Legal study on policing and human rights standards
Prud'homme, Jo-Ann; Anasarias, Ernesto; Masuko, Themba; Langa, Malose; Casey Boyce, Cara; Larsen, Kari; Jensen, Steffen; Allen, Russel

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Jo-Anne Prud’Homme
Ernesto A. Anasarias
Themba Masuko
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LEGAL STUDY ON POLICING AND HUMAN RIGHTS STANDARDS
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(SOUTH AFRICA, PHILIPPINES AND LIBERIA)

A praxis paper on urban violence prepared in collaboration between Balay, CSVR, LAPS and DIGNITY for the Global Alliance

By Jo-Anne Prud’Homme, Ernesto A. Anasarias, Themba Masuko, Malose Langa, Cara Casey Boyce, Kari Øygard Larsen, Steffen Jensen and N. Russell Allen
Foreword

Legal studies in relation to torture and cruel, inhuman and degrading treatment have often focused on places of detention and on what we could talk about as the more extraordinary forms of violations, especially against political opponents. These studies have largely mirrored the areas of focus of the comprehensive and highly competent institutional setup around not least the Committee Against Torture, the Subcommittee on the Prevention of Torture, the Universal Periodic Review process and other human rights mechanisms which all, in different ways, have a tendency to focus on torture and ill-treatment in the context of official custody. While this is clearly important, it seems to us that we need to begin concerning ourselves with state violence taking place outside of custodial settings in urban centers around the world, where state violence is prevalent but also normalized to the extent that it has become almost mundane. In this non-custodial context, law and legal regimes are no less important but human rights organizations and bodies have tended to pay less attention to the legal and policy frameworks guiding policing practices. In this paper, we address this omission and focus on international and national legal and policy frameworks for policing practices in non-custodial settings – including in the lead-up to arrests and in the dispersal of public assemblies – in three countries in the global south: South Africa, Philippines and Liberia. This has the double purpose of 1) providing human rights organizations with accessible information about legal and policy frameworks for policing practices in non-custodial settings and 2) pointing to the necessity to both advocate for such legal and policy standards in such contexts and ensure that they are observed.

The paper is the product of a collaboration between four like-minded organizations – BALAY Rehabilitation Centre in the Philippines, The Centre for the Study of Violence and Reconciliation in South Africa (CSVR), The Liberian Association for Psycho-Social Services (LAPS) and DIGNITY-Danish Institute Against Torture in Denmark. The collaboration has been formalised under the heading The Global Alliance against Authority-Based Violence in 2014. The basic premise of the alliance is that around the world and across different contexts, groups of people are deemed ‘victimizable’ by the powers that be, whether state or non-state – and hence legitimate targets of order-maintaining – or authority-based – violence. The risk groups might include young, indigent and criminalized men in slum areas, suspects of terrorism, migrants and refugees, sexual minorities or alleged carriers of disease. Their alleged transgressions might be based in a legal framework (like anti-drug laws) or in moral norms (like sexuality). However, all are likely victims of state or non-state violence. At the time of writing, the Philippine ‘War on Drugs’ provides a chilling example of the legitimacy of violence against such groups. How we might work with them depends on the crucial existence of legal frameworks that must be in place and importantly be adhered to.

As a central element in the collaboration, we produce a number of cross-cutting analyses of a variety of different issues while employing different methodologies. All topics emerge out of our common discussions on our different contexts and include linking human rights, development and violence in the city; psycho-social modelling for prevention and rehabilitation; social work models; community organizing strategies and partnership models.
reforms, this continues to hamper police legitimacy. Despite justice sector frameworks. In no small measure this is due to what is considered a rampant crime wave where sometimes part of local political machines. In South Africa, police brutality and violence continues out, with widespread impunity and in some cases acquiescence from police. But the problems are not just of a recent nature. Despite the progressive legal and policy frameworks relating to torture and ill-treatment taking place outside of custodial settings, until they exist relating to torture and ill-treatment taking place in non-custodial settings, which has often not received sufficient attention due to the focus on encouraging other organisations to take steps to examine the issue of torture and ill-treatment in non-custodial settings alongside more developed work around monitoring places of detention.

The conclusion is that while the legal and policy frameworks are important, it is insufficient on its own to ensure the full protection and promotion of human rights by police officers. However, this does not mean that legal and institutional reforms and human rights work should not be carried out. The paper briefly outlines three key recommendations: the implementation of human rights standards, and the relation between legal and policy frameworks and human rights work in poor communities, and the need for effective training and education for police officers.

In Liberia, the police institution was all but destroyed by the war and whatever professionalism had existed before had disappeared. Instead, military factions took over. Despite justice sector frameworks. In no small measure this is due to what is considered a rampant crime wave where police brutality and violence continues out, with widespread impunity and in some cases acquiescence from police. In the Philippines, which has the strongest legal and policy human rights framework for policing in the world, the police are still seen as the thin blue line separating the country from absolute chaos. In South Africa, police brutality and violence continues out, with widespread impunity and in some cases acquiescence from police. But the problems are not just of a recent nature. Despite the progressive legal and policy frameworks relating to torture and ill-treatment taking place outside of custodial settings, until they exist relating to torture and ill-treatment taking place in non-custodial settings, which has often not received sufficient attention due to the focus on encouraging other organisations to take steps to examine the issue of torture and ill-treatment in non-custodial settings alongside more developed work around monitoring places of detention.

The study reveals how states and police agencies choose to regulate their police forces. A comparative view exposes significant differences in the legal and policy frameworks for the police in South Africa, the Philippines, and Liberia. The study discusses the domestic legal and policy frameworks for the police in the Philippines, which has an extensive legal and policy framework for the police in the world, and the lack of implementation of human rights standards in the Philippines. The study also discusses the lack of implementation of human rights standards in Liberia, which has a legal and policy framework for the police in the world, and the lack of implementation of human rights standards in South Africa. The study underscores the importance of human rights standards for the police in the world, and the need for implementation of human rights standards in Liberia, the Philippines, and South Africa.

Executive Summary

This paper examines the international and national legal and policy frameworks governing policing in non-custodial settings in three countries – South Africa, Liberia, and the Philippines. What these countries have in common is that the prevailing police brutality, which is in effect, a sanctions and a legal and policy framework that is considered robust and detailed, though to a slightly lesser degree. The study seeks to shed light on the extent to which police officers respect the international and domestic legal frameworks in practice, drawing on information gathered from both police officers and victims of violations. The objective of this study is to review and prevent torture and ill-treatment taking place in non-custodial settings, which has often not received sufficient attention due to the focus on encouraging other organisations to take steps to examine the issue of torture and ill-treatment in non-custodial settings alongside more developed work around monitoring places of detention.

The study seeks to shed light on the extent to which police officers respect the international and domestic legal frameworks in practice, drawing on information gathered from both police officers and victims of violations. The objective of this study is to review and prevent torture and ill-treatment taking place in non-custodial settings, which has often not received sufficient attention due to the focus on encouraging other organisations to take steps to examine the issue of torture and ill-treatment in non-custodial settings alongside more developed work around monitoring places of detention.
The international legal regime governing the prohibition, prevention and combating of torture and other cruel, inhuman, or degrading treatment or punishment has attained considerable sophistication over the past decades. Much of this has focused on torture and ill-treatment taking place in detention contexts, that is, torture in persons in custody, be it police detention or prison. The other cruel, inhuman, or degrading treatment or punishment has been given more attention in non-custodial settings, what has happened outside the context of deprivation of liberty. While police torture in the detention context has been given more attention in the international human rights system and academic, what has happened outside the context of deprivation of liberty, in the urban poor, has often overlooked by the international anti-torture legal frameworks and the international human rights systems.

What these countries have in common is that the prevailing police brutality, which is in effect a euphemism for torture and cruel, inhuman and degrading treatment or punishment, is a harsh reality for millions of people, often in poor, urban neighbourhoods, has sought to highlight and examine torture and ill-treatment taking place outside the context of deprivation of liberty. While police torture in the detention context has been given ample attention by the international human rights system, an emphasis on torture and ill-treatment taking place in non-custodial settings as well as explore, in less detail, the prevalence, characteristics and patterns of police brutality in three countries, namely South Africa, Liberia, and the Philippines.

The current study will examine the international and national legal frameworks governing policing in non-custodial settings as well as explore, in less detail, the prevalence, characteristics and patterns of police brutality in three countries, namely South Africa, Liberia, and the Philippines. What these countries have in common is that the prevailing police brutality, which is in effect a euphemism for torture and cruel, inhuman and degrading treatment or punishment, is a harsh reality for millions of people, often in poor, urban neighbourhoods.

DIGNITY’s Community-Led Interventions Project, which focuses on authority-based violence and academia, what happens outside the context of deprivation of liberty, in the urban poor, has often overlooked by the international anti-torture legal frameworks and the international human rights systems.

For this reason, the Community-Led Interventions Project opted to conduct a number of legal studies examining policing law and policy – or lack of compliance with international human rights standards. The focus of this report is on the police in the Philippines and South Africa, as Chapter 2; that is, focusing on the specific obligations of police officers to respect and protect human rights standards in the course of carrying out their role, but with more contextual analysis around rights standards in South Africa, and less on Philippines. The study covers the period from 2000 to 2009 and includes the years in which new laws and significant legal developments were made.

Chapter 2 outlines the international human rights standards related to policing with respect to the (in)compliance of South Africa and the Philippines with their obligations to respect, protect and ensure respect for human rights standards in the course of carrying out their role, but with more contextual analysis around rights standards in South Africa, and less on Philippines. The study covers the period from 2000 to 2009 and includes the years in which new laws and significant legal developments were made.

While much has been written by scholars and researchers about policing and human rights in all three countries, the study aims at examining the legal frameworks and the practical realities of policing in the countries under scrutiny and their compliance with international human rights standards. Each country-specific chapter provides a detailed profile of the legal and policy framework, including the (lack of) adherence to the frameworks in a collaborative manner. Finally, in Chapter 6, we draw out the important conclusions from the study and research in relation to torture and ill-treatment in poor urban neighbourhoods.
2. Policing and International Human Rights Standards

The aim of this report is to assess the legal framework and practice on policing in South Africa, Liberia and the Philippines and the degree to which these comply with international human rights law. In order to conduct such an assessment, it is necessary to provide an overview of the international human rights standards relevant for the work of the police force. As agents of the state, which is the duty-bearer under the international human rights framework, police officers are required to carry out their role while promoting, protecting and upholding the human rights obligations of the state they represent.

This chapter sets out the international standards for policing as set out in a number of relevant hard and soft law instruments. These international standards will serve as the benchmark against which to assess the domestic laws, standards and policies governing law enforcement in the three countries addressed in this study. Each country chapter will include information on the level of compliance between the international human rights framework as it relates to policing and domestic legislation, as well as on the practical implementation (or lack thereof) of these international and domestic laws and standards.

It is important to note at the outset that across the three countries included in this study, the main function of the police is to maintain public order, to prevent and detect crime, and to protect all members of society from criminal acts. As such, police officers may encounter situations that put their safety, even in some cases their lives, at risk. Therefore, it is important that they are afforded specific powers to enable them to carry out this role, including the power to use force and firearms, to arrest and detain, and to carry out searches or seizures. However, these powers and the way they are exercised must conform to the principle of proportionality, and may not infringe on the human rights of those impacted by law enforcement work.

Human rights which can be impacted by police actions include:

1. Right to human dignity (and integrity);
2. Right to life;
3. Right to security and liberty, and freedom from arbitrary arrest and detention;
4. Freedom from torture and cruel, inhuman or degrading treatment or punishment;
5. Right to fair trial; and
6. Right to privacy.

Breaches of law by police officials have a severely negative impact on society as a whole, and greatly undermine the credibility of the law enforcement institution and, in turn, in their ability to carry out their role. Despite the difficulties and dangers faced by law enforcement officials in their work, it is fundamental that all police officers carry out their role in strict compliance with the law and maintain high legal and ethical standards. This requires clear orders and procedures that are available for public scrutiny, and strong and independent oversight of police activities.

The role of the police therefore requires a balance between the rights of potential victims of crime and of society as a whole, as well as the rights of those impacted by law enforcement work.

The international human rights instruments which bear most relevance to the function of the law enforcement are the Universal Declaration of Human Rights (UDHR, 1948), the International Covenant on Civil and Political Rights (ICCPR, 1966) and the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT, 1984). These instruments contain provisions which directly impact on the behaviour of law enforcement. A number of soft law instruments have elaborated on the basis of these provisions, and provide in significant detail the specific measures that law enforcement must adopt in order to ensure that their functioning is in compliance with the relevant provisions of international human rights law. These are the United Nations Code of Conduct for Law Enforcement and the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, both adopted as UN General Assembly resolutions. In order to provide further guidance, the UN Office of the High Commissioner for Human Rights (OHCHR) has developed a collection of standards for policing known as the OHCHR International Human Rights Standards for Law Enforcement. In addition, a number of international agencies and organisations have elaborated guidelines and good practice manuals.
for law enforcement to ensure that they carry out their role in conformity with international human rights standards, such as the International Committee for the Red Cross (ICRC) International Rules and Standards for Policing\(^6\) and the Geneva Centre for Democratic Control of Armed Forces (DCAF) International Policing Standards Series, in particular the Guidebook on Democratic Policing and the Basic Human Rights Standards for Law Enforcement Officials.

