADC PF.		Awareness campaign	
Design standardised communication messages about the Code to be disseminated through the media – electronic and print.	SADC PF in collaboration with member states.			
Secure political buy-in and support of SADC heads of state for an advocacy and awareness drive about the Code.	SADC PF		Meeting and agreement with SADC and SARPCCO	
Undertake a regular audit of compliance with the SARPCCO Code of Conduct.	SADC PF in collaboration with member states, SADC, SARPCCO and CSOs such as APCOF.		Report on the state of policing in SADC	
5. Actively promote and monitor the ratification of the treaties mentioned in SIPO II				
Make information available through websites, newsletters etc. Design mechanisms for monitoring. Share information with SADC member country parliaments.	SADC PF		Documentation	
Establish mechanisms for lobbying and monitoring ratification of treaties.			Degree of compliance	
6. Encourage the SADC PF to promote its agenda actively, particularly with regard to police oversight				
Develop tools for promoting the SADC PF agenda.	SADC PF			

Intervention	Responsible	Time frame	Indicators	Comments
7. Support the establishment of a SADC Parliament				
Upgrade SADC PF into SADC Parliament.	SADC PF	December 2014		Secretariat of SADC should become SADC Parliament Secretariat. SADC Parliament should have its own police oversight committee including ratification of SADC treaties and protocols. Domesticate protocols on behalf of member states.
Lobby member countries.	SADC PF		Participation by member states	
Mobilise resources – money, staff, logistics.				
8. Develop expert guidance notes on best practice and benchmarks for police human rights training and civilian oversight of policing				
Develop minimum content for police training curricula – human rights, police performance, budget control, code of conduct.	SADC PF in collaboration with member states, drawing on all available information.		Guidance notes	
9. Promote the inclusion of CSOs in police oversight and build working relations with CSOs				
Encourage involvement of CSOs in oversight of police in SADC member countries. Encourage parliaments to acknowledge CSOs and their role.	Member countries			

Appendix B: Workshop Programme

Strengthening Police Oversight and Accountability in Southern Africa

4–6 December 2013

Protea Hotel OR Tambo International Airport, Johannesburg, South Africa

Organised by the African Policing Civilian Oversight Forum and the Raoul Wallenberg Institute of Human Rights and Humanitarian Law, in partnership with the Southern African Development Community Parliamentary Forum

Supported by Swedish Development Cooperation

DAY ONE: 4 DECEMBER 2013		
Registration from 8.30 am		
9.00 – 10.00	Welcome and keynote address Overview of the meeting, introductions and expectations Group photo	Dr Esau Chiviya, Secretary General, SADC Parliamentary Forum Johannes Eile, Head, Department of International Programmes, Raoul Wallenberg Institute of Human Rights and Humanitarian Law Sean Tait, Coordinator, African Policing Civilian Oversight Forum (APCOF)
10.00 – 10.30	Break	
Southern African Regional Institutions and Instruments		
10.30 – 11.30	SADC instruments and institutions for policing and security	Dr Gavin Cawthra, Centre for Defence and Security Management, Graduate School of Public and Development Management, University of the Witwatersrand, South Africa
11.30 – 12.30	Comments, questions and discussion	
12.30 – 14.00	Lunch	
14.00 – 14.45	The SARPCCO Code of Conduct for police officials and indicators for monitoring compliance	Louise Edwards, Research and Projects Officer, and Sean Tait, Coordinator, APCOF
14:45 – 15:00	Comments, questions and discussion	
15.00 – 15.30	Break	
15.30 – 16.30	The role of the SADC PF in promoting police oversight in Southern Africa	Sheuneni Kurasha, Programme Manager, Democracy and Governance, SADC PF
16.30 – 17.00	Group discussion and plenary. Prospects for SADC PF and opportunities and needs	
17.00 – 17.30	Close for the day	
19.00	Welcome reception	

