

**Conceptual framework for policing in Africa
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Good afternoon and welcome back everyone. My name is Daniel Woods, and I coordinate the police reforms programme at the Commonwealth Human Rights Initiative, which is an international non-government human rights organisation that is based in India, but works for the practical realisation of human rights across the Commonwealth. Our police reform work has mostly focused on Commonwealth South Asia, Commonwealth East Africa and Ghana.

I've been asked to speak to you all today about the conceptual framework of policing in Africa. That is a big brief and a big task, so my discussion is going to be fairly general. I'm going to quickly look at how policing developed in Commonwealth Africa, looking particularly to East Africa, to help us understand the historical foundation of policing and how we have ended up with the police we have today. Then, as groups, I am going to ask everyone to think about the consequences of that style of policing – what the historical framework of policing has meant in terms of the day to day experience of policing in African communities. Finally, I am going to wrap up by looking at what the conceptual framework of policing in Africa should be, and some of the trends that we can see as policing across the continent changes and evolves.

1. The historical framework of policing in Africa

So, first I am going to look at the historical framework of policing in Africa. To help us understand where we are, we need to understand where we have come from.

Across Africa, police organisations owe their roots to colonial days. In the context of Commonwealth Africa, this generally means British colonial rule. Although some form of policing may have existed prior to the arrival of the British, it was the colonial governments that entrenched the style of policing we have today. The police were put in place to keep the British in power and to protect British trade interests. This meant that the police were imported, with very little representation from the community, and were brutally partisan to the ruling government. An example is Kenya, where senior police were European expatriates, middle ranks imported Asians from other colonies in the Empire, and junior ranks were made up of people from the community. Recruitment and training was geared towards ensuring an aggressive and oppressive police force. The early work of the police reflected their mandate; the protection of trade routes, the protection of expatriates and expatriate interests and the brutal quelling of any dissent that rose up in the community. The police were often called on to take up military tasks, particularly during border conflicts with other colonial powers – a particular example of this was the strengthening of Ugandan police forces to act as border security along the Ugandan and German Tanganyika boundary ahead of the first world war.

The 1950s saw a combination of a growing political consciousness and movement towards self rule, along with a global shift away from the colonial approach, which led to independence for the colonies and a transition to self government. In many cases, the pattern was the same – a transition from colonial rule to a democratic model largely based on the British example, followed by constitutional amendments, political turmoil and military coups that charged the African political atmosphere. This political context shaped the police; independence governments inherited police organisations that were brutal, hierarchical, centralised, separate from the community, and based in mandates of regime support. Independence governments quickly saw the political use of a partisan police force to secure their own power in fragile and young democracies quickly torn apart by political and military struggle, and whole heartedly adopted the British model of regime policing as their own. Many countries in Africa, including Angola, Sudan, Rwanda, Sierra Leone, Liberia and the DRC, have had their independence histories defined by civil war. In all these countries, the police have become embroiled in the internal conflicts. The impact of this is brutal, military, rights-violating police during conflict, and a huge lack of community trust and belief in their police post-conflict.

Where constitutional effort had been made to ensure the independence of the police, constitutional amendments quickly returned the police to government control. For example, in Kenya, a negotiated constitution adopted at independence in 1962 designed a professional, neutral police organisation. The Constitution gave operational autonomy to the force, which it set up through legislation and governed through two buffer bodies, a Police Service Commission and a National Security Council, both in place to ensure police operational autonomy and to prevent illegitimate political interference. The Inspector General was to be appointed by the President, but on the advice of the Police Service Commission. An intricate web of checks and balances ensured police operational independence and strong oversight of the police. However, this police organisation never saw the light of day – by 1964, amendments had concentrated the power in the hands of the President, removed autonomy and made the police a part of the civil service. The police became a political tool that was used by the regime through emergency periods, a move to one party state and then a return to multi-party democracy. The police are still used as a political tool today – last year masked, plain clothes police stormed the Standard newspaper offices, setting bonfires of newspapers, assaulting staff and turning off printing presses, as well as a major television station, pulling it off air, after the two media agencies ran stories concerning a meeting the President had with the leader of the opposition, who had previously been a member of the his government. In the aftermath, the Internal Security Minister's response to local and international condemnation of the raids was, "If you rattle a snake, you must be prepared to be bitten by it."

