



Indicators and measures  
**COMMON STANDARDS  
FOR POLICING IN EAST AFRICA**



**RAOUL  
WALLENBERG  
INSTITUTE**  
OF HUMAN RIGHTS AND HUMANITARIAN LAW



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IN EAST AFRICA**

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## ABBREVIATIONS AND ACRONYMS

<b>APCOF</b>	African Policing Civilian Oversight Forum
<b>AU</b>	African Union
<b>CADSP</b>	Common African Defence and Security Policy
<b>CEDAW</b>	Convention on the Elimination of All Forms of Discrimination against Women
<b>CERD</b>	Committee on the Elimination of Racial Discrimination
<b>COMESA</b>	Common Market for Eastern and Southern Africa
<b>CRC</b>	Convention on the Rights of the Child
<b>EAC</b>	East African Community
<b>EAPCC</b>	Eastern Africa Police Chiefs Cooperation Organisation
<b>ECOSOC</b>	United Nations Economic and Social Council
<b>ICCPR</b>	International Covenant on Civil and Political Rights
<b>ICESCR</b>	International Covenant on Economic, Social and Cultural Rights
<b>ICGLR</b>	International Conference on the Great Lakes Region (or Great Lakes conference)
<b>IGAD</b>	Intergovernmental Authority on Development
<b>IGEC</b>	Interpol Group of Experts on Corruption
<b>NHRI</b>	National Human Rights Institutions (or national institution for the promotion and protection of human rights)
<b>OPCAT</b>	Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (or Optional Protocol to the Convention against Torture)
<b>RECs</b>	Regional Economic Communities
<b>RECSA</b>	Regional Centre on Small Arms
<b>SOPs</b>	Standard Operating Procedures
<b>UDHR</b>	Universal Declaration of Human Rights
<b>UN</b>	United Nations
<b>UNCAC</b>	United Nations Convention against Corruption

## INTRODUCTION

The Common Standards for Policing in the East African Community (EAC) were developed in 2010 through a collaborative process between the EAC and the East African Police Chiefs Cooperation Organisation (EAPCCO). Nearly a decade later, their adoption represents an innovative approach to encouraging harmonisation of human rights-based policing standards across the region as it moved towards greater political and economic integration. Their adoption is also a concrete regional commitment to developing an approach to policing that reflects the legal, political and community demands for good governance and rule of law within the EAC frameworks. The commitment to their development and implementation by both the EAC and EAPCCO is indicative of the unique consensus achieved between the region's political executive and police leadership on what constitutes a legitimate and credible benchmark for policing within a human rights-based framework.

The implementation of the Common Standards is therefore a measure against which that shared vision for policing is given support at the regional level, and promoted at the national level. Significant work has been undertaken by EAC and EAPCCO to produce a range of implementation tools. This includes the translation of the Common Standards by EAPCCO into the language of operational policing through the adoption of model Standard Operating Procedures (SOP) on stop and search, arrest and detention, use of force, public order management, and on interviewing suspects and persons of interest. This development was followed in 2016 by the publication of a joint EAC and EAPCCO practice-oriented human rights training manual for police officers.

The extent to which these implementation efforts by EAPCCO have translated into improved rights-based policing practices at the national level by member states has not, to date, been assessed. To address this issue, EAPCCO, together with technical partners from the African Policing Civilian Oversight Forum (APCOF) and the Raoul Wallenberg Institute for Human Rights (RWI) have developed a set of indicators to monitor compliance by member states with the Common Standards.

As recognised in the founding documents of both EAPCCO and the EAC, rights-based policing is vital to ensuring more effective criminal justice systems and good governance at the national level, as well as across the region, and to encouraging harmonisation in policing approaches as the region moves towards further integration. Accordingly, each member state is encouraged to undertake studies to assess their compliance with the Standards by utilising this indicator template, and to identify areas of good practice, as well as for support and development, towards meeting regional commitments.



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# PART 1

## **COMMON STANDARDS FOR POLICING IN EAST AFRICA**

Articulating a unified, regional  
approach to policing





The Common Standards set out below are a composite of the international and regional framework for human rights, policing and security, with a particular focus on the instruments of the UN, AU and EAC that are common to the five states of East Africa. In this way, the Standards reflect the political and legal commitments to policing already made by the five countries. The utility of this approach is in the articulation of the Standards in a single document for use by all stakeholders. The complete list of sources for the Standards is at Appendix A.

## COMMON STANDARD 1: Role of the police

- 1.1 The police will protect life, property, liberty and security of the person;
- 1.2 The police will maintain public safety and social peace; and
- 1.3 The police will adhere to the rule of law as an essential element to human security, peace and the promotion of fundamental rights and freedoms.

## COMMON STANDARD 2: Policing in accordance with the rule of law

**The police will fulfil their functions in accordance with the rule of law. The police will:**

- 2.1 not arbitrarily arrest or detain and will only deprive persons of their liberty in accordance with the law;
- 2.2 promptly inform accused persons of the reason for their arrest and any charges brought against them – this must be communicated to the accused person in a way and manner they understand;
- 2.3 act in a manner that upholds the presumption of an accused person's innocence until proven guilty in accordance with the law;
- 2.4 ensure that arrested persons are brought promptly before an authorised and competent judicial authority;
- 2.5 ensure that, upon arrest, detention and charge, there is a presumptive right to bail or bond;
- 2.6 ensure the right of a detained person to challenge the lawfulness of their detention;
- 2.7 ensure that arrested and detained persons have access to interpreters and legal assistance, as required; and
- 2.8 ensure that arrested and detained persons are treated humanely and kept under humane conditions.

### COMMON STANDARD 3: Police actions

The police will act in a manner that:

- 3.1 ensures they discharge the duties assigned to them by law equitably, diligently and with a high degree of professional responsibility and will, at all times, strive to maintain a community service focus;
- 3.2 upholds the right to life, liberty and security of the person by only using force and firearms when strictly necessary and only to the extent required for the fulfilment of their lawful duty;
- 3.3 ensures all citizens enjoy their fundamental rights and freedoms without discrimination and specifically conduct themselves in a way that does not discriminate against women, juveniles and minority communities (including but not limited to the differently abled, migrants, internally displaced persons and refugees). Police who are in frequent contact with suspects, offenders, victims and witnesses from these groups should receive sensitisation training;
- 3.4 upholds the absolute prohibition on the use of torture and other cruel, inhuman or degrading treatment or punishment. The police will not inflict, instigate or tolerate any act of torture, cruel, inhuman or degrading treatment or punishment. No circumstances will override this prohibition, including threats of war, political instability or periods of emergency;
- 3.5 ensures all persons deprived of their liberty are treated humanely and with respect for their inherent dignity;
- 3.6 considers and treats all persons deprived of their liberty as innocent until proven guilty by a competent judicial authority;
- 3.7 provides all persons deprived of their liberty with adequate food and clothing, unless the detained person elects to provide their own;
- 3.8 facilitates assistance from medical practitioners;
- 3.9 informs family and friends of the detention and allow detained persons to maintain contact with those persons to the extent that such contact is consistent with the administration of justice, security and the good order of the place of detention;
- 3.10 allows all persons deprived of their liberty to access legal assistance and receive visits from their legal advisors which are within the sight, but not in the hearing of officers;
- 3.11 adheres to the absolute prohibition on extra judicial executions and the government will legislate to ensure that such actions are investigated and prosecuted as a matter of priority and as punishable criminal offences under law. Police will not derogate from this principle on account of war, armed conflict or other national emergencies;
- 3.12 ensures victims are treated with compassion and dignity, which includes access to prompt, fair and inclusive mechanisms of redress that respect the privacy of victims. They will make known and provide victims with assistance, including psychological, medical and social services. The police organisation will ensure that officers receive training to sensitise them to the diverse needs of victims; and
- 3.13 recognises the right of all persons to peaceful assembly without restriction insofar as this right is consistent with the rule of law, democracy, public peace and security, and the rights of others. Regarding unlawful but peaceful assemblies, police will avoid the use of force and, if force is necessary, only use force to the minimum extent. In violent assemblies, police will use less dangerous means of crowd control but if force becomes necessary, only use the minimum force necessary.

## COMMON STANDARD 4: Police organisations

Police Organisations will:

- 4.1 be a service that upholds the law as opposed to a force that enforces the law;
- 4.2 strive to promote a police organisation that is operationally independent of the executive and upholds the principles of democratic policing;
- 4.3 increase public confidence, promote and encourage greater transparency and accountability in all its activities;
- 4.4 account for violations by officers of citizens' human rights and ensure that inquiries are conducted in a fair and transparent manner;
- 4.5 ensure that internal oversight mechanisms are strengthened in accordance with expected standards;
- 4.6 implement basic standards for the recruitment of officers, including selection of candidates by proper screening processes to ensure that they exhibit appropriate moral, psychological and physical qualities for their role;
- 4.7 ensure that the police organisations are representative of the community as a whole, with ethnic, gender, language and religious compositions reflective of the population they serve;
- 4.8 ensure their personnel receive comprehensive and continuous training in observance of human rights and policing;
- 4.9 ensure that the training curriculum is periodically reviewed and updated in accordance with changing policing needs;
- 4.10 refrain from engaging in acts of corruption and abuse of power, and will rigorously oppose and combat all such actions;
- 4.11 investigate corruption and abuse of power and take preventative measures, including policing anti-corruption tendencies;
- 4.12 cooperate with role-players within and outside the criminal justice system, including citizens and civil society organisations in fulfilling their mandates; and
- 4.13 promote bilateral, regional, multilateral and global law enforcement and crime prevention cooperation and assistance. To further this aim, measures should be taken to prevent crime at a domestic level, strengthen information sharing and facilitate technical assistance, including exchange programmes and training.

# PART 2

## **INDICATORS FOR THE COMMON STANDARDS FOR POLICING IN EAST AFRICA**



## COMMON STANDARD 1: Role of the police

The police will:

- 1.1 Protect life, liberty and security of the person;
- 1.2 Maintain public safety and social peace; and
- 1.3 Adhere to the rule of law as an essential element to human security, peace and the promotion of fundamental rights and freedoms.



### 1.1 The police will protect life, liberty and security of the person.

INDICATOR	MEASURE	MEANS OF VERIFICATION
1.1.1 The actions of police and where applicable other law enforcement officials are based on law and human rights.	1.1.1.a Relevant laws, policy and operational documents include human rights values, and give clear guidance about what it means to protect and uphold fundamental human rights.	Constitution, relevant laws, police operational procedures, ratification of relevant international and regional human rights treaties.
1.1.2 The police and where applicable other law enforcement officials have a clear structure to implement their mandates.	1.1.2.a There is a clear chain of command, particularly in the first line of supervision of police officers and where applicable other law enforcement officials, to ensure the mandate of the police and where applicable other law enforcement agencies is transmitted and implemented across the organisation.	Standing orders, human resource policy and performance management systems, and suggestion forms.
1.1.3 The police and public perceive the role of the police and other law enforcement officials as protecting fundamental rights and freedoms, life, liberty, security and property of the person.	1.1.3.a Percentage of police and where applicable other law enforcement officials, and public surveyed who believe police and other law enforcement officials' actions are based on, and comply with, human rights principles, and act in a manner that is consistent with human rights in the prevention and detection of crime.	Perception survey, report of independent bodies such as national human rights institutions, oversight authorities, or civil society organisations.



### 1.2 The police will maintain public safety and social peace.

INDICATOR	MEASURE	MEANS OF VERIFICATION
1.2.1 The police and where applicable other law enforcement officials have a clear mandate to promote public safety and social peace and property.	1.2.1.a The law clearly defines the mandate of the police and where applicable other law enforcement officials in terms of their responsibility to maintain public safety and social peace.	Constitution and relevant laws.
1.2.2 Public trust the effectiveness of the police and where applicable other law enforcement officials to maintain public safety and social peace.	1.2.2.a The percentage of people surveyed who believe the police and where applicable other law enforcement officials are (a) prompt and (b) responsive to threats and concerns about safety.	Public perception surveys, media reports, reports of civil society organisations or independent oversight authorities, incidents of vigilantism and mob justice.
	1.2.2.b The police and where applicable other law enforcement officials are accessible to the public.	Distribution of stations, resourcing, demographics of community outreach and dialogue mechanisms.



### 1.3 The police will adhere to the rule of law as an essential element of human security, peace and the promotion of fundamental rights and freedoms.

INDICATOR	MEASURE	MEANS OF VERIFICATION
1.3.1 The police and where applicable other law enforcement officials have a mandate that clearly stipulates the primacy of rule of law.	1.3.1.a The law clearly defines the mandate of the police and where applicable other law enforcement officials in terms of its responsibility to adhere to the rule of law and uphold fundamental human rights.	Constitution and relevant laws.
	1.3.1.b Police and where applicable other law enforcement officials are responsive to the needs of the public and provide assistance in terms of their legal mandate.	Public perception surveys, media reports, reports of civil society organisations or independent oversight authorities.
1.3.2 Police and other law enforcement officials adhere to the principle of the rule of law.	1.3.2.a The relevant laws, regulations and operational procedures are consistent with international human rights law, the constitution, and provide legal parameters for police and where applicable other law enforcement operational practices (including stop and search, arrest, detention, interrogation, surveillance, and the use of force).	Constitution, relevant laws, and police and where applicable other law enforcement operational procedures.
	1.3.2.b Police and where applicable other law enforcement officials enforce court orders and decisions by oversight authorities.	Case law, court records, media reports, annual reports, number of complaints received by internal and external oversight bodies.
	1.3.2.c Police and where applicable other law enforcement officials enforce the law equally and do not discriminate on the basis of social or gender status, or the political affiliation, of suspects, witnesses or victims.	Public perception surveys, reports of civil society organisations, reports of independent oversight authorities, reports of national human rights institutions.

## COMMON STANDARD 2: Policing in accordance with the rule of law

The police will fulfil their functions in accordance with the rule of law.

The police will:

- 2.1 Not arbitrarily arrest or detain and will only deprive persons of their liberty in accordance with the law;
- 2.2 Promptly inform accused persons of the reason for their arrest and any charges brought against them – this must be communicated to the accused persons in a way and manner they understand;
- 2.3 Act in a manner that upholds the presumption of an accused person's innocence until proven guilty in accordance with the law;
- 2.4 Ensure that arrested persons are brought promptly before an authorised and competent judicial authority;
- 2.5 Ensure that, upon arrest, detention and charge, there is a presumptive right to bail or bond;
- 2.6 Ensure the right of a detained person to challenge the lawfulness of their detention and recognise the enforceable right to compensation if an arrest or detention is deemed unlawful by the courts;
- 2.7 Ensure that arrested and detained persons have access to interpreters and legal assistance, as required; and
- 2.8 Ensure that arrested and detained persons are treated humanely and kept under humane conditions.



**2.1 The police will not arbitrarily arrest or detain and will only deprive persons of their liberty in accordance with the law.**

INDICATOR	MEASURE	MEANS OF VERIFICATION
2.1.1 Arrests are only carried out pursuant to a warrant or where the arresting official has reasonable grounds to suspect that a person has committed an offence or is about to commit an arrestable offence.	2.1.1.a The right to liberty and security of the person is guaranteed by law.	Constitution, relevant laws, police operational procedures, ratification of relevant international and regional human rights treaties.
	2.1.1.b The law provides a definition of arrest that limits the deprivation of liberty to the execution of a warrant or where the arresting officer has reasonable grounds to suspect that a person has committed an offence or is about to commit an arrestable offence.	Constitution, relevant laws, law of criminal procedure, police operational procedures.
	2.1.1.c The law provides alternatives to the use of arrest, particularly for minor crimes.	Constitution, relevant laws, and police operational procedures.
	2.1.1.d Alternatives to arrest, particularly for minor crimes, are utilised by the police and other law enforcement officials.	Police and where applicable other law enforcement operational procedures, annual reports, police and other law enforcement statistics, reports of civil society, national human rights institutions and independent oversight authorities.
	2.1.1.e The law and regulations require police stations, and other places of detention under the management of other law enforcement agencies, to maintain, and provide access to, an official arrest and custody register.	Constitution, relevant laws, police and other law enforcement operational procedures.
	2.1.1.f Number of complaints made against the police and where applicable other law enforcement officials for arbitrary arrest or detention and the outcome of those complaints, expressed as the proportion of complaints redressed.	Court records, internal oversight documentation, external oversight authority reports, reports of national human rights institutions and civil society, media reports.
	2.1.1.g Number of civil cases initiated against the police and where applicable other law enforcement officials for wrongful action, and the outcome of those matters, expressed as the proportion of claims upheld by the judiciary.	Court records, annual budgets.





