



# ZIMBABWE REPUBLIC POLICE (ZRP) HUMAN RIGHT, ELECTIONS AND POLICING

## TRAINING HANDBOOK



Empowered lives.  
Resilient nations.







# Contents

Acknowledgements

Preface

Abbreviations and Acronyms

Glossary of Terms

Introduction

Training Methodologies

Module One Fundamental Concepts in Human Rights and Policing

Duration

Aim

Objectives

Introduction

Session One: Understanding human rights

Session Two: Tenets of human rights

Session Three: The role of police in Society

Session Four : Policing and human rights

Session Five: Professional conduct

Session Six: Policing in democracies

Module Two Human Rights and Police Duties and Powers

Duration

Aim

Objectives

Introduction

Session One: Police duties and powers

Session Two: Police powers of investigation of crime

Session Three: Police powers of search and seizure

Session Four: Police powers of arrest and detention

Session Five: Police powers of use of force and firearms

Session Six: Policing in times of tension, conflict and disorder

Session Seven: Remedies for neglect of police duties or abuse of police of power

Module Three Human Rights in Police Command, Management and Organisation

Duration

Aim

Objectives

Introduction

Session One: Human rights and police command and management

Session Two: Human rights implications on policy formulation

Session Three: Community policing

Module Four Gender, Women and Law Enforcement

Duration

Aim

Objectives

Introduction

Session One: Rights of women in relation to law enforcement

Session Two: Standards on law enforcement and the rights of women

Session Three: Women in law enforcement

Module Five Groups Requiring Special Protection or Treatment

Duration

Aim

Objectives

Introduction

Session One: Juveniles and law enforcement

Session Two: Law enforcement and persons with disabilities

Session Three: Law enforcement and the protection of refugees, non-nationals and internally displaced persons

Session Four: Victims of crime

Module Six International, Regional and National Standards Relevant to Elections

Duration

Aim

Objectives

Introduction

Session One: Right to Self Determination

Session Two: Right to Participation

1 Session Three: Equal right of men and women to public and political participation

Session Four: Fundamental freedoms

Session Five: Legal and institutional framework for democratic elections in Zimbabwe

Module Seven Duties and Responsibilities of the Police in Elections

Duration

Aim

Objectives

Introduction

Session One: Duties and responsibilities of the police before, during and after the conduct of the poll

Session Two: Election-related offences

Session Three: Investigation of politically motivated violence or intimidation

Selected Bibliography

Annexure 1 Human Rights, Elections and Policing Curriculum

Annexure 2 Additional Topics for Discussion and Case Studies

Annexure 3 Pre-Training Test

Annexure 4 Post-Training Assessment

## Acknowledgements

## Preface

## Abbreviations and Acronyms

ACRWC	African Charter on the Rights and Welfare of the Child
AU	African Union
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CRC	Convention on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
GBV	Gender-based violence
ICCPR	International Covenant on Civil and Political Rights
IDPs	Internally displaced persons
PWD	Persons with disabilities
SADC	Southern African Development Community
SARPCCO	Southern African Regional Police Chiefs Cooperation Organisation
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNDP	United Nations Development Programme
ZRP	Zimbabwe Republic Police

## Glossary of Terms

**Democracy** - is a system of government by the whole population, ordinarily through elected representatives, and in which all citizens have an equal say in the decisions that affect their lives. In a democracy the elected representatives of the people derive their power and mandate from the people. Key features of a democracy include free, fair and regular elections, respect for the rule of law, separation of powers, respect for human rights and fundamental freedoms, equality and non-discrimination<sup>1</sup>.

**Derogation** - in relation to international law obligations is when a State Party to a treaty suspends its obligations in exceptional circumstances or situations of extreme crisis, for a limited period, while it addresses the crisis.

**Detention** - is the deprivation of a person's liberty by taking him/her into custody. Thus a detainee is a person who is deprived of personal liberty but who has not been convicted of an offence (Body of Principles for the Protection of all Persons under Any Form of Detention or Imprisonment).

**Discrimination** - refers to any distinction, exclusion or restriction which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by any person of human rights and fundamental freedoms in the civil, political, economic, social, cultural or other spheres (art.2, Southern African Development Community (SADC) Protocol on Gender and Development).

**Discrimination against women** - is any distinction, exclusion or restriction or any differential treatment based on sex and whose objectives or effects compromise or destroy the recognition, enjoyment or the exercise by women, regardless of their marital status, of human rights and fundamental freedoms in all spheres of life (art. 1, Protocol to the African Charter on Human and Peoples' Rights (ACHPR) on the Rights of Women in Africa ("African Women's Protocol). See also art.1, Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

**Equality** - is the state of being equal in the enjoyment of rights and in terms of how people are treated and in relation to access to opportunities and outcomes, including resources (art.2, SADC Protocol on Gender and Development).

**Human rights** - are universal legal guarantees protecting individuals and groups against actions but governments that interfere with fundamental freedoms and human dignity<sup>2</sup>. Human rights are based on the principle that every human being has a claimable right against the State in the manner in which he/she is treated. All people are born equal and are endowed with inalienable rights, thus human rights are universal in the sense that they belong to every human being in every society, irrespective of geographical, historical, cultural, ideological, political or economic context.

**International human rights law** - is a body of international law that deals with the promotion and protection of the human rights of individuals and groups and the provision of remedies in respect of violations of the rights. It derives from regional and international treaties. It is also found in non-treaty instruments and customary international law.

**International humanitarian law** - is a body of international law that regulates the conduct of hostilities (i.e. the means and methods of warfare) and protects victims of armed conflicts<sup>3</sup>.

**International law** - is the law that governs relations between and among States<sup>4</sup>.

**International standards** - are norms or models which have been adopted and/or are practised by and among States. For purposes of this Training Handbook, 'international standards' shall be construed in the context of the standards adopted within the framework of the United Nations (UN), the African Union (AU) and SADC.

**Limitation** - in international law and in relation to the obligations of States refers to a qualification, boundary or restriction that may be placed on the enjoyment of a right, meaning that rights are generally not absolute.

---

<sup>1</sup> <http://en.wikipedia.org/wiki/Democracy>, 24/05/18.

<sup>2</sup> Human Rights and Law Enforcement, Trainer's Guide on Human Rights for the Police, Professional Training Series No.5/Add.2, Office of the UN High Commissioner for Human Rights, United Nations, New York and Geneva, 2002, p.13.

<sup>3</sup> Crawshaw, R., Human Rights and Policing, A Manual for Teachers, Resource Persons and Participants in Human Rights Programmes, Kluwer Law International, 1999, p.31.

<sup>4</sup> Malanczuk, P., Akenhurst's Modern Introduction to International Law, 7<sup>th</sup> Ed., Routledge, 1997, p.1.

**Rule of law** - requires that all people in a country are subject to the same known, fair and impartial laws and that they will be held accountable if they violate those laws. No is above the law and laws must be enforced equally, fairly, freely and without political interference and without fear or favour.

**State Party** - refers to a State that is a party to an treaty.

**Torture** - is any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him/her or a third person information or a confession, punishing him/her for an offence he/she or a third person has committed, or intimidating or coercing him/her or a third person, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not however include pain or suffering arising only from, inherent in or incidental to lawful sanctions (art.1, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT))

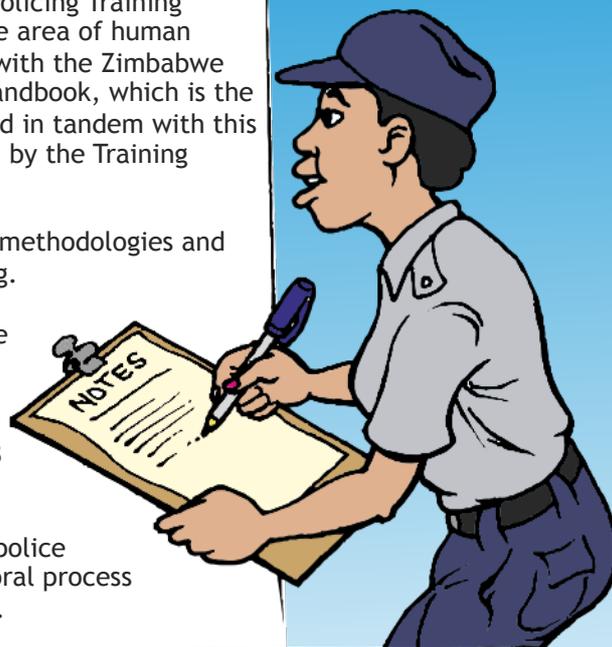
**Treaty** - is an agreement concluded between two or more States. It may be referred to as a convention, covenant, charter, pact or protocol. There is no legal difference between these terms.

# INTRODUCTION

The Zimbabwe Republic Police (ZRP) Human Rights, Elections and Policing Training Handbook is intended to be a guide mainly for police trainers in the area of human rights, elections and policing. It is recommended for use together with the Zimbabwe Republic Police Human Rights, Elections and Policing Participant Handbook, which is the more substantive text on the subject and which has been developed in tandem with this Training Handbook. The content of the Training Handbook is guided by the Training Curriculum on Human Rights, Elections and Policing (Annexure 1)

The Training Handbook provides guidance to police trainers on the methodologies and materials which they may use for entry level and in-service training. The Training Handbook and the Participant Handbook were developed by the ZRP with technical and financial support from the United Nations Development Programme (UNDP) under a project which sought to support the electoral process in Zimbabwe with a view to strengthening the capacities of key institutions involved in running or supporting the electoral process, with focus on the 2018 harmonised elections. It is hoped that the Training Handbook and the

Participant Handbook will contribute to enhancing the capacity of police officers to police and protect citizens' rights throughout the electoral process as well as in relation to general policing duties and responsibilities.



The Training Handbook covers the following key areas:

- ÿ Human rights and elections;
- ÿ Police powers of arrest, detention, search and seizure;
- ÿ Use of force and firearms;
- ÿ Human rights in police command, management and organisation;
- ÿ National, regional and international standards relevant to elections; and
- ÿ Duties and responsibilities of the police during the electoral process.

In addition to assisting police trainers in imparting knowledge on the above human rights issues to recruits and serving police officers, the Training Handbook also provides guidance to trainers on how to effectively conduct training. The trainer is at liberty to develop his/her own topics for discussion or hypothetical exercises in addition or alternative to the ones suggested in the Training Handbook.

The Training Handbook is structured as follows:

- ÿ suggested training methodologies, which are intended to provide guidance to trainers on how to effectively conduct training;
- ÿ seven modules based on the Human Rights, Elections and Policing Curriculum. Each module has a recommended duration, aim of the module, objectives of the module and several sessions, which highlight key learning points;
- ÿ the aim of a module gives an indication of what each module should achieve while the objectives guide the trainer in terms of what the learners must actually learn in order to achieve the aim of the module;
- ÿ session learning points set out the content that learners are expected to have learnt by the end of the session;
- ÿ each module also has topics for discussion and/or case studies, which the trainer may use at his/her discretion, either in plenary or in groups, to provoke discussion, encourage problem-solving or reinforce a concept. There are additional topics for discussion and case studies for some of the modules in Annexure 2;
- ÿ each session suggests the approach and methodology/ies that a trainer may use to conduct training while some of the sessions have notes for the trainer that are aimed at drawing the trainer's attention to particular issues. There are also notes for the trainer in the Participant Handbook;
- ÿ annexures, which include a pre-training test (Annexure 3) to be administered to the learners at the beginning of the training in order to assess their level of knowledge of the subject and a post-training assessment (Annexure 4) to be completed by the learners at the end of the training in order to assess the impact of the training. These are intended to guide the trainer, who is at liberty to modify the test or course evaluation form to suit his/her particular demands.

This Training Handbook is intended to aid police trainers in imparting knowledge to fellow police officers on the duties and responsibilities of police officers in the electoral process as well as the international, regional and national standards applicable to elections. Other than capacity enhancement for police officers in preparation for elections, the Training Handbook may also be used by police trainers as part of their recruit and in-serving training.

The trainers are expected to conduct the training training efficiently and effectively. To this end, it is imperative that they are equipped not only with the substantive knowledge of the subject, but also with relevant training skills and techniques.

## Purpose of training

Training is not only about imparting knowledge to learners (who may also be referred to as participants) but it is also about enabling them discharge their duties efficiently, effectively and professionally, and about change of behaviour and attitudes. Thus the purpose of training, especially for adult learners, should not be steeped in the notion of knowledge acquisition and retention, and may be even passing examinations, but it should result in behaviour change. It should foster change of attitudes and perceptions.

### Tips on effective training

#### (a) Aim of the lesson

A trainer must set the aim of the lesson. A lesson aim helps to keep the trainer on course or within the topic of the lesson. A trainer must take care to ensure that all the activities planned for the lesson stay within the lesson aim. It helps the trainer stay focused as he/she delivers the lesson. Good lesson aims will draw the interest of the learners and make them expectant<sup>5</sup>.

#### (b) Lesson objective

A trainer must be able to set the lesson objective(s) i.e. what needs to be achieved at the end of the lesson. Thus whereas the aim gives the direction the lesson is to take, the objectives set out what has to be achieved<sup>6</sup>.

#### (c) Resources

A trainer must identify and prepare their resources in advance i.e. the actual material and/or training aids which a trainer will use in delivering the lesson. Equipment must be tested in advance to ensure that it is in good working order. The trainer must avoid setting up or testing or attempting to use equipment when the lesson has already commenced as this could lead to the loss of valuable time e.g. if the equipment takes a while to set up or there is a malfunction.

#### (d) Lesson background information

Background information includes the name of the trainer and the topic being covered. A trainer may also include the scope of the lesson, which is useful in guiding the trainer with respect to range of issues to be covered, achieving the aims and objectives of the lesson, and setting the parameters within which the trainer is to focus and preventing him/her from digressing<sup>7</sup>.

It may not be advisable to spend more time than is necessary when presenting background information.

### Attributes of a good trainer

Effective training requires that a trainer must have the requisite training attributes and skills, such as the following, among others:

#### (a) Adequate knowledge of the subject

A trainer must prepare thoroughly and have very good knowledge of the topic. Limited knowledge of the subject can shake the trainer's confidence. The trainer must have ability and skill to summarise a lesson into key points, especially if it is a long one. This helps any learners who might lose track of the lesson<sup>8</sup>.

#### (b) Ability to communicate effectively

A trainer must have good communication skills including verbal, written, listening and observation skills. He/she must be able to use good and clear language that learners can understand, and ensure that the lesson is pitched

<sup>5</sup> Training Guide on Policing Elections in Zambia, Zambia Police, 2011, p.10.

<sup>6</sup> *Ibid.*

<sup>7</sup> *Ibid.*

<sup>8</sup> *Ibid.*, p.11.

at the right level to suit the calibre of the learners. The trainer must employ good listening and observation skills to gauge if the learners are following and assist those who may be struggling. Similarly, the trainer must be able to quickly identify any disruptive behaviour which may be displayed by some learners<sup>9</sup>.

**(c) Analytical skills and ability to simplify information and concepts**

A trainer must be able to understand and analyse concepts and information and concepts. International human rights law does get technical sometimes, so some of the concepts and information that the trainer will impart to the learners may be of a technical nature. It is imperative therefore that the trainer has ability to simplify the concepts or information and break them into meaningful units which are simple enough for learners to comprehend. Appropriate examples or illustrations that learners can relate to can be helpful, so is the use of participatory approaches to encourage active participation by the learners as opposed to typical monologue lecture type delivery<sup>10</sup>.

**(d) Ability to assess and evaluate learners**

It is important that a trainer should have the requisite skills to assess and evaluate learners. He/she must appreciate the training needs of the learners and be able to monitor the pace at and extent to which they are following the lesson and grasping the subject. Participatory training methodologies can be useful in the regard as the trainer will be able to evaluate contributions and other responses of the learners. The trainer should be able, at the end of the lesson, to tell whether or not the learners have grasped the concepts or information. Pre-training and post-training evaluation of learners can be helpful<sup>11</sup>.

**(e) Sensitivity and concern for the learners**

The trainer should be sensitive to and have concern for the welfare of the learners. He/she should look out for any learners who may be experiencing personal challenges which may affect their attentiveness and ability to participate actively in the lesson or even disrupt the lesson. Adult learners have knowledge and life, work and practical skills and experience that could be useful to share with fellow learners, so the trainer must be able to tap into this knowledge and experience rather than overlook them<sup>12</sup>.

**(f) Use of icebreakers and energisers**

The use of icebreakers and energisers help to create an enabling learning environment. It encourages learners not only to be attentive but also to contribute freely. The trainer may start the lesson with an ice-breaker and use energisers in the course of the lesson to retain the attention of the learners<sup>13</sup>. However, the trainer must be careful as not to allow ice-breakers and energisers to cause a digression from the topic or to take up too much time.

