AMNESTY International   SIM

Conference Report

ENGAGING WITH POLICE REFORM:
THE ROLE OF NGOs AND CIVIL SOCIETY
IN POLICE REFORM

10-11 November 2006
Utrecht, The Netherlands

Introduction by Prof. Dr. Piet van Reenen, Chair
Utrecht University, SIM institute for human rights

This conference is about what role civil society groups, be they NGOs, academics, or others, can play in police reform; how can they initiate or support police reform or ensure police reform is based on human rights principles. It follows the publication *Understanding policing, a resource for human rights activists.* This book builds on to the idea that civil society can play a significant role in effectuating positive change in police conduct. During the conference a variety of examples and experiences will be discussed, covering a broad range of situational contexts in which they have taken place as well as a broad range of actors involved in its realization.

As the objectives of this conference we have defined the following:
- Establish a framework addressing the following questions:
  o How can non-police, non-State, organizations (including local NGOs, international NGOs, academics, international donors etc), support, or initiate, human rights based police reform?
  o What intervention strategies are there?
  o How to detect entry points/leverage points?
  o What are the challenges and how to deal with these?
- Discuss positive and negative experiences of NGO engagement with the police and relate these to the bullet points above.
- Practical implications: Opportunities and impediments for NGOs

The conference will focus on civil society engagement with police as a means of improving police compliance with human rights principles. Engagement by civil society will be defined in its widest sense possible and will include any intervention by non-State and non-police actors, including local and international NGOs, academics, international donors etc.

(Please note that you will find the conference program attached in the appendix.)

An introduction to *Understanding policing; a resource for human rights activists*
Anneke Osse, Amnesty International, the Netherlands

Mrs Osse started with presenting some feedback on *Understanding policing; a resource for human rights activists*: "Oftentimes, there is a wide gap between police officers and institutions and human rights advocates, sometimes born out of a misunderstanding of each other's worlds. *"Understanding Policing"* may be just the tool to help police and human rights advocates begin to understand and appreciate more fully the work of the other."

Indeed, police can be violators of human rights but at the same time they can play an essential role in the protection of human rights. Strategies for preventing human rights violations can vary from the confrontational to the cooperative. Approaching the police as human rights protectors presents an opportunity for increased cooperation between civil society and the police in a search for areas of mutual interest. Human rights and policing go hand in hand. *Understanding Policing* is a resource book for human rights advocates working on the police or on policing issues in order to facilitate the development of sound research, action and/or engagement strategies. See also www.amnesty.nl/policeandhumanrights.

Some background
Even though there is substantial expertise on policing within Amnesty International (AI) there is no institutional anchor on policing within AI's movement: policing expertise is diffuse. The relation between human rights advocates and policing is always somewhat ambiguous: 'stereotypical thinking' by human rights advocates regarding the police (and vice versa) is not uncommon. However; there is a tendency for change as human rights advocates are willing to learn more about policing, as is for example indicated by the many requests the Police and Human Rights Program receives from human rights advocates for training on policing and police issues.

Drafting the resource started from gathering all AI documents on policing, including the training handouts. From there the outlines were drafted and sent around for feedback. A feedback group was established incl. AI, other NGOs, academics, police. On some issues *ad hoc* feedback groups were formed.

The book intends to explain policing which accord with international human rights standards, define a common language and share good practices. Key messages are:
1. Be informed: Have a thorough understanding of policing (both laws and practice)
2. Make a contextual analysis (societal context and security and justice context)
3. Match strategy to context

Contents
As a definition of the police *Understanding Policing* has adopted the following: "Police are State officials entrusted with the powers to use force and to arrest and detain, tasked to maintain order, prevent and detect crime and provide assistance."

The first chapters of the book elaborate on the context in which police operate. Some of the recent developments within the police and human rights domain include:
- Police are no longer merely seen as potential violators but are addressed in their capacity to protect human rights as well
- The role of non-State actors (in violating human rights) is getting more attention
- Increasing attention for 'general crime'

One of the police's core functions is the maintenance of order. Therefore, in its chapter 2 the book elaborates upon the concept of order. It is argued that the maintenace of order is ultimately the State responsibility, and the police are but one of the State's organs to effectuate this responsibility. Other State organs (and non-State entities) include those working within the broader security system, such as the military, intelligence agencies and private security providers;

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and the broader justice system (prosecution, probabtion etc). Police cannot be held responsible for all failures along the criminal justice and security chain; indeed the chain is as strong as its weakest link.

Chapter 3 looks more closely at the police, and what philosophies they adopt to carry out their duties. There are two principles underlying these philosophies:
1.Vertical perspective: State control
2.Horizontal perspective: Police as service provider

A particular philosophy receiving much attention is 'community policing'. Unfortunately there is a lot of misunderstanding about this philosophy. *Understanding Policing* states that community policing should involve:
- Community engagement
- Problem solving
- Organizational transformation

Chapter 4 discusses operational independence vis a vis police accountability. Both the police and the public often misunderstand the concept of operational independence in general. The police need to have some space to be reactive within a structure of regulations and overall principles. Therefore police need discretionary powers in doing their work, both on the management level as on the level of the "street cop". However there should be a balance to prevent abuse of powers. This is why police accountability is so important; as to balance operational independence.

Chapters 5, 6 and 7 discuss police powers including the use of force, arrest and detention and criminal investigation. Using police powers is limited by the legal framework, and within the limits of law, limited by tactical considerations as well as the skills police officers have to effectuate these.

The last three chapters discuss enhancing police professionalism through accountability and training. Many human rights advocates seem to think accountability is a panacea but Mrs Osse argued it may in fact be a vague concept and not well understood. The word 'accountability', stemming from the world of finance, does not exist in many languages. It is translated in many languages as 'responsibility'. *Understanding policing* defines 'accountability' as *to explain one's conduct.* There are four key areas through which accountability can be exercised namely
1. internal accountability
2. accountability to the State
3. public accountability
4. independent accountability.
Thus, for accountability to be effective, there is a need for all four areas, all being accountable to each other. Otherwise the question arises: 'who would monitor the accountability mechanism?' In most cases accountability is understood as *a posteriori* accountability, which means accountability after a particular event has taken place, neglecting *a priori* accountability. *Understanding policing* argues effective accountability should include both a priori and a posteriori mechanisms and instruments.

A lot of interventions and programmes, aiming to improve police compliance with human rights, focus on training – unfortunately often with limited effect. Often the target group of these training programs consist only of the low ranking police officers leaving police leadership unaddressed. Moreover, human rights training programs are often short-term separate modules on human rights with hardly any relation to police work in practice.

Chapter 10 specifically talks about the role of NGOs and civil society groups in enhancing police professionalism, the assumption being that -when seeking to enhance police professionalism- NGOs and others can play a distinct role. However, for this to be true they
- Have to understand policing

- Have to make a solid contextual analysis, incl. situational analysis, legislation + policies, accountability structures, internal structure of the police
- And self analysis:
  - What can we do as an NGO?
  - Do we have the necessary resources?
  - What is our position here?

This conference will build onto this last chapter in particular.

At the end of her presentation Mrs Osse concluded with some overall remarks on *Understanding Policing*, stating:
- It is very much meant to be a tool for HR advocates commencing work on policing issues; and those that have done so already
- But it can also be used for training police
- And by police officers themselves

Mrs Osse finished with saying she hoped the book would help to break down stereotypes and enhance understanding one another.

Intervention strategies by NGOs, academics, international donors and other (civil society) groups to encourage human rights based police reform
Piet van Reenen & Anneke Osse

During her second presentation Mrs Osse presented a model to facilitate understanding the dynamics of State-non State engagement: how those responsible for effectuating governmental responsibilities for policing interact with those scrutinizing them – and vice versa – and how this influences the playing field for both.