**2.2 The police will promptly inform accused persons of the reason for their arrest and any charges brought against them – this must be communicated to the accused person in a way and manner they understand.**

INDICATOR	MEASURE	MEANS OF VERIFICATION
2.2.1 All arrested and charged persons receive information on their arrest and charge in a language, way and manner they understand.	2.2.1.a The law and regulation require police and where applicable other law enforcement officials to inform an arrested person of the reason for their arrest and any charges brought against them, along with their rights, promptly and in a way and manner understood by the arrested person.	Constitution, relevant laws, police and other law enforcement operational procedures, ratification of relevant international and regional human rights treaties.
	2.2.1.b Language translation services are available to the police and where applicable other law enforcement agencies.	Police and where applicable other law enforcement operational procedures, and evidentiary or documentary records.
	2.2.1.c Information is available in accessible formats for persons with disabilities and/or sign language interpreters are available to police and where applicable other law enforcement agencies.	Police and where applicable other law enforcement operational procedures and evidentiary or documentary records.
	2.2.1.d Number of complaints made against the police and where applicable other law enforcement officials for failure to provide information on the arrest and charge to accused persons, and outcome of those complaints, expressed as the proportion of complaints redressed.	Court records, internal oversight documentation, external oversight authority reports, reports of national human rights institutions and civil society organisations, and media reports.



## 2.3 The police act in a manner that upholds the presumption of an accused person's innocence until proven guilty in accordance with the law.

INDICATOR	MEASURE	MEANS OF VERIFICATION
2.3.1 The presumption of innocence is respected by police and other law enforcement officials.	2.3.1.a The presumption of innocence is guaranteed by law.	Constitution, relevant laws, police and where applicable other law enforcement operational procedures, ratification of relevant international and regional human rights treaties.
	2.3.1.b The law, regulations and police and where applicable other law enforcement operational procedures provide that an accused person has the right to remain silent, and cannot be compelled to confess guilt or give evidence against themselves.	Constitution, relevant laws, police and other law enforcement operational procedures.
	2.3.1.c Number of complaints made against the police and where applicable other law enforcement officials for violation of procedural rights related to the presumption of innocence, specifically the right to remain silent and the right not to be compelled to confess guilt or give evidence, and the outcome of those complaints, expressed as the proportion of complaints redressed.	Court records, internal police and where applicable other law enforcement oversight documentation, external oversight authority reports, reports of national human rights institutions and civil society, media reports.
2.3.2 Police and other law enforcement officials maintain confidentiality of information that is of a sensitive nature, particularly information in respect of victims of crime.	2.3.2.a There is a clear framework for how police and other law enforcement officials should treat information of a confidential nature.	Relevant laws, policy and police and where applicable other law enforcement operational procedures, ratification of relevant international and regional human rights treaties.
	2.3.2.b Confidential information is not disclosed including the parading of suspects unless there is a legal requirement to do so and then only to the minimum extent necessary.	Relevant laws, policy and police operational procedures, public surveys, media reports, reports of oversight mechanisms and civil society organisations, policy and interagency cooperation agreements regarding sharing of information on crime, policing and other law enforcement strategies.
	2.3.2.c Complaints against the police and where applicable other law enforcement officials for disclosure of confidential information, and the outcome of those complaints expressed as the proportion of complaints redressed.	Court records, internal oversight documentation, external oversight authority reports, reports of national human rights institutions and civil society organisations, media reports.



## 2.4 The police ensure that arrested persons are brought promptly before an authorised and competent authority or judicial officer.

INDICATOR	MEASURE	MEANS OF VERIFICATION
2.4.1 Custody time limits are respected by police officials.	2.4.1.a The law provides for police and where applicable other law enforcement custody time limits, in compliance with regional and international standards, from the time of arrest until suspects are brought in person before a competent authority or judicial officer.	Constitution, relevant laws, police and where applicable other law enforcement operational procedures, ratification of relevant international and regional human rights treaties.
	2.4.2.b Custody time limits are adhered to by police and where applicable other law enforcement officials.	Court records, internal police and where applicable other law enforcement oversight documentation, external oversight authority reports, reports of national human rights institutions and civil society, media reports, reports of monitoring visits to places of detention.
	2.4.2.c The law and regulations require police stations and facilities under the management of other law enforcement agencies to maintain, and provide access to, an official custody register.	Constitution, relevant laws, law of criminal procedure, police and where applicable other law enforcement operational procedures, ratification of relevant international and regional human rights treaties, external oversight authority reports, reports of national human rights institutions and civil society, media reports.
	2.4.2.d Suspects are brought in person before a competent authority or judicial officer within the official custody time limits.	Constitution, relevant laws, police and where applicable other law enforcement operational procedures, external oversight authority reports, reports of national human rights institutions and civil society, media reports, reports of monitoring visits to places of detention, ratification of relevant international and regional human rights treaties.



## 2.5 The police ensure that upon arrest, detention or charge, there is a presumptive right to bail or bond.

INDICATOR	MEASURE	MEANS OF VERIFICATION
2.5.1 Police and where applicable other law enforcement officials uphold the presumptive right to bail or bond.	2.5.1.a The law provides that police custody, and detention in facilities under the management of other law enforcement agencies, is a measure of last resort and provides for alternatives to detention, including court summons, bail and bond.	Constitution, relevant laws, police and other law enforcement operational procedures, ratification of relevant international and regional human rights treaties.
	2.5.1.b The law provides that police officials or other mandated law enforcement officials must only deny bail or bond, or recommend the denial of bail or bond: (a) on grounds that are clearly established in law and not motivated by discrimination of any kind; and (b) if there are reasonable grounds to believe that the accused has been involved in the commission of a criminal offence that carries a custodial sentence, but there is a danger that he or she will abscond, commit further serious offences, or if the release of the accused will not be in the interests of the safety of the person or in the interests of justice.	Constitution, relevant laws, police and other law enforcement operational procedures, ratification of relevant international and regional human rights treaties.
	2.5.1.c Police and where applicable other law enforcement officials are trained on decision-making for the issuance of bail or bond to suspects.	Training curriculum.
	2.5.1.d Number of complaints made against the police and where applicable other law enforcement officials for denial of bail or bond, and the outcome of that complaint, expressed as the proportion of complaints redressed.	Court records, internal oversight documentation, external oversight authority reports, reports of national human rights institutions and civil society, media reports.
	2.5.1.e Number of persons granted bail or bond by police and other law enforcement officials, expressed as a percentage of all persons charged, and disaggregated according to type of offence.	Police and where applicable other law enforcement statistics, court records, internal oversight documentation, external oversight authority reports, reports of national human rights institutions and civil society, media reports.



## 2.6 The police ensure the right of a detained person to challenge the lawfulness of their detention and recognise the enforceable right to compensation if an arrest or detention is deemed unlawful by the courts.

INDICATOR	MEASURE	MEANS OF VERIFICATION
2.6.1 Police and where applicable other law enforcement officials recognise the enforceable right to compensation for arbitrary or unlawful arrest or detention.	2.6.1.a The law guarantees the right to challenge the lawfulness of detention and the right to compensation if an arrest or detention is unlawful.	Relevant laws, ratification of relevant international and regional human rights treaties.
	2.6.1.b Suspects are aware of their right to challenge the lawfulness of their detention in court.	Registers of notification of rights, information pamphlets and posters.
	2.6.1.c Police and where applicable other law enforcement budgets make sufficient provision for the payment of compensation.	Annual reports, annual budget and financial audits.
	2.6.1.d The percentage of claims for compensation or other forms of redress awarded and provided.	Annual reports and audited statements of the police and other law enforcement agencies, court records, Internal and external records of police and other law enforcement agencies.



## 2.7 The police ensure that arrested and detained persons have access to interpreters and legal assistance, as required.

INDICATOR	MEASURE	MEANS OF VERIFICATION
2.7.1 Police and where applicable other law enforcement officials uphold the right of all persons to access a lawyer.	2.7.1.a The law guarantees the right of all accused persons to the services of a lawyer or suitable paralegal services.	Constitution, relevant laws, police and where applicable other law enforcement operational procedures, ratification of relevant international and regional human rights treaties.
	2.7.1.b The law provides that all persons detained in police custody, or places of detention under the management of other law enforcement agencies, have the following rights in relation to legal assistance: (a) access without delay or restriction to lawyers or paralegals, at the latest prior to and during any questioning by the police; (b) confidentiality of communication between lawyers or paralegals and suspects; (c) the means to contact a lawyer or paralegal; and (d) the right to access case files as required by the constitution and/or criminal procedure, and have adequate time and facilities to prepare a defence.	Constitution, relevant laws, police and where applicable other law enforcement operational procedures, ratification of relevant international and regional human rights treaties.



## 2.8 The police ensure that arrested and detained persons are treated humanely and kept under humane conditions.

INDICATOR	MEASURE	MEANS OF VERIFICATION
2.8.1 Conditions of detention in police custody and places of detention under the management of other law enforcement agencies are humane and consistent with the right of suspects to dignity.	2.8.1.a The law provides minimum standards for conditions of detention in police custody and places of detention under the management of other law enforcement agencies, including standards of accommodation, nutrition, hygiene, clothing, bedding, exercise, physical and mental healthcare, contact with the community, and religious observance in accordance with the Mandela Rules.	Constitution, relevant laws, police and other law enforcement operational procedures, ratification of relevant international and regional human rights treaties.
	2.8.2.b There is a system for the regular and independent monitoring of police custody and places of detention under the management of other law enforcement agencies, and internal and external complaints mechanism available to detainees.	Constitution, relevant laws, police and other law enforcement operational procedures, ratification of relevant international and regional human rights treaties, internal oversight documentation, external oversight authority reports, reports of national human rights institutions and civil society, media reports.
	2.8.2.c Percentage of police and where applicable other law enforcement agencies' budgets allocated to the upkeep and maintenance of detention facilities.	Annual reports and audited statements.
	2.8.2.d Number of complaints made against the police and where applicable other law enforcement officials for conditions of detention that are inhumane or not consistent with the right to dignity of the person, and the outcome of that complaint, expressed as the proportion of complaints redressed.	Court records, internal oversight documentation, external oversight authority reports, reports of national human rights institutions and civil society, media reports.

### COMMON STANDARD 3: Police actions

The police will act in a manner that:

- 3.1 Ensures they discharge the duties assigned to them by law equitably, diligently and with a high degree of professional responsibility and will, at all times, strive to maintain a community service focus;
- 3.2 Upholds the right to life, liberty and security of the person by only using force and firearms when strictly necessary and only to the extent required for the fulfilment of their lawful duty;
- 3.3 Ensures all citizens enjoy their fundamental rights and freedoms without discrimination;
- 3.4 Upholds the absolute prohibition on the use of torture and other cruel, inhuman or degrading treatment or punishment. The police will not inflict, instigate or tolerate any act of torture, cruel, inhuman or degrading treatment or punishment. No circumstances will override this prohibition, including threats of war, political instability or periods of emergency;
- 3.5 Ensures all persons deprived of their liberty are treated with humanity and respect for their inherent dignity. They will:
  - 3.5.1 Consider and treat all persons deprived of their liberty as innocent until proven guilty by a competent judicial authority;
  - 3.5.2 Keep persons awaiting trial separate from convicted persons;
  - 3.5.3 Provide all persons deprived of their liberty with adequate food and clothing, unless the detained person elects to provide their own;
  - 3.5.4 Facilitate assistance from medical practitioners;
  - 3.5.5 Inform family and friends of the detention and allow detained persons to maintain contact with those persons to the extent that such contact is consistent with the administration of justice, security and the good order of the place of detention; and
  - 3.5.6 Allow all persons deprived of their liberty to access legal assistance and receive visits from their legal advisors which are within the sight, but not hearing, of officers.
- 3.6 Adheres to the absolute prohibition on extra-judicial executions and the government will legislate to ensure that such actions are investigated and prosecuted as a matter of priority and as punishable criminal offences under law. Police will not derogate from this principle on account of war, armed conflict or other national emergencies;
- 3.7 Ensures victims are treated with compassion and dignity, which includes access to prompt, fair and inclusive mechanisms of redress that respect the privacy of victims. They will make known and provide victims with assistance, including psychological, medical and social services. The police organisation will ensure that officers receive training to sensitise them to the diverse needs of victims;
- 3.8 Does not discriminate against women, juveniles or minority communities. Police who are in frequent contact with suspects, offenders, victims and witnesses from these groups should receive sensitisation training.
- 3.9 Recognises the right of all persons to peaceful assembly without restriction insofar as this right is consistent with the rule of law, democracy, public peace and security, and the rights of others. Regarding unlawful but peaceful assemblies, police will avoid the use of force and, if force is necessary, only use force to the minimum extent. In violent assemblies, police will use less dangerous means of crowd control but if force becomes necessary, only use the minimum force necessary.



### 3.1 The police will act in a manner that ensures they discharge the duties assigned to them by law equitably, diligently and with a high degree of professional responsibility and will, at all times, strive to maintain a community service focus.

INDICATOR	MEASURE	MEANS OF VERIFICATION
3.1.1 The police and where applicable other law enforcement officials have a clear set of values, and efforts are made to ensure these are upheld.	3.1.1.a Values are incorporated into police service and other law enforcement agencies' core documents, such as mission statements, codes of conduct and disciplinary codes.	Policy documents.
	3.1.1.b Police and where applicable other law enforcement officials take an oath to uphold these values, and they are reinforced through training and regular communication.	Internal communication documents and public addresses by management and membership.
	3.1.1.c Managerial and operational practice supports and reflects adherence to these values through positive measures, performance appraisals, evaluations, warnings and discipline.	Surveys among police and other law enforcement officials, public perception surveys, policy documents.
3.1.2 Police and where applicable other law enforcement agencies adopt and promote a Code of Conduct based on the Common Standards for Policing in East Africa.	3.1.2.a There exists within police and where applicable other law enforcement agencies, a Code of Conduct which is based on the Common Standards and other relevant regional and international standards for rights-based policing practices.	Code of Conduct, police and other law enforcement operational procedures.
	3.1.2.b Training for police and where applicable other law enforcement officials includes training on the Code of Conduct.	Training curriculum.
	3.1.2.c Percentage of police and where applicable other law enforcement officials who annually receive training on the Code of Conduct.	Human resources or training academy records.
	3.1.2.d Percentage of police and where applicable other law enforcement who have access to visible posters and pamphlets reminding them of the Code of Conduct.	Site visits to places of detention, websites, media statements, reports of independent oversight authorities.
	3.1.2.e The number of officers disciplined for breaches of the Code of Conduct, including the nature of the breach, type and severity of sanction, and rank of police and other law enforcement officials.	Administrative documents, including human resource documentation.
3.1.3 The police and where applicable other law enforcement agencies have a system of performance review and discipline.	3.1.3.a Police and where applicable other law enforcement officials are subject to regular performance monitoring and review in accordance with policy.	Human resource policies, reports of independent oversight or complaints bodies.
	3.1.3.b Percentage of police and where applicable other law enforcement officials who are reviewed on an annual basis.	Human resource records.
	3.1.3.c Performance appraisals form the basis of promotions and designation to particular units.	Human resource policies.
	3.1.3.d A clear disciplinary procedure exists in law and practice.	Human resource policies, data on disciplinary procedures brought against officials and the outcomes of the action.
	3.1.3.e There exists a clear framework indicating what actions of police and where applicable other law enforcement officials are considered misconduct or offences, and the consequences of violating those rules.	Relevant laws, regulations, and police and other law enforcement operational procedures.
	3.1.3.f Police and where applicable other law enforcement officials receive training on the type of actions that will constitute misconduct or offences, and the consequences of violating those rules.	Training curriculum.