**(g) Leadership and organisational skills**

The trainer's role is not limited to delivery of the lesson but it may also extend to organising, supervising and leading the learners before, during and after the lesson. The trainer may have to deal with issues of administration and logistics. He/she must appreciate group dynamics and be able to manage the different personalities, skills and learning abilities of the learners in order to manage and ensure the smooth flow of the training<sup>14</sup>.

**(h) Optimum utilisation of available resources**

Related to the immediate above attribute is the ability of the trainer to utilise available resources optimally. Resources are precious and often limited, therefore they must be properly managed and utilised. They include training material, training equipment/aids, financial as well as human resources. Time is also an important resource which needs to be well managed<sup>15</sup>.

## Training methods

Teaching/training is conducted in different ways, through conventional and non-conventional methods, illustrated in the image, such as:



<sup>9</sup>. Ibid.

<sup>10</sup>. Ibid.

<sup>11</sup>. Ibid.

<sup>12</sup>. See also Human Rights and Law Enforcement, A Trainer's Guide

<sup>13</sup>. Training Guide on Policing Elections in Zambia, op cit, p.17

<sup>14</sup>. Ibid.

<sup>15</sup>. Ibid.

For the purpose of the Training Handbook we will stick to the conventional training methods. Whichever method a trainer opts for, it must be participatory or interactive<sup>16</sup>. After all the training is intended for adult learners.

Adult learning is best achieved when:

1. the learners have been involved in defining or refining their own learning objectives;
2. the content is focused upon real challenges faced by the learners, thus it is useful for the trainer to allow the learners to share their own experiences;
3. the lesson or training is undertaken in a participatory environment; and
4. the approach to learning is varied<sup>17</sup>.

Generally people learn most effectively when verbal messages are visually reinforced and when they are actively participating in the learning process. An effective trainer facilitates the learning process and ensures that learning is a two-way process in which both the trainer and learners gain new knowledge through participatory methods<sup>18</sup>.

Trainers must be well prepared and enhance their skills to motivate and actively involve the learners. The following participatory or interactive training methods provide useful guidance to trainers. Please take note that they are not exhaustive and a trainer is at liberty to consider other methods.

#### **(a) Presentation and discussion**

This type of delivery involves mainly the trainer imparting knowledge or conveying information and principles to the learners which is followed by an informal discussion for the purpose of clarifying points and discussing how standards and/or ideas can be translated into practice. Ideally a trainer must prepare questions in advance to stimulate the discussion. He/she must also anticipate and prepare to answer questions from the learners. The trainer should try to involve all learners in the discussion<sup>19</sup>.

#### **(b) Case study**

A case study is a written description of a real or hypothetical situation that is used for analysis and discussion in small groups. It allows for active involvement and participation of learners in discussing a problem. A trainer must select a case study that is relevant to the topic, which must be prepared in advance<sup>20</sup>.

#### **(c) Group discussions**

A group discussion allows learners to share their views and experiences on a topic or to solve a problem. Working in small groups, learners may feel less inhibited thus allowing for increased participation. For a small group discussion to be effective, the task of the group and the time limit should be clearly stated. It may also be helpful to provide guidelines or questions to facilitate discussion. It is important to encourage group members to ensure the participation of everyone in the group<sup>21</sup>.

#### **(d) Panel discussion**

A panel of trainers or experts may discuss a given subject before the learners, who may also be involved in the discussion as the panellists take turns to make their presentations (preferably brief) or wait until all the panellists have

made their presentations before making their own contributions. Ideally the panellists should prepare for the different aspects of the subject. The trainer can act as moderator and guide the discussion.

---

<sup>16</sup>. Participatory or interactive methodology basically is teaching or learning methods which enable the learner to actively get involved in the learning process, individually and/or in a group with others. In participatory methods, the learner explores a situation, identifies a problem, describes, analyses, interprets and appreciates the problem, and then comes up with a solution to the problem.

<sup>17</sup>. Human Rights and Law Enforcement, A Trainer's Guide on Human Rights for the Police, op cit, p.4. See also generally pp.3-6.

<sup>18</sup> SARPCCO Code of Conduct, Human Rights and Policing: Towards Ethical Policing, Training Manual, Human Rights Trust of Southern Africa and SARPCCO, 2003, pp. 2-4.

<sup>19</sup>. Human Rights and Law Enforcement, A Trainer's Guide for the Police, op cit, p.6.

<sup>20</sup>. International Human Rights Internship Program & Asian Forum for Human Rights and Development, Circle of Rights, A Training Resource, p.592.

<sup>21</sup>. *Ibid*, p.592.

### (e) Brainstorming or problem solving

Brainstorming is normally used for generating learners' views, ideas and comments on a given topic or issue. Learners can make any points or suggestions on the subject matter of the brainstorming. A learner can build on other learners' ideas or views, but this does not include commenting or criticising views expressed by others. No discussion is allowed on the points made or ideas expressed. Time is of the essence in brainstorming, so a time limit must be set. The trainer may then synthesise the ideas expressed and views shared<sup>22</sup>.

### (f) Role play or simulation

Role play or simulation is an activity where learners act out real or hypothetical situations. Only the situation or role to be acted is explained; no script is needed but few materials since learners can use pretend props. The learners should have a good understanding of the role play they are expected to enact and the trainer should encourage the learners to use their imagination. A properly done role play can be stimulating and fun, and increase the participation of learners<sup>23</sup>.

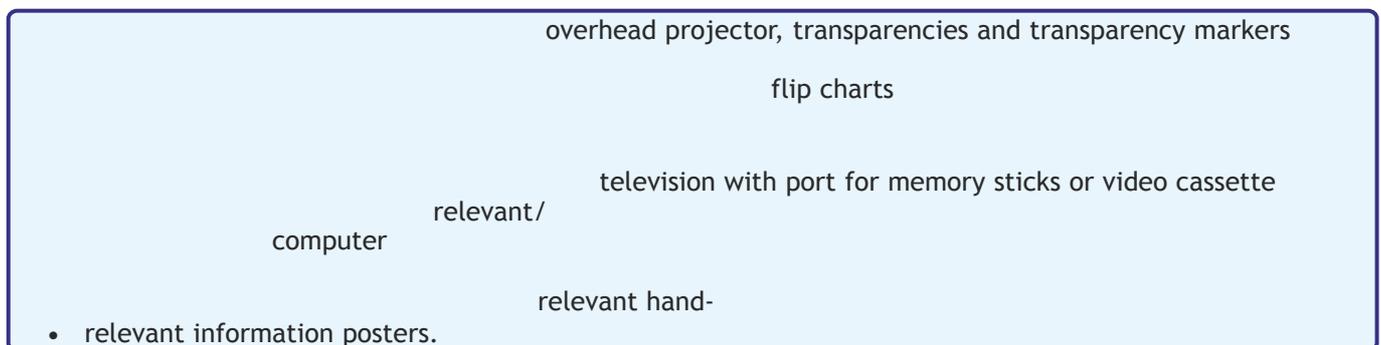
### (g) VIPP

Visualisation in participatory programmes (VIPP) is a people centred approach to planning, training and other group events, which combines techniques of visualisation with methods of interactive learning. VIPP encourages interactions between people and everyone has an opportunity to take part in the process of arriving at consensus. In the case of training, the learners are the main resources for advancing a process of learning. The less talkative learners get the opportunity to express themselves while those who might normally dominate a group give way to let others to also contribute<sup>24</sup>.

VIPP largely involves the use of multi-coloured cards of different shapes and sizes on which participants express their ideas in large enough letters or diagrams that can be seen by the whole group. Private note taking is not necessary as the clustered cards may be photographed, scanned or photocopied for each learner<sup>25</sup>. This would of course depend on the resources available to a trainer.

## Training materials/aids

The trainer is free to select suitable training materials and/or aids. This however normally depends on resources and what can be available. The list below is not exhaustive but provides guidance on the most common ones:



Note that some of the materials/aids require that the training venue must have power.

The trainer should introduce the lesson by providing a broad overview of the role of the police in democracies and ensuring that learners understand what democracies. The trainer can have the learners discuss briefly in buzz groups what democracy and guide them as they discuss in plenary so that the following essential elements are clear, that:

- democracy is linked to two ideals significant to law enforcement, namely the rule of law and the protection and promotion of human rights;
- in a democracy society, the police are expected to serve the people, respect the rule of law, and respect human rights, respect democratic principles; and
- law enforcement officials shall police effectively, with due regard to the law, and avoid rights violations such as arbitrary actions.

<sup>22</sup> *Ibid*, p.593.

<sup>23</sup> *Ibid*.

<sup>24</sup> Visualisation in Participatory Programmes: A Manual for Facilitators and Trainers Involved in Participatory Group Events, UNICEF, 1993, <https://www.google.com/search?q=VIPP%20method%20of%20training%20&spredirect=1&rdct=no>, 13/06/18.

<sup>25</sup> *Ibid*. VIPP rules are essential for the successful application of the technique. The trainer should ensure that the learners are clear on the rules e.g one idea per card; use key words instead of full sentences; use large letters if possible; write legibly; use the different sizes, shapes and colours of cards to creatively structure the results of the discussions.

## Module One:

# Fundamental Concepts in Human Rights and Policing



**Duration:** 120 minutes

**Aim:** To enhance learners' understanding of human rights in relation to policing in democracies.

### Objectives:

By the end of the lesson, learners should be able to:

1. define human rights and their key characteristics and categorisation and obligations arising from human rights;
2. speak to the major tenets of human rights;
3. outline the role and function of the police;
4. explain the relevance of international human rights standards to policing and how respect for human rights by police officers can enhance their effectiveness in policing;
5. define the terms legal conduct, ethical conduct and professionalism and explain how police officers are expected to conduct themselves; and
6. define democracy and democratic policing and outline the essential elements of democratic policing.

## Introduction

In the case of the role of police in elections, learners must appreciate from the outset the need for a balance between ensuring electoral security and maintenance of order on the one hand and the need for respect for rights, impartiality and non-interference with the electoral process on the other. The introduction should lead to a more detailed discussion as shown below.



## Session One: Understanding human rights

The presenter can use buzz groups or conduct a plenary discussion on what the they human rights are, their main characteristics and classification, and obligations arising from rights. He/she should then lead the discussion or make a presentation on which he/she imparts knowledge on the subject and ensure that any inaccuracies or misconceptions emerging from the buzz group or plenary discussion are corrected or clarified. The learners must fully grasp the following.

- every human has rights and may not be discriminated against in the enjoyment of rights and in the protection of his/her dignity;
- major characteristics of rights such as universality, non-discrimination, inter-relatedness and inter-dependence, and legal protection under international and national laws;
- that criminals, victims of crime, police officials, children, persons within disabilities, non-nationals, etc are, as human beings, all equally entitled to human rights;
- there are three main categories of human rights, namely civil and political rights, economic, social and cultural rights and the main features of each category;
- that it is civil and political rights that have a major bearing on policing and elections and which mainly get mainly affected by police powers;
- the major human rights obligations arising from international human rights law, namely respect, protect, fulfil and promote human rights, and the police officers must especially respect and protect human rights; and
- Sources of human rights i.e. human rights treaties (in the main), non-treaty human rights instruments and customary international law.

The trainer should provide a brief overview of the key human rights instruments in the UN and AU human rights systems and get the learners to give examples of substantive rights and how police officers can respect and/or protect those rights.



## Session Two: Tenets of human rights

This session requires impartation of substantive information some of which is technical. It may therefore be advisable for the teacher/trainer to make a presentation first, followed by a discussion in which he/she seeks to establish if the learners were able to follow and the learners have an opportunity to seek clarification. The following tenets of human rights must be clearly understood by the learners.

Equality and non-discrimination	They are at the heart of respect for and the promotion, protection of and fulfilment of all human rights in respect of all human beings
Right to life	It is inherent in every human being and non-derogable. Police officials have a duty to safeguard life. Arbitrary use or abuse of their powers can result in loss of life e.g. excessive use of force.
Equality before the law and equal protection of the law	Every person is equal before the law and must be equally protected by the law. Police officers have a duty to treat everyone equally and to protect everyone. They shall not consider anyone to be above the law
Liberty and security of person	Every person is entitled to liberty and security. Police officers may not arbitrarily arrest or detain people
Rights arrested and detained persons	<p>Upon deprivation of rights through arrest or detention, an arrestee or detainee should be informed at the time of arrest or detention of the reasons for his/her arrest or detention. An arrestee or detainee has the rights to communicate with one's lawyer. He/she has the right to take proceedings before a court for review of lawfulness of his/her arrest or detention. He/she must be promptly informed of any charges against him/her, be brought promptly before a court and be tried within a reasonable time or to release</p> <p>Police officers must at all times avoid arbitrary action and ill-treatment of arrestees or detainees</p>
Privacy	Every person is entitled to privacy and non-interference with family, home or correspondence. Police officers shall refrain from arbitrary interference with this right
Fundamental freedoms	The citizens are entitled to fundamental freedoms that include freedom of thought, freedoms of opinions and expression, freedom of association, and freedom of assembly. Police officers must not act arbitrarily or unduly interfere with the enjoyment of these freedoms
Humane treatment of persons deprived of their liberty	<p>All persons deprived of their liberty must be treated with humanity and with respect for their dignity as human beings. Detainees/prisoners are entitled to protections that include:</p> <ul style="list-style-type: none"> <li>• Accused persons shall, save in exceptional circumstances, be separated from convicted inmates;</li> <li>• Accused juvenile persons shall be separated from adults and be tried as speedily as possible;</li> <li>• Detention in custody pending trial shall be the exception rather than the rule;</li> <li>• Detainees are to be kept in humane facilities.</li> </ul>
Protection against torture, cruel or inhuman or degrading treatment or punishment	The prohibition of torture, cruel or inhuman or degrading treatment or punishment is absolute and not subject to limitation or derogation. Police officers should understand that even exceptional circumstances such as a state of war or a threat of war, internal political instability or any other public emergency, orders from superior officers or a public authority may not be invoked as a justification of torture

Human rights generally are not absolute and may be limited or derogated from in exceptional circumstances provided for by law e.g. in the interest of public safety, public order, public morality or defence, state of emergency or the protection of the rights of others. The trainer should however emphasise rights, not limitation

or derogation, and rights which may not be subject to limitation or derogation, such as the prohibition of torture.



### Session Three: The role of police in society

This is familiar territory to police officers so the trainer can start with a plenary discussion on what policing is and the role and function of the police. He/she may then proceed to make a presentation in which he/she sums up the contributions from the learners while ensuring that the following come out clearly:

- ÿ policing as the exercise of power in the formal structure of social control by which internal order is maintained;
- ÿ policing as both a preventive and reactive responsibility, as well as protection of the security of the community and the human rights of the individuals within the community;
- ÿ the main duties and functions of the police are to protect the public, to maintain law and order by preventing crime, and to bring to justice those who commit crimes;
- ÿ the police must be competent, impartial, diligent and efficient in the performance of their duties;
- ÿ the police should therefore instil confidence in the people they serve by respecting the law and their rights, and being sensitive to their needs and situation;
- ÿ police officials should be fully conversant with their duties and responsibilities, with the powers that they possess and how these should be exercise, in terms of the law and laid down procedures.



### Session Four: Policing and human rights

The trainer can start with a plenary discussion by asking the learners to share their views on the relation between human rights and policing. Take note of any misconceptions they might have about human rights and how they impact on policing, such as the following:



- ÿ Human rights advocacy are opposition politics in disguise
- ÿ Human rights place emphasis the protection of the rights of criminals (perpetrators of human rights violations) at the expense of victims of crime (victims of human rights violations)
- ÿ Human rights discourse does not address the rights of law enforcement officials
- ÿ Observing human rights makes investigations and procurement of evidence difficult
- ÿ Human rights ‘soften’ the police in an environment of hostile criminals
- ÿ Human rights are not police friendly and demoralise the police due to over-emphasis of the police as violators rather than protectors of human rights<sup>27</sup>

The trainer should then present on the relevance of human rights to policing and correct the misconceptions about human rights. He/she must show that human rights are an essential part of policing and help to increase effectiveness of the police by securing increased public trust and cooperation, reducing time for investigations, and increasing convictions.

The trainer should also provide an overview of some of the treaties and non-treaty instruments that are relevant to policing and give examples of the major human rights treaties that Zimbabwe is a party to. He/she should emphasise that the police are an important agency of the State that is involved in justice delivery and that it has a role to play in implementing human rights obligations arising from the treaties.

The trainer may conclude the discussion by asking the learners how respect for human rights by police officers can enhance their effectiveness in policing. He/she must highlight the following positive results, among others:

- ÿ it will build public confidence in the administration of justice system and in the police in particular and foster community cooperation;
- ÿ it will contribute to the peaceful resolution of conflicts and complaints;
- ÿ the prosecution of criminal cases is likely to be more successful;
- ÿ it can contribute to the fair administration of justice;
- ÿ it will bring the police closer to the community and thus put them in a position to prevent and solve crimes through proactive policing;



ȳ generally, the police will enjoy the support of the community and other stakeholders, such as the media, civil society, and the international community<sup>26</sup>.