Based on the abovementioned guidelines, the following section outlines the main obligations of law enforcement with regard to adhering to the international human rights legal framework, with particular focus on measures necessary to ensure respect, protection and fulfilment of the right to life, the right to liberty and security, and the right to be free from torture and other cruel, inhuman or degrading treatment. These are derived from:

\[\text{International Rules and Standards for Policing}\]

\[\text{International Committee for the Red Cross (ICRC)}\]

\[\text{Geneva Centre for Democratic Control of Armed Forces (DCAF)}\]

\[\text{Guidebook on Democratic Policing}\]

\[\text{Basic Human Rights Standards for Law Enforcement Officials}\]

2.1 Human Rights Principles Governing Law Enforcement this heading has not indented like those of its level below – the reason could be that missing full stop but when I try to fix it I make it worse - AS

In order to ensure the correct balance is struck between protecting society from crime and upholding the rights of all citizens, including those suspected of or found responsible for crime, four main principles should be observed by police when carrying out actions that can impact on human rights:

- Legality: all actions should be based on existing legal provisions;
- Necessity: actions should not restrict or impact on human rights more than is (absolutely) necessary;
- Proportionality: actions should not impact on human rights in a way that is disproportionate to the aim; and
- Accountability: police must be accountable for all their actions and at all relevant levels (judiciary, public, government, internal chain of command).\(^7\)

‘Law enforcement’ refers to all officers of the law who exercise police powers, especially the powers of arrest and detention. The following general principles should form the backbone of any policing service. They embody the human rights as well as the rule-of-law standards of democratic policing, which are fundamental to ensuring public confidence and trust in the police service, as well as a police service that respects and protects human rights. This section outlines seven basic human rights principles that bring the functioning of a police force into line with international human rights standards.

1. Law enforcement shall at all times fulfil the duty imposed on them by law, by serving the community and by protecting persons against illegal acts.\(^8\)
2. Law enforcement officials shall at all times respect and obey the law.\(^9\)
3. Law enforcement officials shall respect and protect human dignity and maintain and uphold the human rights of all persons.\(^10\)
4. Law enforcement officials shall respect the principles of legality, necessity, non-discrimination, proportionality and humanity.\(^11\)
5. Law enforcement officials shall impose limitations on individuals only as determined and permitted by law.\(^12\)
6. Limitations on the exercise of rights and freedoms shall be only those necessary to secure recognition and respect for the rights of others, and for meeting the just requirements of public order and the general welfare in a democratic society.\(^13\)
7. Law enforcement officials shall treat all persons as being equal before the law, without discrimination of any kind, including discrimination on the basis of race, gender, religion, language, colour, political opinion, national origin, property, birth or other status.\(^14\)

What do ‘proportionality’ and ‘necessity’ mean in practice?

The question of what proportionality and necessity mean in practice can sometimes seem elusive, and of course it is subject to a certain degree of discretion. However, there is existing guidance from key international bodies such as the ICRC and the European Court on Human Rights as to what the application of these principles looks like in practice. According to the ICRC, in order to adhere to the principles of proportionality and necessity, law enforcement officers are obliged to ensure that their actions are proportionate and necessary for the achievement of lawful objectives. Lawful objectives include preventing injury or damage to others or to property or carrying out a lawful arrest.\(^15\)

Proportionality and necessity must be the underlying principles in all police actions, including both the decision to arrest and the execution of the arrest. In other words, not only must the reasons for the arrest be proportionate and necessary to achieve the lawful objective, but the methods (including the degree of force) used to carry it out must also be proportionate and necessary. While there is a degree of discretion afforded to a police officer in making this determination, there is also clear guidance from international human rights bodies. For example, in the case of Bouyid

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\(^6\) International Rules and Standards for Policing, ICRC.

\(^7\) ICRC.

\(^8\) UN Code of Conduct for Law Enforcement Officials, adopted by UN General Assembly resolution 34/169 of 17 December 1979. (Hereafter ‘Code of Conduct’).

\(^9\) Code of Conduct, articles 1 and 8; OHCHR Standards.

\(^10\) Code of Conduct, article 2; OHCHR Standards.

\(^11\) Code of Conduct, articles 2, 3, 5, 7 and 8; Principles on Force and Firearms, preamble and principles 2, 4, 5, 9, 11, 13, 14, 15, 16, 24, 25 and 26; OHCHR Standards.

\(^12\) UDHR, article 29(2); OHCHR Standards.

\(^13\) UDHR, article 29(2); OHCHR Standards.

\(^14\) UDHR, article 7; ICCPR, articles 26; OHCHR Standards.

v. Belgium, the European Court of Human Rights held that "where an individual is ... confronted with law—enforcement officers, any recourse to physical force which has not been made strictly necessary by the person’s conduct diminishes human dignity and is in principle an infringement of the right set forth in Article 3 of the Convention."26 Article 3 of the European Convention on Human Rights prohibits torture and cruel, inhuman or degrading treatment or punishment. The concepts of proportionality and necessity are therefore clearly articulated by international bodies, and this explication helps to ensure their effective implementation in practice.

2.2 Anti-Corruption

While corruption itself does not constitute a violation of human rights, there is a wealth of evidence that shows that where corruption is able to thrive, so too does a lack of respect for basic human rights standards and principles.27 For this reason, a fundamental component of any human rights-based policing system is the prevention of corruption, which includes legislation prohibiting such acts as well as mechanisms for ensuring accountability for those guilty of corruption.

1. Law enforcement shall not commit any act of corruption. They shall rigorously oppose and combat all such acts.18

2.3 Oversight Mechanisms

A hallmark of democratic policing is the acceptance and establishment of civilian oversight.19 Good policing requires the police to be able to cooperate effectively with the public, and this in turn necessitates that the public have confidence and trust in the police. Ensuring that erring police officers are held accountable is a core component of building public trust and confidence in the police, and moreover accountability also serves as a dissuasive or deferring factor: if police officers’ unlawful practices are punished, this creates incentive for other police officers to ensure their actions are within the bounds of the law. According to the UN Office of Drugs and Crime (UNODC) Handbook on Police Accountability, Oversight and Integrity: "Accountability involves a system of internal and external checks and balances aimed at ensuring that police perform the functions expected of them to a high standard and are held responsible if they fail to do so. It aims to prevent the police from misusing their powers, to prevent political authorities from misusing their control over the police, and most importantly, to enhance public confidence and (re-)establish police legitimacy."20 This section outlines the basic standards for oversight of the police in order to ensure its effectiveness and functionality, based on international human rights principles.

1. Law enforcement officials shall at all times fulfill the duty imposed upon them by law, by serving the community and by protecting all persons against illegal acts, consistent with the high degree of responsibility required by their profession.21
2. Law enforcement shall be representative of and responsive and accountable to the community as a whole.22
3. Superior officials shall be held responsible for the actions of police under their command if the superior knew or should have known of abuses but failed to take action.23
4. Officials who refuse illegal orders shall be given immunity.24
5. All police are to be subject to continuous and effective report and review procedures.25

2.4 Rules Governing the Use of Force and Firearms

In order to carry out their function, the police are necessarily granted a degree of discretion. As described by UNODC, "police officers typically have some room for maneuver when using police powers, with the authority to make decisions on such matters as how much force to use and on whether to carry out arrests or searches."26 However, in the case of use of force, it is important that such discretion be carried out within certain guidelines and adhering to basic principles of proportionality and necessity. This section outlines the basic guidelines and principles that should be applicable to police forces in order to ensure they carry out their function, as it pertains to the use of force and firearms, in a way that complies with international human rights standards.

Use of Force

1. In the performance of their duty, law enforcement officials shall respect and protect human dignity and maintain and uphold the human rights of all persons, in particular the right to life, security of the person, and freedom from torture and cruel, inhuman or degrading treatment or punishment.27 This applies to both actions carried out directly by law enforcement officials, as well as actions carried out by non-state actors in the presence of or with the consent or acquiescence of a law enforcement officer.28

2. Law enforcement officials, in carrying out their duty, shall, as far as possible, apply non-violent means before resorting to the use of force. They may only use force if other means
remain ineffective or without any promise of achieving the intended result.29 Force is to be used only when strictly necessary.30

3. Force is to be used only for lawful law enforcement purposes.31 When force needs to be used to achieve a legitimate objective, the consequences of such force may not outweigh the value of the objective to be achieved, which would render the use of force disproportionate.32

4. No exceptions or excuses shall be allowed for unlawful use of force.33

5. Restraint is to be exercised in the use of force.34

6. A range of means for differentiated use of force is to be made available and all officers are to be trained in the use of the various means for differentiated use of force.35

7. All officers are to be trained in use of non-violent means.36

8. Whenever the lawful use of force is unavoidable, law enforcement shall:

- Minimize damage and injury, and respect and preserve human life;37
- Ensure that assistance and medical aid are rendered to any injured or affected persons at the earliest possible moment;38 and
- Ensure that relatives or close friends of the injured or affected person are notified at the earliest possible moment.39

9. All incidents on the use of force shall be followed by reporting and review by superior officials.40

Use of Firearms

1. Firearms are to be used only in extreme circumstances.41

2. Law enforcement officials shall not use firearms against persons except in self-defence or in defence of others against imminent death or serious injury, to prevent the perpetration of a particularly serious crime involving grave threat to life, to arrest a person presenting such a danger and resisting their authority, or to prevent his or her escape, and only when less extreme means are insufficient to achieve these objectives. In any event, intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life.42

3. Rules and regulations for the use of firearms by law enforcement should include guidelines that:43

- Specify the circumstances under which law enforcement officials are authorized to carry firearms and prescribe the type of firearms and ammunition permitted;
- Ensure that firearms are used only in appropriate circumstances and in a manner likely to decrease the risk of unnecessary harm;
- Prohibit the use of those firearms and ammunition that cause unwarranted injury or present an unwarranted risk;
- Regulate the control, storage and issuing of firearms, including procedures for ensuring that law enforcement officials are accountable for the firearms and ammunition issued to them;
- Provide for warnings to be given, if appropriate, when firearms are to be discharged; and
- Provide for a system of reporting whenever law enforcement officials use firearms in the performance of their duty.

4. Whenever the lawful use of firearms is unavoidable, law enforcement shall:44

- Exercise restraint in such use and act in proportion to the seriousness of the offense and the legitimate objective to be achieved;
- Minimize damage and injury, and respect and preserve human life;
- Ensure that assistance and medical aid are rendered to any injured or affected persons at the earliest possible moment; and
- Ensure that relatives or close friends of the injured or affected person are notified at the earliest possible moment.

5. All incidents on the use of firearms shall be followed by reporting and review by superior officials.45

6. Superior officials shall be held responsible for the actions of police under their command if the superior official knew or should have known of abuses but failed to take concrete action.46
2.5 Dispersal of Unlawful Assemblies

An important role of the police is maintenance of public order, which includes the dispersal of unlawful public assemblies. This part of the police function is one which in many contexts raises questions regarding the lawfulness of use of force by police officers. It is therefore important that police forces are governed by clear standards and rules when it comes to the permissible actions they may take when dispersing unlawful assemblies, so as to ensure that this role is carried out in compliance with international human rights standards. These are outlined in this section.

1. In the dispersal of non-violent assemblies, law enforcement shall avoid the use of force, or, where that is not practicable, shall restrict such force to the minimum extent necessary.  

2. In the dispersal of violent assemblies, law enforcement officials may use firearms only when less dangerous means are not practicable and only to the minimum extent necessary.

2.6 Conclusion

The legal norms detailed in this chapter, which reflect international human rights standards, provide a clear and detailed picture of the obligations of states and their law enforcement officers —both in terms of legislation and practice— when it comes to ensuring that the police carry out their function whilst respecting and protecting international human rights standards. In the country chapters of this report, the domestic legal framework of the respective countries will be examined to determine to what extent it is in compliance with the international standards detailed above.

South Africa

3. South Africa: Legal and Policy Framework

3.1 Overview of Policing System and Structure

Chapter 11 of the Constitution of the Republic of South Africa, Act 108 of 1996, provides for the creation of security services. Section 199 (1) states: "The security services of the Republic consists of a single defence force, single police service and any intelligence services established in terms of the Constitution." The structure of the SAPS is outlined in Section 205 (1), where it specifies that the "national police service must be structured to function in the national, provincial and, where appropriate, local spheres of government."