COMMON STANDARDS FOR POLICING IN EAST AFRICA

INDICATOR	MEASURE	MEANS OF VERIFICATION
3.1.3 The police and where applicable other law enforcement agencies have a system of performance review and discipline.	3.1.3.g Number of police and where applicable other law enforcement officials subject to disciplinary proceedings, expressed as a percentage of total number of officials, and the outcome of those proceedings.	Human resource data, data on disciplinary procedures brought against officials and the outcomes of the action.
	3.1.3.h Police and where applicable other law enforcement officials are encouraged to report acts of misconduct committed by their colleagues.	Policy documents.
3.1.4 The police and other law enforcement officials are free from partisan political interference.	3.1.4.a Police and where applicable other law enforcement officials are prohibited from holding public office or positions within political parties, and from publicly associating themselves with political parties, objectives and activities.	Relevant laws, public surveys, media reports, reports of civil society organisations and oversight mechanisms, police and other law enforcement policy and code of conduct.
	3.1.4.b There is a clear distinction between the executive direction and policy role and the operational independence of the police and other law enforcement agencies.	Relevant laws and policy.
	3.1.4.c The police and where applicable other law enforcement agencies have budgets adequate to carry out their mandate (measured as the annual budget of the police and other law enforcement agencies, as a proportion of the national budget, with analysis of major items of expenditure).	Annual reports and audited statements of the police and other law enforcement agencies, media reports, reports of civil society organisations and oversight mechanisms.
	3.1.4.d The budget is spent according to approved budget expenditure items.	Annual reports and audited statements of police and other law enforcement agencies.



### 3.2 The police will act in a manner that upholds the right to life, liberty and security of the person by only using force and firearms when strictly necessary and only to the extent required for the fulfilment of their lawful duty.

INDICATOR	MEASURE	MEANS OF VERIFICATION
3.2.1 Legislation, policy and practice support the proportionate, minimal and strictly necessary use of force.	3.2.1.a Legislation criminalises the arbitrary or unlawful use of force.	Relevant laws, policy and police and other law enforcement operational procedures, ratification of relevant international and regional human rights treaties.
	3.2.1.b Obedience to superior officer's orders does not excuse arbitrary or unlawful use of force.	Relevant laws, policy and police and where applicable other law enforcement operational procedures, ratification of relevant international and regional human rights treaties, policy statements by the police and other law enforcement agencies, reports of civil society, national human rights institutions and independent police oversight authorities.
	3.2.1.c Number of police and where applicable other law enforcement officials prosecuted under domestic legislation or common law for excessive or unlawful use of force, and the outcome of those prosecutions, expressed as the proportion of complaints redressed.	Court records, internal police and where applicable other law enforcement oversight documentation, external police and other law enforcement oversight authority reports, reports of national human rights institutions and civil society, media reports.
3.2.2 Police and where applicable other law enforcement officials are trained to use minimum force.	3.2.2.a Percentage of (a) recruits and (b) police and other law enforcement officials who annually receive training and re-training on the principles of minimum use of force, on the use of weapons and firearms, and on the use of non-violent conflict resolution methods as (i) theory and (ii) practice.	Training curriculum, human resource or training academy records.
	3.2.2.b Number of police and where applicable other law enforcement officials re-qualified in the use of weapons per year as a ratio of the number of police and other law enforcement officials issued with a firearm.	Police and where applicable other law enforcement administrative reports, training records, weapon re-qualification records.
	3.2.2.c Police and where applicable other law enforcement budgets makes provision for sufficient training on use of force.	Annual budgets and financial audits.
3.2.3 Less-lethal equipment is available.	3.2.3.a Less lethal equipment is available to the police and other law enforcement officials and used in accordance with policy.	Weapons register, internal oversight documentation, external oversight authority reports, reports of national human rights institutions and civil society, media reports.
	3.2.3.b Percentage of police and where applicable other law enforcement officials who annually receive training and re-training on less lethal equipment.	Training curriculum, human resource or training academy records.
3.2.4 Strict control is exercised over the use, storage and distribution of firearms.	3.2.4.a Weapons are only issued to personnel who are assessed as mentally, physically and morally fit and trained to use them.	Weapons register, assessment records.
	3.2.4.b There is automatic review and investigation of incidents of the use of force resulting in death or serious injury, and the investigations are conducted impartially with integrity.	Relevant laws, policy and police and other law enforcement operational procedures, ratification of relevant international and regional human rights treaties, court records, internal oversight documentation, external oversight authority reports, reports of national human rights institutions and civil society, media reports.

COMMON STANDARDS FOR POLICING IN EAST AFRICA

INDICATOR	MEASURE	MEANS OF VERIFICATION
3.2.4 Strict control is exercised over the use, storage and distribution of firearms.	3.2.4.c Police and where applicable other law enforcement records on the number of people injured or killed during the course of police and other law enforcement action, as a ratio of statistics of serious crime reported, overall number of crimes reported, number of police and other law enforcement officials, and the number of officials wounded or killed on duty.	Coroners' or forensic pathologists' reports on the cause of death, court records, internal oversight documentation, external oversight authority reports, reports of national human rights institutions and civil society, media reports.



**3.3 The police will act in a manner that ensures all citizens enjoy their fundamental rights and freedoms without discrimination.**

INDICATOR	MEASURE	MEANS OF VERIFICATION
3.3.1 Police and where applicable other law enforcement officials enforce the law equitably.	3.3.1.a All persons are received and treated fairly and are not subject to discrimination, harassment or arbitrary arrest.	Court records, internal oversight documentation, external oversight authority reports, reports of national human rights institutions and civil society, media reports.



**3.4 The police will act in a manner that upholds the absolute prohibition against torture and other cruel inhuman or degrading treatment or punishment. The police will not inflict, instigate or tolerate any act of torture or other cruel, inhuman or degrading treatment or punishment. No circumstances will override this prohibition, including threats of war, political instability or periods of emergency.**

INDICATOR	MEASURE	MEANS OF VERIFICATION
3.4.1 Legislation and policy prohibit torture and other cruel, inhuman or degrading treatment or punishment (other ill-treatment).	3.4.1.a Domestic legislation prohibits torture, which is defined in accordance with Article 1 of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.	Constitution, relevant laws, ratification of relevant international and regional human rights treaties.
	3.4.1.b Police and where applicable other law enforcement policies and codes of conduct define torture and outlines detailed steps the police and other law enforcement officials must take to prevent torture, and to respond to any allegations of torture.	Police and where applicable other law enforcement official procedures, code of conduct.
	3.4.1.c Obedience to a superior's orders is not a defence to an act of torture or other ill-treatment.	Constitution, relevant laws, ratification of relevant international and regional human rights treaties.
	3.4.1.d Any statement made as a result of torture is not permitted to be used as evidence in any proceedings, except that in the case of suspects accused of torture, then evidence may be led that the statement was made as a result of torture.	Constitution, relevant laws, ratification of relevant international and regional human rights treaties.
3.4.2 The police and where applicable other law enforcement officials are trained on the prohibition and prevention of torture.	3.4.2.a The prohibition of torture and ill-treatment is included in the training of all police and other law enforcement officials. The training stresses the human rights principles underpinning the prohibition, and involves practical examples of what constitutes prohibited actions.	Training curriculum.
	3.4.2.b Percentage of police and where applicable other law enforcement officials who annually receive training on the prohibition and prevention of torture, disaggregated by rank.	Reports of human resources, training colleges, and training service providers (such as civil society organisations or national human rights institutions).
3.4.3 Police and where applicable other law enforcement officials' actions and processes are designed to remove the potential for torture.	3.4.3.a Procedural safeguards exist to prevent the use of violence, threats or intimidation during interrogation or interviewing of suspects and witnesses.	Relevant laws, police and other law enforcement operational procedures, ratification of relevant international and regional human rights treaties.
	3.4.3.b The law, regulations and police and other law enforcement operational procedures provide the following rights of suspects during questioning and confession: (a) freedom from torture and other ill-treatment; (b) the presence of a lawyer; (c) a medical examination; (d) an interpreter, if required; (e) the right to remain silent.	Constitution, relevant laws, police and other law enforcement operational procedures, ratification of relevant international and regional human rights treaties.
	3.4.3.c The law provides that information about every questioning session be recorded, including information about the (a) duration, (b) intervals, (c) identity of the officials carrying out the questioning, and (d) confirmation that the detained person was availed the opportunity to seek legal assistance or a medical examination.	Constitution, relevant laws, police and other law enforcement official procedures, ratification of relevant international and regional human rights treaties.
	3.4.3.d Audio or audio-visual recording of questionings and confessions are taken and made available.	Police and where applicable other law enforcement operational procedures, court records, internal oversight documentation, external oversight authority reports, reports of national human rights institutions and civil society, media reports.

COMMON STANDARDS FOR POLICING IN EAST AFRICA

INDICATOR	MEASURE	MEANS OF VERIFICATION
3.4.3 Police and where applicable other law enforcement officials' actions and processes are designed to remove the potential for torture.	3.4.3.e Number of complaints made against the police and where applicable other law enforcement officials for violation of procedural rights during questioning and confessions, and the outcome of those complaints, expressed as the proportion of complaints redressed.	Court records, internal oversight documentation, external oversight authority reports, reports of national human rights institutions and civil society, media reports.
3.4.4 Allegations of torture are independently and effectively and promptly investigated.	3.4.4.a The number and nature of complaints of torture and other ill-treatment by the police and where applicable other law enforcement officials as submitted by individual complainants, by NGOs or organisations external to the police to international and regional human rights mechanisms or identified in a court of law.	Ratification of relevant international and regional human rights treaties (including optional and reporting protocols), State reports to UN and AU mechanisms, shadow reports of national human rights institutions and non-government organisations, working documents of UN and AU mechanisms, decisions of international criminal courts and tribunals.
	3.4.4.b The number and nature of complaints of torture made by police and where applicable other law enforcement officials about their colleagues, and the outcome of the complaints, expressed as the proportion of complaints redressed.	Court records, internal oversight documentation, external oversight authority reports, reports of national human rights institutions and civil society, media reports.
	3.4.4.c Percentage of all complaints of torture and other ill-treatment that are independently and effectively investigated by an impartial domestic body, and the outcomes of the complaints, expressed as a proportion of complaints redressed.	Court records, internal oversight documentation, external oversight authority reports, reports of national human rights institutions and civil society, media reports.
	3.4.4.d Number of police and where applicable other law enforcement officials charged with torture and other ill-treatment, and the outcome of the cases, expressed as a proportion of complaints redressed.	Court records, internal oversight documentation, external oversight authority reports, reports of national human rights institutions and civil society, media reports.



### 3.5 The police will act in a manner that ensures all persons deprived of their liberty are treated with humanity and respect for their inherent dignity.

The police will:

#### 3.5.1 The police will keep persons awaiting trial separate from convicted persons.

INDICATOR	MEASURE	MEANS OF VERIFICATION
3.5.1.1 Conditions of detention in police custody and places of detention under the management of other law enforcement agencies are humane and consistent with the right of an accused person to dignity.	3.5.1.1.a Categories of detainees are held separately, according to their status, which includes the separate detention of men and women, children and adults, and convicted from pre-trial detainees, while also being mindful of specific vulnerabilities.	Constitution, relevant laws, police and other law enforcement operational procedures, ratification of relevant international and regional human rights treaties, internal oversight documentation, external oversight authority reports, reports of national human rights institutions and civil society, media reports.

#### 3.5.2 Provide all persons deprived of their liberty with adequate food and clothing, unless the detained person elects to provide their own.

INDICATOR	MEASURE	MEANS OF VERIFICATION
3.5.2.1 Conditions of detention in police custody and places of detention under the management of other law enforcement agencies are humane and consistent with the right of an accused person to dignity.	3.5.2.1.a The police and where applicable other law enforcement officials provide detainees under their care with adequate food and water, and clothing, where necessary.	Constitution, relevant laws, police and where applicable other law enforcement operational procedures, ratification of relevant international and regional human rights treaties, internal oversight documentation, external oversight authority reports, reports of national human rights institutions and civil society, media reports.
	3.5.2.1.b Number of complaints made against the police and other law enforcement officials for conditions of detention that are inhumane or not consistent with the right to dignity of the person, and the outcome of that complaint, expressed as the proportion of complaints redressed.	Court records, internal oversight documentation, external oversight authority reports, reports of national human rights institutions and civil society, media reports.

**3.5.3 Facilitate assistance from medical practitioners.**

INDICATOR	MEASURE	MEANS OF VERIFICATION
3.5.3.1 Detainees receive prompt and adequate health care.	3.5.3.1.a The number detainees seeking medical attention, and the percentage who received health care while in custody, including nature of the care and the time taken between complaint and receipt of services.	Detainee medical records, custody records, internal oversight documentation, external oversight authority reports, reports of national human rights institutions and civil society, media reports.
	3.5.3.1.b The number of detainees transferred to hospitals for treatment as a percentage of total number of detainees.	Detainee medical records, custody records, internal oversight documentation, external oversight authority reports, reports of national human rights institutions and civil society, media reports.
	3.5.3.1.c The law provides for physical and mental health assessment screenings and a process for the diversion of persons to mental healthcare facilities if required.	Constitution, relevant laws, police and other law enforcement operational procedures, ratification of relevant international and regional human rights treaties.
	3.5.3.1.d Number of complaints made against the police and where applicable other law enforcement officials for denial of healthcare or failure to provide healthcare, and the outcome of those complaints, expressed as the proportion of complaints redressed.	Court records, internal oversight documentation, external oversight authority reports, reports of national human rights institutions and civil society, media reports.

**3.5.4 Inform family and friends of the detention and allow the detained person to maintain contact with those persons to the extent that such contact is consistent with the administration of justice, security and the good order of the place of detention.**

INDICATOR	MEASURE	MEANS OF VERIFICATION
3.5.4.1 Detainees have access to family, next of kin or others while in police custody.	3.5.4.1.a The law provides for the right of access by detainees to family members, or another person of their choice.	Constitution and relevant laws, ratification of relevant international and regional human rights treaties.
	3.5.4.1.b Visits to detainees in police custody and places of detention under the management of other law enforcement agencies are recorded in a custody or prisoner register and/or occurrence book, with explanations provided for any limitations on this right.	Occurrence book/custody register, internal oversight documentation, external oversight authority reports, reports of national human rights institutions and civil society, media reports.
	3.5.4.1.c Number of complaints made against the police and where applicable other law enforcement officials for denial of access to family members, and the outcome of those complaints, expressed as the proportion of complaints redressed.	Court records, internal oversight documentation, external oversight authority reports, reports of national human rights institutions and civil society, media reports.

**3.5.5 Allow all persons deprived of their liberty to access legal assistance services and receive visits from their legal advisors that are within the sight, but not hearing, of officials.**

INDICATOR	MEASURE	MEANS OF VERIFICATION
3.5.5.1 Police and where applicable other law enforcement officials uphold the right of all persons to access a lawyer.	3.5.5.1.a Number of complaints made against the police and where applicable other law enforcement officials for denial of access to a lawyer or paralegal, and the outcome of that complaint, expressed as the proportion of complaints redressed.	Court records, internal oversight documentation, external oversight authority reports, reports of national human rights institutions and civil society, media reports.
	3.5.5.1.b Number of defendants with legal representation at first appearance before a judicial authority, expressed as a percentage of all first appearances, disaggregated by type of offence and location of court.	Court records, legal aid records.
	3.5.5.1.c Number of defendants with access to an interpreter, expressed as a percentage of defendants who requested an interpreter that received assistance, disaggregated by type of offence and location of police station/court.	Court records, custody records, internal police and other law enforcement agency documentation.
	3.5.5.1.d Number of complaints made against the police and where applicable other law enforcement officials for denial of access to an interpreter, and the outcome of that complaint, expressed as the proportion of complaints redressed.	Court records, internal oversight documentation, external oversight authority reports, reports of national human rights institutions and civil society, media reports.





