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Good Policing
Instruments, Models and Practices

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EDITORS’ FOREWORD

The workshop on ‘Improving the Role of Police in Asia and Europe’, held on 03-04 December 2008, in India, examined the existing oversight mechanisms of the police in Asia and Europe and looked at inter-sections between civilian (external) oversight, internal disciplinary mechanisms and other accountability/incentive structures in policing as well as the best practices to enhance police and community partnerships.

Following the main recommendation of the production of a guide to share best practices for policing in Asia and Europe, a group of experts met on 17-18 August 2009, in Indonesia to discuss the preparation and development of such a guide. ‘Good Policing: Instruments, Models and Practices’ is the direct result of this long process of dialogue.

The publication and the workshops mentioned above were all organised under the banner of the Asia-Europe Democratisation and Justice series (AEDJ) which since 2005 has provided a platform for Asia-Europe exchanges in this field through dialogue between civil society and policymakers. These dialogues are highly valuable to support economic development and strengthen the security and stability in Asia and Europe.

Organised jointly by the Asia-Europe Foundation (ASEF) and the Hanns Seidel Foundation Indonesia (HSF Indonesia), the series consists of workshops, lecture tours and publications of reference materials and case studies. AEDJ activities are specifically designed to raise awareness of the issues at hand and generate policy recommendations after each event with a focus on practical elements and experiences, leading to the development of good practices. These case studies of good practices form the basis for policy recommendations.

This publication which has been prepared by Dr. Changwon Pyo and Prof. Dr. Monica den Boer with the assistance of Ms. Charlotte Scheltus, provides an overview of the institutions and models prevalent in Asia and Europe and through its examination of policing cultures and principles across both regions, it provides guidance on the many available possibilities to better police practices. As a resource guide, it will prove to be a valuable addition to the current body of literature on Asia-Europe Policing practices.

The organisers would like to thank all those involved in the publication of this guide – chief among them the two main researchers – Dr. Changwon Pyo and Prof. Dr. Monica den Boer, for their considerable effort over the past many months to prepare this excellent work; the interviewees (many who are anonymous) for responding and contributing their views and opinions; the participants of the workshops in Delhi and Bogor whose discussions and feedback provided the impetus and sustained the project; and finally those who kindly consented to participate in the review panel – your insightful comments are invaluable to this publication. We also thank Ms. Charlotte Scheltus for her contribution.

The organisers are grateful to Ibu Nila Puspita of HSF Indonesia for her efforts in this endeavour and would also like to thank Ms. Ratna Mathai-Luke from the Intellectual Exchange department at ASEF for overseeing this publication from production to print.

Ms. Sol Iglesias
Director for Intellectual Exchange
Asia-Europe Foundation (ASEF)

Dr. Ulrich Klingshirn
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AUTHORS’ FOREWORD

The workshop on “Improving the Role of the Police in Asia and Europe” held in Delhi, India, December 2008, resulted in genuine dialogue and practical recommendations on the topic of safeguard and oversight bodies for policing as well as the relations between the police and the community. One of the main recommendations of this workshop was the production of a guide to share best practices for policing in Asia and Europe. Despite the inclusion of Asia and Europe only, we hope that this handbook may also be of use in other regions in the world.

Following this recommendation, eleven experts on policing from Asia and Europe, comprising representatives of international and regional organisations & NGOs, scholars, researchers, practitioners and police trainers, met in Bogor, Indonesia on 17 and 18 August 2009 to discuss the development of such a guide. The two leading researchers, Dr. Changwon Pyo (Korea), Associate Professor at the Korea National Police University, and Prof. Dr. Monica den Boer (the Netherlands), holder of the Police Academy Chair on the internationalisation of policing at the VU University Amsterdam, presented the draft outline which was further discussed and refined with the input of the participating experts.

This publication aims to address the needs of police officers, researchers, experts, policing schools, police oversight bodies, policymakers, relevant ministries in ASEM governments, as well as regional and international organisations seeking proper development of policing.

It makes an inventory of good practices, models, legal instruments and key parameters of good policing. As such, it provides a common platform for improving police models in Asia and Europe. It aims to enhance the general culture of policing in ASEM member countries, to make policing more effective and public-oriented to ensure greater security and more effective crime prevention. Moreover, the book gives suggestions for a structured approach to police work based on established international, regional and national principles and practices.

The Bogor meeting was organised by the Asia-Europe Foundation and the Hanns Seidel Foundation, Indonesia under the Asia-Europe Democratisation and Justice Series. This good practices book encourages:

- Ethical and effective policing
- Democratic and accountable policing
- Professional policing towards excellence in police service
- Policing which contributes to justice, safety and freedom for all
- Knowledge and application of internationally-adopted human rights and law enforcement standards in each and every context
- Improved implementation of internationally-adopted standards
- Development and sharing of good practices
- Evidence-based and informed policing

Monica den Boer
Changwon Pyo
Charlotte Scheltus
INTRODUCTION

The central theme of this book is police conduct. In all societies, police organisations occupy an important position in the engagement between governments and their citizens. Indeed, police forces around the world have a monopoly over the use of legitimate force, which gives them a special responsibility in terms of ethical and legitimate conduct. Police action has to be performed according to the highest professional standards. This, in turn, gives politicians, administrators and police managers a dominant role in monitoring and developing the quality of policing in all aspects.

At the same time, the task of the police is a difficult one. Many countries wrestle with economic inequality, political disagreement, industrial dispute, and urban and ethnic tensions that may give rise to clashes between police and citizens. This is more so in fragile states or countries that have ethnic, religious or separatist strains.

In certain environments, this may lead to aberrations where the police acts as the long arm of a repressive government. This may encourage cultures of impunity (Smith, 2010: 8), which are associated with extreme cases of human rights abuse. These can include disappearances, unlawful killing, torture, brutality, verbal abuse, rudeness, or abuse of authority. Authorities may be reluctant to hold officers to account, and there may be a failure for victims to seek redress; in fact, there may even be public acceptance of police misdemeanour.

Accountable Structures

Police personnel are not super(wo-)men: they cannot resolve or remove the underlying causes of social tension and civil unrest. When these underlying causes are “not satisfactorily addressed policing can assist in maintaining a form of social order characterized mainly by a relative lack of civil unrest. However it will be a social order dependent upon repression and injustice rather than on consent, respect for democratic values, and delivery of social justice.” (Crawshaw et al. 1998: 21).

Indeed, police organisations have a very wide range of responsibilities and tasks, of which law enforcement is only one part. They maintain and restore order and provide aid and assistance in emergencies. In that sense, police officers have to serve the community. An important element is that police officers enjoy a certain level of discretion in the exercise of their duties. This can vary from jurisdiction to jurisdiction, but all police officers at different levels of police hierarchies enjoy discretion to some extent (Neyroud, 2005: 582; Loyens and Maesschalk, 2010). In their power, police officers can ignore breaches of the law, and can decide not to enforce the law, whether correct or incorrect. (Crawshaw et al., 1998: 24). The paradox is that the degree of discretion is greatest at the lowest level of the hierarchy (Lustgarten, 1986: 10). Police activity is characterised by idiosyncracy: every situation is unique and police officers have to work in a context of situational logic. This means that every decision will require the weighing of different factors. But it also means that it is difficult to subject police activity to preordained rules which are drawn up by hierarchical supervisors (Lustgarten, 1986: 11).
As in all organisations, public or private, the police has rotten apples too. Criminal offences by police officers exist in many forms. In some environments, corruption is endemic and this may be due to the seductive circumstances in the environment of the police organisation. Police officers themselves may be subject to brutalisation, which encourages corruption “within” (interview Uildriks).

Based on their research in Canada and Australia, Dean et al. (2010: 219) claim that police crime is very much present. US findings on police ethics show that always following the rules is incompatible with getting the job done (40%). Moreover, as (most) police organisations are closed-rank societies with high levels of internal loyalty, whistle-blowing is generally not seen as wise and the majority turns a blind eye to misconduct by fellow officers. Our respondent Bruggeman argues that the main barrier to effective implementation of ethics policies is the high “cocoon calibre” of police services; police officers think and act too inwards. The police needs the show its “dark side”, and this needs to be supported by a strong accountability philosophy and strategy.

The commitment and attitude of the police chief matters a great deal; good first-line supervision is very important. Ethical training helps (Weisburd and Greenspan, 2000), but is useless if not adapted to the environment in which the police officer functions (interview Uildriks). A more comprehensive approach should be developed to look at the structural causes and institutional problems of law enforcement officers who violate ethical rules.

If policing objectives are pursued by unethical means, public support may cease. Policing is a highly political activity: “the need for a policing function arises at an early stage in the development of a society and, indeed, is one of the indicators of the politicisation of a society. Furthermore, because police contribute to a number of essential processes in the political functioning of a society, the police role is closely tied to the political organisation of that society.” (Crawshaw et al. 1998: 36). For instance, in (post-) conflict states like Iraq, Afghanistan, and Balkan states like Kosovo, it is crucial that a local police force is rapidly established and bolstered through reform and training programmes. In fragile states, it is often necessary that an international police presence remains in the form of a civil mission. Furthermore, as “society has evolved, the questions and concerns that involve ethics and ethical behavior have grown more difficult to address. Ethical standards have become both more complex and scrutinised by the public than at any other time in history.” (Grant, 2002: 11). Indeed, as Neyroud (2005: 578) argues: “‘Ethical policing’ is no longer a matter for negotiation with reasonably homogeneous local communities defined by geography, but now has to be mediated with national governments and supra-national bodies and take account of communities that are increasingly diverse.”

Attempts by police organisations and oversight bodies to weed out police deviancetend to be scattered, incident-based and focused on an individualistic approach focused on identifying and removing the rotten apples. They also argue that the way police misconduct and corruption is handled for example in Australia and Canada, does little to restore public confidence in the anti-corruption efforts of these institutions. Police misconduct is usually hidden.

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1 In addition to a literature review, interviews were also conducted by the researchers. More information on the methodology used can be found in this chapter; information about the respondents can be found in the annexes.

2 The Mollen report (NYPD) and the MacPherson report (London Metropolitan Police describe some wider ramifications of this issue.)
“It is, in a way, unfortunate that codes of ethics draw attention when there is an incident. It seems to me that codes ought to be continuously optimised and brought into line with new circumstances. Police officers have to perform according to ethical demands; the way in which they do so is an element of police professionalization. In Belgium, one could say that the debate on ethics within the police force gained much importance after the Dutroux crisis. Within the context of policing, there are incidents that may force a police chief to resign.”

Prof. Dr. Willy Bruggeman, Chairman of the Belgian Federal Police Council

One respondent, Judge Myjer, gave examples of police officers who had private interests without reporting to their superiors, breaching secrecy, reporting half-truths, failing to notify discharging evidence, abusing suspects’ lack of legal knowledge, or “thinking you are Rambo or Jack Bauer 24 hours a day and deriving self-righteousness from this position” (interview Myjer). There are several blind spots where it concerns police ethics. Another respondent, Van Troost, mentions the Netherlands which – in his opinion - suffers from a lack of self-reflection. The police forms its own kingdom, to the extent that the regional police chiefs enjoy broad margins of discretionary power. Similar phenomena have been found in police organisations of Asian countries. Interviewees from India, Bangladesh and Korea argued the police in their countries are not fully trusted or respected due to lack of transparency, low integrity and absence of democratic oversight arrangements. Kam C. Wong (2010: 1) insists that even in Hong Kong, which is known to enjoy one of the most transparent and democratic policing in Asia, police abuse of power is prevalent and widely distributed. This book seeks to identify gaps in accountability procedures and lays down proposals on how to amend these.

Police Ethics

The definition of ethics is essential for a book on police and ethics. It is the philosophy that deals with values relating to human conduct, when it comes to the right and wrong of certain actions, and the good and bad of the motives and ends of such actions. Applied ethics refers to the rules of conduct recognised in respect to a particular class of human action or a particular group, for example police ethics that deal with professional moral obligations. It is that part of ethics that is important when it comes to a research on police and ethics. This research aims to uncover the major purposes and rules that govern or should govern the behavior and actions of the police. Are there are any gaps in the existing rules? It is also important to keep in mind that ethical rules can be written but also unwritten and form a part of custom. Police ethics can thus be perceived as a systematic and continuous reflection on values and norms, or the systematic reflection on morality. Ethics refers to what constitutes good and bad, and – as a set of normative guidelines- gives guidance to professional conduct.

“When I think about ethics I think of moral values. It has a broad application, covering everything. It reflects the standard of human behaviour in the workplace. This means that it covers leadership, values of the organisation and communication with partners. But it is also about constructing a legal framework on how you collect and use information about citizens. In this respect fundamental rights and democratic accountability are very important for Europol. (....) However it is difficult to impose ethics in your organisation. To meet your ethical goals you should set the right standard. However you should be careful not to be too evangelical about it, you should not preach. This is also a challenge for Europol.”

Interview with Rob Wainwright, Director Europol
Police ethics are important because: “Given the nature and far-reaching effects of police tasks and power, integrity in public service is even more important for the police, who derive their social legitimacy from citizen confidence. That is, both the citizenry and competent authorities in a democracy must be able to place their confidence and trust in the integrity of the police system, which, as the body charged with maintaining the law, is one of the most important institutions for protecting the integrity of governance, business, and the community” (Kolthoff, 2007, p. 46).

Throughout our project, we have also come across human rights based ethical thinking about police conduct. Indeed, human rights also reflect moral standards. Joel Feinberg defines human rights as generically moral rights of a fundamentally important kind held equally by all human beings, unconditionally and unalterably. Thus, human rights are those fundamental moral rights of the person that are necessary for a life with human dignity. The connection between ethics and human rights and the importance of this connection for police work has been further explored by Kolthoff (2010). These moral rules are codified and refer specifically to the rights of humans and are in principle legally enforceable. Human rights are universal and inherent to a person, and describe how people should be treated or what they are entitled to. So if ethics are those moral rules on what one should or should not do, the relation to human rights becomes clear. In this sense ethics can be said to include human rights as written ethical rules. In conclusion: human rights are a core part of ethics, as they are codified moral rules. The differences however is that while human rights are codified, not all rules of ethics are codified and legally enforceable.

### Universalism of Police Ethics

Miller, Blackler and Alexandra (2006) state that there is virtually universal agreement about a wide range of ethical values: “Thus almost everyone, in almost all cultures known to us, would accept that people should help rather than exploit members of their own family or social circle, or that courage is to be admired and cowardice deplored.” This may be true for some values, but it cannot be taken as fact. Can we assume that all the various approaches will be based on the same set of ethical principles?

We have now come to the debate about universalism and cultural relativism. To what extent are police ethics universal? The debate on universalism of ethics is important when drafting a book that will provide guidance to police work based on established international, regional and national principles and practices. Is it possible to strive for a “global constabulary ethic” (Sheptycki, 2007: 31-71), or should we think in terms of different sets of police norms and values, taking account of political, social, cultural and economic diversity?

Universalism means in this case that ethical principles, rules or rights should be the same everywhere in the world, and that these principles should apply to all human beings equally. Cultural relativism holds that culture is an important source for the validity of a moral right or rule and therefore differs from culture to culture. It can be the case that there is a moral disagreement, which results in people giving different weight and meaning to different

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ethical values. Universalism and cultural relativism are may be opposites, but can the two doctrines be reconciled?

The diversity is quite considerable, for instance when we look at police accountability systems. As Van Buuren (2009) observes, these differences bring a lot of ambiguity and questions to police actions. In reality, it is difficult to set a universal standard when it comes to ethics. Existing codes of ethics, however, use similar wording when referring to core values of policing. The following values are common:

- Integrity
- Fairness
- Honesty
- Impartiality
- Trust
- Pursuit of excellence
- Loyalty
- Compassion
- Freedom
- Accountability
- Transparency
- Social responsibility
- Discipline
- Self-Constraint

For instance, impartiality demands that police officers do not engage in activities that are likely to interfere with the impartial performance of their duties, and they must not allow their private interests to interfere with their public position. Conflict of interest should be avoided, as with taking advantage of their position. A preliminary conclusion is that the values mentioned above should be included in a universal corpus of values for police officers.

**Challenges**

Police ethics are a challenge both at the collective, systematic and organisational level, as well as at the individual level. Collectively, police officers are frequently characterised in terms of their machismo, bravery, authority (authoritarianism), cynicism, aggression, and distrust and suspicion. But studies (e.g. Walker, 1999: 349) show that police attitudes are not very different from their civilian counterparts, and police values tend to reflect those of

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6 See also Neyroud (2005: 584) for principles of policing, which include Respect for personal autonomy; Beneficence and non-malificence; Justice; Responsibility; Care; Honesty; and Stewardship.

society at large. Also, there seems to be little appreciation of the wide differences that exist within police organisations, for example differences in the specific tasks of police officers, their position within the hierarchy, and whether they are operational or more policy-oriented. Most police officers have a moral mission: they want to serve society with a noble cause.

This book contains an inventory of instruments of good policing: legal frameworks, ethics-based models of policing, and oversight mechanisms. Based on input from respondents and external experts, the book identifies gaps and ethical challenges in several aspects of policing, varying from electronic monitoring of citizens to crowd and riot policing. It also identifies specific challenges like terrorism, radicalisation and organised crime, as well as the policing of ethnic and religious minorities. These can include value dilemmas which are likely to emerge on the blurry lines of professional responsibility (see e.g OSCE, 2006: 20). The book identifies key strategic challenges and indicators for an ethics-based policing. Leadership is one of those key indicators which we will bring into focus.

Police ethics is a multi-dimensional affair, and has to be integrated into police operations. The ultimate objective of this book is to improve police standards and police-community relations, raise levels of police ethics, integrity, transparency and compliance with human rights standards.

**Methodology**

Before we enter the realm of police ethics and police accountability, a few notes on the methodology we followed and the structure of the report. The two authors of the report met with a group of experts and ASEF representatives in August 2009 in Bogor, Indonesia, to discuss the selection of topics, outline of the report and calendar of activities. It was agreed that this book should be a synthesis of Asian and European research findings. The research was partly undertaken on the basis of academic literature, policy documents and previous research findings.

The other leg of the project consisted of interviews with a range of experts. Their names and functions are in Annex II, and the interview questions are in Annex V. The interviews gave us insight on police ethics instruments that are currently available. The experts also told us more about the impact of variables such as organisational diversity, management, leadership and the rule of law on police ethics. As we interviewed respondents from a variety of backgrounds (national and international organisations, police and prosecution, public and non-governmental), we adapted the interview questions to the professional context and relevant practical examples. Interviewees were approached with an official letter of invitation explaining the objective and context of the project, and some procedural considerations. Given restrictions in time and finance, each researcher could only perform a maximum of 20 interviews. Partly, we sought to solve this in a pragmatic fashion, for example by interviewing some respondents at conferences or electronically, and by selecting representatives of international law enforcement organisations with a strong track record in national police and prosecution environments. In the case of certain interviewees, however, anonymity was maintained to secure frank and straightforward answers, and to protect the interviewees’ interests. The interview schedule for these interviewees can be found in Annex II.
This book is based on three levels of validation. Firstly, the outline and project schedule was discussed with experts from a number of European and Asian countries (see Annex II for the list of experts). The second level of validation is the set of interviews we conducted with the professionals themselves. Thirdly, this book was assessed by a panel specifically invited by ASEF for this task. Assessment took place between 15 September and 15 October 2010, allowing the researchers to make corrections before the final draft was submitted on 5 November 2010. These three validation processes enhanced the evidence-based character of this book, which contains relevant and updated information on how practitioners regard codes of police ethics and to what extent they are implemented.

Finally, we wish to clarify that we are very aware of the discursive pitfalls. We were working in the absence of a uniform language for police ethics, which means that there is always a degree of interpretation in what we consider police ethics. We also worked in the absence of a homogeneous definition of the police, and we acknowledge that states may have several police forces with a wide array of mandates, powers and competences. Moreover, there are several police forces that are specialised, for instance in border control, fiscal inspections, social fraud inspections, military tasks and administrative tasks. All of them are, however, public officials, and it is in this capacity that they bear a considerable responsibility for ethical values in the performance of their duties.
CHAPTER 1
INSTRUMENTS FOR GOOD POLICING

Introduction

In this chapter, we will provide an overview of legal instruments that have been adopted by different authorities. First, there is the universal human rights framework, complemented by principles and guidelines which have mainly been drafted and adopted in the context of the United Nations (UN). As we will see below, several of these instruments have a specific focus on law enforcement or the police, and are very specific about ethical values. Second, there are regional agreements that lay down a human rights framework, such as the binding legal framework of the Council of Europe. Within this context of co-operation, a Code of Police Ethics has been laid down. The interviews we held gave us insight into the appreciation of the relevance and actual implementation of these instruments. Unfortunately in Asia, such a regional legal framework of police ethics has not been established. In the case of Asian countries who are UN members, the UN principles and guidelines are directly accepted and applied, some of which are through parliamentary endorsement.

The second part of this chapter focuses on models and strategies of policing, which are arguably models that encourage good policing practices with a strong emphasis on compliance with human rights standards, ethics and integrity, and which seek to advocate strong interaction with the community with a view to enhanced legitimacy of policing. The report shows that the international community’s efforts, whether inter-governmental in nature such as the UN, the Organisation for Security and Co-operation in Europe (OSCE) or the Council of Europe, or non-governmental in nature such as Amnesty International, are crucial to agenda-setting, training initiatives and actual projects that are executed in co-operation with the community. We have also seen that in countries like the United Kingdom and Hong Kong, central facilities have been created to improve professional and ethical standards of policing.

Legal Instruments

States are bound by international law in which principles of human rights are enshrined. States, which are embedded in an international legal system, are a partner in universal legal frameworks, but they may also be a member of a regional legal framework like the Council of Europe, or a party to subject specific international treaties. States have a responsibility to protect the rights of individuals living within their jurisdiction. Law enforcement, that is police forces carry a crucial responsibility in this, as they are the frontline officers who engage in direct encounters with the citizens. While police officers are often aware of the national laws that govern the exercise of their powers, they generally remain unaware about the international legal frameworks (Crawshaw, Devlin and Williamson, 1998: 1). Codes of ethics represent an instrument often developed and tried within law enforcement organisations. While many of our respondents argued that codes remain a dead letter if not adequately implemented in organisational environments, a literature review on ethical decision-making revealed that organisational codes of conduct are assumed to have an impact (see Loyens and Maesschalk, 2010: 77).
“In fact, all international treaties that concern human rights are of direct relevance to police and policing” (Myjer, interview 8 March 2010). States are obliged to protect and promote human rights under the Universal Declaration of Human Rights,\(^8\) which embodies civil, political, economic, social and cultural rights, and it is proclaimed as a common standard of achievement for all peoples and all nations (Crawshaw et al., 1998: 8). As a consequence, the legal and constitutional frameworks of states have to conform with international legal obligations. In relation to policing, this means that states have to secure political accountability and legal supervision of police. Moreover, they must ensure lawful and humane policing, which also affects the way command, management and administration of police organisations are governed (id: 1998: 9). Judicial and civil accountability are just as important, and will be dealt with in Chapter 3.

Judge at the European Court of Human Rights Prof. Myjer has the impression that police officers in Europe are generally aware of the minimum norms that, for example, apply to the possibility of controlling and monitoring police activities, and to proportionate action. He noted a shift in the awareness of universal human rights and procedural norms. A police trainer in the seventies, students would look at him as if he came from a different planet when he talked about monitoring and accountability. Judge Myjer quoted a Supreme Court Justice in the United States as saying, “countries will be prompted into action if they are convicted by the ECHR. Nothing can destroy a government more quickly than the failure to observe its own laws or worse, the disregard of the Charter of its own existence”.

The Council of Europe Code of Police Ethics is “too regional” for international organisations such as the International Criminal Court or ICC (interview De Smedt). Hence, the ICC has developed its own code of conduct which can work in a culturally diverse organisation. The ethical norms of the ICC are derived from the Rome statute as well as from internationally accepted procedural norms for the different parties, and these are subject to monitoring by the relevant judges. Policing standards and integrity have been steadily upgraded, and the recognition of and respect for human rights among police officers have been improved accordingly in Asia as well, although there still is a long way to go until international standards are met (Yue, 2007, Yeh et al. 2007; Kashem & Saadi, 2007). Despite the regional character of the Council of Europe Code of Police Ethics, our respondent Prof. Dr. Willy Bruggeman argues it may be a source for inspiration for other regions:

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One can see that Asia is inspired by the principles and values of the European Code of Ethics, particularly when one thinks of Singapore. Canada and Scandinavia are also strong supporters of ethics codes for law enforcement organisations.
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The United Nations Framework

The UN Framework provides a set of universal norms for good policing, also because there is binding jurisdiction. The value of these norms is considerable in different contexts, for example in police reform trajectories, post-conflict civil police missions and subsequent training of local law enforcement personnel, and international or cross-border policing (e.g. Neyroud, 2005: 579). Pivotal in this regard is the International Covenant on Civil and

\(^8\)Adopted by U.N. General Assembly resolution in 1948. The rights enshrined were given legal force in two International Covenants which came into force in 1976. The UDHR is adopted and ratified by more than 130 States.
Political Rights (ICPPR), which entered into force in 1976, and holds some very relevant provisions for police performance. These include Article 9.1 (“Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law”, and Article 9.2 (“Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him”).

The UN Code of Conduct for Law Enforcement Officials (1979) is a non-Treaty text and hence not binding upon national law. The Code has eight Articles, each with an explanatory commentary. The instrument requires law enforcement officials to serve the community and protect all persons from illegal acts. Paragraph (c) of the commentary to the Article states that service to the community is intended to particularly include assistance to members of the community who are in need of immediate aid. General Assembly Resolution 34/169 by which the Code of Conduct was adopted includes the precept “[t]hat, like all agencies of the criminal justice system, every law enforcement agency should be representative of, responsive and accountable to the community as a whole”. The code furthermore calls upon police officers to protect human rights, use force only when strictly necessary, keep confidentiality, to not use torture, ensure the full protection of the health of persons held in custody, rigorously oppose and combat corruption, and respect the law. Experts (Crawshaw et al., 1998: 54) observed that the code is deficient in having “no provision expressing the principle that senior officials are vicariously responsible for the acts or omissions of their subordinates to fulfill their duties in accordance with the rules”. Governments are required to inform the UN Secretary General at intervals of five years on the extent of the implementation of the Code (Crawshaw et al. 1998: 54).