DAY TWO: 5 DECEMBER 2013		
Comparative Perspectives		
9.00 – 9.30	The development of common standards for policing in East Africa	Anne M Makobo, Executive Director, Impact on Lives Africa
9.30 – 10.00	Discussions in plenary	
10.00 – 10.30	Break	
10.30 – 11.00	Independent and effective police complaints mechanisms – lessons learnt from the European context	Graham Dossett, Independent Consultant in the field of Policing and Human Rights
11.00 – 11.30	Discussions in plenary	
11.30 – 12.00	Practical tools for parliamentary oversight – The South African Police Service and the standardised monitoring tool	Annelize van Wÿk, MP, and Chair, South African National Assembly Portfolio Committee on Police
12.00 – 13.00	Discussions in plenary	
13.00 – 14.30	Lunch	
Towards an SADC PF Programme to Strengthen Police Oversight and Accountability		
14.30 – 15.00	Plenary discussion on the opportunities for the SADC PF and key stakeholders to contribute to police oversight in the southern African region – identification of key issues	
15.00 – 15.30	Break	
15.30 – 16.30	Group discussions on strategies and recommendations for strengthening policing and police oversight in the southern Africa region	
16.30 – 17.00	Closure	

DAY THREE: 6 DECEMBER 2013		
9.00 – 10.00	Reporting back to plenary on group work on strategies and recommendations for SADC Parliamentarians and key stakeholders	
10.00 – 10.15	Break	
10.15 – 12.15	Plenary – formulating joint strategies and recommendations for SADC Parliamentarians and key stakeholders	
12.15 – 13.00	Plenary – adopting strategies and recommendations for SADC Parliamentarians and key stakeholders	
13.00 – 13.30	Evaluation and closure	
13.30 – 14.30	Lunch	

Appendix C: Workshop Participants

Johannes Eile	Head, Department of International Programmes, Raoul Wallenberg Institute for Human Rights and Humanitarian Law (RWI)
Bolele Bernard Bolele	Member of Parliament (MP), Botswana National Assembly
Gavin Cawthra	Centre for Defence and Security Management, Graduate School of Public and Development Management, University of the Witwatersrand, South Africa
Esau Chiviya	Secretary General, Southern African Development Community Parliamentary Forum (SADC PF)
Gabriella Coutinho	Researcher, South African Human Rights Commission
Prince Daniel	Committee Clerk, Zimbabwe National Assembly
Graham Dossett	Independent Consultant on Policing and Human Rights
Louise Edwards	Research and Projects Officer, African Policing Civilian Oversight Forum (APCOF)
Mikael Johansson	Adviser, Strategic Planning and Quality Assurance, RWI
Stevin Kamwendo	MP, Malawi National Assembly
Paulina R Kanguatjivi	Secretary, SADC PF
Misozi Siwo Kasankha	MP, Zambia National Assembly
Sheuneni Kurasha	Programme Manager, SADC PF
Anne M Makobo	Executive Director, Impact on Lives Africa
Makanatsa Makonese	Executive Secretary/CEO, Southern African Development Community Lawyers' Association
Them bani Mbadlanyana	Researcher, South African National Assembly
Belmiro Antonio Mauaie	MP, Mozambique National Assembly
Timothy Mtambo	Acting Executive Director, Malawi Centre for Human Rights and Rehabilitation
Ronald Muderedzwa	MP, Zimbabwe National Assembly
Kettie Musukwa	MP, Malawi National Assembly
Prosper Mutseyami	MP, Zimbabwe National Assembly
Ronald Nare	Programme Manager, Zimbabwe Peace and Security Programme
George Shinyala	Secretariat, Namibia National Assembly
Clifford Sibanda	MP, Zimbabwe National Assembly
Ronald Shikapwasha	MP, Zambia National Assembly
Karam Jeet Singh	Head of Research, South African Human Rights Commission
Jabulani Sithole	MP, Swaziland National Assembly
Ulrika Svallingson	Programme Officer, RWI
Sean Tait	Coordinator, APCOF
Annelize van Wyk	MP, South African National Assembly
Sheryl Vangadasamy	MP, Seychelles National Assembly
Lucia Witbooi	MP, Namibia National Assembly
Maria Xavier	MP, Mozambique National Assembly
Nicolette van Zyl-Gous	Researcher, South African National Assembly
Geoffrey Zulu	SADC PF

