TRANSPARENCY INTERNATIONAL
KENYA

REPORT OF THE REVIEW OF THE ANTI-CORRUPTION PROVISIONS IN THE NATIONAL POLICE SERVICE'S BASIC TRAINING COURSE SYLLABUS AND REGULATIONS, 2011.

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ACKNOWLEDGEMENT

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GLOSSARY

APS..Administration Police Service
AUCCPC...African Union Convention on Combating and Preventing Corruption
CAJ...Commission on Administrative Justice
CoE...Council of Europe
CSOs...Civil Society Organisations
DCAF...Democratic Control of Armed Forces
EABI...East African Bribery Index
EACC...Ethics and Anti Corruption Commission
GCB..Global Corruption Barometer
GoK...Government of Kenya
IAU..Internal Affairs Unit
IMLU..Independent Medico-Legal Unit
Interpol...International Police
IPOA...Independent Policing Oversight Authority
KICD..Kenya Institute of Curriculum Development
KIE...Kenya Institute of Education
KHRC..Kenya Human Rights Commission
KNCHR..Kenya National Commission on Human Rights
KNDRA..Kenya National Dialogue and Reconciliation Accord
KPS...Kenya Police Service
LRF...Legal Resources Foundation
MSPAIS...Ministry of State for Provincial Administration and Internal Security
NPS...National Police Service
NPSA, 2011...National Police Service Act, 2011
NPSC...National Police Service Commission
NYCPD...New York City Police Department
OPOTA..Ohio Peace Office Training Academy
OPOTC..Ohio Peace Office Training Commission
OSCE...Organisation for Security and Co-operation in Europe
PBTCSR 2011......................................Police Basic Training Course Syllabus and Regulations, 2011
PEV...Post Election Violence
RSA...Republic of South Africa
SAPS...South African Police Service
TI..Transparency International
TI-Kenya...Transparency International-Kenya
UN...United Nations
UNCAC..United Nations Convention against Corruption
UNODC...United Nations Office on Drugs and Crime
USA...United States of America

1.0. BACKGROUND

1.1. Understanding Corruption

The phenomenon of corruption does not lend itself to an easy or all-embracing definition given its multi-disciplinary nature.[1] However, Transparency International (TI)—a leading global anti-corruption Civil Society Organisation (CSO)—defines corruption simply as "the abuse of entrusted power for private gain."[2]

The United Nations Convention against Corruption (UNCAC) is the premier anti-corruption legal instrument internationally,[3] while the African Union Convention on Preventing and Combating Corruption (AUCCPC) is the main anti-corruption legal instrument on the African continent. The AUCCPC indirectly defines corruption as "acts and practices including related offences proscribed" by the convention.[4] These acts, practices and offences include laundering of proceeds of corruption,[5] and illicit enrichment.[6] Kenya's Anti-Corruption and Economic Crimes Act (ACECA) also indirectly defines corruption as an offence under ACECA; bribery; fraud; misappropriation of public funds; abuse of office; breach of trust; and dishonesty-related offences such as tax evasion.[7] Other important components of the anti-corruption statutory framework in Kenya include the Public Officer Ethics Act,[8] the Ethics and Anti-Corruption Commission Act,[9] and the Leadership and Integrity Act.[10]

Corruption has been attributed to the failure to control self-interest, which is a universal human motivator.[11] Indeed, corruption has diverse impact on life including personal, social, cultural, economic, legal, environmental, and political effects.[12] For example, corruption-laced law enforcement weakens the rule of law which is the fulcrum of democratic governance.[13] In turn, breakdown of rule of law has spill-over effects such as threatening national security and weakening critical institutions of governance since endemic corruption may lead to civil unrest or anarchy or chaos in a country.[14] A case study is the devastating 2007-2008 Post-Election Violence (PEV) in Kenya, in whose aftermath the fight against impunity and corruption were among the crucial long-term, conflict-inducing issues that were identified, for decisive national action, by the Kenya National Dialogue and Reconciliation Accord (KNDRA) framework.[15]

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[1] See, for example, J Gardiner, Political Corruption: Concepts and Contexts, 2002, at p. 25, available at: https://books.google.co.ke/books?hl=en&lr=&id=49y50pzjAzAC&oi=fnd&pg=PA25&dq=defining+corruption&ots=WdqjgagE7k&sig=B5auodAeRvsyHmw_4-w_p9PWYAg&redir_esc=y#v=onepage&q=defining%20corruption&f=false (accessed on April 27, 2016)
[2] Transparency International, Plain Language Guide, 2009 p. 14
[3] General Assembly Resolution 58/4 of 31st October 200
[4] Article 1(1), African Convention on Preventing and Combating Corruption
[5] Article 6, African Convention on Preventing and Combating Corruption
[6] Article 8, African Convention on Preventing and Combating Corruption
[7] Section 2, Chapter 65 of the Laws of Kenya
[8] Section 2, Chapter 183 of the Laws of Kenya
[9] Section 2, Chapter 65A of the Laws of Kenya
[10] Section 2, Chapter 182 of the Laws of Kenya
[11] Susan Rose-Ackerman, Corruption and Government: Causes, Consequences and Reform, Cambridge University Press, 1999 at p. 2
[12] See, for example, "Cost of Corruption", in ibid at p. 1-6; "The Economic Impact of Corruption", in ibid at p. 9-26; "Corruption and Politics", in ibid at p. 113-126; "Democracy and Corruption: Incentives and Reforms", in ibid at p. 127-142
[13] See, forward to UNCAC by former United Nations Secretary General, Kofi A. Annan
[14] Organisation for Security and Co-operation in Europe, Good Practices in Basic Police Training, Vienna, 2008, at p. 17
[15] See, Kenya National Dialogue and Reconciliation: Statement of Principles on Long-Term Issues and Solutions, with Matrix of Implementation Agenda (Agenda Item 4), May 23, 2008. The KNDR was overseen by the Panel of Eminent African Personalities led by former United Nations (UN) Secretary General Kofi Annan.

1.2. Overview of the Status of Corruption in Kenya and the Policing Sector in Kenya

1.2.1. Overview of the Status of Corruption in Kenya

Though corruption is an international problem that affects all countries, developing countries—like Kenya—tend to not only have high levels of corruption but also bear the heaviest brunt of the effects of corruption.[16] Some authors have attributed the prevalence of corruption in developing countries to culture-related factors including a pro-corruption mentality,[17] but many other factors also facilitate corruption in developing countries including ineffective anti-corruption institutions and dithering political will against corruption.

In the case of Kenya, the country performed dismally in TI's annual Corruption Perceptions Indices (CPI) in the decade covering 2001 to 2011 as it was perceived as among the highly corrupt countries globally.[18] The 2011 CPI, for example, ranked Kenya among the bottom 28 highly corrupt countries,[19] and so did the 2015 CPI which ranked Kenya at position 139 out of 168 highly corrupt countries and territories globally.[20] Successive editions of the Bribery Index since 2001 (currently the East African Bribery Index, previously Kenya Bribery Index and Kenya Urban Bribery Index) have ranked the Kenya Police Service as the most bribery prone institution in Kenya. TI-Kenya's EABI trends analysis report 2010-2014 established that 38% of Kenyans pay bribes to hasten service delivery by different sectors which include the police.[21] Additionally, findings of the Afro-barometer report 2015 established that 49% of the respondents paid bribe to access services from the police.