Furthermore, there are the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, which express standards on good police practice in the use of force and firearms, thereby promoting and protecting the right to life (Crawshaw et al. 1998: 11). It is a detailed and practical instrument consisting of 26 principles to secure compliance with the principles of necessity and proportionality in the use of force by the police. It requires jurisdictions to introduce relevant rules and regulations, but also requires police to use proper defensive equipment as well as the need for a differentiated use of force and firearms. Firearms should only be used against persons as a defence against imminent threat of death or serious injury. Moreover, there is the request that proper reporting and review procedures are in place when force or firearms are used by the police. Selection and training of police should be subject to high standards and senior officials and their subordinates should be properly accountable.

The UN Convention Against Torture and other Cruel, Inhuman or Degrading Treatment (CAT) entered into force in 1987 and holds considerable relevance for police practices.

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10 UN Code of Conduct for Law Enforcement Officials, adopted by General Assembly resolution 34/169 of 17 December 1979. According to our respondent Prof. Dr. Willy Bruggeman, the UN Code is hardly known by anyone; speaking for the Federal Police of Belgium, he argues that the European Code of Police Ethics and the national code certainly bear influence.
11 Our research has not established whether this actually happens.
Under international law, this treaty is binding upon the states that have become party to them. Jurisprudence suggests that the prohibition on torture is now so widely recognised that it has become customary law and has even become binding on states that have not signed the CAT (Levinson, 2002: 1627). The treaty requires each state party to take effective legislative, administrative, judicial and other measures to prevent acts of torture in any territory under its jurisdiction. Each state party also has to ensure that all acts of torture are defined as offences under its criminal law, that an investigation is carried out whenever there is reasonable ground for belief that torture has been committed on its territory; that there is an individual right of complaint for individuals who allege torture, and an investigation of that complaint; and that victims of torture have a right to obtain redress and fair and adequate compensation. The Convention provides for a universal jurisdiction (Crawshaw et al., 1998: 155). The Optional Protocol to the Convention against Torture (OPCAT) gives the UN Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (SPT), created in 2007, the right to visit the places of detention in those states and to examine the treatment of people held there. Moreover, the SPT assists and advises the national preventive mechanisms about ways to strengthen safeguards relating to detention and reinforce their powers and independence. This is based on the OPCAT obligation on states to set up independent national preventive mechanisms to examine the treatment of people in detention, make recommendations to government authorities to strengthen protection against torture, and comment on existing or proposed legislation.

Additionally, the Body of Principles for the Protection of All Persons under Any form of Detention or Imprisonment (containing detailed measures to prevent arbitrary arrest and detention and to secure humane treatment or detainees) reiterates the prohibition on torture and the detainee’s right to humane treatment. The Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment is of more direct relevance to the treatment of detainees in police custody (as opposed to penal institutions) who are suspected, but not convicted, of any crime. This is a very detailed instrument containing 39 principles. Principle 1 embodies the basic requirement to treat detainees humanely, while Principle 5 holds important provisions on equality of treatment, especially for vulnerable categories of detainee. While the Body of Principles should be applied to all persons without distinction of any kind such as race, colour, sex, language, religion or religious belief, political or other opinion, national, ethnic or social origin, property birth or other status, it also stipulates that measures applied under the law and designed solely to protect the rights and special status of women, especially pregnant women and nursing mothers, children and juveniles, aged, sick or handicapped persons shall not be deemed to be discriminatory. Principle 6 reiterates the prohibition of torture.

Specific legal instruments have been drawn up in the field of anti-corruption. Interpol launched the Global Standards to Combat Corruption in Police Forces / Services; the UN

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13 See the website of the Office of the United Nations High Commissioner for Human Rights http://www2.ohchr.org/english/law/cat.htm, for a full text of the Convention. The CAT has 77 signatories and 147 State Parties

14 Our research did not establish whether this is the case for the optional protocol and we have not included a ratification table for the Convention or the optional protocol.

15 For more details, see http://www2.ohchr.org/english/bodies/cat/opcat/index.htm, accessed 4 November 2010.

16 Crawshaw et al., 1998: 166 note that “Surprisingly no international instrument specifically requires that women detainees should be supervised by women officials, nor are there any stipulations to the effect that personal searches of detainees are to be carried out by officials of the same sex as the detainee. However such basic good practice, followed in most states, would seem to be required by the principle of respect for the inherent dignity of the human person ….”
adopted the *UN Convention against Corruption* and the Council of Europe adopted the *Twenty Guiding Principles for the Fight Against Corruption* and the *Criminal Law Convention on Corruption*.

**The European Framework**

The *European Convention on Human Rights* (ECHR) was adopted in 1950 and entered into force in 1953. The Council of Europe currently has 47 member states. Although most of the European countries ratified and promised to implement the Convention, there are still problems in its implementation and enforceability. The Convention provides for a protective mechanism in the form of a court, the European Court of Human Rights. The Court accepts applications of instances of human rights violations from individuals as well as states. However, it is rare for a state to submit allegations against another state, unless the violation is severe. For an application to be accepted by the Court, all domestic legal remedies available to the applicant must have been exhausted.

The European Court of Human Rights (ECtHR) insists there should be no institutional or hierarchical connections between investigator and officer(s) complained against for alleged violations of Article 2 (right to life) or 3 (prohibition of torture), and that there should be practical independence. Moreover, the investigation should be thorough and comprehensive, and include aspects such as taking a full and accurate statement from the complainant and taking efforts to trace all witnesses. According to Smith (2010: 10), the need for a prompt investigation is written into Articles 12 and 13 of the United Nations Convention Against Torture (UN, 1984) and is aimed at preserving public trust and confidence in the rule of law. Next, the investigation procedures should be open and transparent, and “in serious cases involving death or serious injury it may be necessary for a judicial inquiry or a police disciplinary hearing to be held in public”. Finally, the complainant should be involved in the investigation of a complaint. Smith (2010: 10) notes that the European Commission Against Racism and Intolerance (2007) goes further by recommending that complainants should be given support, counselling and legal representation so that his or her interests and wellbeing are effectively safeguarded.

The Council of Europe Declaration on the Police was adopted by resolution 690 91979 of the Parliamentary Assembly of the Council of Europe on 8 May 1979, six months before the adoption of the United Nations Code. Part A of the Declaration is entitled “Ethics” and consists of 16 Articles. Article 1 of the Declaration requires a police officer to fulfill the duties the law imposes on him by protecting his fellow citizens against violent, predatory and other harmful acts, as defined by law. Article 2 requires a police officer to act with integrity, impartiality and dignity, and to refrain from and oppose all acts of corruption. Article 3 prohibits summary executions, torture and other ill-treatment in all circumstances. It states that a police officer is under obligation to disobey any order or instruction involving such measures. This is reinforced by Article 4, which requires a police officer to carry out orders properly issued by his hierarchical superior and to refrain from carrying out any

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17 Relevant case law: Case Law of the European Court on Human Rights: Düznam v. Turkey; Gäfgen v. Germany; Jallo v. Germany; Kuralic v. Croatia; Muradova v. Azerbaijan; Selimou v. France; Suljemanov v. Macedonia; Thorgeir Thorgeirson v. Iceland; Vladimir Fedorov v. Russia. More cases can be found in Crawshaw et al., 1998).
order he knows, or ought to know, is unlawful.\textsuperscript{18} Other articles address, inter alia, issues of personal liability. It should be added that as far as the use of force and firearms by police is concerned, the provisions of Article 3 of the UN Code of Conduct are more detailed (Crawshaw et al., 1998: 57).

When measuring the effect of the Council of Europe Code of Ethics\textsuperscript{19}, we may find that there are still human rights violations when it comes to police action in Europe. ECHR Article 3 concerning torture is an article that is frequently invoked before the Court. Is this a result of a police officers’ and officials’ lack of ethical awareness? As we have seen, there are only a few countries with a national code of police ethics. The content of the Council of Europe Code on Ethics is seen as qualitatively good, mainly because it shifts the focus for police ethics from incident-oriented to a more structural level of attention. The code focuses on policies, but should be more deeply anchored in the mindset of police officers and the structure of police organisations (Van Reenen). One of our respondents, Osse of Amnesty International Netherlands, agrees that in the field of police ethics, the European Code of Police Ethics is good and well constructed. An essential element of the code is the principle of accountability and the explanation of this concept. The first instrument may be more elaborate in that it addresses the use of force. A negative aspect of the code(s) is that it concerns soft law, which means that implementation is not binding upon national legislation. At the same time, however, it is noted that “hard law” does not always work either.\textsuperscript{20} In short, the Council of Europe Code is regarded as a good instrument, as it lifts the level of police ethics from incidental to structural level, but it fails to have a real impact on the work of police officers. One respondent Van Reenen even claims that the internal loyalty within police organisations is often stronger than the rule of law.

Despite a large number of instruments in the field of international police and justice cooperation in criminal matters, the European Union does not have its own police ethics code, except for the Fundamental Rights protocol of the Lisbon Treaty (Bruggeman and Den Boer, 2010). One respondent Van Troost argues that the EU does not need to issue its own code of police ethics, but should encourage better implementation of existing instruments, which can also have a “peer” effect in the Council of Europe. Currently, there is too much recourse to inter-state mutual recognition and this implies that EU Member states are insufficiently critical towards one another. Member States of the EU are also reluctant to be critical about one another’s (penal) justice systems.

According to Judge Myjer, codes can be useful, for instance in relation to prosecutors, such as the Human Rights Manual for Prosecutors, which has been translated into French, Russian, Turkish and Armenian.

\textsuperscript{18}NB This contrasts with the terms of Article 8 of the UN Code of Conduct, as this article is unequivocal in obliging police officers to disobey orders involving the very serious crimes and human rights abuses of unlawful killing and torture.

\textsuperscript{19}European Code of Ethics, Council of Europe Publishing, Adopted by the Committee of Ministers at the 765th meeting of the Ministers’ Deputies, 19 September 2001.

\textsuperscript{20}The Committee of Human Rights (CHR, Council of Europe) has called, according to Smith (2010: 5) for the introduction of an independent monitoring body in Austria, where the Federal Bureau of Internal Affairs (established 2001) operates alongside the police; and it has urged The Netherlands to create an independent external mechanism.
Some states have adopted national codes of police ethics. A good example is Belgium, which adopted such a code\textsuperscript{21} and promotes adherence to fundamental principles and human rights, loyalty to democratic institutions, legitimate authority by police leaders, joint responsibility for the compliance with the code, and correct performance of duties.

However:

We should watch that codes do not become a dead letter. Codes of ethics have a limited significance. Only very few police and prosecution officials bear the list of ethical values in mind. In Europe, there are enough rules. The time has arrived for reflection and feed back cycles. Within the legislative process, the inclusion of an impact assessment may be desirable, rather than designing new rules for ethical police conduct.

Alex Brenninkmeijer, National Ombudsman of the Netherlands

Other respondents (notably Brammertz, Hazenberg, Van Nimwegen, Van Reenen and De Smedt) also strongly endorsed the need for evaluation and feedback cycles.

**The Asian Framework**

In Asia, there are no communal treaties, conventions or codes shared by police officers and agencies of different states in the region. This absence of common police norms or codes results from the lack of a regional inter-governmental body to discuss the need for such a common legal framework for the police. It is not expected that in Asia, where political, ideological, religious and border sensitivities exist all across the region, an inter-governmental regional co-operative policing organisation will be created. The relative lack of police independence from political powers in many Asian countries is also seen as a barrier to creating such a regional policing body. It seems that several preliminary steps will have to be taken to pave the way towards the possibility of an ‘Asiapol’ like structure.

However, different international and regional organisations contribute to the development of Asian countries not only in terms of the economy, but also that of governance, human rights, transparency, civil rights, as well as civilian oversight mechanisms for the government including the police. Among these, organisations that deserve specific mention are: international inter-governmental organisations such as the United Nations (UN) and the Organisation for Economic Co-operation and Development (OECD), regional co-operative bodies such as the Asia-Europe Meeting (ASEM) and the Association of Southeast Asian Nations (ASEAN), international financial organisations such as the World Bank (WB) and Asian Development Bank (ADB), and international as well as regional civil rights non-governmental organisations’ such as Amnesty International (AI), Transparency International (TI) and the Asian Human Rights Commission (AHRC).

\textsuperscript{21} Deontologische code van de politiediensten, Copyright © Federale Politie – DGS 2003 – 2010; http://www.polsupport.be/
The Non-Governmental Framework

Amnesty International has a 10-point standard for law enforcement officials. There are several other examples of national legal frameworks for police ethics, but it should be noted that most of the universally binding human rights standards have been integrated into national criminal procedure legislations as well as in standing orders. This means that there is hardly any explicit mention of these standards. Only a few European countries have a national code on police or law enforcement ethics, like Greece and Ireland. Lustgarten (1986: 128) refers to (national) Codes of Practice as a form of sub-legislation that also applies within the British context. Codes “regulate in complex detail police performance” and “include many restrictions” on the use of police powers, for example in view of reasonable suspicion for stops and searches.

Within professional law enforcement environments, international codes have also been adopted. A good example is the International Association of Chiefs of Police (IACP), which established a code of ethics to govern the conduct of its members. Some respondents, like Europol Director Mr. Wainwright argued that law enforcement officers have to “live the code” (see also Grant, 2002: 12). In the United States, the law enforcement code of ethics is used as an oath of office during the graduation ceremony for many law enforcement personnel. It includes fundamental duties such as serving the community and safeguarding lives and property.

Conclusions to Chapter 1

Codes of conduct and ethical codes contain normative guiding principles that serve to elicit desired attitudes and responses in members of the police organisation. Codes are not binding upon national law but the principles become enmeshed in an international normative vocabulary of ethical police conduct. Rules, regulations and legal norms have to be based on national law, ethical issues should be constantly under review. This also requires continuous attention on the circumstances in which police officers do their work, and for the techniques and equipment they use. Legal frameworks are mostly binding upon international and national law, however, there are always grey areas where the law does not provide a ready answer (situational logic). Our respondent Osse warns about too much confusion between ethics and human rights. In some countries like The Netherlands, human rights infringements tend to be merely defined as a breach of integrity, which obscures the wider scale of human rights violations. The relevance of ethical codes is that they are integrated in the instructions to civil servants, including police officers. The value of human rights implementation through national law and instructions to public officials lies in a clear delineation of principles such as procedural fairness and proportionality (interview Brenninkmeijer). However, such implementation does not preclude administrative errors nor give an absolute guarantee of procedural safeguards.

Ethical codes of policing will not work unless there are realistic, explicit and detailed professional norms that have a high degree of acceptance and ownership throughout the organisation, and have exceeded the level of window dressing (Crawshaw, 1998: 58).

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22 This code of ethics, originally written in 1957, was revised at the IACP conference in Louisville, Kentucky, on October 17, 1989. The IACP membership reviewed and finalized these revisions. In October 1991, IACP members unanimously voted to adopt the new codes.” (Grant, 2002: 11)
Several respondents like Van Reenen and Hazenberg said that instruments and codes have hitherto had insufficient influence. However, there are police forces that have a deeply engrained ethics culture, where values are introduced from the very first moment onward, accompanied by internal stimuli and the sanction of unethical conduct, for instance Chile. Hazenberg argues that neither the Council of Europe code nor the UN code have had much impact, particularly in richer countries. It is not always useful, says Hazenberg, to make international instruments binding. More progress can be made with peer review and inter-collegial dialogue. For an instrument to work properly, she argues, there should be far more refined layers. Monitoring and scoring mechanisms are crucial, she says, and countries need to be challenged on their police ethics record. The danger that lurks around the corner is a bureaucracy that becomes too refined. In short, police ethics mechanisms have to remain practical and workable for police professionals. Too many rules can even lead to a higher infringement rate.

At the same time, there is a positive element to the codes, as they provide non-governmental organisations with additional frameworks, for instance when states accede an international framework. Codes are also useful for agenda-setting purposes. Ethical codes can be very beneficial in societies that are in transition, but if there are too many problems to solve, it is hard to go beyond that stage and to introduce an ethics-based culture. Hence, Van Reenen joins Hazenberg in her argument that police ethics stand a higher chance of working well in stable countries.

In the current global constellation and security agenda, ethics and human rights tend to be disregarded. Safety and security dominate the agenda, and explicit mention of ethics occurs less often nowadays, even in the UN Crime Prevention Programme. One respondent Van Troost warns about the return of state sovereignty, which means that international legal norms may have a decreasing impact on national legal systems. Within bodies like the UN Human Rights Council, for instance, states act as blocs protecting each other or zealously guarding national sovereignty (China, India, Egypt, but also EU countries). Human rights are deemed essential in times of increased political, societal and cultural polarisation.
CHAPTER 2
MODELS OF GOOD POLICING

Introduction

Which model of policing provides the best guarantee for good policing? The answer to this question is not a straightforward one. The literature demonstrates that there is still a lot of debate about what the main principles of good policing are, and about what works in which context. Much discussion exists about which model is best suited for countries that are in transition, or those communities that seek to restore peace, justice and stability after civil war, ethnic or religious strife. In these communities, relationships between police and citizens may be disturbed to such an extent that the legitimacy of the police organisation is severely undermined. Police organisations cannot function properly if they do not enjoy the trust and support of the citizens in the community. Undesirable situations may emerge such as under-policing, no-go areas, or private vigilantism. Before discussing models of good policing, it should be made clear that in countries that enjoy relative stability and prosperity, models of policing are also subject to evaluation and reflection. Hence, there is no fixed model of policing as such. We are talking about strategies, policies, programmes and mandates that are constantly in motion.

Democratic Policing

The term democratic policing is defined by de Mesquita Neto as one where “the police are accountable to the rule of law and the community, respect the rights and guarantee the security of all citizens in a non-discriminatory manner” (Haberfeld & Gideon, 2008: 8). Democratic policing is mostly applicable in transitional societies. According to the OSCE (2006: 130) the police are the most visible manifestation of government authority performing the most obvious, immediate and intrusive tasks to ensure the well-being of individuals and communities alike. The representative democracy has become a standard for political legitimacy for all regimes of the world. There is high mutual dependence between democracy and human rights. Democratic policing is often advocated as a model which helps to restore legitimacy of public administration. The key principles of democratic policing are, according to the OSCE (2010: 38 and 39):

> "The main duties of the police are to preserve tranquillity and law and order; to respect the fundamental rights and freedoms of each individual; to prevent and combat crime; to provide assistance and services to the public. In order to support and enhance the legitimacy of the State, they must be responsive to the needs and expectations of the public and use the authority of the State in the people’s interest. Police officers must achieve these objectives by upholding the law, by acting in compliance with domestic law and international law enforcement commitments, and in practice, they must show commitment to the rule of law. Police professionalism and integrity are essential ethical values, particularly in view of the fact that the police are endowed with the monopoly of violence. Protection and preservation of life must be the highest priority. Police accountability and transparency mechanisms have to be buttressed by sound reporting and management procedures that can be publicly scrutinised” (see also OSCE, 2006: 13).

Responsiveness is a key principle of democratic policing (see also Neyroud 2005: 592, discussing the Patten report on policing in Northern Ireland). This means that the police respond to the (immediate) needs and concerns of all members of the public, strive to deliver their services promptly, and in an even-handed and unbiased manner. Implicit is that police officers are required to show empathy with the people who are in need, and respect human rights. Moreover, their services should be tailored to the norms and values of the community and the individual needs of the communities (OSCE, 2008a: 24).

Democratic policing has been one of the biggest objectives as well as one of the most controversial issues in Asia for a long time. Most Asian countries have experienced colonial rule and military dictatorship. During those “undemocratic” periods, the police was the most effective (from the rulers’ perspective) and the fiercest (from the citizens’ perspective) tool to control society and suppress opposition and resistance of the people. Although democracy has replaced authoritarian rule in many parts of Asia since the end of World War II, and the police has transformed as well, ongoing political or social instabilities caused by border disputes, religious rivalry, ethnic conflict or ideological hatred delayed the process of democratising the police. In Asia, there are not many countries with properly functioning democratic police accountability systems such as civilian boards governing the police or mechanisms ensuring transparency yet. Above all, the issue of political partisanship of the police is still a bone of contention in many parts. For example, a lecturer at a Kolkata University (Calcutta, India) who was interviewed through email said:

“...there used to (be) controversies over police officers behaving as if they are not accountable to any public institutions except to the ruling party in some of the Indian provinces. People thought that the decision to detain or not to arrest certain persons depended entirely on the interest on the ruling party or its prominent members...” (Anonymous)

However, many Asian countries, including India, have made efforts to reform the police structure, improve its political impartiality and democratic accountability. These efforts have been made by various stakeholders such as civil groups, parliament, the government, and the police themselves. India has set up Police Reform Commissions that produced important recommendations including the replacement of the old colonial Police Act with a new, modern one; the establishment of the Police Performance and Accountability Commission, and introduction of a Police Establishment Board. Although many of the recommendations have not yet been accepted and implemented by the central government, voices demanding police reform come from inside and out of the police and government (Mukherjee, 2006). In Korea, the existence of a civilian Police Board24 and Parliamentary screening hearing25 for the Commissioner General nominee helps to prevent partisan partiality of the police leadership.

Human Rights Policing

The United Nations developed an expanded Pocket Book on Human Rights for the Police in 2004,26 an accessible and portable reference for police officers. It is organised into major

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24 Police Act of Korea, Chapter 2 [Police Board].
25 Police Act of Korea, Chapter 3 [Commissioner General].
human rights issues of concern to the police, such as investigations, arrest, detention, and the use of force. The Pocket Book opens with the statement that international human rights law is binding on all states and their agents, including law enforcement officials, who are “obliged to know, and to apply, international standards for human rights.” A human rights practice implies that police organisations adopt a comprehensive human rights policy; that international human rights standards are incorporated into standing orders for the police; that human rights training is provided to all police, at recruitment and periodically; and that police organisations should cooperate with national and international human rights organisations. The Pocket Book also contains a chapter on ethical and legal conduct, comprising all human rights standards, and several other chapters, for example against discriminatory conduct.27

Amnesty International offers a training manual on human rights policing with five interactive modules: a general understanding of policing, the use of force, arrest and detention, police accountability, and engaging the police.28 In countries that are undergoing or have experienced a police reform process, human rights are a cornerstone of policing. This is the case in Northern-Ireland, where the introduction of the Human Rights Act 1998 in October 2000 served to formalise human rights-based policing in a way that had not existed before:29

The full text of the relevant UN Pocket Book is unfortunately too large to attach in an annex to this Handbook (70 pages).

The manual can be downloaded from http://www.amnesty.nl/documenten/Training%20Manual.pdf. The training manual was developed by Anneke Osse of the Police and Human Rights Program (PHRP) of Amnesty International’s Dutch section in joint co-operation with Josef Roy Benedict of the Indonesia Team at the International Secretariat in London. Anneke Osse acted as member of our expert panel, assessing the interim draft of this Guide (see Annex IV).


The Police Service of Northern Ireland has developed programmes to ensure that all its officers and staff understand the principles of human rights and the obligations placed upon them. This is reflected in the policies, planning and practice of the Service.

We regularly review external changes in the legal interpretation of the European Convention on Human Rights as well as the internal needs of those whose task it is to uphold the law.

The Northern Ireland Policing Board is responsible for monitoring the performance of the Police Service in complying with the Human Rights Act 1998. The Board’s Human Rights Advisors have developed a monitoring framework for human rights, which allows the Board to measure the Police Service’s performance against human rights standards. For more information about the Northern Ireland Policing Board’s role visit their website www.nipolicingboard.org.uk

The Police Service in Northern Ireland can be contacted for human rights issues, and makes itself accessible through an email address, telephone number and postal address. Moreover, there is an annual report on the activities in the Human Rights Programme of Action.

Human rights has become an essential component of policing in Asia as democracy advances. Taking China as an example, police law has been revised to incorporate the universal definition of the police as “guardian of the people”. Article 2 of the current Police Law of China tasks the police with safeguarding state security, maintaining public order, protecting people’s personal safety, freedom and property, protecting public property, and preventing, stopping and detecting illegal as well as criminal activities. Article 3 makes it clearer: “The police should protect people’s interests and serve them whole-heartedly”.  

27 The full text of the relevant UN Pocket Book is unfortunately too large to attach in an annex to this Handbook (70 pages).
28 The manual can be downloaded from http://www.amnesty.nl/documenten/Training%20Manual.pdf. The training manual was developed by Anneke Osse of the Police and Human Rights Program (PHRP) of Amnesty International’s Dutch section in joint co-operation with Josef Roy Benedict of the Indonesia Team at the International Secretariat in London. Anneke Osse acted as member of our expert panel, assessing the interim draft of this Guide (see Annex IV).
Also, Article 4 states that “Police officers must take the Constitution and laws as guiding principles for their activities.”30 Liling Yue, a law professor in Beijing, claimed that Articles 2-4 reflect the transition of the Chinese Police towards what she calls a “human rights police”. In a presentation at the 2007 Asian Association of Police Studies Conference, she argued that the Chinese police is transforming from enforcers of government orders to servants of the public, towards a democratically-organised institution that serves the community. She added that police activities are moving to achieve this in practice, and the laws mentioned in Article 4 include international laws and principles that China has accepted and is obliged to implement. “China, like many other Asian states, is on the way to becoming a more democratic state with rule of law”, she says, and “during this transition period, the core function of policing should be human rights-oriented.”31

Community Policing

The Community-Oriented Policing model (also referred to as COP) is based on the advocacy of a culture of consent and advocates minimal intervention and law abidance.32 A central component of this model is accountability and formal mechanisms for dealing with complaints against the police. Sound guarantee of police ethics in the community policing model can only be given in countries that have a proper system of democratic accountability and bureaucratic quality. Hence, community policing cannot be a panacea to solve all police problems.