## Session Five: Professional conduct

As this is an area that the learners might already be familiar with, the trainer could start by diving the learners into three groups and assign each group to discuss an aspect of professional conduct i.e. legal conduct, ethical conduct and professionalism. The groups can be asked to define these terms and to suggest how police officers must conduct themselves. In plenary, each group must be given an opportunity to present its views.

The trainer may then sum up the discussion while ensuring that the following is clear to the learners:

- ȳ police officers should respect and uphold the law and the rule of law;
- ȳ police officers should depict a standard of ethical conduct that is consistent with the positive values of the community they serve;
- ȳ the conduct of police officers should be exemplary and consistent with the demands of the profession. They should fulfil the duty imposed upon them by law and display a high degree of responsibility and integrity;
- ȳ police officers should strive for excellence in the performance of their duties and apply themselves diligently and skilfully in compliance with professional standards.



## Session Six: Policing in democracies

The trainer may start by asking the learners what their understanding of democracy and democratic policing is. It should come out clearly in the discussion that democracy entails the rule of law and the protection and promotion of human rights, ideals that must be upheld in policing. Democratic policing entails that the police must serve the people, maintain and secure the principles of democracy, respect human rights and maintain law and order. The trainer must also highlight essential elements of democratic policing that include representative, responsive and accountable policing and the need for them carry out their duties in a non-partisan, apolitical and neutral manner.

### Topics for discussion

- 1) Define human rights, the main characteristics, categorisation and obligations. To what extent and under what circumstances is the enjoyment of human rights limited or derogated from?
- 2) Explain the relevance of regional and international human rights standards to the protection and promotion of human rights in law enforcement.
- 3) Identify human rights standards that directly impact on the work of the police and suggest what police can do to observe human rights during the performance of their duties.
- 4) How does respect for human rights and the law enhance law enforcement?
- 5) What are the essential elements of the rule of law, democracy and democratic policing?

### Case study

A young woman walks into the charge office and tells a male police officer on duty that she is stranded and has no bus fare to go back to her rural home. The police officer tells the woman to wait for him to knock off duty so that he can arrange accommodation for her for the night at his house. After work they proceed to the police officer's house where the young woman is given a separate room to sleep. During the night, the police officer gets up and goes to the room where the woman is sleeping and joins her in bed. He pleads with the woman to have sex with him and promises to give her either a travel warrant or money for bus fare. Eventually the woman give in to his advances. Discuss the actions of the police officer in relation to ethical, legal and professional police conduct.



## Notes for the trainer

Ensure that the definition and characteristics of human rights fully understood by the learners.

Ensure that the learners have a good knowledge of the main human directly relevant to policing.

operation, reducing time for investigations and increasing convictions. are an essential part of policing and help

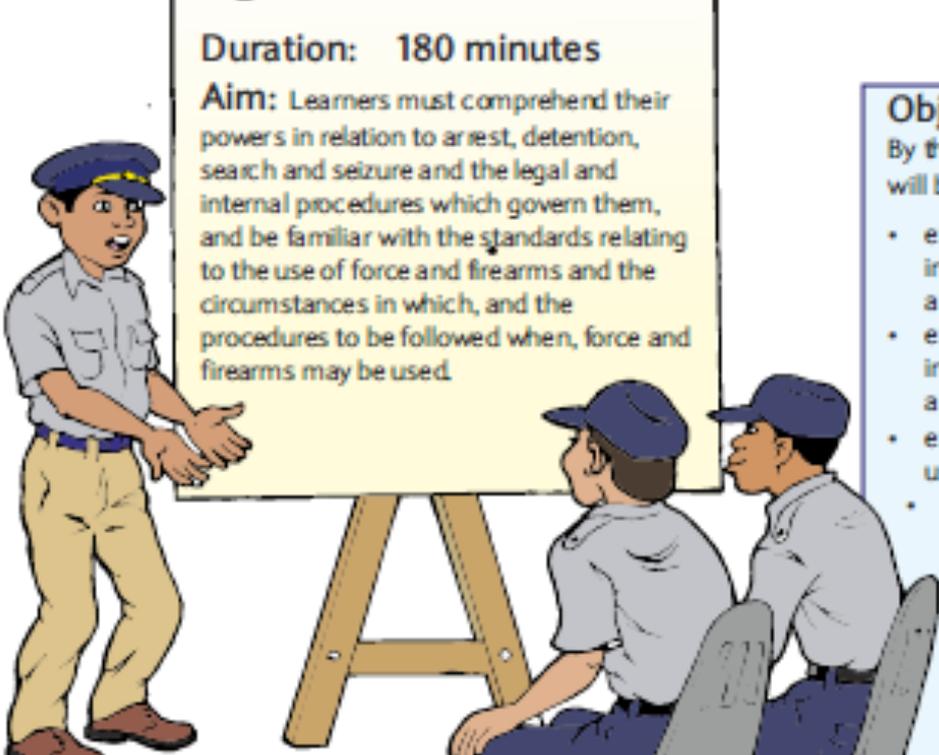
Ensure that the learners appreciate the importance of legal, ethical and professional policing.

Reiterate that

environment where there are various political parties.

## Module Two:

### Human Rights and Police Duties and Powers



**Duration:** 180 minutes

**Aim:** Learners must comprehend their powers in relation to arrest, detention, search and seizure and the legal and internal procedures which govern them, and be familiar with the standards relating to the use of force and firearms and the circumstances in which, and the procedures to be followed when, force and firearms may be used.

**Objectives:**  
By the end of the lesson, the learners will be able to:

- explain the regional and international standards on arrest and detention;
- explain the regional and international standards on search and seizure;
- explain the principles relating to the use of force and firearms;
- articulate the relevant provisions in the national law on arrest, detention, search and seizure, and use of force and firearms;
- appreciate that police powers directly impact on human rights and that these powers entail great responsibilities on the part of police officers;

- appreciate the need to balance police powers and respect for the law and human rights;
- appreciate that police officers should use force or firearms with restraint, and only in circumstances that justify such use and to the extent necessary to deal with the situation;
- understand that police officers may be held personally responsible for violations of human rights arising.

## Introduction

The trainer may introduce the subject by explaining that the duties and responsibilities of the police require that there must have certain powers if they are to efficiently and effectively carry out their duties and responsibilities. These powers include the powers of arrest, detention, search, seizure and use of force and firearms. The learners should at the outset be warned that there are certain human rights standards and procedures that must be adhered to by police officers when exercising these powers in the course of their duties, emphasis being on respect for and protection of human rights.

In addition to standards and procedures relating to use of police powers, it is also important for the learners to be familiar with standards and procedures relating to policing in times of tension, conflict and disorder.

Another important issue that learners should know is that police officers may be personally responsible for human rights violations and abuse of police powers.



## Session One: Police duties and powers

The police play an important role in the administration of justice and in maintaining law and order. This huge responsibility comes with immense powers that are capable of interfering with the fundamental rights and freedoms of the individual. The trainer may divide the learners into groups and get each group to discuss one of the powers of police and suggest how the powers can interfere with the enjoyment of rights and also how police officers can ensure that when they limit the enjoyment of fundamental rights and freedoms through the exercise of these powers, they do so within the confines of the law. The groups reconvene in plenary and make their presentations. The trainer may sum up the discussion by highlighting the need for police officers to pay due regard to the law and to human rights as they discharge of their duties and exercise their powers.



## Session Two: Police powers of investigation of crime

The trainer may start the session with a plenary discussion on purpose of investigating crime and the fundamental rights and principles that must guide the conduct of investigations. Learners should be able to bring out rights and principles that include the following:

- ÿ Everyone has the right to security of the person;
- ÿ Everyone is to be presumed innocent until proven guilty in a fair trial;
- ÿ No one shall be subjected to arbitrary interference with his/her privacy, family, home or correspondence;
- ÿ No one shall be subjected to unlawful attacks on his/her honour or reputation;
- ÿ No physical or mental pressure shall be exerted on suspects, witnesses or victims in attempting to obtain information;
- ÿ Torture and other inhuman or degrading treatment is absolutely prohibited;
- ÿ Victims and witnesses are to be treated with compassion and consideration;
- ÿ Sensitive information must be handled with confidentiality and care at all times;
- ÿ No one shall be compelled to confess or to testify against himself/herself;
- Investigations and related activities shall be conducted lawfully and with due cause;
- Arbitrary or unduly intrusive investigations and related activities are not permitted<sup>27</sup>.

The trainer may then make a presentation on the rules and procedures relating to the conduct of investigations as provided in international instruments, national law and internal procedures (the Participant Handbook will provide useful guidance). He/she should emphasise that effectively, ethically and lawfully conducted criminal investigation is an extremely important aspect of policing. An investigation should help to achieve a fair and speedy trial for an accused person.



## Session Three: Police powers of search and seizure

The learners will probably already be familiar with the fact that search and seizure is one of the investigating tools at the disposal of police. They are, however, interferences with the rights to privacy and property. The learners can be asked to explain under what circumstances they can justify search or seizure i.e. under what circumstances does international law and/or national law allow police officers to conduct searches or to seize property? The trainer should guide them to ensure that they fully appreciate that the rights to privacy and property under international and national laws protect persons' rights from undue interference with privacy of their person, correspondence, property and reputation, and that therefore searches and seizures should only be resorted to in exceptional cases.

The rights to privacy and property will already have been discussed under Module One, so the trainer may simply provide a re-cap and then go on to discuss how searches and seizures may be conducted in line with international and national standards as outlined in the Participant Handbook. It must be clear to the learners that interference with privacy and property must be strictly legal and necessary for legitimate law enforcement purposes. Police officers must be especially careful in the case of searches without warrant, searching of persons and where the use of force is involved.



## Session Four: Police powers of arrest and detention

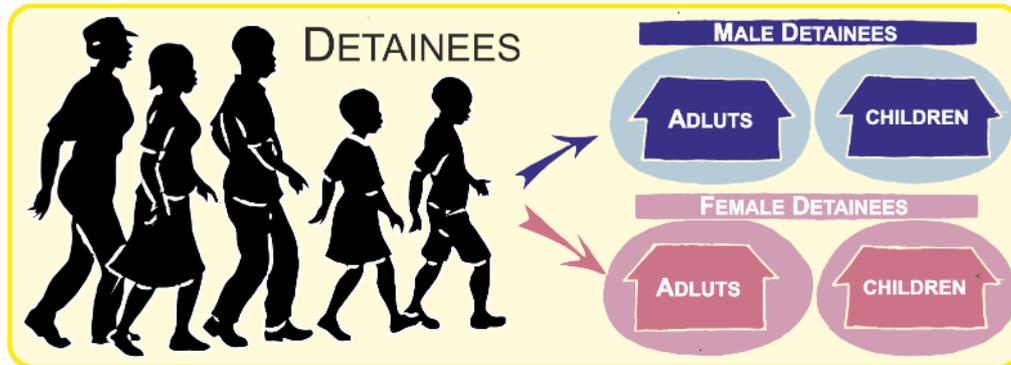
The lesson may start with a discussion on purposes of arrest and detention in law enforcement. The trainer must ensure that the learners understand that the principle of individual liberty is one of the essential core principles of international human rights law and that deprivation of liberty is a serious matter which can be justified only when it is both lawful and necessary. Move on to discuss the fundamental rights principles that should guide police officers when effecting arrest and when detaining a suspect.

Rights and principles guiding arrest:

- ÿ Everyone has the right to liberty and security of the person;
- ÿ No one should be subjected to arbitrary arrest - no one should be deprived of his/her liberty except on

<sup>27</sup> Many of these rights and principles are provided for in the Constitution and in international standards. See also Human Rights and Law Enforcement, A Trainers Guide on Human Rights for the Police, *op cit*, pp.56-57.

- grounds and in accordance with procedures are established by law;
- Arrestees should be informed at the time of the arrest of the reasons for their arrest;
- Arrestees should be promptly informed of any charges against them;
- Arrestees should have the right to appear before a judicial authority for the purpose of having the legality of arrest reviewed without delay and to release if the arrest is found to be unlawful;
- Arrestees have the right to trial within a reasonable time or to release;
- Arrestees should have access to a lawyer or other legal representative and adequate opportunity to communicate with that lawyer or representative<sup>28</sup>.



#### Rights and principles guiding detention:

- Pre-trial detention shall be the exception rather than the rule;
- All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person;
- Everyone charged with a penal offence shall be presumed innocent until proved guilty;
- No detainee shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment or to any form of violence or threats;
- Detained persons shall be held only in officially recognised places of detention and their families and legal representatives are to receive full information;
- In places of detention, juveniles are to be separated from adults, women from men and unconvicted persons from convicted persons;
- Decisions about the duration and legality of detention are to be made by a judicial or equivalent authority;
- Detainees shall have the right to be informed of the reason for detention and any charges against them;
- Detainees have the right to contact with the outside world and to visits from family members and the right to communicate privately and in person with a legal representative;
- Detainees shall be kept in humane facilities designed to preserve health and shall be provided with adequate food, water, shelter, clothing, medical services, exercise and items of personal hygiene;
- The religious and moral beliefs of detainees shall be respected;
- Every detainee shall have the right to appear before a judicial authority and to have the legality of his/her detention reviewed;
- The rights and special status of women and juvenile detainees are to be respected;
- No one shall take advantage of the situation of a detained person to compel him to confess or otherwise incriminate himself/herself or another person; and
- Measures for discipline and order shall only be that set out in law and regulations shall not exceed those necessary for safe custody and shall not be charges<sup>29</sup>.

The trainer should also take the learners through the rights of arrestees and detainees and when arrests can be effected without warrant, as provided in the Participant Handbook. He/she must emphasise that police officers should avoid dragnet arrests, taking a suspect's spouse or relative as inducement for the suspect to present himself/herself to the police and arresting suspects in order to investigate. A police officer should have an independent opinion of the matter before he/she arrests and detains a suspect. A police officer must not arrest a suspect in order to investigate a matter, rather he/she should only effect an arrest where he/she has reasonable suspicion of commission of an offence (*Manjoro v Minister of Home Affairs and Others* HH-153-18).

<sup>28</sup> These are provided for in the Constitution. See also international standards such as the UDHR and ICCPR.

<sup>29</sup> Many of these rights and principles are provided for in the Constitution and in regional and international standards such as the ACHPR, UDHR, ICCPR and the Body of Principles for the Protection of all Persons under Any Form of Detention or Imprisonment, 1988.



## Session Five: Police powers of use of force and firearms

The trainer may start by emphasising the importance of the right to life and the need to respect and protect this right. The arbitrary use force or firearms by police officers can seriously imperil this right, thus use of force and firearms should be exceptional, under clearly defined and controlled circumstances.

Learners may then be invited to suggest the circumstances under which the use of force or firearms may be permissible. In the discussion the trainer must ensure that learners are fully aware that police officers may only use force if it is reasonably necessary under the circumstances for the prevention of crime or in effecting or assisting in the lawful arrest of offenders or suspected offenders and that no force going beyond what is reasonable and necessary may be used. The learners must also fully understand the fundamental principles of necessity, proportionality, legality and accountability (PLAN), which must be fully observed by police officers when they use force and firearms are. These principles are fully explained in the Participant Handbook. It must be clear to the learners that the police shall use non-violent means first, and only resort to force if this is strictly necessary. Where weapons are necessary, the police should ensure use of non-lethal weapons and use self-defensive equipment such as shields, helmets, batons and bulletproof vests. The use of force and firearms shall be strictly controlled and restraint must be exercised by police officers.

The learners must in particular be fully conversant with the Basic Principles on the Use of Force and Firearms by Police Officials. They should be familiar with procedures for the use of firearms, such as:

1. clearly identifying oneself as a police officer;
2. giving a clear warning of intention to use firearms;
3. giving sufficient for warning to be heeded;
4. firing warning shots;
5. if that fails, shooting to injure, disable or maim;
6. if that fails too, shooting to kill if killing is necessary, lawful and justifiable in the circumstances.

Golden rules to be heeded by police officers in the use of firearms:

1. never use firearms when it is possible to achieve your objective by other means;
2. ever use a firearm after the objective has been achieved;
3. If in doubt do not fire.



## Session Six: Policing in times of tension, conflict and disorder

The trainer may start by explaining that the police may sometimes have to carry out their duties in times of tension, conflict or disorder. While it is the responsibility of the police to maintain public order with due regard to human rights, respecting and protecting human rights is difficult during armed conflict or civil disorder, especially where measures to restrict or suspend human rights have been imposed by the State and force or firearms have to be resorted to by the police to restore law and order and peace. The learners must nonetheless appreciate that the police remain obligated to respect and protect non-derogable rights at all times and to comply with measures which remain for the protection of the other human rights affected by the restriction or suspension. Since the police may resort to use force and firearms in dealing with civil disorder or conflict, knowledge of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials will be most useful.