**3.6 The police will act in a manner that adheres to the absolute prohibition against extra-judicial executions and the government will enact legislation to ensure that such actions are investigated and prosecuted as a matter of priority and as punishable criminal offences under law. Police will not derogate from this principle on account of war, armed conflict or other national emergencies.**

INDICATOR	MEASURE	MEANS OF VERIFICATION
<b>3.6.1</b> The movement of detainees while in the custody is recorded and known at all times.	<b>3.6.1.a</b> The law provides that any transfer of detainees is only permitted in accordance with the law, and that detainees are only moved to and between official gazetted places of detention, and their movements recorded in an official register.	Constitution, relevant laws, police and where applicable other law enforcement operational procedures, ratification of relevant international and regional human rights treaties.
	<b>3.6.1.b</b> The law prohibits incommunicado detention.	Constitution, relevant laws, police and where applicable other law enforcement operational procedures, ratification of relevant international and regional human rights treaties.
<b>3.6.2</b> Allegations of death as a result of police and where applicable other law enforcement officials' action, or deaths in custody, are independently and effectively investigated.	<b>3.6.2.a</b> The number and nature of complaints of death as a result of police and where applicable other law enforcement officials' action, or deaths in custody, as submitted by individual complainants, NGOs or organisations external to the police and other law enforcement agencies to international and regional human rights mechanisms.	Ratification of relevant international and regional treaties (including optional and reporting protocols), state reports to UN and AU mechanisms, shadow reports of national human rights institutions and non-government organisations, working documents of UN and AU mechanisms, decisions of international criminal courts and tribunals.
	<b>3.6.2.b</b> The number and nature of complaints of death as a result of police and where applicable other law enforcement officials' action, or deaths in custody, made by police and other law enforcement officials about their colleagues, and the outcome of the complaints, expressed as the proportion of complaints redressed.	Court records, internal oversight documentation, external oversight authority reports, reports of national human rights institutions and civil society, media reports.
	<b>3.6.2.c</b> Percentage of all complaints of death as a result of police and where applicable other law enforcement action, or deaths in custody, independently and effectively investigated by an impartial domestic body, and the outcomes of the complaints, expressed as a proportion of complaints redressed.	Court records, internal oversight documentation, external oversight authority reports, reports of national human rights institutions and civil society, media reports.
	<b>3.6.2.d</b> Number of police and where applicable other law enforcement officials charged with murder and the outcome of the cases, expressed as a proportion of complaints redressed.	Court records, internal oversight documentation, internal and external oversight authority reports, reports of national human rights institutions and civil society, media reports.



**3.7 The police will act in a manner that ensures victims are treated with compassion and dignity, which includes access to prompt, fair and inclusive mechanisms of redress that respect the privacy of victims. They will make known and provide victims with assistance, including psychological, medical and social services. The police organisation will ensure that officers receive training to sensitise them to the diverse needs of victims.**

INDICATOR	MEASURE	MEANS OF VERIFICATION
3.7.1 Police and where applicable other law enforcement officials are sensitised to the impact of crime on victims and of their particular needs.	3.7.1.a Police and where applicable other law enforcement officials receive training on the handling and obtaining of information from victims with special needs, such as children, persons with disabilities, persons who have been sexually assaulted, and the training is applied in practice.	Training curriculum, manuals and reports of national human rights institutions and civil society, media reports.
3.7.2 Victims are treated with dignity and respected.	3.7.2.a Victims receive prompt and courteous assistance from the police and other law enforcement officials, and give their statements in private in sensitive cases.	Survey of victims who have come into contact with the police and where applicable other law enforcement officials, incident reports from civil society organisations, police and where applicable other law enforcement policy and operational procedures, case file notes.
	3.7.2.b Victims are not discriminated against in the provision of services by the police on the basis of gender, race, nationality, ethnic group, disability or sexual orientation.	Survey of victims who have come into contact with the police and other law enforcement officials, incident reports from civil society organisations, police and where applicable other law enforcement policy and operational procedures, case file notes.
	3.7.2.c Victims are provided with accurate and timely information regarding how they should interact with the criminal justice system, what to expect, the progress of investigations, and the release of the accused.	Survey of victims who have come into contact with the police and other law enforcement officials, incident reports from civil society organisations, police and where applicable other law enforcement policy and operational procedures, case file notes.
	3.7.2.d The privacy of victims is respected.	Survey of victims who have come into contact with the police and other law enforcement officials, incident reports from civil society organisations, police and where applicable other law enforcement policy and operational procedures, case file notes.
	3.7.2e Police and other law enforcement officials support victims and witnesses to obtain witness protection where necessary and where available, and are protected from contact with the accused person.	Survey of victims who have come into contact with the police and other law enforcement officials, incident reports from civil society organisations, police and where applicable other law enforcement policy and operational procedures, case file notes.
	3.7.2.f Victims are informed and referred by the police and other law enforcement officials to service providers offering impartial, informal mechanisms of complaint resolutions.	Survey of victims who have come into contact with the police and other law enforcement officials, incident reports from civil society organisations, police and where applicable other law enforcement policy and operational procedures, case file notes.

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INDICATOR	MEASURE	MEANS OF VERIFICATION
3.7.2 Victims are treated with dignity and respected.	3.7.2.g Victims are informed of and referred to, on a needs basis, psychological, medical and social services.	Survey of victims who have come into contact with the police, incident reports from civil society organisations, police policy and operational procedures, case file notes.
3.7.3 Police and where applicable other law enforcement officials will respect confidentiality of victims and suspects.	3.7.3.a All medical information is kept confidential and only shared as necessary within the code of medical ethics	Police and where applicable other law enforcement regulations and policy, survey of victims who have come into contact with the police and other law enforcement officials, incident reports from civil society organisations, police and other law enforcement policy and operational procedures, case file notes.
3.7.4 Restitution and compensation is available to victims.	3.7.4.a Number of victims paid compensation as a percentage of number of reported crimes.	Relevant laws, police or state records/reports of compensation paid, police and where applicable other law enforcement agencies' crime statistics.



**3.8 The police will act in a manner that does not discriminate against women, juveniles or minority communities. Police who are in frequent contact with suspects, offenders, victims and witnesses from these groups should receive sensitisation training.**

INDICATOR	MEASURE	MEANS OF VERIFICATION
3.8.1 Discrimination is reported and addressed.	3.8.1.a Internal and independent oversight mechanisms have the mandate to investigate and report on inequality or discrimination by the police and where applicable other law enforcement officials.	Relevant laws.
	3.8.1.b Number of complaints made about police and where applicable other law enforcement officials regarding discriminatory, unfair or unequal treatment, and the outcome of the complaints, expressed as the proportion of complaints redressed.	Court records, internal oversight documentation, external oversight authority reports, reports of national human rights institutions and civil society, media reports.
3.8.2 Police and where applicable other law enforcement officials are properly trained to deal with diversity.	3.8.2.a Police and where applicable other law enforcement officials' basic and in-service training incorporates elements of sensitivity training, equality and managing diversity.	Training curriculum.
	3.8.2.b Number, gender and age of police and other law enforcement officials who attend specific training to deal with discrimination or the treatment of specific vulnerable group/s.	Reports of human resources, training colleges, and training service providers (such as civil society organisations or national human rights institutions).
3.8.3 Police and where applicable other law enforcement officials recognise the importance of providing specific capacity to meet the needs of vulnerable groups or groups with special needs.	3.8.3.a The existence or establishment of specialised units to deal with crimes against vulnerable groups (such as victims of sexual offences, children, refugees or persons with disabilities).	Police and other law enforcement policy and operational procedures, annual reports, reports from independent observers on the nature and functioning of these units.
3.8.4 Police and where applicable other law enforcement officials are not discriminated against on the basis of ethnic, racial, language or gender diversity.	3.8.4 a Recruitment, selection and promotion practices of the police and where applicable other law enforcement agencies reflect the ethnic, racial, language and gender diversity of the national population and police and other law enforcement agencies.	Human resource policies and reports.
	3.8.4.b Disciplinary processes do not discriminate against minority groups.	Human resource policies and reports, interviews with police and other law enforcement representative bodies.



**3.9 The police will act in a manner that recognises the right of all persons to peaceful assembly, without restriction, insofar as this right is consistent with the rule of law, democracy, public peace and security, and the rights of others. Regarding unlawful but peaceful assemblies, police will avoid the use of force and, if force is necessary, only use force to the minimum extent. In violent assemblies, police will use less dangerous means of crowd control but again if force becomes necessary, only use the minimum force necessary.**

INDICATOR	MEASURE	MEANS OF VERIFICATION
<b>3.9.1</b> The police and where applicable other law enforcement officials respect the right to freedom of assembly as a matter of principle, and their actions aim to facilitate rather than to restrict this right.	3.9.1.a The right to freedom of assembly is recognised in the law.	Constitution, relevant laws, ratification of relevant international and regional human rights treaties.
	3.9.1.b The police and where applicable other law enforcement officials are guided by a framework that sets out criteria for the limitation or restriction of assemblies that includes: the principle of legality, legitimate interest, proportionality, necessity, non-discrimination and equality before the law.	Constitution, relevant laws, police and where applicable other law enforcement operational procedures, ratification of relevant international and regional human rights treaties.
	3.9.1.c The police and where applicable other law enforcement officials have processes and procedures for spontaneous and planned assemblies that include: appointment of role players for each assembly, the gathering of intelligence, risk assessment and contingency planning and internal briefing.	Relevant laws, police and other law enforcement operational procedures.
<b>3.9.2</b> Police and, where applicable, other law enforcement officials are equipped with the training and resources necessary to avoid the use of force during assemblies unless absolutely necessary.	3.9.2.a All police and where applicable other law enforcement officials receive training on the effective and rights-based management of an assembly, which includes, at a minimum: <ul style="list-style-type: none"> <li>(a) the right to assembly;</li> <li>(b) communication skills training;</li> <li>(c) understanding participant behaviour;</li> <li>(d) techniques in minimising conflict, including negotiation and mediation skills;</li> <li>(e) tactics to de-escalate tension and violence;</li> <li>(f) lawful use of force and firearms;</li> <li>(g) proper use of less lethal weapons to minimise abuse and misuse;</li> <li>(h) safety and protection of vulnerable groups in an assembly context;</li> <li>(i) roles and mandate of internal and external oversight mechanisms;</li> <li>(j) principles of accountability.</li> </ul>	Training curriculum, reports of human resources, training colleges, and training service providers (such as civil society organisations or national human rights institutions).
	3.9.2. b Police and where applicable other law enforcement officials deployed to assemblies are provided with a range of appropriate personal protective equipment and appropriate less lethal weapons to reduce reliance on methods that are capable of causing death or serious injury.	Weapons and equipment register, internal oversight documentation, external oversight authority reports, reports of national human rights institutions and civil society, media reports.

<b>3.9.3</b> The police and, where applicable, other law enforcement officials are accountable for their actions during assembly operations.	<b>3.9.3.a</b> For each assembly, there is a clear, transparent and single command structure.	Relevant laws, police and where applicable other law enforcement operational procedures, internal oversight documentation, external oversight authority reports, reports of national human rights institutions and civil society, media reports.
	<b>3.9.3.b</b> Individual officers are identifiable.	Relevant laws, police and where applicable other law enforcement operational procedures.
	<b>3.9.3.c</b> There are clear agreements on the command and accountability of any non-police units utilised in the policing of assemblies.	Relevant laws, police and where applicable other law enforcement operational procedures.
	<b>3.9.3.d</b> There are comprehensive and systematic internal review and de-briefing mechanisms for the post-assembly environment.	Relevant laws, police and where applicable other law enforcement operational procedures.
	<b>3.9.3.e</b> There is automatic review and investigation of incidents of the use of force resulting in death or serious injury, and the investigations are conducted impartially with integrity.	Relevant laws, police and where applicable other law enforcement operational procedures, reports of independent oversight authorities.

## COMMON STANDARD 4: Police organisations

- 4.1 The police will account for violations by officers against citizens' human rights;
- 4.2 The police will implement basic standards for the recruitment of officers, including selection of candidates by proper screening processes to ensure that they exhibit appropriate moral, psychological and physical qualities for the role. Recruitment will ensure that the police organisations are representative of the community as a whole, with ethnic, gender, language and religious compositions reflective of the population they serve;
- 4.3 The police will ensure members receive comprehensive and ongoing training on their rights and obligations;
- 4.4 Police personnel will not only refrain from engaging in acts of corruption and abuse of power, but will rigorously oppose and combat all such actions. States are required to implement measures to facilitate the investigation of corruption and abuse of power and to take preventative measures, including police anti-corruption training and enacting domestic legislation, that criminalises such actions;
- 4.5 In fulfilling their mandate, the police will cooperate with role-players within and outside the criminal justice system, including citizens and civil society organisations; and
- 4.6 States must promote bilateral, regional, multilateral and global law enforcement and crime prevention cooperation and assistance. To further this aim, states should take measures to prevent crime at a domestic level, strengthen information sharing and facilitate technical assistance, including exchange programmes and training.



#### 4.1 The police will account for violations by officers of citizens' human rights.

INDICATOR	MEASURE	MEANS OF VERIFICATION
4.1.1 Violations of human rights are identified and addressed.	4.1.1.a Number and type of reported complaints of human rights violations by the police and where applicable other law enforcement officials.	Police and other law enforcement records and statistics, reports of civil society, independent complaints and monitoring authorities, and national human rights institutions.
	4.1.1.b Number and type of sanction imposed on police and where applicable other law enforcement officials for abuse of human rights, both judicial and disciplinary, with sanctions being disaggregated according to the nature of the complaint, type and severity of sanction, and rank of police and other law enforcement official.	Court records, administrative documents, records of independent oversight mechanisms and national human rights institutions, police annual reports, media reports.
4.1.2 There is a strong system of internal discipline management in the police and where applicable other law enforcement agencies.	4.1.2.a There is a system of internal discipline management.	Relevant laws, records of discipline, annual reports, media reports, reports of civil society.
	4.1.2.b The percentage of internal investigations that result in sanction of the perpetrator or further action being taken, and the nature of the action.	Relevant laws, records, annual reports, media reports, reports of civil society.
4.1.3 There is independent oversight.	4.1.3.a A mechanisms of independent oversight exists.	Constitution, relevant laws and annual reports.
	4.1.3.b There is automatic investigation of incidents of deaths as a result of police action and deaths in custody, and the investigations are conducted impartially with integrity.	Relevant laws, records of independent police oversight mechanisms and national human rights institutions, police annual reports, media reports, reports of civil society.
	4.1.3.c The percentage of external investigations that result in sanction of the perpetrator or further action being taken by or against the police and other law enforcement officials, and the nature of the action.	Relevant laws, records of independent oversight mechanisms and national human rights institutions, annual reports, media reports, reports of civil society.





**4.2 The police will implement basic standards for the recruitment of officers, including selection of candidates by proper screening processes to ensure that they exhibit appropriate moral, psychological and physical qualities for the role. Recruitment will ensure that the police organisations are representative of the community as a whole, with ethnic, gender, language and religious compositions reflective of the population it serves.**

INDICATOR	MEASURE	MEANS OF VERIFICATION
4.2.1 Police and where applicable other law enforcement officials are recruited, appointed and promoted according to clear and professional criteria.	4.2.1.a Screening instruments exist to ensure the selection of candidates who exhibit appropriate moral, physical, and psychological qualities, and these are applied.	Recruitment policy, reports on appointment and promotions, reports of police and other law enforcement representatives, media reports, human resource policy, complaints by officials or their representative bodies, job descriptions of police and where applicable other law enforcement officials.
	4.2.1.b Police and where applicable other law enforcement promotions are based on competence and merit.	Recruitment policy, reports on appointment and promotions, reports of police and other law enforcement representatives, media reports, human resource policy, complaints by officials or their representative bodies, job descriptions of police and where applicable other law enforcement officials.
	4.2.1.c All police and where applicable other law enforcement officials have clear job criteria.	Recruitment policy, reports on appointment and promotions, reports of police and other law enforcement representatives, media reports, human resource policy, complaints by officials or their representative bodies, job descriptions of police and where applicable other law enforcement officials.