A common theme in the conceptual framework of African policing has been the blurring of lines between the military and the police. The police and army are separate bodies with separate mandates, cultures and hierarchies, and must be kept separate to allow them to function effectively. The trend towards militarisation is clear in Uganda, and has led to many of the issues that are apparent in Ugandan policing today. This militarisation took place in the context of a general trend towards military dominance following independence; as the emphasis on the military approach increased, the police were operationally and politically marginalised and democracy was diluted. As early as 1964, police were drawn into the President's political and military games, with secret police units created to balance dissent coming from the politically powerful army. Successive army appointees have held the most senior police post, while joint operations, auxiliary forces and military involvement in police duties have militarised the police. This has led to the police being undermined, violent and brutal policing taking place without the benefit of police accountability mechanisms, the erosion of police jurisdiction and guilt by association. It has also furthered a culture of impunity within the police by allowing actions done under the guise of special joint operations to go unchallenged, where they would have not been allowed under a civilian policing regime. A police organisation subject to military involvement in its duties is marginalised and compromised, and loses the authority to deal with matters that fall within its jurisdiction.

The 1990s saw a shift in African politics, a shift towards multi-party politics and the reinstatement of democracy. A product of this trend has been government sponsored commissions and inquiries into policing, as well as reform processes such as the one that the Ugandan police are embarking on now. Policing Commissions have taken place around Africa and have been instrumental in adding to debates and discussions around policing, even where they haven't done much more than add to the literature. Discussions are one thing; creating the political will to make the recommendations of those discussions a reality is another. Ghana is one jurisdiction where debates around policing go as far back as before independence, in 1951. Its first police committee, which was known as the Young Commission, and was led by a British Police Commissioner, was mandated by the Governor to examine the police and make recommendations regarding its organisational structure, training mechanisms and methods for effective policing in Ghana. The Committee made a number of recommendations that foreshadowed today's movement towards a democratic model of policing, including decentralisation, a Police Council as an oversight body and a definition of a police officer that clearly spelled out an intention to create an independent, politically neutral and community focused police service. There was another committee in 1971, then in 1986 and then in 1996. Commissions of inquiries into broader social issues or

particular circumstances can also lead to discussions and debates around policing – in Ghana, a tragedy at a soccer game, where a crowd stampeded and many people were trampled and killed, led to an examination of the police response to the crowd situation and police preparedness for emergencies. In the Ugandan context, the major investigation into policing was the 1999 Sebutinde Commission, which was mandated with looking at corruption and mismanagement within the police. The Commission made sweeping findings of corruption, indiscipline and mismanagement at different levels of the police organisation. The Commission made a large number of recommendations, some of which were accepted by the government, and others that went ignored. In the context of our discussions over the next couple of days, it is interesting to consider the kinds of recommendations that were accepted, and the kinds of recommendations that were ignored. Recommendations related to particular police officers or classes of police officers – involving removal, recruitment or promotion – were accepted, as were recommendations regarding financial management, recruitment, training and terms and conditions of police officers. The recommendations that were ignored were the recommendations that were crucial to aid the transformation of the police to a more democratic model. Examples include legislative guidelines for senior appointments, an independent appointment, promotions and discipline body, demilitarisation of police functioning and civilian oversight of complaints of police misconduct.

Another reform trend has been donor-led, justice sector reform programmes that have focused on grant making, systems and efficiencies that have impacted on the way the police work. The Ugandan example is JLOS, and the Kenyan example G-JLOS. These programmes are useful, but not enough; the rot in the police systems across both jurisdictions is so deep that the police need to be transformed and re-envisioned, rather than be tinkered with around the edges.

In a sentence, the conceptual framework of policing in Africa is regime policing.