Appendix D: SARPCCO Code of Conduct for Police Officials

PREAMBLE

We, the Chiefs of Police of the:

Republic of Angola;
Republic of Botswana;
Kingdom of Lesotho;
Republic of Malawi;
Republic of Mauritius;
Republic of Mozambique;
Republic of Namibia;
Republic of South Africa;
Kingdom of Swaziland;
United Republic of Tanzania;
Republic of Zambia; and the
Republic of Zimbabwe,

as members of the Southern African Regional Police Chiefs Co-operation Organization [SARPCCO];

GUIDED by the following principles: respect for all human life; reverence for the law; integrity; service excellence and respect for property rights;

RECOGNIZING that ethical standards, in particular human rights norms, are an important tool in the professionalization of police forces/services everywhere and in SARPCCO member countries;

DESIROUS of integrating human rights in SARPCCO police training and practices, in line with the values and ideals of SARPCCO;

CONSIDERING that it is desirable that police officers have the active moral and physical support of the public they are serving;

AWARE of the need to disseminate best practices and strengthen respect for human rights in SARPCCO member countries;

REAFFIRMING the commitment to a high degree of professionalism in serving the public;

HEREBY AGREE AS FOLLOWS:

Respect for all human life

ARTICLE 1: RESPECT FOR HUMAN RIGHTS

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

ARTICLE 2: NON-DISCRIMINATION

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

ARTICLE 3: USE OF FORCE

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

ARTICLE 4: TORTURE, CRUEL, INHUMAN OR DEGRADING TREATMENT

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

ARTICLE 5: PROTECTION OF PERSONS IN CUSTODY

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 whenever required.

ARTICLE 6: VICTIMS OF CRIME

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

Reverence for the law

ARTICLE 7: RESPECT FOR THE RULE OF LAW AND CODE OF CONDUCT

Police officials shall respect and uphold the rule of law and the present Code of Conduct.

Integrity

ARTICLE 8: TRUSTWORTHINESS

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.

ARTICLE 9: CORRUPTION AND ABUSE OF POWER

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

Police officials shall not accept any gifts, presents, subscriptions, favours, gratuities or promises that could be interpreted as seeking to cause the police official to refrain from performing official responsibilities honestly and within the law.

Service excellence

ARTICLE 10: PERFORMANCE OF DUTIES

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.

ARTICLE 11: PROFESSIONAL CONDUCT

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.

ARTICLE 12: CONFIDENTIALITY

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

Respect for property rights

ARTICLE 13: PROPERTY RIGHTS

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

Appendix E: Common Standards for Policing in East African Community

1. Role of the police

The police will:

- a. Protect life, liberty and security of the person.
- b. Maintain public safety and social peace.
- c. Adhere to the rule of law as an essential element to human security, peace and the promotion of fundamental rights and freedoms.

2. Policing in Accordance with the Rule of Law

The police will fulfil their functions in accordance with the rule of law. The police will:

- i. Not arbitrarily arrest or detain and will only deprive persons of their liberty in accordance with the law.
- ii. Promptly inform accused persons of the reason for their arrest and any charges brought against them – this must be communicated to the accused person in a way and manner they understand.
- iii. Act in a manner that upholds the presumption of an accused person's innocence until proven guilty in accordance with the law.
- iv. Ensure that arrested persons are brought promptly before an authorised and competent judicial authority.
- v. Ensure that, upon arrest, detention and charge, there is a presumptive right to bail or bond.
- vi. Ensure the right of a detained person to challenge the lawfulness of their detention and recognise the enforceable right to compensation if an arrest or detention is deemed unlawful by the courts.
- vii. Ensure that arrested and detained persons have access to interpreters and legal assistance, as required.
- viii. Ensure that arrested and detained persons are treated with humanely and kept under humane conditions.