The trainer may then move on to lead a discussion on the applicable rules and principles of international human rights law and international humanitarian law. The learners must remember that despite the exceptional circumstances, the people are entitled to participate in lawful and peaceful assemblies, that in the dispersal of non-violent unlawful assemblies, police officers shall avoid the use of force and that if they do, it shall be restricted to the minimum extent necessary and that when dispersing violent assemblies, police officers may use firearms only when less lethal means are not practicable and only to the minimum extent necessary.

The trainer should ensure that the learners are made familiar with the following fundamental principles that apply to situations civil disorder, states of emergency and armed conflicts.

### Civil disorder:

- all measures for the restoration of order shall respect human rights and achieved without discrimination. Any limitations on the enjoyment of rights must be lawful;
- any action taken, and any limitations on rights, shall be solely for the purpose of securing respect for the rights and freedoms of others, and of meeting the just requirements of morality, public order and the general welfare;
- there must not be any derogation from the rights to life, the prohibition of torture, the prohibition of slavery

- ÿ non-violent means must be used before resorting to the use of force. Force must be resorted to only when strictly necessary and, if resorted to, it shall be used only for legal law enforcement purposes and the force must be proportional to the legal law enforcement objectives. Every effort must be made to minimise damage and injury and a range of differentiated use of force must be available;
- ÿ there must not be unnecessary limitation on the rights to assembly, association, movement or free speech;
- ÿ the independence of the judiciary must be maintained; and
- all wounded or such other affected persons must be cared for immediately<sup>30</sup>

#### States of emergency:

- ÿ states of emergency may only be declared, officially, in conformity with the law. They may only be declared when a public emergency threatens the life of a nation and where ordinary measures are clearly inadequate to address the situation);
- ÿ any exceptional measures must be strictly required by the exigencies of the situation and such measures must not be inconsistent with other requirement under international law;
- ÿ the exceptional measures shall not be discriminatory and there shall not be limitation on the right to life, the prohibition of torture and other cruel, inhuman or degrading treatment or punishment, the prohibition of slavery, or the prohibition of imprisonment for failure to fulfil a contractual obligation; and
- no-one may be held guilty of any criminal offence, which was not an offence at the time it was committed, and no one may be subjected to a heavier penalty than that which was applicable at the time the offence was committed<sup>31</sup>

#### Armed conflicts:

- ÿ during armed conflicts and occupation police are considered non-combatants;
- ÿ human law applies in all situations of armed conflict;
- ÿ the principle of humanity must be safeguarded in all situations;
- ÿ persons suffering from the effects of armed conflicts must be aided and cared for without discrimination;
- ÿ prohibited acts include murder, torture, cruel or degrading treatment, corporal punishment, mutilation, hostage taking, collective punishment and executions without trial.
- reprisals against the wounded, sick, medical personnel, prisoners of war and civilians are prohibited<sup>32</sup>

## Session Seven: Remedies for neglect of police duties or abuse of police

### powers

The learners should appreciate that failure to perform their duties or abuse of their power can result in individual responsibility, in addition to the right of aggrieved persons to proceed against the State. The trainer should take the learners through some of the international and national standards, such as:

ICCPR (art.9(5))	Victims of unlawful arrest or detention have an enforceable right to compensation
Body of Principles for the Protection of all Persons under any Form of Detention or Imprisonment (principle 35)	Compensation shall be paid for damage incurred and caused by acts or omissions by a public official contrary
CAT (art.13)	Victims of torture are entitled to a prompt and impartial investigation
CAT (art.14)	Victims of torture are entitled to redress and have an enforceable right to fair and adequate compensation, including rehabilitation as possible
Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (principle 8)	Offenders or third parties responsible for their behaviour should, where appropriate, make fair restitution to victims, their families or dependants

<sup>30</sup> Human Rights and Law Enforcement, A Trainer's Guide on Human Rights for the Police, *op cit*, p.133.

<sup>31</sup> The Constitution provides for some of these guarantees. See also international standards such as the ICCPR.

<sup>32</sup> See for example the Geneva Conventions and their Additional Protocols.

Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (principle 11)	Where public officials or other agents acting in an official or quasi official capacity have violated national criminal laws, the victims should receive restitution from the State
Constitution (s.50(9))	Any person who has been illegally arrested or detained is entitled to compensation from the person responsible for the arrest or detention



### Topics for discussion

1. How can police officers effectively communicate with persons with hearing or visual impairments or such other disabilities?
2. Discuss the suggestion that the use of torture, assault or such other means of inflicting of pain on a suspect is sometimes helpful in securing valuable information or even a confession, especially in the case of serious offences.
3. List and explain the statutory provisions governing police powers in respect of personal searches and searches of premises.
4. List and explain the statutory provisions governing police powers to intercept correspondence and other communication.
5. What do you think is the relevance of the fundamental principles governing the treatment of detainees?
6. Discuss the possible methods of dispersing riotous mobs without the use of firearms.
7. What is the correct procedure to be followed before, during and after the use of firearms when controlling crowds?
8. Outline the ZRP Incident Management Procedure and the ZRP planning process. Discuss the command roles, structures and responsibilities.

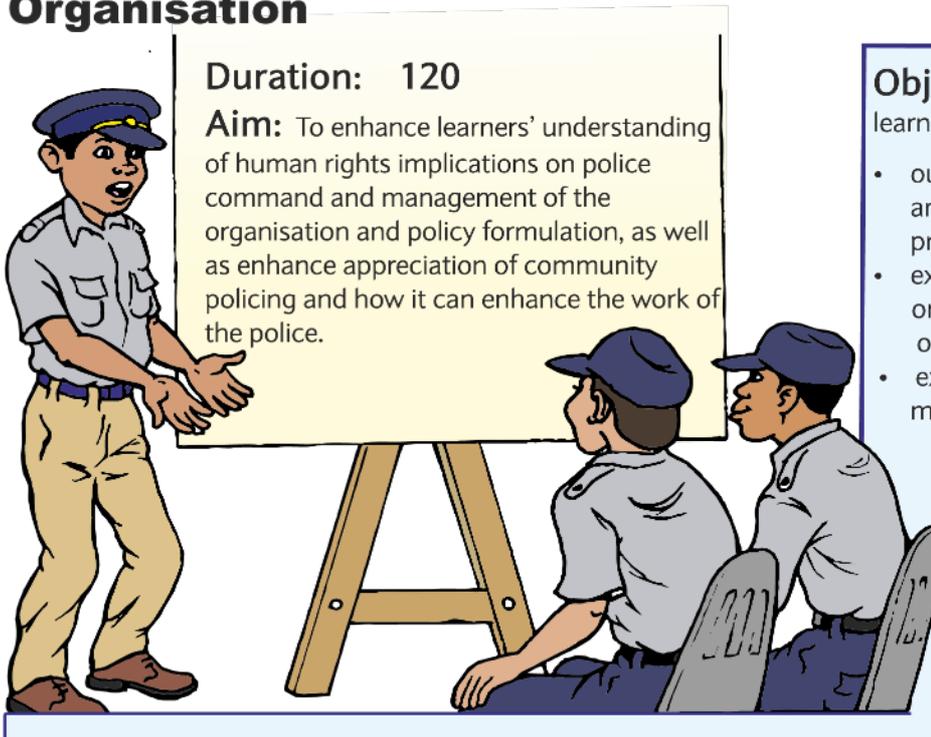
### Case studies

- a. Police officers on patrol arrive at a neighbouring shopping centre which houses a bottle store. There are many people milling around either inside or outside the bottle store, some of whom appear to be drinking beer, which is prohibited by law. They proceed to round up everyone inside and outside the bottle store and load them in their police truck. They take them to the police station where the Officer in Charge orders that they should all pay a fine for drinking beer in a prohibited place, failing which they are to be kept in police cells until their friends or relatives come to pay their fines for them. Discuss.
- b. X's husband allegedly commits fraud at his workplace and disappears. The police officer assigned to investigate the case goes to his house and picks up X and takes her to the police station where he confines her to the witness quarters in the hope of baiting her husband to present himself at the police station. X is on medication and needs to take her medicine from time to time but the investigating officer will not allow her to return home to collect her medicine, arguing that if her husband really cares about her he will quickly give himself so that she is allowed to go home. What are the legal implications of the police officer's actions and those of his superiors at the police station? Which rights, if any, have been violated? What legal options are available to X?
- c. P is alleged to have committed the crime of murder but she denies the allegations. However, after being blindfolded and severely beaten, P confesses to the crime. She is taken to court where she complains that she confessed to the crime under duress. Should the court convict her on the basis of the confession? How should the police deal with the matter?



## Module Three:

# Human Rights in Police Command, Management and Organisation



**Duration:** 120

**Aim:** To enhance learners' understanding of human rights implications on police command and management of the organisation and policy formulation, as well as enhance appreciation of community policing and how it can enhance the work of the police.

**Objectives:** By the end of the lesson, learners should be able to:

- outline the fundamental principles that are essential to the protection and promotion of human rights in policing;
- explain the human rights implications on police command and management of disciplinary matters;
- explain how human rights may be mainstreamed in policy formulation within the police service in ways that ensure that human rights are expressly protected and reflected in all aspects of policing;
- define community policing and articulate some of the principles and strategies of community policing.

## Introduction

The trainer may introduce the lesson by explaining that for the police to respect and uphold human rights when dealing with the public, observance of human rights should start within the police service itself. If rights are not respected within the service, it cannot be expected that police officers will be able to respect the rights of the people they are expected to police, especially those that break the law. The police command should therefore encourage and develop a culture of human rights within the service. One way of developing a culture of human rights in the police service is to integrate human rights in policy formulation and development of strategic plans so that human rights are expressly protected and reflected in all aspects of policing.

The trainer should also explain the need for police commanders and their subordinates appreciate the need for police to liaise and work closely with communities and how, apart from making more efficient the fight against crime, community policing can help enhance respect for and the protection of human rights by the police.



## Session One: Human rights and police command and management

This session could start with a brief discussion in which the trainer invites the learners to suggest how police command can facilitate the inculcation of a rights culture within the police service in order to promote the observance of human rights within the service itself so that the same culture may be extend to service by police officers in the community. The trainer should guide the discussion to touch on critical issues that include the following.

<b>Fundamental principles</b>	<p>The fundamental principles that are essential to the promotion and protection of human rights within and by the police: respect for and obedience to the law; respect for the inherent dignity of a human person; respect for human rights</p> <p>The police service should be commanded and managed in accordance with the principle of responsibility - police officers must be personally responsible for their own acts or omissions in the performance of their duties while police commanders should also be vicariously responsible for the acts or omissions committed in the scope and course of duty by members under their command</p>
-------------------------------	--

Recruitment and training	<p>Police commanders should ensure that there is in place a clear recruitment policy/guideline that ensures that every citizen who is eligible and qualified to join the police service is given the opportunity to do so</p> <p>The police service to develop or strengthen screening processes for new recruits and procedures for periodic assessment of all officers to determine suitability and appropriateness of character for law enforcement duties</p>
Professional ethics	<p>Police commanders should establish and maintain high professional ethics within the police service e.g. leading by example, good management and command practice, ensuring that all police officers are accountable to the law and to any internal discipline codes, setting out ethical standards in a code of practice or standing orders</p>
Management responsibilities	<p>Police commanders should be held responsible if they know or should have known that police officers under their command are resorting or have resorted to unlawful use of force or firearms and they have not taken any action against it</p> <p>No criminal or disciplinary sanction is imposed on police officers, who in compliance with international and national standards, refuse to obey unlawful superior orders e.g. to use force/firearms or torture</p>
Systems for command and management	<p>Police commanders should ensure responsive and accountable policing e.g. through establishing and maintaining systems within the service that enable communication between the police and the community at a local level</p> <p>Police commanders should put in place effective internal monitoring and supervisory systems to ensure that police investigations gather and present evidence to prosecuting authorities in an entirely proper manner, with due regard to human rights</p> <p>Police commanders should constantly review systems pertaining to the storage and issuing of firearms, reporting systems following the use of firearms, and reporting and reviewing procedures when death or injury is caused by police use of force and firearms</p>
Human rights implications for command and management of discipline in the police service	<p>Police commanders are responsible for the management and preservation of discipline within the service. This must be undertaken with due regard to the principles of natural justice and the fundamental rights of the police officers - police officers have rights too</p> <p>Early and decisive action should be taken against indiscipline - whenever there is a breach of discipline in the service, the breach should be investigated as soon as possible</p>



## Session Two: Human rights implications on policy formulation

The trainer may start the session by recapping that obligations arise under international human rights law and the Constitution for the State to respect, protect, promote and fulfil human rights. In terms of the Constitution, every institution and agency of the government at every level have these obligations and must fulfil them (s.44, Constitution). The learners must especially understand that ZRP, as an institution of the government, is also seized with this obligation. For example, the police may protect human rights by, inter alia, investigating crime and bringing to justice those responsible for committing crime.

One way of ensuring that the ZRP is able to play its role in implementing human rights obligations is to develop policies that mandate and compel the service to comply these obligations. The trainer at this point may divide the learners into manageable groups and ask them to come up with proposals on what these policies could address in order to achieve the intended objective. When the groups report back in plenary, the trainer should ensure that the following issues, among others, are brought out in the discussion:

- Y the policies must be developed in such a way that human rights are expressly protected and they are mainstreamed into all aspects of policing;
- Y planning and policy-making process ideally should be done through consultation with a view to increasing awareness of strategic plans and policies and ensuring greater acceptance of the strategic plans and policies by members of the service;
- Y police policies should set a framework for police decision-making and conduct that requires, and seeks to ensure, human rights compatibility in all areas of police work;

- Y clarity on the human rights standards against which the performance of the police can be monitored and measured - the principles of equality and non-discrimination, and gender equality and equity must be at the fore.



## Session Three: Community policing

The session could start with a plenary discussion on what community policing is and, in the case of serving members of the service, what the learners experience is and whether they have seen any advantage in it. The contributions of the learners can be captured on a board or flip chart to enable the trainer to refer to them as he/she guides the learners during the course of the lesson. Such guidance may include the following:

- Y community policing being about consultation and collaboration between the police and local communities on policing issues that affect the community, and how this helps to minimise mistrust and animosity between communities and the police and to increase public confidence in the police;
- Y community policing is based on the premise that partnerships between police and communities helps to increase public safety and reduce crime - it is built on the foundations of community building and problem solving;
- Y principles of community policing - service orientation, partnership, problem solving, accountability and empowerment - as discussed in the Participant Handbook (subsection 3.3.2);
- Y strategies that the police can employ to strengthen their relations with the communities - responsiveness, consultation, problem solving and mobilisation - as discussed in the Participant Handbook (subsection 3.3.3).



The trainer should ensure that the learners appreciate that community policing as an essential aspect of modern policing and crime prevention has already been embraced by the ZRP, whose community policing initiative is centred on the need to create trust between the police and the community. Learners may be asked to discuss in plenary the contribution of Community Relations Liaison Officers to the community policing initiative and how crime prevention groups and strategies to help build relations and confidence between the police and the public e.g. the neighbourhood watch scheme, crime consultative committees, police posts and bases, suggestion boxes and hot lines, beat patrol, and sensitisation and awareness raising. In the case of recruits, these issues may be unfamiliar territory, so the trainer may have to make a presentation first and then consolidate with a discussion.

### Topics for discussion

1. Discuss the importance of developing purposes and objectives of a police organisation and emphasising the inclusion of promotion and protection of human rights in such statements
2. Discuss the role of police commanders in establishing and maintaining high professional ethics within a police organisation
3. What is the distinction between lawful and unlawful orders in the police organisation?
4. Identify and explain mechanisms which should be put in place by governments and law enforcements agencies pertaining to reporting and reviewing procedures of all incidents involving use of force and firearms
5. Explain the human resources fundamental principles which must be taken into account when formulating a police organisation long term plans and broad policy. What mechanisms could be put in place to ensure proportionate representation of all segments of the community in a police organisation's ranks?
6. Discuss the importance of involving the community in the work of a police organisation.