In 1990 there were 11 police forces in South Africa, each constituted under its own piece of legislation and operating within its own jurisdiction. This was a result of the apartheid regime’s system of ‘homelands’, which designated certain territories within the larger national space for different racial or ethnic groupings and legislated for a certain measure of autonomy in governing their own affairs. This autonomy included police systems that operated outside of the police system in South Africa. The fall of apartheid culminated in the creation of one unitary state, including the amalgamation of the security forces.
Political changes such as the unbanning of political parties, release of Mandela and other political activist included the following key priorities:

- A new police leadership was appointed, with the National Commissioner appointed directly by the President of the Republic; and
- The rank system was demilitarised and revised according to the British model. For example:
  - Brigadier = became Senior Superintendent
  - Colonel = became Senior Superintendent
  - General = became Commissioner

A deeper reform in the SAPS saw significant changes to its personnel composition. At the dawn of democracy the majority of commanders were white while black police officers occupied lower ranks. Twenty-three years later the staff demographic reflected the national one. However, the majority of commanders were still white, which sometimes resulted in people without the capacity taking over police stations. According to police reports, by 2016 CPFs had been established in 1138 police precincts.

In some provinces, the names of police stations were changed, where they had previously been named after apartheid-era politicians or police leaders. The most notable was the John Vorster Square police station, renamed after it was tortured and killed by Security Police, which had become associated with the Johannesburg Police Precinct.

In some provinces, the names of police stations were changed, where they had previously been named after apartheid-era politicians or police leaders. The most notable was the John Vorster Square police station, renamed after it was tortured and killed by Security Police, which had become associated with the Johannesburg Police Precinct.

Another indicator of the democratisation of the police included regarding police officers as workers. This gave them the right to organise, form or join unions and to negotiate for better working conditions and salaries.

Challenges

The SAPS faces challenges on many fronts, including:

- High crime levels, especially violent ones, have the effect of putting the police as an institution in the spotlight. In an attempt to increase public confidence in their efficiency by bringing the numbers down, police may use excessive force but this can have the opposite effect, notably increasing public distrust and alienating the communities they are meant to serve. As confidence in the criminal justice system ebbs so does the incidence of vigilantism rise, as people in despair see no option but to take the law into their own hands.

- Disgruntlement over the reform process and affirmative action policies resulted in the loss of highly skilled police officers, mostly to the private security sector. This vacuum resulted in the promotion and recruitment of young and inexperienced police officers to senior positions, which further lowered the force's crime fighting capacity and, in turn, its morale.

- Police corruption remains a cancer in the SAPS despite the fact that police officers are better paid than other public service employees. It corrodes police community relations, respect for the rule of law and the functioning of other criminal justice institutions.

- The leadership of the SAPS has also come under scrutiny. Two police commissioners have been dismissed for serious misconduct and a third had been suspended for 18 months at the time of writing. Commissioner Jackie Selebi was sentenced to 15 years in prison for corruption in August 2010. His successor, Bheki Cele, was dismissed in 2012 amid a maladministration scandal involving over R1.5 billion. His successor, Riah Phiyega – appointed in 2012 with no policing background or experience – was still suspended on full salary by March 2017 although in November 2015 an internal inquiry found that she had committed perjury and in November 2016 a judicial commission of inquiry found her unfit to hold her office and held her responsible for the deaths of 34 striking miners, shot by police in a protest at Marikana in 2012.

Also, police leaders have down the years sent confused and confusing messages about police use of force, the rule of law and use of firearms. For example, in April 2008 Deputy Police Minister Susan Shabangu told police: “You must kill the bastards if they threaten you or the community…. You must not worry about the regulations. That is my responsibility…. I want no warning shots. You have one shot and it must be a kill shot.” During his term as national police commissioner from July 2009 to June 2012 Bheki Cele was well known for voicing a similar philosophy, which has been held responsible for encouraging police brutality and increasing the number of deaths at police hands. In line with this trend, the police service in 2010 was remilitarised, that is, the apartheid-era military ranking system was restored and civilian participation severely weakened. Since then, the number of killings by police officers has increased, including the aforementioned massacre of 34 striking miners in Marikana in August 2012.

3.2 International Law

South Africa is party to a number of international human rights treaties, including the IICCPR, ratified in 1994; the International Convention on the Elimination of All Forms of Racial Discrimination, ratified in 1998; the Convention on the Elimination of All Forms of Discrimination Against Women, ratified in 1995; and the CAT, ratified in 1998. While South Africa has signed the Optional Protocol to the Convention against Torture (OPCAT), it has yet to ratify it. Under Chapter 14, Section 231 of the Constitution of South Africa, international treaties ratified must be incorporated into domestic law by means of enacting legislation in order for them to apply domestically, unless their provisions are self-executing, a concept which has not been acted on in South African legislative history. Once treaties have been incorporated, they have the same legislative status and applicability as other legislation adopted by the legislature, and courts generally follow the rules for interpreting international treaties as found in the Vienna Convention on the Law on Treaties.

Under Section 232 of the Constitution customary international law is deemed law in the Republic, unless it is inconsistent with the Constitution or an Act of Parliament. In addition to this, Section 233 states that when interpreting any legislation, “every court must prefer any reasonable interpretation of the legislation that is consistent with international law over any alternative interpretation that is inconsistent with international law.” Thus, international law has supremacy in the Republic, ensuring that domestic law evolves alongside international standards and encompasses all human rights principles and norms enshrined in customary international law.

3.3 Regional Law

As a member of the African Union, the treaties and other instruments adopted by the African Commission on Human and Peoples’ Rights are applicable to South Africa, and have the same standing as international law. The African Commission has adopted treaties containing specific individual and group rights that law enforcement officials must uphold when carrying out their duties. The African Charter on Human and Peoples’ Rights (African Charter) came into force in 1986 and enshrines the rights of individuals and groups on the African continent. It draws heavily on the Universal Declaration of Human Rights and other subsequent core international human rights instruments. Article 5 of the African Charter provides for the right to the human dignity “inherent in a human being and to the recognition of his legal status.” The article also prohibits all forms exploitation and degradation, including torture. The Robben Island Guidelines for the Prevention and Prohibition of Torture in Africa (Robben Island Guidelines), adopted by the African Commission on Human and Peoples’ Rights in 2002, expounds on the prohibition and prevention of torture in Africa, and also addresses the needs of torture victims. These guidelines draw extensively from international law, in particular the UNCAT, OPCAT and ICCPR, and provide that investigations into allegations of torture should be guided by the UN Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (Istanbul Protocol). The African Commission on Human and Peoples’ Rights adopted the Guidelines on the Conditions of Arrest, Police Custody and Pre-Trial Detention in Africa in 2014.
becomes apparent below in the sections of this chapter relating to the use of force and firearms, as draw upon other pieces of legislation and soft law provisions clarifying specific areas of policing. This

The structure of the SAPS is set forth in the Interim Constitution of the South African Republic of 1994. The Constitution of South Africa, which is the supreme law of the land, seeks to establish a society based on "democratic values, social justice and fundamental human rights." The Constitution is comprehensive in its language of human rights and adoption of internationally recognised standards. The comprehensive nature of the human rights protection enshrined in the South African Constitution reflects the importance of human rights in the South African political and administrative processes. These constitutional provisions have been translated into statutory law through the adoption of the Prevention and Combating of Torture of Persons Act in 2013, which have been ratified and many of which have been incorporated into domestic law.

Police-specific legislation, like much of SA's post-apartheid legislation, has been relatively comprehensive in its language of human rights and adoption of internationally recognised standards. The SAPS Act, adopted in 1995, reiterates the constitutional provision for the establishment of an individual responsible for safeguarding and promoting such standards demonstrates a commitment to human rights. The only remaining concern is whether an incentive exists for employers to monitor employees' conduct and follow procedure in order to ensure law enforcement accountability. The comprehensive nature of the human rights protection found in the Universal Declaration of Human Rights, the ICCPR and the International Covenant on Economic, Social and Cultural Rights, among others, in the extensive range of international human rights instruments to which SA is a party. The Constitution of South Africa, which is the supreme law of the land, seeks to establish a society based on "democratic values, social justice and fundamental human rights." The Constitution is comprehensive in its language of human rights and adoption of internationally recognised standards. The comprehensive nature of the human rights protection enshrined in the South African Constitution reflects the importance of human rights in the South African political and administrative processes. These constitutional provisions have been translated into statutory law through the adoption of the Prevention and Combating of Torture of Persons Act in 2013, which have been ratified and many of which have been incorporated into domestic law.

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Corruption Strategy, the latest of many such strategies aimed at addressing the rampant corruption in the police force. While the adoption of the SAPS Anti-Corruption strategy is indicative of commitment within the institution to combat corruption, it is regrettable that this connotes as part of the field research for this chapter, in reference to the police force, the impact of corruption. In interviews with police officers, described as part of the field research for this chapter, in reference to the police force, the impact of corruption. In interviews with police officers, described as part of the field research for this chapter, in reference to the police force, the impact of corruption.

Another interviewee we presented with the vulnerability of the police, in particular the Metro police, to demand bribes for allowing them to drive tasks that are not roadworthy. He argued incidents such as these contribute to tarnishing the image of the police.

Community Policing

Community Policing was first provided for under the Interim Constitution (1993) as the new policing philosophy. This aimed to go further than the existence of CPFs, adopting a philosophy that recognised that policing is not something done to people, but with people. It remains the need for monitoring at all levels. Section 75.2 also stipulates that the National Minister may, after consultation with the Provincial Authorities, make determinations to promote ethical conduct to the National Minister, and with the assistance of the SMS members as he or she may deem necessary to minimize conflicts of interest and avoid any conflict of interest that may arise in relation to the matters dealt with during their office. SMS members must also comply with the requirements of the Constitutions, the conflicting interest principle and the principles of professional conduct and integrity, which must be observed by members of the service. SMS members are encouraged to promote ethical conduct among the SAPS and law enforcement agencies.

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3.6 Use of Force and Firearms

Domestic legislation pertaining to the lawful use of force by law enforcement in SA remains scattered, with no single piece of legislation focused on the matter. The absence of a definitive piece of legislation on police activity in SA calls for the development of a comprehensive legislative framework to cover all aspects of police conduct. While this is a daunting task, it is important to ensure that any legislation is in line with international policing standards enumerated in Chapter 1 of this report.

3.6.1 Rules Governing the Use of Force

Section 49 of the Criminal Procedure Act of 1977 and section 13(1)(b) of the SAPS Act (1995) are the main provisions regarding the lawful use of force by law enforcement officials in every state. The SAPS Act divides the use of force into two categories: (a) when the force is used to effect the arrest, whether at that time or later, or (b) when the suspect is suspected on reasonable grounds of having committed a crime involving the infliction of the injury or threatened infliction of such injury as may reasonably be necessary for the purpose of effecting the arrest, whether at that time or later.

In keeping with international standards, Section 49(2) stipulates that the use of force may only be used where attempts to arrest a suspect without the use of force are resisted and have been exhausted. This mirrors international standards by which the use of force is limited to the use of force by force, which may only be applied if it is necessary. Section 49(2) further limits the use of force by stipulating that it may only be applied if it is necessary, that the force must be reasonably necessary and proportional to the situation in question, and that the use of force must be reasonably necessary and proportional to the situation in question.

3.6.2 Civilian Secretariat for Police

The South African Human Rights Commission (SAHRC) is responsible for civilian oversight of police, giving strategic advice to the Minister and to the Independent Police Investigative Directorate (IPID). The SAHRC has the power to exercise civilian oversight of police, give strategic advice to the Minister and to the IPID, and conduct investigations into complaints against the police. The SAHRC is also responsible for developing and implementing policies, and providing administrative support services to the South African Police Service (SAPS) Secretariat.

3.6.3 Independent Police Investigative Directorate

Police-specific legislation provides additional mechanisms for accountability by way of CPFs and the Independent Police Investigative Directorate. As previously discussed, CPFs aim to facilitate engagement with relevant structures and provide guidance to community police forums (CPF). The Independent Police Investigative Directorate’s mandate is to investigate complaints against the police, provide advice to the Minister, and cooperate with IPID on investigated matters. The Independent Police Investigative Directorate also functions as the SAPS’s response to international commitments to professionalize the police force and to ensure that the use of force is in line with international standards.

3.6.4 Rules Governing the Use of Force

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The Independent Police Investigative Directorate (IPID) is responsible for ensuring police accountability and providing impartial investigations of policing matters, with the power to make disciplinary recommendations. All members of the SAPS are obligated to report and cooperate with IPID on investigated matters, with National and Provincial Commissioners responsible for ensuring oversight and providing impartial investigations of policing matters, with the power to make disciplinary recommendations. All members of the SAPS are obligated to report and cooperate with IPID on investigated matters.

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3.6.2 After the Use of Force

The Independent Police Investigative Directorate (IPID) Act (2011) stipulates that members under the control of the National Commissioner shall determine the level of threat, and whether education or training is required to prevent future occurrences. Moreover, SAPS Standing Orders (2014) states that the level of threat is determined by the National Commissioner and the SAPS Standing Orders, which provides guidelines for member education and training.