Before proceeding with her presentation Mrs Osse warned that it should be noted that there is not one type of human rights NGO, on the contrary, they differ immensely. The focus of their work can range from international to local; their funds can be based on membership fees, (foreign) government contributions or non-governmental donors (such as the Ford and Mac Arthur Foundations, Bill Gates etc) or a combination of these – each of these creating a particular dynamic involving different interests. Their work can focus on one aspect of human rights, or can focus on a broad variety of themes. They can work closely with the target government or oppose it etc. In the following sections we intend to look at some of these aspects more closely and how this may affect work on policing.

Many human rights NGOs for long focused solely on the police as human rights violators. As a consequence the relationship with the police was often characterized by animosity rather than trust and both staff and membership felt more comfortable in an oppositional role rather than one seeking points of mutual interest. However, there has been a paradigm shift resulting in the police being seen as human rights protectors as much as human rights violators. In some countries, most notably -but not only- those in which police are not involved in systematic human rights violations, this has presented the opportunity for a common agenda and reflection on the establishment of contacts with the police, or **engagement** as it has become known.
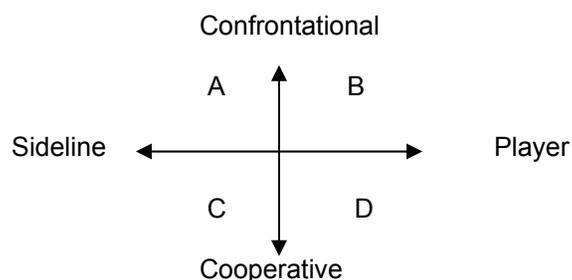
The relationship between an NGO and the police can be placed on a matrix with 2 axes. Each of the axes represents an aspect of the relationship:

- The first regards the 'tone' of the relationship. This tone can range from antagonistic to more cooperative. The extremes of the axes are antagonism, or confrontation (excluding any form of willingness to cooperate) on the one side to cooperation, defined as willingness to mutually share ideas and dilemmas, on the other.

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Obviously the tone of the relationship is related to the type of problems in the target country. Policing in compliance with human rights principles surely helps adopting a more cooperative tone. However, even in such countries some people will prefer to maintain a confrontational tone – as if the State is never ever to be trusted. The opposite is seen as well; in countries facing human rights problems NGOs may still try to establish an open dialogue seeking to help rather than criticize.

- The second axe is about the level of participation of the NGO, in other words the intensity/closeness or distance of the relationship. This can range from staying at the sideline, i.e. not doing anything else than mere observance and commenting; to becoming a player, i.e. sharing responsibility. Becoming a player can take two forms; either the NGO may take over State responsibilities, as is seen when NGOs participate in policing tasks; or an NGO actively helps State organs to improve their performance, for example through deliverance of training programs.

Combining these two axes results in the following matrix, which can help to describe and analyse the relation between civil society actors and the police:

Confrontational

A   B

Sideline   Player

C   D

Cooperative

Defining the relationship between non-State actors and State organs involves both, i.e. both play a role in how this relationship evolves. As such, the relationship is the result of the policies (whether or not these are the result of rational decision-making or intuition) of both actors: the police (or other State organ) and the NGO (or other civil society representative). In order to change the relationship, both parties have to adapt or agree. It takes two to tango.

Some State organs may take a different position than others – just as some NGOs may take a different position than others. Relating to policing; it is likely that victims' NGOs take a different position than HR NGOs; just like community policing units are likely to take a different position than military police units. Additionally, within the same one country, different NGOs may have different positions. This is probably related to a number of factors including the NGOs' institutional identity (which may be closely connected to the image the NGO has with the wider public). As an example, Amnesty might have a different image than the Open Society Institute has; maybe its image (or corporate identity) is stronger *thus creating its own dynamics and playing field*. Moreover, for an INGO its image may differ across nations. Related to the issue of identity is the relation NGO-donor adding a further political aspect to the position of an NGO in the target country. Donors sometimes disturb the power relationship within a country as they form a complicating and sometimes competing political factor within a country.

Mrs Osse argued that it is important to be aware of 'where you are in the matrix', either by choice or by default. NGOs and other civil society players should understand it is a strategic matter, i.e. of strategic importance, where to position oneself. If no intentional action is undertaken, it is likely one finds oneself on the upper half, probably on the left, leaving limited space to act. In other words; cooperation has to be created, confrontation is likely to be there anyway. Even though an NGO may have the policy of say quadrant B, its members and staff may very well still be in A. Probably different quadrants cannot be combined; you cannot be in two quadrants with the same police agency at the same time. When you are there is probably a very unclear relationship with the police and there might be confusion in your own organization about where to go.

For the design and implementation of NGO strategies the same matrix as the one just explained for relationships can be used, this time for strategies and programs. For being able to use particular interventions specific conditions may have to be met in advance. E.g. if there is no commitment from the police, particularly from police leadership, some interventions are doomed to have little effect. In such situations this commitment must be sought first – or maybe the police should simply be circumvented altogether and one should rather invest on lobbying those parties under whose control the police operate (politics, ministry) in order to change regulations and laws. Additionally some State organs, i.e. some police agencies, may be open to different strategies than others. Another example: for being able to carry out training programs there need to be some contacts with the police, as such this is impossible when in quadrant A. Note that an intervention doesn't always have to be initiated by the NGO but may also be initiated by the police themselves.

Related to this is the issue of how to implement certain interventions. Some interventions may serve as *leverages* for others, others that may be more effective. As an example, inviting a friendly high-ranked police officer from a 'neutral country' may help to establish contacts that may help for future interventions. As such it is possible to describe stages in intervening on police conduct. Note that some intervention programmes do not "target" the police but need the police as actor: child rights, trafficking of women etc.

Mrs Osse argued the full range of intervention instruments to be limited by the respective quadrant – in other words, some interventions can be used only in A, others only in B etc.. Some strategies will be impossible where others have a high chance of success and some again pose a risk for existing relationships. Within a confrontational setting, cooperative activities are impossible and within a cooperative stetting confrontational strategies may endanger the defined relationship. Indeed, combining the two matrices – the one on the level of the relationship and the second more operational one - presents a tool to describe the context in which to operate and what intervention alternatives there are in order to achieve a certain objective in a defined environment (quadrant). Though the focus (target) of the intervention can be the same in each quadrant, the exact instrument to address it may differ. Maybe the choice of intervention strategies depends on the institutional relationship there is. In other words, when in A only type A interventions are to be used *to be effective.* We believe that other type-interventions can still be carried out, but are not likely to be effective if they don't *match with the institutional context.* This means one can change the intervention strategy, or can seek to change the institutional context, ie. consider how to move to this quadrant first. The intervention can be focused at improving HR compliance with the police or can be a strategic step to get to another quadrant opening up new intervention possibilities. Do also note that some positions jeopardize particular interventions. As an example, having established too friendly relations may complicate future criticizing.

The approach of the human rights NGO should match police conduct and/or reform intentions: As long as the police do not violate human rights, or have proper correction mechanisms to address violations, the relationship between NGOs and police will not be too difficult. Things change of course when, during engagement, police do violate human rights and seek to avoid punishment. As a rule: if the police have committed human rights violations, they should be held accountable for them and sanctioned accordingly. However, at the same time, they may seek the NGOs to prevent violations from recurring. This may present a dilemma for the NGO, leading some authors to argue that working with the police may simply turn out to be incompatible with denouncing police abuses.[1]

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[1] In *Crime, public order and human rights* (2003) the author quotes the Director of CLEEN, a Nigerian human rights NGO, stating: "It is very difficult for groups to work from different approaches in terms of relationship with the government. It is more efficient to address different issues and to maintain an exchange of information amongst rights groups." (p.36).