### Case studies

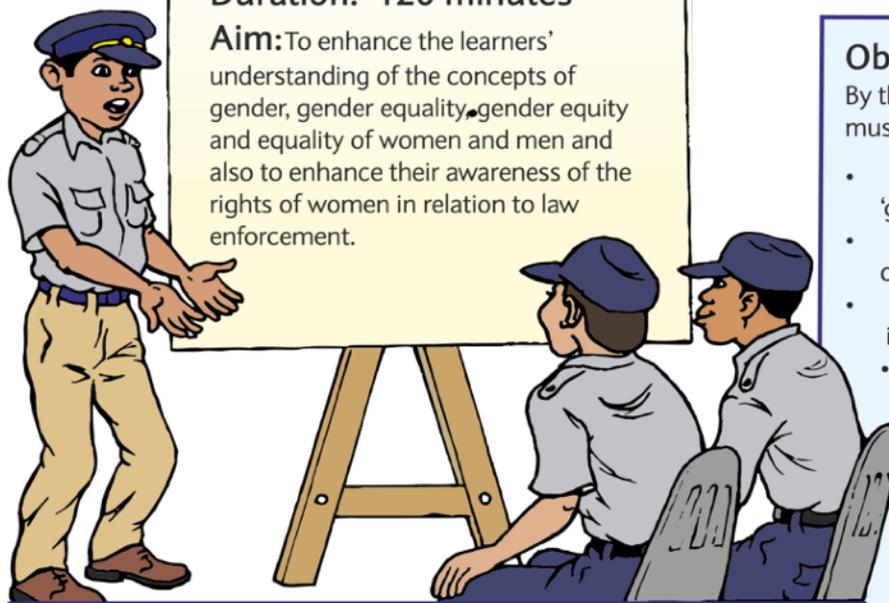
- a. Constable X is ordered by Y, a Member of Parliament, to arrest Z a political rival. Constable X refuses and tells

the MP to arrest Z himself. Constable X's Officer Commanding assures the Member of Parliament that disciplinary action will be taken against Constable X. Comment on the lawfulness of the order given by the Member of Parliament and on the Officer Commanding's promised course of action.

- b. One police commander was heard saying, "This talk by non-governmental organisations about human rights in the police service is only meant to usurp the powers given to the police by the law". Do you agree with this statement? Discuss the implications of this statement and give reasons for your answers.
- c. The Officer Commanding a district is monitoring radio transmissions of police officers who are on duty at one of the universities where students have threatened to march into the city centre in demonstration against alleged failure by Government to address their grievances. She instructs the officers on the ground to use tear smoke to disperse a group of students which has congregated with a view to go on the march. Upon that instruction the university campus is sealed and the students are teargassed. The tear smoke affects even those students who had been minding their own business in their rooms. Is a subsequent complaint by students on alleged police brutality justified?

## Module Four:

# Gender, Women and Law Enforcement



Duration: 120 minutes

**Aim:** To enhance the learners' understanding of the concepts of gender, gender equality, gender equity and equality of women and men and also to enhance their awareness of the rights of women in relation to law enforcement.

### Objectives:

By the end of the lesson the learners must be able to:

- define the terms 'gender', 'gender equality' and 'gender equity';
- explain the principle of equality of women and men;
- articulate the rights of women in relation to law enforcement;
- articulate the human rights issues relating to women in law enforcement.

## Introduction

The trainer can kick off the lesson by distributing work cards and markers to the learners and asking them to write down their understanding of the terms 'gender', 'gender equality', 'gender equity' and the principle of equality of men and women. Invite them to read out their answers. Alternatively, such as on account of resource constraints, the trainer may straight away have the learners share their answers while writing down the answers on a board or flip chart.

The trainer may then facilitate a discussion in which he/she supplements and/or corrects the answers given by the learners, and where appropriate, refer to relevant international instruments and national law in which relevant definitions are given. It should be clear to the learners that:

- 'gender' is the roles, duties and responsibilities which are culturally or socially ascribed to men, women, girls and boys<sup>33</sup> - it is about social attributes and opportunities associated with being male and female, and the relationships between women and men and girls and boys, and relations between women and between men. The attributes, opportunities and relationships are socially constructed and are learned through socialisation processes, that is through interaction with others<sup>34</sup>;
- 'gender equality' is the equal enjoyment of rights and the access to opportunities and outcomes, including resources, by women, men, girls and boys - it entails equal access to goods, services, resources and opportunities in all spheres of life for both men and women. The interests, needs and priorities of both women and men are taken into consideration<sup>35</sup>;
- 'gender equity' means fairness and justice in the distribution of benefits, power, resources and responsibilities between women and men. Gender equity recognises that women and men have different needs, power and access to resources, and that these differences should be identified and addressed in a manner that rectifies the imbalance between the sexes<sup>36</sup>;
- equality of women and men refers to the equal right of women and men to the enjoyment of all human rights and to equal participation in political, social, economic, cultural and other spheres of life.

The trainer should also explain the need for gender equality to be mainstreamed in all laws, institutions (including the police), policies, programmes and activities in order to address the unequal treatment of individuals based on their sex. Ensure that learners also understand that governments are required by international and national standards to advance non-discrimination, promote equality between men and women and gender equality, and ensure that men and women equally enjoy all human rights. These principles are embedded in human rights treaties and the Constitution<sup>37</sup>.

<sup>33</sup> Art.1 of the SADC Protocol on Gender and Development.

<sup>34</sup> UNFPA and Harvard School of Public Health, A Human Rights-Based Approach to Programming, Practical Information and Training Materials, UNFPA, 2010, [www.unfpa.org/webdav/site/global/.../hrba/hrba\\_manual\\_in%20full.pdf](http://www.unfpa.org/webdav/site/global/.../hrba/hrba_manual_in%20full.pdf), Module 5 (p. 205).

<sup>35</sup> See art.1 of the SADC Protocol on Gender and Development and UNFPA and Harvard School of Public Health, A Human Rights-Based Approach to Programming, Practical Information and Training Materials, *op cit*.



## Session One: Rights of women in relation to law enforcement

There are number of human rights treaties and non-treaty instruments which provide for equality between women and men in the enjoyment of all human rights (e.g. the UDHR, ICCPR, ICESCR, CEDAW and the African Women's Protocol). These instruments also contain provisions that have a direct relevance to policing.

The trainer should explain that despite the existence of these international standards, women's human rights continue to be violated in a variety of ways, largely on the basis of their gender. Invite the learners to suggest some of these violations and how police officers can deal with violations of a criminal nature. The discussion can then focus on the following in relation to the rights of women and law enforcement.

- Ÿ The principles of equality and non-discrimination as discussed under Module One;
- Ÿ The entitlement of women to equal enjoyment of all human rights, including public and political participation as discussed under Module One;
- Ÿ Violence against women in all its forms is criminal and violates the rights of women;
- Ÿ Police officers shall exercise due diligence to prevent, investigate and facilitate prosecution all acts of violence against women, whether perpetrated by public officials or private persons, in the home, the community or official institutions;
- Ÿ Police officers shall take action to prevent the victimisation of women, and shall ensure that re-victimisation does not occur as a result of omissions or gender insensitive on their part;
- Ÿ Arrested or detained women shall be protected from discrimination and all forms of abuse, violence or exploitation;
- Ÿ Female detainees may only be supervised and searched by female officers and staff. Women shall be detained separately from male detainees;
- Ÿ Pregnant women and nursing mothers shall be provided with special facilities in detention<sup>38</sup>.

The trainer should take the learners through the principles, rights and obligations that relate to policing violence against women, the treatment of female detainees, policing human trafficking and protection of women in time of conflict as provided in the Participant Handbook and as further guided below.



## Session Two: Standards on law enforcement and the rights of women

This session is fairly technical so ideal the trainer must make a presentation first and then have a plenary discussion where the learners have an opportunity to ask questions and the trainer to probes them so that they fully understand the issues. Issues to be covered in the presentation include the following.

### General aspects of human rights of women and law enforcement

The following rights and principles which derive from international and national law should be upheld all the time by all police officers in the exercise of their duties:

- Ÿ all persons, including women, are equal before the law and are entitled to equal protection<sup>39</sup>;
- Ÿ all persons are innocent until proven guilty and are entitled to a fair trial;
- Ÿ all persons in police custody or detention shall receive humane treatment;
- Ÿ all persons have the right to freedom of movement, expression and association and to protection against arbitrary arrest or detention;
- Ÿ all persons are entitled to freedom of thought, conscience, opinion and religion; and
- Ÿ women are entitled to protection from discrimination, manifesting for instance through gender violence.

### Specific provisions of human rights of women and law enforcement

Discrimination against women violates the principles of equality of rights and respect of human dignity. International and national standards relevant to policing and law enforcement include:

- Ÿ adoption of temporary special measures aimed at accelerating de facto equality between men and womn i.e. positive discrimination or affirmative action (CEDAW (art.4), SADC Protocol on Gender and Development (art.5)). Law enforcement agencies could adopt such measures in relation the recruitment or advancement of female officers<sup>40</sup>;

<sup>38</sup> Human Rights and Law Enforcement, A Manual on Human Rights Training for the Police, *op cit*, pp124-5.

<sup>39</sup>Art.8 of the African Women's Protocol makes explicit provision for equality between men and women before the law and the right to equal protect and benefit of the law.

<sup>40</sup>Art. 8 of the African Women's Protocol provides that women must be represented equally in the judiciary and law enforcement organs.

- ✓ integrating a gender perspective in policy decisions, legislation, development plans, programmes and activities and in all other spheres of life (African Women's Protocol (art.2));
- ✓ taking corrective and positive action in those areas where discrimination against women in law and in fact continues to exist (African Women's Protocol (art.2)) e.g. enrolment, deployment, training, work environment, etc that tends to favour male officers;
- ✓ women's right to dignity (African Women's Protocol (art.3), Constitution (art.51)) e.g. body searches of female suspects to be conducted by female officers, in private;
- ✓ suppression all forms of trafficking in women and exploitation of prostitution of women (CEDAW (art.6), African Women's Protocol (art.4)) (in relation to prevention, investigation and prosecution of traffickers or abusers or exploiters of women in sex work);
- ✓ respect for women's right to life, integrity and security person. Protection includes prohibition and prevention of all forms of exploitation, cruel, inhuman or degrading punishment, and all forms of violence against women (including unwanted or forced sex) (African Women's Protocol (art.4));
- ✓ prohibition of harmful practices such as female genital mutilation (African Women's Protocol (art.5), Constitution (s.80(3))).

Law enforcement agencies are required to ensure that police officials at all levels are equipped to effectively interpret and enforce gender equality rights (African Women's Protocol, art.8).

### Policing violence against women

The trainer should define two terms relevant to policing violence i.e. gender-based violence (GBV)<sup>41</sup> and violence against women<sup>42</sup>, which both are serious violations of human rights. He/she should then explain the role of police in securing the protection of women and other victims of violence. The trainer should be guided by instruments such as the Declaration on the Elimination of Violence against Women, 1993<sup>43</sup>, which has been discussed in the Participant Handbook (see subsection 4.3.2).

Women must also be protected against harmful practices<sup>44</sup>.

### Treatment of female detainees

Since the general principles relating to the treatment of and

the rights of detainees generally and the treatment of female detainees in particular will already have been discussed under Module Three, the trainer should simply re-cap together with the learners.

### Policing trafficking in persons

The trainer should explain that human trafficking or trafficking in persons<sup>45</sup> results in serious human rights violations which affect especially women and children. He/she can give examples of some of the rights that are violated human rights (such as protection against slavery and servitude, the right to liberty and security of the



38

<sup>41</sup> Gender-based violence refers to acts perpetrated against women, men, girls and boys on the basis of their sex which cause or can cause physical, psychological, sexual, emotional or economic harm (art.2, SADC Protocol on Gender and Development). Such may be perpetrated in public, in the home or in the workplace and includes sexual harassment at work and domestic violence in the home.

<sup>42</sup> The Declaration on the Elimination of Violence against Women suggests that violence against women "is a manifestation of historically unequal power relations between men and women, which have led to domination over and discrimination against women by men and to the prevention of the full advancement of women, and that violence against women is one of the crucial social mechanisms by which women are forced into a subordinate position compared with men". See also art.1 of the African Women's Protocol which defines violence against women as all acts perpetrated against women which cause or could cause them physical, sexual, psychological, and economic harm, including the threat to take such acts.

<sup>43</sup> UN General Assembly resolution 48/104 of 20 December 1993.

<sup>44</sup> 'Harmful practices' are all behaviour, attitudes and/or practices which negatively affect the fundamental rights of women and girls, such as their right to life, health, dignity, education and physical integrity (art.1, African Women's Protocol).

<sup>45</sup> Human trafficking is "the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs" (Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children, Supplementing the UN Convention against Transnational Organised Crime).

person, freedom of movement, the right to privacy, the right to education, the right to health, and the right to just and favourable conditions of work) and go on to list some of the standards on anti-trafficking.

Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, 1948	Seeks to address the problem of prostitution and ‘the accompanying evil of the traffic in persons for the purpose of prostitution’ (preamble)
CEDAW	Governments should take measures to suppress all forms of traffic in women and exploitation of prostitution of women (art. 6)
African Women’s Protocol	Governments should take measures to prevent and condemn trafficking in women, prosecute perpetrators and protect those women most at risk (art. 4)
ACRWC	Governments should take measures to prevent the abduction, the sale of, or trafficking in children for any purpose or in any form, by any person (including parents or legal guardians of the child), and to prevent the use of children in all forms of begging (art.29)
CRC	Governments should take measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form (art.11)
Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children, Supplementing the UN Convention against Transnational Organised Crime)	It is aimed at preventing and combating trafficking in persons, with particular focus on women and children (art.2)

The Protocol to Prevent, Suppress, and Punish Trafficking in Persons requires government to provide or strengthen training for law enforcement, immigration and other relevant officials in the prevention of trafficking in persons. The training should focus on methods used in preventing such trafficking, prosecuting the traffickers and protecting the rights of the victims, including protecting the victims from the traffickers. The training should also take into account the need to consider human rights and child- and gender-sensitive issues and should encourage cooperation with civil society organisations (CSOs) and other relevant stakeholders (art. 10).

#### Protection of women in time of conflict

There is protection for women both under international human rights law and international humanitarian law e.g.

- arts.75 and 76 of Additional Protocol I to the Four Geneva Conventions provide, inter alia, that women should be protected against rape, forced prostitution and indecent assault and that women whose liberty has been restricted for reasons related to the conflict should be held separately from men and be under the immediate supervision of women;
- art.11 of the African Women’s Protocol provides for protection of women in armed conflicts - governments are required to ensure respect for the rules of international humanitarian law applicable in armed conflict situations which affect the population, particularly women.

### Session Three: Women in law enforcement

In this session the trainer focuses on the rights of women in the police service. He/she may initiate a discussion first in which learners share their views on the situation of women in the service. The trainer should point them toward pertinent issues such as the following.



<p>Access and appointment to the police service</p>	<p>It will have been discussed already under Module Three that policing should be representative of the community as a whole. This includes having a sufficient number of women employed within the police service</p>
<p>The right to equal opportunities to and in employment</p>	<p>Every person has the right to free choice of profession and employment (see e.g. International Covenant on Economic, Social and Cultural Rights (ICESCR) (arts. 6 and 7), CEDAW (art.11), African Women’s Protocol (art.13) and the Constitution (s.64). The named treaties also set out the rights of women to the same employment opportunities with men, which include application of the same criteria for selection in matters of employment. 5.17 of the Constitution is also relevant</p> <p>Women who possess the requisite qualifications are entitled to the same opportunities as their male counterparts to join the police service and to enjoy the same conditions of employment and opportunities for training and promotion</p>
<p>Deployment of female police officers</p>	<p>Women must enjoy the same opportunities in employment with men - includes how and where they are deployed. Female police officers in the police service should enjoy equal opportunities with male police officers and to broaden their policing experience. Consideration needs to be given on the extent to which female officers may be deployed in specific situations e.g. the deployment of pregnant female officers in physically demanding situations. This should not however be used as a pretext to deprive female officers of the opportunity to gain particular types of operational experience or to serve in any form of specialised police unit</p>

ZRP may wish consider appropriate affirmative action measures if need to ensure sufficient numbers of female police officers at all levels for the service arises. (ZRP to validate if this is not already happening)

**Note for the trainer:**

Observe carefully the attitudes of male learners during the course of the lesson especially in regard to discussions on gender equality, women in law enforcement and policing domestic violence/violence against women. Correct any negative responses or attitudes.

**Topics for discussion**

1. What are the different types of domestic violence and their effect on the victims, the family and the society?
2. A husband forces his wife to have sexual intercourse with him. The wife reports matter to the police. Discuss how the police should handle the matter.

3. A hostel for female police recruits in Depot is heavily fenced depicting a maximum security prison, whereas the neighbouring male hostels are not fenced at all. Discuss this arrangement in light of the human rights of women and the principle of non-discrimination.
4. A woman with an infant child is arrested and brought to a police station and Constable N is assigned to investigate the case. What measures should Constable N take with regard to the detention of the woman?
5. Discuss the attitudes that our society has towards domestic disputes and violence. The trainer must ensure that the discussion covers issues such as:
  - socialisation
  - patriarchy
  - violence is a private family affair
  - dowry/brideprice (*lobola/roora*)
  - withdrawal of complaints by victims of domestic violence before prosecution.