### 4.3 The police will ensure members receive comprehensive and on-going training on their rights and obligations.

INDICATOR	MEASURE	MEANS OF VERIFICATION
4.3.1 The police and where applicable other law enforcement agencies will ensure members receive comprehensive and on-going training on their rights and obligations.	4.3.1.a Training on human rights, based on the EAC/EAPCCO Training Manual, is incorporated in basic, in-service and management training, and training includes theoretical as well as practical skills training on human rights, based on scenarios related to daily practice.	Training curriculum, reports of training colleges, reports of service providers such as civil society organisations/experts, police annual report.
	4.3.1.b Civil society and human rights experts are involved in human rights training.	Reports of training colleges, reports of service providers such as civil society organisations/experts, annual report.
	4.3.1.c Percentage of police and where applicable other law enforcement officials who receive human rights training in their basic training.	Training curriculum, reports of training colleges, reports of service providers such as civil society organisations/experts, police annual report.
	4.3.1.d Percentage of police and where applicable other law enforcement officials who received refresher training in the last two years, disaggregated according to gender and rank.	Training curriculum, reports of training colleges, reports of service providers such as civil society organisations/experts, annual report.
	4.3.1.e. Member organisations collaborate regionally to promote and undertake human rights training.	Training curriculum, reports of the EAC/EAPCCO on training, annual reports.



**4.4 Police will not only refrain from engaging in acts of corruption and abuse of power, but will rigorously oppose and combat all such actions. States are required to implement measures to facilitate the investigation of corruption and abuse of power and to take preventative measures, including police anti-corruption training and enacting domestic legislation that criminalises such action.**

INDICATOR	MEASURE	MEANS OF VERIFICATION
4.4.1 Police and where applicable other law enforcement officials with high levels of integrity, honesty, ethical standards and expertise are employed.	4.4.1.a The recruitment, appointment, promotion and termination of employment of police and where applicable other law enforcement officials and other employees of the police and other law enforcement agencies are not arbitrary, but based on standards of fairness, openness, ability and performance.	Recruitment policy, reports on appointment and promotions, reports of police and other law enforcement representatives, media reports, human resource policy, complaints by police and where applicable other law enforcement officials or their representative bodies.
	4.4.1.b Remuneration of police and where applicable other law enforcement officials is sufficient to maintain a reasonable standard of living for themselves and their families; expressed as a percentage of average salaries for civil servants in the region.	Budgets and human resource statements on salary bands.
4.4.2 There are clear policies on anti-corruption in the police and where applicable other law enforcement agencies.	4.4.2.a Police and where applicable other law enforcement officials are made aware of and are bound by a code of conduct.	Police and where applicable other law enforcement operational procedures, website, media statements, reports of independent oversight authorities.
	4.4.2.b Number of complaints internally made against the police and where applicable other law enforcement officials for corruption, and the outcome of those complaints, expressed as the proportion of complaints redressed.	Police and other law enforcement data, internal oversight documentation, external oversight authority reports, reports of national human rights institutions and civil society, media reports.
	4.4.2.c Number of police and other law enforcement officials who receive training annually, as a percentage of the total number, on ethical standards and conduct applicable to the performance of their lawful duties.	Reports of human resources, training colleges, and training service providers (such as civil society organisations or national human rights institutions).
4.4.3 Conflict of interest is recognised and addressed.	4.4.3.a There is a law that prohibits or regulates outside business, financial and commercial interests.	Relevant laws and policy.
	4.4.3.b Police and where applicable other law enforcement officials are required to declare, or refrain from engaging in, business, financial and commercial interests.	Relevant laws, policy, and declaration register.
	4.4.3.c Percentage of police and where applicable other law enforcement officials who make declarations.	Register of declarations, media reports, reports of independent researchers and civil society organisations.
	4.4.3.d Accessibility of the register to the public.	Policy, media reports, reports of independent researchers and civil society organisations.
4.4.4 Appropriate action is taken following allegations of corruption.	4.4.4.a Corruption is a serious disciplinary and criminal offence.	Relevant laws and regulations.
	4.4.4.b There is automatic investigation of incidents of corruption, and the investigations are conducted impartially with integrity.	Court records, police and where applicable other law enforcement administrative documents, records of independent oversight mechanisms and national human rights institutions, annual reports, media reports.
	4.4.4.c There is an independent and external oversight body that monitors and reports on police and other law enforcement abuse of power and corruption.	Relevant laws, annual and other reports of the independent external oversight body.

INDICATOR	MEASURE	MEANS OF VERIFICATION
4.4.4 Appropriate action is taken following allegations of corruption.	4.4.4.d Number of cases of corruption investigated, and the percentage of these that resulted in further action, with details of that action, and the outcome of the case, expressed as the proportion of complaints redressed.	Court records, administrative documents, records of independent oversight mechanisms and national human rights institutions, annual reports, media reports.
4.4.5 Use of state and police and where applicable other law enforcement property is managed properly.	4.4.5.a There is a clear budget for police and where applicable other law enforcement expenditure, and a policy rationale.	Annual budget, audited financial statements, reports of independent oversight mechanisms and national human rights institutions, police annual reports, media reports.
	4.4.5.b Police and where applicable other law enforcement officials adhere to integrity controls, including on public bidding of major procurements, and conduct effective audits.	Annual budget, audited financial statements, reports of independent oversight mechanisms and national human rights institutions, police annual reports, media reports.



#### 4.5 In fulfilling their mandate, the police will cooperate with role-players within and outside the criminal justice system, including citizens and civil society organisations.

INDICATOR	MEASURE	MEANS OF VERIFICATION
4.5.1 Police and where applicable other law enforcement agencies have and maintain partnerships with other key role players in and outside the criminal justice system.	4.5.1.a Partnership between the police and other law enforcement agencies and relevant role players.	Policy.
4.5.2 The police and where applicable other law enforcement agencies collaborate with stakeholder in and outside of the criminal justice system.	4.5.2.a There are systems in place that facilitate regular and sustained interaction between the police and where applicable other law enforcement agencies and stakeholders within and external to the criminal justice system, such as court user committees.	Memorandum of understanding, press, meeting reports, policy documents.
	4.5.2.b Police and where applicable other law enforcement collaborations result in improvement to access to justice.	Memorandum of understanding, press, meeting reports, policy documents.
4.5.3 The police and where applicable other law enforcement officials collaborate with civil society organisations and the community.	4.5.3.a There are structures such as community police forums.	Memorandum of understanding, press, meeting reports, policy documents.
	4.5.3.b Community Police Forums are seen as functional and valuable.	Perception surveys, minutes of community forum meetings.



**4.6 States must promote bilateral, regional, multilateral and global law enforcement and crime prevention cooperation and assistance. To further this aim, states should take measures to prevent crime at a domestic level, strengthen information sharing and facilitate technical assistance, including exchange programmes and training.**

INDICATOR	MEASURE	MEANS OF VERIFICATION
4.6.1 States in east Africa collaborate on law enforcement and crime prevention.	4.6.1.a Police and where applicable other law enforcement agencies are active participants on the EAC, EAPCCO, the Intergovernmental Authority on Development (IGAD), the Regional Centre on Small Arms (RECSA), the Common Market for Eastern and Southern Africa (COMESA), the International Conference on the Great Lakes Region (ICGLR), and other relevant Regional Economic Communities (RECs).	Minutes of meetings.
	4.6.1.b Police and where applicable other law enforcement agencies implement the resolutions and recommendations of the EAC, EAPCCO, IGAD, RECSA, COMESA, ICGLR, and other relevant RECs.	Minutes of meetings.
	4.6.1.c EAC, EAPCCO, IGAD, RECSA, COMESA, ICGLR, and other relevant RECs engage actively on regional co-operation projects.	Minutes of meetings and reports.
	4.6.1.d Police and where applicable other law enforcement agencies in the region co-operate on bilateral projects.	Bilateral agreements.
	4.6.1.e Joint training between police and where applicable other law enforcement agencies in the region takes place.	Training reports.



# PART 3

## **COMMENTARY TO THE COMMON STANDARDS FOR POLICING IN EAST AFRICA**

Reforming policing against the  
backdrop of the integration of  
the East African Community





## COMMON STANDARD 1: Role of the police

The Common Standards recognise three distinct but interrelated roles of the police: to protect life, liberty and security; to maintain public safety and social peace; and to promote and uphold the rule of law and human rights.



### 1.1 The police will protect life, liberty and security of the person.

The rights to life, liberty and security of the person are at the core of the international human rights framework and states have undertaken to take legislative, policy and operational measures to ensure their protection and promotion.<sup>1</sup>

The obligation on police to protect the life, liberty and security of the person has two applications. First, police are mandated to take all lawful and reasonable measures to protect life, liberty and security and must not, through acquiescence or inaction, permit or tolerate any lawful derogation of a person's rights. It is from this mandate that the police derive their core responsibility to prevent and detect crime, protect life and property, preserve the peace, and apprehend offenders.

Second, in the exercise of their functions, police must not themselves adversely affect life, liberty or security without legal justification. Permissible derogation includes lawful arrest or the legitimate and proportional use of force. The framework for the lawful deprivation of life, liberty and security is discussed below in the section 'Policing in accordance with the rule of law'.



### 1.2 The police will maintain public safety and social peace.

Policing encompasses a multiplicity of functions that incorporates traditional notions of policing, such as detecting and investigating crime and maintaining law and order. A modern police organisation is also expected to prevent crime and proactively maintain public safety and social peace.

Characteristic of the modern, international framework for policing, the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials perceives the role of police as encompassing the administration of justice, the protection of the right to life, liberty and security, and identifies their responsibilities as including the maintenance of public safety and social peace.<sup>2</sup>

The UN Guidelines for the Prevention of Crime, which are set out in Part One, establish the conceptual framework for police crime prevention activities in order to address criminal activity, victimisation, community safety and development.<sup>3</sup> The Guidelines define crime prevention as including a number of approaches which promote:

- prevention through social development or social crime prevention: by promoting "well- being [and] pro-social behaviour through social, economic, health and educational measures, with a particular emphasis on children and youth, and focus on the risk and protective factors associated with crime and victimisation";
- locally-based crime prevention: by building the capacity of community members to address issues such as offending, victimisation and insecurity;
- situational crime prevention: by reducing opportunities for crime to occur; and
- reintegration programmes: by social integration of offenders and other preventative measures.<sup>4</sup>



**1.3 The police will adhere to the rule of law as an essential element to human security, peace and the promotion of fundamental rights and freedoms.**

The international framework for policing is premised on the rule of law and respect for, and promotion of, human rights. The International Bill of Rights encourages legislative and policy changes that put human rights at the core of policing. Individual officers are expected to know and adhere to their responsibility to promote and protect rights, and effective training and accountability mechanisms promote and monitor compliance.<sup>5</sup>

The rule of law describes the concept that no person is above the law and that the law of the state applies to every person equally and without discrimination, whether a person is a private citizen or a public official.<sup>6</sup> States are expected to construct and implement rules that are fair and equitable, and individual officers are obliged to implement the law equally and without discrimination.

International law sets out minimum principles for criminal justice which aim to preserve and uphold the rule of law and human rights. In the context of policing, these processes ensure that people enjoy due process. The international and regional frameworks establish minimum standards for due process, which include the right to a fair trial and public hearing by an independent judiciary, the right to the presumption of innocence until proven guilty, provisions for defence, and freedom from arbitrary arrest and detention.<sup>7</sup> These are discussed in the section below.

**COMMON STANDARD 2: Policing in accordance with the rule of law**

**The police will fulfil their functions in accordance with the rule of law. The police will:**

- 2.1 not arbitrarily arrest or detain and will only deprive persons of their liberty in accordance with the law;**
- 2.2 promptly inform accused persons of the reason for their arrest and any charges brought against them – this must be communicated to the accused person in a way and manner they understand;**
- 2.3 act in a manner that upholds the presumption of an accused person’s innocence until proven guilty in accordance with the law;**
- 2.4 ensure that arrested persons are brought promptly before an authorised and competent judicial authority;**
- 2.5 ensure that, upon arrest, detention and charge, there is a presumptive right to bail or bond;**
- 2.6 ensure the right of a detained person to challenge the lawfulness of their detention;**
- 2.7 ensure that arrested and detained persons have access to interpreters and legal assistance, as required; and**
- 2.8 ensure that arrested and detained persons are treated humanely and kept under humane conditions.**

Police are one of a number of actors, including the judiciary and legislature, which must work collaboratively towards the administration of justice. Whether an individual is an accused, victim or witness, entry into the criminal justice system usually begins with police intervention and, in some jurisdictions, extends to police responsibility for criminal prosecutions. While not the sole determinant, the role of police is a critical factor in determining a person’s diversion from or access to, and experience within, the criminal justice system.

The international framework for policing acknowledges the key role played by police in the administration of justice. The Common Standards, which draw on the international framework, speak to those aspects of the administration of justice that are within the ambit of police activities, while also acknowledging that police are part of a multi-institutional justice system that faces challenges in administering justice which are beyond the scope of police action.

To the extent that police action is a relevant factor, the key concept that underpins access to justice against which the performance of the police can be measured is adherence to the rule of law and human rights.

The International Covenant on Civil and Political Rights (ICCPR) articulates minimum requirements to ensure that due process accords with human rights principles. Those relevant to policing are:

- Arrest and detention:
  - » The right to be free from arbitrary arrest and detention, which requires that deprivation of liberty occurs only in accordance with the law.
  - » The right of an arrested person to know the reason for their arrest and any charges brought against them.
  - » The right of an arrested person to be promptly brought before an authorised judicial authority. While the UNHRC commentary on this section of the ICCPR avoids setting a fixed time period that constitutes “promptness”, its decisions on matters brought under this provision indicate that a period of no more than 2–3 days detention is consistent with the notion of “promptness”.<sup>8</sup>
  - » The presumptive right to bail or bond. This right is derived from the principle that a person is innocent until proven guilty in accordance with the law and by a competent judicial authority. The presumption operates to ensure that bail or bond is granted unless there are reasonable grounds for refusal. Relevant considerations for police with authority to make determinations of bail or bond include the seriousness of the offence, whether the arrested person might abscond, offend again, interfere with evidence or hinder police inquiries, the protection or administration of medical care for the arrested person; and the need (or perceived need) of any victim or witness to be protected from physical violence.<sup>9</sup>
  - » The right of a detained person to challenge the lawfulness of their detention, and the enforceable right to compensation if their arrest and detention is subsequently deemed unlawful by the courts.<sup>10</sup>
  - » The right of a detained person to be treated with humanity and to be kept under humane conditions while in police custody.<sup>11</sup>
- In the determination of charges:
  - » The right of the accused to be promptly informed, in a way they understand, of any charges brought against them.<sup>12</sup>
  - » The presumption of innocence until proven guilty in accordance with the law.
  - » The right of all persons to equality before the law and to a fair and public hearing before a competent judicial authority, with access to legal assistance<sup>13</sup> and interpreters<sup>14</sup> as required.
  - » Freedom from the compulsion to confess guilt.<sup>15</sup>

The international framework for policing also seeks to protect people from double-jeopardy, in that a person cannot be tried and punished for an action for which they have already been subject to conviction or acquittal by an authorised judicial or administrative authority. In the context of policing, this protection prevents the police from arresting or charging a person for a crime that has already been subject to proper determination, subject to the criminal procedures rules for that state.<sup>16</sup>

Respect for the rule of law and human rights is recognised by the African framework for policing. The AU promotes respect for the rule of law, human rights and democratic governance.<sup>17</sup> The African Charter recognises that every person is equal before the law and entitled to the equal protection of the law<sup>18</sup> and the right of all persons to have their cause heard. This provision echoes the due process provisions contemplated in the international framework and includes:

- in the case of a violation of a recognised right, the right to appeal to national legal institutions;
- the presumption of innocence;
- the right to a defence, including the right to legal counsel;
- the right to a speedy trial by an impartial court; and
- freedom from punishment for an act that did not constitute a criminal act at the time it was committed.<sup>19</sup>

Membership in the EAC is premised on the adherence by states to the principles of good governance, the rule of law, human rights and social justice.<sup>20</sup> Member states undertake to abide by the principles of

democracy, rule of law, good governance and human rights and social justice, and have undertaken to adhere to these objectives at both a policy and institutional level.<sup>21</sup>

The CADSP further recognises that an absence of the rule of law is a factor in conflict and tensions that may cause instability within countries and regions in Africa.<sup>22</sup>

In several EAC countries, the role of police in the criminal justice system extends to responsibility for criminal prosecutions. Where police act as prosecutors, the UN Guidelines on the Role of Prosecutors require police to uphold the human rights principles enshrined in the Universal Declaration of Human Rights (UDHR), including the principles of equality before the law, the presumption of innocence and the right to a fair and public hearing by an independent and impartial tribunal.<sup>23</sup>

The Guidelines provide a framework for the qualification, selection and training of prosecutors, namely:

- prosecutors must have integrity and ability, with appropriate training and appropriate qualifications;
- selection criteria for prosecutors must not be discriminatory; and
- the state must provide appropriate training on the ethical duty of the office, constitutional and statutory protections for the rights of the suspect and victim, and human rights.<sup>24</sup>

The Guidelines also provide that the state must protect prosecutors from harassment, intimidation, improper interference and other hindrances to their ability to perform their professional function.<sup>25</sup>

In the exercise of their functions, prosecutors must:

- abide by the rule of law and promote due process by acting fairly and consistently with the maintenance and protection of human rights;
- Be impartial and avoid discrimination on any grounds;
- protect the public interest, with regard to the position of the suspect(s) and victim(s);
- maintain confidentiality;
- consider alternatives to prosecution where appropriate; and
- consider the views of the victim and adhere to the Declaration of Basic Principles for Justice for Victims of Crime and Abuse of Power.<sup>26</sup>

The Guidelines also promote the establishment of internal and external accountability mechanisms that promote compliance with its provisions.<sup>27</sup>

## COMMON STANDARD 3: Police actions



**3.1 The police will act in a manner that ensures they discharge the duties assigned to them by law equitably, diligently and with a high degree of professional responsibility and will, at all times, strive to maintain a community service focus. Police must exercise their lawful functions with a high degree of professional responsibility and maintain a focus on community service.<sup>28</sup>**

A high degree of professional responsibility means that police must:

- have access to, and undergo, training;
- maintain confidentiality;
- act in accordance with the rule of law (for example, abide by restrictions on the use of force and deprivation of liberty); and
- protect, uphold and promote fundamental rights and human dignity.

The state must also bring effective accountability mechanisms into action when officers fail to act in accordance with these principles.

The obligation on police to act with a high degree of professional responsibility is captured by the provisions of the UN Code of Conduct for Law Enforcement Officials. The UN Economic and Social Council (ECOSOC) has established Guidelines for the effective implementation of that Code. These require adherence to the Code of Conduct in national law and compliance in practice that puts human rights at the centre of policing, in a language understood by officers, and a programme of dissemination that ensures all the principles and rights are known to the community.<sup>29</sup> Police must receive initial and ongoing training on the Code of Conduct and general human rights issues.<sup>30</sup> The Guidelines also require effective mechanisms for internal and external accountability, including external complaints mechanisms that are known to the public.<sup>31</sup>

The UN has also established an International Code of Conduct for Public Officials that provides some guidance on the conduct of police in their capacity as public officials. The Guidelines make it clear that a public official's loyalty is to the state and that they must exercise their duties efficiently, effectively and without preferential treatment to, or discrimination against, any group or individual.<sup>32</sup> Public officials are not permitted to use their office for personal gain and must declare any activities that may raise a possible conflict of interest.<sup>33</sup> They are also required to maintain confidentiality and to refrain from engaging in political activities that will "impair public confidence in the impartial performance of their functions and duties".<sup>34</sup>

A key aspect of professional responsibility is the duty of police officers to act in accordance with the right to privacy. Police often collect sensitive information and the international framework makes it clear that any confidential information in the possession of law enforcement officers must not be disclosed unless there is a legal requirement for disclosure or the administration of justice demands it.<sup>35</sup>

The requirement that police maintain a focus on community service promotes the provision of services to those members of the community who are, for whatever reason, most in need of assistance.<sup>36</sup> Community focus also manifests in the role of police in crime prevention, particularly through community-based policing.<sup>37</sup>



### **3.2 The police will act in a manner that upholds the right to life, liberty and security of the person by only using force and firearms when strictly necessary and only to the extent required for the fulfilment of their lawful duty.**

The international and regional frameworks for policing recognise the fundamental right to life. In the exercise of their lawful function, police are permitted to use force. In order to promote a balance between the right to life and the lawful use of force, the UN established the Basic Principles on the Use of Force and Firearms (Basic Principles). These aim to guide police organisations on legal and operational frameworks for the use of force and firearms that safeguard the right to life.

#### ***General principles***

The UN Basic Principles provide that law enforcement officials may only use force when strictly necessary and only to the extent required to fulfil their lawful duty.<sup>38</sup> Use of force must be exceptional, proportional, necessary in circumstances and limited to the prevention of crime or apprehension of suspects.<sup>39</sup> The use of firearms is an extreme measure and must only to be used when a suspected offender offers armed resistance or otherwise jeopardises the lives of others and less extreme measures are not sufficient to restrain or apprehend the suspect.<sup>40</sup>

#### ***Legislation to give effect to the basic principles***

Although not itself a legally binding instrument, the Basic Principles promote the enactment of domestic legislation to give effect to its framework.<sup>41</sup> They do not permit derogation from the framework for the use of force and firearms, including during times of political instability or periods of emergency.<sup>42</sup>

Police organisations must keep up to date with the ethical debates on the use of force and firearms and review and regularly update domestic law and policy.<sup>43</sup>

#### ***When force or firearms are used***

Governments must legislate to criminalise the arbitrary or abusive use of force by law enforcement officials.<sup>44</sup> If superior officers were aware, or should have been aware, that junior officers have arbitrarily used force or firearms and did not take all possible measures to prevent or report those actions, the superior officer will be deemed responsible.<sup>45</sup> Obedience of a superior's orders will not be a defence if the unlawful use of force or firearms results in serious injury or death and the junior officer had a reasonable opportunity to refuse to follow the superior's order.<sup>46</sup> Conversely, any officer who, in compliance with the Code of Conduct and the Basic Principles, refuses to use force or reports the illegitimate use of force should be protected from criminal or other disciplinary sanctions by law enforcement agencies or the government.<sup>47</sup>

The Basic Principles encourage the government and law enforcement agencies to make stress counselling services available to law enforcement officials who are in situations where force or firearms have been used.<sup>48</sup>

If the use of force or firearms results in death or injury, the Basic Principles require that a report be made to a competent administrative or judicial authority as part of institutionalised review procedures. These procedures must also allow for independent administrative or prosecutorial review of reports into the use of force and firearms which occasion serious injury or death.<sup>49</sup> Persons affected by the use of force or firearms (including their legal representatives or dependents, in the case of death), should have access to these review procedures.<sup>50</sup>

***Use of force and human rights***

The Basic Principles note that as policing is an important social service, principles for the use of force and firearms not only protect society, but promote the welfare, enhanced working conditions and safety of law enforcement officials.<sup>51</sup> Accordingly, the Basic Principles are framed in the context of the international framework for rights-based policing.<sup>52</sup>

***Permissible Use of Force and Firearms***

The use of force and firearms is only permitted if other means are insufficient to achieve the following objectives:

- self-defence proportionate to the threat faced;
- in the defence of others against the imminent threat of death or serious injury;
- to prevent the commission of a crime that presents a grave threat to life; or
- to overcome the resistance to arrest of a person, or to prevent their escape, if that person's actions represent a grave threat to life.<sup>53</sup>

The use of firearms is expressly limited to the protection of life.<sup>54</sup>

***Special provisions on the use of firearms***

If the use of firearms is unavoidable, law enforcement officials must:

- exercise restraint;
- use proportionate force;
- act in a manner which minimises damage and risk of injury and death;
- ensure medical assistance is provided as soon as possible; and
- if injury or death occurs, promptly notify next of kin.<sup>55</sup>

Before using firearms, law enforcement officials should identify themselves and give a clear warning of their intention to use firearms, with sufficient time for the subject to observe this warning. However, if observance of this procedure would place law enforcement officials or others in danger of harm, or would be pointless or clearly inappropriate in the circumstances, it may be foregone.<sup>56</sup>

The Basic Principles provide that any domestic laws, guidelines or policies on the use of force by law enforcement personnel should, at a minimum, provide for the following:

- the lawful circumstances in which law enforcement officials are authorised to carry firearms, and the types of firearms and ammunition permitted;
- restrict use of firearms to appropriate circumstances and in a way that will be likely to decrease the risk of unnecessary harm;
- prohibit the use of types of firearms and ammunition that cause unwarranted injury or present an unwarranted risk;
- regulate the control, storage and issuing of firearms, including procedures for ensuring that law enforcement officials are accountable for the firearms and ammunition issued to them;
- provide for warnings to be given, if appropriate, when firearms are to be discharged; and
- provide for a system of reporting whenever law enforcement officials use firearms.<sup>57</sup>



### **Control of firearms**

The Nairobi Protocol for the Prevention, Control and Reduction of Small Arms and Light Weapons in the Great Lakes Region and the Horn of Africa (Nairobi Protocol) sets out procedures for the effective control and accountability of state-owned small arms and light weapons. These measures aim to address the proliferation of small arms and light weapons in the region, which affect armed crime and the rights to life, liberty and security, as well as having a destabilising effect on the region's security.<sup>58</sup>

The Protocol requires the establishment of national inventories of small arms and light weapons held by the police to promote secure storage of these weapons and establish strict accountability and tracing procedures.<sup>59</sup> In order to facilitate effective record keeping, the Protocol also requires state-owned weapons to be identified with a "unique mark". The ability of the police to control the proliferation of weapons should be promoted through training and increased operational capacity.<sup>60</sup>



**3.3 The police will act in a manner that ensures all citizens enjoy their fundamental rights and freedoms without discrimination and specifically conduct themselves in a way that does not discriminate against women, juveniles and minority communities (including but not limited to the differently abled, migrants, internally displaced persons and refugees). Police who are in frequent contact with suspects, offenders, victims and witnesses from these groups should receive sensitisation training.**

Under the UDHR all persons are entitled to enjoy their fundamental rights and freedoms without discrimination,<sup>61</sup> and enjoy equal recognition and protection by the law without discrimination on any ground.<sup>62</sup>

Accordingly, in the exercise of their lawful function, the police must ensure that they:

- respect and protect human dignity and maintain and uphold the human rights of all people;
- recognise that all persons are equal before the law and are entitled, without discrimination, to equal protection of the law;
- do not unlawfully discriminate on the basis of race, gender, religion, colour, political opinion, national origin, property, birth or other status;
- recognise that it is not unlawful discrimination to enforce certain particular measures designed to address the special status and needs of women, juveniles, the sick, the elderly, persons living with disabilities and others requiring special treatment in accordance with human rights standards; and
- ensure that recruitment and promotion policies of police agencies are free from any form of unlawful discrimination.

Both the international and regional frameworks for policing focus on certain universally recognised categories of discrimination, including race, gender, religion and economic or social status. The international legal framework regarding policing of minorities, juveniles and women is discussed below.

The Committee on the Elimination of Racial Discrimination (CERD), recalling the provisions of the UDHR, prohibits the police from acts or omissions that constitute any form of discrimination on the basis of race.<sup>63</sup> Police and states must:

- review laws and policies that create or perpetuate racial discrimination and must not permit discrimination and must not permit public authorities or institutions (which includes the police) to promote or incite racial discrimination;
- craft measures to ensure that all persons, regardless of race, enjoy equality before the law, equal treatment in the administration of justice, security of the person and the right to freedom of assembly; and
- provide effective protections and remedies to persons who are subject to racial discrimination in contravention of CERD.<sup>64</sup>

During a time of public emergency, the ICCPR permits derogations from certain fundamental rights and freedoms, however the derogations must be consistent with international law and must not involve discrimination solely on the grounds of race, colour, sex, language, religion or social origin.<sup>65</sup>

The international and regional framework for policing recognises that minority communities are in particular need of protection by the police and from abusive policing practices. The type of protection is two fold: first, they require legal structures to eliminate and prevent discriminatory policing practices that target minority communities. Second, a framework for protection is needed to ensure that the police are themselves sensitive to the particular needs of such groups in the course of policing them, whether as victims, witnesses or accused persons.

The international legal structure does not cover the field in terms of the type of minority communities that can both face discrimination or require police sensitisation to their special needs. However, the international framework does offer examples of the way in which states and police should act towards specific groups, the general principles of which can be applied to several communities that, in a regional or national context, should be afforded such protections. The examples of the type of communities who have been recognised as requiring protection and which are covered in these Common Standards are: women, juveniles and children, migrant workers, internally displaced persons and refugees.

The special protections discussed below build on the general standards for policing articulated in these Common Standards, with additional contextual obligations that promote the special needs of particular communities.

### ***Women***

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), which recalls the fundamental rights and freedoms enshrined in the UDHR, ICCPR and International Covenant on Economic, Social and Cultural Rights (ICESCR),<sup>66</sup> requires states to review policies and laws which create or perpetuate discrimination against women and must ensure that public authorities and institutions (including the police service) treat men and women equally.<sup>67</sup> Its provisions are generally reflected in the Protocol to the African Charter on Human and Peoples' Rights on Women in Africa.<sup>68</sup> Legal and operational structures of policing that institutionalise the discrimination against women manifest in a number of ways, including the experience of women as police officers, women as victims of crime and women as victims of police ill-treatment.