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Setting up 'low level engagement' with police in a country where human rights violations do systematically take place requires caution and a proper risk analysis to ensure an NGOs independence and impartiality. However, even in such circumstances, setting up effective relationships with the police is possible and fruitful, as can be seen e.g. in Mozambique and Angola. In these countries, where there is no AI structure, research staff has been able to establish good contacts with the police, as we will see in Mrs Nevins' presentation. They aimed to show that AI understood policing and the challenges police faced and to build a relationship based on mutual respect in which it was possible to hold constructive discussions about mutual interests and concerns. It is always difficult to assess the impact of such initiatives, but they certainly provide insight into the policing situation in the country and there is reason to believe that face-to-face contacts increase the likelihood that the police will consider AI's recommendations more closely and take them more seriously.

Indeed, Mrs Osse argued: "I believe that it is (more often than is done to date) possible to establish cooperative contacts rather than antagonistic ones; and that NGOs can play a more active role – hence opening up a whole range of new innovative, and maybe more effective, intervention instruments than we have used thus far."

Discussion

Each of the participants was asked to analyze the matrix and see where he or she can put his or her NGO. Some found themselves in quadrant (A) others in quadrant (D) while others found themselves in both quadrants. It was interesting to see that most participants agreed they believed it was possible for an NGO to be in different quadrants *at the same time* depending on the circumstances and for efficiency purposes. It was recommended that NGOs should take a more cooperative role, thus opening more avenues for initiating reform.

Some positions and comments of different participants:
- From the point of view of engaging with business it was argued that it might not be effective to position yourself in only one quadrant. It is better not to make NGOs to choose and embrace one position. Another important point is that "how do you want to work?" and "what do companies want?" For example, in Holland companies care about human rights and cooperation; however, in the US there is a different atmosphere. Therefore AI in the US and AI in the Netherlands have different strategies.
- Some mentioned finding the diagram more helpful to position interventions but less to position NGOs themselves.
- State organs are sometimes really surprised when NGOs say something positive instead of criticizing them, making it possible to soften your critique and hence continue criticism.

Some additional important remarks were made including:
- If police are regime police engagement is out of the question.
- Crime is a big problem in many countries; human rights defenders are seen as 'defending criminals'.
- Positions change; in many countries people shift positions from NGO to government to academic back to NGO etcetera, blurring the line between the three.

Strategies directed at police operations; Ethnic profiling in stop and search powers
Rachel Neild, Open Society Justice Initiative, USA

Profiling means targeting groups believed *(as a result of prejudice)* to be more likely to commit crime, instead of meeting the lawful requirements for reasonable suspicion justifying stop and search. Ethnic profiling is a problem in most if not all countries. Often cited is the discrimination of Roma in the process of stop and search in Eastern European countries. This is also often

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reported for black and Asian communities in other European countries. Moreover, the Muslim population is increasingly confronted with discrimination in Europe due to the fear of terrorism especially after the 9/11.

The key objectives of the ethnic profiling project were increasing awareness, adoption of European standards and national legislation and development of civil society and police capacity for monitoring discriminatory practices. The key research question focused on the ethnic differences in stop experiences. The methods used were public surveys, community interviews and focus groups and police interviews (not in Spain) in which 60 to 80 police were interviewed in each country. The findings showed that there is no difference between Roma and non-Roma in Bulgaria and Hungary. In Spain and Hungary the Roma have strong perceptions of being stopped by police.

The project had three components:
- Research
- Advocacy
- Partnership with the police

Mrs Neild explained how some countries came to their decision to co-operate. For example, Spain wished to be involved in this study as they were looking for ways to avoid troubles like the French police had had with their immigrant populations in the *banlieues*. She also referred to the Zimbabwe police, a country outside the scope of the project, realizing they started losing money because of the public suing police for compensation after maltreatment. This was an incentive for police to support reform as they didn't want to lose resources.

The research also looked into how the police treated those being stopped; whether the treatment of minority members was significantly different. This is relevant as people may tolerate being stopped if it is done respectfully. In another ethnic profiling project, carried out in the Moscow Metro, it was found that people having Caucasian features were being stopped 20x as much as Russian-looking people, yet interestingly enough those being profiled excessively did say they were treated correctly and were not asked to pay bribes.

During the interviews with police neutral questions were asked such as why they stopped this individual, and whether ethnicity was used as a criteria for the stop - to which some replied affirmatively. In fact, in Spain some police officers target immigrants to enforce the law: "*We stop foreigners to see if they are illegal. How can we enforce [immigration law] if we don't stop people that look like foreigners?*"

The number of police stops carried out is extremely high in Hungary and Bulgaria compared to England and Wales. One of the key questions is whether the police stops are useful use of police time. There is very little evidence to suggest that the stops are based on intelligence information or help to detect suspects of crime. Mrs Neild concluded by saying that profiling appears not to be effective.

A good practice was mentioned from the UK where police have developed a form that has to be filled out for every single stop or search. Police have to indicate what the reason for the stop and/or search was, and what the persons' ethnicity is.

Profiling is not a legal practice but the European norm is vague. There needs to be an EU law that defines what types of profiling are acceptable and what is discriminatory. There is confusion within different countries: 'reasonable suspicion' is to be the motive for all police stops, but what is reasonable suspicion exactly? Not every one understands it the same. Mrs Neild pleaded for written standards for initiating stops, identity checks and searches; a system for monitoring stops by ethnicity; promote and enforce better police treatment of public during stop encounter, police-community dialog about stop tactics and a strong public complaints mechanism with independent oversight control.

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The purpose of the project was to work with police force and to have the police collaborate with them. Thus the OSJI is planning to assess the current law in practice, do community outreach, and identify leaders and persons with credibility that can take part in the project, conduct training for police officers, do analysis of local presentations and hold regional conference if possible.

The presentation was followed by discussions from the participants. During the discussions the participants made the following remarks*:*

- The intent of an individual police officer in choosing stop and search subjects may not be discriminatory (e.g. the objective is to prevent terrorism) but the result can be discriminatory.
- There are two patterns that will be detected through the research:
     1. Individual 'stop and search' targets of each police officer. Line managers should monitor this: 'Does the police officer have a discriminatory approach to 'stop and search'.
     2. Stop and search patterns of the police force in general.
- In the 56 OSCE countries OSCE focused on countries having Roma communities. Police tend to be hostile to these communities *and* tend to be less effective. Police effectiveness is measured by how many convictions are obtained after targeting Roma communities. OSCE found Citizens advisory groups to be a helpful way of combating this.
- Ethnic composition of police force (representativeness) is a fundamental principle of democratic policing but there is no evidence to suggest that this prevents racial profiling.
- An argument for monitoring stop and search is to ensure that limited police resources are being used effectively.

Strategies directed at policing philosophies: Introducing community policing in Peru
Rachel Neild, Open Society Justice Initiative, USA

Mrs Neild started with narrating her experiences in Latin America. She mentioned there has been a shift within the human rights movement due to different factors such as the political transition of the 1980s and crime level. Many human rights activists are seen as protecting criminals while neglecting the innocent citizens – further complicating their work. Following the transition in many Latin American countries, they developed so-called Citizens Security where the police and local population worked together in the protection of their security. Policing that works with the communities and respects human rights will be more effective in controlling crime: accountability and effectiveness are two sides of the same coin.

After this opening Mrs Neild went on to discuss a particular project to implement Community Policing in Peru. Police reform efforts included an anti-corruption focus, efficiency and accountability. In this project the strategic decision was taken to use local crime prevention as a starting point (assessed using surveys in local communities).

The main issues of public concern were crime, unemployment and poverty. In the pilot sites, one of the sites had no police station; in other 20 sites police officers were heavily understaffed. The primary activities of the project included, training and capacity building, community organization, coordination with the police, youth crime prevention, public health campaigns etc. Innovative techniques were used as well, for example, as alcoholism played a big role in crime increase they organized a party without alcohol, "fiesta sin alcohol".