#### Case studies

1. Recruit Constable T is legally married to a man who is not a police official. During the course of training she falls pregnant. Her training is abruptly terminated on these grounds. Discuss the implications of this dismissal in relation to human rights standards.
2. A male Officer Commanding, District visits one of the police stations in the district for annual inspection. He orders the Officer in Charge, station to find a female constable to spend the night with him. The Officer in Charge, station obliges. Discuss the actions of the Officer Commanding, District and the Officer in Charge, station. What human rights issues arise with regard particularly to women's rights? How should the Officer in Charge, station have responded to the Officer Commanding, District's orders?

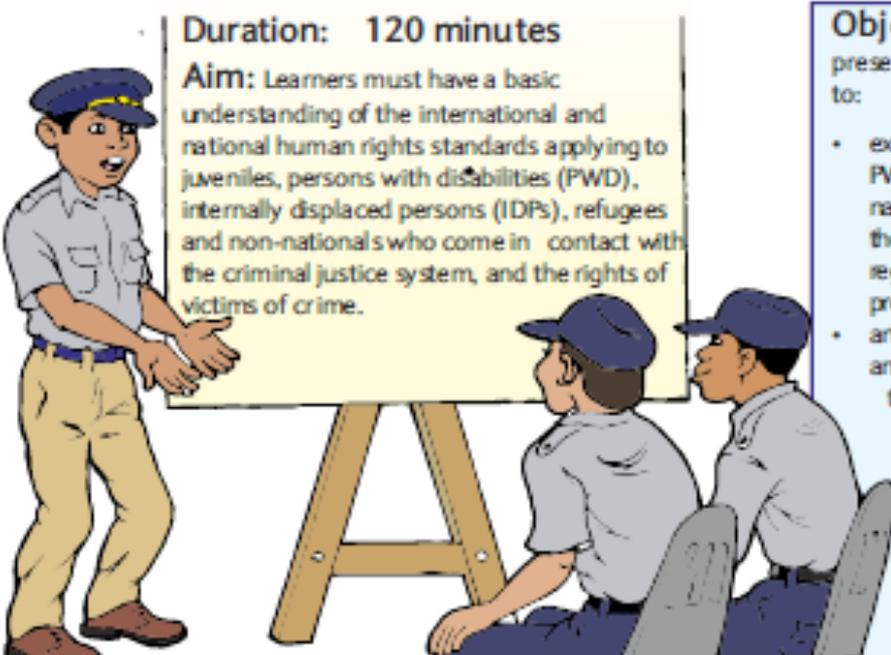
#### Role play

Do a role-play on the following scene. A young woman disembarks from a commuter omnibus at the Central Police Station Rank. She is dressed in a mini skirt barely covering her thighs. Unruly touts start whistling and shouting obscenities at her and soon a crowd molests her and leaves her naked. A passer-by offers her a piece of cloth to cover herself and takes her to the police station. The male officer who deals with her complaint remarks that she deserves what she got since she was not decently dressed. He refuses to accompany the young lady to the bus station to conduct an investigation saying it is a waste of time since he has more important matters to attend to, and besides there is no transport to take them to the scene.

The role play should bring out the following issues, among others: the right to equality before the law and equal protection of the law; the attitude of some police officers towards women victims of violence and reasons for these attitudes; how these attitudes influence police officers when they deal with cases of violence against women; how the police service can address such attitudes.

## Module Five:

### Groups Requiring Special Protection or Treatment



**Duration:** 120 minutes

**Aim:** Learners must have a basic understanding of the international and national human rights standards applying to juveniles, persons with disabilities (PWD), internally displaced persons (IDPs), refugees and non-nationals who come in contact with the criminal justice system, and the rights of victims of crime.

**Objectives:** By the end of the presentation the learners should be able to:

- explain the need to treat children, PWD, IDPs, refugees and non-nationals who come in contact with the criminal justice system with due regard to their vulnerability and to protect them from abuse;
- articulate the fundamental principles and rights that apply in relation to the treatment of juvenile who come into contact with the criminal justice system;
- articulate the fundamental principles and rights that apply in relation to the treatment of PWD who come into contact with the criminal justice system;

- articulate the fundamental principles and rights that apply in relation to the treatment of refugees, non-nationals and IDPs;
- articulate the rights of victims of crime and the role of the police in ensuring that victims of crime get justice.

The trainer can commence the lesson by getting the learners to discuss in buzz groups how children, PWD, IDPs, refugees and non-nationals who come in contact with the criminal justice system can be vulnerable and why they would require special protection and treatment. The learners should also discuss how police officers can ensure that the rights of these persons are not violated, and the role of the police in helping victims of crime to get justice.

The trainer may then go on to make presentations on the fundamental principles and international and national standards applicable to each of the vulnerable groups and to victims of crime, followed by plenary discussions.



#### Session One: Juveniles and law enforcement

The trainer explains to the learners that since juveniles are dependent upon the aid and assistance of adults, they require special care and protection and, when they come in contact with the criminal justice system, their well-being must be protected and any reaction to juvenile offenders shall always be in proportion to the circumstances of both the offenders and the offence. Measures should also be taken to prevent juvenile delinquency. He/she then takes the learners through the following fundamental rights and principles.

- Treat children in a manner which promotes their sense of dignity and worth, facilitates their reintegration into society, reflects the best interests of the child and takes into account their needs
- No child shall be arbitrarily deprived of his/her liberty
- Every child deprived of his/her liberty shall have the right to promptly to challenge the legality of deprivation of his/her liberty
- Do not subject children to torture, cruel, inhuman or degrading treatment or punishment or corporal punishment
- Detention or imprisonment of children shall be an extreme measure of last resort, for the shortest possible time
- Children shall be separated from adult detainees/prisoners
- Detained children shall be allowed to receive visits and correspondence from family members

- Do not use physical restraints and force on children, save in exceptional circumstances, and only for the shortest time possible;
- notify parents of any arrest or detention of juveniles.

The trainer should be guided by the discussion in the Participant Handbook (section 5.1).



## Session Two: Law enforcement and persons with disabilities

The learners must appreciate that despite the individual and collective efforts of States to eliminate all forms of discrimination and to promote equality, discrimination and the unequal treatment of people still manifests in various forms, one of which is in relation to PWD. Discrimination against PWD and their unequal necessitated the adoption by States of a comprehensive treaty that was aimed at strengthening efforts to eliminate discrimination against persons with disabilities in 2006. The CRPD seeks to promote, protect and ensure the full and equal enjoyment of all human rights by all PWD and to promote respect for their dignity<sup>46</sup>.

The trainer should discuss with the learners the provisions of the CRPD which have a direct bearing on law enforcement, such as the following:

- Ÿ All persons are equal before and under the law and are entitled without any discrimination to the equal protection and equal benefit of the law (art.5);
- Ÿ The right to life - governments should take all necessary measures to ensure its effective enjoyment by PWD on an equal basis with others (art.10);
- Ÿ The right to recognition everywhere as persons before the law - PWD should enjoy legal capacity on an equal basis with others in all aspects of life (art.12);
- Ÿ The right to effective access to justice for PWD on an equal basis with others, including the provision of procedural and age-appropriate accommodations, in order to facilitate their effective role as direct and indirect participants, including as witnesses, in all legal proceedings. To help to ensure effective access to justice for PWD, governments should promote appropriate training for those working in the field of administration of justice, including police and prison staff (art.13);
- Ÿ PWD, on an equal basis with others, are entitled to enjoy the right to liberty and security of person and should not be deprived of their liberty unlawfully or arbitrarily. Any deprivation of liberty must be in conformity with the law and disability should not be used to justify deprivation of liberty. Governments should ensure that if PWD are deprived of their liberty through any process, they must, on an equal basis with others, enjoy guarantees in accordance with international human rights law and be treated in line with the objectives and principles of the CRPD, such as provision of reasonable accommodation (art.14);
- Ÿ Protection against torture or cruel, inhuman or degrading treatment or punishment. In particular, no one should be subjected without his/her free consent to medical or scientific experimentation (art.15);
- Ÿ Protection against exploitation, violence and abuse (art.16);
- Ÿ PWD have a right to respect for their physical and mental integrity on an equal basis with others (art.17);
- Ÿ The right to freedom of expression and opinion, and access to information (art.21);
- Ÿ PWD, regardless of place of residence or living arrangements, should not be subjected to arbitrary or unlawful interference with their privacy, family, or correspondence or other types of communication. They are entitled to the protection of the law against such interference or attacks (art. 22).



The trainer should emphasise that detained PWD have the right to be treated humanely. Deprivation of liberty based on the existence of a disability is contrary to international human rights law is intrinsically discriminatory, and is therefore unlawful. The same principles that apply in relation to detention as discussed under Module Two apply, including to the detention of all persons with mental disabilities. In the case of the detention of persons with mental disabilities, the detention must be lawful and must not be arbitrary. However, fulfilling the right of PWD in detention to be treated humanely may require law enforcement agencies to take additional measures that take the rights of PWD into consideration and ensure that discrimination on the grounds of their disability does not occur. This might, for example, require changes to the detention environment and the provision of special equipment where necessary. The learners could be asked to suggest how facilities at police stations that are used to house detainees can be modified to accommodate PWD.



## Session Three: Law enforcement and the protection of refugees, nonnationals and internally displaced persons

With guidance from the Participant Handbook (subsection 5.3.1) and relevant international standards, the trainer may introduce the session by defining the terms 'refugees', 'non-nationals' and 'internally displaced persons' (IDPs) and explaining that the fundamental principles associated with the treatment of these vulnerable groups are equality in the enjoyment of human rights, the inalienability of rights, the universality of rights and the right to seek and to enjoy asylum from persecution.

The trainer should then go on to make a presentation on the applicable rights and principles in relation to these groups in relation to law enforcement as follows.

### Refugees

- ÿ The right to seek and to enjoy in other countries asylum from persecution
- ÿ Enjoyment of all basic human rights, with the exception of certain political rights - refugees shall be granted treatment which is at least as favourable as that granted to nationals, in the exercise of basic rights such as free association, religion, elementary education and public relief
- ÿ No one shall be returned to a country where he/she is likely to be persecuted nor to any other country which is likely to return the refugee to such a country (non-refoulement)
- ÿ Refugees lawfully within the territory of a State shall have the right to free movement and residence
- ÿ Persons seeking asylum shall be informed of the necessary procedures, be availed an opportunity and the facilities to apply for asylum and be allowed to remain in the territory of a State pending a final decision. They may only be expelled on the basis of a decision reached in accordance with due process of the law.

### Non-nationals

- ÿ Entitled to enjoy rights in accordance with national law, such as: life and security of the person; protection against arbitrary or unlawful interference with privacy; equality before the law and protection of the law; freedom of thought, opinion, conscience and religion; freedoms of expression, peaceful assembly; right to own property; and liberty of movement and freedom to choose residence
- ÿ Protection against torture
- ÿ Protection against mass expulsion
- ÿ The rights may be subject to legal restrictions necessary in a democratic society to protect national security, public safety, public order, public health or morals or the rights and freedoms of others.

### IDPs

- ÿ Should enjoy, in full equality, the same rights under international and national law as do other persons in their country
- ÿ Protection against discrimination in the enjoyment of any rights or freedoms on the ground of displacement
- ÿ Governments have the primary duty and responsibility to provide protection and humanitarian assistance - IDPs have the right to request and to receive such protection and humanitarian assistance and they should not be persecuted or punished for making such a request
- Certain IDPs, such as children (especially unaccompanied ones), expectant mothers, mothers with young children, female heads of household, PWD and elderly persons are entitled to protection and assistance required by their condition and to treatment which takes into account their special needs.

The trainer should draw the attention of the learners especially to the following issues:

- ÿ non-nationals are subject to the laws of the State in which they reside and are entitled to the enjoyment of rights, including due process;
- ÿ every human being has the right to be protected against being arbitrarily displaced from his/her home or place of habitual residence and from displacement that is carried out in a manner that violates the rights to life, dignity, liberty and security;
- ÿ every person has the right to protection against genocide, murder, summary or arbitrary executions, and enforced disappearances, including abduction or unacknowledged detention, threatening or resulting in death;
- ÿ every person must be protected against rape, mutilation, torture, cruel, inhuman or degrading treatment or punishment, and other outrages upon personal dignity, such as acts of gender-specific violence, forced prostitution and any form of indecent assault, slavery or any contemporary form of slavery, such as sale into marriage, sexual exploitation, or forced labour of children, and acts of violence intended to spread terror among IDPs; and
- ÿ IDPs should not be interned in or confined to a camp and should be protected from discriminatory arrest and detention as a result of their displacement.



## Session Four: Victims of crime

It is important that the learners understand from the outset what the law refers to as victims of crime. The trainer can refer to the definition that is given in principle 1 of the UN Declaration of the Basic Principles of Justice for Victims of Crime and Abuse of Power. The trainer can also explain that crime interferes with the rights of the individual, thus where the State fails in its obligations to protect the people against crime, the State would have violated the human rights of the victims of crime.

States have an obligation to establish systems to ensure compensation to victims of crime for violation of their rights. This way, the rights of victims of crime are human rights enforceable against the State.

The rights of victims of crime require that governments must establish functional police organisations to prevent crime and to conduct proper investigations where crime has been committed.

Basing his/her presentation largely on the UN Declaration of the Basic Principles of Justice for Victims of Crime and Abuse of Power<sup>47</sup>, the trainer should explain the fundamental principles in regard to victims of crime (i.e. access to justice and fair treatment, restitution, compensation and assistance) as provided below.

- All victims of crime should be treated with compassion and respect for their dignity
- Victims of crime are entitled to access to the mechanisms of justice and to prompt redress
- Redress procedures should be expeditious, fair, inexpensive and accessible - unnecessary delay in the handling of their cases shall be minimised and avoided
- Victims of crime should be informed of their role, formal proceedings, the scope, timing and progress of proceedings and the disposition of their cases especially where serious crimes are involved
- Victims of crime should be allowed to express their views and concerns on matters that affect their personal interests (without prejudice to the accused)
- Proper assistance should be provided throughout the legal process
- Measures should be taken to minimise inconvenience to victims and their privacy should be protected and their safety and that of their families and witnesses guaranteed free from intimidation and retaliation
- Victims shall receive all necessary legal, material, psychological and social assistance and shall be informed of the availability of such assistance
- Offenders should where appropriate pay restitution
- Governments should make restitution where public officials are at fault

Financial compensation should be made available from the offender or if this is impossible, from the State. In the national legal system, victims of crime may, in addition to the common law rights to claim for compensation, in certain circumstances provided in the CPE Act (ss.362-365) get compensation through the criminal law system i.e. for loss or damage to property, personal injury, innocent purchase of unlawfully obtained property, or restitution of unlawfully obtained property.

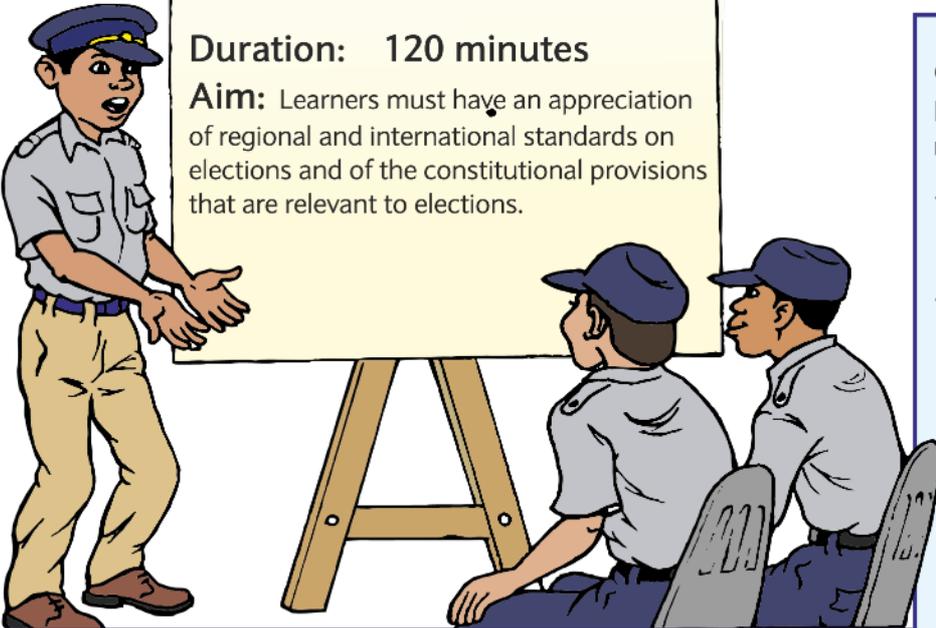
<sup>47</sup> The Code of Conduct for Police Officials and the SARPCCO Code of Conduct for Police Officials (art. 6) are also relevant.

### Topics for discussion

1. It is dangerous to allow refugees and non-nationals free movement and residence in a host country because the personal agenda of these persons is not known. Discuss this statement in light of national, regional and international standards on the protection of the rights of refugees and non-nationals
2. Since IDPs do not cross an international border but remain in their own country, they do not really require special protection. Discuss.
3. Suggest how the ZRP can more effectively ensure that the rights of PWD who come into contact with the criminal justice system are respected and protected.