2. Challenges to policing

For the next part of this session, I want to have a look at what all this actually means in terms of community experience of policing. This will be a chance for us to outline what the problems are surrounding policing and police reform generally, which we can then consider in the Ugandan context as we think about what we can do to fix the problems. To do this, I want to break the group into three smaller groups, and then I will give each of you a topic, and ask you to think about policing challenges in terms of that topic. The three topics will be one, challenges that people in the community face with the current policing, two, the challenges the police face in terms of doing their job well and three, what are the challenges that are in the way of people and police who want to reform. Each group will have 20 minutes to talk through the challenges, and then we will come back together and I will ask a spokesperson to give us a summary of the challenges that you have identified.

[Break out groups.]

3. Democratic policing – the alternative to regime policing

When I started this session, I spent the first part going through the idea of regime policing. Then, as we saw when we discussed the community's experience of policing, we looked at what result of regime policing is – brutality, misconduct, corruption, failure to perform basic tasks, a refusal to register complaints, excessive use of force, poor investigation skills, impunity, torture, increasing politicization, insensitivity to complaints and a failure to provide security. Regime style policing is wrapped up in:

- Bad laws

Police laws that are relics of colonial rule that have been kept on post-independence because they are an effective way to keep power over the police with politicians. Colonial policing was all about protecting trade interest, suppressing dissent and

upholding colonial rule – and the sad reality is that the laws that underpinned this kind of policing are still in place.

- Bad structures

Police structures that are rigid, hierarchical, centralised and closed to the community, but at the same time open to illegitimate political interference from the ruling government.

- Political interference

Illegitimate political interference that takes place when the ruling regime gets involved with the day to day operations of the police – it is absolutely crucial that police are allowed operational autonomy and the independence and freedom to do their work.

- Culture of impunity

Cultures of impunity, where police misconduct, brutality, corruption and violence go unremarked and unpunished.

- Lack of community faith

A lack of community faith, which is both a cause of bad policing and one of the things that prevents good policing. The police can only do their job effectively with the trust, confidence and faith of the community, and without this, officers resort to other measures of control and intelligence gathering.

- Force not a service

The police operating as a force, not a service, acting as a force of government control and not a service for the community.

A lot of my presentation today has dwelled on negatives – the problems with laws and the problems of policing. This is an important foundation for our discussion, but what I hope as we go forward over the next few days is that we are able to have some real discussions about how to solve these problems, rather than to dwell on what the problems are. In this spirit, to finish off my presentation today, I want to go through an alternative model of policing to regime policing – a model that has been adopted all over the world, in all kinds of jurisdictions, in all kinds of cultures, with all kinds of politics. This alternative model is democratic policing.

Regime policing is brutal, partisan and oppressive policing that aims to serve and protect the regime in power and operates outside the community. Democratic policing is fair, transparent, representative and accountable policing that aims to serve and protect the community that it works within.

A democratic police organisation is one that is accountable to the law, and not a law to itself. It is accountable to democratic government structures and the community. It is transparent in its activities. It gives top operational priority to protecting the safety and rights of individuals and private groups. It protects human rights. It provides society with professional services, and it is representative of the community that it serves.

Implementing a more democratic approach to policing provides positive benefits for the community, for police officers, and for the police organisation. One benefit is a stronger sense of safety in the community. Another benefit is that crimes are more likely to be prevented and solved, as the public begins to see the police as allies in keeping the peace rather than instruments of oppression, they are more willing to share information that can help to prevent and solve crime. Showing commitment to democratic policing can be a way of building the case for more resources to fund improved policing – people are more willing to

support the use of limited government funds when they believe the use of the money will benefit them. Finally, improved accountability generates greater respect for the police and for police officers.

The key concept in democratic policing is accountability. Starting with a clean sheet of paper, police accountability means internal, external and civilian oversight of policing.

Internal accountability. This is the ability of police organisations to police themselves. This means reliable disciplinary systems, training and supervision and systems for monitoring, evaluating and recording performance and crime data. It is the responsibility of the police themselves to ensure that internal systems guarantee discipline, performance and all round good policing. The conventional idea of internal systems rely on police investigating other police. Their effectiveness reflects the degree of commitment the police have to hold themselves to the highest standard.

External accountability. There are four types of external accountability that must be in place. The first three are accountability to the state and the fourth is external civilian accountability.