3. Police Actions

The police will act in a manner that:

- a. Ensures they discharge the duties assigned to them by law equitably, diligently and with a high degree of professional responsibility and will, at all times, strive to maintain a community service focus;
- b. Upholds the right to life, liberty and security of the person by only using force and firearms when strictly necessary and only to the extent required for the fulfilment of their lawful duty;
- c. Ensures all citizens enjoy their fundamental rights and freedoms without discrimination;
- d. Upholds the absolute prohibition on the use of torture and other cruel, inhuman or degrading treatment or punishment. The police will not inflict, instigate or tolerate any act of torture, or cruel, inhuman or degrading treatment or punishment. No circumstances will override this prohibition, including threats of war, political instability or periods of emergency.

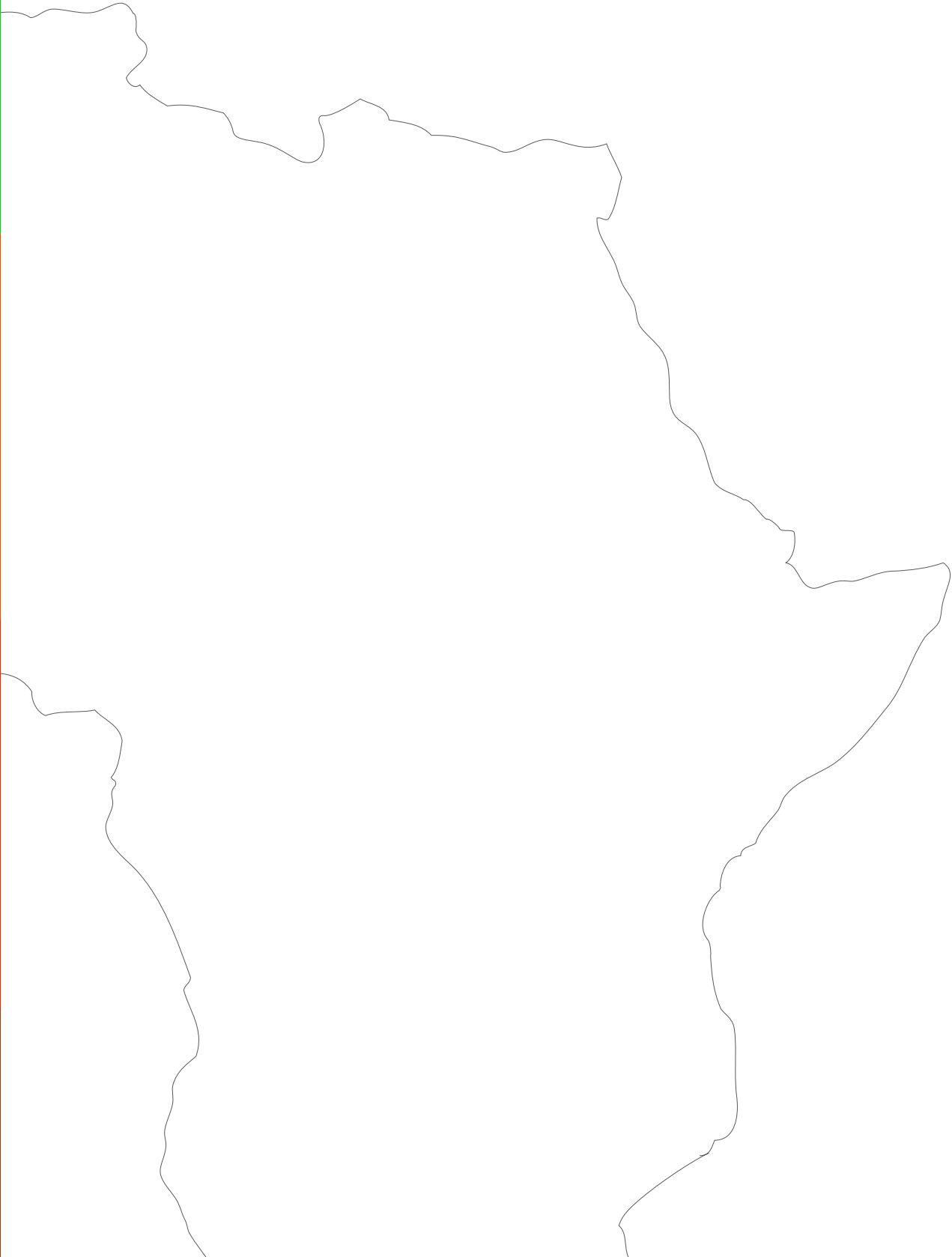
- e. Ensures all persons deprived of their liberty are treated with humanity and respect for their inherent dignity. They will:
 - i. Consider and treat all persons deprived of their liberty as innocent until proven guilty by a competent judicial authority;
 - ii. Keep persons awaiting trial separate from convicted persons;
 - iii. Provide all persons deprived of their liberty with adequate food and clothing, unless the detained person elects to provide their own;
 - iv. Facilitate assistance from medical practitioners;
 - v. Inform family and friends of the detention and allow detained persons to maintain contact with those persons to the extent that such contact is consistent with the administration of justice, security and the good order of the place of detention; and
 - vi. Allow all persons deprived of their liberty to access legal assistance and receive visits from their legal advisors which are within the sight, but not hearing, of officers;
- f. Adheres to the absolute prohibition on extrajudicial executions and the government will legislate to ensure that such actions are investigated and prosecuted as a matter of priority and as punishable criminal offences under law. Police will not derogate from this principle on account of war, armed conflict or other national emergencies;
- g. Ensures victims are treated with compassion and dignity, which includes access to prompt, fair and inclusive mechanisms of redress that respect the privacy of victims. They will make known and provide victims with assistance, including psychological, medical and social services. The police organisation will ensure that officers receive training to sensitise them to the diverse needs of victims;