The OSCE (2008a: 5) defines Community Policing as a “philosophy and organisational strategy that promotes a partnership-based, collaborative effort between the police and the community to more effectively and efficiently identify, prevent and solve problems of crime, the fear of crime, physical and social disorder, and neighbourhood decay in order to improve the quality of life for everyone.” Moreover, the OSCE (2008: 50) regards the introduction of community policing as pivotal in achieving a significant confidence building effect for the relationship between the police and the public as well as that between different communities, for instance through the creation of police-public partnership forums. Despite this enthusiasm, there are also critical notes. One respondent with enormous field experience told us: “Almost all countries in the world have introduced community policing. But it has turned into a hollow phrase, a vehicle that transports normative concepts, mostly worded in English, which may be totally unfamiliar to local communities”.

As previously said, one of the “extensions” of community policing is the development of partnerships and network arrangements (OSCE, 2008a), but there are different appreciations as to the accountability of these partnerships. Even though more responsive policy-making is facilitated and geared towards local conditions, it may undermine the efficacy of elected counsellors. This contrasts with the view that partnerships empower local populations through opportunities for direct participation in decision-making (see Rowe, 2004: 127 for a discussion).

32 See for example United Nations, Draft UN Technical Guidance on Community-Based Policing Techniques.
33 The HCNM recommendations 1, 9, 12 and 15 are relevant for Community Oriented Policing.
Most advocates of the community policing model argue in favour of a decentralised, or de-concentrated police organisation (OSCE, 2008a: 14). Hence, the introduction of a community policing model normally generates a reduction in central regulatory power (for example from a Ministry of the Interior) in favour of local power; a bottom-up approach is part and parcel of this model. Building trust among the community can be done by performing foot patrols and establishing pilot stations, and by establishing public forums. Osse, one respondent, says: “Community policing is based on the principle that decision and discretionary power are subject to de-centralisation. This may not always be a good idea in every country.”

The OSCE (2008a: 13) advocates clear basic principles in the community policing model, namely that the police must be (better) integrated in the community and that the service can strengthen its legitimacy through policing by consent

i. Be visible and accessible to the public
ii. Know, and be known by, the public;
iii. Respond to the communities’ needs;
iv. Listen to the communities’ concerns;
v. Engage and mobilise the communities;
vi. Be accountable for their activities and the outcome of these activities.

Key strategies for the translation of these principles into practice include:

vii. Creating fixed geographic neighbourhood areas with permanently assigned police officers;
viii. Introducing visible and easily accessible police officers and police facilities;
ix. Reorienting patrol activities to emphasise non-emergency servicing;
x. Engaging communities;
xii. Introducing a pro-active problem-solving approach; Involving all government agencies and services

The Community Oriented Policing Service (COPS) office of the US Department of Justice suggests essential components of community policing in three basic categories: “community partnership”, organisational transformation, and problem solving. As essential components of community partnership, COPS specifies collaborative partnerships with other government agencies, community members and groups, non-profit organisations and service providers, private businesses and the media. It also claims that the strategy and philosophy of community policing can work properly only when the police organisation itself is transformed in its management style, how it assigns officers, its personnel mechanism and information handling system. The process of proactively and systematically examining identified problems to develop and rigorously evaluate responses is also an essential part of community policing. COPS and other community policing advocates recommend the SARA approach:


COPS (Community Oriented Policing Services) is the office of the U.S. Department of Justice, set up to promote and advance the practice of community policing in US state and local law enforcement agencies. http://www.cops.usdoj.gov/
**Scanning to identify and prioritize problems**

**Analysis** to find out what are the possible causes of the problem

**Response** to develop solutions aimed to reduce in the number and extent of the problems

**Assessment** to evaluate the results of the responses.

The idea of community policing has become very popular in many Asian countries. However, it is hard to find a neutral report confirming and appreciating its full and proper implementation in Asia. Influenced largely by the UK police, the Hong Kong police is known to have developed and implemented one of the best community policing programmes in Asia. However, despite its ‘social’ style reform efforts aimed at transforming itself into a service providing organisation based on Community Policing philosophy in the late 1990s and early 2000s, commentators criticised that police-community partnership has not been established properly and participation of the public in policing has not been achieved in real terms (Lau, 2003). India (Krishnamurty, 2002) and Korea (Pyo, 2003) faced similar problems. The Philippines has also tried very hard to transform its police, formerly a tool of suppression, to a “community-oriented service provider” since the toppling of the dictatorship in 1986 (Sarmiento, 2008). Thailand also claimed that one of their main police reform goals is to build trust and confidence of the people, as well as making the utmost effort to seek an ongoing co-operation of the general public by adopting community policing ethos and principles (Shinawatra and Pongcharoen, 2006). However, a civil rights activist working in South Asia explained in an interview that “the so-called community participation tools developed by the Asian countries are suspected of being used to mobilise and utilise individuals to spy on their fellow community members”.

**Problem-oriented Policing**

Problem-oriented policing (POP) is based on a detailed analysis of the problems tackled by the police. POP is problem-oriented, preventive and responsive in nature, and its main principle is that the police organisation actively pursues co-operation with the community and the private sector. A major component of POP is that the effectiveness of police performance is subject to rigorous scrutiny. The findings of these evaluations are made public so that lessons are drawn by the police. POP has been promoted since the seventies in response to traditional forms of policing.

POP is not merely occupied with criminal justice problems, but with wider community issues. The model welcomes the individual’s professional discretion and favours the application of a variety of police methods in a pragmatic fashion.\(^36\) Good policing practices may be based on situational crime prevention and reduction of crime opportunities.\(^37\)

A good example of problem-oriented policing practices is the Hong Kong Police’s Project Polar Star. There was a problem of rampant juvenile delinquency in a police district called Yuen Long in Hong Kong. The Yuen Long Police District tried to identify the roots of the problem and find solutions to solve the problems. It was 1998 when the Yuen Long Police

\(^{36}\) See the website of the Center for Problem Oriented Policing in the USA for the identification of key elements of problem-oriented policing (http://www.popcenter.org/about/?p=elements).

officially launched Project Polar Star. The project team consisted of four male and female officers who employed informal, friendly and outreach methods to approach juvenile delinquents and invited them to participate in the project, in an attempt to bring them back to juvenile protection and welfare agencies in the community. Community groups, NGOs and other relevant agencies were involved and a multi-agency approach was formed. The recidivism rate for those who participated in the project dropped dramatically from 26.36% to 0.42% (Kong Chu, 2004).

Recently, a more complicated multi-disciplinary style of problem-oriented policing called CPTED (Crime Prevention Through Environmental Design) was introduced to Asian countries such as Japan, Hong Kong, Singapore and Korea. CPTED is a concept developed by researchers such as Jeffery (1971) and Newman (1973), based on the assumption that “the proper design and effective use of the physical environment can lead to a reduction in the fear of crime and the incidence of crime”(Crowe, 1991). Designing Out Crime (DOC) is a European version of CPTED that uses the processes and products of design to reduce crime and promote community safety whilst improving quality of life (Eckblom, 2003). CPTED and DOC are being imported and used by more and more police organisations as an effective tool of problem-oriented policing (Zahm, 2007). In Korea, for example, the National Police Agency developed a CPTED Guideline and uses it for safety audit and crime prevention initiatives.38

**Neighbourhood Policing**

The UK National Policing Improvement Agency (NPIA) defines neighbourhood policing as policing that is close to the citizens or to the community. Police Community Support Officers, Special Constables and Local Authority Wardens play an important role. According to the NPIA, constitutive elements of neighbourhood policing are access to local police through a named point of contact; influence that can be exercised by members of the community over policing priorities; interventions, that is, joint actions with partners and the public; and answers, which include solutions and feedback. According to NPIA, neighbourhood policing is about engaging with local communities to identify their concerns and priorities, to increase police visibility, and to work with communities to solve problems that matter to them.39 Like the community policing model, the underlying principle is public consent. In the UK, a web-based national tool has been designed and made available that supports local police forces in engaging with local communities and for solving local problems.40

This means that neighbourhood teams:

- Publicise how to get in touch with them
- Find out what the local issues are that make people feel unsafe in their neighbourhood and ask them to put them in order of priority

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Reassurance Policing

Reassurance policing is a model of neighbourhood policing theoretically grounded by Martin Innes. The model primarily seeks to achieve a combination between (enhancing the) responsiveness of police forces and the signals of crime. The reassurance model advocates early intervention in the ladder of crime or public nuisance escalation. The strategy is built around three constitutive components, namely high visibility patrols performed by police officers who are known to the public; the targeting of “signal crimes” and “signal disorders”; and informal social control exercised by the local communities (see for example Fielding and Innes, 2006; Millie and Herrington, 2005). A signal crime is defined as a criminal incident that causes change in the behaviour of the public or in the perception of their security. A social disorder is a breach of social conventions and can be an indicator of other risks. The importance of these “signals” is that they relate to the subjective-collective experience of insecurity and the early detection of something that is about to escalate. These may include chronic neighbourhood problems, which are low-level but highly visible to a large part of the community as part of their daily routine, and which are disproportionately responsible for the public perception of risk and fear – like anti-social behaviour, graffiti, dog fouling, and criminal damage.41

Citizen Focused Policing

Citizen focused policing intends to improve public confidence in policing. In the United Kingdom, the National Policing Improvement Agency (NPIA) has gathered expertise and best practices in the field of citizen focused policing. It is argued that it is important to recognise that not all members of the community are equally motivated to work with the police. It is reported that some UK police forces have begun with so-called Customer Insight Techniques and resource-based technology to gain better insight in the communities they serve as well as to “segment” citizens. In order to find out “what’s up” in these communities and how they prefer to be engaged, there are a number of opportunities to make contact, such as the Partners and Communities Together meetings, Street Briefings, regular attendance at venues such as supermarkets and fetes, high visibility patrols and volunteering opportunities. A recent addition is to engage with citizens online, through sites like Facebook, Twitter, YouTube, as well as interactive sites. An example of good digital practice for citizen engagement is:

- Decide with partners and local people what should be done to deal with those priorities and work with them to deliver the solutions
- Let people know what is being done and find out if they are satisfied with the results.

41 The reassurance policing perspective has also drawn critical appraisals, for example from Adam Crawford, who argues that reassurance policing stretches the expectations of policing into impossible realms, such as the management of public anxiety (instead of having a rational dialogue with the community). Moreover, he fears that reassurance policing is an unrealistic attempt to reclaim police monopoly over solutions to the dilemma’s of contemporary dilemma’s, and that this strategy underestimates the reality of mixed economies of policing (Crawford, 2007).
Digital and Social Media Engagement for the Police Service

The emergence of cheap and accessible information technology means that police forces in England and Wales are beginning to use social media sites (for example Facebook and Twitter) as part of their communications and engagement strategies. At the same time, in our communities, citizens are looking to social media as a platform to comment on or engage with policing.

The NPIA are engaged in an ongoing process to support the police service to arrive at an informed national position about using new technology and media when engaging with their communities.

To support this process working in partnership with ACPO, they have produced Engage: Digital and Social Media Engagement for the Police Service, this document gives an overview of the digital landscape, provides principles for officers who use social media, gives advice around security online and gives case studies of how forces are using social media to engage with communities.42

Value-based Policing

A value-centered style of police leadership would go against an adversarial attitude towards the public, and would seek to re-orient itself on ownership and a participatory model. Value-centred police leadership is based on a shared notion of ethical values, a delivery of the maximum value to the “customer”, and rewards based on the value people contribute to their organisation. Organisational core values and a code of ethics are key elements of such a model.43 Value-based policing emphasises the importance of pre-selection screening:

To assist in the goal of creating values-based police agencies, one of the primary areas of study of the law enforcement behavioral sciences for more than two decades has been the refinement of pre-employment selection techniques that bring values-based individuals to the starting point of a police career. Screening protocols from psychological test batteries to interactive video assessment instruments have assisted agencies in selecting men and women who have the skills and values to potentially become successful police officers. These individuals begin their careers able to not only successfully complete the multiple task demands required of a police officer, but to present personal backgrounds reflective of well developed values systems congruent with those of society. For the law enforcement administrator, the challenge of the selection of competent and ethical police candidates may be significantly less demanding than the maintenance of a values-based police agency. [...] The selection of values-based individuals at the entry level appears to have been successfully completed by most law enforcement agencies over the past 20 years. The maintenance of values-based individuals in police work, however has not been a major focus of attention either by law enforcement executives or behavioral researchers until quite recently.

In an effort to reduce ethical violations by officers, agencies continue to address the issue of inappropriate officer behavior patterns by utilising primarily a reactive investigative model. Although clearly the thorough investigation of inappropriate acts committed by officers is an

42 The Engage Guide can be obtained: http://cfnp.npiapolic.que/files/dm_engage_v6.pdf. The website adds that additional support on the IDeA Community of Practice Site http://www.idea.gov.uk for Policing 2.0. Participants are encouraged to complete a full profile of themselves before joining the site which includes a forum, library, events page and wiki functionality.

Policing can be based on values but police performance can also be judged by citizens on the basis of values that they adhere to. A key ingredient of social legitimacy is procedural fairness. According to Sunshine and Tyler (2003: 514), an instrumental model of police legitimacy suggests that the police gain acceptance when they are viewed by the public as creating credible sanctioning rules for offenders (risk); effectively controlling crime and criminal behaviour (performance); fairly distributing police services (distributive fairness). A value-based policing model seeks to avoid negative attitudes against the police and seeks to avoid low trust levels, as it is problematic for police to fulfill its regulatory role when the public is polarised. Sunshine and Taylor (2003) found that, in contrast to the instrumental legitimacy model which is often advocated by politicians (effective police performance), citizens are more appreciative of a process-oriented police that cultivates procedural fairness.

Nodal Policing

According to Shearing and Wood (2003), who have built a theory of nodal policing mainly applied in the context of South Africa, local capacity, knowledge-retrieval and self-direction are crucial variables in rebuilding governance relationships in environments where there is a gap in the trust that citizens have in their government. Nodal policing practices are built around the assumption that security is not (only) provided by central state authorities, but also by non-central authorities, and the private and informal sectors. In countries with considerable divisions between rich and poor, not everyone is able to benefit equally from security services. For instance, the UNODC regards globalisation and trade liberalisation as one of the main drivers for international organised crime, such as human trafficking. In India, The United Nations Office on Drugs and Crime (UNODC) started a nodal policing project with regional field officers. These nodal officers liaise between the police and the community and can act in an international capacity.

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Conclusions to Chapter 2

Where it concerns policing models, we see overlaps in essential principles between, for instance, democratic policing and community policing. These overlaps include responsiveness, interaction and ownership. Closely related to an ethics-oriented model of policing is that of human security, which is a more comprehensive model for economic development, social justice, environmental protection, democratisation, disarmament and respect for human rights and the rule of law (Den Boer & De Wilde, 2008: 10). In a positive sense, this implies striving for social cohesion, identity, community and social stability, with high levels of citizen engagement.

All policing models we discussed above bear relevance for different societies, but particularly the models of human rights policing, democratic policing, and nodal (as in co-production) policing have brought about positive effects on the restoration of stability, peace, order and trust in conflict-ridden societies.

India and the United Nations have taken another step to strengthen police countermeasures against human trafficking by establishing a network of nodal officers from across the country. Inaugurating a two-day conference for State Nodal Police Officers in charge of Anti Human Trafficking in the Women Cell and CID (Crime), Dr. Kiran Bedi, Head of the Bureau of Police Research and Development, expressed satisfaction that this initiative will serve as a model for good policing. The conference was organised by NICFS (National Institute of Criminology and Forensic Science) Delhi, in collaboration with UNODC.46

CHAPTER 3
POLICE OVERSIGHT MECHANISMS

Introduction

In line with the need for accountability and control, democratic police forces have the obligation to have their powers checked and controlled by the public through designated processes. Moreover, there should be efficient measures to ensure the integrity and proper performance of police staff (OSCE, 2006: 33). Police activity – ranging from the activities of single police officers to strategies for police operations, appointment procedures or budget management – should be open to observation by a variety of oversight mechanisms.

Oversight institutions may include the executive (policy control, financial control and horizontal oversight by government agencies), the legislative (members of parliament, parliamentary commissions of enquiry), the judiciary, as well as human rights commissions, civilian complaint review boards or independent ombudspersons.

The media (can) play an important role in providing the public with information on police activities. According to the OSCE Guidebook on Democratic Policing (2006: 33), democratic police services can be distinguished by their submission to, and acceptance of, outside supervision and examination and the degree of openness of these examinations. Most civilian oversight institutions deal with public complaints against the police, but the degree to which they are involved in the complaint process differs substantially between jurisdictions.

A Comparison of Oversight Mechanisms

In both Asia and Europe, we see a mixture of oversight mechanisms. This is partly due to the system of government and public administration, and partly to the ways police forces are organised. Generally, we can distinguish between internal and external oversight, between ex ante and ex post oversight, between parliamentary and legal oversight, between independent and partisan oversight, and between executive and civil oversight. European countries show a very diverse pattern where it concerns the organisation of their accountability systems in general, as well as their police organisations (see for example Smith, 1991). For instance, while a country like the Netherlands has a single but de-centralised police force organised in 25 semi-autonomous police regions and a national police agency, Italy has at least five police forces that play a significant role in the public arena, each of them falling under a different political authority as well as jurisdiction. There are also differences in police complaints procedures (Smith, 2004: 15), transparency, and the reporting procedures against police officers who have behaved in a negligent or unlawful manner. The diversity is vast. For instance, while in the Netherlands has an elaborate internal complaints procedure coupled with a Bureau of Internal Investigations (BIO) in all its police forces, Denmark was prompted to do so after four killings by police in one year.

While some oversight organisations take responsibility for receiving and investigating complaints – sometimes only in cases of serious misconduct or if internal investigations
appear faulty – others are limited to overseeing and reviewing investigations carried out by the law enforcement agencies themselves. Similarly, while some bodies have no influence on the punishment of misconduct, others can make recommendations on disciplinary action or even have the power to impose sanctions (OSCE, 2006: 33f). Oversight mechanisms have a specific role in the collection and analysis of complaint data, by means of which – together with external expert groups – they can identify the underlying causes of misconduct and address these causes immediately (OSCE, 2006: 35). This facilitates a problem-oriented approach and makes it possible to identify officers who repeatedly attract complaints, and to apply remedies such as counselling, training and assignment changes. Complaints data can also be used for identifying police policies, tactics and trends in behaviour that fail to meet national and international standards. This can help to improve the quality of the police service. Internal and external oversight bodies need sufficient resources, legal powers and independence from executive influence, and moreover, they need the political endorsement of governments, parliaments and police leadership, as well as the protection by law to conduct their independent investigations (OSCE, 2006: 35).

Policing is for a large part still anchored within national jurisdictions, although there is a growing number of practices that fall within the realm of transnational or cross-border policing. In line with accountability vis-à-vis the community, oversight mechanisms are usually embedded within national systems of governance. There are also various instances of local police complaints mechanisms, for example in the Netherlands. International oversight mechanisms are usually very powerful as they enjoy the right to initiate and investigate, but they will most likely only see the excesses.

There is an important distinction between internal and external oversight mechanisms. It is instructive to strike a balance between internal and external oversight, because without external oversight, police leaders would have the freedom not to investigate or punish misconduct, which could lead to ineffective internal control. External oversight mechanisms may be more effective in securing impartiality and better placed to encourage police officers to testify against other officers, i.e. their superiors (OSCE, 2006: 34). This is important given the “blue wall of silence culture” within most police forces (Punch, 2009: 37). Internal oversight can be supported by resources within the police force and by available data. Minor offences may be investigated internally by an immediate superior, while more serious offences need to be looked at by bodies outside the immediate chain of command, such as internal investigation units, or ad-hoc disciplinary committees composed of senior police officers. Investigations against high-ranking officers should be performed by external civilian oversight bodies (OSCE, 2006: 34).

According to Neyroud (2005: 592), there is greater scope for “open and responsive local approaches”. In Northern Ireland, Patten proposed forms of lay oversight through local partnership boards in seeking to overcome distrust in a divided community. Also, in the UK, “lay or independent oversight of policing” has been developed since the well-known Scarman Report, which invited lay visitors to police custody centres (Neyroud, 2005: 592). This has now been developed into a statutory scheme with a sound track record.

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These examples demonstrate both the differences as well as the similarities between Asia and Europe in the field of police ethics and accountability. Corruption exists in both regions. Asian police forces have a reputation of being tougher than those in Europe, and the differences between the police and the citizens are said to be greater in Asia. One respondent Osse claims that it is more difficult to arrive at a harmonised police ethics in Asia because of the significant differences between countries in the region. The countries are not seen as having a particularly close relationship with each other. Human rights are under pressure in several countries, although there is now an initiative to establish an Asian Commission for Human Rights. In Europe, improvements are desirable in several national systems. The Independent Commission for Police Complaints (ICPC) in Northern Ireland is regarded as good practice. The Czech Republic and Estonia have done well with police reforms implemented in view of their accession to the European Union. Spain is on the verge of introducing new elements in its police oversight mechanism.

**Examples of Internal Oversight Mechanisms**

If police officers report cases of police misconduct to their superiors, as demanded by the UN Code of Conduct, and notice that such reports are not investigated, they may report the cases of misconduct outside the chain of command (OSCE, 2006: 35).

In Hong Kong, serious police malpractices are dealt with by the Internal Investigations Office (IIO) of the Police under the supervision of the Independent Commission against Corruption (ICAC).

In Europe, internal complaint mechanisms are organised rather differently. This varies from simple notification to the appropriate level within the police (Ireland, Lithuania, Malta, and Romania), to a full procedure (Greece, Slovakia) that often includes a more or less independent complaint commission/body as well (Denmark, Hungary, Latvia, The Netherlands). In Latvia and the Netherlands the Ombudsman explicitly takes the quality of the internal procedure into account, as well as its thoroughness and objectivity (ASEF, 2009). The Ombudsman is not responsible for handling complaints against the police in all states.

Several police forces have internal departments for the investigation of alleged police malpractice. Moreover, police forces often work with confidential reporting mechanisms and/or whistle-blowing procedures. However, the Chairman of the Belgian Federal Police Council argues that police services should employ an internal ombudsman because:

> “Internal oversight is insufficient and in many countries there is a strong need for external oversight mechanisms that oversee police actions; this in addition to the classical punitive system where illegal behaviour is punished.”

**Examples of Independent Oversight Mechanisms**

The most distinguished of the Asian countries or regions in terms of police oversight mechanisms should be Hong Kong. China has a vigorous and active specialised police complaints handling body, the Independent Police Complaints Council (IPCC), on top of a
Human Rights Commission (NGO), an Anti-Corruption Commission and Ombudsman. IPCC Hong Kong is an independent body appointed by the Chief Executive to monitor and review the investigations carried out by the Complaints Against Police Office (CAPO). Unlike the Independent Police Complaints Commission of the UK, IPCC Hong Kong does not directly receive complaints nor investigates them, but only monitors and reviews CAPO investigations. The more severe police malpractice cases are dealt with by the Internal Investigations Office (IIO) of the Police under the supervision of the Independent Commission against Corruption (ICAC), which is the external civilian oversight organisation, armed with its own statutory investigative power. IPCC Hong Kong consists of one Chairperson, three Vice-Chairpersons, 14 Council Members and a 29-strong secretariat, all of whom are civilians. The legal function and duties of IPCC are as follows:

- To monitor and, where it considers appropriate, to review the handling by the Police of complaints by the public;
- To keep under review statistics of the types of conduct by police officers which lead to complaints by members of the public;
- To identify any faults in Police procedures which lead or might lead to complaints; and
- Where and when it considers appropriate, to make recommendations to the Commissioner of Police or, if necessary, to the Chief Executive.

ICAC Hong Kong is a much bigger and stronger organisation with 1,200 staff and its own law enforcement power as well as corruption prevention and community relations functions. It is an external civilian oversight organisation, armed with its own statutory investigative power (Smith, 2010).

According to Smith, the longest serving citizen oversight body is Belgium’s Standing Police Monitoring Committee, known as Comité P. It was established in 1991 and is answerable to Parliament. The Ombudsman is seen as a form of citizen oversight (see below). Scotland has a Police Complaints Commissioner (it has a separate criminal jurisdiction in the United Kingdom) that was established as a citizen oversight body in 2007 without powers to investigate complaints (Smith, 2010: 7). Portugal has a General Inspector of Internal Administration, the Inspecção-Geral da Administração Interna (IGAI). France has the Commission Nationale de la Déontologie de la Sécurité (CNDS), which also operates as a citizen oversight body but without the express powers to investigate complaints. Since 2007, Cyprus has had the Independent Authority for the Investigation of Complaints and Allegations Against the Police for Cyprus. Hungary has the Independent Police Complaints Commission. Ireland has the Garda Síochána Ombudsman Commission (GSO) for Ireland. England and Wales have the Independent Police Complaints Commission for England and Wales (IPCC, established 2004). The most developed citizen oversight bodies are the Police Ombudsman for Northern Ireland, PONI (established in 2000), which is entirely responsible for complaints made against police officers serving with the Northern Ireland Police Service (Smith, 2010: 7).

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48 http://igai.pt
49 www.cn ds.fr
50 www.liaiacap.gov.cy
51 www.gardaombudsman.ie
52 www.policeombudsman.org
Examples of Civil Oversight Mechanisms

Most civil oversight bodies with a variety of responsibilities – ranging from inspection of closed police files to a full investigation of complaints – have been introduced in several English speaking jurisdictions during the last half century. Roughly, when it concerns external review procedures with a civilian element, there are three models (Smith, 2004: 17; see also Goldsmith and Lewis, 2000):

**Civilian review model:** investigation, adjudication and recommendation of punishment

**Civilian input model:** the recording and investigation of complaints

**Civilian monitor model:** oversight of police complaints administration

Ombudsmen investigate citizen complaints against public servants, including the police, and this happens in many jurisdictions across Europe and beyond. However, at present, Turkey for example does not have such as system of police oversight exercised by a national ombudsman (Smith, 2010). Do complaint mechanisms work? Lustgarten (1986: 154) maintains that the problem may be particularly acute with respect to serious allegations, involving police criminality, harassment and racism. In his study of statistics for the Metropolitan Police in London, in 1984, 8% of all complaints actually investigated were held to be substantiated, however not one complaint involving harassment, racial discrimination, false evidence or perjury was found substantiated. Lustgarten argues that the failure of the complaints machinery lies within the internal solidarity within the police organisation, commonly referred to as the wall of secrecy, or blue wall of silence. With the establishment of an Independent Police Complaints authority, some governance issues may be resolved.