Accountability to parliament. Police should be held accountable to the community's elected representatives – for example, Police Chiefs being called in to parliament and required to answer questions about the activities and actions of the police organisation. The three vital functions of parliament are to make and review laws, represent citizens and hold the executive accountable for policy implementation. Parliaments play a policy making role when they pass laws and approve budgets. Parliament has the power to question police wrongdoing, to correct systemic faults by passing new laws, to seek accounts of police performance and to keep policing under constant review.

Accountability to independent judiciary. Where there is a strong and independent judiciary, cases may be brought before the Courts regarding police wrongdoing and the courts can order compensation, order punishment or change decisions made by the police. The judicial system has a critical role to play as it is entrusted with the protection of human rights and freedoms. Courts ensure that acts of the executive and laws made by parliament comply with and promote international human rights standards. They also protect members of the community from the excesses of the state and its agents by bringing to book those who commit human rights violations and breaches of law, as well as ensuring that victims obtain sufficient redress.

Accountability to a responsible executive. The police must be held to account to the executive – a good example is being held to account to the treasury department for spending and budgets. Generally, police answer directly to a specially designated Minister, who is part of the executive wing of government and political head of the organisation.

Last, and most importantly, is accountability to an independent civilian body. This is to ensure police independence from government and accountability to the community and the community's standards.

Examples of independent civilian oversight include human rights commissions, ombudsmans and police complaints agencies. As governments increasingly embrace the philosophy of democratic policing, attempts are on to make policing more transparent, involve outsiders, build public confidence, allay fears of bias, assure impartiality of investigation, make the receipt of complaints easier, reduce abuse of power and misconduct, change the internal culture and ensure better performance.

In an ideal world, the agency will be focused on the police and will be independent, non-partisan, empowered and mandated to investigate and act on public complaints of police misconduct.

There are minimum requirements that must be met for an oversight body to be successful.

The first is independence. The body should be independent of the executive and the police and empowered to report directly to Parliament.

The second is sufficient power. The body should have the authority to independently investigate complaints and issue findings. This requires powers to conduct hearings, subpoena documents and compel the presence of witnesses, including the police.

The third is adequate resources. The body should have sufficient funds to investigate at least the more important cases that are referred to it. Skilled human resources to investigate and otherwise deal with complaints should also be available.

The last is the power to follow up on recommendations. The body should be empowered to report its findings and recommendations to the public, and to follow up on actions taken by the police chief in response to its recommendations. It should also be able to draw Parliament's attention to instances where police take no action.

Police reform and transformation processes in Africa have focused heavily on building accountability into new police organisations and systems, with varying degrees of success.

In South Africa, where the police transformation took place in the context of South Africa's unique post-apartheid political climate, the first step in building a new police service was to build trust between a community and police riven by mistrust, a history of police repression and police brutality and violence. This was achieved through a focus on accountability, which meant the creation of parliamentary committees at both national and provincial levels, an Independent Complaints Directorate - an independent, non-police body empowered to deal with public complaints about the police and to investigate serious incidents of police misconduct, the building of Civilian Secretariats charged with a policing policy advice and monitoring role and the creation of Community Police Forums, to help entrench community involvement in their own policing.

Another jurisdiction that has heavily focused on building accountability into its reform process is Nigeria, although its system, which is impressive on paper and spans across the police organisation, politics and law, is only impressive on paper, and has been hamstrung by a lack of political will, a too close political relationship with government and a lack of institutional capability within the on-paper mechanisms. Nigeria's accountability web includes multi-layer internal disciplinary systems, constitutional rights guarantees, a parliamentary committee on police affairs, a Police Council charged with supervision of the organisation and administration of the police and a Police Service Commission mandated with appointment and disciplinary powers.

That wraps up what I wanted to say on the conceptual framework of policing in Africa. Many jurisdictions have already begun the journey away from the regime model that has defined policing on the continent, towards accountability and a democratic model of policing. There is a real opportunity for Uganda to take its first strides towards a policing model that reflects its democratic aspirations and the will of its communities, with the current police review process and workshops like this. I'd like to open up to the floor for discussions and comments.