Further, 74 percent and 5.6 percent of respondents in a 2015 study by the Ethics and Anti-Corruption Commission (EACC) perceived the levels of corruption in Kenya as very high and low, respectively.[22] In the same study, 50.4 percent of the respondents indicated that the level of corruption in the country had increased compared to the year 2014.[23] Further, 30.1 percent and 38.8 percent of respondents in the said study expected the level of corruption in the country to increase and decrease, respectively.[24] Moreover, 96.2 percent of respondents in the said study identified giving and taking of bribes as the most common form of corruption in Kenya.[25] Also, 62.6 per cent of respondents in the said study identified greed as the main cause of corruption in the public sector.[26] In terms of the different sectors, the Ministry of Interior and Coordination (40.3%) was perceived to be the most prone to corruption.[27] Finally, the respondents in the said study identified the effects of corruption in Kenya as poverty (34.8 percent), under-development (26.3 percent), poor service delivery (6.2 percent), moral decay (5.3 percent), inflation (4.4. percent), and inequality (4.1 per cent).[28]

The seriousness of the problem of corruption in Kenya has generated growing clamour for corruption to be declared a national disaster in the country,[29] in order to re-dedicate national efforts to decisively fight corruption. Noteworthy, Kenya has taken a number of measures to prevent and combat corruption in the country such as policy, legal, administrative, and institutional reforms, and the EACC leads the fight against corruption through "law enforcement, preventive measures, public education and promotion of standards and practices of integrity, ethics and anti-corruption."[30]

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[16] Supra note 13
[17] Supra note 11
[18] See Transparency International, Corruption Perception Index 2011 and United Kingdom's (UK) Department for International Development, DFID's Anti-Corruption Strategy for Kenya, January 2013
[19] Ibid
[20] See Transparency International, Corruption Perception Index 2015
[21] See Transparency International, The East Africa Bribery Index Trends analysis (2010-2014) at pg. 30
[22] Ethics and Anti-Corruption Commission, National Ethics and Anti-Corruption Survey 2015 Report, at p. xii
[23] Ibid
[24] Ibid
[25] Ibid
[26] Ibid
[27] Ethics and Anti-Corruption Commission, National Ethics and Anti-Corruption Survey 2015 Report, at p. 21
[28] Supra 21, at p. xiii
[29] See, for example, "Declare corruption a national disaster, accountants tell Uhuru," Daily Nation newspaper, March 16, 2016, available at: http://www.nation.co.ke/counties/mombasa/Declare-corruption-a-national-disaster/-/1954178/3119890/-/h77nr7/-/index.html (accessed on April 27, 2016)
[30] EACC's mandate: http://www.eacc.go.ke/default.asp?pageid=3 (accessed on April 27, 2016)

One of the important legal reforms was the adoption of the Constitution of Kenya, 2010 (CoK 2010). For example, the CoK 2010 incorporates integrity, good governance and the rule of law among the national values and principles of governance,[31] which bind all persons in Kenya,[32] including public officers such as police officers. Also, the CoK 2010 has established, or has provided a framework for the establishment of, critical institutions of governance in the law enforcement and anti-corruption sectors such as the National Police Service Commission (NPSC),[33] the EACC,[34] and the Independent Policing Oversight Authority (IPOA),[35] and the Commission on Administrative Justice (CAJ) alias the Office of the Ombudsman.

1.2.2. Overview of the Status of Corruption in the Policing Sector in Kenya

The National Police Service (NPS) comprises the Kenya Police Service (KPS) and the Administration Police Service (APS).[36] The NPS is headed by an Inspector General,[37] who has two deputies, one representing the KPS and the other representing the APS.[38] Before the adoption of the CoK 2010, the KPS and the APS had distinct statutory framework—the Police Act[39] and the Administration Police Act[40]—thereby contributing to the lack of synergy in the overall command and functioning of the two units. Indeed, the 2008 Commission of Inquiry into the Post-Election Violence (CIPEV) recommended urgent police reforms including the merger of the two police units.[41]

In May 2009, the Government of Kenya (GoK) appointed the Justice (Rtd) Philip Ransley-led National Task Force on Police Reforms, whose terms of reference included reviewing the standards and practices of training police officers with a view to, for example, enhance professionalism in the police service.[42] According to the task force report, public confidence in the police—especially the KPS—was low and members of the public perceived the police as corrupt at all levels given there was widespread extortion of money through bribery.[43] The task force report also noted that corruption was highly tolerated across all ranks in the police,[44] especially in the Traffic Department.[45] Indeed, TI's 2013 Global Corruption Barometer (GCB) identified the police as the most bribe-prone institution in the East African region.[46] On the other hand, the 2010-2014 East African Bribery Index (EABI) ranked the police in Kenya as not only the most bribery prone institution in Kenya, but also among the top five bribery-prone institutions in East Africa.[47]

The task force recommended that the police should "adopt a set of key values and principles and to strictly adhere to them in their policing work."[48] For example, according to the task force, the adoption of and adherence to a Code of Ethics would tame conflict of interest among police officers.[49] Other important and relevant recommendations of the task force were: reviewing and harmonizing the police training curriculum;[50] improving and upgrading the training facilities and standards;[51] developing a Policy Academy for commanders' leadership training; and developing exchange and benchmarking programmes with countries that have best policing practices.[52]

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[31] Article 10(2), Constitution of Kenya, 2010
[32] Article 10(1) , Constitution of Kenya, 2010
[33] Article 246(1) , Constitution of Kenya, 2010
[34] Article 79 , Constitution of Kenya, 2010
[35] IPOA: www.ipoa.go.ke
[36] Article 243(2), Constitution of Kenya, 2010
[37] Article 245(1)(2), Constitution of Kenya, 2010
[38] Article 245(3), Constitution of Kenya, 2010
[39] Chapter 84 of the Laws of Kenya (repealed by the National Police Act, 2011)
[40] Chapter 85 of the Laws of Kenya (repealed by the National Police Act, 2011)
[41] Report of the CIPEV, at p. 436. The Justice Philip Waki-led CIPEV, popularly known as the 'Waki Commission,' investigated the 2007-2008 PEV, in which over 1,000 human lives were lost. The CIPEV found that the police—Kenya Police and Administration Police—were mostly overwhelmed by the scale of the violence and they also faced challenges in coordinating response to the violence.
[42] The Report of the National Task Force on Police Reforms (Abridged Version), December 2009, at p. 4
[43] Ibid, at p. 7
[44] Ibid, at p. 8
[45] Ibid, at p. 16
[46] Transparency International-Kenya, The East African Bribery Index: Trends Analysis (2010-2014), 2015, at p. 1
[47] Ibid, at p. 22-24
[48] Supra note 40, at p. 16
[49] Ibid
[50] Ibid, at p. 21
[51] Ibid, at p. 21
[52] Ibid, at p. 22

In the wake of the adoption of the CoK 2010 and the subsequent establishment of the NPSC, the constitutional objects and functions of the NPS include to prevent corruption,[53] and to train its staff to the highest possible standards of integrity.[54] Thus, with regard to training of police officers, the NPSC is empowered to develop a training policy,[55] approve training curricula,[56] oversee implementation of the training policy and curricula,[57] and regularly review the training curricula to keep it relevant to emerging policing requirements.[58] Arguably, if ethics and anti-corruption matters are mainstreamed into the Police Basic Training Course Syllabus and Regulations 2011 (PBTCSR 2011)—and police trainees are effectively instructed and examined on the two subjects—then the graduating police officers will eventually form a critical mass of serving police officers who—through further monitoring including regular, relevant and comprehensive in-service training—will contribute towards reducing the high levels of corruption in the police service.

However, despite efforts to tackle corruption in the NPS including vetting of police officers,[59] corruption remains a serious problem in the NPS. For example, the KPS and the Traffic Department were the top two government agencies most prone to corruption according to 31.9 percent and 18.8 per cent of respondents, respectively, in a 2015 study by the EACC.[60] Therefore, this report seeks to contribute to the mandate of the NPSC to regularly review and update the basic course syllabus of the NPS, that is, the PBTCSR 2011.

1.3. Methodology

TI-Kenya reviewed the PBTCSR 2011 with the assistance of a consulting firm.[61] The desktop research mainly involved content review and analysis of relevant literature. The literature included policy documents such as the Kenya National Dialogue and Reconciliation Accord's (KNDRA) Agenda Item 4; the CoK 2010 and its enabling legislations more so the National Police Service Act and ACECA; international anti-corruption instruments including UNCAC and AUCPCC; and previous study reports including the Report the National Task Force on Police Reforms, 2009.

Further, the research involved an assessment of international best practices and standards on police ethics and anti-corruption. These included the International Police's (Interpol) Global Standards to Combat Corruption in Police Forces/Services, and the Organisation for Security and Co-operation in Europe's (OSCE) Good Practices in Basic Police Training – Curricular Aspects. Also, the research included a comparative study of police training on ethics and anti-corruption in three progressive jurisdictions representing the developed and developing worlds. These jurisdictions were the United States of America (USA), especially New York State; the United Kingdom (UK), which is Kenya's former colonial master; and the Republic of South Africa (RSA), which operates under an almost Kenya-like social, cultural and historical context including grappling with the problem of corruption.

The draft report of the research was reviewed by key stakeholders during a consultative forum held on 20th April 2016 at Silver Springs Hotel, Nairobi. The participants during the forum represented both state and non-state agencies. The represented state institutions included the NPSC, Internal Affairs Unit (IAU) of the NPS, the Kenya Institute of Curriculum Development (KICD),National Anti-corruption Campaign Steering Committee, the Commission on Administrative Justice (CAJ) and the Kenya National Commission on Human Rights (KNCHR). On the other hand, the represented non-state institutions included Diakonia, USALAMA Reforms forum, the Kenya Human Rights Commission (KHRC), Independent Medico-Legal Unit, National Coalition for Human Rights Defenders-K, Legal Resource Foundation and Inuka Ni Sisi.