The Declaration on the Elimination of Violence Against Women defines violence to include arbitrary deprivation of liberty and physical, sexual and psychological violence against women which is committed, or condoned, by the state, and requires states to take measures to prevent gender-based violence against women.<sup>69</sup> The Declaration recognises women's rights to life, equality, equal protection under the law, freedom from discrimination, and the right not to be subject to torture and other cruel, inhuman or degrading treatment or punishment, as set out in the UDHR and ICCPR.<sup>70</sup>

The Declaration encourages states to:

- refrain from engaging in or condoning violence against women;
- ensure legal and administrative measures for the punishment of violence against women by the state or private individuals;
- ensure that legal, political and administrative measures for the investigation of violence against women are gender sensitive; and
- take measures to ensure that law enforcement officials with responsibility for investigating or punishing violence against women receive training to ensure they are sensitive to the needs of women.<sup>71</sup>

The UN General Assembly has established the Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice. The Strategy provides guidelines for effective compliance with international instruments that deal with violence against women and encourages the integration of a gender perspective in policy formulation to promote “gender equality and equal and fair access to justice” for women.<sup>72</sup> The Strategy encourages national legal frameworks that provide for:

- consistent enforcement of laws, codes, policies and procedures that criminalise violence against women;
- development of investigative procedures that do not degrade women or further contribute to their victimisation;
- ensuring that the safety of the victim and the prevention of further acts of violence are taken into account when police exercise powers of arrest, detention and issuance of bond;
- ensuring that police exercise their powers in a manner consistent with the rule of law and are accountable for any infringements thereof;
- ensuring police respond promptly to complaints of violence against women;
- encouraging recruitment of women into the police organisation; and
- making information about participation in criminal proceedings available to women.<sup>73</sup>

The Strategy reiterates the need for police to undergo gender-sensitivity and general human rights training.<sup>74</sup>

At a regional level, EAPCCO is undertaking a gender mainstreaming process that will address the need for police training and sensitisation to gender-based violence, as well as women’s experiences as police officers.<sup>75</sup>

### ***Juveniles***

The ICCPR provides specific protections to juvenile offenders which include the separation of juveniles from the adult prison population and the provision of age and legal status-appropriate treatment.<sup>76</sup>

The Beijing Rules expand the provisions of the ICCPR and set out the minimum standards to be applied in the handling of juvenile offenders. Its provisions are generally reflected in the African Charter on the Rights and Welfare of the Child.<sup>77</sup> Law enforcement agencies are required to respect the legal status of juvenile suspects and offenders, promote their well-being and protect them from harm.<sup>78</sup>

The Beijing Rules acknowledge the protections afforded to prisoners under the Minimum Standard Rules for the Treatment of Prisoners and further encourage commitments to:<sup>79</sup>

- apply the provisions of the Rules without discrimination;
- establish laws and policies on the administration of juvenile justice with a particular emphasis on the balance between protecting their basic rights and those of society, and promotes the principle of proportionality, while respecting the well-being of the suspect or offender;
- provide scope for discretion at the various levels of administration of juvenile justice (including investigation), and ensure appropriate accountability structures and training for personnel authorised to exercise such discretion;
- safeguard the right to due process, including the presumption of innocence, the right of a person to know the charges brought against them, the right to the presence of a parent or guardian, and the rights to a fair trial and the protection of privacy;
- notify parents or guardians and permit a judge to determine the issue of release as soon as practicable after the apprehension of a juvenile;
- ensure that contacts between the law enforcement agencies and a juvenile offender are managed in such a way as to respect the legal status of the juvenile, promote the well-being of the juvenile and avoid harm to them, with due regard to the circumstances of the case;
- provide the police with discretion, in accordance with written guidelines, to dismiss matters against juveniles without resorting to trial; and
- make detention before trial the last resort and if so detained, juveniles should be kept separate to adults.<sup>80</sup>

The Beijing Rules recommend a specialisation within the police service for dealing with juvenile suspects and offenders and for police who are in frequent contact with juvenile suspects and offenders to receive sensitisation training. The Rules also recommend that special units to deal with juvenile suspects and offenders are established in large cities.<sup>81</sup>

The United Nations Rules for the Protection of Juveniles Deprived of their Liberty further expand and reinforce the protections afforded to persons under the international law generally, and the Beijing Rules specifically. They are intended to establish minimum standards for the protection of juveniles deprived of their liberty in all forms, consistent with human rights and fundamental freedoms, and with a view to counteracting the detrimental effects of all types of detention and to fostering integration in society.<sup>82</sup> For the purpose of the Rules, the deprivation of liberty extends to police custody.<sup>83</sup> The Rules countenance the following:

- juveniles should only be deprived of their liberty in accordance with the Beijing Rules and that deprivation of liberty should be the last resort;
- enacting domestic laws and procedures which give effect to the Rules;
- ensuring that deprivation of liberty only occurs according to law and consistent with human rights norms; and
- for juveniles under arrest or awaiting trial, they must be presumed innocent until proven guilty, they must have the right to legal counsel and the right to work and leisure insofar as such activities are consistent with the administration of justice.<sup>84</sup>

The UN General Assembly has established Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines) in order to guide states on juvenile-specific issues within their broader crime prevention strategies. States are encouraged to enact legislation that gives effect to the international framework for juvenile justice, including the Beijing Rules and the Rules for the Protection of Juveniles Deprived of their Liberty.<sup>85</sup>

Those provisions of the Guidelines that impact policing include establishing prevention plans and policies at institutional and community levels, staffed by specialised personnel, in coordination with other concerned government and non-government agencies, that:

- reduce crime rates among young persons;
- put fairness and equity at the centre of any intervention;
- safeguard the well-being, development, rights and interests of young persons; and
- recognise that some behaviour is part of growth processes and that labels such as “delinquent” tend to perpetuate undesirable behaviour.<sup>86</sup>

Police actions and policies must also be governed by the socialisation and development process of children. Accordingly, preventative policies should take into account children’s access to family, education and community.<sup>87</sup> The institutionalisation of children should always be considered a last resort.<sup>88</sup>

### **Children**

The Convention on the Rights of the Child (CRC), which is reflected regionally in the African Charter on the Rights and Welfare of the Child requires all state institutions (including the police and courts) to make the best interests of the child the paramount consideration in any action they take involving a child.<sup>89</sup>

The CRC recognises the rights of children and requires that every child alleged to have infringed the penal law be treated in a manner consistent with the promotion of their best interests, human rights, sense of dignity and worth and affords them the rights of due process.<sup>90</sup> The CRC also encourages states to consider a number of options for child offenders as alternatives to institutional care which should be consistent with both the well-being of the child and the circumstances of the offence.<sup>91</sup>

The CRC and the African Charter on the Rights and Welfare of the Child unequivocally state that no child shall be subject to torture, cruel, inhuman or degrading treatment or punishment, capital punishment or

life imprisonment or arbitrarily deprived of their liberty and a child deprived of their liberty shall be afforded due process.<sup>92</sup> Both also recognise the right of children to freedom of assembly and freedom of expression, only limited to those permitted derogations in Section 3i (public order policing), below.<sup>93</sup>

The CRC Optional Protocol requires the state to consider the best interests of the child in the context of children's treatment in the criminal justice system, in which the police are a key actor.<sup>94</sup>

ECOSOC has issued Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime which provide a framework for legal, policy and practical measures to ensure that the rights of child victims and witnesses are fully respected.<sup>95</sup> The Guidelines also promote ratification of and compliance with the Convention on the Rights of the Child, and state that implementation of both the Convention and Guidelines are to be supported by training.<sup>96</sup> Although the Guidelines do not speak specifically to policing, they are nonetheless helpful in informing the type of approach police should take in their interaction with child victims and witnesses.

The Guidelines provide a set of principles that should underpin interaction with child victims and witnesses, and to which the police should adhere. Those principles are:

- the right to be treated with dignity and compassion;
- the right to be protected from discrimination, on any grounds;
- the right to be informed of the availability of support services and the procedures for criminal justice processes (including protective measures available and the progress of matters);
- the right to be heard and to express views and concerns;
- the right to effective assistance (in terms of policing, this imposes a positive obligation on police to make known the existence of legal services.);
- the right to privacy;
- the right to be protected from hardship during the justice process (for example, by limiting the length of police interviews); and
- the right to safety.<sup>97</sup>

To promote the effective implementation of the international legal framework, the ECOSOC established Guidelines for Action on Children in the Criminal Justice System. The Guidelines reiterate that respect for human dignity (which includes non-discrimination, upholding the best interest of the child, the right to life, survival and development, and respect for the views of the child) should guide states' implementation of the Guidelines.<sup>98</sup> The Guidelines promote the development of national laws, policies and practices that give full effect to the international framework, and that respect the inherent rights and dignity of children.<sup>99</sup>

In terms of specific targets set by the Guidelines and which pertain to policing children, states must:

- give particular attention to establishing a child-centred approach in their juvenile justice system;
- ensure that no child under the age of criminal responsibility is subject to criminal charges;
- make diversionary, alternative and educational measures available to children at all stages of the criminal justice process, including at the pre-arrest stage;
- ensure easy access between children and their family or community;
- establish independent bodies to monitor places of child detention (which should adhere to the UN Rules for the Protection of Juveniles Deprived of their Liberty);
- ensure police are trained in human rights and other international principles that underpin juvenile justice; and
- ensure that prompt, thorough and impartial investigations of allegations that a child's rights and freedoms have been infringed occur, and that there are corresponding sanctions.<sup>100</sup>

The EA Bill of Rights expressly recognises the rights of children to be free from all forms of discrimination and, if arrested or detained, to be kept separate to adult detainees and be provided with a state-appointed lawyer.<sup>101</sup>

### ***Migrant workers***

The Migrant Workers Convention guarantees the rights of liberty and security of the person, to migrant workers and their families.<sup>102</sup> This includes protection by the state from violence, threats and intimidation by public officials, private groups or individuals.<sup>103</sup> Migrant workers and their families also enjoy the right of freedom of movement, subject to public order considerations.<sup>104</sup> The application of these rights must be made without discrimination on any grounds, including race, sex, colour, language or religion.<sup>105</sup>

The responsibility of the state, through the police, towards migrant workers and their families who enter the criminal justice system, as set out in the Migrant Workers Convention requires:

- verifications of the identify of migrant workers and their families to be in accordance with the law;
- freedom from individual and collective arbitrary arrest and detention;
- notification of the reason for arrest and any charges to be made as far as possible in a language the migrant worker or their family understands;
- prompt hearing and trial within a reasonable time;
- access to consular or diplomatic authorities and notification of any rights deriving from relevant treaties; and
- the right to legal representation and access to an interpreter.<sup>106</sup>

If deprived of their liberty, migrant workers and their families are entitled to be treated with humanity and respect for their inherent dignity and cultural identity. The Convention makes provisions for keeping untried migrant workers and their families separate from convicted prisoners, and for providing the same rights as nationals, to visits by their families, as well as encouraging states to consider the unique problems that migrant workers' families may experience as a result of detention.<sup>107</sup> The absolute prohibition against torture that exists at international law is recited in the Convention.<sup>108</sup>

If a migrant worker or their family is subject to unlawful arrest or detention, or is a victim of a miscarriage of justice that resulted in their wrongful conviction, or suffers violation of any of the rights set out in the Convention, there is an enforceable right to adequate compensation.<sup>109</sup> The right of migrant workers and their families to equal treatment under the law as nationals and the right to a fair and public hearing by a competent, independent and impartial court or tribunal is enshrined in the Convention.<sup>110</sup>

If police confiscate identity documents or documents authorising entry, residence and work permissions, they must provide the migrant worker or their family with a detailed receipt.<sup>111</sup>

Migrant workers and their families are protected from double jeopardy, whereby a person cannot be tried and punished for an action to which they have already been subject to conviction or acquittal by a recognised court or tribunal.<sup>112</sup>

The Convention also prohibits the collective expulsion of migrant workers and their families, requiring the authorities to consider each case individually. If a decision to expel a migrant worker and their family is made, the reason for the decision and the right to appeal must be communicated to them in a language they understand and they must be provided with an opportunity to settle their personal affairs.<sup>113</sup>

No unlawful derogation from the rights provided to migrant workers and their families is permitted and it shall not be permissible to exert any form of pressure upon migrant workers and members of their families with a view to their relinquishing or foregoing any of the said rights.<sup>114</sup>

### ***Internally displaced persons***

International law recognises the rights of all persons to move and reside freely within the borders of the state, subject to public order considerations, and freedom from discrimination on any grounds.<sup>115</sup>

### *Refugees*

The Refugee Convention defines the status and rights of refugees. In respect of their interaction with police, the Refugee Conventions requires that refugees be afforded with the following rights:

- non-discrimination in the application of the Convention;
- free access to the courts; and
- the right to be free from expulsion or being sent to a country where they may face persecution.<sup>116</sup>

The ICCPR guarantees the right of all persons to an interpreter in the determination of criminal charges against them.<sup>117</sup> Additionally, the UNCAT and the AU Convention provides that a person must not be refouled where there are substantial grounds to believe that the person would be in danger of being subject to torture and threats to their life, liberty and security.<sup>118</sup>



**3.4 The police will act in a manner that upholds the absolute prohibition on the use of torture and other cruel, inhuman or degrading treatment or punishment. The police will not inflict, instigate or tolerate any act of torture, cruel, inhuman or degrading treatment or punishment. No circumstances will override this prohibition, including threats of war, political instability or periods of emergency.**

### *General provisions*

The international and regional frameworks for policing contain an absolute prohibition on the use of torture and other cruel, inhuman or degrading treatment or punishment. Torture, in the context of policing, is any intentional action by, or with the consent of, a public official which causes severe pain or suffering, whether mental or physical, for purposes which include obtaining information or a confession, punishment, intimidation or coercion, or for any purpose based on any form of discrimination.<sup>119</sup> States must establish both legal and operational frameworks that prohibit torture and take positive steps to prevent its use by the police.

In international law, police officers are prohibited from inflicting, instigating or tolerating any act of torture, cruel, inhuman or degrading treatment or punishment for any purpose.<sup>120</sup> The prohibition is absolute and cannot be overridden by reason of a superior's orders, the threat of war or a state of emergency.<sup>121</sup> Any act of torture is an extraditable offence in any extradition treaty between countries<sup>122</sup> and states are required to provide the greatest assistance in criminal matters relating to torture and for which there are considerations of extradition.<sup>123</sup>

### *Prohibition against torture*

The UNCAT requires the enactment of domestic legislation that prohibits and prevents the use of torture and to ensure that the use of torture is an offence under criminal law.<sup>124</sup> Legislation must also ensure that statements made as a result of torture are inadmissible as evidence against an accused, and only admissible against an officer accused of using torture as evidence that the statement was made.<sup>125</sup> The rules and procedures for arrest, interrogation, detention and imprisonment must be periodically reviewed with a view to preventing torture.<sup>126</sup>

In support of legal measures, the UNCAT also encourages training for all law enforcement personnel on the prohibition against torture and to ensure that the prohibition is contained in the description of officers' duties and functions.<sup>127</sup>

### *Investigation into torture*

UNCAT state parties are obliged to take measures to facilitate thorough investigation by competent authorities where there are reasonable grounds to believe that an act of torture has been committed. The state must also ensure the right of complaint by a person subject to torture, the prompt and thorough investigation by a competent authority of that complaint, and the protection of the complainant and any witnesses against ill-treatment or intimidation.<sup>128</sup> Where a complaint of torture is substantiated by the competent authority, the legal system must provide for fair and adequate compensation, including compensation for the dependents of a person who dies as a result of torture.<sup>129</sup>

The obligations in respect of investigating and documenting torture are contained in the UN General Assembly's Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The Principles clarify the general provisions in the UNCAT in relation to the matters outlined below.