The IPID Act (2011) stipulates that members shall report any instances of the use of force to the nearest superior, who shall report the matter to the National Commissioner. Additionally, the National Commissioner shall report any instances of the use of force to the Minister of Police, who shall report the matter to the President of the Republic of South Africa.

3.6.4 Rules Governing the Use of Firearms

Section 32 of the SAPS Act stipulates that the use of firearms by SAPS members is controlled by the standing orders of the South African Police Service (SAPS). The SAPS Standing Orders (2014) provides guidelines for the use of firearms in law enforcement, as well as the reporting and investigation of firearm incidents.

SAPS Standing Orders (2014) contains provisions that allow for the use of firearms in self-defense, with the intent to prevent or protect against unlawful threats. SAPS members are required to report any use of firearms to their immediate superior and the SAPSpersonnel. The SAPS Standing Orders (2014) also contains provisions that allow for the use of firearms in self-defense, with the intent to prevent or protect against unlawful threats. SAPS members are required to report any use of firearms to their immediate superior and the SAPSpersonnel.

The Independent Police Investigative Directorate (IPID) Act (2011) provides for the investigation of firearm incidents. The IPID Act (2011) stipulates that the IPID shall investigate any instances of the use of force, including the use of firearms, by SAPS members. The IPID Act (2011) also provides for the investigation of complaints against SAPS members.

3.6.5 After the Use of Force

After the use of force, SAPS members are required to report any instances of the use of force to the nearest superior, who shall report the matter to the National Commissioner. Additionally, the National Commissioner shall report any instances of the use of force to the Minister of Police, who shall report the matter to the President of the Republic of South Africa.

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**3.7 Dispersal of Assemblies**

**3.7.1 Rules Governing the Dispersal of Assemblies**

Section 17 of the SAPS Act provides for the establishment of a Public Order Policing POPO unit, which is under the command of the National Commissioner. The POPO unit has the authority to determine the powers and duties of police in the event of public order incidents. The POPO unit is charged with ensuring that the SAPS act in accordance with international standards on the use of force and the regulation of control, storage, and issuing of firearms.

In its implementation of Section 17 of the SAPS Act, the SAPS adopted Standing Order 262 – Crowd Management (SOG 262) and the National Municipal Standards for Crowd Management (NMSCM). Both SOG 262 and the NMSCM stipulate that the use of force must be avoided "as far as reasonably possible," SOG 262 stipulates it must be avoided at all costs. Both require members to display the highest degree of tolerance and respect for the constitutional rights of the people of SA. SAPS policy states that as "the merits of public protest are fully recognized," the use of force must be avoided "as far as reasonably possible." Both SOG 262 and the NMSCM require members to display the highest degree of tolerance and respect for the constitutional rights of the people of SA.

The act provides the POPO unit with the power to issue Standing Orders, which are issued in accordance with Section 37 of the SAPS Act. The POPO unit must ensure that the Standing Orders are in accordance with international standards on the use of force and the regulation of control, storage, and issuing of firearms. The POPO unit must also ensure that the Standing Orders are consistent with SOG 262 and the NMSCM.

**3.7.2 Use of Firearms**

Standing Order 262 – Crowd Management (SOG 262) stipulates the types of firearms used in the performance of duties and the circumstances in which they may be used. The SOG stipulates that firearms may only be used when the use of less lethal force is not enough to prevent, combat, or control the activity. The SOG requires that members of the POPO unit be trained in the use of firearms and that they have access to a weapon for self-defense.

In addition to SOG 262, the SAPS Act requires that the POPO unit conduct investigations into the discharge of firearms. The POPO unit must ensure that the investigations are conducted in accordance with international standards on the use of force and the regulation of control, storage, and issuing of firearms. The investigations must be conducted in a manner that is consistent with SOG 262 and the NMSCM.

Although Standing Order 262 – Crowd Management (SOG 262) stipulates the types of firearms used in the performance of duties, the Act provides for the POPO unit to conduct investigations into the discharge of firearms. The POPO unit must ensure that the investigations are conducted in a manner that is consistent with international standards on the use of force and the regulation of control, storage, and issuing of firearms. The investigations must be conducted in a manner that is consistent with SOG 262 and the NMSCM.

**3.8 Accountability**

Accountability may be reduced in accordance with international standards. Article 251.5 of the SAPS Act stipulates that if a member, irrespective of the circumstances, fires a weapon, he is accountable to his superiors. The Act also provides for the POPO unit to conduct investigations into the discharge of firearms. The POPO unit must ensure that the investigations are conducted in a manner that is consistent with international standards on the use of force and the regulation of control, storage, and issuing of firearms. The investigations must be conducted in a manner that is consistent with SOG 262 and the NMSCM.
might come, as it has in the Philippines, which is the topic of the next chapter. Reverting to military titles is an indication of things that demands some provisions are rolled back. Protecting the gains that have been made by human rights organizations against a backlash that a perpetual war on gangs and crime legitimizes state and police violence. It must focus on include a focus on implementation of human rights standards, particularly in urban centres, where mundane forms on the streets of urban centres. Hence, continued work in South Africa must This was the case in Marikana, where 34 miners were shot dead, though sometimes it is in more This is designed to take place in partnership with trainers, who must attend good practice and shortcomings must be recorded as part of a learning process to enhance good skills and address or prevent recurrences of identified mistakes. As well as domestic law.

Conclusion

4. Philippines: Legal and Policy Framework

4.1 Overview of Policing System and Structure

In the Philippines, the structure of the policing system is somewhat complex. Law enforcement functions are carried out by 30 national agencies and local government units across the country, some of which focus on criminal investigation and others on police actions during arrest, search and seizure, while some focus on criminal investigation and others on police actions during arrest, search and seizure. The police also play a role in local peace and order councils, which are responsible for developing and monitoring implementation of plans and strategies for improving peace and order in their jurisdiction. Local peace and order councils, which are responsible for developing and monitoring implementation of plans and strategies for improving peace and order in their jurisdiction.
Over the years, the PNP has exerted efforts to improve itself and make a more effective use of its existing capabilities. According to the police, this endeavor is known as the "Community and Service-Oriented Policing" or CSOP to "ensure safe, secure, and productive communities. Its proponents call it a "proactive, victim-focused model of policing which seeks the transition from traditional reactive incident-based response to the monitoring of community safety, gathering of information that can be used in the cooperation and support of the community. In 2015, the NAPOLCOM embarked on another program known as the "Community-Oriented Policing System (COPS) to support clinical and anti-crime/psychiatric operations. A visible and arguably much-needed aspect of this program is the women and children's protection desk (WCPD) in the precinct level.

The police leadership has acknowledged that "good police-community relations serve to promote police legitimacy and support "human-rights based policing" as it acknowledged that a "police organization that is committed to human rights based policing can be the foundation to building a network of civilian support that can assist the police in the detection and investigation of crimes, and other police tasks that need the cooperation and support of the citizenry. In 2015, the NAPOLCOM embarked on another program known as the "Community-Oriented Policing System (COPS) to support clinical and anti-crime/psychiatric operations. A visible and arguably much-needed aspect of this program is the Women and Children Protection Desk (WCPD) at the precinct level.

The PNP has been known to evolve from the former Philippine Constabulary, a gendarmerie force for cities and towns, into an all-菲律賓 police force for cities and towns in 1903, with the adoption of Act No. 675, the Philippine Constabulary Act of 1899. As a result of the colonial history of the Philippines, there has long been a connection between political power and policing, as the police force was initially established to maintain the power of the colonial rulers. After independence, the police continued to play a role in maintaining the power of the ruling elite. According to the history of law enforcement in the Philippines, commentators have argued that policing in the Philippines is "subsumed under the larger context of politics and power, particularly in relation to the relationship between the police and the state power apparatus."
However, public distrust continues to haunt individual police officers and their organization. Senator Panfilo Lacson, who served as the head of the Philippine National Police before he was elected to parliament, believes that the biggest challenge facing the police is the "PNP itself" — referring to the apparent lack of discipline and widespread corruption among police officers that would require "internal cleansing" to resolve. Those who try to parry to this observation argue that in the Philippines, incidents of crime and violence involving policemen are individual acts of misbehavior — a stance which holds that there are a few "bad apples" in every barrel. Terms like "scalawags" and "erring policemen" are commonly used to describe cops who have broken the law. The fact is, these events are commonplace and indicate a much deeper problem, as well as a complete refusal of the senior leadership to treat the situation with the seriousness it deserves.

A focus group study conducted by a civil society organization in a poor urban neighborhood in Manila has articulated the widely held public view that there is a marked difference between the official "by the book" way and the "how we really do it" way among police authorities. The general public perception is that planting evidence, gunning down cell phone snatchers or drug users and protecting other crooked cops are accepted, and even condoned, practices within their institution.

Think about how this actually works. A policeman, or a group of policemen, makes an arrest, brings the subject to the station and locks him up, and then conducts business-style negotiations with the subject or his relatives, ending with the payment of "bail" and the release of the subject. All going on right inside the police station. This happens because higher authorities are not supervising. Or if they do, they are also part of the usual procedure, reeking with abuse of authority, use of threatened and actual violence, and corruption. Procedures already exist to prevent this kind of activity, but they are not being followed, and they are not being enforced. Officially, locking a person up in a police station's detention cell involves more than one person, and a bit of paperwork. At the very least, there is always supposed to be a blotter entry and an incident report, and that means that the station commander or shift supervisor must be involved.

This view validated results of a study on Civilianization and Community Oriented Policing in the Philippines almost fifteen years ago that concluded that the police in general continued to be regarded in bad faith - they are seen as poor role models who are unable to fulfill their duties because of a lack of lack integrity, competence and discipline. The study argues for a "demilitarized" PNP where there is transparency as well as greater consultation and participation by communities. It notes that community policing is a working partnership between the police and the community to prevent crime, arrest offenders, find solutions to recurring problems and enhance the quality of life.  

A multitude of laws, codes of conduct, ethical manuals and operational procedural guidelines exist to regulate the conduct and functioning of law enforcement in the Philippines. As described above, the main agencies responsible for policing in urban settings, and in particular in the settings which are the areas of focus for this project, are the Philippines National Police and the barangay tanod brigades. While the international legal framework is aplicable to all public officials in the Philippines, the domestic legal framework applicable to the PNP and barangay tanod brigades are significantly different, despite the broad overlap in their function.

### 4.2 Applicable International Law

The Philippines is party to a number of key international human rights treaties, including the ICCPR, which it ratified in 1986, the CAT, also ratified in 1986, and the OPCAT, ratified more recently in 2012.

Under Article II, Section 2 of the Philippines Constitution, "[t]he Philippines ... adopts the generally accepted principles of international law as part of the law of the land." Accordingly, the international human rights law applicable to the Philippines has the force of domestic law, and can be invoked by Filipino courts to settle disputes in the same way that domestic legislation would be used. What is not clear, however, is whether international law has supremacy over domestic law where there are contradictions. However, the Vienna Convention on the Law of Treaties has made clear, and it is also a generally accepted principle of international law, that a state may not invoke its domestic law as a justification for failing to adhere to its treaty obligations.

The Philippines is particularly interesting in that it has incorporated the UN Code of Conduct for Law Enforcement Officials (adopted by the UN General Assembly resolution 34/169) into its entirety as part of the Ethical Doctrine Manual of the PNP under Chapter VI, Section 4. This means that the Code of Conduct is applicable to all PNP officers. Unfortunately, this section of the Ethical Doctrine Manual only makes mention of the Code of Conduct and does not include the code in its entirety, making it difficult to ensure that PNP officers are familiar with its requirements. Nevertheless, the inclusion of the Code of Conduct, a non-binding UN instrument, is significant.

### 4.3 Domestic Law and Policies

This section focuses on the domestic law and standards applicable to the PNP and barangay tanods. It is important to note here that while barangay tanods perform a law enforcement function, the regulations and guidelines applicable to the PNP described below are not applicable to barangay tanod brigades.

The PNP as it exists today was established following the 1987 Philippines Constitution, which provides that "the state will establish and maintain one police force, which shall be national in scope and civilian in character, to be administered and controlled by a national police commission. The authority of local executives over the police units in their jurisdiction shall be provided by law."

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75 http://journals.upd.edu.ph/index.php/kasarinlan/article/view/1650
77 Vienna Convention on the Law of Treaties, Article 27.
There are significantly fewer pieces of legislation, manuals, and guidelines in place to regulate the conduct of barangay tanods and the equivalent rank of police officer in the Philippines. The Code of Conduct for Barangay Tanods, which was adopted through Act No. 6713 in 1989, is the code of conduct for barangay tanods. It does not regulate the conduct of police officers, only that of barangay tanods. It does not include any information regarding disciplinary procedures for misconduct by barangay tanods.