In Korea, there are two main civilian oversight mechanisms for police policies and activities, the National Human Rights Commission (NHRC) and the Anti-Corruption and Civil Rights Commission (ACRC), which is intended to serve as the main Ombudsman organ. However, unlike Hong Kong, the two Commissions do not work in conjunction with the police internal investigation or complaints dealing mechanisms. There is no specialised body dealing exclusively with complaints against the police either. The absolute independence of the Human Rights Commission of Korea is guaranteed by law. The Commission was established in 2001 as a national advocacy institution for human rights protection to realise human rights on a broader scale, including dignity, value and freedom of every human being, as signified in international human rights conventions and treaties to which Korea is a signatory. The Commission deals with human rights abuses perpetrated by public institutions, with a focus on human rights issues as follows: protection for people accommodated in detention facilities; advocacy for the rights of persons with mental disabilities; improvement of human rights conditions in the prosecution, police, and military; human rights protection for migrants; and protection of privacy and personal information. It accepts complaints from members of the public, investigates and issues necessary recommendations according to the investigation result.

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53 For an international bibliography on civilian oversight and police accountability, see Altus Global Alliance at http://www.altus.org/index.php?option=com_content&view=article&id=45&Itemid=64&lang=en# (accessed 17 August 2010).
54 Further reading: Joel Miller, Civilian Oversight of Policing, Lessons from the Literature (Vera Institute of Justice, New York, 2002); http://www.vera.org.
55 http://www.humanrights.go.kr/english/index.jsp
56 http://www.acrc.go.kr/eng_index.jsp
Since its establishment in 2001, the Human Rights Commission has received a total of 28,854 complaints, 5,077 against the police. The main missions of the Commission are:

- To monitor potential civil rights violations committed by state authorities;
- To monitor state authorities and private actors to prevent any human rights infringements;
- To realise the principles and standards in human rights set forth in the Constitution of the Republic of Korea and international human rights treaties and conventions to which Korea is a party;
- To determine human rights violations and make policy recommendations in accordance with the principles set forth in the Constitution, international law and international customary law;
- To nurture a societal culture respecting and observing human rights; and
- To foster societal understanding and embrace of human rights through education programmes and public awareness campaigns for the fundamental advancement of human rights.

The main tasks of the Commission include analysis and research of human rights statutes (including bills pending at the National Assembly), legal and judicial systems, policies and practices as well as issuance of opinions and improvement recommendations thereon, but also the investigation of human rights violations and discriminatory practices and remedy recommendations.\(^{57}\)

The Commission consists of 11 commissioners including the Chairperson, three Standing Commissioners and seven Non-Standing Commissioners, all of whom are civilian representatives of various sectors of the society. Among the 11 commissioners, four are elected by the National Assembly, four shall be nominated by the President of Korea, and 3 shall be nominated by the Chief Justice of the Supreme Court and then approved by the President of Korea. The Commission compulsorily consists of at least four female commissioners. The term of the Commissioners is for three years and each can serve for up to two terms. The Commission secretariat comprises five departments, 22 teams and three subsidiaries.

The Anti-Corruption and Civil Rights Commission (ACRC) deals with both corruption issues and complaints against public officials. It was launched on 29 February 2008 by the integration of three formerly separate institutions, the Ombudsman of Korea, the Korea Independent Commission against Corruption, and the Administrative Appeals Commission. ACRC has a designated unit for police-related complaints, the Police Complaints Bureau. However, neither ACRC nor its designated police complaints unit is widely known to the general public. There have been concerns as well as criticisms for the amalgamation of three organisations with different functions.\(^{58}\) Moreover, ACRC does not have statutory investigative power, which was the main reason for the success of ICAC Hong Kong. For complaints regarding police human rights violation, the complainants tend to contact the Human Rights Commission which has gained popularity and reputation for independence.

\(^{57}\) Other tasks include: review of human rights issues and environments; education and public awareness programmes on human rights, proposals and recommendations for guidelines on human rights violations, determination standards and preventive measures; research and formulation of recommendations or opinions with regard to the ratification and/or implementation of international human rights treaties to which Korea is a party; co-operation with domestic and overseas organisations and activists engaged in the protection and the promotion of human rights; exchanges and co-operation with international human rights organisations and human rights institutions of foreign countries; and other matters deemed necessary to protect and promote human rights.

through its seven years of operation. For other complaints against the police – such as partiality, corruption, rudeness, negligence of duty or inefficiency – members of the public seek assistance or intervention more frequently from police internal complaints bureau, government agencies such as Presidential Office, the Audit Office and the Prosecutors’ Office, the media or internet portal service bulletins than from ACRC.

Some countries have a designated Police Ombudsman. Northern Ireland has a Police Ombudsman and the Irish Republic has the Garda Síochána has an Ombudsman Commission for Ireland. These are effectively citizen oversight mechanisms (Smith, 2010). According to the CHR, in the former Yugoslav Republic of Macedonia police complaints are referred to the Ombudsman after an internal investigation, while the Albanian Ombudsman acts as an oversight body that may initiate investigations into police complaints rather than conduct them (Smith, quoting CHR 2008d).

Annex VI shows a table with the current civilian police oversight mechanisms in the 16 Asian ASEM countries. The Philippines is the only country that has all four kinds of police oversight mechanisms: Human Rights Commission, Anti-corruption Agency, Ombudsman and Specialised Police Complaints Organisation. Laos and Myanmar have none of them introduced yet. Japan, Singapore and Vietnam are equipped only with single government agency or department dealing with complaints against and inspection of government officials, without any civilian oversight mechanisms of the police. Others have two or three civilian oversight mechanisms of the government including police, in terms of human rights, corruption or complaints but no organisations specially dealing with complaints against the police. All over Asia, more concerns are raised regarding the functions and roles of the oversight mechanisms than the mere existence of them. For example, although countries like Japan and Singapore do not have civilian oversight bodies for the police, the police in these countries maintain reasonably good relations with the public while others with two or more civilian oversight bodies attract attention and concerns regarding police brutality, corruption and/or inefficiency. It may be due to the existence of well-structured and functioning judicial, administrative and internal police oversight mechanisms, or to vigorous media and civil liberty NGO groups’ watchdog activities. Nevertheless, it is clear that voices demanding the introduction of independent civilian oversight bodies are increasing not only in developing countries, but in both Japan and Singapore.  

No research is available that proves or reveals the relationship between the number or activities of civilian oversight bodies and the degree of police accountability or public perception of the police. Neither is there an index gauging and comparing police performance in different regions and countries. The only possible index that could indicate the degree of police accountability in different countries, rough and indirect it may be, is the Corruption Perceptions Index (CPI) maintained by Transparency International (see Annex VII). The CPI ranks of Asian ASEM countries show that many of the countries with three or more civilian oversight bodies occupy the upper positions in the list except for Japan and Singapore. Laos and Myanmar who do not have any civilian oversight bodies ranked the lowest in the CPI list.

60 AFP, “Singapore group urges rights commission”, Dec 9, 2007, SINGAPORE (AFP)
In Europe, there is a striking difference in the numbers of police-related complaints between specialised bodies and national Ombudsmen (ASEF, 2009). The actual number of complaints in relatively small countries like Ireland and Northern Ireland with specialised bodies exceeds by far the numbers in all other Member States that have Ombudsmen with the general mandate to deal with police complaints. This result seems to indicate that a specialised body (a Police Ombudsman) attracts greater public awareness than a general Ombudsman. Nevertheless, such a conclusion needs further research. Differences in mandate could play a role. A preceding (obligatory) internal procedure may screen and select the complaints and diminish the actual number of complaints to the Ombudsman, while in Ireland most complainants do not use the internal procedure and an internal complaint procedure is absent in Northern Ireland.

Moreover, there are striking differences in mandates. A broad mandate is applied by the specialised Police Ombudsmen such as in Ireland and Northern Ireland. The national Ombudsmen normally do not have a special mandate towards the police. They are competent concerning the public administration and therefore for the police as well while the police is part of the public administration. Within this general mandate the police is mentioned explicitly only in Hungary and the Netherlands.

Normally, the mandates of the national ombudsmen are broad as well and include legality, mal-administration and fundamental rights. Human Rights Ombudsmen in Hungary, Romania and Slovakia have a more limited mandate that applies to the investigation of cases of alleged violation of fundamental rights and freedoms only. This limited mandate most likely accounts for the (very) low number of complaints in Romania and particularly in Slovakia (“insignificant”). The low number of complaints in these Member States may also be explained by the totalitarian past of the countries, which has made it more difficult to activate civil society. The assumption is that citizens are still afraid to complain about the police, fearing, rightly or wrongly, harassment from the enforcement agencies. This assumption merits more empirical testing. A mandate limited to ethical standards, professional behaviour and a code of conduct is applied in France.

From previous research (ASEF, 2009), it appears that external oversight (by an Ombudsman or a specialised body) is often preceded by an internal complaint mechanism. Sometimes it is mandatory to follow this procedure first. In other instances the ombudsman or the specialised body may be approached directly. According to the answers to the questionnaire used in this previous research, obligatory internal complaint procedures exist in Denmark, Hungary, Latvia, Malta, the Netherlands and Romania; non obligatory in Austria, Cyprus, Estonia, Greece, Ireland, Lithuania, and Slovakia.

In Europe, the content of the complaints brought to the attention of an external civilian oversight body differs as well. Rather comparable are Ireland (abuse of authority,
discourtesy and neglect of duty) and Northern Ireland (failure of duty, oppressive behaviour and incivility). In Finland most complaints relate to pre-trial investigations and the use of coercive measures. Also in Greece the most frequent categories of complaints are related to arrest and detention and the use of violence. In Hungary coercive measures and the lengthy proceedings constitute the main categories. In general, the behavioural aspects of police work are the main grounds for complaints. But remarkably, in Denmark due to its internal procedure most complaints concern administrative issues only and not the more behavioural aspects. The same is true for Latvia; the behavioural aspects are mainly dealt with by the Internal Security Office. On the other hand, although a well regulated internal procedure exists in The Netherlands, the complaints with the Ombudsman concern typically behavioural aspects: treatment of the suspects, use of handcuffs, arrest and detention, use of violence, use of dogs, refusal of notifications, poor information, search of houses, medical care and poor quality of police investigations.

In all EU member states (ASEF, 2009) only a minority of the complaints are actually subject to investigation, which means that a high percentage is waived from the procedure. A majority is considered inadmissible for a variety of reasons. Again, of the investigated cases only a minority is considered well-founded and the majority unfounded.

Several EU member states report regular contacts with the police, the minister(s) responsible for the police, the public prosecutor and others relevant bodies exist (Austria, Cyprus, France, Ireland, Northern Ireland, Finland, Greece, Latvia, Lithuania, The Netherlands and Romania). Denmark, Hungary, Malta and Slovakia report an absence of structured contacts between the ombudsman and the authorities responsible for the police.

Further clarification is required on the question whether or not these structured contacts have an influence on the effectiveness of the ombudsman. Furthermore, the impact of the ombudsman or specialised body as police oversight mechanism as resulting in socially desirable answers, also needs to be studied. In general, the recommendations of the Ombudsman or the Police ombudsman are almost always followed up by the relevant authorities. Human Rights Commissioner at the Council of Europe, Thomas Hammarberg, says the Irish Garda Ombudsman Commission should be regarded as a model for other countries.

**Examples of National Judicial Oversight Mechanisms**

According to Smith (2010), a practice particularly favoured in Scandinavian countries “is for the public or state prosecutor to investigate criminal complaints against police officers with various degrees of police involvement.” In Iceland and Slovenia the public prosecutor may call on the police to carry out investigations, and in the Netherlands special-duty officers in the State Criminal Investigation Department (*Rijksrecherche*) investigate on behalf of the Chief Prosecutors General. Smith (2010) continues: “since 2005 the Norwegian Bureau for the Investigation of Police Affairs has operated as a separate prosecuting authority. It possesses powers to investigate alleged criminal offences committed by the police and

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refers non-criminal complaints it receives back to the police. These two-tier systems have not been immune from criticism by Strasbourg’s human rights institutions – it has been argued that there should be a more independent system operating for all police complaints (Smith, 2010).

In some parts of Asia, the Prosecution Authority and prosecutors themselves are seen as primary “human rights violators”, rather than functioning as oversight bodies for police operations and practices. In Korea for example, criminal investigation is widely accepted as “accessory” to criminal prosecution, giving prosecutors a monopoly of the power involved in criminal investigation (Seo, 2002). The criminal investigation procedure is carried out under the direction of prosecutors who dominate power to investigate and prosecute, in Korea. The written record of interrogation led by a prosecutor during the investigation process is accepted as strong evidence in court even without or against the defendant’s verbal testimony in court, unless clear evidence of torture or deception is presented by the defence.

Before prosecution, police can detain a suspect for ten days upon issuance of a court warrant requested by a prosecutor. After the suspect is turned over to the prosecutors’ office from the police, he or she can be detained for 20 more days by the prosecutors’ office for further investigation before prosecution is made. Prosecutorial control of or interference with police investigation in Korea has two conflicting implications. While such a system makes direct judicial control over criminal investigation procedure difficult, close and constant quasi-judicial monitoring and control by legal experts is possible. It is said that Korea follows the continental European legal tradition. However, unlike Germany and France, the Korean Prosecutors’ office is a bureaucratic organisation functioning totally out of judicial control. Prosecutors themselves carry out criminal investigation by directing and controlling subordinate officers just like police officers.

Being investigating officers themselves, the Prosecutors’ Office and prosecutors have been pointed out as one of the primary human rights violators. In Korea, prosecutors are widely regarded as “the untouchables” or “people above the law”. Until 1995, the Prosecutors’ Office operated “the rule of dealing with criminal cases involving officials belonging to the Ministry of Justice”, which forced police officers and Ministry of Justice officials - including prosecutors and their subordinate officers - who have been involved in any criminal case to hand the case over to the Prosecutors’ Office. Although the rule itself was abolished in 1995, prosecutors are not and cannot be investigated by anyone but prosecutors themselves when they are involved in criminal activities. As a result, unless a suspect dies during interrogation, or when the parliament requests for the establishment of an Independent Prosecutor to investigate a serious corruption scandal, criminal investigation against a prosecutor is rare, even when reports or accusations of torture, abuse of power or bribery are made against.

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68“The rule of dealing with criminal cases involving officials belonging to the Ministry of Justice” was abolished on the 10th March 1995.
69Constitution of Korea § 12 ③ says “Only Prosecutor can apply for court warrants”; Criminal Procedure Law § 195 and § 196 gives prosecutors exclusive power of carrying our criminal investigation and of directing police investigation.
Police Oversight by International Bodies

The United Nations General Assembly, the main representative body of the United Nations, has the original jurisdiction under a number of Articles in the UN Charter. For instance, this includes Article 13, which gives the Assembly the mandate to initiate studies and make recommendations for the purpose of “assisting in the realisation of human rights and fundamental freedoms for all without distinction as to race, sex, language or religion” (Crawshaw et al., 1998: 12).

The Economic and Social Council of the United Nations also has specific functions in relation to the protection of human rights. Under Article 62 it may “make recommendations for the purpose of promoting respect for, and observance of, human rights and fundamental freedoms for all”. The Council established a number of bodies to assist it in matters dealing with human rights, including the Commission on Human Rights, which set up the Sub-Commission on Prevention of Discrimination and Protection of Minorities.

The UN Commission on Human Rights is composed of 53 representatives of the UN. It drafts international human rights instruments, promotes human rights and responds to allegations of human rights violations. The Sub-Commission consists of 26 experts selected by the UN Commission on Human Rights and undertakes studies in light of the Universal Declaration of Human Rights, makes recommendations to the Commission and reports to the Commission. It also deals with matters that go beyond the prevention of discrimination and the protection of minorities (Crawshaw et al., 1998: 12).

The Committee against Torture was established under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. This Committee receives periodic reports from states parties to the Convention, and examines information on well-founded indications that torture is practised systematically within the territory of a state party (Crawshaw et al., 1998: 14). The UN Committee Against Torture consists of ten independent human rights experts elected by parties to the Convention. The Committee is empowered to examine periodic reports from state parties, and to make enquiries into apparent systematic practices of torture. Where a state has agreed, the Committee may receive complaints from other state parties of non-compliance with the provisions of the Convention. It may also receive complaints from, or on behalf of, individuals who claim to be victims of a violation of the provisions of the Convention. The Committee may initiate its own investigations rather than await complaints if it has reliable information from any person or body that indicates systematic torture (Crawshaw et al. 1998: 15f).

The European Court of Human Rights (Council of Europe) deals with complaints about police practices on a regular basis. The European Commission against Racism and Intolerance (ECRI), which functions under the umbrella of the Council of Europe, brings out country-by-country monitoring reports on racism and discrimination. In its recommendation on combating racism and racial discrimination in profiling (2007: 15) ECRI recommends the establishment of a body, independent of police and prosecution authorities, which is entrusted with the investigation of alleged cases of racial discrimination and racially motivated misconduct by the police. In its explanatory memorandum, ECRI argues that the body entrusted with the investigation of alleged cases of racial discrimination and racially-

See also our explanatory note about OPCAT.
motivated misconduct by the police should exist alongside other structures competent to receive complaints against police misconduct, such as the internal disciplinary mechanisms and the prosecutor. It is necessary to create a system whereby a victim can bring a complaint in full confidence to an independent body whose main task is to control the activities of the police. This is also in line with the recommendation of the OSCE in its Guidebook on Democratic Policing (2006: 33f). ECRI further recommends that the body entrusted with the investigation of alleged cases of racial discrimination and racially-motivated misconduct by the police should be given all the necessary powers to exercise its task effectively, including requesting (the production of) documents, seizure of documents and questioning persons. The body can take different forms, such as a national institution for the protection and promotion of human rights, a specialised police Ombudsman, a civilian oversight commission on police activities, or a specialised body to combat racism, xenophobia, anti-Semitism and intolerance at national level.

Some of our respondents call the European Commission for the Prevention of Torture one of the best practices for the implementation of ethics, mainly because they have a right of visitation (they can visit various premises) and they can do so unannounced; there is reciprocity; and there is sanctioning in case of breach of the principles. Such an institution could also be established nationally. One has to take care, according to Van Troost, that national institutions guarantee the proper implementation of international standards. Several European countries have a National Human Rights Institute, which may also supervise the implementation of recommendations flowing from the Universal Periodic Review.

Police Oversight by International Non-Governmental Organisations

Amnesty International reports on police practices around the world. Recently, it launched a report accusing the United Kingdom of violating the rights of terror suspects by developing a shadow judicial system that imposes severe restrictions on individual rights, as a consequence of the 2005 Prevention of Terrorism Act. In a report about Greece, issued on 27 July 2010, Amnesty International calls on the Greek government to stop treating immigrants like criminals, as they are often locked up in border guard stations; people who were detained reported cases of ill-treatment.

More specifically in the field of policing, Amnesty has criticised the use of police violence in France and Greece. Amnesty International issued 10 Basic Human Rights Standards for Law Enforcement Officials (1998), at http://web.amnesty.org. The organisation brings out annual reports about the state of human rights in all regions of the world and monitors

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72 Due to time constraints we could not have time to present a systematic reconstruction of police oversight powers by international bodies such as international courts and international parliaments (as to the latter, the European Parliament inspects and authorises the budget of the EU police agency Europol). However, the following website provides an excellent inventory of many NGO’s which are active in the field of human rights and policing, particularly in Asia: http://www.derechos.net/links/ngo/regional/asia.html
the ratification of human rights treaties on a country-by-country basis.\textsuperscript{76} According to our respondent Van Troost, Amnesty International has always looked at the relationship between ethics and human rights from a complementary perspective. According to Amnesty, human rights should become a part of police ethics, but not without a framework for legal implementation or a supervisory mechanism. If these frameworks do not exist, training in human rights and policing does not make much any sense (this is endorsed by Uildriks). Van Troost says, “Many countries have signed and ratified international human rights treaties, but their national laws permit escape clauses, and Amnesty is of the opinion that these gaps cannot be filled with ethics. Some countries have ratified many relevant instruments but refuse to recognise international oversight mechanisms and complaint procedures”.

Human Rights Watch is an independent organisation dedicated to protecting the human rights of people around the world. The organisation stands with victims and activists to prevent discrimination, to uphold political freedom, to protect people from inhumane conduct in wartime, and to bring offenders to justice. Human Rights Watch investigates and exposes human rights violations and holds abusers accountable. Furthermore, the organisation challenges governments and those who hold power to end abusive practices and respect international human rights law. The organisation enlists the public and the international community to support the cause of human rights for all.\textsuperscript{77}

Open Society institute, Altus Global Alliance, the Vera Institute of Justice and the Asian Human Rights Commission based in Hong Kong also evaluate and assess police practices at regular intervals.

The Asian Human Rights Commission (AHRC) is a Hong Kong-based NGO that seeks to protect and promote human rights through monitoring, investigation, advocacy and solidarity actions. It works towards social equality; seeks to develop a speedy communication system and a human rights education system. It promotes legal and administrative reforms, particularly judicial and police reforms. It also develops close links with the victims of human rights violations; participates in restorative justice, and develops religious and cultural programmes. It encourages the ratification of UN human rights instruments; promotes the United Nations and works towards the development of human rights mechanisms and encourage people’s participation in the process by promoting the Asian Human Rights Charter.\textsuperscript{78} Both Amnesty International (and its regional offices in Asian countries) and the Asian Human Rights Commission are working actively as watchdogs and civilian oversight body of the police in Asia.\textsuperscript{79}

Altus Global Alliance works across continents and from a multicultural perspective to improve public safety and justice. It was established in April 2004 as a cooperative venture between NGO’s and academic centres. Its mission statement:\textsuperscript{80}

\textsuperscript{76} http://thereport.amnesty.org/sites/default/files/treaties_en.pdf; accessed 17 August 2010.
\textsuperscript{77} More information can be obtained from the website of Human Rights Watch: http://www.hrw.org/en/; accessed 4 November 2010.
\textsuperscript{78} http://www.ahrchk.net/
\textsuperscript{79} Transparency International is not a specialised international oversight body, though it bears considerable relevance for the (perceived) integrity of the public sector as a whole: http://www.transparency.org/
\textsuperscript{80} Taken from website: http://www.altus.org/index.php?option=com_content&view=article&id=2&Itemid=22&lang=en#; accessed 17 August 2010.
Altus members are distinguished by their close work with government to study social problems and explore new ways of delivering justice collaborations that produce practical reforms of benefit to ordinary people. Drawing on the knowledge and resources of the member organisations, Altus helps public officials identify or develop empirically tested models of respectful policing, quality legal services for the poor, and other good practices that fit local needs. Altus also helps NGOs around the world work more effectively with government and play a larger role in shaping rights-conscious solutions to problems of injustice.

For scholars, Altus offers a new body of comparative knowledge about safety and justice as well as cross-cultural research methods and tools. And for donors, Altus provides an efficient vehicle to connect visionaries and reformers around the world and make progress on issues of global importance.

Twenty years ago, practical reform of justice systems rarely crossed geographic and political boundaries, and solutions could not transcend differences between civil and common law traditions. Today those boundaries are evaporating. The Altus members formed an alliance because commonalities in the delivery of justice in countries around the world today are already more important than the differences, and because greater justice anywhere can spur change around the world.

One of its instruments that is relevant in this context is the annual Police Stations Visitors Week. In October 2010, police stations in 20 countries received hundreds of local citizens assessed the quality of services delivered by the police. The citizens were provided with a Police Station Visitor Week kit in their local language.81 The assessment took place on the basis of a common protocol and scoring system. The five core categories of assessment were:

1. Community orientation
2. Physical conditions
3. Equal treatment of the public without bias based on age, gender, ethnicity, nationality, minority status, age or sexual orientation
4. Transparency and accountability
5. Detention conditions

Specialised Police Oversight Mechanisms

With only a few exceptions, Human Rights Commissions, Anti-corruption Organisations and Ombudsman have been introduced and implemented in Asian ASEM countries. Human Rights Commissions deal with a wide range of issues such as discrimination, freedom of speech and assembly, fair trial and integrity of the person as well as police related arrest and detention issues. Anti-corruption Organisations are exclusively concerned with prevention and detection of corruption not only by the police but by public officials in general.82 Ombudsmen take petitions and complaints from members of the public, investigate and resolve matters in dispute. All of these mechanisms function as bridges between the police and the public, mediating between the two. With the exception of specialised Police Ombudsmen, none of the above have specialties in policing and there are complaints against police not falling into any of the categories mentioned.

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82 Annex VII shows the perception scores of levels in corruption in European and Asian countries, based on statistics by Transparency International.
Conclusions to Chapter 3

Police oversight mechanisms have a task to monitor police performance, in terms of effectiveness, organisational structure, and compliance with ethical and human rights standards. According to Lasthuizen (2008), the judgment of external stakeholders influences the perception of ethical conduct.

Citizens have an important role to play in bringing complaints to the fore. Institutionalised police complaint handling mechanisms should be part and parcel of a police monitoring mechanism. Increasingly, however, citizens also become active in gathering images and records of alleged police misconduct, for example video-recordings or photographs of police officers using physical violence against demonstrators, traffic police infringing traffic rules, and questioning by police of people in the streets. In the USA there is an organisation called Copwatch\textsuperscript{83}, existing of volunteers who go out on foot or driving patrols in the streets, recording interactions between police and citizens; the organisation hopes that these activities act as a deterrent against police misconduct.