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[53] Article 244(b), Constitution of Kenya, 2010
[54] Article 244(d), Constitution of Kenya, 2010
[55] Section 79(1)(a), National Police Service Act, 2011
[56] Section 79(1)(b), National Police Service Act, 2011
[57] Section 79(1)(c), National Police Service Act, 2011
[58] Section 79(2), National Police Service Act, 2011
[59] Supra note 45
[60] Supra 21, at 22
[61] Rogo, Okelloh, Wangari & Company (rowadvocates@gmail.com)

Finally, the salient comments on the draft report made by the stakeholders were then incorporated into this final report.

2.0. ASSESSMENT OF THE ANTI-CORRUPTION PROVISIONS IN THE NATIONAL POLICE SERVICE'S BASIC TRAINING COURSE SYLLABUS AND REGULATIONS, 2011 AGAINST INTERNATIONAL BEST PRACTICES

2.1.1 Overview of Provisions of the PBTCSR 2011

The Kenya Institute of Education (KIE)[62] developed the 509-page PBTCSR 2011 under the aegis of the Ministry of State for Provincial Administration and Internal Security (MSPAIS). The MSPAIS was the parent ministry of the KPS and APS at the material time.[63]

The main contents of the PBTCSR 2011 are: general introduction to the basic training course; objectives of police training programmes such as the expectation that the trainees shall demonstrate high levels of discipline and respect of human rights;[64] introduction to basic police training syllabus such as the fact that the cadet training is structured into four terms;[65] general objectives of the course such as that the trainees should be able to apply research techniques in reporting and information gathering;[66] general regulations; approval of the police training institutions by the MSPAIS;[67] duration of the course, which is 15 months comprising 12 months or 1,680 hours at the training institution and three months or 420 hours in compulsory internship;[68] list of examinable units of the course since police training is a competency-based programme;[69] attendance and course work requirements during the course considering that the training is full-time and the trainees are required to register for it;[70] research project work by an individual trainee or jointly by a maximum of two trainees and the research should be police-oriented, problem-solving, and practical in nature;[71] examinations and award of certificates, in that trainees must pass all course work and project work to qualify to be awarded a Certificate;[72] general examination regulation, in that any inconsistency between the PBTCSR 2011 and the general regulations of the examining body shall be resolved in favour of the latter;[73] and course summary and time allocation, in which terms I, II, and IV are all allocated 560 hours while term III is allocated 420 hours.[74]

Under the PBTCSR 2011, the 12 Term I courses are: communication skills; psychology; social, cultural and historical context; information communication technology (ICT) I; fitness and recreation training I; disaster and incident management II (first aid); drill 1 (foot drill); skill at arms; field crafts and tactics; the Constitution of Kenya; the Penal Code; and police procedures I.[75] In Term II, the 11 courses are: fitness training II; drill II (arms drill, anti-riot drill and hoisting and lowering of the national flag); skills at arms; field crafts and tactics; police communications; Criminal Procedure Code; Evidence Act; human rights and gender; police procedures II; Local Acts; and traffic management.[76]

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[62] The KIE was renamed the KICD following the enactment of the Kenya Institute of Curriculum Development Act No. 4 of 2013. See www.kicd.ac.ke
[63] Following the 2013 General Elections which was the first General Elections after the adoption of the Constitution of Kenya 2010, the departments of government were reorganized and the Ministry of State for Provincial Administration and Internal Security was replaced with the State Department for Internal Security and Coordination of National Government
[64] PBTCSR 2011, at p. i
[65] Ibid
[66] Ibid
[67] Supra note 62
[68] Ibid, at p. ii. However, in response to insecurity challenges in or around 2014, the course duration was reduced to nine (9) months reportedly since the country needed police recruits to be trained quickly yet the 15-month training was too long. See, for example, Cyrus Ombati, "10,000 police officers to be recruited," The Standard newspaper, May 5, 2014, available at: http://www.standardmedia.co.ke/article/2000110994/10-000-police-officers-to-be-recruited (accessed on April 27, 2016)
[69] Ibid
[70] Ibid, at p. iv
[71] Ibid
[72] Ibid, at p. v
[73] Ibid, at p. vi
[74] Ibid
[75] Ibid, at p. iii
[76] Ibid

On the other hand, Term III covers the period that the police trainees undertake internship.[77] Finally, the 11 Term IV courses are: ICT II; community policing; disaster and incident management II; fitness training III; drill III (ceremonial parades); basic research methodology; skill at arms; field crafts and tactics; criminal intelligence; criminology; and forensic investigation.[78]

2.1.2. Overview of Provisions of the PBTCSR 2011 that Promote Anti-Corruption in the Policing Sector in Kenya

A number of courses and/or sub-course units in the PBTCSR 2011 promote ethical conduct and anti-corruption in the NPS, either directly or indirectly. First, the 40-hour Communication Skills course[79] aims to "equip the police trainees with knowledge, skills and attitudes to enable him/her to perform duties, process information from a variety of sources and apply communication skills at the work place."[80]

Many members of the public perceive the NPS and its officers as highly corrupt, as already noted in this report. This course will therefore equip the trainees with useful skills such as public relations and customer care,[81] interviewing skills,[82] writing skills,[83] and report writing skills.[84] The public relations and customer care skills will help police officers to effectively manage the concerns of members of the public who may be dissatisfied with actual or perceived police misconduct more so unethical conduct and corruption. Further, the interviewing, writing and report writing skills—and the related 32-hour Basic Research Methodology course[85]—will help police officers in effectively researching, measuring, documenting and reporting on matters relating to ethics and corruption when they are called upon so to do. For, according to the Interpol's Global Standards for Combating Corruption in Police Forces/Services, police officers have an obligation to report to the appropriate authorities corruption-related acts or omissions within the police force/services.[86]

Second, the 32-hour Psychology course[87] also supports ethics and anti-corruption in the NPS. The course, for example, targets to inculcate life skills and a value system among the police trainees to enable them to not only effectively address their personal issues, but also to integrate well in the society.[88] Self-interest and greed are essentially personal issues but, as already noted in this report, they are the leading cause of corruption globally and in Kenya. Different societies, however, will address questions of self-interest and greed differently, thereby impacting differently on the effectiveness of the fight against corruption depending on the particular society.

Third, the 37-hour Social, Cultural and the Historical Context course[89] seeks to "equip the trainee with knowledge, skills, attitudes and values that empower him/her to face challenges posed by their social and cultural circumstances."[90] Thus, the ethics and integrity sub-unit[91] of this course directly promotes ethics and anti-corruption in the NPS as it aims to educate the trainees on the definition of ethics and integrity; characteristics of ethical behaviour; unethical practices; importance of ethics and integrity; and ways of fighting corruption.[92] As already noted in this report, the social, cultural and historical context in which Kenyan police officers operate is characterized by high levels of unethical and corrupt behaviour in both public and private sectors. Therefore, it is crucial that Kenyan police trainees are educated on how best to deal with questions of ethics and anti-corruption in their society.

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[77] Ibid
[78] Ibid
[79] Para 3.1.0, PBTCSR 2011
[80] Para 3.1.1, PBTCSR 2011
[81] Para 3.1.12, PBTCSR 2011
[82] Para 3.1.11, PBTCSR 2011
[83] Para 3.1.07, PBTCSR 2011
[84] Para 3.1.09, PBTCSR 2011
[85] Para 32.4.0, PBTCSR 2011
[86] Article 4.1.3 and 4.9, Global Standards to Combat Corruption in Police Forces/Services
[87] Para 4.1.0, PBTCSR 2011
[88] Para 4.1.03, PBTCSR 2011
[89] Para 5.1.0, PBTCSR 2011
[90] Para 5.1.1, PBTCSR 2011
[91] Para 5.1.07, PBTCSR 2011
[92] Para 5.1.07 T0, PBTCSR 2011

Fourth, the 62-hour ICT I course[93] aims "to equip the trainee with knowledge, skills and attitudes to enable the trainee appreciate and apply Information Communication Technology in crime research, investigation and police documentation."[94] This course, through its sub-unit dealing with ethics and professional while using computers,[95] also promotes ethics and anti-corruption in the NPS by educating the trainees on the following important matters: meaning of ethics; importance of ethics while using computers; unethical behaviour while using computers such as software piracy and unauthorized access; professional code of conduct; and coping with ethical issues and challenges arising from use of computers.[96]