The project was evaluated with local surveys, which touched areas like perception of safety; trust in institutions and attitudes towards sanctions, victimization, willingness to participate in local prevention activities etc. It was found that crime is still a principal problem, perception of safety is

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not much improved, and confidence in the police has not increased much. On the other hand, on the successes of the project, community mobilization and capacity building is impressive, there is an improvement in interagency coordination which was beneficial to the police and other institutions at local level, there is a change in the way people talk about crime and causes of crime, increased understanding of the law, reductions in victimization, improvements of perception of safety and a slight improvement in confidence in institutions. Mrs Neild also outlined the challenges at hand, including weak or mixed local political support, lack of resources, lack of national support, institutional discontinuity (police transfers). It was emphasized that sustainability of these kinds of projects is crucial – it is essential to look for incentives for those in power to co-operate. As to illustrate, in Peru it was found that enhancing security helped local mayors to be re-elected and thus increased their willingness to cooperate and contribute.

The presentation was followed by a discussion from the participants, who wanted to know whether there are guidelines as to when community policing can be initiated. The project in Peru started thanks to personal contacts. However, some argued there needs to be a clear and steady lawful base.

Some publications made by participating NGOs about the issue were also shared. These include:
- *The police that we want: a handbook for oversight of police in South Africa* (David Bruce and Rachel Neild), September 2005. Download at: www.csvr.org.za, www.justiceinitiative.org
- *Is your police service a human rights champion?* In 1997 a Council of Europe working group of police officers and NGOs developed a guide to help police agencies assess and improve their human rights compliance. The guide presents 330 indicators including accountability. Download at: www.epphr.dk
- *OSCE Guidebook on Democratic Policing* – including best practice guidelines for community policing. Download at www.polis.osce.org

It was also stated that instead of community policing we should rather talk about 'democratic policing' as that is a normative concept, clearly focusing on values important for human rights compliance.

Strategies directed at the police environment in India
Mr G.P. Joshi, Commonwealth Human Rights Initiative, India

Mr Joshi started by giving a brief background of the Commonwealth Human Rights Initiative (CHRI), which was set up in 1987, mandated to ensure the practical realization of human rights in the countries of the Commonwealth. It is the only international human rights NGO that is based in the South, with head quarters in India. It started its police program in 1998, working on India and, since then, has initiated police projects in Uganda, Kenya, Tanzania and Ghana. See www.humanrightsinitiative.org.

The police program in India has two major components:
1. National general program to institutionalize police reforms; specifically targeting the police environment
2. State level interventions, including human rights training to police, community policing programs and empowering local communities.

During the conference, Mr Joshi focused on the first component; how to bring about police reform in a situation where the police themselves are so politicized that targeting the police directly is hardly an option and hence a strategy is needed for targeting the environment in which policing takes place.

Mr Joshi started with giving some background information on policing in India:

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India is a union of 28 states and 7 union territories. Each of these has its own police agency (totalling some 1,5 million police officers). Under the central government there are central police organisations set up for specialized tasks, which include the paramilitary forces (totalling about 800.000 officers and men). By 2006, the country had 2.3 million police in all.

The police system has the shape of a pyramid. 87% of police strength is in the rank of constable and head constable, 11% is in middle ranks (which include those who do investigative work) and less than 1% is top leadership.

Under the Constitution of India, the 'Police' and 'Law& Order' are state subjects. The organization and working of the police forces are controlled by the state governments

The Police Act dates back to 1861 and, except for a few minor amendments, has remained unchanged. It is a strictly colonial type of legislation meant to defend the ruling establishment , maintaining order and has never been sensitive and people friendly. After independence, and even more so since the '70s, police got more and more politicized and worked mainly to protect the establishment. Politicisation of policing obstructed the police to grow as a professionally efficient organization. Since the '80s, crime and violence increased, and the law and order situation assumed increasingly serious proportions with insurgency and terrorism spreading to different parts of the country.

When CHRI started its police reforms program in 1998, they noticed two things:
A.   Ignorance of the public (as well as politicians) about police functions and procedures. Even within the police circles there was ignorance about the reform initiatives that had occurred both within and outside the country.
B.   Deep resistance to reforms, as the politicians did not want to relinquish their hold over the police. The government did not implement recommendations of the national police commission.

There were two ways the CHRI could approach the problem. One, work to bring about reforms that could take place within the existing system in areas like recruitment, training, leadership, infrastructure, personnel and resource management and service and working conditions of police personnel. The second approach would aim at establishing institutions statutorily that would help in improving the environment in which the police functioned, particularly by insulating them from illegitimate influences and pressures under which they worked but by simultaneously making them accountable for an improved performance and conduct. Recognizing that illegitimate political control over the police and lack of effective accountability mechanisms was at the heart of most that was wrong with the police, CHRI decided to go in for the second approach and focused on the two main issues of control and accountability.

The program in the beginning was motivated by a two-fold objective. One, to educate the public and other strategic groups about basic issues concerning the police with the hope that an increase in public awareness and knowledge would promote debate and generate pressure for reform. Two, to establish CHRIs credibility as a serious actor in the field of police reforms that would help in breaking the wall of resistance. Indeed, CHRI realized this was going to be a long-term project.

CHRI advocated for a system of democratic policing, which is:
- Subject to the rule of law, rather than the wishes of a powerful leader or party
- Politically neutral and non discriminatory in their functioning.
- Not a law unto themselves.
- Transparent and publicly accountable
- Respect for human dignity and basic human rights.

This was done by organizing numerous countrywide workshops, producing literature and disseminating information on a wide scale, tapping into the experiences of senior retired police

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officers, targeting strategic groups like media, analyzing judgments of the Supreme Court and High Courts on policing and human rights issues, resurrecting the findings and recommendations of the police reform commissions, summarizing and translating them into local languages disseminating them widely along with governments' response to these, intervening in public interest litigation on police reforms issues, providing a platform to the police to interact with civil society organizations and providing information about the best practices available in other jurisdictions.

What has been the impact of this program?
- CHRI has succeeded in raising public awareness about police issues
- Resistance against reform has gown down
- CHRI is been accepted as an important resource on police matters by the government; as an illustrative example, CHRI was associated with a Police Act drafting committee set up by the central government. It provided the civil liberties perspective to the deliberations of the committee..
- A momentous judgement was delivered by the Supreme Court on September 12, in a writ petition filed by two retired police officers an pending with the Court for about 10 years. The Court issued directions to the central and the state governments to take steps to implement a package of reforms, including the establishment of a State Security Commission, prescribing a procedure for selection of the head of police force and providing him a secure tenure, setting up of a Police Establishment Board to decide postings, transfers and to hear appeals from police officers about their being subjected to illegal orders and the establishment of a Police Complaints Authority at the state and district levels.

To what extent most of the recommendations will be implemented is yet to be seen. However CHRI will be monitoring their implementation.

Strategies used and lessons learnt from the program:
- Focus on engagement instead of confrontation; as a positive approach is more productive
- improving your own (here CHRIs) knowledge base, making advocacy credible by basing it on research work,
- Massive dissemination of information to the public through the media (e.g. flyers in newspapers) so as to catalyze public opinion in favour of police reforms etc. Indeed, public opinion is an instrument for change.
- Enlisting the help of senior retired police officers
- Treating police concerns as important

The presentation was followed by discussions from the participants. During the discussions the participants made various remarks including*:*

- Working with retired policemen can create problems. You will have to find a way to ensure that the people you work with are not human rights violators
- Funding is always a relevant issue both for reasons of impartiality as well as for reasons of sustainability
- Working with the police seeking to initiate human rights based police reform is always a long-term effort. In India the program is running for almost 10 years now.
- Working to effectuate police reform requires a coherent strategy like the one discussed

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Enhancing police accountability: The Police Station Visitors Week
Femke Hofstee, Altus Global Alliance, Netherlands

Mrs Hofstee started with a brief introduction of Altus; an alliance established in 2004, of six member organizations working in the field of human rights (both NGOs and academic institutions) in various parts of the world. Its secretariat is in The Hague. The six regional representatives connect 300 staff. Altus focuses on improving police accountability. See www.altus.org.