Both PNP officers as well as barangay tanods are bound by law to comply with the Code of Conduct. The Code for Police Officers, which was adopted through Act No. 6713 of 1989, is the Code of Conduct for Police Officers. This Code is adopted through the Code of Conduct, which means that the Code is not legally binding and therefore does not have the status of being legally binding. However, these rules are indicative of the official policies and procedures within the PNP.

The Code of Conduct itself is not binding legislation. While the Code establishes the standards for conduct, it does not establish the standards for enforcement. Enforcement of the Code of Conduct is carried out through the administrative procedures and operational procedures of the PNP. The Code of Conduct is intended to provide guidance to PNP officers on how to conduct themselves in their daily work.

The role and function of the PNP is set out in Act No. 6713. According to Section 24 of this act, the role of the PNP is to “enforce all laws and ordinances relative to the protection of lives and property; and to maintain peace and order and take all necessary steps to ensure the public safety.” These duties are further defined in the PNP’s Operational Procedures Manual, which provides detailed guidance on the role and function of PNP officers.

In addition to the above-mentioned legislation and Operational Procedure Manual, the PNP is also guided in its function and management by a number of non-binding codes of conduct, guidelines, and manuals. These codes and manuals are developed by the PNP and are intended to provide guidance to PNP officers on how to conduct themselves in their daily work.

The Code of Conduct for Barangay Tanods is not binding legislation. While the Code establishes the standards for conduct, it does not establish the standards for enforcement. Enforcement of the Code of Conduct is carried out through the administrative procedures and operational procedures of the PNP. The Code of Conduct for Barangay Tanods is intended to provide guidance to barangay tanods on how to conduct themselves in their daily work.

The role and function of barangay tanods is set out in Section 24 of Act No. 6713. According to this section, the role of barangay tanods is to “assist in the maintenance of peace and order, the prevention of crimes, and the protection of lives and property.” These duties are further defined in the Circular regarding the functions and roles of barangay tanods, which provides detailed guidance on the role and function of barangay tanods.

In addition to the above-mentioned legislation and Circular, barangay tanods are also guided in their function and management by a number of non-binding codes of conduct, guidelines, and manuals. These codes and manuals are developed by the PNP and are intended to provide guidance to barangay tanods on how to conduct themselves in their daily work.

The Code of Conduct for Barangay Tanods is intended to provide guidance to barangay tanods on how to conduct themselves in their daily work. However, this Code is limited in its scope and does not include any information regarding disciplinary procedures for misconduct by barangay tanods. A circular from the Local Government Agency provides further clarification regarding the functions and roles of barangay tanods, but this does not include any guidance to ensure the compliance of barangay tanods with the Code of Conduct.
The functions of the PNP include:

1. Enforcing all laws and ordinances relative to the protection of lives and properties; and
2. Maintaining peace and order and taking all necessary steps to ensure public safety;
3. Investigating and preventing crimes, effecting the arrest of criminal offenders, bringing them to justice and assisting in their prosecution;
4. Protecting persons and property from unlawful activity;
5. Conducting search-and-seizure operations authorized by a judge or by law, as well as conducting surveillance; and
6. Preventing crime, providing for the safety and security of persons and property, and apprehending or arresting any person accused of violating any law.

The functions of tanod brigades include:

1. Patrolling the barangay;
2. Assisting barangay officials with crime prevention and promotion of public safety;
3. Reporting crimes to the barangay council and the police; and
4. Monitoring the presence and activities of suspicious persons, criminals or other lawless elements within their jurisdiction and reporting them to the barangay council.

Barangay Law Enforcement

Barangay tanods, also known as barangay police officers or BPSOs, play a role in law enforcement in the Philippines, and while their function includes maintaining local peace and order, their role is not regulated by the PNP. Instead, they are appointed by the barangay council and serve as the primary law enforcement officers at the local level.

The Code of Conduct

The Code of Conduct for PNP members includes:

1. A democratic way of life and values, and to public accountability. This entails an obligation to uphold the Constitution at all times, and to be loyal to the country, its people and the organization;
2. Place public interest ahead of personal interest, including preventing the "malversation" of human resources, government time, property and funds;
3. Non-partisan provision of services to everyone regardless of party affiliation;
4. Regular physical exercise and annual medical examination in order to stay physically and mentally fit;
5. Guard the confidentiality of classified information against unauthorized disclosure, including contents of criminal records, identities of persons who may have given information to the police in confidence and other classified information or intelligence material;
6. Social awareness, through active involvement in religious, social and civic activities, to enhance the image of the organization;
7. Regular physical exercise and an annual medical examination in order to stay physically and mentally fit;
8. Guard the confidentiality of classified information against unauthorized disclosure, including contents of criminal records, identities of persons who may have given information to the police in confidence and other classified information or intelligence material;
9. Social awareness, through active involvement in religious, social and civic activities, to enhance the image of the organization;
10. Place public interest ahead of personal interest, including preventing the "malversation" of human resources, government time, property and funds;
11. Non-partisan provision of services to everyone regardless of party affiliation;
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15. Place public interest ahead of personal interest, including preventing the "malversation" of human resources, government time, property and funds;
16. Non-partisan provision of services to everyone regardless of party affiliation;
17. Regular physical exercise and annual medical examination in order to stay physically and mentally fit;
18. Guard the confidentiality of classified information against unauthorized disclosure, including contents of criminal records, identities of persons who may have given information to the police in confidence and other classified information or intelligence material;
19. Social awareness, through active involvement in religious, social and civic activities, to enhance the image of the organization; and
20. Place public interest ahead of personal interest, including preventing the "malversation" of human resources, government time, property and funds.
Section 4(d) prohibits discrimination based on political grounds. Public officials, emphasizing in particular discrimination against “the poor and underprivileged.”

The legislation establishing the PNP makes clear that it is designed to be a “community and service oriented agency.” The Code of Conduct and Ethical Standards for Public Officials and Employees (Act No. 6713) includes an overarching prohibition of discrimination by public officials and employees.

In order to ensure the community and service orientation of the PNP, the Directorate for Police and Community Relations (DPCR) was established with a mandate to “develop, guide and coordinate police and community relations programs and activities.”

The objectives of the DPCR are to “restore public confidence in the PNP” and to “improve the image of the PNP in the community and public.” The DPCR functions to achieve these objectives include:

- Formulating Police Community Relations (PCR) plans, programs and policies geared towards enhancing community and citizen participation in support of the operational plans of the Philippine National Police.

- Developing plans and programs to improve the image of the government in general and the PNP in particular.

- Conducting studies and research projects to assist national and local law enforcement agencies and police and community relations PCRs plans, programs and policies geared towards enhancing community and citizen participation in support of the operational plans of the Philippine National Police.

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- Developing plans and programs to improve the image of the government in general and the PNP in particular.

The establishment of barangay tanods is one way that community oriented policing has been implemented in the Philippines. Tanods are usually appointed because of their knowledge and connection to the community. They are also seen as a way to increase public trust in the police.

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4.3.6 Anti-Corruption Policies and Legislation

Law enforcement officers, both from the PNP and at the barangay level, receive human rights training. Indeed, the PNP has adopted a Guidebook on Human Rights Based Policing as well as a Manual on the Implementation of the Code of Conduct for Public Safety Personnel. Human rights training is incorporated in the curriculum of mandatory training programs. It is also integrated in the regular conduct of a Police Community Education and Information (PCEI) Program, which provides orientations on human rights laws and policies to both police and other international obligations on human rights. The PNP Special Counter-Insurgency Unit Training, which can be anything from 45 days to five months, is another mandatory training course called PNPCO (PNP Comprehensive Training Program). The PNPCO has a module on human rights and international laws. Murang taho (first-class) police officers conduct training as well, including specialized courses such as PNP Academy; through lateral entry for specialized fields and training, basic law enforcement officials also include anti-corruption language. This is therefore clear that there is strong anti-corruption legislation and policies in the Philippines. Indeed, the PNP has adopted a Guidebook on Human Rights Based Policing as well as a Code of Conduct for Law Enforcement Officials; UN treaties and other international obligations on human rights. Furthermore, PNP officers on human rights also conduct training. These contributions are often not documented in a transparent manner and can vary widely from one place to another, which creates corruption opportunities.

4.3.5 Human Rights Training

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1.04 General Human Rights Principles

PNP

The obligation to respect, protect and uphold human rights and ensure due process for all is included in a number of policy documents applicable to members of the PNP. The first rules for the conduct of officers and men in the PNP, the PNP Ethical Doctrine Manual, requires the maintenance of human rights. This is found in the first section of the manual which, according to the PNP Ethical Doctrine Manual, all PNP members are required to know by heart and to comply with. Similarly, the PNP Ethical Doctrine Manual states:

Section 2.9 further elaborates on the human rights obligations of PNP officers. The performance of duly authorized PNP members shall respect, and protect human dignity and uphold the human rights of all persons. No member shall indulge in any conduct that degrades, denigrates or degrades the human rights of any person on account of race, sex, ethnic origin, color, creed, political or other opinion, national or social origin, property, birth or any other status.

The PNP, as part of the Armed Forces of the Philippines (AFP), has a responsibility to uphold human rights and international humanitarian law. As a member of the International Criminal Court (ICC), the AFP is bound to respect human rights and to prosecute those who violate them. The PNP is also bound to respect the human rights of its members and to ensure that they are treated fairly and justly.

The PNP Ethical Doctrine Manual states:

"All PNP personnel shall respect the human rights and dignity of suspect/s during police operations."
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In the Philippines, the Barangay Tanod (barangay official) is an elected position. BRHACs are mandated to adopt a Human Rights Action Plan aimed at improving the human rights situation within the barangay. BHRACs have a varied role, which includes receiving complaints regarding human rights violations, as discussed in more detail below, as well as organizing human rights information and education drives on a continuing basis. The Barangay Tanod (barangay official) is an elected position. BRHACs are mandated to adopt a Human Rights Action Plan aimed at improving the human rights situation within the barangay. BHRACs have a varied role, which includes receiving complaints regarding human rights violations, as discussed in more detail below, as well as organizing human rights information and education drives on a continuing basis.

Oversight of the Police

While the Philippines Constitution does not include a blanket prohibition of all discrimination on the basis of race, color, sex, social status, language, or religious belief, it is significant that these various manuals and guidelines adopted to regulate the functioning of the PNP include such robust provisions calling for the respect, protection, and promotion of human rights standards applicable to the Philippines. The Ethical Doctrine Manual, for example, states that "police officials shall respect and protect human dignity and maintain and uphold the human rights of all persons." The guidelines and manuals adopted by the PNP to regulate its functioning, as well as the Ethical Doctrine Manual, indicate, at least on paper, a strong commitment by the PNP to adhere to the human rights obligations applicable to the Philippines.

Barangay Tanod Brigades

The Barangay Tanod Brigades, established by virtue of the internal conventions and treaties to which the Philippines is a state party, are a key component of the human rights-based policing policy. These brigades, even though they are regulated by the PNP through the Memorandum Circular 43 of 2000, are not police officials and, therefore, not subject to the same regulations as the PNP. However, they are responsible for enforcing the laws and regulations of the barangay, which are in turn enforced by the barangay tanods. The Barangay Tanod Brigades are primarily responsible for enforcing the laws and regulations of the barangay, which are in turn enforced by the barangay tanods. The Barangay Tanod Brigades are primarily responsible for enforcing the laws and regulations of the barangay, which are in turn enforced by the barangay tanods.

Non-Discrimination

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Elimination of All Forms of Racial Discrimination and the UN Convention on the Elimination of All Forms of Discrimination Against Women

The Philippines is a state party to the UN Convention on the Elimination of All Forms of Discrimination Against Women. This convention, which came into force in 1995, obligates the Philippines to eliminate all forms of discrimination against women, including discrimination based on race, color, sex, social status, language, or religious belief.

PNP Ethical Doctrine Manual, Chapter III, 3.4.

Asian Development Bank, Background Note on the Justice Sector of the Philippines, 2009.

Director General of the PNP

The Director General of the PNP is responsible for overseeing the implementation of the human rights obligations applicable to the Philippines. The Director General is also empowered to place police personnel under administrative punishment as long as they commit misconduct.

http://www.chr.gov.ph/MAIN%20PAGES/about%20hr/bhrac/bhrac%20revised.pdf

111 PNP Ethical Doctrine Manual, Chapter III, 3.4.

112 Asian Development Bank, Background Note on the Justice Sector of the Philippines, 2009.
4.5.2 Police Regional Directors

The Police Regional Director may impose the disciplinary punishment of dismissal from the service on any member of the PNP. The Director may also impose any of the following administrative punishments, provided that the period does not exceed 60 days: admonition or reprimand; restrictive custody; withholding of privileges; forfeiture of salary; suspension; demotion; any combination thereof.

4.5.3 Police Provincial Directors

The Police Provincial Director may impose the following administrative punishments, provided that they do not exceed 30 days: admonition or reprimand; restrictive custody; withholding of privileges; forfeiture of salary; suspension; demotion; any combination thereof.