The ICT sector in Kenya has witnessed tremendous growth including the widespread use of social media platforms including Facebook, and online/mobile phone-based money transfer services such as M-Pesa. Crime has also kept pace with the growth of the ICT sector. Thus, ICT poses many ethical challenges to police officers including how to deal with private data that they may come across while, for example, conducting surveillance and investigations. In fact, according to Interpol, the unathorised dissemination of confidential or restricted police information, whether for reward or otherwise, is catogorised as a corrupt conduct.[97]

Fifth, the 26-hour course on the Constitution[98] seeks to enable the trainees to, for example, communicate constitutional matters effectively and to adhere to the functions of the NPS.[99] In this regard, the course will contribute to promoting ethics and anti-corruption in the NPS by educating the trainees on, for instance, the chapters and provisions of the Constitution such as national values and principles of governance including integrity,[100] and the objects and functions of the NPS such as preventing corruption.[101]

Sixth, the 40-hour Police Procedure I course[102] intends to, for example, enable "the trainee to maintain the required standard of discipline and self-restraint when executing police duties and functions."[103] The course contributes to the promotion of ethics and anti-corruption in the NPS by aiming to educate the trainees on: the term pecuniary (financial) embarrassment;[104] care and custody of prisoners/suspects;[105] behaviours that lead to complaints against or by police officers;[106] and how to avoid complaints from the public.[107] As already noted in this report, self-interest and greed are the main motivators of unethical bahaviour and corruption. Police officers, however, wield immense powers such as arrest and release of suspects, and some officers are often accused of abusing their powers by engaging in unethical conduct and corruption. Thus, police trainees—and serving police officers—should be equipped with knowledge and skills on how to be disciplined and exercise self-restraint and to tame temptations to further their self-interest at the expense of their policing duties.

Seventh, the 25-hour Human Rights and Gender course,[108] notes that respect of human rights is critical in policing especially in regard to duties involving arrest, detention, search, seizure of property, surveillance, and use of force and firearms.[109] These are some of the areas in police work where police officers wield immense powers. As already noted in this report, some police officers are often accused of abusing these powers for self-interest including engaging in corruption. Further, the course aims at ensuring that the trainees are sensitive to the plight of the vulnerable and marginalized groups including children, women,

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[93] Para 6.1.0, PBTCSR 2011
[94] Para 6.1.1, PBTCSR 2011
[95] Para 6.1.15, PBTCSR 2011
[96] Para 6.1.15 T1-T5, PBTCSR 2011
[97] Article 2.4, Global Standards to Combat Corruption in Police Forces/Services
[98] Para 12.1.0, PBTCSR 2011
[99] Para 12.1.2, PBTCSR 2011
[100] Para 12.1.01, PBTCSR 2011
[101] Para 12.1.3 T0, PBTCSR 2011
[102] Para 14.1.0, PBTCSR 2011
[103] Para 14.1.1, PBTCSR 2011
[104] Para 14.1.05 T(d), PBTCSR 2011
[105] Para 14.1.07, PBTCSR 2011
[106] Para 14.1.09, PBTCSR 2011
[107] Para 14.1.09 T1, PBTCSR 2011
[108] Para 22.2.0, PBTCSR 2011
[109] Para 22.2.2 (a), PBTCSR 2011

and persons living with disability.[110] For, it is the marginalized and vulnerable groups who often bear the heaviest brunt of corruption including by police officers. Indeed, there is a close link between human rights and corruption since corruption has been identified as a human rights issue.[111]

Eighth, the 89-hour Police Procedures II course,[112] promotes ethics and anti-corruption by targeting to educate trainees on, for example, how to effectively handle confidential informants.[113] Informers play a crucial role in policing by providing useful information to police officers in confidence. However, some police officers have been accused of improperly managing informers including by corruptly disclosing the identities of the informers, or the information they provided, thereby compromising the security of the informers and their information. The course deals with the critical subjects of crime scene management,[114] and management of evidence/exhibits,[115] which some police officers have been accused of handling ineffectively with a view to subverting justice upon improper inducement, for example.

Ninth, the 35-hour Local Acts course,[116] which introduces trainees to statutes that they are expected to adhere to and enforce,[117] also promotes ethics and anti-corruption in the NPS. The course, for example, takes the trainees through the Public Officer Ethics Act 2003, which is aimed at advancing the ethics of public officers—like police officers—in Kenya through a Code of Conduct and Ethics and requiring financial declarations by certain public officers.[118] According to Interpol, police forces/services are encouraged to establish and enforce procedures to facilitate the declaration and registration of income, assets and liabilities by police officers and appropriate members of their families.[119]

Tenth, the 80-hour Traffic Management course,[120] which aims "to equip the trainee with knowledge, skills and altitudes in performing traffic duties,"[121] has useful sub-units aimed at promoting ethics and anti-corruption in the NPS. As already noted in this report, the Traffic Department is one the two most corruption-prone government agencies in Kenya. Some traffic police officers are often accused, for instance, of erecting road blocks with a view of solely collecting bribes from motorists as opposed to performing their lawful traffic duties such as getting unroadworthy motor vehicles off the road. The course, therefore, aims to educate the trainees on, for example, the proper role of a traffic police officer;[122] powers of police officers under the Traffic Act;[123] investigation of accident cases;[124] control of speeding on public roads;[125] and persons authorized to mount road blocks and duties of road block checkers.[126]

Finally, the 20-hour Community Policing course[127]—and the related 42-hour Criminal Intelligence course[128] that seeks to, for example, equip the trainee with knowledge, skills and attitudes to enable him/her to perform enforcement and investigation duties, collect intelligences, evaluate agents and sources of information[129]—also supports ethics and anti-corruption in the NPS. The Community Policing course aims at, for example, equipping "the trainee with knowledge, skills, attitudes and values that empower him/her to appreciate and participate in community policing activities."[130]

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[110] Para 22.2.2 (c), PBTCSR 2011
[111] See, for example, Office of the United Nations High Commissioner for Human Rights, **"The Human Rights Case Against Corruption,"** available at: http://www.ohchr.org/Documents/Issues/Development/GoodGovernance/Corruption/HRCaseAgainstCorruption.pdf (accessed on April 27, 2016)
[112] Para 23.2.0, PBTCSR 2011
[113] Para 23.2.14 (f), PBTCSR 2011
[114] Para 23.2.17, PBTCSR 2011
[115] Para 23.2.19, PBTCSR 2011
[116] Para 24.2.0, PBTCSR 2011
[117] Para 24.2.01, PBTCSR 2011
[118] Long title, Public Officers Ethics Act, 2003, Chapter 183 of the Laws of Kenya
[119] Article 4.11, Global Standards to Combat Corruption in Police Forces/Services
[120] Para 25.2.0, PBTCSR 2011
[121] Para 25.2.1, PBTCSR 2011
[122] Para 25.2.3 (a), PBTCSR 2011
[123] Para 25.3.3, PBTCSR 2011
[124] Para 25.2.07, PBTCSR 2011
[125] Para 25.2.12, PBTCSR 2011
[126] Para 25.2.13, PBTCSR 2011
[127] Para 28.4.0, PBTCSR 2011
[128] Para 35.4.0, PBTCSR 2011
[129] Para 35.4.1, PBTCSR 2011
[130] Para 28.4.1, PBTCSR 2011

At the core of the concept of community policing and collection of criminal intelligence is that police officers—and the community they serve—should cooperate with each other with a view to effectively and jointly identifying and solving policing-related problems in the community.[131] For example, according to Interpol, CSOs should participate in efforts to prevent corruption in the police.[132] Therefore, it is critical that police officers have a good working relationship with the community they serve. However, as already noted in this report, there is an actual or perceived big rift between members of the public and the NPS arising out of misconduct by some police officers including engaging in corruption. Yet, as reiterated by Interpol, police forces/services have an obligation "to seek out and effectively deal with corruption within the police force/service."[133] In this regard, the Community Policing course seeks to educate the trainees on how to deal with social fears,[134] and develop attitudes, values and skills—such as integrity and anti-corruption—which promote community policing.[135]

2.2. Assessment of International Best Practices on Anti-Corruption in the Policing Sector

There are many useful publications, especially at the international level, on the subject of police ethics and anti-corruption. These include the United Nations Code for Law Enforcement Officials; United Nations Office on Drugs and Crime's (UNODC) Handbook on Police Accountability, Oversight and Integrity; Council of Europe's (CoE) Code of Police Ethics; the Geneva Centre for the Democratic Control of Armed Forces' (DCAF) Training Manual on Police Integrity; Interpol's Global Standards to Combat Corruption in Police Forces/Services; and the Organisation for Security and Co-operation in Europe's (OSCE) Good Practices in Basic Police Training – Curricular Aspects. This report will mainly dwell on the latter two publications.