In this presentation Mrs Hofstee discussed Altus' Police Station Visitors Week, which took place from October 29th till November 4th, 2006.

Members of the public visited their local police station to assess the quality of the services available. In total over 1500 people visited more than 450 police stations in 23 countries[2] worldwide:

- Giving members of the public opportunity to observe their police stations and become better acquainted with the police
- Giving the police the opportunity to benefit from the visits as to further improve their service
- And giving the police the opportunity to gain insight in 'good practices' and how their station compares with others in the region and around the world

For this Police Station Visitors Week small teams of visitors (3-8 people), with one team leader, were put together, carrying out brief, planned visits (around 1 hour). After the visit each team was asked to share impressions and fill out a form, which was subsequently uploaded and processed via the internet (through a specially designed website). The form contained of 20 universal questions to facilitate the evaluation process, categorized on 5 themes; community orientation, physical conditions, equal treatment of the public without bias based on age, gender, ethnicity, nationality, minority status of sexual orientation, transparency & accountability and detention conditions.

Altus decided not to select visitors prior to the visit. They decided to work with lay people (rather than professional visitors from official oversight bodies) so as to give 'the ordinary member of the public' an opportunity to visit police stations and become better acquainted with the police exactly because so many feel less connected with the police. Visitors were recruited through the network of the 6 member organizations of Altus. As for the police stations that participated, they did so in free will, but in many countries permission had to be sought from the home ministry.

During the conference the results of the week were not yet fully available. Overall the week gained a lot of media attention worldwide and visitors reported having been treated well during the visits. In the coming months Altus will publish a national report (as per country with 10 or more police stations that participated) and will inform the police bilaterally how to improve their services. In the coming months Altus will give an award to the top three police stations in a country, select the best one per region and announce a global 'winner'. A conference is scheduled for next year April to report back the results of the week. More information can be obtained from: www.altus.org/policevisit

The presentation was followed by a discussion, which included exchange of ideas.

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[2] Belgium, Benin, Brazil, Canada, Chile, Germany, Ghana, Hungary, India, Latvia, Liberia, Malaysia, Mexico, the Netherlands, Niger, Nigeria, Peru, Russia, South Africa, South Korea, Sri Lanka, United Kingdom and the United States. On Altus' website the stations visited are listed.

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- Even though police are likely to select the better rather than the worst police stations projects like these, having a clearly positive tone, seeking to praise rather than criticize, may help to improve police-community relations as well as police accountability.
- It was recommended to coordinate with participants (visitors) to share information with other NGOs.
- Some suggested to relate the outcome of the Police Station Visitors Week to the developments regarding the Optional Protocol Against Torture (OPCAT) currently under ratification by many countries. In fact, it was suggested to invite visitors, and others within local communities, to advocate for ratification of the optional protocol.

Human rights compliance through police training
Ralph Crawshaw, University of Essex, UK

Mr Crawshaw described a framework for human rights programmes for police that can be adapted and applied to programmes offered by international bodies or resource persons, and national authorities. It also considers the relationship between human rights and policing, and sets out the purposes and principles on which such programmes are based.

He started with identifying four components of the relationship between human rights and policing:
1. Police powers and respect for human rights.
   Police are required to respect human rights in the exercise of their powers. This aspect of the relationship is the most commonly addressed, because one of the primary purposes of human rights is to protect people from abuse of power by the state. Police are legally bound to respect human rights in the exercise of their powers. However, sometimes there is a contradiction that lies at the heart of the relationship between human rights and policing, and it is that police break law in order to enforce law. In doing so, they undermine the very values they are meant to protect – order and stability in society. Law breaking by law enforcers is a very serious form of disorder, striking at the roots of democracy and the rule of law, and it is a matter that human rights programmes for police must address with determination and rigour.
2. Police functions and protection of human rights.
   Police maintain peace, order and stability in society by responding to threats to, or instances of, social disorder; by preventing and detecting crime; and by assisting people who are in need of immediate aid in times of emergency. They use the law as a means to fulfil these functions. Police contribute to the protection of all human rights by maintaining or restoring order, for when social order breaks down all human rights are vulnerable. Police also protect specific human rights. For example, in their crime prevention task police endeavour to prevent murder and other unlawful killings.
3. The requirement to investigate human rights violations.
   The investigative function of police includes a duty to investigate human rights violations because, in the first instance, some violations, such as violations of the right to life and of the prohibition of torture, are very serious crimes.
4. The entitlement of police to human rights.
   Every police official is entitled, in the same way as every other person, to human rights. However, particular considerations apply to the rights of police officials, as members of an occupational group, because of the nature of their work and because they are state officials. For example, because they sometimes have to respond to situations in which their lives are at risk, they need specific forms of training and equipment, and consideration has to be given as to how they are briefed and deployed to meet such situations. It is the responsibility of the state, in respect of state officials, to ensure that such requirements as these are met, and that the right to life of police officials is protected.

Purposes and Principles of Human Rights Education for Police

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Human rights education for police should be designed and delivered to affect the attitudes and thence the behaviour of police officials so that they deliver effective, lawful and humane policing.

There are a number of secondary but important objectives of human rights programmes for police that can contribute to the achievement of the primary purpose to a greater or lesser degree. These include simply making police officials aware of human rights norms and standards; providing a forum for police officials to discuss human rights and policing issues; providing an opportunity for police officials to consider policing from a human rights perspective; and providing a basis for continuing efforts within police agencies to deliver effective, lawful and humane policing.

Human rights education and training programmes for police should be participatory and interactive, central to the education and training of police, continuous, and relevant.

A Framework for Human Rights Programmes
The framework has five parts:

Context
1. Professional context.
   By providing a professional context it is possible to start to show the relevance of human rights to policing.
2. International context.
   The international context, an introduction to the international system for the protection of human rights, is provided to make police officials aware of the historical reasons for the development of the international system, and of the characteristics of human rights (e.g. inherent in every human being, universal, equal, and inalienable).
3. Democratic context.
   The democratic context is provided so that police officials can better understand their role in a democracy governed by the rule of law, and can appreciate their duty to protect human rights essential to democracy and the rule of law.
It is necessary to cover these aspects at the beginning of the programme so that the ensuing, more substantive, parts of the framework may be better understood and accepted.

Police Powers and Respect for Human Rights
Essential police powers - to use force, to deprive people of their liberty, and to carry out search and surveillance operations and activities are limited by the need to respect fundamental human rights – for example the right to life, the prohibition of torture and other ill-treatment, the right to liberty of person, the right to humane treatment as a detainee, and the right to private and family life. Accounts of each of these human rights, linked to the exercise of police powers, and accompanied by arguments for compliance with human rights standards in the exercise of powers, form the core of a human rights programme for police.

Police Functions and Protection of Human Rights
The protection of human rights can be seen as a distinct police function equal in importance to, and interconnected with, other police functions. International human rights courts and bodies have pronounced on the right to peaceful assembly and on police tactics in responding to public assemblies and demonstrations. Information of this type could be usefully included in those parts of police programmes dealing with public disorder. International standards on the use of force when responding to public assemblies should also be included.

Whilst that part of a human rights programme dealing with police functions should address the protection of human rights, the investigation of crime and maintaining or restoring public order, special consideration should also be given to including policing in times of armed conflict and elements of international humanitarian law relevant to police. Whilst international humanitarian law is only applicable in times of armed conflict, some of the standards it expresses constitute good police practice in conflicts and disturbances that fall below the threshold of armed conflict.

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Police Leaders and Realization of Human Rights
Clearly there are many aspects to the administration and management of complex organizations such as police agencies but one aspect, the management of change, is particularly important for the realization of human rights. Police leaders need to direct police agencies so that their responses to changes in society are effective, lawful and humane. Furthermore they need to manage change within police agencies so that a human rights culture replaces a culture that is inimical to human rights.