4.5.4 Chief of Police

The Chief of Police may impose any of the following administrative punishments for up to 15 days: admonition or reprimand; restrictive custody; withholding of privileges; forfeiture of salary; suspension; demotion; any combination thereof.

4.5.7 Internal Affairs Service

The Directorate for Investigation and Detective Management shall conduct investigations on administrative cases filed against police officers. The Director may impose any of the following administrative punishments: admonition or reprimand; restrictive custody; withholding of privileges; forfeiture of salary; suspension; demotion; any combination thereof.

4.5.8 Philippines National Police Commission

The Philippines National Police Commission is established under Act No. 6975, which also establishes the PNP (as amended by Act No. 8551). The Commission has the power to conduct pre-charge and charge investigations into complaints filed against police officers. In addition, they play an oversight role in disciplining officers who have failed to meet the administrative requirements of their position. The Commission is also responsible for conducting pre-charge investigations into complaints filed against police officers.

1. Chiefs of police, where the offense is punishable by withholding of privileges, restriction to specified limits, suspension or forfeiture of salary, or any combination thereof, for a period not exceeding 15 days.
2. Mayors of cities and municipalities, where the offense is punishable by withholding of privileges, restriction to specified limits, or forfeiture of salary, or any combination thereof, for a period of not less than 16 days but not exceeding 30 days.
3. People’s Law Enforcement Board, where the offense is punishable by withholding of privileges, restriction to specified limits, suspension or forfeiture of salary, or any combination thereof, for a period not exceeding 30 days.
4. The above-mentioned oversight mechanisms are applicable only to members of the PNP, and their oversight does not extend to members of barangay tanod brigades. However, there are numerous external bodies responsible for providing oversight to both the PNP and barangay tanod brigades. These include People’s Law Enforcement Boards, the Office of the Ombudsman, and the National Prosecutor’s Office.
4.5.12 The Philippines National Commission on Human Rights (NCHR), the national human rights institution of the state, is an independent, constitutional body established under Act No. 6795, which is the National Commission on Human Rights (NCHR). The NCHR is responsible for monitoring the PNP and the PNP/NGU compliance with the rules of the Human Rights Commission and other regulations on the use of force by police officers. The NCHR is also mandated to monitor the human rights compliance of the PNP and any other law enforcement officers. The NCHR also investigates complaints against police officers.

4.5.13 Challenges

While the large number of oversight bodies and mechanisms in place to monitor the functioning of law enforcement officers is a positive thing, in practice it creates some confusion as to which body is actually responsible for holding police officers accountable for misconduct and more serious human rights abuses, especially in a set of provinces over which the PNP does not have effective oversight.

4.5.14 Office of the Ombudsman

The Office of the Ombudsman is an independent, constitutional body established under Act No. 6797. It is responsible for investigating and resolving cases of alleged corruption and other violations of the law by law enforcement officers, including police officers. The Ombudsman is responsible for receiving and investigating complaints against police officers, as well as complaints involving state officials and employees. The Ombudsman can issue a letter of recommendation against a police officer, as well as recommending disciplinary actions against erring police officers.

4.6 Use of Force and Firearms

4.6.1 Rules Governing the Use of Force

The use of force by law enforcement officers is regulated under a number of instruments. The PNP Operational Procedure Manual outlines the circumstances for the lawful use of force by PNP officers. This is applicable to barangay tanods, and it is not clear whether there are any similar such regulations for the use of force by barangay tanods. The lack of clear regulations on the permissible use of force by police officers can contribute to confusion over which agency is responsible when an incident arises. Furthermore, the lack of willingness to seek redress and reparation for the harm suffered can be detrimental to their effectiveness.

4.6.2 Challenges

The complexity of the oversight mechanisms and their duplicate functions can combine to undermine their effectiveness. The multiplicity of agencies and officials that have overlapping responsibilities over the PNP do not apply to barangay tanods, and it is not clear whether there are any similar such regulations for the use of force by barangay tanods. The lack of clear regulations on the permissible use of force by barangay tanods is extremely concerning considering the police-like functions they carry out at the community level, as well as the fact that they are equipped with weapons including rifle-sticks and tear gas.
use of force against an armed offender must be necessary and reasonable. The manual sets out conditions which must be met in the use of force in circumstances to include the place and occasion of the assault. The police officer is given the sound discretion to consider the factors in any operation resulting in the use of force. Rule 6.2 calls on officers to use "peaceful means, including the use of megaphones or any other similar instruments to warn or influence the offender/s to stop and/or peacefully give up." Rule 7.2 calls on officers to use force only "when strictly necessary and to the minimum extent required under the circumstances." The manual also emphasizes the need for non-violent means to be used as far as possible, and it includes a number of suggested actions that should be undertaken to ensure the use of force wherever possible. These include:

- Retaining police personnel in their roles as peace officers, with emphasis on non-lethal tactics, weapons retention, techniques, and office safety measures, and
- Reorienting police personnel about the use of force doctrine or use of force continuum, as set out in the international standards, in the rules pertaining to house evictions and demolitions, and to labour disputes (Rules 19 and 21).

The PNP Guidebook on Human Rights Based Policing also provides an extensive outline of the steps that must be taken by police officers in order to use force effectively and in accordance with international human rights standards. Standard 3 of the guidebook states that force may only be used when strictly necessary and "to the minimum extent required under the circumstances." The PNP Guidebook on Human Rights Based Policing also sets out the "factors to consider in the reasonableness of the force employed" as follows: "A police force against an offender must be necessary and reasonable. The manual sets out conditions which must be met in the use of force in circumstances to include the place and occasion of the assault. The police officer is given the sound discretion to consider the factors in any operation resulting in the use of force. Rule 6.2 calls on officers to use "peaceful means, including the use of megaphones or any other similar instruments to warn or influence the offender/s to stop and/or peacefully give up." Rule 7.2 calls on officers to use force only "when strictly necessary and to the minimum extent required under the circumstances." The manual also emphasizes the need for non-violent means to be used as far as possible, and it includes a number of suggested actions that should be undertaken to ensure the use of force wherever possible. These include:

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129 requirements under the UN Code of Conduct for Law Enforcement Officials, which is applicable from the earliest possible moment, as required under international regulations. However, these are not the only standards of conduct; there are also national regulations in the Philippines that govern the conduct of police officers.

None of the regulations or guidelines regarding the conduct of PNP officers explicitly includes provisions to criminalise arbitrary and abusive force by law enforcement. Article 235 of the Penal Code criminalises the maltreatment of prisoners or persons in detention, but the penal code does not include any provisions to criminalise arbitrary and abusive force by law enforcement.

The regulations applicable to PNP officers through the Operational Procedures Manual and the Ethical Doctrine Manual are significant, and bridge any gaps that may exist between the international and national standards. While the regulations applicable to PNP officers through the Operational Procedures Manual and the Ethical Doctrine Manual are significant, and bridge any gaps that may exist between the international and national standards, considerably more can be done to ensure that the regulations are effectively implemented.

Rule 8.4 of the PNP Operational Procedure Manual requires all police officers who fire their service weapon during a confrontation with an offender to submit an incident report outlining the circumstances necessitating the use of the firearm. Similarly, Rule 11 requires that following an armed confrontation, the police unit of the jurisdiction where the confrontation occurred must immediately undertake the necessary investigation and processing of the scene of the encounter. Following the investigation, a report is to be submitted to the administrative authorities and the Internal Affairs Service of the Philippine National Police.

While there is a requirement for police officers to submit a report regarding the use of firearms on the course of their duty, the regulations and guidelines give no further guidance if a superior official finds the use of the firearm to be unjustifiable. The omission is not in line with international standards, which call for accountability where the use of firearms is determined to be unjustifiable.

The regulations applicable to PNP officers through the Operational Procedures Manual and the Ethical Doctrine Manual are significant, and bridge any gaps that may exist between the international and national standards. Furthermore, the inclusion of the UN Code of Conduct in the Ethical Doctrine Manual is significant, and bridges any gaps that may exist between the international and national standards.

When implementing the UN Code of Conduct, the PNP may refer to the Human Rights Policing Guidebook, which makes reference to the code in its entirety. However, the Human Rights Policing Guidebook only makes mention of the Code of Conduct and does not include the Code of Conduct in its entirety.

The regulations applicable to PNP officers through the Operational Procedures Manual and the Ethical Doctrine Manual are significant, and bridge any gaps that may exist between the international and national standards. However, one major gap appears to be the lack of mention of control and storage of firearms. As barangay tanods are not issued firearms, this section focuses on the rules that regulate the use of firearms by law enforcement officers in the performance of their duties.

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The PNP's role in dispersing lawful public assemblies is regulated under Rule 25 of the PNP Guidebook on Human Rights Based Policing, which states that in the performance of their duties, police officers are required to notify the appropriate authorities in the conduct of periodic neuro-psychiatric examinations, stress management, and counseling services for personnel involved in shootouts or discharge of firearms.

4.7 Dispersal of Assemblies

Public assemblies that are peaceful and include no incidence of violence will not be dispersed:

- Public assemblies in public places that require a permit from the mayor or city where they are held:
  - Under Rule 8.4 of the PNP Operational Procedure Manual, police officers are required to notify the appropriate authorities in the conduct of periodic neuro-psychiatric examinations, stress management, and counseling services for personnel involved in shootouts or discharge of firearms.
  - The police unit of the jurisdiction where the confrontation occurred must immediately undertake the necessary investigation and processing of the scene of the confrontation. Following the investigation, a report is to be submitted to the administrative authorities and the Internal Affairs Service of the Philippine National Police.

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Police will provide assistance to peaceful public assemblies only as far as this is requested by organisers;

Public assemblies that violate the terms of the permit may be peacefully dispersed; however, this will only be done after notifying the organisers;

Demonstrations and rallies in areas where public assemblies are prohibited will be peacefully dispersed, and those refusing to do so will be brought into police custody; and

Maximum tolerance must be exercised in the conduct of dispersal operations.

Rule 25 also stipulates the limitations of the PNP with regard to dispersal of public assemblies, stating that PNP officers may not interfere with the holding of a public assembly. It also provides clear guidelines for the Civil Disturbance Management (CDM) contingent during rallies and demonstrations, which include the following:

CDM contingent are to wear uniforms but not carry firearms;

Anti-riot devices used by the CDM contingent are limited to: tear gas, smoke grenades and water cannons, and may only be used when public assemblies include actual violence, serious threats of violence or destruction of public property;

Public assemblies with a permit can only be dispersed if they become violent, and in the following manner:

• At the first sign of violence, the CDM contingent ground commander must bring this to the attention of the assembly leader and ask him/her to prevent further violence;

• If violence reaches a point where rocks or other items are being thrown at PNP officers or other non-assembly participants, an audible warning must be given by the CDM contingent ground commander that the assembly will be dispersed if violence persists;

• If the violence or disturbance does not stop, the ground commander of the CDM contingent must give a second audible warning and after a reasonable time, shall immediately order the dispersal of the assembly; and

• Assembly leaders or organizers will only be arrested if they violate the law.

In the event of a public assembly without a permit:

• If leaders or organisers can show that an application for the assembly was filed at the appropriate office at least five days prior to the assembly and no action was taken, it is the burden of the authorities to show that the assembly application was denied, in which case it can be peacefully dispersed “following the procedure of maximum tolerance prescribed by law.”

The PNP rules prohibit the following during peaceful public assemblies:

• Acts impeding in any way the right to peaceful assembly;

• Unnecessary firing of firearms to disperse public assemblies; and

• The following acts committed within 100 metres of a public assembly:
  - Carrying a deadly weapon or device including a firearm, bomb or bladed weapon;
  - Malicious burning of objects in the street;
  - Carrying of firearms by CDM contingent;
  - Using a motor vehicle to disturb or impede a public assembly; and
  - Drinking alcoholic beverages and gambling.

If public assemblies become violent, Rule 25 requires the PNP to use non-lethal weapons and equipment to suppress violence, protect lives and prevent damage to public property. Such non-lethal weapons include shields and truncheons, water cannons and tear gas. Shields and truncheons may only be used to push back demonstrators and not to strike individuals, and they must be used with “caution and due diligence to avoid unnecessary injury.” Water cannons are to be used only when CDM contingents have not been able to disperse an assembly with shield and truncheon and have been pushed back into secondary positions; tear gas may only be used to break up groups of demonstrators who continue to be aggressive.

Finally, Rule 25 also requires that PNP officers respect human rights and equal treatment and protection of everybody, and that they observe maximum tolerance.

Article 131 of the Penal Code also regulates the way in which public assemblies are handled, imposing a prison sentence on any public officer or employee who “without legal ground, shall prohibit or interrupt the holding of a peaceful meeting, or shall dissolve the same.” It similarly criminalises the preventing of any person from attending a lawful public gathering.