2.2.1. Global Standards to Combat Corruption in Police Forces/Services

Interpol's Global Standards to Combat Corruption in Police Forces/Services (hereinafter referred to as the Global Standards) have useful provisions on promotion of ethics and anti-corruption among police officers including through proper training. The objectives of the Global Standards are not only to ensure high standards of honesty, integrity and ethical behaviour within police forces/services affiliated to Interpol,[136] but also to support efforts to prevent, detect, punish and eradicate corruption within those police forces/services.[137]

In the context of policing, the Global Standards provides a comprehensive definition of corruption, as including any act of soliciting or accepting, or offering or granting, whether directly or indirectly, to a police officer or other employee of a police force/service of any money, article of value, gift, favour, promise, reward or advantage, whether for himself/herself or for any person, group or entity, in return for any act or omission already done or omitted or to be done or omitted in future in or in connection with the performance of any function of or connected with policing.[138] The guiding principles of the Global Standards include making corruption within police forces/services to be a high-risk crime;[139] and promoting the training of police officers on high levels of integrity, honesty and ethical standards.[140] Further, countries affiliated to Interpol have committed, according to the Global Standards, to develop and maintain systems for training—including on-going training—of police officers on mandatory standards of

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[131] Section 2, National Police Service Act, 2011
[132] Article 4.10, Global Standards to Combat Corruption in Police Forces/Services
[133] Article 4.1.2, Global Standards to Combat Corruption in Police Forces/Services
[134] Para 28.4.2 (a), PBTCSR 2011
[135] Para 28.4.2 (a), PBTCSR 2011
[136] Article 1.1, Global Standards to Combat Corruption in Police Forces/Services
[137] Article 1.2, Global Standards to Combat Corruption in Police Forces/Services
[138] Article 2.1 and 2.2, Global Standards to Combat Corruption in Police Forces/Services
[139] Article 3.1, Global Standards to Combat Corruption in Police Forces/Services
[140] Article 3.3, Global Standards to Combat Corruption in Police Forces/Services

conduct,[141] including honesty, ethics, avoidance of conflicts of interest, proper use of public resources, performance of policing functions, reporting of acts of corruption, and strengthening confidence in police officers.[142]

Finally, the Global Standards expect that anti-corruption systems and mechanisms in police forces/ services—such as training of police officers on ethics and anti-corruption—should be updated to current best practices,[143] including through on-going research on current best practices,[144] and review at appropriate and regular intervals.[145]

2.2.2. Good Practices in Basic Police Training - Curricular Aspects

The Good Practices in Basic Police Training – Curricular Aspects (hereinafter referred to as the Good Practices),[146] developed by the Strategic Police Matters Unit of the OSCE, "provides police educators with a core curriculum for basic police training for recruits aiming to become uniformed police personnel in democratic societies."[147] The Good Practices are made up of three parts: values and ethics that should support democratic policing; how police officers can apply democratic policing values and ethics to practical settings; and general policing skills such as patrolling and investigations.[148] This report will focus on the first part of the Good Practices, that is, values and ethics for democratic policing.

According to the Good Practices, many democratic governments such as the GoK, often give police officers the critical tasks of protecting human rights and enforcing the laws of the country.[149] In this regard, police officers are among the most visible agents of the government, given their close and frequent contact with members of the public such as through patrol service, and traffic control.[150] Therefore, it is important that the conduct of police officers is guided by democratic values and ethics, since police misconduct impacts on public perception of the police.[151]

According to the Good Practices, a basic police training programme—that is, the "first type of general police education or training provided to newly recruited police members … aimed at teaching them basic police competencies"[152]—should especially educate the trainees on a number of democratic policing values. The first democratic policing value is *Protection of Human Rights*, whose course learning goal should include familiarising "trainees with the legal framework for protecting human rights in law enforcement."[153] Thus, the course content should include categories of human rights, the rights of arrested persons, and respect for privacy of information.[154]

The second democratic policing value is *Democratic Policing*, whose course learning goal should be to "familiarize trainees with the standards of democratic policing that are consistent with the principles of a democratic framework as opposed to authoritarian policing models."[155] Therefore, the course content should include foundation of policing, principles of democratic policing, transparency, accountability, and political independence and impartiality.[156]

[141] Article 4.6, Global Standards to Combat Corruption in Police Forces/Services
[142] Article 4.1.1, Global Standards to Combat Corruption in Police Forces/Services
[143] Article 4.8, Global Standards to Combat Corruption in Police Forces/Services
[144] Article 4.19, Global Standards to Combat Corruption in Police Forces/Services
[145] Article 4.20, Global Standards to Combat Corruption in Police Forces/Services
[146] Organisation for Security and Co-operation in Europe, **Good Practices in Basic Police Training**, Vienna, 2008
[147] Ibid, at p. 8
[148] Ibid
[149] Ibid
[150] Ibid
[151] Ibid
[152] Ibid, at p. 11
[153] Ibid, at p. 12
[154] Ibid
[155] Ibid, at p. 13
[156] Ibid

The third democratic policing value is *Commitment to Police-Public Partnership*, whose course learning goal should be to "provide trainees with an awareness of police-public partnerships and their principles.[157] Thus, the course content should include reactive versus proactive approach to policing, forms of commitment to the community, trust-building and mediating conflicts, and developing creative approaches to community concerns including conveying community concerns to police leadership and other stakeholders.[158]

The fourth democratic policing value is *Respect of Cultural Diversity*, whose course learning goal should include enhancing "trainees' knowledge of the challenges associated with policing in multi-ethnic societies and to provide them with tools to deal with such matters.[159] Therefore, the course content should include the theory of prejudice, prejudice and discrimination, and benefits of understanding different cultures.[160] The fifth democratic policing value is *Respect of Gender Issues*, whose course learning goal should include to "raise awareness about gender and to increase trainees' sensitivity to gender-specific matters."[161] Thus, the course content should include the meaning of gender equality, and protecting and promoting gender equality.[162]

The sixth democratic policing value is *Adherence to Police Ethics and Codes of Conduct*, whose course learning goals should be "to provide trainees with an understanding of ethics and ethical behaviour as it affects daily law enforcement," and to "familiarize trainees with the contents of police codes of conduct and their principles."[163] Therefore, the course content should include subjects such as ethics infrastructure, one's personal value system, ethical risks and actions to manage them, conflict of interest, control system, professionalism, service to the community, misuse of authority, and off-duty behaviour.[164] Indeed, according to the UNODC, integrity and honesty are among the critical values that should form part of the code of professional conduct of police officers.[165]

According to the Good Practices, the seventh and final democratic policing value is *Anti-Corruption*, whose course learning goal should include ensuring "that the police have high standards of honesty, integrity and ethical behaviour while performing their policing duties."[166] Thus, the course content should include subjects like forms of police corruption, consequences of corruption, conditions that breed corruption, temptations faced by police officers, and anti-corruption measures such as global standards to combat corruption and oversight bodies.[167] Indeed, according to UNODC, the fight against corruption in the police is important in enhancing police oversight and accountability.[168] The UN, too, requires law enforcement officials to oppose and combat all acts of corruption.[169] However, according to the UNODC, the best practice in fighting corruption in the police—such as through training on ethics and anti-corruption—is that the said fight should not begin during the basic training of the recruits, but it should begin at the recruitment stage by, for example, background checks on the recruits on their inclination to engage in corruption in addition to checking the usual physical fitness and academic qualifications.[170] Further, according to the UNODC, police ethics and anti-corruption training should not end during the basic training stage, but it should cover both on and off the job follow-up training activities.[171]

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[157] Ibid
[158] Ibid, at p. 14
[159] Ibid, at p. 14
[160] Ibid
[161] Ibid, at p. 15
[162] Ibid
[163] Ibid, at p. 16
[164] Ibid
[165] United Nations Office on Drugs and Crime, **Handbook on Police Accountability, Oversight and Integrity**, United Nations, 2011, at p. 79
[166] Ibid, at p. 17
[167] Ibid
[168] United Nations Office on Drugs and Crime, **Handbook on Police Accountability, Oversight and Integrity**, United Nations, 2011, at p. 1
[169] Article 7, United Nations Code of Conduct for Law Enforcement Officials, General Assembly Resolution 34/169
[170] United Nations Office on Drugs and Crime, **Handbook on Police Accountability, Oversight and Integrity**, United Nations, 2011, at p. 81
[171] Ibid, at p. 84

Moreover, according to the UNODC, effective police training on ethics and anti-corruption requires police trainers who exhibit high levels of integrity and set the right example to their trainees.[172] The DCAF concurs, and it proposes that the criteria for selecting trainers on police integrity should include *willingness* to become a facilitator on integrity; good *role model* to peers; good *communication skills;* relevant *work experience* including in operational police duties; and *time availability* to conduct the training.[173] According to DCAF, training on police integrity—especially in-service training targeting first-level to mid-management officers—should cover the following topics: understanding integrity; democratic policing and integrity; values and attitudes of police officers; police integrity legal and regulatory framework; police misconduct; peer control and reporting of misconduct; police accountability; gender equality, non-discrimination and police integrity; and police ethical dilemmas.[174]

2.2.3. United States of America (New York State)

The New York City Police Department (NYCPD) has committed to collaborate with the community it serves by, for example, enforcing the law impartially and treating its clients with professionalism.[175] This, indeed, is in recognition of the fact that unethical and corrupt police officers hinder the targeted effective working relationship with the community such as through corruption-induced impartial law enforcement and lack of professionalism. In this regard, one of the values that guide NYCPD officers is to "maintain a higher standard of integrity than is generally expected of others because so much is expected of" the officers.[176] In essence, NYCPD officers have committed to lead by example since the community looks up to them to carry out their police work with integrity.