Provisions of international human rights instruments and decisions and findings of human rights treaty bodies, require police leaders to supervise the routine activities of police officials, and to command and control the actions of officials during the conduct of police operations. Concerning investigations of human rights violations, police leaders must ensure that such investigations, when carried out by police, are prompt and effective, and they must facilitate and co-operate with investigations carried out by other authorities. Furthermore, some human rights instruments require there to be a clear chain of command over officials with police powers. Police leaders must ensure that effectively functioning command structures are in place.

Police leaders owe a duty of care towards their subordinates. The nature of police work, with its dangers and discomforts, places particular responsibilities on police leaders to secure the human rights of subordinates. The dangers and discomforts inherent in policing cannot be removed entirely but they can be mitigated.

Human rights education of police leaders should inform or remind them of all of these responsibilities and requirements, and indicate how they may be met. Committed, well-informed, and highly skilled police leaders are essential for the realization of human rights by and through policing.

Workshop
The workshops are the final part of the programme, so that the work of the participants may be informed by what they have learned from, and what they have contributed to, the preceding parts. The exact nature of the workshop activity undertaken depends on the skills, aptitudes and inclinations of the participants; the needs of the agency within which they serve; and the willingness of the high command of the agency, and perhaps the government, to pursue the longer term purposes of the programme. The teacher or resource person conducting the programme would take these factors into account when proposing a workshop topic, which may, accordingly, be relatively simple or quite ambitious in scale.

An example of a simple topic, should the participants be teachers or trainers of police, is the preparation by the participants of a human rights teaching manual for their own use. Another simple example, where the participants are police leaders, is to conduct a workshop in which participants, working in sub-groups, are asked to identify and discuss practical measures they could take immediately on returning to their places of duty to improve the quality of service officers under their command provide to the community, the overriding objective being to secure effective policing whilst protecting and respecting human rights. This type of workshop can inspire participants to develop imaginative and practical ideas.

Initiatives commenced in the form of workshops at the conclusion of human rights training programmes can form the basis of longer-term technical assistance to the agencies concerned. For example, participants in workshops may make recommendations or proposals for future action that require guidance and support from people with expertise in technical aspects of policing or management of police agencies, in order that they may put into effect.

Concluding Remarks
The framework proposed, which has formed the basis of programmes for police and other security officials I have delivered on behalf of a number of international organisations, does not

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purport to be comprehensive in its coverage of human rights topics or themes. For example it includes no specific reference to human rights standards on the protection of women and children. However, some of these standards may be included in appropriate parts of this programme – for instance where the treatment of detainees is dealt with, standards on the protection of women and children may be covered. Furthermore, where it is clear from preparatory work for a programme that these or other topics need to be given special emphasis, the programme can be amended accordingly. Standards on the elimination of violence against women are a case in point.

Experience has shown that when too many topics are included in a programme there is not enough time for discussion and debate, and programmes become insufficiently participatory and interactive.

After Mr Crawshaw's presentation, a discussion took place on a range of issues, including:

- The rights of police officers themselves: in how far can we expect police to respect human rights when their own rights are not respected. Reference was made to a leaflet published by the European Platform on Police and Human Rights, who published a brochure titled: Police have rights too! Download from www.epphr.dk
- There is a need to be realistic as to how much effect these trainings have. In fact, one of the reasons why human rights actors choose to do trainings is because it generally is fairly easily accepted though (or because?) the impact may be small.
- Commitment by police officers is important. This is especially relevant for the police leadership.

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FORUM

NGOs and other groups engaging with police reform: Strategies and challenges

Erling Melkjorsen   **International Committee of the Red Cross (ICRC)**

Gillian Nevins   **Amnesty International, International Secretariat**

Blaž Kovač   **Amnesty International, Slovenia**

<u>ICRC</u>

The ICRC, almost 150 years old, governed by international humanitarian law, has a mandate stating to protect people affected by war. Since the 1990s the organization has developed a police program, not with the intention of reforming the police, but rather to change police conduct in line with human rights and professional standards. The reason for this is simply that it was noted that problems in many countries are rather related to police than military.

Strategies: always start at the top
- Sensitize the very senior officers of the police to human rights so as to promote changes regarding obvious violations: suggest better ways of doing things.
- Review of standing orders (are they in line with international standards)
- Change training curricula (as to try to institutionalize behavior)
- Introduce training of trainers. However it was noted this is not always successful, the presumed multiplier effect is often absent. Therefore the ICRC now prefers to select a small number of people, provide them with extensive training and coaching aiming to empower them to become human rights ambassadors.
- Always use experienced police officers

Though the ICRC will never go public they can be very critical to the receiving police agencies. They look into standing procedures, but never take over. We try to help improve respect for human rights and police professionalism.

Entry points
- In armed conflict countries just have to accept ICRC presence
- However, the organization is also often asked to help. Indeed, in non-armed conflict, the organization offers services
- Talk about 'policing', rather than 'human rights'
- Understand policing!

Challenges
- Most police officers addressed by the organization have very old military structures
- The colonial structure is still present
- Political willing is lacking
- Misuse of the ICRC police program (police telling everyone they are trained by the ICRC)
- Lack of proper basic education; in some countries there hardly are educated police who can challenge orders (in fact, some countries have substantial numbers of illiterate police)
- Lack of police experience by senior officers
- Local culture, e.g. in some countries corporal punishment is considered to be right

Some observations based on experiences

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- Sometimes misconduct is institutionalized and systemic making reform extremely difficult. In such situations there is often no accountability whatsoever or only at individual level (removing the rotten apple only, leaving the institution untouched).
- Using human rights language does not mean the police have adopted human rights attitudes and procedures. Indeed, sometimes people use language they don't understand i.e. community policing
- The receiving police will have to take ownership for 'their' reform.
- Competition between various stakeholders as well as donors; we need to complement each other, there are various resources but we sometimes do the same things in the same country
- Lack of skill training; in many countries there is a serious shortage of skilled police officers, e.g. to conduct suspect interview.
- Manuals and courses do not work if not understood

Amnesty International

After Mr Melkjorsen the forum continued with Mrs Nevins from the International Secretariat (IS) of Amnesty International (AI) discussing the perspective of an international human rights NGO seeking to support or initiate police reform. Mrs Nevins focused her presentation on her own experiences in Mozambique and Angola. Both these countries entered into war after independence – building police institutions was neglected. Both countries suffer from serious poverty, police receive hardly any education and illiteracy within the police is not uncommon.

Mozambique

In Mozambique the war ended with the signing of the peace agreement of 1992 and the elections took place in 1994. UNDP agreed to coordinate a programme to restructure and retrain the Mozambican police. Foreign donors (Spain and the Netherlands) answered this call. AI saw it as its role to monitor these processes.

On AI's first visit in connection with this project, the team included a Dutch police officer – which helped to build trust, open doors and gain access to the police. On the following visit AI again had conversations with police, but this happened rather coincidentally. On their 3rd visit it was a lot easier talk to the police, in fact they simply rang up the police and organized a visit. It was clear AI understood policing; took the police seriously and were taken seriously. This was enhanced by AI's publication of a report on policing in Southern African countries in 2002, a report that had been sent to all police agencies in the region (including Mozambique).[3] Following the 3rd visit AI prepared a memorandum commenting on gaps in the laws and regulations and detailing cases of human rights violations by police. This was sent to the police and other relevant authorities.

AI did not receive a response to the memorandum. Nevertheless, the authorities did take action against police suspected of human rights violations. Eight police officers were found guilty of arbitrary killings and other offences.

Angola

In Angola the war ended in 2002 after several failed peace agreements but no UN police program was developed. Prior to 2004 it had been very difficult for AI to obtain the necessary invitation to enter Angola. On two occasions in the 1990s AI visited the country on the basis of invitations from UN and Penal Reform International to contribute to workshops, in a sense "through the backdoor". However, this obviously made it more difficult arranging meetings with officials.