## Module Six:

# International, Regional and National Standards Relevant to Elections



**Duration:** 120 minutes

**Aim:** Learners must have an appreciation of regional and international standards on elections and of the constitutional provisions that are relevant to elections.

**Objectives:** By the end of the lesson/presentation the learners must be able to:

- list regional and international standards relevant to policing elections;
- state the various constitutional provisions relating to elections;
- appreciate that women are entitled to enjoy the right to public and political participation, including participation in elections, on the basis of equality with men;

- articulate the role of the police in promoting the enjoyment of the right to participation;
- articulate the fundamental freedoms of opinion, expression, association and assembly; and
- articulate political rights that are enshrined in the Constitution.

## Introduction

The trainer can introduce the lesson by acknowledging that there are a number of regional and international instruments that contain standards on elections, some of which also set standards for policing elections. These instruments have a bearing at the national level to the extent to which they guide governments on how to govern and run elections in a democratic environment as well as provide guidance on policing of elections. At national level, the Constitution has many provisions that are reflective of some of these instruments, and it establishes the framework in which the country shall be run as a democracy and free, fair and periodic elections organised.

The trainer may take a few minutes to invite the learners to talk about some of the regional and international standards on elections and constitutional provisions that they may already be familiar with before presenting the substantive lesson.

### **Session One: Right to self determination**

The ICCPR, ICESCR and ACHPR, among other instruments, provide for peoples' right to self-determination, which includes the right to freely determine their political status. Have participants discuss this right in the context of democracy and elections, and the constitutional and political processes which in practice allow the exercise of this right.

### **Session Two: Right to participation**

The trainer may start by explaining the full meaning of the right to participation as guaranteed in the Constitution and in international instruments such as the UDHR, ICCPR, Southern Africa Development Community (SADC) Principles Governing Democratic Elections, African Charter on Democracy, Elections and Governance and the African Union (AU) Declaration on the Principles Governing Democratic Elections in Africa. Learners should understand that citizens have the right and the opportunity, without discrimination and without unreasonable restrictions, to take part in the conduct of public affairs, directly or through freely chosen representatives, including the right to vote and to be elected at genuine periodic elections.

The learners can then discuss in buzz groups or in plenary the role of the police in promoting the enjoyment of the right to participation. The trainer should ensure that the learners understand that they must not act in a

manner that hinders the rights of the citizens to participation e.g. when police officers exercise police powers, they must not unduly interfere or restrict political activity or unfairly treat people on the basis of their political views or affiliation.



### Session Three: Equal right of men and women to public and political participation

The trainer should explain to the learners that international and national standards guarantee women the equal right to public and political participation. Women not be discriminated against in relation to their enjoyment of the right the right to vote in elections and to stand for election to all publicly elected bodies or positions. Police officers should bear this in mind when they police elections or public meetings, processions and demonstrations, especially those of a political nature.

Have the learners discuss in what way women may be hindered from full public and political participation and the role of the police, if any, in ensuring that women fully enjoy their right to public and political participation.



### Session Four: Fundamental freedoms

Having already been discussed the fundamental freedoms in Module One, the trainer may simply lead a plenary discussion in which the learners recap what they have learnt in that Module.

Apart from being able to list the fundamental freedoms, the trainer must be satisfied that the learners appreciate that the fundamental freedoms are critical to full participation by the citizens in the governance of their country and in the electoral process and that police officers should therefore exercise their powers with restraint and ensure that their actions are lawful and professional.



### Session Five: Legal and institutional framework for democratic elections in Zimbabwe

It is important that learners should not only be familiar with regional and international standards relevant to elections but that they should also be familiar with national provisions, especially the Constitution. The trainer should therefore ensure that the following is covered in the presentation:

- Y the values and principles upon which Zimbabwe is founded such as the supremacy of the Constitution, the rule of law, fundamental human rights and freedoms, gender equality and good governance;
- Y principles of good governance, which bind the State, such as a multi-party democratic political system, an electoral system based on universal adult suffrage and equality of votes, free, fair and regular elections and adequate representation of the electorate, the orderly transfer of power following elections, respect for the rights of all political parties, and transparency, justice, accountability and responsiveness; and
- political rights, such as the ones listed the table below.

#### The right:

- to free, fair and regular elections for any elective public office established in terms of this Constitution or any other law;
- to make political choices freely;
- to form, to join and to participate in the activities of a political party or organisation of their choice;
- to campaign freely and peacefully for a political party or cause or to participate in peaceful political activity;
- to participate, individually or collectively, in gatherings or groups or in any other manner, in peaceful activities to influence, challenge or support the policies of the Government or any political or whatever cause;
- if is of or over 18 years of age, to vote, in secret, in all elections and referendums to which the Constitution or any other law applies and to stand for election for public office and, if elected, to hold such office.

The trainer should also mention the Electoral Act, which deals with the conduct of elections and election offences and illegal practices in connection with elections. Police need to be familiar with these, though there is no need to go into detail at this stage as these will be discussed in Module Seven.

Other laws, such as the Criminal Law (Codification and Reform) Act (the Criminal Law Code), the Public Order and Security Act (POSA) and the CPE Act, though not having a direct bearing on elections or policing elections proscribe criminal offences, such as crimes against public order, regulate the conduct of public meetings, processions and assemblies and provide for the procedure to be followed in all criminal cases, including the conduct of arrests, searches and seizures by police officers respectively, which could arise in the context of political participation or elections.

#### **Topics for discussion**

- 1) What is your understanding of the right to self-determination in the context of democracy and elections?
- 2) What is the role of the police in promoting the enjoyment of the right to participation? In what way can the exercise of police powers interfere with this right?
- 3) How can the police play a role in ensuring that women are able to fully participate in the political life of the country, including elections?

## Module Seven:

# Duties and Responsibilities of the Police in Elections



**Duration:** 240 minutes

**Aim:** Learners must be fully aware of the duties and responsibilities of police officers in the electoral process.

**Objectives:** By the end of the lesson the learners must be able to:

1. give an overview of the duties and responsibilities of police officers during elections;
2. state the duties and responsibilities of police officers before the poll;
3. state the duties and responsibilities of police officers during the poll;
4. state the duties and responsibilities of police officers after the poll;
5. give examples of election-related offences;
6. explain the role of the police in the investigation of politically motivated violence or intimidation.

## Introduction

The trainer can start with a plenary discussion or group discussions followed by plenary on the general role and responsibilities of police officers in the electoral process. He/she must guide the learners in discussing the duties and responsibilities that are discussed below. The trainer must also ensure that from the outset the learners appreciate that the police play an important role in the electoral process and have potential to contribute to ensuring free, fair and violence-free elections. Once the electoral process has been set in motion, the police should ideally already be prepared not only to police the actual conduct of the poll but also ensure law and order during the preparatory stages.

The trainer may sum up the general duties and responsibilities of police officers in the electoral process as including managing public meetings, processions and demonstrations in order to maintain peace and order and ensuring the security of electoral officials, their material and equipment, candidates, polling agents, observers, etc. Police officers should respect the fundamental freedoms of the people to lawful association and assembly, and to freely express themselves. They should not unduly disrupt campaign rallies or meetings convened by political parties or candidates or oppress any political party, candidate or supporter. They must remain impartial at all times and render service and assistance to all persons regardless of their political affiliation.

## Session One: Duties and responsibilities of the police before, during and after the conduct of the poll

Duties and responsibilities before the poll include:

- regulating and policing public meetings, processions and public demonstrations
- providing security for ZEC and safeguarding its officials and equipment as it conducts pre-poll preparations
- ensuring the safety of candidates and their agents as they campaign and prepare for the poll
- ensuring the safety of the observers, media and other stakeholders
- generally maintaining law and order

Duties and responsibilities during the poll include:

- generally maintaining law and order in and around the polling station
- regulating entry into and exit from the polling station
- dispersing crowds, other than persons queuing to cast their vote, in order to prevent any political activity near the polling station
- removing persons from inside the polling station area when requested to do so by the presiding officer
- keeping order at the polling station and the area surrounding it, when called upon to do so by the presiding officer
- investigating routine offences that may be committed within the polling station area

- patrolling the polling station area to prevent crime
- guarding and escorting the ballot boxes

Duties and responsibilities after the poll include:

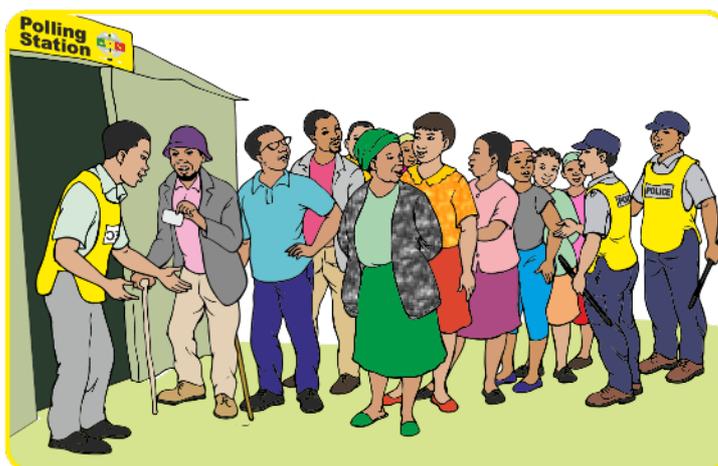
- ÿ monitoring trouble spots for possible illegal activity
- ÿ managing conflict
- ÿ ensuring the safety of election officers, ballot boxes and equipment • general maintenance of law and order

The trainer must emphasise to the learners that police officers must be available in the immediate vicinity of each polling station to provide immediate assistance if called upon by the presiding officer. In particular they shall:

- ÿ have the sole functions of maintaining order and preventing contraventions of the law so that voters are able to cast their votes freely;
- ÿ not interfere with the electoral processes at the polling station;
- ÿ exercise their duties under the direction and instruction of the presiding officer.

It is advisable for police officers during the conduct of the poll to take note of pertinent information such as:

- a. the name of polling station;
- b. the names of the presiding officer and other staff of ZEC and political party agents;
- c. the time of opening and closing of poll;
- d. general security situation around the polling station;
- e. any incidents during polling hours.



## Session Two: Election-related offences

The trainer may start by explaining that while most election-related offences are mentioned in the Electoral Act, there are other enactments which make provision for certain offences which may be committed during an election period and which could be election related (for example the Criminal Law Code and POSA).

There are numerous election-related offences and it is unlikely that the trainer will be able to go through all of them and explain them in detail. Ideally both the trainer and the learners should have copies of the relevant Acts. The trainer can then go through the relevant sections of the Acts and explain what would constitute the prohibited offences. He/she must be interactive and allow participants to contribute to the discussion and to seek clarification where they are not clear.

The trainer may highlight offences that include:

- ÿ Unlawful public meetings, processions or public assemblies
- ÿ Possession of prohibited weapons in public or possession of offensive weapons at a public gathering • Disrupting public gatherings
- ÿ Public violence
- ÿ Fraudulent voter registration
- ÿ Unofficial or false declaration of election results
- ÿ Breach of secrecy and interference with voters and ballot papers
- ÿ Obstruction of election officials
- ÿ Disorderly conduct in a polling station

- ÿ Destroying or damaging a voter's roll or data relating thereto
- ÿ Intimidatory practices
- ÿ Corrupt practices
- ÿ Illegal election expenses (vote buying).



## Session Three: Investigation of politically motivated violence or intimidation

The trainer must focus on simplifying Chapter 18B of the Electoral Act for the benefit of the learners. He/she must explain the essence of the Chapter, which is the expeditious investigation and prosecution of cases of politically motivated violence or intimidation. Police officers who are assigned this responsibility must ensure that they priorities cases of politically motivated violence or intimidation.

Chapter 18B places the responsibility to prevent politically motivated violence or intimidation and electoral malpractices before, during and after the election period on political parties and candidates and to take effective steps to discipline all members of their parties who engage in such conduct. The Commission-General of Police is required, for the purpose of a general election or by-election, to appoint a senior police officer for each provincial to be the special police liaison officer responsible for the expeditious investigation of cases of politically-motivated violence or intimidation within that province during the election period.

It is important that the learners fully understand the steps to be taken by a special police liaison officer who, after conducting an investigation, forms the view that an incident of politically-motivated violence or intimidation has taken place. The trainer must therefore clearly explain these steps as follows:

If the violence/intimidation was perpetrated by a candidate (or his/her election agent), warn the candidate that he/she may be prosecuted and prohibited from campaigning in the election (this would apply in minor cases)

If the violence/intimidation was perpetrated by a supporter of a political party or of a candidate, remind the leader/deputy leader of the political party or the candidate, that he/she has an obligation to take effective steps to prevent his/her supporters from engaging in such conduct, and warn him/her that he/she may be prosecuted and, in the case of a candidate, prohibited from campaigning in the election

If the warning is not heeded or if the special police liaison officer believes that the incident is of a very extensive or serious nature, he/she shall as soon as possible submit a written report of the incident identifying (to the extent possible) the perpetrators of the violence/intimidation, together with a summary of any evidence gathered in support of the findings, to a specially appointed prosecutor.

The Commissioner-General of Police is also required to establish one or more special police units to investigate cases of politically-motivated violence and intimidation arising from an election. The police officers constituting the special units shall investigate as expeditiously as possible all cases of politically-motivated violence and intimidation that are referred to them or brought to their attention.

## Selected Bibliography

### Regional and international instruments

- African Charter on Human and Peoples' Rights, 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), 27 June 1981
- African Charter on the Rights and Welfare of the Child, 1990, OAU Doc. CAB/LEG/24.9/49 (1990)
- Basic Principles on the Use of Force and Firearms, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990
- Body of Principles for the Protection of all Persons under Any Form of Detention or Imprisonment, 1988, UN General Assembly Resolution 43/173 of 9 December 1988
- Code of Conduct for Law Enforcement Officials, UN General Assembly resolution 34/169 of 17 December 1979
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, UN General Assembly resolution 39/46 of 10 December 1984
- Convention on the Elimination of All Forms of Discrimination against Women, 1979, UN General Assembly resolution 34/180 of 18 December 1979
- Convention on the Rights of the Child, 1989, UN General Assembly resolution 44/25 of 20 November 1989
- Convention on the Rights of Persons with Disabilities, 2006, UN General Assembly resolution ([A/RES/61/106](#)) of 13 December 2006
- Convention relating to the Status of Refugees, 1951, adopted on 28 July 1951 by the UN Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons convened under General Assembly resolution 429 (V) of 14 December 1950
- Declaration of the Basic Principles of Justice for Victims of Crime and Abuse of Power, 1985, UN General Assembly resolution A/RES/40/34 of 20 November 1985
- Declaration on the Principles Governing Democratic Elections in Africa, AHG/Decl.1 (XXXVIII), 2002
- Declaration on the Elimination of Violence Against Women, 1993, UN General Assembly resolution 48/104 of 20 December 1993
- Declaration on the Human Rights of Individuals who are not Nationals of the Country in which they Live, 1985 UN General Assembly resolution 40/44 of 13 December 1985
- International Covenant on Civil and Political Rights, 1966, UN General Assembly with resolution 2200A (XXI) of 16 December 1966
- Guiding Principles on Internal Displacement, extract from the document E/CN.4/1998/53/Add.2, dated 11 February 1998
- Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, 2003, adopted 11 July 2003
- Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children, Supplementing the UN Convention against Transnational Organised Crime, 2000, UN General Assembly resolution 55/15 of 15 November 2000
- SADC Principles Governing Democratic Elections
- SADC Protocol on Gender and Development, 2008 (Revised)
- SARPPCO Code of Conduct for Police Officials, adopted by the Southern African Police Chiefs Cooperation Organisation, 2001 [https://www.apf.ch/content/files\\_res/SARPPCO.pdf](https://www.apf.ch/content/files_res/SARPPCO.pdf)
- Universal Declaration of Human Rights, 1948, UN [General Assembly resolution 217A](#) of 10 December 1948
- United Nations Rules for the Protection of Juveniles Deprived of their Liberty, UN General Assembly Resolution 45/113 of 14 December 1990
- United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules"), 1985, UN General Assembly resolution 40/33 of 29 November 1985

### National instruments

- Constitution of Zimbabwe
- Criminal Law (Codification and Reform) Act [Chapter 9:23]
- Criminal Procedure and Evidence Act [Chapter 9:07]
- Electoral Act [Chapter 2:13]
- Public Order and Security Act [Chapter 11:17]

### Texts

- Crawshaw, R., Human Rights and Policing, A Manual for Teachers, Resource Persons and Participants in Human Rights Programmes, Kluwer Law International, 1999
- Human Rights and Law Enforcement, A Trainer's Guide on Human Rights for the Police, Professional Training Series No.5/Add.2, Office of the High Commissioner for Human Rights, United Nations, New York and Geneva, 2002
- SARPPCO Code of Conduct, Human Rights and Policing: Towards Ethical Policing, Training Manual, Human Rights Trust of Southern Africa and SARPPCO, 2003
- Training Guide on Policing Elections in Zambia, Zambia Police, 2011