According to the NYCPD's Training Bureau/Police Academy, effective, technology-oriented, research-based and meticulous training of NYCPD officers is crucial in ensuring that the officers are indeed New York's Finest.[177] According to the NYCPD's Training Bureau/Police Academy, "a well-trained police professional will have a favorable impact on the diverse communities they serve, will be respected by their peers, and will be emulated by other law enforcement agencies."[178]

With regard to recruits joining the NYCPD, the Recruit Training Section of the Training Bureau/Police Academy has committed to continuously review and revise its curricula in order to make it current, relevant, comprehensive and optimal such as by adding new courses and equipping the recruits with additional knowledge and skill set.[179] One such skill set is effective community relations[180] which, as already noted, may be hampered by the unethical and corrupt conduct of some police officers.

The importance of reviewing and updating NYCPD's training has been noted by some studies.[181] One such study identified a number of gaps in the then existing NYCPD training—both at the recruit and in-service levels—such as: the training was mainly mechanical, lectures-based with limited situational engagements;[182] in-service/post-academy training was limited both in content and availability;[183] the recruit training curriculum had not been comprehensively reviewed or updated regularly and

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[172] United Nations Office on Drugs and Crime, **Handbook on Police Accountability, Oversight and Integrity**, United Nations, 2011, at p. 92
[173] The Geneva Center for the Democratic Control of Armed Forces, **Training Manual on Police Integrity**, Geneva, 2015, at p.3
[174] Ibid, at p. 5
[175] See http://www.nyc.gov/html/nypd/html/administration/mission.shtml
[176] Ibid
[177] http://www.nyc.gov/html/nypd/html/police_academy/police_academy.shtml
[178] Ibid
[179] http://www.nyc.gov/html/nypd/html/training_nypd/recruit_training_.shtml
[180] Ibid
[181] See, for example, **"Training: Bringing the NYPD to the 21st Century**," available at: http://www.nyc.gov/html/nypd/html/home/POA/pdf/Training.pdf (accessed on April 28, 2016)
[182] Ibid, at p. 1
[183] Ibid

systematically;[184] some instructors had no recent field experience;[185] and the Police Academy did not provide the most effective learning environment especially in terms of scenario and reality-based training.[186]

However, the same study found that the positive transformation of NYCPD training—to, for example, "keep serving officers tactically sharp and abreast of new challenges and new concepts in their dynamic and continually evolving profession"—was ongoing.[187] For example, some changes were made to the recruit training curriculum in 2014;[188] and construction of a state-of-the-art training facility was completed in 2014 with the January 2015 recruit class being the first to enjoy the new training facilities including simulated tactical village environments.[189]

Going forward, the goals of NYCPD's new training program, which seeks to infuse a service-oriented mindset among its officers, include: strengthening the professional skills of the officers;[190] inculcating values of fairness and respect in every academic discipline;[191] ensuring that all training programs are vibrant, interesting and directly related to an employee's job responsibilities;[192] developing instructors who have recent field experience including patrol working conditions and challenges in order to facilitate scenario-based training;[193] bringing the community into the training process as curriculum collaborators, instructors, and classroom discussion facilitators in selected topics;[194] linking training to career development;[195] providing new police recruits with the knowledge and skills to interact effectively with communities;[196] and providing probationary police officers with effective field training by skilled training officers who serve as mentors and coaches.[197]

2.2.4. United Kingdom

The police institution in the UK was set up in 1892 by Sir Robert Peel as an unarmed force patrolling on behalf of the community, that is, a citizen in uniform.[198] This connection between the police and the public is encapsulated in the motto, 'the police are the public and the public are the police.' The Peel's principles focused heavily on public support and the need to secure and maintain respect of the public.[199]

One of the earliest researches on police corruption among other misconduct was conducted between 1998 and 1999 by the Her Majesty's Inspectorate of Constabulary in their report on Police Integrity.[200] The report, released in 1999, examined the level of integrity in the Police Service in England, Wales and Northern Ireland and highlighted many ways in which integrity could be monitored and enhanced where necessary, namely:

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[184] Ibid
[185] Ibid
[186] Ibid
[187] Ibid
[188] Ibid, at p. 2
[189] Ibid, at p. 3
[190] Ibid, at p. 2
[191] Ibid
[192] Ibid
[193] Ibid
[194] Ibid
[195] Ibid
[196] Ibid
[197] Ibid
[198] http://www.historic-uk.com/HistoryUK/HistoryofEngland/Sir-Robert-Peel (accessed on 7.4.2016)
[199] https://www.durham.police.uk/.../Peels_Principles (accessed on 7.4.2016)
[200] Police Integrity: England, Wales and Northern Ireland securing and maintaining public confidence,June 1999, Her Majesty's Inspectorate Constabulary, available at: https://www.justiceinspectorates.gov.uk/.../police-integrity-19990601.pdf (accessed on 7.4.2016)

'Integrity' should be approached in its broadest sense, encompassing subjects such as fairness, behaviour, probity, equal treatment and a range of operational and management issues and not just corruption in a narrow sense.[201]

Training on integrity should be done for recruits but also continuous professional development for those with police work experience of 15-30 years. Further, there should be enhanced vetting for those who apply for certain 'high risk' posts, such as drug squad or crime squad.[202]

Although there were low levels of police receiving gratuities, such as entry into nightclubs, food from take away restaurants, free cup of tea, use of free transport on the bus, the police did not know this to be unacceptable behavior, and that any efforts to raise the level of integrity of junior staff will not succeed unless chief officers and other senior managers set the right example and accepting free invitations to major sporting occasions, civic entertainment and even perceived lavish official facilities by the seniors, was seen by junior staff as 'double standards'.[203]

The chief officer team should demonstrate commitment and firm leadership in the drive to create and maintain integrity within their force, and they should at all times give out a consistent message to their staff, in other words 'practice what they preach'.

Following the release of the report, a Code of Ethics was established in 2014.[204] The Code sets out nine policing principles to secure and maintain respect, namely: Accountability (You are answerable for your decisions, actions and omissions); Fairness (You treat people fairly); Honesty (You are truthful and trustworthy); Integrity (You always do the right thing); Leadership (You lead by good example); Objectivity (You make choices on evidence and your best professional judgment); Openness (You are open and transparent in your actions and decisions); Respect (You treat everyone with respect); and Selflessness (You act in the public interest).[205]

From these principles, ten standards of professional behavior were developed. For impact, the standards were drafted in first person—more like an oath—as embodied by the word "I". The first standard was *honesty and integrity*, through which police officers vouched to be honest and act with integrity at all times, and not to compromise or abuse their position. The second standard was *authority, respect and courtesy*, through which police officers committed to act with self-control and tolerance, treating members of the public and colleagues with respect and courtesy, and using their powers and authority lawfully and proportionately, and respecting the rights of all individuals.

The third standard was *equality and diversity*, through which police officers committed to act with fairness and impartiality, and not to discriminate unlawfully or unfairly. The fourth standard was on *use of force*, through which police officers committed to use force as part of their role and responsibilities, and only to the extent that it is necessary, proportionate and reasonable in all the circumstances.

The fifth standard of professional behaviour was on *orders and instructions*, through which police officers vouched to give and carry out lawful orders only, abide by Police Regulations, give reasonable instructions only, and follow all reasonable instructions. The sixth standard was on *duties and responsibilities*, through which police officers committed to be diligent in the exercise of their duties and responsibilities.