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[3] *Policing to protect human rights: A survey of police practices in countries of the Southern African Development Community, 1997-2002* (2002). AI Index: AFR 03/004/2002. See www.amnesty.org

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Strategy
- Building capacity with local NGOs – as it was difficult for AI to enter these countries the organization had to rely on information by local NGOs. AI usually took up cases mentioned in the press and then sought further information from local NGOs. It also sought to support and complement local NGOs.
Like Mr Joshi had said before; you have to make sure your knowledge and information position is good.
- Focus on government rather than police – human rights violations by police occurred because of lack of investment in the police as well as in a general culture of impunity
- Explore mutual benefit. Monitoring and engagement require understanding the other. Police must also understand the benefit of having good relations with the human rights community.
- Seize the moment. For a large part it is a matter of coincidence; be in the right place in the right time.

However, during a visit in In 2003, AI established very good contacts with the Ministry of Interior and the police. Earlier that year, the police had launched a 10-year Modernization and Development Plan to adapt the police force to the climate of peace. It involved reform of police methodologies and techniques[4] which AI saw as an opportunity to press for changes in the laws and regulations to increase protection of human rights.

Entry points
Prior to 2003, the entry point were based largely on personal contacts and coincidence. It turned out to be difficult to institutionalize these contacts. The change in policy that initiated the 10-year plan made it much easier to establish and develop meaningful contacts.

Challenges
The issue of sustainability received too little attention – how to sustain these contacts and entries.

Amnesty International, Slovenian section
After Mrs Nevins the forum continued with Mr Kovač from Amnesty International Slovenia who went on to discuss the perspective of a local NGO with regard to initiating or supporting local police reform. Slovenia is a small country that emerged from the break-up of Yugoslavia. The police system did not undergo any major changes after the transition, nor did police leadership receive any training on human rights or understand its relevance.

There is an interesting situation in Slovenia, which is that it is always compared to the other (former Yugoslav) countries in the region. When compared Slovenia is doing very well – resulting in human rights violations being considered as exceptions, and those local human rights NGOs working on these not taken seriously. The NGO community in the area was non-existent when AI started working with the police. Even now, AI is the only ones working with the police. Thus in such a situation you are left alone and the situation becomes harder to demand changes for police reforms.

According to Mr Kovač the political culture in Slovenia is hardly developed, there is little transparency and little corporation with the NGO community. When the government does work with AI it sometimes misuses this cooperation to diminish their human rights failures. The authorities do not comprehend the meaning of civil society; the risk of being co-opted is always there.

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[4] Leaflet*, Plano de Modernização e Desenvolvimento 2003/2007 – Linhas Programáticas*

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Strategy
- Professionalism; Within AI Slovenia all staff are lawyers, often having a better understanding of human rights than those working at the ministries.
- A constant reflection and analysis on our position
- Help government and police to improve rather than seek opposition
- We established good contacts with the media and made informal contacts with politicians and government officials.
- We had occasions to speak with police

Entry points
Slovenia is a small country so it's easy to know each other and establish (informal) contacts.

Challenge
The government frequently abuses their relations with NGOs – also in the media. As an example Mr Kovač mentioned an issue where government officials told the media AI agreed on a certain piece of legislation, which in fact was sent to AI too late to be able to formulate any comments.

Discussion following the forum
The following issues were raised:
- Human rights NGOs sometimes tend to prefer to criticize rather than work together with the police; there sometimes is s strong 'us versus them' attitude, even when it may be more effective to seek engagement.
- However, engagement does not mean 'no criticism'. Cooperation does not exclude being critical – in fact the two can very well go hand in hand when because of the good relations it is possible to discuss points for improvement. Maybe this should be referred to as 'critical engagement'.
- Some argued an organization like AI should maintain its oppositional role, as it is exactly what makes the organization strong.
- Again the issue of human rights within the police was raised. AI Slovenia is cooperating with the Ministry, which explores the rights of police. Some asked whether an NGO has ever written a report on this – as an answer reference was made to AI's 2003 East Timor report where there is extensive reference to police training, resources, and rights.[5]
- The issue of crime was brought up: it is a challenge trying to find a strategy to prove that adherence to human rights standards really does improve policing and does not hinder their ability to fight crime. Indeed, people (and governments alike) sometimes argue human rights are about defending criminal rather than ordinary members of the public. However as was well stated, human rights standards are about defending suspects – someone pointed out human rights may be seen to protect suspects (not: criminals), as that is exactly what they should do.
- It was concluded this is again related to how the relation between human rights and policing is perceived. If the focus is on potential abuse of police powers (as indeed many human rights advocates do) it may be difficult to explain how adherence to human rights standards helps to decrease crime; however when the relation is seen to include the positive obligation on states to protect everyone's rights, and hence the focus is on the police function rather than on police powers (in other words, rather on what police should do rather than on what they do wrong) it may be a lot easier explaining how the human rights paradigm related to policing and may help to fight crime.

Moving ahead: Engagement with non-State policing
Lars van Troost, Amnesty International, the Netherlands

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[5] *Democratic Republic of Timor Leste: A new police service a new beginning.* AI Index: ASA 57/002/2003. See www.amnesty.org

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As the final speaker of this conference Mr van Troost intended to look at engagement with non-State policing; focusing on private policing (defined as private policing, being policing by private (and most probably for profit) organizations) in particular. Mr van Troost's presentation contained a series of reflections and questions rather than answers, giving the conference participants an impression of the kind of issues that the Policing and Human Rights Program of the Dutch section of Amnesty International might be addressing in the coming years.

Simple view
In principle private policing can fulfill in the private spaces the same over-all functions as public policing fulfills in the public space (prevent and detect crime, maintain order, provide assistance to those in need). However, in the private sphere there is no necessity that these police functions are being fulfilled or are being fulfilled towards everyone indiscriminately. It is all a matter of private contract, not a matter of social contract. Public policing serves and protects the general public; private policing serves and protects those and those interests it is hired to protect. Public policing is decided by the ballot. Private policing is decided by the wallet. Public policing is done with the powers we are all more or less acquainted with: powers of stopping and searching, arrest and detention, the powers of criminal investigations and the use of force if necessary. Private policing, on the other hand, often has to be done with the powers of the ordinary citizen. Exclusion and regulation of access (for instance to private premises) and regulating and monitoring the behavior of those allowed entrance are among the few powers of private citizens.

Non-simple view
There is no clear geographical distinction between the public and the private sphere anymore, if there ever has been. More and more space that is functionally used as a public space actually is private property. Many modern shopping malls are probably a good example. Those private spaces used for public functions can be policed by public police, private police (security corporations) or both.

The non-simple view might also go like this:
- A private enterprise hires public police officers when they are off-duty to fulfill private policing functions, for instance guarding business premises or industrial complexes and the like. Do the public police officers change uniform and lay off their weaponry when they go to their private job? Do they *de facto* abandon their public policing powers in the hours they are employed by the private enterprise?
- The private enterprise hires public police officers to deliver security on its private territory or for its private transports, but the business enterprise hires these functions from the state, the local or the police authorities instead of hiring the police officers individually. In such a scheme the authorities seem to become private contractors.
- Privately hired policing the public space. Where the public police are not satisfying the needs or demands (which, of course, are not necessarily identical) of the citizens, those citizens may hire private policing functions themselves, individually or collectively.

Accountability for private policing
In many of the examples given above, whether we are dealing with private space or public space, the authority over the private policing is private too. This has important consequences for the model of accountability as presented in *Understanding Policing* (page 221-221), which may not work for privately hired police. Though there might be internal accountability in the private policing enterprise, just as there is in any other business enterprises; there will be no accountability to the state, no public accountability and no independent external accountability.