Oversight mechanisms may also be in the position to correct police performance. In this regard, it is important to take into account the impact of recommendations, sanctions of police misconduct, and the effect of shocks, accidents and incidents on police performance. According to our respondent Osse, independent oversight mechanisms contribute significantly to public confidence in state institutions, and trust is being guaranteed by high levels of professional ethics. In addition, police complaints systems should be made visible and accessible to those who have grievances against the police. Moreover, all complaints against the police should be adequately recorded and allocated. Unethical conduct should not be compensated, but sanctioned. Our respondent Judge Myjer warns that ethics should not be treated as a soft issue.

\textsuperscript{83}http://www.copwatch.org/
CHAPTER 4
IMPLEMENTATION OF GOOD POLICING

Introduction

Now that we have scanned the existing legal instruments in the field of good policing and police ethics, as well as of relevant models of policing and oversight mechanisms that monitor the compliance with these standards, we will seek to describe the police practices and processes that standards of ethical conduct apply to, and to what extent there is insight into the actual implementation of these standards. The implementation of police ethics takes place at all levels of police activity, varying between the local, regional, national and international levels. However, it is almost impossible to make sweeping statements about the differences in the application of ethical standards by police organisations without designing a reliable, objective, and verifiable measure instrument that takes stock of the implementation at regular intervals. In a more modest fashion, however, we seek to assess the relevance of ethical standards of police conduct in different realms of policing. Moreover, this inventory allows us to identify potential implementation gaps. In this chapter, we will address a range of good practices without any concrete reference to practices in either Asia or Europe.

Ethics in Relation to Key Police Powers

Use of Force

This police power affects the right to life, which is protected under Article 3 of the Universal Declaration of Human Rights. “Arbitrary” deprivation of life is prohibited, including genocide, war crimes, death arising from torture and ill-treatment, and deaths arising from excessive use of force by the police. Here the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials are most relevant. Article 3 of the UN Code of Conduct for Law Enforcement Officials expresses standards on the use of force by saying that “Law enforcement officials may use force only when strictly necessary and to the extent required for the performance of their duty.” Paragraph a. to the Commentary states that the use of force by police officers should be exceptional, and that while police may use such force as is reasonably necessary for the prevention of crime or in effecting or assisting in the lawful arrest of offenders or suspects, no force going beyond that may be used. Paragraph b. points out that national law ordinarily restricts the use of force by police in accordance with the principle of proportionality, and asserts that it is to be understood that such national principles of proportionality are to be respected in the interpretation of this provision (Crawshaw et al., 1998: 107). Paragraph c. emphasises that the use of firearms is considered an extreme measure and that every effort should be made to exclude the use of firearms, especially against children. Hence, basic principles of proportionality and necessity are reiterated in the UN Code of Conduct. In practice, there are strict criteria for police to use violence i.e. (lethal) weapons.

Use of force should be publicly reported. Academic experts like Timmer (2007) and Smith (2004: 22) note that police organisations register the use of violence insufficiently or incompletely. Compared to other European countries, the United Kingdom is well-advanced,
with the publication of its reports on the Internet. However, most police forces (some with paramilitary units) only submit a record about “charges” that have taken place, without a detailed account of the number of police officers, the kind of material was used, and the number of individual encounters. Hence, details of these confrontations only come to light either through individual complaints lodged by victims of police violence, and by the media, which is often called the “fourth pillar” of democracy (National Democratic Institute for International Affairs, 2005: 34; Skolnick and Fife, 1993: 81). Lethal killings are generally well-reported but usually handled through an internal procedure. If a police officer is threatened or in danger, he or she is allowed to use violence against that individual for reasons of self-defence (provoked violence, monopoly of violence). However, if and when the police officers use violence, principles of subsidiarity and proportionality are under pressure (Uildriks, Breninkmeijer).

In four reports issued by the Open Justice Society Initiative from 2007 to 2009 on countries spanning the EU, the Justice Initiative combined legal and policy analysis regarding European profiling with statistically rigorous site observations in Paris and Moscow, and best practice recommendations for police forces. A collaborative project in two countries — Spain and Hungary — showed that when police stops were systematically monitored and the data publicly reported, the proportion of stops that uncovered an offense actually increased. Police work became more efficient and less discriminatory, confirming the common sense notion that when police know that their reasons and their results will be scrutinised they are less likely to act on stereotypes and will rely more consistently on objective evidence. Police in both countries had a prior history of widespread ethnic profiling; their success in improving performance and cutting down on discriminatory practices is reason to think that further inroads can be made there and elsewhere.  

Use of excessive force has been one of the biggest issues for the police in Asia for a long time. One interviewee who teaches at a South Asian university gave a graphic account of the severity of this problem:

“The major problem in our country is the lack of public confidence in police work. Our citizens view the police as the arms of an establishment, that is, the police has been playing a partisan role by serving the ruling party. There is a widespread belief in our country that most police officers are not dedicated, honest public servants. Crimes committed by police officers themselves, such as violation of human rights and civil liberties are prevalent. The use of excessive force, rapes and killings of people in police custody have raised serious questions about the legitimacy of the police in recent years.”

**Arrest and Detention**

The fundamental right most affected by this police power is the right to liberty protected by Article 3 of the Universal Declaration of Human Rights. Article 9 of the Universal Declaration prohibits arbitrary arrest and detention, and all of these rights are given legal force in the International Covenant on Civil and Political Rights and the regional treaties. People in detention are vulnerable to ill-treatment and torture. Our respondents particularly noted the detention of asylum seekers, refugees and irregular migrants – who only have a status as third country nationals - in (European and Dutch) prisons. Police detention and pre-trial

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procedures in Europe were the subject of an academic research project executed in cooperation with the Open Society Justice Initiative:

Every year, millions of people across Europe—innocent and guilty—are arrested and detained by the police. For some, their cases go no further than the police station. Many others eventually appear before a court and spend time in custody both before and following trial. This research examines not only how defense rights are framed in domestic legislation, and whether standards set by the European Convention on Human Rights are met, but also how these rights are implemented in practice and whether structures and systems exist to enable individuals to effectively exercise these rights. For instance, domestic legislation may provide for the right to a lawyer immediately on arrest, but if there is no system by which a lawyer can be contacted on a 24 hour basis, then the arrested person may not be in position to exercise their right to counsel effectively.85

The basic elements of best practice concerning the detention of suspects are that after a person is brought to a police station, a record should be opened, which shows the personal details of the detainee and the reasons for the detention, signed by the supervisory police officer responsible for authorising the detention. The official should explain to the detainee the reason for detention, and the rights to which detained persons are entitled. A detained person has the right not to be held incommunicado. A complaint on behalf of a detained person should be referred to a senior police official as soon as possible. The basic elements of best practice for the treatment of detainees can be found in national codes, which usually embody international standards as expressed in human rights treaties.

The growing trend of the “duty attorney” system in Asia can be a good solution to prevent arbitrary arrest and detention.86 In Japan87 and Korea,88 the Bar Associations designate duty attorneys on call and dispatch them to police stations or other detention facilities when there is a request from an arrestee or detainee. An applicant who is illegally taken to the judicial authorities can be provided with free legal assistance during investigation. The rationale behind this system is that lawyers, who are amongst the most privileged in society, “pay back” to society with their professional skill and knowledge.

Investigation of Crime

The right to a fair trial and the presumption of innocence are the rights protected under Articles 10 and 11 of the Universal Declaration of Human Rights. The police power to investigate crime may affect these rights. A lawful and ethical investigation of crime can protect the right to a fair trial, whereas an unlawful or unethical investigation can subvert that right even before trial has commenced. Fair trial principles include the suspect’s right to be tried without undue delay, to examine or have witnesses examined against the suspect, and not be compelled to testify against oneself or confess to guilt. It is pivotal for police investigators to stick by the presumption of innocence until a suspect is proven guilty by law.

86 We have not looked into legal assistance during police custody.
88 http://www.koreanbar.or.kr/eng/01_04.asp
It is more professional and ethical to approach a case with an open mind and to gather information systematically, with each step in the investigation process being recorded. In more complex cases, a senior investigating officer should set out the main lines of enquiry (Crawshaw et al. 1998: 188). Hence, evidence should not be obtained through violence or corruption, and confessions should not be fabricated. However, within an international context the legal rules on how to conduct a criminal investigation can be very different from one country to another (Lustgarten, 1986: 3).

The role of the prosecutor can be an entirely different one in continental European systems, where the discretion not to prosecute is not exercised by the police, and where the accused is not permitted to plead guilty. In the English system, there is much greater incentive for the police to obtain a confession from a suspect. Moreover, in England “victims of police misconduct can avail themselves only of the protection afforded by the common law, which comprise a much narrower range of rights and interests, embodied in actions for false imprisonment, assault and trespass” (Lustgarten, 1986: 7f).

With regard to the collection of evidence, hearing witnesses’ testimony, and the use of coercive powers:

The police undertakes interviews or interrogations of suspects, witnesses and victims. According to OSCE guidelines, these must be conducted in a language that the persons interviewed understand (OSCE, 2006: 24). Before interviewing, police officers must identify themselves and others present during the interview. The persons interviewed must be informed of the reasons for the interview, their rights and the procedures applicable to the investigation. In order to secure information or intelligence, there are instances where police organisations have abused those principles. Wall-standing, hooding, subjection to noise, deprivation of sleep and deprivation of food and drink are considered by the European Court of Human Rights as disorienting techniques as well as sensory deprivation. The Court also considered on a majority basis that these techniques constitute “inhuman and degrading treatment”, while in the past, it agreed unanimously that the combined use of these five techniques amounts to torture, in part, because of the ways that they prevented the use of the senses and affected interviewees physically and mentally (Crawshaw et al. 1998: 150; Williamson, Milne and Savage, 2009). Article 6 of the torture Declaration requires states to keep under systematic review interrogation methods and practices with a view to preventing torture or other ill-treatment.

“States could encourage the spread of “best practice” in the technical aspects of lawful interviewing, especially when such reviews include studies of lawful and effective interrogation methods and practices developed in other states” (Crawshaw et al, 1998: 175).
Principle 21 of the UN Body of Principles states that it shall be prohibited to take undue advantage of the situation of a detained or imprisoned person for the purpose of compelling him to confess, incriminate himself or to testify against any other person; and that no detained person while being interrogated shall be subject to violence, threats or methods of interrogation which impair his capacity of decision or his judgment. No form of violence whatsoever may be applied to a detainee for the purpose of securing a confession; the detainee should not be placed under duress. Principle 23 of the UN Body of Principles rules that the duration of any interrogation of a detainee should be recorded, as well as the intervals, the identity of the officials and other persons present. A detainee is to have access to these records, so is his lawyer or counsel. This should avoid abuse of detainees.

Are these principles really followed? Evidence extracted under torture should not be admissible in legal proceedings. A good practice could be the creation of an investigative interview based on the so-called PEACE model, which is derived from:

1) Preparation and planning;
2) Engage and explain;
3) Account, clarification and challenge;
4) Closure; and
5) Evaluation (Crawshaw et al., 1998: 203)

For instance, regarding preparation, in order to interview effectively, the interviewer needs to take account of the interviewee as an individual and to gather knowledge about his or her age, gender, domestic circumstances, cultural background, intellectual level, physical and mental strength and previous contact with the police. It is good practice to establish a system for the electronic recording of interviews, in order to produce irrefutable evidence that investigating officers acted fairly and respected the human rights of the interviewee. Recording makes an interview more transparent and accountable, and thus less closed.

Ethical principles should also apply to more detailed processes of crime investigation, including the taking of fingerprints, the collection of DNA-material, and (intimate) body searches. In exceptional circumstances, and when authorised by law, it may be necessary to conduct intimate and strip searches of detainees. In several countries like the Netherlands it has become common practice to subject individuals who are suspected of carrying drugs to intimate body searches, and these searches take place upon arrival at Schiphol airport. According to Crawshaw et al. (1998: 217), the rules for such searches usually require that an officer conducting the search should be of the same sex as the person being searched, and that the search should take place in an area where the detainee cannot be seen by anyone who does not need to be present. Moreover, an internal search should be performed by a physician.

In some Asian countries with a lack of checks and balances between the police and prosecutors during criminal investigation, the risk of miscarriage of justice and violation of human rights gets higher. The Korean investigation process with regard to the prosecutors’ dominance in the system which was cited in a previous section on national judicial oversight mechanisms, may also be considered here.

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The Korean Constitution and Criminal Procedure Law prohibits torture as many other countries do. However, not only in police custody but also in the prosecutors’ office, suspects have died or been injured during interrogation aimed to extract confession. A judge argued that clause 312 of the Criminal Procedure Law, which provides that an interrogation report made by a prosecutor with admissibility is accepted as evidence, is one of the reasons.\(^{90}\) When a case lacks hard evidence but investigators have a strong suspicion on a suspect, a confession in the prosecutor’s interrogation report secures conviction by the power of clause 312. Investigators, whoever it may be, are tempted to use any measure to extract confession from a suspect. This is especially as prosecutors participate in the criminal investigation procedure from the outset sharing suspicion with detectives. There is a high possibility that a case that started wrongly ends with a wrong conviction without proper judicial or prosecutorial interference.

### Intelligence Gathering

Particularly in view of new crime-fighting priorities and anti-terrorism efforts, there has been an upsurge in intelligence-led policing and the use of proactive investigation methods. Moreover, police organisations are increasingly organised in specialist squads. Consequently, as Lustgarten says, “large numbers of police devote their energies to uncovering offences of which they themselves are complainants and for which there may be no third party victims: a proactive rather than the traditional reactive approach” (1986: 29). These forms of policing apply to the investigation of fraud, money laundering, corruption, trafficking in human beings, drug trafficking, trade in nuclear materials, terrorism, and radicalisation.

In various European countries – and subsequent to law enforcement aberrations – legislation has been introduced to provide a framework of rules and conditions for the application of covert policing.\(^{91}\) The Netherlands, the United Kingdom and Belgium have elaborate legislation in place, and jurisdiction has been developed by the ECHR on issues such as the use of undercover agents and informants. In order to maintain a fair balance between ensuring public safety through law enforcement measures and securing the rights of the individuals, legislative frameworks governing the performance of undercover investigations must be developed (OSCE, 2006: 25), including the establishment of control and oversight mechanisms (Neyroud, 2005: 582, 594f). Van Reenen mentioned an example which shows that the Council of Europe Code on Ethics does not yet have its desired effect, namely a case where perjury of undercover agents has been investigated and where it shows that the “blue loyalty” amongst police officers is deemed more important than the rule of law.

### Technical Surveillance

According to the OSCE (2006: 25) new technologies allow increasing intrusion into the privacy of citizens, and have the potential to damage privacy and freedom of expression and also public trust in the authorities. In line with the Council of Europe Code of Police Ethics and the Council of Europe Recommendation on the use of Personal Data in the Police

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\(^{90}\) Chosun Daily 2003-02-20, “Confession Made At the Prosecutor’s Office Confirmed Admissibility and Evidentiality”.

\(^{91}\) See Council of Europe, Rec (2005) 10 on “Special Investigation Techniques” in Relation to Serious Crimes Including Acts of Terrorism.
Sector,\textsuperscript{92} the OSCE (2006: 25) recommends that a data protection official should exercise strict control to ensure that the collection, storage, and use of personal data by the police shall be carried out in accordance with international data protection principles, and, in particular, shall be limited to the extent necessary for the performance of lawful, legitimate and specific purposes. Particular attention must also be paid to rules on exchanging information between the police and other elements of the criminal justice system, and on exchanging data at the international level.\textsuperscript{93} The Dutch Chief Prosecutor General Van Nimwegen argues we should avoid juxtaposing privacy and technology-based information-gathering. In addition, he argues that professional-ethical reflections should take place before new procedures are established.

In Europe, ethnic profiling has gained increasing popularity, particularly in view of “digitalising” border controls. Data-mining combined with the inter-operability between vast international databases such as the Schengen Information System and the Visa Information System, and in the future Eurodac (the EU fingerprint system for asylum seekers) allow for large-scale profiling exercises. The challenge here is that while ethnic profiling is increasingly ruled out in regions supported by international organisations like the OSCE, it has made a comeback in western democracies. In the OSCE guidelines concerning ethnic profiling, we read that (2010: 58) ethnic profiling is unacceptable because of its discriminatory character, but also that it is counter-productive as it alienates ethnic minorities “whose co-operation is necessary for effective crime detection and prevention”. The European Commission against Racism and Intolerance (ECRI, 2007: 4) recommends that racial profiling ought to be clearly defined and prohibited by law. For the purpose of its recommendation, ECRI defines racial profiling as “the use by the police, with no objective and reasonable justification, of grounds such as race, colour, language, religion, nationality or national or ethnic origin in control, surveillance or investigation activities”.

Moreover, several countries have invested heavily into the development of closed-circuit cameras surveillance systems, which are mostly used to monitor suspect behaviour. In addition, several other measures have been introduced, such as wide-scale Automatic Number Plate Recognition (ANPR), monitoring, retention and interception of telecommunication messages, the transfer of personal financial data to foreign governments and the pre-entry passenger name recording system. It goes beyond the objective of this book to make an inventory of the surveillance measures used by the police and the way police agencies use, link, search, and store data. In most European countries, there is a national data protection authority that engages with police forces about the way they aggregate data. The leading norm is that police forces comply with legal standards, but also that they report in a transparent manner about the methodology that underlies the gathering of statistical data, the purposes for which these data are used, and with which agencies data are exchanged.

With the increasing popularity of cloud intelligence, surveillance, and the inter-operability of data systems, the privacy of individual citizens has come under severe pressure. The relationship is not reciprocal, to the extent that it is the government and the public sector that collect the data, rather than the other way around. New crimes emerge to which citizens may fall victim, such as cybercrime and identity-theft. This can have serious consequences

\textsuperscript{92} Council of Europe, Recommendation No. R (87) 15 on regulating the Use of Personal Data in the Police Sector, 1987.
for the individual lives of citizens, and it is therefore important that police organisations take these offences seriously. The National Ombudsman of the Netherlands, Brenninkmeijer, argues that it is not just the police but particularly also the Prosecution Service that carries a crucial responsibility in this regard. Chief Prosecutor General Van Nimwegen adds that the ethical anchors for the Prosecution Service are legality, proportionality, subsidiarity, legal equity and consistency: “Ethics are inherent to the task of the Prosecution Service. Professionalism ought to guarantee that these ethical principles are complied with. In the event of doubt, a joint evaluation may be very instructive”. In the Netherlands, this has been institutionalised in the form of the Central Supervisory Committee, which assesses matters such as the use of sensitive investigation methods.

**Public Order Policing**

Human rights that may be affected are the right to life and liberty of a person, the right to be free from arbitrary arrest and detention, the right to humane treatment (as a detainee), and the right not to be subjected to torture. States may derogate from some of these obligations under the Treaties during an officially proclaimed emergency. In Europe, we have seen several instances where the emergency clause is operational when there are international demonstrations or football matches. These clauses allow authorities to reinstall border controls, and to subject all citizens to identity controls and (preventive) body searches. Where it concerns stop-and-search, the prevailing impression is that people from ethnic minority backgrounds stand a much higher chance to be stopped-and-searched. More detailed research shows that there is a difference in the profile of the resident and “the profile of people who are present in public places at times and in areas where stops and searches are more likely to be conducted” (Rowe, 2004: 89). Stop-and-search powers can be used selectively, at specific times, in so-called high risk districts, in the context of political demonstrations or football matches. This is a level of policing where there is a large margin for individual professional discretion. The question is whether there are sound managing and information systems in place to monitor the behaviour of officers. It is important that stop-and-search powers are used proportionately and only when deemed necessary, and done a-selectively to avoid racism or other forms of prejudice.

Crucial issues are whether there is reasonable suspicion, the way identity checks are performed; whether body searches take place (weapons, drugs, explosives); whether fair treatment standards are applied, whether the nature and the grounds for suspicion are clarified to the person who is stopped by the police, and more generally the way the police communicate with citizens in these contexts. Brenninkmeijer, National Ombudsman of the Netherlands ( ), argues that specialist squads who have had extensive training in the field of public order policing and arrest, are usually the most professional in their encounter with citizens (arrest teams).

An example of a good practice for stop and search policing has been developed in Spain, supported by the EU AGIS project, where a form is used by police officers on the identification of people in public places (Appendix 4 in OSCE 2010).

In many Asian countries, paramilitary riot police units consisting of young members are put in the frontlines of public order situations. With limited professional experience, they are apt
to be more easily provoked, may lack effective communication skills and are more prone to get violent. Amnesty International’s criticism on how the Candlelight Demonstration in 2008 was handled by the Korean police is one example:

“Candlelight protests in central Seoul against the resumption of US beef imports began on 2 May 2008 and continued for more than two months. The protests were for the most part peaceful but there were sporadic incidents of violence. Amnesty International monitored the policing of the protests and this report considers the areas of concern identified by the organisation: unnecessary or excessive use of police force, including the misuse of police and security equipment during the protests; arbitrary arrest and detention; a lack of adequate training of the police; and a lack of police accountability.”

According to the Brenninkmeijer, an area of concern in the context of public order policing is “zero tolerance policing”. This means that the police is quicker in intervening when there is a risk of public unrest. Brenninkmeijer argues that zero tolerance policing flows from political-administrative strategies and that it leaves a smaller margin of discretion and ethical reflection to the individual police officer. Several complaints that reach him are related to this type of toughening of police styles.

**Specific Realms of Policing**

**Post-conflict Policing**

The Organisation for Security and Co-operation in Europe (OSCE) has ample experience with post-conflict policing in countries with a fragile government, and more specifically with the implementation of police-related programmes, such as in South-Eastern Europe (OSCE, 2008). Though there does not seem to be much literature on this issue yet, evaluation of practical experiences with police missions shows that a mission mandate should be specified very clearly, and mandates of various stakeholders should be clearly formulated in order to prevent turf wars (OSCE, 2008: 17).

Hence, vague mandates should be avoided and memorandums of understanding should be signed with the host government. It also seems instructive to perform an elaborate needs assessment prior to the establishment of a police mission, mapping the public’s perception of the police, victimisation issues, the human rights situation, the level of corruption, the needs and demands of communities, and social and administrative structures (OSCE, 2008: 18).

The development of a strategic police assistance programme should start at the earliest possible stage, comprising long-term programmes as well as short-term objectives, with realistic and achievable objectives, benchmarks, criteria for success, all to be achieved within a feasible time-frame (OSCE, 2008: 19). The involvement of other actors and particularly local counterparts should be properly addressed in strategic planning (OSCE, 2008: 20). It is also stressed that that local / national law enforcement departments engage in an evaluation culture in line with a learning and accountability function and

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in order to assess the effectiveness, efficiency and relevance of specific implementation activities, such as tactics, procedures and techniques. Bias should be avoided by means of independent external evaluation (OSCE, 2008: 30). For these missions, it is instructive also to develop a sound exit strategy (id: 50). Finally, if the police mission is part of a more comprehensive police reform project, the reform achievements should be sustainable (id: 52). This can be realised through the adoption of legal instruments and national police reform strategies that provide an adequate legal foundation. Finally, it is essential that local ownership and empowerment is guaranteed by involving local staff. A different stage of policing is “transitional policing”, but we believe several principles that have been included under post-conflict policing apply in this context as well.

**Policing Terrorism, Radicalisation and Organised Crime**

Though there may not be a fundamental shift in the four freedoms, intelligence-gathering processes conducted by intelligence and secret services are less open and transparent than those conducted by police services. It is therefore essential that the operations of police and intelligence services in the context of counter-terrorism and the control of transnational organised crime remain clearly distinguishable from police information and intelligence processes. The latter are increasingly codified in national laws on special and undercover policing methods, and based on the jurisprudence of international courts, such as the European Court of Human Rights. More research effort should be invested in how and to what extent the policing of new – mainly transnational – threats, affects policing, and whether it pushes the police more towards a military style and/or towards an intelligence-led policing style. If these apparent trends can indeed be verified, it may be worthwhile to encourage a cross-national comparison as well as an evaluation of whether these trends run counter to essential principles of ethical policing, such as responsiveness (see for example Den Boer, 2010; Haggerty and Ericson, 1999; Kraska and Kappeler, 1997; Skizinger, 1998).

**Policing Ethnic and Religious Minorities**

There is currently considerable anxiety in a number of European countries about the way non-resident citizens are policed, notably in France. Roma and Sinti are the largest ethnic minority in Europe. In their relations with the police, they face several challenges, including ethnic profiling, disproportionate or excessive use of violence, and failure by the police to respond to incidents of hate or racist crime (OSCE, 2010: 15).

Within the OSCE framework, the High Commissioner on National Minorities (HCNM) serves as a conflict prevention mechanism in situations involving minority issues. The HCNM Recommendations on Policing in Multi-Ethnic Societies are also very relevant in this regard. The Recommendations aim to provide states with practical guidance on developing policies and law in accordance with international norms and standards based on international

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95 For comparative empirical research on policing terrorism in the Netherlands and the United Kingdom, see Matteo Tondini in www.inexproject.eu.
96 http://www.osce.org/hcnm
experience and best practice. The 23 individual recommendations are divided into the following sub-headings:

- Recruitment and representation
- Training and professional support
- Engaging with ethnic communities
- Operational practices
- Prevention and management of conflict

Some respondents like Van Reenen and Brenninkmeijer argue that the lack of responsiveness to ethnic or cultural tensions by the police can be considered unethical. In other words, not doing something about a problem is a moral issue. Seeking to guarantee or restore the balance between over-policing and under-policing, as well as the practice of providing privileged policing to some and the denial of the equity of justice security to other parts of the population can be considered as discriminatory policing. Our expert panel member and former National Ombudsman of the Netherlands Brenninkmeijer regards this as an important issue for the police ethics agenda.

Policing in Co-operation with the Private Sector

Increasingly, the police organisation devolves tasks to the private sector. Surveillance of public spaces is one of the services that is increasingly performed by private security businesses. This applies for instance to the employment of private security guards in prisons, the use of private military companies for the safety of troops abroad, and the use of commercial technology for public police purposes. Though much has been written about the exponential growth of the private security business (for example Johnston, 1992; Johnston, forthcoming), not much empirical research has been done yet on the values that are held within the public and private security organisations (Van Buuren, 2009). One of our respondents Van Reenen maintains that the special position of the public police is beginning to erode, given the emergence of private security actors and the erosion of the classical principle of monopoly of violence. Another respondent Bruggeman claims that the “broadening of the powers and functions of the police to other partners and also the fact that there is a multilateral co-operation obliges the police, who still is the actor with the monopoly on the use of violence, to excel in the field of ethics. But in the private sector there is a growing sense of ethics”. However, as the Dutch National Ombudsman Brenninkmeijer argues, “if governments chose to privatise security and safety services, they remain chiefly responsible in the end”.