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[201] Ibid, at p. 3
[202] Ibid, at p. 5
[203] Ibid, at p.5
[204] Code of Ethics: A Code of Practice for the Principles and Standards of Professional Behaviour for the Policing Profession of England and Wales, July 2014. Available at: http://www.college.police.uk/en/20989.htm (accessed on 8.4.2016)
[205] Ibid, at p. 3

The seventh standard of professional behaviour was on *confidentiality*, through which police officers were required to treat information with respect, and access or disclose it only in the proper course of their duties. The eighth standard was on *fitness for work*, through which police officers committed to ensure, when on duty or at work, to be fit to carry out their responsibilities.

The ninth standard was on *conduct*, through which police officers vouched to behave in a manner, whether on or off duty, which does not bring discredit on the police service or undermine public confidence in policing. The tenth and final standard of professional behaviour was on *challenging and reporting improper behavior*, through which police officers committed to report, challenge or take action against the conduct of colleagues which has fallen below the standards of professional behaviour

The Code identifies duties for everyone, including leaders and chief officers. For example, chief officers are expected to: lead by example how standards in the Code apply; support, promote and reinforce ethical behaviour; show moral courage to do the right thing in the face of criticism; and promote openness and transparency within policing and to the public.[206] Further, a person in police leadership is expected to take personal responsibility to promote ethics and standards set out in the Code, ensure regular reference to it in the day to day work and training of the force.[207] Moreover, members of the police service are expected to work honestly and ethically, doing the right thing in the right way.[208]
With regard to exercising the professional standard of honesty and integrity, the police staff must act with honesty and integrity at all times and must use their positions, police identification or warrant cards for policing purposes and not to gain personal advantage that could give the impression that they are abusing the position including not soliciting nor accepting the offer of any gift, gratuity or hospitality that could compromise your impartiality or using their position to inappropriately coerce any person or to settle personal grievances.[209] Again, this standard lays more emphasis on those in positions of seniority, stating that the more senior in rank, grade or role one is, the greater the potential for harm as a consequence of any misuse of their position or any failure to meet the standards required by the Code.[210]

Regarding the integrity of information, the Code notes that intelligence is the most vital commodity for corrupt police officers if it is not stored properly. Therefore, audits or spot checks on whether data is stored safely should reduce the desire to trade with this intelligence with, for example, defence lawyers or suspects or even the media.[211] Finally, in the area of senior management, audits should be carried out to check on questions of integrity in the process of recruitment, promotion, training of staff and expense claims such as transport and lunch.[212]

2.2.5. Republic of South Africa

In the Republic of South Africa (RSA), corruption is defined under the Prevention and Combating of Corrupt Activities Act[213] to include one person accepting or offering any gratification—monetary or otherwise—for his benefit or another's benefit in order to influence another person to act in an illegal, dishonest, unauthorized, incomplete or biased way.[214] The South African Police Service (SAPS) has legitimacy challenge arising from its violent past during the apartheid era. During that era, the majority African community viewed the police as a repressive tool representing the interests of the apartheid regime led by a minority white community. The SAPS, therefore, has struggled to win the confidence of its citizenry in the post-apartheid period. As a result, RSA is one of the countries where the police service is viewed as the most corrupt institution.[215]

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[206] Ibid, Article 1.4.2
[207] Ibid, Article 1.4.4
[208] Ibid, Section 2.1.1
[209] Ibid, Section 1.1
[210] Ibid, Section 1.3
[211] Ibid, Section 6.1,6.6,6.7
[212] Ibid, Section 8.7-8.14
[213] Act 12 of 2004
[214] Section 3, Prevention and Combating of Corrupt Activities Act
[215]Transparency International, Global Corruption Barometer 2013

The role that corruption plays to drag down the commitment of the SAPS and its relations with the community, and the need for increased integrity within its ranks, has been acknowledged from within the SAPS such as through its annual reports.[216] For example, about 1,357 police officers were dismissed between the years 2011 and 2014 for various offences, including corruption.[217] Further, various leaders within the SAPS have been found guilty of corruption.[218] However, the SAPS has established an Anti-Corruption Working Group with the task of developing an anti-corruption framework and strategy which will include establishing an anti-corruption unit and internal controls to address corruption within its ranks.[219]

In the RSA, most of the subjects taught during the training of police officers relate to law and public administration.[220] This reflects the dominant view that police work is law-based rather than discretionary. The training mostly focuses on what young police officers are required to undertake at the police station such as taking of statements, and completion of the police forms and registers. However, there is also a course on police ethics, whose focus includes use and abuse of the discretion by police officers and any potential conflicts the police could have with the community and how to restore inter-communal relations.[221] Here, the emphasis is on the set of moral values and norms that determines what sort of behavior a police officer should display to the members of the public and how they should interact with the community.[222] This course, perhaps more than any other course, is the most relevant in addressing instances of police corruption and abuse of power. For, the officers learn about various ethical problems they may encounter such as bribery. Ethical problems arise because of the difficulty in many fields from having hard and fast rules about what is right and what is wrong. Ethics often deal with a clash of interests or a clash between moral values or procedures.

According to RSA's police basic training manual, ethics is defined to cover a wide range of areas, namely:

1. A set of moral values and norms which determine what sort of person the policeman will be: the assumption is that being a good person will make one a good police officer. Many of these morals have nothing to do with police work such as respect for marriage, and respect for property.

2. A set of rules and regulations which determine the limits of acceptable behaviour for a member of the police force.

3. A set of ideas which assist police personnel in the making of decisions in difficult situations especially where the rules and regulations do not dictate a clear pattern of action.

4. A set of principles about the way individuals should interact with other people.[223]

The SAPS generally focuses on having mature, ethically upright people as members of the service.[224] This way, there is more comfort when an officer is allowed to use his/her discretion to handle a certain issue.

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[216] See, for example, Annual Report of the South African Police Service 2014-2015 (accessed online at http://www.gov.za/sites/www.gov.za/files/SAPS_Annual_Report_2014-15.pdf)
[217] Ibid
[218] For example, former national commissioners Jackie Selebi and Bheki Cele were both convicted of corruption and maladministration.
[219] South African Police Service strategic Plan 2014-2019
[220] See http://www.csvr.org.za/index.php/publications/1476-south-african-police-basic-training-a-preliminary-assessment.html
[221] See Ethics in Policing by Johan Prinsloo and Brian Kingshott available online at http://uir.unisa.ac.za/bitstream/handle/10500/5467/Vol%205%20No%201%202004%20Ethics%20in%20policing%20Prinsloo%20J%20and%20Kingshott%20.pdf?sequence=1
[222] South African Police Basic Training: A preliminary assessment available online at http://www.csvr.org.za/index.php/publications/1476-south-african-police-basic-training-a-preliminary-assessment.html
[223] Ibid
[224] Ibid

3.0. FINDINGS

A number of findings emerge from this research as follows;

• Police ethics and anti-corruption are questions that trouble many police forces/services globally including in the USA, UK and RSA, and so Kenya's NPS is not an exception. However, the effectiveness of addressing unethical behaviour and corruption among police officers depends on the historical, social, economic, cultural and political context of each country.

• Training on police ethics and anti-corruption is one of the useful strategies that have been identified—and proven—to enhance ethical behaviour and curb corruption among police officers. Thus, many international best practices propose that questions of ethics and anti-corruption should be embedded—and taught—in the police training programmes, at the basic and/or in-service levels. However, effective police training requires adequate training resources in order to facilitate scenario-based learning, for example.

• The PBTCSR 2011 does not have a stand-alone course on ethics and anti-corruption despite the acknowledgment of the seriousness of the problem of unethical behaviour and corruption in the NPS. Instead, questions of ethics and anti-corruption have been scattered in the PBTCSR 2011 in a number of sub-units of different courses more so the Social, Cultural and Historical Context course; and the ICT I course.

• The Social, Cultural and Historical Context course only provides for the teaching of ways of fighting corruption without providing for wholesome teaching of other important aspects of corruption including the definition, forms, classification, causes, effects, legal framework, and institutional framework of corruption.

• The PBTCSR 2011, which was adopted in 2011, is now ripe for review and updating to comprehensively deal with questions of police ethics and anti-corruption in light of the proposals by international best practices on police ethics and anti-corruption that police training programmes should be reviewed and updated at regular intervals.