There is, of course, accountability to those hiring the private policing, but there is reason to assume that such accountability focuses on targets and results, not on legitimacy and legality of the means by which the result were reached. Thus the accountability to those hiring the public policing functions in no way compares to the accountability to the state (and the three branches of government) that we see in the chart.

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In many countries there will be avenues, at least *de jure*, to take action in criminal or private law against private policing enterprises, just as there exist such possibilities to take action against any other sort of private enterprise. But that will not do for an alternative to the more elaborate accountability mechanisms charted out in *Understanding Policing*. Legal action, usually, is only *a posteriori* and can only be triggered by victims, their relatives or others who have substantial interests in such legal action. If you remember what Anneke Osse said yesterday and what is also in *Understanding Policing*, namely that: operational independence must be balanced with (I would say: must be counter-balanced by) accountability mechanisms, you might suspect that with an increasing privatization of policing we are creating an accountability gap.

Entry points for civil society organizations
The accountability issue might not be as bleak as I just sketched it. In some or, perhaps, many countries private policing enterprises are regulated by a licensing system. Their license might be limited to a fixed period of time, after they, which they have to re-apply for a license to operate. Secondly, they might have to report periodically (for instance annually) to the police, the minister of the interior or the minister of justice about their performance on such issues as quality systems, recruitment, selection and training of personnel, internal oversight systems, privacy, non-discrimination, juveniles or gender policies and practices.
If that were the case, human rights activists, civil rights organizations and others may have some interesting points of entry into the private policing industry. Remember the matrix for institutional relations between governments and NGOs Mrs Osse discussed previously. If an NGO is somewhere in the cooperation part of the vertical axis it can exert influence on the government oversight of a private policing enterprise, for instance by reporting to the government on exactly those issues that matter for the periodic reporting of the private policing enterprise itself. Such NGO reporting, if clearly appreciated by the government, may have an effect on the enterprise and on the relationship between it and the NGO monitoring its human rights or civil rights performance.

Conclusions
There might be many more issues that our Program could or should address in the next couple of years to ensure that we do not just understand policing, but also *private* policing. Your suggestions for issues and approaches to private policing are more than welcome. Today or through e-mail contact in the next few weeks.

During the discussion that followed the following issues were raised:

- What to do when private contractors violate human rights and the state does not intervene?
- Reference was made to some norm-setting initiatives:
    - There is a working group on mercenaries in which the ICRC and the Swiss government participate
    - Saferworld has issued a report on private security companies in South East Europe and their effect on stability in 2005 (see www.saferworld.org.uk) and is currently exploring the possibility of developing a code of conduct on this for these companies
- In Latin American countries private security companies are often led by former (high ranking) police officers
- A different though in some times related issue is that of vigilantes.
- How does the issue of non-state policing relate to access to justice, in other words to the right to security for all?

Conference conclusions
Prof. dr. Piet van Reenen, Chair

Engaging with police reform: The role of NGOs and civil society in police reform - Conference report
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The chair thanked the participants for their intense participation, which allowed for a valuable exchange or opinions, experiences and analyses. He highlighted a number of important issues and conclusions from the various contributions.

Intervention Strategies
- o It has been mentioned over and over during this conference - when seeking to engage with police reform you have to know what you talk about. It is vital to build expertise on policing and to have relevant information. Indeed, understanding policing is essential.
- o Intervention strategies can be ordered in different ways. They can be triggered because of external or internal reasons; can be exploratory, wide, and narrow; can start top down or bottom up, or approach the police via external institutions. Though top down is preferred NGOs will often have to start somewhere else as they may have difficult access to top police leadership.
- o There is so little success because of elements that NGOs cannot control. Moreover it is difficult to define and measure success. In unstable setting, things that don't get worse can be considered a success. Often there are windows of opportunity, which have to there, have to be seen and then seized. Indeed, civil society intervention tends to be largely coincidence-based.
- o Knowledge of results based on reasoning and intuition rather than empirical evidence.

How to detect entry and / or leverage points?
Every country is different, each situation is different. Working on policing should therefore always start with making a sound contextual analysis – this should also help to identify entry points or leverages. The following entry points and points of leverage for NGOs have been discussed during the conference:
- o By looking and learning from own activities. Being perceptive.
- o Working with retired police chiefs.
- o Knowing the right people (by accident or informally or formally). In some countries (e.g. where there is a strong patronage culture) knowing the right people is a condition to get things done.
- o Keep an eye to the interests of a country. As an example, because countries wish to enter the EU they may be more open to initiate police reform.
- o Seeking partners who have carrots and sticks (e.g. OSCE, UNDP) that have financial resources.
- o Use of media.
- o Improving quality of service output rather than naming and shaming.
- o Local NGOS can be leverage for national NGOs and vice-versa

Challenges
Working on police reform presents an area where NGOs may face many challenges. Lacking financial resources to initiate police work and to sustain it on the long run is probably the most common. Another one is lack of sincere political will to make any changes in the respective target country. Not to mention how to deal with police reform in countries where overall basic education is minimal 9both within the police as within the broader public) something an NGO cannot change. Apart from these the following challenges were discussed:
- o How to make a difference and how to know that you have made a difference. It is often hard to assess one's own impact; though impact assessments can be done.
- o How to prevent being abused as a human rights organization. Governments sometimes use working with NGOs as a way to avoid making real change.
- o How does an NGO not spoil its reputation by working with a police agency that is known to violate human rights?
- o How to engage with police leadership? The ICRC has the power to enter at this level but what about smaller NGOs? Moreover, often high-ranking officers do not attend training courses.

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APPENDIX: CONFERENCE PROGRAM

10 November 2006

Chair: Prof. dr. P. van Reenen, Police & Human Rights, University of Utrecht.

12.00 hrs	Arrival of participants (Lunch available)
12.30 hrs	Opening (Chair)
12.45 hrs	Introduction of participants (Chair)
13.15 hrs	An introduction to *Understanding policing* (Anneke Osse, Amnesty International, the Netherlands)
13.45 hrs	Break
14.00 hrs	Intervention strategies by NGOs, academics, international donors and other (civil society) groups to encourage human rights based police reform (Piet van Reenen & Anneke Osse)
14.30 hrs	Strategies directed at police operations; Ethnic profiling in stop and search powers (Rachel Neild, Open Society Justice Initiative USA)
15.00 hrs	Discussion
15.30 hrs	Break
15.45 hrs	Strategies directed at policing philosophies: Introducing community policing in Peru (Rachel Neild, Open Society Justice Initiative, USA)
16.15 hrs	Discussion
16.45 hrs	Break
17.00 hrs	Strategies directed at the police environment in India (Mr G.P.Joshi, Commonwealth Human Rights Initiative, India)
17.30 hrs	Discussion
18.00 hrs	Round-up (Chair)
18.15 hrs	Closing of session

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11 November 2006

Chair: Prof. dr. P. van Reenen, Police & Human Rights, University of Utrecht.

09.00 hrs	Opening Loose ends from previous day

09.00 hrs   Opening
                   Loose ends from previous day

09.30 hrs   Enhancing police accountability: The police station visitors week (Femke
                   Hofstee, Altus Global Alliance, Netherlands)

10.00 hrs   Discussion

10.30 hrs   Human rights compliance through police training (Ralph Crawshaw,
                   University of Essex, UK)

11.00 hrs   Discussion

11.30 hrs   Coffee

12.00 hrs   Forum
                   NGOs and other groups engaging with police reform:
                   Strategies and challenges

- ICRC (Mr. E. Melkjorsen, Police delegate)
- Amnesty International (Gillian Nevins, International Secretariat, UK)
- Local NGO (Blaz Kovac, AI Slovenia)

12.45 hrs   Discussion

13.45 hrs   Lunch

15.00 hrs   Engagement with non-State policing (Lars van Troost, Amnesty International,
                   the Netherlands)

15.30 hrs   Discussion

16.00 hrs   Round-up (Chair)

17.00 hrs   Close of the conference

                   Drinks