- h. Does not discriminate against women, juveniles and minority communities. Police who are in frequent contact with suspects, offenders, victims and witnesses from these groups should receive sensitisation training; and
- i. Recognises the right of all persons to peaceful assembly without restriction insofar as this right is consistent with the rule of law, democracy, public peace and security, and the rights of others. Regarding unlawful but peaceful assemblies, police will avoid the use of force and, if force is necessary, only use force to the minimum extent. In violent assemblies, police will use less dangerous means of crowd control but if force becomes necessary, only use the minimum force necessary.

4. Police Organisations

- a. The police will account for violations by officers of citizens' human rights.
- b. The police will implement basic standards for the recruitment of officers, including selection of candidates by proper screening processes to ensure that they exhibit appropriate moral, psychological and physical qualities for the role. Recruitment will ensure that the police organisations are representative of the community as a whole, with ethnic, gender, language and religious compositions reflective of the population they serve.
- c. The police will ensure members receive comprehensive and ongoing training on their rights and obligations.
- d. Police will not only refrain from engaging in acts of corruption and abuse of power, but will rigorously oppose and combat all such actions. States are required to implement measures to facilitate the investigation of corruption and abuse of power and to take preventative measures, including police anti-corruption training and enacting domestic legislation, that criminalises such actions.
- e. In fulfilling their mandate, the police will cooperate with role-players within and outside the criminal justice system, including citizens and civil society organisations
- f. States must promote bilateral, regional, multilateral and global law enforcement and crime prevention cooperation and assistance. To further this aim, states should take measures to prevent crime at a domestic level, strengthen information sharing and facilitate technical assistance, including exchange programmes and training.

Appendix F: Group Photo from Workshop





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