## HUMAN RIGHTS, ELECTIONS AND POLICING CURRICULUM

### MODULE ONE: FUNDAMENTAL CONCEPTS IN HUMAN RIGHTS AND POLICING

1. Understanding Human Rights and Human Rights Obligations
  - 1.1.1 Importance of rights and characteristics
  - 1.1.2 Categories of human rights
  - 1.1.3 The nature of human rights obligations
2. Tenets of Human Rights
  - 1.2.1 Equality and non-discrimination
  - 1.2.2 Right to life
  - 1.2.3 Equality before the law and equal protection of the law
  - 1.2.4 Right to life and security of person
  - 1.2.5 Presumption of innocence
  - 1.2.6 Rights of persons deprived of their liberty
  - 1.2.7 Right to privacy
  - 1.2.8 Fundamental freedoms
  - 1.2.9 Rights of persons in custody
  - 1.2.10 Prohibition of torture, cruel or inhuman or degrading treatment or punishment
  - 1.2.11 Limitations and derogations of human rights
- 1.3 The Role of Police in Society
  - 1.3.1 What is policing?
  - 1.3.2 Background to the role of the police
  - 1.3.3 Role and function of the police
- 1.4 Policing and Human Rights
- 1.5 Professional Conduct
  - 1.5.1 Legal conduct
  - 1.5.2 Ethical conduct and policing
  - 1.5.3 Professionalism
- 1.6 Policing in Democracies
  - 1.6.1 General aspects of policing in democracies
  - 1.6.2 Political rights and the role of the police

### MODULE TWO: HUMAN RIGHTS AND POLICE DUTIES AND POWERS

- 2.1 Police Duties and Powers
- 2.2 Police Powers of Investigation of Crime
  - Fundamental principles in investigations
  - Ensuring fair trial
  - Interviewing suspects and detainees
  - Technical aspects of investigations
- 2.3 Police Powers of Search and Seizure
  - 2.3.1 Regional and international standards
    - Search with a warrant
    - Search without a warrant
    - Consequences of unlawful searches
    - Searching persons
    - Use of force during search and seizure
    - Seizure of property
  - 2.3.2 National standards
    - Power to seize property
    - Search and seizure without warrant
    - Seizure of articles on arrest or detention of persons carrying them
    - Stop and search
    - Entering of premises for purposes of obtaining evidence
    - Use of force
    - Conduct of search
- 2.4 Police Powers of Arrest and Detention
  - 2.4.1 Regional and international standards
    - Principle of legality
    - Judicial oversight
    - The rights of arrested and detained persons
    - Procedure for arrest
    - Detention as the exception
    - Established chain of command
    - Enforced or involuntary disappearance
  - 2.4.2 National standards
    - Rights of arrested and detained persons
    - Arrest without warrant

- Arresting on the basis of a superior order or telegraphic request
  - Dragnet arrests
  - Taking suspect's spouse or close relative to the station
  - Arresting in order to investigate
  - Detention as the exception
- 2.5 Human Rights and Police Powers of Use of Force and Firearms
- 2.5.1 Regional and international standards
- Necessity
  - Proportionality
  - Legality
  - Accountability
  - General requirements
  - Policing unlawful assemblies
  - Policing persons in custody
  - Superior orders and the use of force
  - Use of force and enforced disappearances
  - Use of firearms by police officers
  - Procedures for the use of firearms
  - Use of firearms during crowd control
- 2.5.2 National standards
- 2.6 Human Rights and Policing in Times of Tension, Conflict and Disorder
- 2.6.1 International and regional standards
- General aspects of civil disorder, states of emergency and armed conflicts (derogations, fundamental concepts, duties and responsibilities of law enforcement officials)
  - Armed conflicts (international armed conflicts, non-international armed conflict, duties and responsibilities of law enforcement officials)
  - Civil disorder (international standards, duties and responsibilities of the police)
  - Terrorism (definition and types, policing terrorism, duties and responsibilities of the police)
  - Policy objectives in the policing of conflict
  - De-escalating conflicts
- 2.6.2 National standards
- 2.7 Remedies for Neglect of Police Duties or Abuse of Police Powers
- 2.7.1 Regional and international standards
- 2.7.2 National standards

### MODULE THREE: HUMAN RIGHTS IN POLICE COMMAND MANAGEMENT AND ORGANISATION

- 3.1 Human Rights and Police Command and Management
- 3.1.1 Fundamental Principles
- 3.1.2 Recruitment and training
- 3.1.3 Purpose and objectives of police service
- 3.1.4 Professional ethics
- 3.1.5 Management responsibilities (unlawful use of force and firearms, unlawful orders, obedience to superior orders)
- 3.1.6 Systems for command and management and control (responsive and accountable policing, human rights and police investigations, human rights implications for command and management of discipline in the police service)
- 3.2 Human Rights Implications on Policy Formulation
- 3.3 Community Policing
- 3.3.1 What is community policing?
- 3.3.2 Principles of community policing
- Service orientation
  - Partnership
  - Problem solving
  - Accountability
  - Empowerment
- 3.3.3 Strategies for effective community policing
- Responsiveness
  - Consultation
  - Problem solving
  - Mobilisation
- 3.1.4 Community policing and crime prevention
- Community crime prevention groups (neighbourhood watch scheme, crime consultative committees, police posts, bases, etc, suggestion boxes and hot lines, beat patrols)
  - Sensitisation and awareness raising

### MODULE FOUR: GENDER, WOMEN AND LAW ENFORCEMENT

- 4.1 Gender in the Context of Human Rights
- What is gender?

- Gender and women's rights
  - Violations of women's rights
- 4.2 Rights of Women in Relation to Law Enforcement
- 4.3 **Regional and International Standards on Law Enforcement and the Rights of Women**
- 4.3.1 **General aspects of human rights of women and law enforcement**
- 4.3.2 **Specific provisions of human rights of women and law enforcement**
- Women and discrimination
  - Policing violence against women (gender violence, violence against women (including rape and other sexual offences), domestic violence)
  - Policing trafficking in persons
  - Treatment of female detainees
  - *Protection of women in time of conflict*
- 4.4 National Standards
- 4.5 Women in Law Enforcement
- The right to equal opportunities to and in employment
  - of equal access to public service
  - Access and appointment to the police service
  - Equality of opportunity within the police service
  - Deployment of women police officers

#### **MODULE FIVE: GROUPS REQUIRING SPECIAL PROTECTION OR TREATMENT**

- 5.1 Juveniles and Law Enforcement
- 5.1.1 Regional and international standards
- Fundamental human rights and the protection of juveniles (the CRC, ACRWC, Beijing Rules, Riyadh Guidelines, Tokyo Rules)
  - Arrest of juveniles
  - Detention of juveniles
- 5.1.2 National standards
- 5.2 Law Enforcement and Persons with Disabilities
- 5.3 Law Enforcement and the Protection of Refugees, Non-Nationals and Internally Displaced Persons
- 5.3.1 General aspects of the human rights of refugees, non-nationals and internally displaced persons
- 5.3.2 National measures
- 5.4 Victims of Crime
- 5.4.1 Fundamental freedoms
- 5.4.2 National arrangements

#### **MODULE SIX: INTERNATIONAL, REGIONAL AND NATIONAL STANDARDS RELEVANT TO ELECTIONS**

- 6.1 Right to Self Determination
- 6.2 Right to Participation
- 6.3 Equal Right of Men and Women to Public and Political Participation
- 6.4 Political Rights of Persons with Disabilities
- 6.5 Fundamental Freedoms
- 6.6 Legal and Institutional Framework for Democratic Elections in Zimbabwe
- 6.6.1 Introduction
- 6.6.2 Constitution of Zimbabwe
- 6.6.3 Electoral Act
- 6.6.4 Other relevant statutes
- 6.6.5 Role of the Zimbabwe Electoral Commission
- 6.6.6 Role of the Zimbabwe Republic Police
- 6.6.7 Role of Civil Society

#### **MODULE SEVEN: DUTIES AND RESPONSIBILITIES OF THE POLICE IN ELECTIONS**

- 7.1 Overview of police duties and responsibilities during elections
- 7.2 Duties of Police before the Poll
- 7.3 Duties and Responsibilities of the Police on Polling Day
- 7.3.1 Duties and responsibilities
- 7.3.2 General tasks at polling stations
- 7.4 Duties and Responsibilities of the Police after the Poll
- 7.5 Election Offences
- 7.6 Investigation of Politically Motivated Violence or Intimidation

## Module One

### Topics for discussion

1. Identify and explain provisions in Zimbabwean statutes which regulate police behaviour and performance.
2. Identify and explain police standards set out in the core areas of policing namely: response to calls, crime, traffic, public order and community assistance. List and explain values identified in ZRP Service Charter and ZRP Standards Manual.
3. Discuss the extent to which internal police standards such as the Police Standing Orders and the Police Standards conform to constitutional and international human rights standards. Which areas would need to be improved?

## Module Two

### Case studies

- 1) Constable T is investigating a case of theft in which it has been suggested that F, a well-known and respected member of the community, is the offender. F denies the allegations. However, F later on, on his own volition, confesses to theft. Constable T is very angry and accuses F of wasting her time. She detains him as punishment and tells him that in any case criminals must be locked up until they appear in court, in order to protect the community. Comment on Constable T's actions. What rights, if any, have been violated.
- 2) A big sporting event has been planned to take place in one of the major sports stadia in your police province. A large crowd of at least 30 000 spectators is expected to attend the event. As is normally the case with large events, all kinds of people are likely to attend and these include men and women of all ages, children, persons with disabilities, people from different political parties, and drinkers. Of late the atmosphere has been politically charged as elections are around the corner, with political candidates campaigning and saying nasty things about each other. The ordinary people have also been complaining about the high cost of living, alleged corruption and the worsening standard of living. As Officer Commanding Province prepare a contingency plan for the event and draw up an operational order.
- 3) Inspector S, the Officer in Charge of a public order section, orders his ill-equipped team of police officers to disperse vendors who are selling their wares at an unauthorised make shift market place. On seeing the ill-equipped officers, the vendors deride them and openly inform them that they are ready for a confrontation. Seeing that the situation was likely to get out of hand, Inspector S gives orders to his officers to use tear smoke to disperse the vendors. This causes a stampede, resulting in the death and injury of a number of vendors and on-lookers. With reference to national and international standards, discuss Inspector S' handling of the vendors.

## Module Three

### Topics for discussion

1. Discuss the requirement that governments and law enforcement agencies should ensure that police commanders must held responsible for incidents of unlawful use of force and firearms by their subordinates in cases where they would have been in a position to prevent, suppress or report such abuse
2. Discuss the circumstances under which no reprisals may be taken against junior officers who, in compliance with the international and national standards refuse of obey superior orders
3. Discuss the meaning of responsive and accountable policing.
4. Identify and discuss systems of monitoring and supervision which must be put in place to ensure that human rights and confidentiality of information are safeguarded during investigations of crime
5. Identify command, management and supervisory systems which should be put in place to ensure correct procedures are followed on arrest and detention to ensure humane treatment of detainees
6. Identify and discuss systems which should be put in place pertaining to the storage and issuing of firearms, reporting systems used following use of firearms by police and reporting and reviewing procedures when death or injury is caused by police use of force and firearms.
7. Identify and discuss provisions of the Police Act and Standing Orders, Volume I relating to arrest of a member; and discuss Provisions of Part II of Standing Orders, Volume I (Summary Proceedings).
8. Discuss Trial Procedures as contained in Part V of the Police Act as read with paras. 34 to 41 of Part 2 of Standing Orders, Volume I and matters relating to Presumption of Innocence, Notice of Prosecution/trial, legal representation and the requirements of a fair trial in light of national and international human rights standards.
9. Senior police officers should not be held liable for irresponsible actions by their juniors since they always act on their own initiative or on orders of superior officers. Discuss in relation to experiences of trainees in the field.
10. Police commanders hold regular meetings with their juniors. Suggest how these meetings can be used to promote and enhance observance of human rights by all members in the course of their duties.
11. Observance of human rights by the police makes them inefficient. Discuss.

## Module Four

### Topics for discussion

- 1) Discuss police attitudes towards domestic violence and victims of domestic violence and reasons for these attitudes. How do these attitudes affect the way police officers handle cases of domestic violence?

- 2) One of the main challenges to preventing and combating human trafficking is the absence of reliable information on the number of people being trafficked or the nature or patterns of the problem. Suggest the measures which the ZRP can take to address this.
- 3) Regional and international co-operation are critical in the fight against human trafficking. Suggest ways in which the ZRP can ensure mutual and effective regional and international co-operation in the fight against human trafficking.

#### Case study

A young lady walks into the charge office wearing a half-torn mini-skirt. She is crying and alleges that some men had harassed her saying that she was only wearing 'a belt' instead of a skirt. The lady is seeking police protection. However the police officers in the charge office accuse the lady of being a person of loose morals because she is wearing a very short mini skirt. They say that she deserved the treatment she had received. Discuss the attitude of the police officers and suggest the action that they should have taken. What action should the Officer in Charge, station take against the officers? Do commercial sex workers or women of loose morals deserve protection from the police?

#### **Module Five**

#### Case studies

1. Chitau Gato is accepted into Zongoro Refugee Camp as a refugee. He then seeks and finds employment at a factory in Harare. Sergeant Turo gets information that Gato has left the refugee camp and is employed. Sergeant Turo seeks your advice on what he should do. Advise Sergeant Turo.
2. Mrs Sango, a refugee is working in Harare at a private company. A report has been received at of one the police stations that Mrs Sango is soliciting funds to further the aims of her husband's political party in her country of origin. She allegedly has been actively addressing public meetings of a political nature in her neighbourhood. What action, if any, should the police take?
3. Mr Patia Tato, a refugee from the MRC, has been involved in organising other refugees to demonstrate against alleged ill treatment of refugees by the government. What action, if any, can be taken against him?
4. Zumbo, a country bordering Zimbabwe, has suddenly exploded into a state of civil strife. A large number of people have appeared at the Amatshe Border Post of Zimbabwe, fleeing the civil strife. What treatment should they receive at the border post?

#### **Annexure 3**

**Pre-Training Test**  
**Human Rights, Elections and Policing: Training for the Zimbabwe Republic Police**  
 (30 minutes)

1. Have you had any previous human rights training?
2. What are the challenges that you face as a police officer?
3. In your opinion which human rights, elections and policing issues are the most important to be addressed in a course of this kind?
4. List five constitutional rights relevant to political participation.
5. Do the police have any role in the promotion and protection of human rights? Explain your answer.
6. Give five examples of the duties and responsibilities of the police during an election.
7. List three important rules regulating the use of firearms.
8. List five important rights of an accused person.
9. List five election offences.
10. List two ways of bringing a suspect to court.
11. Are there any circumstances in which torture is permissible?
12. Why should juveniles, women and persons with disabilities who come into contact with the criminal justice system receive special protection?
13. Should violence within the family be a matter for action by the police?

#### **Annexure 4**

**Post-Training Assessment**  
**Human Rights Training, Elections and Policing: Training for the Zimbabwe Republic Police**  
 (30 mins)

1. What is your opinion on the total duration of the programme?
  - ( ) Too long
  - ( ) Just right
  - ( ) Too Short

If not “just right” what would be a suitable duration for the programme in your opinion?

2. How do you consider the daily schedule?
- Too heavy
  - Just right
  - Too light

Comments:

Do you have any suggestions on changes in the general nature of the programme? If so which:

3. Do you consider that the training corresponds to the nature of your work?
- To a very large extent
  - To a large extent
  - To a sufficient extent
  - To a small extent
  - To a very small extent

What has been the impact of the training on you?

4. Do you consider that the training corresponds to your professional needs in policing elections?
- To a very large extent
  - To a large extent
  - To a sufficient extent
  - To a small extent
  - To a very small extent

Please comment:

5. Please comment on the overall relevance of the knowledge gained in relation to your professional capacity needs.

---

---

6. Were there, in your opinion, any areas that were not adequately covered in the programme?
- Yes  
No  
If yes, what would you like to suggest?

7. How did you find the overall standard of the instructors with respect to:

	Language	Methods of Instruction
Very good		
Rather good		
Fair		
Poor		
Very poor		

Any comments?

8. Did you find the contents of the programme relevant to conditions prevailing your employment?
- To a very large extent
  - To a large extent
  - To a sufficient extent
  - To a small extent
  - To a very small extent

Please state why:

9. Do you think you will have an opportunity to apply the newly acquired knowledge and experience in your present position?
- To a very large extent
  - To a large extent
  - To a sufficient extent
  - To a small extent

( ) To a very small extent

What difficulties, if any, would you expect to encounter?