For citizens, this may have the effect that the responsibility for the provision of safety and security services become blurred, and that relevant mandates become incomprehensible and even unaccountable. Academic research has been undertaken to verify the assumption that public and private values are different. On the basis of a literature review, Loyens (2009: 482) concludes that there are cultural resemblances between on the one hand, group-loyalty in the public and private security sector and suspicion towards the general public, and on the other hand the action-oriented attitude, their lack of respect towards

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98 This issue is not merely relevant in the context of multi-cultural policing, but also in disaster policing, crisis management, and criminal investigation, such as the responsiveness to and the investigation of domestic abuse.
certain groups in society, and their conservatism. However, an “essential difference is the fact that most private security officers – except for some specific groups of guards – are not so much adherent to the crime fighter idea (or mission) of policing, which is an important characteristic of police culture (“the thin blue line”). Instead, the private guarding sector has to deal with the problem of too many masters, whose expectations should all be met, due to the fierce market competition” (Loyens 2009:482).

Conclusions to Chapter 4

The level of implementation of international human rights standards and ethics by police is not always that great. One of our respondents from Amnesty, Van Troost, says for instance that when we look at Europe, and specifically The Netherlands, “police and judiciary and other state officials seem to be very proud of their own integrity, but there are still plenty of examples where human rights and ethics are under pressure. For instance, female refugees who claim to be rape victims being interviewed by male (Dutch) immigration officers. Moreover, much remains to be improved in the treatment of irregular migrants in detention.”

Judging by the reports of Amnesty International, most problems in Europe concern the detention of third country nationals, also in countries like France, Switzerland, Austria and Germany.” The challenge is to implement ethics standards and codes of conduct at routine operational policing (OSCE, 2010: 26). A sound recording of incidents (a good administration) is a prerequisite for ethics-based policing.

Several of our respondents have observed that there is insufficient reflection by police organisations on their monopoly of violence. Police forces throughout the world use different escalation models. Some of our respondents acknowledged that legitimate authority can only be earned (it is not “deserved”). If the police takes to the use of violence too quickly, it runs the risk of losing social trust; if the police uses violence selectively and restrictively, they will enjoy more credit and social legitimacy (interview Brenninkmeijer).
CHAPTER 5
GOOD PRACTICES AND THE WAY FORWARD

Introduction

When it concerns good policing practices in national and international contexts, it is crucial that we take all relevant realms of policing into account. In this chapter, we seek to identify key indicators of good practices. The relevance and importance of these instruments has largely been weighed by our respondents, but we have also included several indicators that make a frequent appearance in the academic literature and in policy documents. An essential indicator is a combination between a proper legal framework and a well-developed oversight mechanism. As our respondents told us however, there cannot be an ethics-based law enforcement culture if the compliance with rules and norms is not managed properly by the police organisation.

Key Indicators of Good Practices

Accountability and Transparency

Policing cannot be performed legitimately if it is not firmly embedded within a sound system of governance. Central tenets of a good governance of policing are accountability and transparency. The commitment to these principles forms a key condition for the performance of oversight on policing bodies. Accountability is generally seen as a central principle of democratic policing. According to the OSCE (2008: 45) police accountability means that police activity – ranging from the behaviour of individual police officers to the strategies for police operations, appointment procedures or budget management – is open to observation by a variety of oversight institutions. The development of functioning internal control institutions has to be complemented by the creation of effective external oversight mechanisms and institutions. Political accountability and legal accountability are both important elements. The Commonwealth Human Rights Initiative has established a police reform programme to target policy makers, police organisations, activists at grassroots level, civil society groups, the media and the public to further its aim of establishing democratic policing. It published a report on police accountability in 2005.

With the onset of national and international security networks, and the blurring between police, military and intelligence (Den Boer et al., 2008; Easton et al., 2010), as well as between public and private security services, accountability mechanisms and good governance systems are increasingly under pressure. Hence, accountability systems require continuous updating and adaptation to new circumstances.

Police officers must report their actions (eg - objective, instrument or method used, result achieved, time of police performance, name & date of officer). Reporting procedures are

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99 See also HCNM recommendation no. 15.
therefore an important dimension of an ethics-based law enforcement organisation. Similar demands apply to the rules of engagement. The standards to which the police are held are very important. This applies to commander’s standards (operational tactics) as well as to legal standards. The difference from a military organisation is that in a police organisation, police commanders do not always know what is happening at the front lines as their police officers are acting in ones and two’s (Stone, 2005: 2). Finally, police officers have to explain rights to individuals when stopped and searched, arrested or detained. Such procedures add to a transparent and accountable police culture.

**Responsiveness**

Police commanders and managers must be aware of public concerns and expectations in relation to policing matters, methods and performance: “The extent to which their awareness is informed by information transmitted from the community to the police via the political institutions of the state, is a measure of the effectiveness of the constitutional means to secure popular control over political decision making.” (Crawshaw et al. 1998: 39).

An important element of community policing is policing with consent and with the cooperation of the community. The OSCE (2008a: 26) advocates community involvement, which implies that in addition to the maintenance of individual contacts, the police should facilitate occasions and forums where they can exchange views with the community on issues of mutual concern. Examples include community advisory boards, joint police-community workshops, public meetings, and police open days. These public forums should be open to all members of the community. The OSCE (OSCE: 26; see also OSCE, 2006: 37) further recommends that groups such as ethnic minorities, women and young people should be actively involved in these processes. An example is engagement with the community (see OSCE 2010); interactive forums for communication (OSCE, 2010: 19).

A benefit of this type of responsiveness is that the police may receive more information, and also generate moral support for police action – even more ‘robust’ police action can receive community support (OSCE 2008a: 33) if the communities understand why the action is being taken, and in turn, generates respect for the law-abiding public. This can also help to overcome formerly strained relationships between police and community. A neighbourhood police officer can for instance be well placed within the community to develop a trustworthy relationship, and the model of reassurance policing can help to be more responsive to the observations that have been made by citizens.

Community support must be won. As the OSCE says, winning trust and support may take a long time in states of transition, where police may have functioned as repressive instruments. Therefore, it is essential that police demonstrate – on a daily basis – their willingness and competence to deliver professional quality-based service to all members of the community (OSCE, 2008a: 49). Our respondent Bruggeman argues additionally that aid to victims is a crucial ethical practice.

With regard to external relations, the OSCE (2008a: 57) claims that “the most effective and efficient way of informing the public about police activities and progress with police reform, and thereby also complying with the democratic policing principles of accountability and transparency is to involve the media.” Police should see NGOs and media as their critical
friend. “[P]olicies have to be developed that govern what information should be released, for example, information that raises public confidence or gives a feeling of safety, or general facts about the objectives of the police and how the police work. Information that must not be publicised includes that which could compromise police investigations and confidential information relevant to maintaining public security or the presumption of innocence. Sound co-operation with the media also requires guidelines for media contacts, clearly defined roles for spokespersons and media training for officers” (OSCE, 2008a: 57).

Communication and information provision via media like newspapers, television, internet; encouraging mutual exchange and engagement is also important for building trust and realising responsiveness. Some crime-control schemes can be performed in conjunction with citizens. Examples include neighbourhood watch schemes and electronic notification sites. This engagement strategy incorporates the fostering of co-operation, but it should take place according to clear guidelines and always seek to avoid vigilantism.

**Access to Justice**

As we have seen in Chapter 2, it is essential to have complaint mechanisms in place in order to restore trust and confidence. Complaints and results of investigations should be handled transparently and independently. Follow-up investigations and administrative action should be prompt and appropriate. If not, this will be at the expense of public trust (OSCE, 2006: 34). Given the salience of oversight and reporting procedures, governments and law enforcement authorities should establish effective reporting and review procedures that are activated automatically, every time injury or death is caused by the use of force, or when firearms are used by law enforcement officials (OSCE, 2006: 34).

The European Court of Human Rights (ECHR) and Article 9 (2) of the International Covenant on Civil and Political Rights (ICCPR) rule that everyone who is arrested and/or charged with a criminal offence hast the right to be informed in a language which he or she understands of the reasons for his/her arrest and/or the nature and cause of the accusation against him/her (ECRI, 2007: 21). With regard to victims or witnesses, efforts should be made to ensure that interpretation services are available.

**Leadership**

Leadership is a crucial factor in promoting police ethics and integrity (Punch, 2009: 239). Police leaders are obliged to secure respect for human rights in all processes of policing. The protection of human rights is also one of their core functions. Several of our respondents view leadership as an essential component of promoting an ethics-based culture within police organisations (Grant, 2002: 13; interviews with for example Van Reenen, Myjer, Uildriks). Police leaders may have to be tough in order to manage change. For the introduction of a community policing model it may be necessary to change the composition of the police force and hence to dismiss various police officers (interview Van Reenen). Continuity of leadership is essential to make things work.

Research shows that some correlation exists between moral leadership and integrity (Lasthuizen, 2008). For instance, there is less corruption, fraud, abuse of information and
underachievement when police leaders are approachable, and when they have to adhere to very clear and tough ethical rules. Hence there is less corruption and there is a stimulation of ethical conduct when police leadership insists on compliance with ethical standards in their organisation. “The crucial task of police leaders is to command and manage police organisations so that they become and remain driven by an ethos of excellence; an ethos which is conducive to lawful and ethical behaviour, humanity, and to high standards of professional competence; an ethos which is hostile to the notion of “noble cause corruption”. (Crawshaw et al., 1998: 58). However, Punch (2009: 239) warns against a personification of police reforms, which tends to fade when the police chief departs: “Probably the most important characteristics of any police leader is knowing the business he or she is in (a ‘professional’ rather than a ‘manager’), consistency and not sending out ambivalent signals, decisiveness, long-term views, a well-thought-out set of values and setting a tone for integrity.” He adds that “Generally an explicit moralist style does not appeal to practitioners but in a censorious culture – where cops look upwards for signals as to what is acceptable, what they can get away with and what they can criticise – the chief is inevitably a role model and has to set the standards of personal and professional integrity.” (Punch, 2009: 239f). Commitment is a crucial factor.

Police leaders are particularly responsible for introducing and implementing an ethics-based strategic framework (see below). Police leaders are the spider in the web and maintain relations internally as well as externally. Internally, they are responsible for recognising tensions across the ranks, and externally they integrate communications with the criminal justice system, the political and administrative authorities, interest groups, the media and – last but not least – the community. Moreover, police leaders i.e. supervisors are responsible for bringing proceedings against officers who have contradicted codes of conduct. Lustgarten (1986: 130) recommends, almost implicitly, that decisions by senior officers not to bring proceedings should be reviewed”. On police leadership, the HCNM has issued recommendations 7, 11 and 21.

If you are the leader of a police organisation, “don’t do ethics as a form of ‘window-dressing’ “, says our respondent De Smedt of the ICC. Leadership means that you respond strongly to misconduct of your employees, even if it leads to removal from duty, dismissal or a criminal investigation. In a changing security climate, it is no use to state preferences but to coach individual professionals in reflective decision-making, weighing their actions against potential impacts, such as legitimacy and transparency: “As a leader of a police organisation or any other organisation, you have to watch for creeping poison: always seek to avoid that standards are lowered”, says De Smedt.

Police leadership is an empty value if it does not come with (professional) self-reflection. Moral compass and exemplary conduct are important; however, it is not always visible within police organisations and proper dialogue about it is often absent. Reflections and discussions about what is “good” and what is “bad” should be part and parcel of daily police performance and should be an integral element of decision-making (interviews Hazenberg; Uildriks).

**Strategic Framework**

The internal functions of a strategic framework are that all police officers should be clear
as to the nature and purpose of the organisation to which they belong. The ethical basis of the organisation should be established; its standards, values and commitment to defending human rights should be stated with unequivocal clarity; the key areas for policing should be defined; broad-based priorities for the application of police resources should be established and guidance should be given to operational police managers as to how the policing performance will and should be measured (Crawshaw et al., 1998: 247).

Externally, a strategic framework builds the bridge between the police organisation and the legal-political framework. Especially towards the public it should be made clear what kind of police organisation they may expect and what the ethos and central values are. This goes hand in hand with advising the public as to what its key policing priorities are as well as with committing the organisation to fulfilling its duty of being accountable for its performance (Crawshaw et al., 1998: 248). In their personification of the moral compass, police leaders should initiate as well as monitor the promotion of ethical values. Basic ethical principles are fairness, impartiality and representativeness. It is crucial for police leaders to adhere to professional standard. In order to keep them “morally fit”, police leaders should engage in coaching and/or professional ‘inter-vision’ on a regular basis.

**Management**

The organisational structure, especially workload distribution and management, has a profound effect on professional ethical conduct (Lasthuizen, 2008; Punch, 2009). Also, the slim chance that unethical behaviour of field officers is detected is a factor that affects (un)ethical conduct. The culture of the specific police organisation, and especially the work atmosphere and mutual trust amongst officers, have a positive influence on ethical conduct. (Lasthuizen, 2008). (for example Chan, 1997; management of change).

“Ethics ought to be an integral part of police management and leadership, as well as become an integral element of all processes. Ethics should be a basic culture. The conditions for implementation are: 1) transparency; 2) management and evaluation; 3) a sound business plan; 4) subject to discussion; 5) subject to institutional supervision, for example in the form of an integrity bureau (Antwerp).”

Prof. Dr. Willy Bruggeman, Chairman of the Federal Police Council of Belgium

Policing policies should be subject to systematic assessment (OSCE 2010: 16). Analysing the organisational structure, its strengths and weaknesses should be done alongside a gap analysis and assessment of police performance. One of our respondents, Prof Van Reenen, said that management of change of the police culture is impossible if the government or society itself is in turmoil. Hence, in order to manage the transformation of a police organisation or culture successfully, stability is a prerequisite: “Ethics can not survive in a police organisation which itself is trying to survive”. Crisis in law enforcement can act as catalyst for a successful management of police culture; this plays an important role in the democratisation of societies.

When it comes to resource management, technical equipment - when properly used - can be conducive to effective policing and the upholding of human rights in policing. Lack of equipment or facilities, or their misuse, can result in failure to achieve legitimate policing objectives and to unlawful, unethical or inhumane policing methods (Crawshaw et al., 1998: 247).
With regard to human resource management, a range of crucial indicators comes into view: selection, recruitment, integrity screening, security screening, career promotion and progress. According to UN Basic Principle 18 of the Use of Force and Firearms by Law Enforcement Officials, all officials should be selected by proper screening procedures and have appropriate moral, psychological and physical qualities for the effective exercise of their functions. Grant (2002: 13) argues that “Departments must complete extensive background investigations to retain qualified candidates (…)”

At the International Criminal Court (ICC), ample attention is given to recruitment procedures in order to guarantee the integrity of its personnel. In general, as our respondent De Smedt argues, people who want to work in the ICC have an intrinsic motivation to contribute to international peace and restorative justice. The personality of each applicant is assessed and there is sound discussion about the motivation of the candidate during the application interview. The applicant’s curriculum vitae is subject to a check. Once an applicant is hired for the job, he or she gets a fixed term of six months before a tenure can be granted. If there is a breach of ethical norms and integrity, the employee is dismissed and the (alleged) offence is examined.

As a good practice of reflecting on the ethical aspects of one’s professional performance, the ICC engages in role plays simulating situations of relevance to ICC employees. In these simulations, we see how people deal with certain situations and what someone’s motivation is” (Interview De Smedt).

“In addition, we cultivate constant awareness of ethics amongst the employees, by repeating the values of the ICC and the ICC code of conduct. We also instruct our personnel to be respectful towards one another. Seniors within the organisation have to live strictly by the highest norms strictly and should continue to promote the values of the organisation. We should always avoid going down to the lowest common denominator: the values of the institution are central.”

Michel De Smedt, ICC

Career promotion and progress are aspects which are important organisational elements too, even with respect to ethics. Job descriptions and rank structures should be clearly described (OSCE, 2008: 46). It should be transparent for all police officers what merits and credits they have to receive in order to be eligible for promotion. Payment, health, welfare, stress counseling, and circulation of functions are all part of an ethics based human resource management strategy. We would welcome more international comparative research on the connection between low remuneration of police officers and the likelihood that they will engage in bribery, fraud or other misconduct to “make up” for their income.

Performance management can also be used to encourage compliance with ethical standards. However, we should note with Neyroud (2005: 591) that more research is required and that target setting may lead to a high degree of cynicism about the performance framework from front-line officers and “an unwillingness to be held responsible for what is not within their capability to achieve”. The importance of sticking to protocols and procedures, as well as an orientation towards effectiveness in the criminal justice chain and output performance.
is strongly endorsed by Chief Prosecutor General Van Nimwegen of the Dutch Public Prosecution Service. However, this should not be at the expense of professional individual discretion.

With regard to the management of diversity, a crucial component in all societies is the policing of diversity or the policing of diverse communities. In the United Kingdom, the National Policing Improvement Agency (NPIA) has developed and issued an Equality Standard for the Police Service. This framework can help senior police officers take care of operational delivery to diverse individuals and communities, build an inclusive and socially supportive working environment, and integrate equality across business areas. The Equality Standard is to be used as an assessment instrument for current performance by focusing on activities and outcomes. It is meant to assist in identifying the gaps in performance and to drive improvement plans, monitor progress through a benchmarking exercise share effective practices and allow officers to learn from the performance of other forces, and improve the delivery of quality outcomes. With regard to the sanction of discriminatory conduct, ECRI (2007: 4) recommends that effective investigations into alleged cases of racial discrimination or racially motivated misconduct by the police should be ensured, and also that the perpetrators of these acts are adequately punished. ECRI further recommends that a body - independent of police and prosecution authorities - should be provided for and entrusted with the investigation of alleged cases of racial discrimination and racially-motivated misconduct by the police.

**Training and Professional Development**

Law enforcement agencies can help prepare their officers for the ethical challenges they face during their careers. However, that will require changing the way this topic is approached by the organisation and teaching and integrating the information throughout the organisation.

Officers live and work in a constantly changing and dynamically social context in which they are exposed to a myriad of ethical conflicts. When either unprepared or unaware, officers are more likely to “go with the flow” than they would be if they were adequately prepared to face potentially ethical risks. Everyday, officers practice mental preparation as it relates to tactical situations. Officers who are mentally prepared to face a lethal encounter are more likely to be successful than other officers who are tactically proficient but mentally unprepared. Just like lethal encounters, ethical dilemmas occur at the most inopportune times, frequently without warning and with little time to stop and think about the situation. When inadequately prepared, even the most honest, above reproach officers can make inappropriate split-second ethical decisions . . . decisions that can result in life-changing consequences. If officers are going to survive ethical dilemmas they need to be as mentally prepared as they would be for tactical encounters.

While police work is seductive and exhilarating, it can also lead officers down the path of ethical compromise. The “continuum of compromise” outlines the path of ethical compromise and can be used to help officers understand and mentally prepare for the ethical dilemmas they will face. Understanding the issues and being mentally prepared will help officers assume responsibility for and make more appropriate decisions. Compromising behavior has to be seen as something that can potentially affect all law enforcement officers . . . not just those in “corruption rich” environments. Officers who view compromise or corruption as an “all or none” phenomenon will not see themselves as “at risk.” When the potential for compromise is not recognised, officers will see compromise as an unlikely event, training will be viewed as a waste of time and officers will not become mentally prepared. Understanding the continuum of compromise will

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According to the UN Basic Principles, police officers are to receive continuous and thorough professional training, and police organisations have to ensure that their continued fitness to perform these functions is subject to periodic review. According to Basic Principle 19, governments and law enforcement agencies are required to ensure that all law enforcement officials are provided with training and that they are tested in accordance with appropriate proficiency standards in the use of force. “Those law enforcement officials required to carry firearms should be authorised to do so only upon completion of special training in their use” (Crawshaw et al., 1998: 111).

Also with a view to the investigative process, Basic Principle 20 requires that in the training of law enforcement officials, governments and law enforcement agencies shall give special attention to issues of police ethics and human rights. A good practice advocated in this context is that governments and law enforcement agencies are required to give special attention to alternatives to the use of force and firearms, for example the peaceful settlement of conflicts, and the understanding of crowd behaviour. Pre-application training is also important.

“As a young cop ethics is knocked into you with training. It is not what you do that is important, but how you do it. The policy of the organisation has standards to make sure it is ethically sound.”

Interview with Rob Wainwright, Director of Europol, 30 June 2010

Training requirements do not only apply in the national context but also in the context of international or trans-national policing. The High Commissioner on National Minorities has laid down recommendations on policing multi-cultural societies; the most relevant recommendations are 8-11. There is a growing number of international police training curricula that are facilitated through international co-operation between national police academies, such as the European Police Academy CEPOL. Another example is the International Law Enforcement Academy (ILEA) in Budapest, Hungary. Within police EU/UN missions, there is also ample attention to training, demonstrated, for example, by the OSCE guideline document “Good Practices in Basis Police Training – Curricula Aspects.” National training institutions in the OSCE region can benefit from this compilation of good practices and so can the national law enforcement departments (OSCE, 2008: 40). Van Reenen, one respondent who used to be Director of the Police Academy of the Netherlands, explains that common standards become increasingly important in a transnational policing environment. He observes, for instance, that the border control guards in the European Union now work with similar ethical standards, for example in the repatriation of migrants, and this is strongly promoted within the EU Border Management agency Frontex.102

102 For empirical observations about ethical values that are upheld by Frontex officials, see the research conducted by Matteo Tondini, INEX D.3.4 at www.inexproject.eu.
Training in inter-cultural competences and addressing stereotyping (OSCE, 2010: 18) should be a standard part of the police curriculum. ECRI (2007: 4) recommends that the police be trained in human rights, including the right to be free from racism and racial discrimination, and in the legal provisions in force against racism and racial discrimination. In its explanatory memorandum, ECRI recommends that training in policing a diverse society includes specific training for police officers who are in contact with members of minority groups, both citizens and non-citizens. This may include minority language training for police officers of a majority group, cultural and religious pluralism, and also activities to promote interaction and respect among colleagues of different backgrounds. This training should be as practical as possible, for instance through enacting situations and interaction with members of minority groups (ECRI, 2007: 19). Furthermore, measures should be taken to make the police aware of the fact that acts of racial discrimination and racially-motivated misconduct by the police will not be tolerated. The police should be trained on the issue of racial profiling and on the use of the reasonable suspicion standard. In the UK, particularly a discussion following the Lawrence report which contained several recommendations. It is important that officers receive race and cultural awareness training and that they become reflective professionals, but that alone, according to Rowe (2004: 74) is not enough. Crucially, as our respondent Uildriks argues, training does not make sense if it is not related to the organisational context.

One of our respondents (Judge Myjer) emphasises the importance of professional reflection. It is essential to know the legal limits of police action, which also applies to competences for which a large amount of discretionary power can be used (reasonable suspicion, urgent necessity, subsidiarity, proportionality, the need for immediate action). It is important for police officers to handle value dilemmas in concrete situations. According to Judge Myjer, it is therefore essential that police officers discuss amongst each other, are self-critical, understand their own activities, and practise with different cases.

Police leaders should also participate in continuous training, particularly with a view to acknowledging dilemmas and the need for prior reflection. Not just professional ethics are of importance, according to Judge Myjer, but also ethics in respect to interaction with colleagues and private conduct.

Chief Prosecutor General Van Nimwegen emphasises that it is important that the organisation as a whole is open to learning (learning organisation). Except for the previously mentioned Central Supervisory Committee, he would like to add, as an example of good ethical practice, the committee that has recently been established with the task to revise selected closed cases.¹⁰³

Managing Diversity

“For a police agency to be representative of the community as a whole its membership must be representative of that community according to such criteria as race, colour, sex, language and religion. Minority groups must be adequately represented, and individuals from those groups must be able to pursue their careers fairly and without discrimination” (Crawshaw et al, 1998: 39).

¹⁰³ Commissie Evaluatie Afgedane Strafzaken (CEAS).
In its Guidebook on Democratic Policing, the OSCE (2006: 45) recommends that with respect to promotions, female officers and officers belonging to minorities must receive the same opportunities for additional education making them eligible for higher ranking positions. It is important for a police organisation to represent the community as a whole. This requires attention to gender, ethnic background, and education levels. There should also be attention to non-discrimination concerning the issue of sexual orientation. ECRI (2007: 5) recommends that members of under-represented minority groups should be recruited by the police and ensured equal opportunities for career progression.

Research shows that minority ethnic people regard racism as a major disincentive to joining the police service, and hence it is an important factor to address (Rowe, 2004: 30). When we look at some available statistics, it seems that in general, there is a very low recruitment from ethnic minority groups within the police forces. On the higher ranks, their presence is even scarcer. Interestingly – at least with respect to the United Kingdom – this compares badly with other agencies in the criminal justice system, for example the Probation Service, Forensic Science Service and Immigration Service (Rowe, 2004: 22). This in spite of several programmes to guarantee more ethnic and gender diversity within the police forces. Gender balance is a dimension that is actively addressed by several police organisations, though still under-developed in many. It is instructive to note from Punch (2009: 38) that a “noticeable feature of (police) corruption is the rarity of female officers becoming closely involved. The conspiratorial male bonding during out-of-work socialising tends to exclude females from corrupt circles; the occupational culture deems them to be “untrustworthy” and stereotypes them as “too emotional” or unable to “keep quiet”.