The Philippines law and guidelines which regulate the role of the police in managing and dispersing public assemblies is very comprehensive and, overall, is very protective of the public. It is also important to note that PNP officers are bound by the UN Code of Conduct for Law Enforcement Officials, which also requires respect for and protection of human rights in dispersing public assemblies. However, while Rule 25 is extremely thorough, it does not explicitly prohibit excessive use of force in the dispersal of public assemblies, and also fails to include a mechanism for reporting on dispersal of public assemblies after the fact. Despite the strong protections provided by Rule 25 with regard to respect for human rights, there are reports that in recent months, and notably since the election of President Duterte, that in practice these protections are not always adhered to, and police have used unnecessary and excessive force to break up public assemblies, including the use of tear gas without just cause, resulting in
One of the most controversial cases was the killing of Rolando Espinosa – a suspected druglord and the mayor of Albuera municipality in Leyte province – in November 2016, while in protective custody. The National Bureau of Investigation (NBI) released the results of its probe in December 2016, concluding that the police officers involved in Espinosa’s killing had order him killed in cold blood. However, the police’s version of events was that Espinosa had resisted arrest and had seen police officers toKristina Marcos, who began his term in June 2016, more than five thousand people have been killed in police operations and vigilante-style killings. The killing of Espinosa was one of the most controversial cases, as it raised questions about the police’s role in enforcing the law and the protection of human rights.

The legal and policy framework for law enforcement in the Philippines is highly comprehensive and thorough, and includes the International Human Rights Standards in Total, which require respect and protection of the rights of citizens. However, the implementation of these standards is inadequate in practice, as evidenced by the high number of extrajudicial killings. The police’s response to Espinosa’s killing was not an isolated incident, as it was one of several cases where police officers were accused of violating human rights. The case of Rolando Espinosa is a clear example of the need for effective police oversight and accountability, as well as the need for legal and policy reforms to protect the rights of citizens.

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unabated killings going on through the years, had not been resolved at all. It recommended, however, that the law enforcers involved in the PNP’s Oplan Tokhang (Operation Knock and Plead) campaign against drugs be admonished for violating the constitutional rights of a number of suspected drug personalities.

"The police must be held accountable. Check and balance mechanisms must be further strengthened to ensure that public order and safety is promoted.... If we can stop killings regardless of the terminology we use to refer to them, whether extrajudicial or not, then our people will restore their faith in the police and the government," the 120-page committee report reads. It continues: "Many killings with impunity through the years up to the present have not been resolved by the police, leaving our people feeling unprotected, insecure, fearful and cynical about the ability of the police to protect and serve them. Coupled with the helpless indifference of the people, the only thing that remains constant is that the police and the criminal justice system have failed us. All these have led to many killings with impunity and some people, including some police officers, probably think they can get away with murder."

Contributing to the attitude of these police officers is the way the President acts and talks with regard to the war against illegal drugs. In its recommendations, the Senate panel said the police and other law enforcement officers "must be admonished" for compelling drug users to sign "voluntary surrender certificates" under the Oplan Tokhang. The report also proposed an amendment to the PNP Reform and Reorganization Act to enable the Internal Affairs Service to act swiftly on investigations of police personnel. It also proposed the creation of special criminal courts for erring and abusive police officers, and the creation of a joint congressional oversight committee to monitor killings and paramilitary units. These interventions are necessary if we are to protect the otherwise impressive gains made by the Philippine human rights community.

Liberia

5. Liberia: Legal and Policy Framework

5.1 Overview of Policing System

In order to understand the challenges facing Liberian policing today, it is important to have an overview of the recent historical events which led to the current situation. Following the signing of the Comprehensive Peace Agreement (CPA) in August 2003 which ended 14 years of civil war in Liberia, the United Nations Security Council adopted resolution 1509 establishing the UN Mission in Liberia (UNMIL). At this stage the mission’s mandates included supporting the implementation of the CPA and the peace process; protecting United Nations staff, facilities and civilians; supporting humanitarian and human rights activities; and assisting with national security reform, including national police training and formation of a new, restructured military.

Over the past 12 years UNMIL’s mandate has been renegotiated. On June 30 2016 the mandate changed from an operational mandate to an advisory one. This meant that the UNMIL personnel were scaled down considerably and the role of the mission was significantly reduced. In interviews carried out by DIGNITY prior to the scaling down, civil society organisation (CSO) representatives, police, and UN staff all expressed anxiety about the impact of the drawdown, saying they felt that Liberia was not yet ready for it. As a member of the Liberian National Police (LNP) Professional Standard Division told DIGNITY, “If things are this bad now, imagine how they’ll be when UNMIL leaves.” Although people agreed that the UNMIL would have to leave at some point, the general perception was that the Liberian security sector was not yet strong enough to maintain law and order and provide security for the Liberian people.
5.3 Regional Law

The long journey process of the Liberian national security sector is still ongoing. The Liberian National Police (LNP), is the primary law enforcement agency of Liberia. It is responsible for policing duties and the protection of citizens from crime. The UN also has been involved in the process of police reform through its UN Mission in Liberia (UNMIL) and the UN Police (UNPOL). The Liberian government and the UN have been working together to reform the police force and make it more effective and accountable.

UNPOL was established in Liberia in 2003 to support the Liberian government in reforming the LNP. UNPOL has been working closely with the Liberian government to improve the professionalism and capacity of the LNP. In 2013, the UN and UNPOL carried out a baseline assessment of the weaknesses and strengths of the LNP. This assessment helped to identify areas where the LNP needed improvement. As part of the reform process, the LNP is being restructured and modernized to improve its effectiveness and accountability. In 2013, the Liberian government announced plans to create a new National Police Act (NPA) to replace the existing police regulations. The NPA is expected to provide a clear framework for the operation of the LNP and to improve the accountability of the police force.

In 2014, the LNP and UNPOL carried out a follow-up assessment of the progress made in the reform process. The assessment showed that significant progress had been made in the reform process, but there was still room for improvement. The LNP is continuing to work with UNPOL to improve its performance and accountability. In the future, the LNP is expected to continue to work closely with the UN and other international partners to improve its effectiveness and accountability.
torture provision is concerning and not in line with Liberia's international human rights obligations.

Section 3 of the 2016 National Police Act sets out the basic principles which govern the work of the Liberian National Police. These principles as well as the fundamental human rights standards set out in the Liberian Constitution and international human rights obligations apply to all members of the LNP, including officers of the LNP. The LNP, under section 11.1, requires all members of the LNP to respect and uphold human rights principles. The principles include:

- Ensuring the prevention of torture;
- Providing a national forensic service;
- Engaging with other criminal justice institutions to prevent crimes and torture;
- Enforcing the Penal Code of Liberia.

According to Section 22.9 of the NPA, the function of the LNP to maintain law and order and the internal security of Liberia, including through:

- Preserving public peace, including managing civil disturbances and crowd control;
- Protecting government property;
- Responding to community security needs and promoting community policing;
- Protecting fundamental freedoms and rights of individuals;
- Gathering, storing and analysing information relevant to the prevention, detection, investigation or prosecution of offenses;
- Responding to requests from other government agencies to assist in the prevention, detection, investigation or prosecution of offenses;
- Enforcing traffic law;
- Providing a national forensic service;
- Protecting fundamental freedoms and rights of individuals;
- Engaging with other criminal justice institutions to prevent crimes and torture.

According to Section 22.9, the function of the LNP, to maintain law and order, includes the prevention and detection of crime, the protection of the public and their property, the maintenance of public order, the protection of public health, the preservation of peace and the promotion of social welfare and community policing. The LNP is also responsible for the prevention, detection, investigation and prosecution of offenses, and for the protection of the rights and freedoms of all persons, including the rights of those accused of crimes. The LNP is also responsible for the protection of the rights and freedoms of all persons, including the rights of those accused of crimes, and for the protection of the rights and freedoms of all persons, including the rights of those accused of crimes.
the police officers get to know the community they work in, and they are seen as more capable.

Community policing helps to engage citizens in understanding the workings of the police and the law through peaceful interactions with community policing. It was highlighted that community policing helps to engage citizens in understanding the workings of the police and the law through peaceful interactions with community policing. According to the report, "police corruption in Liberia severely impedes proper administration of justice and denies Liberians their basic rights to personal security and redress." Corruption manifests in the form of extortion at all stages of investigation, regardless of the kind of crime, and as such police corruption is also prohibited under the legal framework. Anti-corruption laws of Liberia and international human rights laws ensure that the police, who are public officials, are accountable for "all officers, including commanders, managers, supervisors, whether employed or appointed, whose acts or omissions constitute corrupt practices, possible criminal conduct will be discussed throughout the chapter.

The Code of Conduct also requires government employees and public officials to respect the laws of the state, to act professionally and impartially at all times, and to take use of public funds, conflicts of interest, and gifts and bribes. It also regulates the personal behaviour of public officials and government employees. These aspects of the Code of Conduct will be discussed throughout the chapter.

So far a number of pieces of legislation and policy documents have been completed addressing the issue of corruption amongst Liberian police officers and public officials more generally. The Penal Code of 1976 criminalises bribery, unlawful rewarding of public servants, unlawful compensation in kind, and makes clear that corrupt practices are considered criminal acts which may be prosecuted as such. Corruption by law enforcement officers is also prohibited under the legal framework. Anti-corruption laws of Liberia and international human rights laws ensure that the police, who are public officials, are accountable for "all officers, including commanders, managers, supervisors, whether employed or appointed, whose acts or omissions constitute corrupt practices, possible criminal conduct.

Corruption is a major problem in the LNP, and indeed in Liberia in general, despite the establishment of the Liberia Anti-Corruption Commission (LACC) in 2003 and the mandate of the LNP to investigate other issues. Lack of convictions of police officers on corruption charges contributes to a culture of impunity. In 2013, Human Rights Watch issued a report detailing the scale of corruption amongst Liberian police officers, and public officials more generally. The Penal Code of 1976 criminalises bribery, unlawful rewarding of public servants, unlawful compensation in kind, and makes clear that corrupt practices are considered criminal acts which may be prosecuted as such. Corruption by law enforcement officers is also prohibited under the legal framework. Anti-corruption laws of Liberia and international human rights laws ensure that the police, who are public officials, are accountable for "all officers, including commanders, managers, supervisors, whether employed or appointed, whose acts or omissions constitute corrupt practices, possible criminal conduct. "

However, as in all areas of the LNP functioning, the budgetary shortcomings create serious challenges in implementing the community policing policy, as there are simply not enough officers to carry out the community policing in many places. In interviews conducted by DIGNITY with members of the LNP and civil society, community policing was highlighted as an important factor in improving relations between the law enforcement agencies and citizens as citizens come to regard the police officers get to know the community they work in, and they are seen as more capable of taking care of the issues at hand in the local community.

The Code of Conduct requires all public officials and government employees to "respect the human dignity and human rights of all persons without discrimination on the basis of race, sex, social origin, nationality, religion, conviction or ideology." It is an important legal requirement that applies to all law enforcement officials. However, it is regrettable that this provision does not include a prohibition of discrimination on grounds of gender or sexual orientation or catch-all phrase prohibiting discrimination on any grounds as found in the international human rights framework.
motorcyclists interviewed for this report stated that they felt targeted by the police even though they did not commit any crimes. Regardless, the statement from the Ministry of Justice official highlights the prevalence of the illegal practice of German paydays, which has become a part of daily life for many Liberians. However, the police officers do not issue fines. Rather, they accept bribes to avoid fines. This practice is highly problematic, and those interviewed by DIGNITY stated that German paydays still persist.

The pervasive character of corruption in Liberia is especially interesting when contrasted with the legal and policy frameworks in place to prevent and prohibit corruption. Despite this, corruption remains one of the most serious problems plaguing the LNP, if not the most. As such, neither the institution nor the officers are respected in local communities although the perception of them is generally very bad. At the same time; these stories shape the public image of the police as greedy and corrupt, and may continue engaging in corrupt practices.

According to a prominent Liberian lawyer interviewed by DIGNITY, "corruption is everywhere in Liberia. Although President Ellen Johnson Sirleaf was elected on a campaign promise to fight corruption, she and her administration have faced several allegations of corruption. They have launched a campaign to inform the citizens about corruption and Monrovia is now full of billboards with messages such as 'Undress corruption. Don't hide it. Report all cases.' However, little seems to be working and the police officers do not issue fines. Rather, they accept bribes to avoid fines. This practice is highly problematic, and those interviewed by DIGNITY stated that German paydays still persist.

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The pervasive character of corruption in Liberia is especially interesting when contrasted with the legal and policy frameworks in place to prevent and prohibit corruption. Despite this, corruption remains one of the most serious problems plaguing the LNP, if not the most. As such, neither the institution nor the officers are respected in local communities although the perception of them is generally very bad. At the same time; these stories shape the public image of the police as greedy and corrupt, and may continue engaging in corrupt practices.
The Code of Conduct establishes a framework for the Office of the Ombudsman, which is an independent, autonomous body, responsible for enforcing the Code of Conduct and overseeing the conduct of LNP officers. The Ombudsman’s Office is mandated to receive and investigate complaints regarding violations of the Code of Conduct. The Ombudsman’s Office is also responsible for enforcing the Code of Conduct and for investigating complaints of misconduct by LNP officers. This includes investigating complaints of criminal misconduct, as well as complaints of civil misconduct.