• The PBTCSR 2011 fairly incorporates international best practices on the values of democratic policing such as human rights, cultural diversity, gender equality, and police-public partnership. This is considering that the PBTCSR 2011 has stand-alone courses on Human Rights and Gender, and Community Policing. However, as already noted, the PBTCSR 2011 does not give questions of ethics and anti-corruption the seriousness—and course teaching time—that they deserve since they are not covered by a stand-alone course or fully.

4.0. CONCLUSION

A police force/service plays a crucial role in a society, especially a democratic society like Kenya, as protectors of human rights and law enforcers, among other roles. To carry out their wide and important mandate effectively, police officers are often bestowed with immense powers including the powers of arrest, search, seizure, patrol, and surveillance. However, it is generally accepted that power has the tendency to "corrupt" the wielder of the power unless there are effective safeguards against abuse of such power. Engaging in unethical and corrupt practices is one of the expressions of abuse of power by some police officers. But, corruption among police officers may have serious ramifications including breakdown of the rule of law.

International best practices provide useful international and national mechanisms on how to enhance ethical behaviour and tackling corruption in police forces/services. Training on police ethics and anti-corruption is one such mechanism. In this regard, many police training programmes—entry or in-service levels—have incorporated issues of ethics, integrity and anti-corruption with a view to equipping the police trainees with knowledge, skills, attitudes and values on how to carry out police duties in an ethical and corruption-free manner. Kenya's PBTCSR 2011 is one such police training programme, even though it does not adequately cover the subject of corruption.

5.0. RECOMMENDATIONS

The following recommendations will contribute to enhancing ethical behaviour and anti-corruption in the policing sector in Kenya especially through police ethics and anti-corruption training:

• The National Police Service Commission—and its stakeholders—should review and update the PBTCSR 2011 and preferably incorporate a stand-alone course on ethics, corruption and policing, as per the sample course outline in Appendix 1 herein. This new course should form part of Term I of the programme.

• Alternatively to (1) above, the subject of corruption should be addressed comprehensively in the Social, Cultural and Historical Context course in the PBTCSR 2011, as per the sample course outline in Appendix 1 herein.

• The National Police Service Commission should vet police trainers—especially those teaching ethics and corruption-related courses—to ensure that they are persons of high levels of integrity and role models to the trainees and their peers.

• The National Police Service Commission should conduct thorough background check on the corruption inclination of all recruits into the police basic training programme, in addition to assessing the usual physical fitness and academic qualifications.

• The National Police Service Commission and the National Police Service leadership should ensure that all serving police officers undergo regular and comprehensive in-service training on ethics and anti-corruption. This will contribute towards equipping the officers with valuable knowledge and requisite skills to prevent and tackle non-ethical and corruption issues that may arise in the course of their duties.

• The National Police Service Commission and the National Police Service leadership should carry out regular lifestyle audits of police officers especially those officers who work in corruption-prone departments such as the Traffic Department.

• The National Police Service Commission should recognize or approve or collaborate with relevant state and non-state actors including institutions of higher learning to ensure access to training on ethics and anti-corruption to as many police officers as possible in light of the growing decentralization of higher education in Kenya in the spirit of devolved system of government in Kenya. Additionally, the NPSC should consider incorporation of e-learning for continuous trainings on various topics including ethics and anti-corruption.

• The National Police Service Commission should collaborate with institutions of higher learning, CSOs, experts and community members who can support police training on ethics and anti-corruption such as by providing guest instructors and training materials.

• The police leadership and stakeholders should ensure that commitment to police ethics and anti-corruption is one of the criteria for rewarding the best performing police officers including through career development.

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APPENDIXES

I: Sample Course Outline – Ethics, Corruption and Policing

Course Description: Unethical conduct and corruption are among the serious challenges facing police services globally and the National Police Service (NPS) in particular. Indeed, unethical and corrupt conduct among police service greatly hampers service delivery, including law enforcement, by police officers thereby leading to great dissatisfaction among the very community that the police are supposed to serve—members of the public. International best practices call for inclusion of the subjects of ethics and/or anti-corruption into police training syllabuses with a view of enhancing ethics and/or integrity among police trainees and graduates. The main topics that will be covered in this course are: nature of ethics; ethics and policing; nature of corruption; corruption and policing; ethics and anti-corruption legal framework; ethics and anti-corruption institutional framework; ethics and anti-corruption measures; measuring, documenting and reporting corruption; and proposed areas of reforms.

Learning Objectives: By end of the course, the trainees should be able to:

1. Differentiate ethical conduct from unethical conduct.
2. Identify corrupt conduct.
3. Identify the forms, classifications, causes and effects of corruption.
4. Explain the relationship between corruption and policing especially in a democratic society.
5. Identify the international, regional, and national anti-corruption legal framework.
6. Identify the international, regional, and national anti-corruption institutional framework.
7. Identify the anti-corruption measures at the global, continental, regional, national, and county levels.
8. Identify the challenges facing the fight against corruption at the global, continental, regional, national, county, and institutional levels.
9. Suggest areas of reforms to support the fight against corruption in Kenya and the National Police Service

Main Unit	Sub-Units/Content	Teaching /Instruction Methods	Assessment Methods	Duration: 27 Hours
1.0.Understanding Ethics	1.0.1.Definition of Ethics 1.0.2.Types of Ethics 1.0.3.Significance of Ethics 1.0.4.Code of Ethics	Lectures Group Work Audio-Visual Presentations Role Plays/Simulations	Written Test Written Assignments Oral Assignments/ Class Participation	Three Hours (3)
Case Studies				
1.1.Ethics and Policing	1.1.1.Code of Ethics for Police Officers 1.1.2. Forms of Ethical and Unethical Conduct among Police Officers 1.1.3. Ethical Dilemmas among Police Officers 1.1.4.Mechanisms for Enforcement of Ethics among Police Officers	Lectures Group Work Audio-Visual Presentations Role Plays/Simulations Case Studies	Written Test Written Assignments Oral Assignments/ Class Participation	Three Hours (3)
1.2.Understanding Corruption	1.2.1.Definition of Corruption 1.2.2. Forms of Corruption 1.2.3.Classification of Corruption 1.2.4. Causes of Corruption 1.2.5.Effects of Corruption	Lectures Group Work Audio-Visual Presentations Role Plays/Simulations Case Studies	Written Test Written Assignments Oral Assignments/ Class Participation	Three Hours (3)
1.3.Corruption and Policing	1.3.1. Forms of Corruption in the National Police Service 1.3.2. Classification of Corruption in the National Police Service 1.3.3. Causes of Corruption in the National Police Service 1.3.4. Effects of Corruption on Policing 1.3.5. Corruption-Prone Departments in the National Police Service	Lectures Group Work Audio-Visual Presentations Audio-Visual Presentations Role Plays/Simulations Case Studies	Written Test Written Assignments Oral Assignments/ Class Participation	Three Hours (3)

1.4.Ethics and Anti-Corruption Legal Framework	1.4.1.International Instruments 1.4.2. Continental and Regional Instruments 1.4.3. Constitutional 1.4.4. Statutes 1.4.5. Delegated Legislation 1.4.6. Case Law	Lectures Group Work Audio-Visual Presentations Audio-Visual Presentations Role Plays/Simulations Case Studies	Written Test Written Assignments Oral Assignments/ Class Participation	Three Hours (3)
1.5.Ethics and Anti-Corruption Institutional Framework	1.5.1.International Institutions 1.5.2.Continental and Regional Institutions 1.5.3.National Institutions 1.5.4.County Measures	Lectures Group Work Audio-Visual Presentations Role Plays/Simulations Case Studies	Written Test Written Assignments Oral Assignments/ Class Participation	Three Hours (3)
1.6.Ethics and Anti-Corruption Measures	1.6.1.International Measures 1.6.2.Continental and Regional 1.6.3. National Measures 1.6.4. County Measures 1.6.5. Anti-Corruption Measures within the National Police Service 1.6.6.Challenges Facing Anti-Corruption Measures			
1.7.Measuring, Documenting, Investigating and Reporting Corruption	1.7.1.International tools for measuring, documenting, investigating and reporting corruption cases/incidents 1.7.2.National tools for measuring, documenting, investigating and reporting corruption cases/incidents	Lectures Group Work Audio-Visual Presentations Role Plays/Simulations Case Studies	Written Test Written Assignments Oral Assignments/ Class Participation	Three Hours (3)

1.8.Proposed Areas of Reforms	1.8.1.Administrative Reforms 1.8.2. Policy Reforms 1.8.3. Legal Reforms 1.8.4. Institutional Reforms 1.8.5.Socio-Cultural Reforms	Lectures Group Work Audio-Visual Presentations Case Studies	Written Test Written Assignments Oral Assignments/ Class Participation	Three Hours (3)

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