A good practice may be to initiate a positive discrimination programme, as has happened in the Netherlands (Politietop Divers). However, these programmes are likely to cause controversy if it implies that job chances are cut off for men or officers from a majority group. Though lowering entry requirements for minority ethnic or female candidates is rejected on the basis of legal, moral and pragmatic grounds, lesser initiatives have been developed in the UK, such as a pre-application access course in order to improve the chances of minority group candidates reaching the required standard. Great Manchester Police, for instance, ran a ten-week course in 2002 for minority ethnic students and West Yorkshire Police were commended by Her Majesty’s Inspectorate of Constabulary for a police-schools liaison unit, “designed to promote insight and mutual support between the police and education authorities” (Rowe, 2004: 28). Other forces in the UK run mentoring schemes, which are designed to provide support for individuals as they move through the recruitment, selection and training process before becoming full constables (Rowe, 2004: 28). “At the same time as launching a diversity strategy in 2001, the Metropolitan Police began allowing Muslim women officers to wear the hijab or headdress as part of their uniform and reviewed their policy on hairstyles, which may have previously deterred Rastafarian applicants” (Rowe, 2004: 28). Many of these recruitment schemes rest on the assumption that women who might otherwise not consider policing as a career might be persuaded to apply (Rowe, 2004: 28).

Diversity is also an objective sought by newly established police forces, such as the Kosovo Police Force. The composition of the Kosovo police was to be multi-ethnic, with at least nine per cent Serbian officers, seven per cent belonging to other minorities, and twenty per cent women (OSCE, 2008: 11). In addition to cultural diversity, De Smedt mentions inter-disciplinarity as a crucial variable for a well-composed organisation, as the interaction...
between different professional insights can help to develop a creative and innovative perspective on problems. In criminal investigation procedures, the combination of different professions can help to avoid tunnel vision.104

International security and criminal justice agencies such as Europol, Interpol and the International Criminal Court are faced with the specific challenge of introducing a clear and homogenous ethics framework that can work in a linguistically, culturally, ethnically and religiously diversified organisation. De Smedt, who leads the Investigators Division at the ICC, provided us with a lot of input. Except for securing the integrity of new personnel through a screening procedure during the recruitment phase, the practice is as follows:

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"Codes of ethics are defined, which - due to the culturally diversified environment - is based on a confrontation between different perspectives and interpretations of rules which contributes to the harmonisation of standards of professional conduct. New employees at the ICC receive a briefing during their induction training about rules of conduct, central values etc. There are information and sensitisation campaigns in order to keep the conscience of correct conduct, and stimulation of correct conduct by leaders and of correct social control by the group. Mechanisms of control are defined to verify conduct. For example, to prevent fraud recordings of interviews with witnesses are evaluated to assess the interaction. Values are integrated in the evaluation of staff performance. There is an immediate and strong response to (allegations or suspicions of) misconduct."

Michel De Smedt, ICC

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**Organisational Culture**

“It is important that a human rights culture should be developed within agencies of the state so that human rights can be properly regarded as inalienable, inherent in every human being, and not a series of obstacles which somehow have to be overcome, circumvented or ignored in the exercise of power” (Crawshaw, 1998: 40).

Unlawful and arbitrary policing is a form of social disorder and undermines the rule of law. Police officers may not have the space or time to reflect on compliance with human rights because they tend to act according to the expectations of their peer group culture. In many environments it may be necessary to pursue an active integrity and anti-corruption programme. This was also reflected upon strongly by the National Ombudsman of the Netherlands, Brenninkmeijer. His argument is that every case can make a difference; it is incredibly important that complaints of citizens about the organisation are taken seriously, and that there is proper reflection. Police organisations, like all other public services, should be learning organisations. There ought to be reciprocity between reflection on concrete cases and an ethical framework of reference.

A crucial organisational value is integrity. According to the OSCE (2008: 46), the fight against corruption requires the application of anti-corruption policies and codes of conduct for correct, honourable and proper performance of police officers. The root problem of corruption may be low incomes, grievances against the higher police ranks, and particular opportunities for bribery that may arise in certain branches of police work, for example

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104 There are several examples of miscarriage of justice in which innocent citizens were convicted of a criminal offence due to the fact that the investigating police officers excluded options in their inquiry (for example Schiedammer Parkmoord in The Netherlands).
the traffic police, anti-narcotics squads, and border patrol. Hence, there should be careful selection of the more vulnerable officers on the frontline, as well as rotation of officers on a regular basis.

**Conclusions to Chapter 5**

The challenge to police organisations all over the world is to nurture an ethically healthy climate, and this involves multi-dimensional management. It involves organisational management in terms of strategies and policies, but also micro-management in the sense that those who carry leadership responsibility within the police organisation should act as a moral compass and be stringent about police misconduct and even allegations thereof. Organisational management involves taking internal and external accountability seriously. Much is to be gained from a well-governed police organisation. As the media and the public become more direct and critical of police performance, there is little use in hiding or in shifting the responsibility for aberrations. Furthermore, it cannot be emphasised often enough: good policing lies in the compliance with protocols, reporting practices and evaluation cycles.
EPILOGUE

HOW TO DEVELOP GOOD POLICE CONDUCT IN THE FUTURE

When it concerns police ethics, there is ample focus on police corruption, even to the extent that often, police ethics is seen as the equivalent of police integrity. In this book, however, we have sought to take a wider view, defining integrity and impartiality as a key component of police ethics.

One of the strongest conclusions emanating from our inquiry, and supported by several or our respondents, is that codes of ethics do not work for police and criminal justice organisations, but provide a useful frame of reference. Codes of ethics will be considered dead letters if not translated into organic mechanisms, such as impact assessment, peer evaluation, and feedback procedures. Codes are lived by police professionals. Each day is a new day, each day provides new insights, each day one learns and adjusts, each day one has to avoid temptations that could lure one towards darker corners of complacency, disrespect, discrimination, or criminal offences.

International (human rights) law remains the cornerstone for police officials. However, at a time when security faces the global challenge of transnational terrorism and organised crime, and also due to the emergence of security networks, new police methods and lines of inquiry are invented each and every day. Police officers tend to be pragmatic as well as pioneering in their attitude. Spurred by organisational and political pressure, as well as their eagerness to control crime and disorder, police officers test the limits of their professional territory. Several inquiries, such as the inquiries into the miscarriage of justice in Northern Ireland, the Netherlands and several other countries, reveal that there is always the temptation to trespass legal faultlines.

This is why police ethics has such an important role to play.

What about gaps? Are there blind spots in the attention we have paid to police ethics? We will discuss a few: resources, care for police officers, international policing (missions), detention, the effect of strengthened security regimes on the ethical conduct of police officers, and the potential of a universal constabulary ethic.

Generally, there seems to be very little attention paid to the relationship between resources and ethics in existing literature, though Crawshaw et al. (1998: 111) mention the importance of adequate resources for selection and training. Street-level bureaucrats like police officers (“front-line officers”) are “systematically confronted with scarce resources and a highly demanding work environment” (Loyens and Maesschalk, 2010: 68); moreover, the wage of police and security officers is often considered inadequate (Loyens, 2009: 466). Meanwhile, however, it is seen as ethical when police officers take proper care of equipment and spend resources effectively (OSCE, 2006: 19). Good resources do not mean however that abuse of power by police is ruled out, but proper payment to police officers and making available reliable equipment reduces the likelihood of corruption and other integrity offences.

Taking care of police officers is another matter that remains poorly addressed in existing literature. UN Basic Principle 21 requires governments and law enforcement agencies to organise sound stress counselling for police officers who are involved in situations where
force and firearms are used. The discrepancy between the need for better care for police officers and the evident lack of this matter being addressed in existing literature shows that the health and welfare of police officers, and the protection of their human rights needs more attention in the future. Another issue not mentioned very often as a potential source for the abuse of police power is surveillance and data-monitoring.

Specific ethical challenges should be mapped in the context of multi-lateral and international co-operation between public and private agencies, border control practices, international crowd control, international emergency policing (for example ATLAS) and joint investigation teams. The ethics applied to international police co-operation and cross-border information exchange by police forces deserves more attention given the growing technical facilities and the growing body of instruments and informal or ad hoc arrangements (Bruggeman and Den Boer, 2010).

Detention is a growing area for commercial security businesses, and they may have different professional values, even though prisons remain under the supervision of the nation state, with a variety of consequences for citizens (Van Troost). Innocent people who are detained longer than necessary, detention without a formal accusation, the lack of access to a lawyer are all elements of police care that may have far-reaching consequences for the well-being of citizens and the integrity of the criminal justice procedure (Brenninkmeijer). Apparently “simple” things are hardly ever thought of when discussing police ethics, but good communication skills, complaint handling and “after-care” are crucial variables in an ethics-based police organisation (Brenninkmeijer).

The ethical dilemmas that police officers face should be added to the research agenda. The EU FP7 INEX-project undertook work in this area, including a work package on the value dilemmas of security professionals, be they police officers, intelligence officials, immigration officers, customs, border or private security personnel.105

Ethical dilemmas have also been described by Kaptein and Van Reenen (2001), who distinguished three types of dilemmas viewed from the perspective of integrity. They distinguished the “entangled hands”, caused by the gap between personal interests of the employee (police officer) and the interests of the organisation. Examples mentioned include the misuse of confidential organisational information for private reasons and holding another job that may be incompatible with the interests of the organisation. Kaptein and Van Reenen also identified the “many hands” dilemma caused by a conflict of functional interests, and the “dirty hands dilemma”, caused by the incompatibility between the interests of the organisation and the interests and expectations of the stakeholders. A combination of several dilemmas in a particular situation is also plausible. There is a need for further empirical research that looks into the ethical dilemmas experienced by police officers in a variety of functional settings. The identification of cause-effect relationships may enhance our understanding of the relationship between different variables, including individual and organisational aspects, and may assist in identifying evidence-based ethics policies. Findings may also be fed into a gap analysis: what are the ethical blind spots in police organisations?106

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105 www.inexproject.eu.
106 An example is OSCE report on Roma and Sinti (in Europe), which recommends a gaps analysis of existing law and the introduction of anti-racism legislation in the law if there isn’t any.
Another gap identified in this report is the emergence of the surveillance society, and awareness that police officers’ duties are often removed from the physical space towards the virtual space. Given the intrusive potential of surveillance, online monitoring and electronic interception, more attention should be given to this dimension of policing and the ethical standards in order to meet those challenges.

Moreover, as the National Ombudsman of the Netherlands observed, there is a gap in the addressing of some recent issues within police organisations, notably ethnicity, religion and radicalisation. Even in “modern” police forces, discrimination undermines the composition and function of diverse police organisations in increasingly cosmopolitan societies.

This brings us to the final question: should we develop a “global constabulary ethic” (Sheptycki, 2007: 31-71)? In view of the constructive role that police may play in the transformation of the emergent global social order, this can be an important ideological ambition to reflect upon (Sheptycki, 2010: 299). Our respondent Bruggeman argues that there is “an “absolute and certain” need for a universal code of ethics and conscience: “This code should allow for situational approaches, provided that these do not conflict with universal values, including those values inspired by human rights.”

Use of force by the police in different regions and in different policing institutions is tightly linked to local history, cultural and normative contexts. Another respondent Hazenberg reflects on this differentiation and argues that police ethics represent a certain luxury as it is often associated with policing in richer countries. In fragile countries, she argues, one needs contextual action in order to create a climate that is beneficial for an ethics-based law enforcement culture. In fragile and unstable environments, the most reliable instrument is the rule of law, as well as the presence of a civil police force.

Warning shots have indeed been given by Neyroud (2005: 583), claiming that to “attempt to describe a scheme of ethics that fits across policing and that copes with the wide variety of policing contexts is far more difficult and far more controversial.” Alice Hills (2009: 300-317) also claims that in realistic political terms, it may be impossible to conceive of a global and harmonised police ethic. In her argument, which is based on extensive fieldwork, she refers to actual police practices in some African countries, where police abuse of citizens is more the rule than the exception. Our respondent Van Nimwegen does not believe a

“There are certainly blind spots where we either do not recognise the importance of ethics or where we think it is implicit in a relevant police practice. For instance, in the contact with the citizens, ethics is a constant layer in the professional attitude of police officers. This is relevant both in preventive as well as in repressive activities. The Community Policing (COP) model is coming under pressure; police work is hardening in the face of growing violence and crime. A second dimension is the “technologisation” of much of police work. When one looks at the use of cameras and technologies like radio-frequency identification (RFID) and global positioning systems (GPS), ethical conscience is shifted as the ethical alarm bell, which is normally part of the police officer’s individual reflection, is pushed back (for example in nodal policing). A third dimension is international co-operation. Fewer questions are raised about starting police co-operation across national borders, for example questions about reciprocity. International police co-operation can be a threat but also a blessing for ethics. The fourth dimension is globalisation, which can mean an erosion of ethics, as high ethical demands may be downplayed to fit the lowest common denominator.”

Prof. Dr. Willy Bruggeman, Chairman of the Federal Police Council, Belgium
universal code will improve the position of ethics or citizens. He believes it is much more practical and meaningful to invite, stimulate and help states meet the accession criteria of international rule of law communities.

In conclusion, most of our respondents do not endorse universal norms for police ethics, especially given that “good” norms are usually set by wealthy countries and “imposed” on poorer countries. Ethics cannot be imposed from top to bottom (interview Hazenberg, Brenninkmeijer). In the realm of police ethics, we should be less paternalistic and put greater emphasis on ownership in the definition, monitoring and reflection on police ethics.

Hence, good policing should not be preached, but practised!

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# Annex I

## LIST OF ABBREVIATIONS

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<thead>
<tr>
<th>Abbreviation</th>
<th>Full Form</th>
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<tbody>
<tr>
<td>AAPS</td>
<td>Asian Association of Police Studies</td>
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<tr>
<td>ACRC</td>
<td>Anti-Corruption and Civil Rights Commission</td>
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<td>ADB</td>
<td>Asian Development Bank</td>
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<td>AGIS</td>
<td>Framework Programme (EU) concerning police and judicial co-operation in criminal matters</td>
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<td>AHRC</td>
<td>Asian Human Rights Commission</td>
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<td>AI</td>
<td>Amnesty International</td>
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<td>ASEAN</td>
<td>Association of Southeast Asian Nations</td>
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<td>ASEF</td>
<td>Asian European Foundation</td>
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<td>ASEM</td>
<td>Asian European Meeting</td>
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<td>BIO</td>
<td>Bureau of Internal Investigations</td>
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<td>CAPO</td>
<td>Complaints Against Police Office</td>
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<tr>
<td>CAT</td>
<td>UN Convention Against Torture and other Cruel, Inhuman or Degrading Treatment</td>
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<td>CEAS</td>
<td>Commissie Evaluatie Afgedane Strafzaken</td>
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<td>CEPOL</td>
<td>European Police Academy (EU)</td>
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<td>CHR</td>
<td>Committee of Human Rights</td>
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<td>CNDS</td>
<td>Commission Nationale de la Déontologie de la Sécurité</td>
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<tr>
<td>Comité P</td>
<td>Belgium’s Standing Police Monitoring Committee</td>
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<td>COP</td>
<td>Community Oriented Policing</td>
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<td>COPPS</td>
<td>Community Oriented Policing Service</td>
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<td>CPI</td>
<td>Corruption Perceptions Index</td>
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<td>CPTED</td>
<td>Crime Prevention Through Environmental Design</td>
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<td>DOC</td>
<td>Designing Out Crime</td>
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<td>ECCHR</td>
<td>European Convention on Human Rights</td>
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<td>ECRI</td>
<td>European Commission against Racism and Intolerance</td>
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<td>ECtHR</td>
<td>European Court on Human Rights</td>
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<td>EU</td>
<td>European Union</td>
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<td>Eurodac</td>
<td>EU fingerprint system for asylum seekers</td>
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<td>GSOC</td>
<td>Garda Síochána Ombudsman Commission</td>
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<td>HCNM</td>
<td>High Commissioner on National Minorities</td>
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<td>IACP</td>
<td>International Association of Chiefs of Police</td>
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<td>ICAC</td>
<td>Independent Commission against Corruption</td>
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<td>ICC</td>
<td>International Criminal Court</td>
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<td>ICCPR</td>
<td>International Covenant on Civil and Political Rights</td>
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<tr>
<td>ICPCE</td>
<td>Independent Commission for Police Complaints (for Northern Ireland)</td>
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<td>IDeA</td>
<td>LG Improvement and Development</td>
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<tr>
<td>IGAI</td>
<td>Inspeção-Geral da Administração Interna</td>
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<tr>
<td>IIO</td>
<td>Internal Investigations Office</td>
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<tr>
<td>ILEA</td>
<td>International Law Enforcement Academy</td>
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<td>IPPC</td>
<td>Independent Police Complaints Council</td>
</tr>
<tr>
<td>NCIS</td>
<td>National Criminal Intelligence Service</td>
</tr>
<tr>
<td>NGO</td>
<td>Non Governmental Organisation</td>
</tr>
<tr>
<td>NHRC</td>
<td>National Human Rights Commission</td>
</tr>
<tr>
<td>NICFS</td>
<td>National Institute of Criminology and Forensic Science</td>
</tr>
<tr>
<td>NPIA</td>
<td>UK National Policing Improvement Agency</td>
</tr>
<tr>
<td>OECD</td>
<td>Organization for Economic Co-operation and Development</td>
</tr>
<tr>
<td>OPCAT</td>
<td>Optional Protocol to the Convention against Torture</td>
</tr>
<tr>
<td>OSCE</td>
<td>Organization for Security and Co-operation in Europe</td>
</tr>
<tr>
<td>PONI</td>
<td>Police Ombudsman for Northern Ireland</td>
</tr>
<tr>
<td>POP</td>
<td>Problem-Oriented policing</td>
</tr>
<tr>
<td>SARA</td>
<td>Scanning, Analysis, Response, Assessment</td>
</tr>
<tr>
<td>SPT</td>
<td>UN Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment</td>
</tr>
</tbody>
</table>
ANNEX II
LIST OF RESPONDENTS AND BIOGRAPHIES

Details of the interviewees who consented to have their names published are as follows:

**Serge Brammertz, 19 August 2010**
Serge Brammertz (1962, Eupen, Belgium) is the Prosecutor of the International Criminal Tribunal for the former Yugoslavia. Brammertz was deputy prosecutor of the International Criminal Court from 2002 to 2007. He was a Federal Prosecutor in Belgium from 1997 to 2002 and assisted the Council of Europe as an expert with a mandate to “set up a mechanism for evaluating and applying nationally international undertakings concerning the fight against organized crime”. He also served on the Justice and Internal Affairs committee of the European Commission and for the International Organization for Migration, leading research studies on human trafficking and cross-border corruption in Central Europe and the Balkans. On January 11, 2006 UN Secretary-General Kofi Annan appointed him head of the International Investigation Commission into the murder of former Lebanese Prime Minister Rafiq Hariri. As such, he replaces Detlev Mehlis who stepped down in January 2006. On 1 January 2008, without having concluded the investigation, Brammertz resigned from UNIIIC to succeed Carla Del Ponte as prosecutor for the International Criminal Tribunal for the former Yugoslavia. Brammertz is also a former Professor of law at the University of Liège. He is a native German speaker and also speaks fluent Dutch, French and English.

**Alex Brenninkmeijer, 12 August 2010**
On the 28th of June 2005, Brenninkmeijer (1951) was appointed National Ombudsman of The Netherlands by the Dutch Parliament. He has a degree in Dutch Law from Groningen University, where he studied between 1971 to 1976. He was academic researcher at the Nijmegen (Radboud) University from 1976 to 1980, and at Tilburg University from 1980 to 1984. He acquired his PhD on 5 June 1987 from the University of Tilburg on the subject of access to justice and its relevance to a democratic state of law. Following this, Brenninkmeijer fulfilled several senior legal positions, and had Chairs at the University of Amsterdam, the Leiden University. He kept a Chair at Leiden University after he was appointed Ombudsman.

**Willy Bruggeman, Pilot-Interview 26 October 2009**
Willy Bruggeman is President of the Belgian Federal Police Council and Professor at the Benelux University Centre. He served as deputy senior director at the then nascent EU police agency Europol between 1993 and 2003. Before he joined Europol, he occupied several senior positions within the Belgian Gendarmerie. He received academic education at the Ghent University and obtained a doctoral degree from the Free University of Brussels. Dr Bruggeman has been a member of several committees, including the Dutch police evaluation committee, and is special adviser to the International Criminal Court in The Hague, as well as executive international police training programmes at the Police Academy of The Netherlands. He is a member of the Board of Governors of Child Focus and academic supervisor for the Boudewijn Foundation.

**Anita Hazenberg, Interview 12 May 2010**
After having obtained a University degree in Social Sciences (Political Science and Public Administration), Hazenberg (1964) began her career a sergeant at the Dutch Public Prosecution Service. After being a management advisor at the Dutch Public Prosecution Service, she became the Director of the European Network of Policewomen foundation. In 1997 Hazenberg worked at the Council of Europe where she developed and implemented intergovernmental program ‘Police and Human Rights’. She stayed there until 2001. From January 2001 until April 2006 Hazenberg was the Director of the School for Police Leadership. Currently she is the Director International Police Leadership at the School for Police Leadership and Ambasador Police in Development on behalf of the Dutch Board of Chief Commissioners.

**Egbert Myjer, E-mail Interview 8 March 2010**
Myjer (31 July 1947) is Judge at the European Court of Human Rights since November 2004. He began his
Marc Van Nimwegen, Interview 10 March 2010
Marc van Nimwegen (50) was appointed Chief Prosecutor General and member of the College of Prosecutors General in 2008. He studied Dutch law at the University of Tilburg (1984), and became policy adviser at the parquet of the prosecutor general in Arnhem after his military service; after this he became chief of cabinet of the chief prosecutor in Breda. In 1992, Van Nimwegen was appointed prosecutor in Dordrecht, which was succeeded by an appointment as national anti-fraud prosecutor in 1995 (Bureau Intensivering Fraudebestrijding in Arnhem). In 1997 became Chief Prosecutor in Den Bosch. After he was appointed as deputy chief Prosecutor in 2004 in Utrecht, Van Nimwegen became Chief Prosecutor in Utrecht in June 2006.

Anneke Osse, Interview 8 July 2010
Since 1990, Osse (1968) has been active for the department of police profession at the Police Resource Group Amnesty International. She began working at the Police and Human Rights Program of Amnesty International in 2004. Before she became employed by Amnesty, she studied psychology at Utrecht University. She worked for several refugee organizations in the Netherlands (VON Federatie Vluchtelingen Nederland) and at the University of Utrecht. From 1994 onwards, Osse worked at the academy for criminal investigation. After four years she left the academy to start working as a management consultant and management trainer at the Police Academy of the Netherlands, where she trained and guided project leaders in the field of corruption prevention, integrity, ethics and human rights, in the Netherlands as well as abroad. She developed material for the Council of Europe in order to encourage interaction with police officers the actual meaning of human rights. Her publications include “Understanding Policing: A Resource for Human Rights Activists”, Amsterdam, Amnesty International, 2006; Anneke Osse, “Corruption Prevention: A Course for Police Officers Fighting Organized Crime, in Crime, Law and Social Change, Vol. 28, No. 1, July 1997, 53-71.

Piet van Reenen, Interview 28 June 2010
Professor Van Reenen is a former police officer and Professor on behalf of the Foundation Programme Interdisciplinary Research Causes Infringements of Human Rights (PIOOM) at the University of Utrecht. He manages the research programme “Human Rights in a World of Conflict and Diversity. Conceptualization and Implementation of Human Rights”. He has been or was the supervisor of several PhD’s in the area of policing and human rights in other countries, including Jamaica en Mexico, Costa Rica, Brasil and South Africa, as well as the duality of police performance in the war against drugs. Former Director of the Netherlands Police Academy. Together with Niels Uildriks, he is the author of Policing Post-Communist Societies: Police-Public Violence, Democratic Policing and Human Rights (2003).

Michel De Smedt International Criminal Court, 12 August 2010
Michel De Smedt started at the International Criminal Court in The Hague in 2004 initially as head of the
Analysis Section but his responsibilities were soon expanded to also cover planning and operations related to the investigations. Since 16 January, 2006 he has been heading the Investigation Division in the capacity of Director Investigators Division. Before joining the Court, Michel De Smedt worked at the Belgian Gendarmerie from 1986 as a commissioned officer, first as a platoon commander, then at the Headquarters in the Directorate General of operations, and subsequently as head of strategic planning and audit. Between 1994 - 2000 he combined these duties with those of Project Manager for the collaboration agreement in the field of policing between South Africa and Belgium, supporting the transformation of the South Africa Police after the apartheid period by working around 4 key areas: serious and organized crime, community policing, public order policing and police management. In 2000, Michel became partner in a management consultancy firm for public administrations and advised different organizations (e.g. law enforcement agencies, Public Administration Reform for the Democratic Republic of Congo, Belgian National Defense Department, National Prosecutor’s office of Belgium, Committee attached to the Parliament supervising the Belgian Police Services, Ministry of Justice, Ministry of Home Affairs). Michel De Smedt holds Masters Degrees in Criminology and in Business Administration. He also has succeeded in the officer’s training at Belgian Royal Military Academy and at the Royal Gendarmerie Academy, and the Senior Officer’s course at the Royal Gendarmerie.

Lars van Troost, Interview 8 July 2010
Lars van Troost (1962) studied Philosophy at the University of Amsterdam. He started his career at Amnesty International Netherlands in 1985 and worked as the organization’s coordinator for Political Affairs, Head of Refugee Department and Head of External Relations Department. Currently he is Head of the Political Affairs and Press Office at Amnesty International Netherlands. In 1998, he was deputy head of delegation leader of Amnesty International at the diplomatic conference in Rome for the establishment of an international criminal court.

Niels Uildriks, 14 April 2010
Niels Uildriks is an expert and consultant in policing and human rights. He used to work at Utrecht University and at the Police Academy of The Netherlands, and he has been employed as an independent Research Professional, associated with the Crisis Research Team (COT) in The Hague. His publications include “Policing police violence Policing Insecurity: Police Reform, Security and Human Rights in Latin America (2009); Mexico’s Unrule of Law: Implementing Human Rights in Police and Judicial Reform under Democratization, Lexington Books (2010).