The Code of Conduct also establishes the Professional Standards Division (PSD) of the LNP. The PSD is responsible for investigating complaints of misconduct and for conducting administrative investigations. The PSD is also responsible for conducting investigations of complaints of criminal misconduct. The PSD is staffed by a director and a team of investigators.

The PSD has an important role in ensuring the accountability and independence of the LNP. However, there are significant challenges to the effectiveness of the PSD. The PSD is not an independent body, but is part of the LNP, and therefore has a potential conflict of interest. The PSD is also underfunded and understaffed, which affects its ability to conduct effective investigations.

The limited funding impacts severely on the PSD’s ability to function. Like the rest of the police force, they lack the ability to conduct comprehensive investigations. In 2015, 131 cases of 768 were not even investigated because the complainant had not followed up on the case. As a result, when filing a complaint people often had to travel far and wide to make the complaint, which can be a deterrent for some. The PSD also has a lack of funds to cover the cost of travel, which can make it difficult to follow up on cases. The PSD is also affected by these budget cuts. Although the PSD has been decentralized to other parts of Liberia, they are not able to conduct the same level of investigations as they do in Monrovia.

The PSD has an important role in ensuring the accountability and independence of the LNP. However, as described above, its powers are severely curtailed. It is a mandate that stops short of investigating criminal cases of misconduct. The PSD’s mandate is limited to investigating complaints of civil misconduct, and does not include the investigation of criminal cases. This means that the PSD is not able to ensure the accountability of the police force.

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In interviews, people described the police institution as malfunctioning, highly politicized, and trusted by few. The general perception among the public in Liberia is that the police are not to be trusted.

5.9

The Civilian Complaints Review Board, indicating that steps were being taken by relevant parties to bring it into being. The board could go a long way towards mitigating concerns about the police's lack of trustworthiness. This interview with UNPOL highlights the high level of support for police reform among the public, which is crucial for effective oversight of police conduct.

A new element entered the equation for the PSD six years after the Policy and Procedures Document. The National Police Act of 2016 established the Liberia National Police Civilian Complaints Review Board, which is envisaged to provide civilian oversight of the PSD. The establishment of civilian oversight of the police is included in the National Police Act of 2016 under the section on the Board of Inquiry. The board is mandated to "receive, process and determine any complaint made by a citizen or any police officer, on a quarterly basis from the Inspector General of Police regarding actions taken in response to investigations. The PSD in turn is to submit its investigation report with recommendations to both the Board and the board of inquiry of the National Police Commission. The board of inquiry has jurisdiction over any case or matter referred to it by the board, and the board of inquiry is required to forward any case or matter to the board for further action within one month. The board is required to notify the board of inquiry of a complaint before proceeding with its preliminary investigation.

5.10 Use of Force and Firearms

With regard to regulations concerning the use of force and firearms, the NPA Manual refers to the use of force and firearms, the NPA Duty Manual for the uniformed police and the NPA Duty Manual for the police. The NPA Duty Manual refers to the LNP Use of Force Policy of April 2005 and the LNP Firearms and Other Weapons Act of 2015. These policies provide for consistency in approach to duty and adherence to democratically principled policing values, reinforced through the development and realization of a civilian oversight body.

According to the NPA, the NPA Civilian Complaints Review Board is to be chaired by the National Police Commissioner, who is appointed by the president of the National Police Commission. The board shall consist of five members, including the National Police Commissioner, the President of the Liberia National Police Association, the Liberia National Police Association, the Liberia National Police Association, and the Liberia National Police Association. The board is required to notify the board of inquiry of a complaint before proceeding with its preliminary investigation. The board shall have the power to compel the attendance of any person, or to hear the evidence of any person, whose attendance is necessary or desirable for the purpose of the inquiry. The board shall have the power to compel the attendance of any person, or to hear the evidence of any person, whose attendance is necessary or desirable for the purpose of the inquiry. The board shall have the power to compel the attendance of any person, or to hear the evidence of any person, whose attendance is necessary or desirable for the purpose of the inquiry. The board shall have the power to compel the attendance of any person, or to hear the evidence of any person, whose attendance is necessary or desirable for the purpose of the inquiry. The board shall have the power to compel the attendance of any person, or to hear the evidence of any person, whose attendance is necessary or desirable for the purpose of the inquiry.

While the establishment of the Civilian Complaints Review Board by the NPA is an important development, there are serious and legitimate concerns regarding the limitations the board will have in investigating allegations of abuse of power. The board may lack the resources and independence to bring it into being. The board could go a long way towards the case in reality being seen.
the practice related to the use of force and firearms, as reported to DIGNITY through interviews conducted in Liberia in April 2016.

The use of force is taught to LNP offices in training with the principle of ‘proportional violence’. However, when asked what ‘proportionality’ meant in practice, interviewees both within the police and outside it had difficulties explaining it. The most common response was that proportionate use of force was using the force needed to make an arrest, and if an officer used more violence than necessary that would be considered excessive use of force. As the aim of the interviews was to shed light on the use of violence, this was followed up with questions regarding the circumstances in which violence would be necessary in making an arrest. Interviewees responded by saying that this would be only ‘proportional force’. The tautological explanations revealed that the interviewees were not too critical about the police’s use of force, but trusted that the police officers themselves knew when violence was proportionate or not. Only a handful of interviewees – mainly victims of police violence and a few CSO representatives – described excessive use of force by police as a regular practice.

At the Police Training Academy (PTA) the police officer in charge of educating the recruits in the use of force, who was interviewed by DIGNITY, gave a detailed explanation of the use of force in relation to proportionality. It was highlighted that the police officers are only allowed to use slightly more violence than the suspect they are trying to arrest. After using force, the police officer is required to write an After Action Report justifying the use of force and reflecting upon the choices made during the incident. The interlocutor also pointed out that force is used most often during demonstrations and towards people under the influence of either drugs or alcohol who resist arrest.

Regarding the use of firearms, after the civil war all ordinary police officers were stripped of their arms, leaving only two specially trained units – the Emergency Response Unit (ERU) and the Police Support Unit (PSU) – to carry firearms. All other police officers are armed with pepper spray and batons, and if needed they can call PSU or ERU for backup. At the PTA all officers are educated in the use of force, and the PSU and ERU officers receive additional training in the use of firearms.

5.11 Dispersal of Assemblies

The National Police Act of 2016 outlines the role of the police in maintaining public order, which is largely focused on the police response to demonstrations. Section 22.91 begins by detailing the steps that must be taken by civilians to request permission to hold a demonstration. These points are followed by: ‘It shall be the responsibility of every Police Officer to take all such steps as are reasonably necessary in any public place:

- To assist in the proper conduct of any special event by directing the route of such event to prevent obstruction of pedestrian or vehicular traffic; and
- To disperse crowds at any special event where he or she has reasonable grounds to believe that a breach of the peace is likely to occur or if any breach of the peace has occurred or is occurring in order to prevent violence, restore order and preserve the peace.’

The NPA 2016 does not, however, include any detail regarding the circumstances in which officers may use force in dispersing public assemblies, and neither does it refer to the need to protect the human rights of those in public assemblies when carrying out dispersal efforts. It is presumable that these standards could be contained in a separate policy document applicable to the LNP, but DIGNITY was unable to find such a policy document to verify this. As such, the lack of clear guidelines and regulations requiring LNP officers to ensure the protection of human rights, limit the use of force and reserve it for the last resort after ample warnings, is a glaring departure from international standards for police conduct.

According to local attorneys and CSO representatives interviewed by DIGNITY, demonstrators are considered to be one of the groups most vulnerable to police violence. In the Liberian media, there are often news stories about police brutality in relation to demonstrations. For example, in late February and early March 2016, there were several violent encounters between police and demonstrators outside the Temple of Justice (the Liberian Supreme Court), where demonstrators often rally. These clashes resulted in the police being accused of brutality by activists.

Legitimization for police intervention in demonstrations often stems from the fact that demonstrations are held without the required permit. Police are called to disperse the rallies and in this process, they often meet resistance and, in turn, call on the better trained and more heavily armed PSU for backup. The legal framework regarding demonstrations was criticized in two interviews carried out by DIGNITY with legal counsellors, who believe that the need to obtain a permit before demonstrating hinders people from practicing their democratic rights. In this way, the police are seen not so much as acting unlawfully as upholding an undemocratic law.

5.12 Conclusion

The extensive combined international and domestic efforts to implement reforms of the security sector in Liberia have led to a number of significant developments so far, not least the adoption of the new police legislation, the National Police Act of 2016, as well as the adoption of the Strategic Plan 2015-2020. The NPA provides clarity regarding the structure and functioning of the police, and makes reference to human rights standards as much as can be expected in such a piece of legislation. Where the references to human rights standards and related obligations of police are lacking is in the supporting operational and procedural manuals applicable to the Liberian National Police. The extent of this is unclear, as many policy documents regulating police activity, such as the use of force policy and the use of firearms policy, are not easily accessible and therefore have not been examined as part of this report.
6. Conclusion and Recommendations

In this study we have explored the legal and policy framework regulating the work of the police in South Africa, the Philippines and Liberia, and its compliance with international human rights standards. The main objectives have been to bring to light what we have referred to as non-custodial legal frameworks and practices, where we have argued in their own right that they are essential in order to ensure the protection of human rights in Liberia.

International standards. It is also clear from the interviews carried out by DIGNITY that these and the lack of effective oversight indicate that Liberian legislation is not fully in line with the law in the three countries under review, as well as in other contexts.

Combined, the lack of a clear and robust human rights protection legal and policy framework and the lack of effective oversight indicate that Liberian legislation is not fully in line with international standards. It is also clear from the interviews carried out by DIGNITY that these conditions—being a legacy of the past and lacking effective oversight—are central in pushing forward human rights agendas.

In the report, we have identified a number of different legal gaps between international law and domestic law in the three countries, as well as areas where implementation clearly falls behind the legal framework. It serves no purpose to repeat the conclusions here; one example is the lack of a comprehensive regulatory framework for police officers on how they should carry out their policing functions while ensuring robust protection and promotion of the human rights of civilians. All three countries have progressed in their human rights agendas.

Another problematic area is the lack of effective oversight of the police, despite the existence of other LNP divisions, other than the Independent Police Oversight Committee, which is the independent body responsible for overseeing the LNP. This problem is likely to be somewhat mitigated by the establishment of the Civilian Complaints Review Board. However, the extent of this is yet to be seen as the board does not yet appear to be fully operational at the time of this writing.

In this study we have explored the legal and policy framework regulating the work of the police in South Africa, the Philippines and Liberia, and its compliance with international human rights standards. The main objectives have been to bring to light what we have referred to as non-custodial legal frameworks and practices, where we have argued in their own right that they are essential in order to ensure the protection of human rights in Liberia.
Take steps to make awareness about the issue of torture and its prevention, and ensure that the police and public have a clear understanding of their rights and responsibilities, and how to report abuses. This can be done through training and awareness-raising activities, as well as through the use of media and other communication channels.

Address gaps between domestic and international legal and policy frameworks relating to torture and ill-treatment. This includes ensuring that all relevant domestic laws are consistent with international standards, and that there are mechanisms in place to monitor and address violations.

Address the limitations of current domestic legal and policy frameworks for addressing torture and ill-treatment. This includes identifying areas where the law is insufficient, or where consistent implementation is lacking, and making recommendations for improvement.

Recommendations to civil society:

Advocate for the implementation of international human rights standards, through domestic legal and policy frameworks, to address torture and ill-treatment. This could include raising awareness about the issue, and ensuring that relevant human rights standards are reflected in national laws and policies.

Encourage other organizations to take steps to examine the issue of torture and ill-treatment, and to work towards improving the situation. This could include conducting research, providing training, and working with governments and other stakeholders to promote human rights.

These recommendations are borne out of our research and work under the Community Led Justice and Security Initiative, and are intended to encourage other organizations to take steps to examine the issue of torture and ill-treatment in the community.
The Global Alliance is a strategic alliance established in 2014 between likeminded civil society organisations working towards building a global alliance of communities against torture and urban violence. We conduct country-based, as well as collaborative intervention and knowledge generating projects across partners, focusing on countering authority-based violence in poor urban neighbourhoods.

The Global Alliance consists of four partner organizations from four different countries:

- CSVR - The Centre for the Study of Violence and Reconciliation, South Africa; [www.csvr.org.za](http://www.csvr.org.za)
- Balay Rehabilitation Center, the Philippines; [www.balayph.net](http://www.balayph.net)
- LAPS – Liberia Association of Psychosocial Services, Liberia; [www.lapsliberia.com](http://www.lapsliberia.com)
- DIGNITY – Danish Institute Against Torture, Denmark; [www.dignityinstitute.org](http://www.dignityinstitute.org)