Robert Wainwright, 30 June 2010
Robert Wainwright (1967) was appointed as the Director of Europol in April 2009. Having graduated in 1989 from the London School of Economics, University of London with a BSc, he joined the UK Civil Service where he held various managerial functions. His broad experience during this period covered organized crime, counter-terrorism and intelligence analysis. Between 2000 and 2003, Mr. Wainwright was the Head of the UK Liaison Bureau at Europol, and he was also managing the Europol National Unit in London. In 2003, he was promoted to the position of Director International of the National Criminal Intelligence Service (NCIS), where he was responsible for its international operations and for developing and implementing the UK strategy against facilitated illegal immigration. From 2006 onwards, he was Chief of the International Department of the UK Serious Organized Crime Agency (SOCA). In this leading role, he was overseeing 20,000 law enforcement cases each year as well as establishing the international strategy and operational capabilities of the newly formed agency. His mandate extended from SOCA’s international operations and global partnerships to the worldwide network of SOCA liaison officers.

Information about those interviews that were conducted in confidence:
Confidential face-to-face interviews and interviews via telephone and email were conducted with 8 respondents representing 6 countries – Bangladesh, China, India, Japan, Korea and Thailand. Interviewees included senior academics specializing on public security; law enforcement and policing; high ranking police officers and human rights activists; former civil servants; and senior police academy instructors. The respondents preferred to stay anonymous. The interviews were conducted over a period of 3 months between June and
August, 2010; the interview schedule is listed below:

24th June 2010 : Face to Face Interview with a Chief of a Police Station in Chunnam Province, South Korea
30th June 2010 : Email Interview with a Professor of a University located in Chittagong, Bangladesh
9th July 2010 : Email Interview with a Professor of a University located in Beijing, China
14th July 2010 : Face to Face Interview with a human rights activist in South Korea
29th July 2010 : Telephone Interview with a Hong Kong - Chinese Professor of a University located in Hong Kong
12th August 2010 : Telephone Interview with a Senior Instructor at the Royal Thai Police Academy, Thailand
17th August 2010 : Email Interview with a retired high ranking civil servant in India
27th August 2010 : Telephone and Email Interview with a former senior instructor of the National Police Academy, Japan
ANNEX III
ABOUT THE AUTHORS

Prof. Dr. Monica den Boer (1963) holds a Chair on comparative public administration at the VU University Amsterdam on behalf of the Police Academy of The Netherlands, with a focus on the internationalization of the police function. She obtained a PhD in 1990 from the European University Institute in Florence and before she joined the Police Academy, she worked at Edinburgh University, the Netherlands Study Centre for Crime and Law Enforcement in Leiden, the European Institute of Public Administration, Tilburg University, and the European Institute of Law Enforcement Co-operation. She is a Member of the Dutch Advisory Council on International Affairs, and served as a member of the Dutch Iraq Investigation Committee, as well as the Dutch Defence Future Survey Group. Currently she leads an EU-financed FP7 work package on value dilemma’s of security professionals (INEX) and prepares a Police Ethics Guide for the Asian European Foundation (ASEF). Her publications focus on (good) governance of “internal” EU security co-operation, as well as European co-operation against organized crime and terrorism.

Prof. Dr. Changwon Pyo has been teaching Criminology, Criminal Investigative Psychology, Victimology and Police Studies at the Korea National Police University since 1998. Before embarking his academic career after obtaining M.A. and Ph.D. from University of Exeter in the UK, he had served as a police officer for 10 years. In 2000, he set up the Asian Association of Police Studies (AAPS) with fellow police scholars and practitioners from various Asian countries including China, Hong Kong, Taiwan, Singapore and Australia, and has been serving as its Secretary General. He has been appointed by and served for, as Advisor, numerous state or government organs in Korea including Parliament, Ministry of Justice, Ministry of Gender Equality, Human Rights Commission, Commission Against Corruption and the National Police Agency.

Ms Charlotte Scheltus LLM graduated in 2009 at the University of Utrecht with a degree in public international law. She obtained a specialization in human rights law at the University of Pretoria, South Africa. Currently she is working as a legal advisor at a law firm on civil law proceedings. Before she started working as a lawyer she was an intern at the Dutch Ministry of Foreign Affairs, working for the Human Rights Department, where she inter alia she organized the first Human Rights Defenders Tulip.
### ANNEX IV

**LIST OF REVIEWERS**

<table>
<thead>
<tr>
<th>Name</th>
<th>Affiliation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Anneke Osse</td>
<td>Police and Human Rights Programme, Amnesty International - Dutch Section</td>
</tr>
<tr>
<td>Chang M. Lee</td>
<td>Professor, Department of Police Administration, Hannam University, Korea</td>
</tr>
<tr>
<td>Dobromir Hristov</td>
<td>Research Fellow, Centre for the Study of Democracy, Sofia, Bulgaria</td>
</tr>
<tr>
<td>Emile Kolthoff</td>
<td>Research Fellow, Department of Public Administration, Faculty of Social Sciences, VU University</td>
</tr>
<tr>
<td>Ilze Rukere</td>
<td>Adviser to the State Police Chief, Republic of Latvia, Ministry of Interior State Police</td>
</tr>
<tr>
<td>Istvan Szikinger</td>
<td>Lecturer, Central European University and Law Attorney</td>
</tr>
<tr>
<td>Judith Gimenez</td>
<td>Legal Officer, Office of the OSCE High Commissioner on National Minorities</td>
</tr>
<tr>
<td>Kassie Neou</td>
<td>Advisor, Cabinet of Ministers’ Office, Royal Government of Cambodia</td>
</tr>
<tr>
<td>Maria Yordanova</td>
<td>Director, Law Program, Center for the Study of Democracy</td>
</tr>
<tr>
<td>Roel Fernhout</td>
<td>Professor of Law, Radboud University, Nijmegen</td>
</tr>
<tr>
<td>S.K. Agarwal</td>
<td>Vice Chairman, Transparency International India</td>
</tr>
</tbody>
</table>
ANNEX V
LIST OF INTERVIEW QUESTIONS (ENGLISH VERSION)

Best Practices on Law Enforcement Ethics & Accountability; Questions:

1) When you think of national and/or international instruments in the field of police / law enforcement ethics, which instruments come to mind? Are you of the opinion that these instruments have been sufficiently implemented? Do they match the current challenges (security / society wise)?

2) Are you of the opinion that within your organization, and /or similar organizations, there is sufficient attention for ethical issues? If so, why and to which extent?

3) What is your opinion on the attention which the professionals of your organization give to ethical issues? Can you answer this question from an international-comparative perspective as well as a European perspective?

4) Are there also blind spots in your organization when it concerns the attention for ethical questions? If so, which issues are addressed insufficiently or not at all?

5) Do you observe a shift in ethical reflections, starting from the new security paradigm, which focuses on issues like terrorism, radicalization and transnational crime (increasingly with the use of a preventive strategy)? In other words, is ethics becoming less important in a harshening security climate?

6) Have other shifts in security, including the growth of the private security sector as well as the increased co-operation between security partners, influenced ethical reflection within your organization?

7) Which dimension do you consider pivotal for ethical reflection within your organization: Leadership (vision, strategy, moral compass), training and education, recruitment, or personal experience? Please explain.

8) If you were to think about some practical examples of performance by your organization, which have raised ethical issues, which issues might you think of? What kind of lessons can be drawn from this “bad” experience?

9) If you were to think of an example of a case which illustrates excellent ethical performance by your organization, what kind of case(s) would you think of? Is it being used as a “good” practice?

10) Are you of the opinion that within European Union agencies, such as Europol, Eurojust and Frontex, there is an explicit ethical policy? If not, should there be one, and what kind of elements should it minimally include?

11) Do you share the view that ethics are integral part of professional police / law enforcement activity, and that it mainly relates to the capacity of the individual professional to constantly reflect on his/her deeds from a moral perspective?

12) In the implementation of an ethics-based policy, do you see any obstacles in your organization? Should these obstacles be removed, and if so, how? Vice versa, what are the principal conditions for an ethics based policy in your organization?

13) Which good practice on police ethics would you recommend?

14) Finally: do you think it is useful and / or desirable to strive for a universal global constabulary ethic? Or are you more pessimistic / realistic in the sense that you think there is too much (ethical) differentiation between the national law enforcement systems?

15) Would you like to share any additional observations with me/us?
### ANNEX VI

**POLICE OVERSIGHT MECHANISMS OF 16 ASIAN ASEM MEMBER COUNTRIES**

<table>
<thead>
<tr>
<th></th>
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<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Brunei</td>
<td>None</td>
<td>Anti Corruption Bureau</td>
<td>Public Service Commissioner</td>
<td>None</td>
</tr>
<tr>
<td>Cambodia¹⁰⁸</td>
<td>(Parliamentary 7 Government) Commissions on Human Rights and the Reception of Complaints¹⁰⁹</td>
<td>An Anti-Corruption body has been introduced (headed by the Chairman of the Government Human Rights Commission</td>
<td>Commission on Human Rights and the Reception of Complaints</td>
<td>None</td>
</tr>
<tr>
<td>Mainland</td>
<td>None</td>
<td>National Corruption Prevention Bureau</td>
<td>Ministry of Supervision <a href="http://english.gov.cn/2005-10/03/content_74320.htm">http://english.gov.cn/2005-10/03/content_74320.htm</a></td>
<td>None</td>
</tr>
<tr>
<td>India</td>
<td>National Human Rights Commission <a href="http://nhrc.nic.in/">http://nhrc.nic.in/</a></td>
<td>Central Vigilance Commission <a href="http://cvc.nic.in/">http://cvc.nic.in/</a></td>
<td>Federal &amp; Provincial Ombudsman (Lokpal or Lokayukta)</td>
<td>None</td>
</tr>
</tbody>
</table>

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¹⁰⁷ An overview of police oversight mechanisms in the member states of the European Union can be found on page 8f in the ASEF Background Report “Policing the Police. Police Oversight Mechanisms in Europe: Towards a Comparative Overview of Ombudsmen and Their Competencies, by Prof. Dr. Monica den Boer and Prof. Dr. Roel Fernhout at www.asef.org.

¹⁰⁸ In the case of Cambodia, the most recent changes have been reflected by the generous input of one of the expert panel reviewers, Kassie Neou who is a long-time human rights activist and former Secretary of State of the Ministry of Justice of Cambodia.

¹⁰⁹ There are 3 different Commissions in Cambodia: the Parliamentary Human Rights Commission and Reception of Complaints, the Senate Human Rights Commission and reception of complaints and the Government Human Rights Commission and reception of complaints.
<table>
<thead>
<tr>
<th>Country</th>
<th>Organization</th>
<th>Website</th>
<th>Contact Information</th>
<th>Notes</th>
</tr>
</thead>
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<tr>
<td>Japan</td>
<td>None</td>
<td>None</td>
<td>Ministry of Internal Affairs and Communications <a href="http://www.soumu.go.jp/english/index.html">http://www.soumu.go.jp/english/index.html</a></td>
<td>None</td>
</tr>
<tr>
<td>Laos</td>
<td>None</td>
<td>None</td>
<td>None</td>
<td>None</td>
</tr>
<tr>
<td>Mongolia</td>
<td>National Human Rights Commission <a href="http://www.mnhrc.org/en/about">http://www.mnhrc.org/en/about</a></td>
<td>None</td>
<td>None</td>
<td>None</td>
</tr>
<tr>
<td>Myanmar</td>
<td>None</td>
<td>None</td>
<td>None</td>
<td>None</td>
</tr>
<tr>
<td>Vietnam</td>
<td>None</td>
<td>Government Inspectorate of Vietnam</td>
<td>None</td>
<td>None</td>
</tr>
</tbody>
</table>
ANNEX VII

2009 GLOBAL CORRUPTION PERCEPTIONS INDEX (ASIAN AND EUROPEAN COUNTRIES)\textsuperscript{110}

<table>
<thead>
<tr>
<th>Rank</th>
<th>Country/Territory</th>
<th>CPI 2009 Score</th>
<th>Surveys Used</th>
<th>Confidence Range</th>
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<td>2</td>
<td>Denmark</td>
<td>9.3</td>
<td>6</td>
<td>9.1 - 9.5</td>
</tr>
<tr>
<td>3</td>
<td>Singapore</td>
<td>9.2</td>
<td>9</td>
<td>9.0 - 9.4</td>
</tr>
<tr>
<td>3</td>
<td>Sweden</td>
<td>9.2</td>
<td>6</td>
<td>9.0 - 9.3</td>
</tr>
<tr>
<td>5</td>
<td>Switzerland</td>
<td>9.0</td>
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<td>8.9 - 9.1</td>
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<tr>
<td>6</td>
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<td>8.4 - 9.4</td>
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<td>6</td>
<td>Netherlands</td>
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<td>8.7 - 9.0</td>
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<tr>
<td>8</td>
<td>Iceland</td>
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<td>7.5 - 9.4</td>
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<td>11</td>
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<td>8.2 - 9.1</td>
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<td>7.6 - 8.8</td>
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<td>7.8 - 8.4</td>
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<td>Austria</td>
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<td>7.4 - 8.3</td>
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<td>8</td>
<td>7.4 - 8.0</td>
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<td>Portugal</td>
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<td>5.5 - 6.2</td>
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<td>Taiwan</td>
<td>5.6</td>
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<td>5.4 - 5.9</td>
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\textsuperscript{110} Transparency International: \url{http://www.transparency.org/policy_research/surveys_indices/cpi/2009/cpi_2009_table}; Explanatory notes* : * CPI Score relates to perceptions of the degree of corruption as seen by business people and country analysts, and ranges between 10 (highly clean) and 0 (highly corrupt); ** Confidence range provides a range of possible values of the CPI score. This reflects how a country’s score may vary, depending on measurement precision. Nominally, with 5 percent probability the score is above this range and with another 5 percent it is below. However, particularly when only few sources are available, an unbiased estimate of the mean coverage probability is lower than the nominal value of 90%.; *** Surveys used refers to the number of surveys that assessed a country’s performance.
<table>
<thead>
<tr>
<th>Rank</th>
<th>Country/Territory</th>
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<th>Surveys Used</th>
<th>Confidence Range</th>
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<td>Korea (South)</td>
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<td>5.3 - 5.7</td>
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<td>Malta</td>
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<td>4</td>
<td>4.0 - 6.2</td>
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<td>Hungary</td>
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<td>4.6 - 5.7</td>
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<td>49</td>
<td>Bhutan</td>
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### Annex VIII

**Participants List from Workshop Discussions**

Asia Europe Democratisation and Justice Series Workshop  
IMPROVING THE ROLE OF POLICE IN ASIA AND EUROPE  
3 – 4 December 2008 | Delhi, India

<table>
<thead>
<tr>
<th>Name</th>
<th>Position/Role</th>
</tr>
</thead>
<tbody>
<tr>
<td>Andreas Nikolaides</td>
<td>Assistant Chief of Police, Cyprus Police</td>
</tr>
<tr>
<td>Anupama Jha</td>
<td>Executive Director, Transparency International India</td>
</tr>
<tr>
<td>Ariuntuya Ayurzana</td>
<td>Executive Director, Human Rights, Liberty Center NGO</td>
</tr>
<tr>
<td>Changwon Pyo</td>
<td>Associate Professor, Korea National Police University</td>
</tr>
<tr>
<td>Costas Soteriou</td>
<td>Superintendent, Cyprus Police</td>
</tr>
<tr>
<td>Ilze Rukere</td>
<td>Advisor to the State Police Chief, Ministry of Interior State Police, Republic of Latvia</td>
</tr>
<tr>
<td>Item Eko Maryadi</td>
<td>Freelance Journalist</td>
</tr>
<tr>
<td>Judith Gilmenez</td>
<td>Legal Officer, High Commissioner on National Minorities</td>
</tr>
<tr>
<td>Jun Aguinaldo Bans</td>
<td>Acting Programme Head, Democratisation, Initiatives for International Dialogue</td>
</tr>
<tr>
<td>Kassie Neou (H.E)</td>
<td>Consultant &amp; President, Peace and Development Institute, Cambodia</td>
</tr>
<tr>
<td>Kevin Carty</td>
<td>Senior Police Adviser to the Secretary General, Organization for Security and Co-operation in Europe</td>
</tr>
<tr>
<td>Kiran Bedi</td>
<td>Chairperson, India Police Foundation; Former Police Advisor to the UN Secretary General, Department of Peace</td>
</tr>
<tr>
<td>Lina Sarmiento</td>
<td>Chief, Human Rights Affairs Office, Philippines National Police Keeping Operations</td>
</tr>
<tr>
<td>Maria Yordanova</td>
<td>Director, Center for the Study of Democracy</td>
</tr>
<tr>
<td>Nguyen Thi Hai Yen</td>
<td>Chief of Social and Economic Department, VietnamNet Newspaper</td>
</tr>
<tr>
<td>Nuala O’Loan (Dame)</td>
<td>Former Police Ombudsman for Northern Ireland</td>
</tr>
<tr>
<td>Pavol Zilincik</td>
<td>Executive Director, Via Luris – Center for Public Advocacy</td>
</tr>
<tr>
<td>Roel Fernout</td>
<td>Professor of Law, Radboud University Nijmegen, The Netherlands</td>
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<tr>
<td>Timo Reinthal</td>
<td>Analyst on Criminal Matters, Supreme Court of Estonia</td>
</tr>
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</table>
Asia Europe Democratisation and Justice Series Workshop  
GOOD PRACTICES HANDBOOK FOR POLICING IN ASIA AND EUROPE  
18 – 19 AUGUST 2009 | BOGOR, INDONESIA

<table>
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<tr>
<td>Adrianus E. Meliala</td>
<td>Department of Criminology FISIP, University of Indonesia</td>
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<tr>
<td>Changwon Pyo</td>
<td>Policy Advisor, Commissioner General of the Korea National Police Agency</td>
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<tr>
<td>Hans Martin Zimmermann</td>
<td>German Representative, Jakarta Centre for Law Enforcement Cooperation</td>
</tr>
<tr>
<td>Indria Samego</td>
<td>Researcher, Center of Research and Development of Political and Regional</td>
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<td>Studies, Indonesian Institute of Sciences</td>
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<tr>
<td>Istvan Szinkinger</td>
<td>Lecturer, Central European University and Attorney at Law</td>
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<td>Judith Gimenez</td>
<td>Legal Officer, OSCE High Commissioner on National Minorities</td>
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<tr>
<td>Monica den Boer</td>
<td>Academic Dean, Policy Academy, The Netherlands Professor in Comparative</td>
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<td>Public Administration, Policy Academy Chair, VU University, Amsterdam</td>
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<tr>
<td>Monica Tanuhandarau</td>
<td>Programme Coordinator, International Organization for Migration – Indonesian</td>
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<td>National Police Reform Program</td>
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<td>Nuala O’Loan (Dame)</td>
<td>Special Envoy of Ireland for Conflict Resolution to Timor Leste Former Police</td>
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<td>Ombudsman for Northern Ireland</td>
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<tr>
<td>Shehryar Fazli</td>
<td>South Asia Regional Editor and Senior Analyst, International Crisis Group,</td>
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<td>Pakistan</td>
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<tr>
<td>Yap Swee Seng</td>
<td>Executive Director, FORUM-ASIA</td>
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Annex IX
About the Organisers

The Asia-Europe Foundation (ASEF) promotes greater mutual understanding between Asia and Europe through intellectual, cultural and people-to-people exchanges. Through ASEF, civil society concerns are included as a vital component of deliberations of the Asia-Europe Meeting (ASEM)*. ASEF was established in February 1997 by the participating governments of ASEM and has since implemented over 500 projects, engaging over 15,000 direct participants as well as reaching out to a much wider audience in Asia and Europe. www.asef.org

The Hanns Seidel Foundation is a political foundation, committed to promote the values of humanism through educational activities, with more than 35 years of experience in civic education in Germany, and in international cooperation around the world. Its office in Indonesia has established in 1993 with programmes developed and implemented jointly with respected and noted local, national and international partners. One of its focal areas is to strengthen democratic values and to enforce legal system and constitutional law in the country. Related programmes aim to establish a democratic state of law respected by other democratic countries. In this respect, HSF is actively facilitating exchange programmes, dialogues, experts’ discussions, workshop, seminars, etc., to strengthen institutional and human capacities in the country.

With the support of the European Commission

* ASEM now brings together 46 member states (Australia, Austria, Belgium, Brunei Darussalam, Bulgaria, Cambodia, China, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Indonesia, India, Ireland, Italy, Japan, Korea, Laos, Latvia, Lithuania, Luxembourg, Malaysia, Malta, Mongolia, Myanmar, the Netherlands, New Zealand, Pakistan, the Philippines, Poland, Portugal, Romania, Russia, Singapore, Slovakia, Slovenia, Spain, Sweden, Thailand, United Kingdom, Vietnam) plus the European Commission and the ASEAN Secretariat. www.aseminfoboard.org
THE ASIA – EUROPE DEMOCRATISATION AND JUSTICE SERIES

There is much that Asia and Europe can learn from sharing their experiences in dealing with challenges faced in their respective legal and judicial frameworks. The Asia-Europe Foundation (ASEF) which is committed to promoting dialogue between the two regions, encourages informal, open and non-confrontational dialogue among representatives of governments and civil societies in Asia and Europe. The Asia-Europe Democratisation and Justice series (AEDJ) provides a platform for Asia-Europe exchanges in this field through dialogue between civil society and policymakers. These dialogues are highly valuable to support economic development and strengthen the security and stability in Asia and Europe.

FORMAT
The series consists of workshops, lecture tours and publications of reference materials and case studies. The activities are specifically designed to raise awareness of the issues at hand and generate policy recommendations after each event with a focus on practical elements and experiences, leading to the development of good practices. These case studies of good practices form the basis for policy recommendations.

ORGANISATION
The AEDJ is co-organised in partnership with the Hanns Seidel Foundation (Indonesia). Selected projects under this series were organised in ad-hoc partnerships. The Asia-Europe Foundation acts as co-ordinating secretariat of the series.

ACTIVITIES

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<tr>
<th>ACTIVITY</th>
<th>LOCATION/DATE</th>
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<tr>
<td><strong>Comparing Access to Justice in Asian and European Transitional Countries</strong></td>
<td>27–28 June 2005, Bogor, Indonesia</td>
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<tr>
<td>In partnership with the Hanns Seidel Foundation (Indonesia)</td>
<td>And The HabibieCenter (Indonesia)</td>
</tr>
<tr>
<td><strong>Lecture Tour “Access to Justice and Public Empowerment”</strong></td>
<td>by PavolZilinik, VIA URIS – Center for Public Advocacy, Slovakia</td>
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<tr>
<td>23 November – 6 December 2007</td>
<td>Venues: Delhi, Vientiane, Phnom Penh, Jakarta</td>
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<tr>
<td><strong>1st Advisory Group Meeting of the Asia-Europe Democratisation and Justice Series</strong></td>
<td>Jakarta, Indonesia, 3-4 December 2007</td>
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<tr>
<td>In partnership with the Hanns Seidel Foundation (Indonesia)</td>
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<tr>
<td><strong>Lecture Tour “Transitional Justice and Human Rights”</strong></td>
<td>By NeouKassie, Peace and Development Institute Cambodia</td>
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<td>5-17 March 2008</td>
<td>Venues: Strasbourg, Brussels, Budapest, Bucharest, Tmava</td>
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<tr>
<td>In partnership with Instituto de CiênciasSociais</td>
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<td><strong>13th International Anti-Corruption Conference</strong></td>
<td>ASEF workshop: Protecting the Whistleblowers - Asian and European Perspectives</td>
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<tr>
<td>30 October – 2 November 2008, Athens, Greece</td>
<td>In partnership with Transparency International</td>
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<tr>
<td><strong>Improving the Role of the Police in Asia and Europe &amp; 2nd Advisory Group Meeting of the Asia-Europe Democratisation and Justice Series</strong></td>
<td>3-5 December 2008, Delhi, India</td>
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<tr>
<td>In partnership with the Hanns Seidel Foundation (Indonesia)</td>
<td>The Developing Countries Research Center (DCRC), University of Delhi</td>
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<tr>
<td><strong>Workshop “Good Practices Handbook for Policing in Asia and Europe”</strong></td>
<td>18-19 August 2009, Bogor, Indonesia</td>
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<td>In partnership with the Hanns Seidel Foundation (Indonesia)</td>
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<tr>
<td><strong>Lecture Tour: The Establishment of an Ombudsman Institution</strong></td>
<td>By Dr. RoelFernhout, Professor of Law, Radboud University Nijmegen &amp; Former National Ombudsman of the Netherlands</td>
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<tr>
<td>3-13 November 2009</td>
<td>Venues: Jakarta, Phnom Penh, Vientiane, Hanoi, Ulan Bator</td>
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<tr>
<td><strong>3rd Advisory Group Meeting</strong></td>
<td>20-21 February 2010, Sofia, Bulgaria</td>
</tr>
<tr>
<td>In partnership with the Hanns Seidel Foundation (Indonesia)</td>
<td>and hosted by the Center for the Study of Democracy in Sofia, Bulgaria</td>
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The workshop on ‘Improving the Role of the Police in Asia and Europe’ - organised jointly by the Asia-Europe Foundation and the Hanns Seidel Foundation Indonesia – as part of the Asia-Europe Democratisation and Justice series, brought specialists together to examine the existing police oversight mechanisms in Asia and Europe and to analyse the intersections between external oversight, internal disciplinary mechanisms and other accountability structures that enhance police and community partnerships.

Based on workshop discussions over a three-year period since 2008, ‘Good Policing: Instruments, Models and Practices’ provides a guide to the different models, existing good practices, legal instruments and key parameters which can improve the culture of good policing. In so doing, it offers different approaches on structured police work which is based on international, regional as well as national principles and practices.

Designed to address the needs of police officers, academics, experts and policy makers, the ultimate objective of this guide is to contribute towards ongoing efforts to improve police ethics, transparency and compliance with international human rights standards.

Based on the inputs from respondents and external experts, the authors identify gaps and ethical challenges in several aspects of policing, ranging from electronic monitoring of populations to crowd and riot policing. They also identify specific challenges, such as the fight against terrorism, radicalisation and organised crime, as well as sensitive topics including the protection of minority groups.

With the Support of the European Commission

ISBN 978-981-08-812 6-9