First, in the absence of an express complaint, investigations must commence where there are otherwise indications of torture or ill-treatment. Investigations must be made by competent and impartial investigators implementing the highest professional standards and the findings (in the form of a written report that provides for scope, methodology and conclusions) must be published in a reasonable time and made public. Where there may be the perception of bias, or lack of expertise to conduct such investigations, the state must ensure that an independent commission of inquiry (or similar mechanism) is established to carry out investigations.<sup>130</sup> Investigative authorities must have adequate powers and resources to obtain all information necessary for an inquiry. This includes adequate budgetary and technical resources and powers to summon witnesses (including the police) and documents.<sup>131</sup>

Second, victims and witnesses must be protected, and officials under investigation must be "removed from any position of control or power, whether direct or indirect, over complainants, witnesses and their families, as well as those conducting the investigation".<sup>132</sup> Victims and their legal representatives must be provided with information about, and access to, information or any hearings relevant to the investigation. If hearings are conducted, victims will be entitled to give evidence.<sup>133</sup>

Regionally, the African Commission on Human and Peoples' Rights has adopted the Robben Island Guidelines which provide African states with guidance on fulfilling their obligation to punish and prevent the use of torture and other ill-treatment. The Guidelines promote the domestic ratification of international and regional instruments that prohibit torture<sup>134</sup> and cooperation with international mechanisms, including the African Commission on Peoples' and Human Rights, UN Charter Committees and reports of the United Nations Special Rapporteurs on prisons and conditions of detention in Africa, arbitrary, summary and extra-judicial killings in Africa, and the rights of women.<sup>135</sup>

The Guidelines also encourage states to:

- create an offence of torture under domestic law which accords with the provisions of the UNCAT;
- prohibit the expulsion or extradition of persons if there is a risk that they will be subject to torture;
- combat impunity by subjecting those who have committed acts of torture to judicial processes; and
- establish accessible and independent complaints mechanisms and ensure that investigations are in accordance with the UN Manual on the Effective Investigation and Documentation of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Protocol).<sup>136</sup>

The Guidelines address the needs of victims of torture by promoting compensation, protection of informants or persons subject to torture from violence or intimidation and access to medical care and other rehabilitation tools. These provisions not only apply to the victims, but to their families as well.<sup>137</sup>



***Prevention of torture***

The UNCAT requires states to take positive measures to prevent torture and cruel, inhuman or degrading treatment or punishment, including police training and promoting the rights of complainants to prompt investigation and fair and adequate compensation for victims.<sup>138</sup>

The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) provides for a system of regular visits to places of detention by international independent observers and national bodies for the purpose of preventing torture, cruel, inhuman or degrading treatment or punishment.<sup>139</sup> However, none of the five EAC states have signed the OPCAT.<sup>140</sup>

The Robben Island Guidelines contain a number of measures to promote the adoption and effective implementation by African states of the UNCAT, including encouraging states to:

- guarantee basic safeguards to persons deprived of their liberty that accord with due process (see Policing under the rule of law);
- ensure conditions of detention comply with the UN Standard Minimum Rules for the Treatment of Prisoners and the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment;<sup>141</sup>
- prohibit the use of unauthorised detention facilities and incommunicado detention;
- maintain comprehensive records of all persons deprived of their liberty (including date, place and reason for incarceration);
- ensure criminal investigations are conducted by those with authority to do so under criminal procedure laws, keep comprehensive written and/or audio visual records of interrogations, including the identity of the interrogators;
- legislate so that statements made as a result of torture or other prohibited treatment are only used in evidence against those alleged to have committed the torture; not as evidence in the criminal matter which is the subject of the statement;
- provide oversight mechanisms, including an independent and impartial judiciary, and establish an independent complaints mechanism capable of receiving, investigating and taking appropriate action against complaints, strengthen the role of national human rights institutions and civil society (including facilitation of visits to places of detention); and
- develop training and codes of conduct and ethics for law enforcement and other relevant officials and support the work of civil society in awareness raising.<sup>142</sup>



- 3.5 The police will act in a manner that ensures all persons deprived of their liberty are treated with humanity and respect for their inherent dignity;**
- 3.6 The police will considers and treats all persons deprived of their liberty as innocent until proven guilty by a competent judicial authority;**
- 3.7 The police will provide all persons deprived of their liberty with adequate food and clothing, unless the detained person elects to provide their own;**
- 3.8 The police will facilitate assistance from medical practitioners;**
- 3.9 The police will inform family and friends of the detention and allow detained persons to maintain contact with those persons to the extent that such contact is consistent with the administration of justice, security and the good order of the place of detention; and**
- 3.10 The police will allow all persons deprived of their liberty to access legal assistance and receive visits from their legal advisors which are within the sight, but not in the hearing of officers.**

The International Bill of Rights requires that all persons who are deprived of their liberty are treated with humanity and with respect for their inherent dignity.<sup>143</sup> The Code of Conduct for Law Enforcement Officials requires officials to ensure the protection of the health of persons in their custody and to ensure that medical attention is available when required.<sup>144</sup>

These general provisions are expounded by a number of treaties and agreements that deal with the treatment of prisoners in custodial institutions and the protection of persons in any form of detention. International law also sets out minimum standards for non-custodial measures which are reviewed as part of the general requirements for the treatment of persons in custody.

These Common Standards are drawn from the provisions in this body of international law that specifically applies to persons who have been deprived of their liberty and remain under police custody or control and do not extend to custody under the ambit of prison services.

#### ***Treatment of prisoners in custodial institutions***

The UN Standard Minimum Rules for the Treatment of Prisoners set out international good practice in the management of custodial institutions and the treatment of prisoners.<sup>145</sup> Sections C and D of the Minimum Rules deal specifically with untried prisoners and those who are in detention without charge or trial. It is in these contexts that persons in custody are most likely to be under the custody or control of the police.

In respect of the treatment of persons detained in police custody who are under arrest or awaiting trial, the Minimum Rules provide that unconvicted prisoners must be afforded the following rights in addition to those associated with due process:<sup>146</sup>

- considered, and treated, as innocent until proven guilty;
- kept separate from convicted prisoners and provided with climate appropriate single- dwelling cells;
- provided with adequate food and clothing, unless they elect to provide their own;
- have the opportunity, without it being a requirement, to work and to procure reading and writing materials provided that these materials are consistent with the administration of justice and the security and good order of the place of detention;
- receive visits from personal medical practitioners at their own expense and if there are reasonable grounds for the request;
- be permitted to inform family and friends of their detention and continue to maintain contact to the extent that such contact is consistent with the administration of justice and the security and good order of the place of detention; and
- apply for free legal aid and receive visits from legal advisors which are within the sight, but not hearing, of officers.<sup>147</sup>

Regionally, the EA Bill of Rights also contains protections for persons detained by the police, which include appearance before a court within 24 hours of arrest, notification of rights, access to medical treatment, presumption of innocence and bail, and right to legal representation.<sup>148</sup> In respect of the treatment of persons arrested and/or detained without charge, the Minimum Rules apply, but without prejudice to the prohibition on arbitrary arrest or detention in the ICCPR.<sup>149</sup>

### ***Protection of persons in any form of detention or imprisonment***

Internationally, the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, which must be interpreted by states in a manner consistent with the ICCPR,<sup>150</sup> reaffirms that persons in any sort of detention or imprisonment (including police custody),<sup>151</sup> shall be treated humanely and with dignity, and may only be arrested or detained in accordance with the law.<sup>152</sup> Detainees are to be treated as innocent until proven guilty and any interrogation must also be in accordance with the law. Any derogation from these provisions should be subject to judicial or administrative review.<sup>153</sup>

Due process must be accorded to any person in custody, including:

- the right to know the charges against them;
- the right to legal representation;
- a record made of the fact of, and circumstances around, their incarceration;
- they must be made aware of their rights;
- be permitted to communicate with their family within a reasonable time and, if required, have access to an interpreter;<sup>154</sup>
- the right to challenge the lawfulness of the detention.<sup>155</sup>

Detained persons are to be brought before a competent judiciary as soon as possible after their arrest and there must be a presumption of bail.<sup>156</sup> If bail is denied, the necessity of ongoing detention must be kept under review by the authorities.<sup>157</sup>

The details of officials responsible for interrogations, as well as the date and duration of the interrogation, must be recorded and the detained person must have access to their legal representation where required by law.<sup>158</sup>

As far as practicable, unconvicted prisoners must be kept separate from convicted prisoners<sup>159</sup> and prisoners should, if possible, be detained at a location reasonable near his [or her] usual place of residence.<sup>160</sup>

In the treatment of persons under detention, the state is not permitted to derogate from human rights standards, either in practice or law, and this is subject to control by a judicial authority.<sup>161</sup>

Any act which violates these Basic Principles (or domestic laws which give effect to its provisions) must be subject to investigation and sanction and any such derogation will be taken into account in determining the admissibility of evidence against the detained person.<sup>162</sup> Places of detention must be subject to regular inspections by a relevant independent authority, and detained persons provided access to those authorities.<sup>163</sup>

The Body of Principles must be applied equally to all persons under detention or imprisonment without discrimination, although special measures for the protection of women, juveniles and minority communities will not be considered discriminatory for the purposes of the Basic Principles.<sup>164</sup>

Detainees should receive a medical examination as soon as possible after their imprisonment and should thereafter be permitted to access free medical assistance as needed.<sup>165</sup>

The Body of Principles reaffirms that persons under detention shall not be subjected to torture or to cruel, inhuman or degrading treatment or punishment, or to any form of violence or threats, and gives a wide treatment to the definition of torture.<sup>166</sup> The Principles also provide that the authorities must not take undue advantage of the situation of the detained persons for the purposes of compelling statements which amount to confessions, self-incrimination, or testimony against another person. Consistent with the prohibition against torture and other cruel treatment, prisoners must not be subject to threats or other acts of violence for the purpose of impairing capacity or judgement.<sup>167</sup> The punishment of detainees must be in accordance with the law and, before any disciplinary action is taken, the detainee must have the right to be heard, and if requested, any decision reviewed by a higher authority.<sup>168</sup>

The detainee, or any family member with knowledge of mistreatment, must be entitled to make a complaint about the treatment (without suffering prejudice on account of making a complaint) and the death or disappearance of a detainee must be subject to review and report.<sup>169</sup>

### ***Standards for non-custodial measures***

At international law, the police and courts are encouraged to impose non-custodial measures as an alternative to pre-trial detention. The Tokyo Rules set out the minimum safeguards for such measures<sup>170</sup> and are to be applied to all untried persons, without discrimination.<sup>171</sup>

Where appropriate, and in accordance with the Tokyo Rules and domestic legislation that gives effect to those Rules, the police should be empowered to release any suspect or offender if custody is not necessary to proceed with the case and to protect society, the rule of law, and the rights of the victim.<sup>172</sup> Those officers charged with the responsibility of imposing non-custodial measures should have adequate professional training and experience, with an emphasis on rehabilitation, the protection of offenders' rights and the rights of society.<sup>173</sup>

The Tokyo Rules encourage the periodic review of a range of non-custodial measures to ensure they are consistent with the rights of the offender and the victim as well as the proper administration of justice.<sup>174</sup>

At a regional level, the ECOSOC Kampala Declaration on Prison Conditions in Africa notes the continent-wide problem of prison overcrowding, which is significantly impacted by the high number of prisoners awaiting trial. In that context, the Declaration encourages the police to seek solutions to reduce the number of pre-trial detentions by using methods of investigation that keep remand detention to a minimum.<sup>175</sup>



**3.11 The police will act in a manner that adheres to the absolute prohibition on extra-judicial executions and the government will legislate to ensure that such actions are investigated and prosecuted as a matter of priority and as punishable criminal offences under law. Police will not derogate from this principle on account of war, armed conflict or other national emergencies.**

At international law, the police are not permitted to engage in, or tolerate acts of, extra-judicial execution or enforced disappearances. Such actions are contrary to the rights to life, liberty and security of the person and the principles of the rule of law and due process, all of which are articulated by the UDHR and ICCPR.

***Extra-judicial executions***

The UN Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Execution set out clear provisions for the investigation and prevention of these acts by law enforcement officials. The Principles provide that such actions must be punishable criminal offences under domestic law and that states are not permitted to derogate from the Principles on account of war, armed conflict or other national emergencies.<sup>176</sup>

In order to prevent the commission of these acts, the state is required to take a number of positive measures, which include:

- enacting law and establishing chains of command which promote the prevention of extra-legal, arbitrary and summary executions by any official with the power to arrest or detain and those with legal authority to use force or firearms;
- prohibiting the issuance of orders to commit these acts and to ensure that officials receive training in their prevention;
- ensuring that persons in custody are held at recognised locations and their presence, and any subsequent transfers, are recorded and communicated to legal counsel or next of kin;
- persons or groups at particular risk of extra-legal, arbitrary or summary executions must be afforded judicial or other effective protection by the state; and
- permitting qualified and independent persons to conduct random and unfettered inspections of places of custody.<sup>177</sup>

The Principles also set out standards for the investigation of extra-legal, arbitrary or summary executions. At a minimum, there must be thorough and impartial investigations into complaints of these acts to determine the cause, manner and time of death, the person responsible and any existing patterns or practices which may have brought about the death. Investigations must include an autopsy, witness statements and other evidence, and result in a final published report.<sup>178</sup> Officials conducting the investigation must have broad investigatory discretion and the power to compel officers and witnesses to provide a statement and demand the production of evidence.<sup>179</sup> An autopsy must be performed and a comprehensive autopsy report released by an approved official.<sup>180</sup> If an investigation is inadequate, the government must establish an independent commission of inquiry with broad investigatory discretion and power to obtain evidence.<sup>181</sup>

Officials involved in extra-legal, arbitrary and summary executions must be brought to justice. Following the orders of a superior officer, states of war, armed conflict or other emergencies will not be a defence.<sup>182</sup> Compensation must be available to victims' families.<sup>183</sup>

### *Enforced disappearances*

The Declaration on the Protection of All Persons from Enforced Disappearances was made in response to a deep concern in the international community about persistent reports of persons arrested, detained or abducted against their will or otherwise deprived of their liberty by officials of government, which include the police, remaining outside the protection of the law.<sup>184</sup> The Declaration provides that the systemic practice of enforced disappearances by a state is an act in the nature of a crime against humanity.<sup>185</sup>

The Declaration builds on the principles of life, liberty and security espoused in the UDHR and ICCPR, the prohibition against torture in the UNCAT, and other principles and declarations on the protection of persons in custody, to provide a specific framework for eliminating and preventing enforced disappearances.<sup>186</sup> The Declaration prohibits the practice, permission and tolerance by the state, of enforced disappearances and requires states to take judicial and administrative measures to ensure, prevent and punish such acts.<sup>187</sup> Neither following orders from a superior officer nor a state of war, conflict or other emergency can be invoked as a defence to participation in an enforced disappearance.<sup>188</sup> Persons alleged to have been involved in an enforced disappearance are to be suspended and tried before a competent judicial authority.<sup>189</sup> Victims and their families must have access to compensation to enable their rehabilitation.<sup>190</sup>

Police must receive training on the content of the Declaration.<sup>191</sup> Measures aimed at reducing the risk of enforced disappearances include:

- permitting a prompt, effective, broad-scope judicial inquiry and remedy to determine the location of a person deprived of their liberty and the institution responsible for such deprivation;
- keeping persons deprived of their liberty at an officially recognised place of detention, having them promptly brought before a judicial authority and their details entered into a register which is made available to their family or next of kin;
- the release of persons deprived of their liberty (including the date and state of health at the time of release) being made capable of verification;
- implementing laws that establish the category of officers permitted to deprive a person of their liberty, the conditions under which this may occur and penalties for the legally unjustifiable refusal by an officer to release information on the person so deprived;
- establishing a chain of responsibility for all law enforcement officers responsible for arrest, apprehensions, detention, charge, transfer, imprisonment and those permitted to use force of firearms; and
- establishing complaint mechanisms and implementing broad ranging and independent investigative procedures, with public reporting requirements, in the event of a complaint or receipt of other information about a possible enforced disappearance.<sup>192</sup>



**3.12 The police will act in a manner that ensures victims are treated with compassion and dignity, which includes access to prompt, fair and inclusive mechanisms of redress that respect the privacy of victims. They will make known and provide victims with assistance, including psychological, medical and social services. The police organisation will ensure that officers receive training to sensitise them to the diverse needs of victims.**

The Declaration on Basic Principles for Justice of Victims of Crime and Abuse of Power defines victims<sup>193</sup> and their rights and aims to ensure that police, justice, health, social services and other personnel dealing with victims are able to provide proper and prompt aid.

In relation to policing, the Declaration encourages states to:

- treat victims with compassion and dignity, which includes access to prompt, fair and inclusive mechanisms of redress which respect the privacy of victims;
- provide restitution to victims of abuse of power or crime on the part of officials (including police);
- provide compensation to victims and where this is not fully available, provide financial compensation to victims with serious impairment as a result of the crime or abuse of power;
- provide and make known to the victim other free assistance, including psychological, medical and social services; and
- ensure that police receive training to sensitise them to the diverse needs of victims.<sup>194</sup>

With specific reference to victims of torture, cruel, inhuman and degrading treatment or punishment, the Robben Island Guidelines promote the provision of appropriate, adequate treatment and rehabilitation of victims within African states. In particular, the Guidelines encourage the provision of compensation, medical and other rehabilitation services, protection for informants and victims of torture from violence or intimidation, and assistance to the families of victims of torture.<sup>195</sup>



**3.13 The police will act in a manner that recognises the right of all persons to peaceful assembly, without restriction, insofar as this right is consistent with the rule of law, democracy, public peace and security, and the rights of others. Regarding unlawful but peaceful assemblies, police will avoid the use of force and, if force is necessary, only use force to the minimum extent. In violent assemblies, police will use less dangerous means of crowd control but again if force becomes necessary, only use the minimum force necessary.**

### *General principles*

The ICCPR, the African Charter on Peoples' and Human Rights and the EAC Bill of Rights recognise the right of all persons to peaceful assembly, without restriction, insofar as the exercise of this right is consistent with the law, democracy, public peace and security, and the rights of others.<sup>196</sup>

The Basic Principles on the Use of Force and Firearms by Law Enforcement Officials recognises the right to participate in lawful and peaceful assembly enshrined in the UDHR and restricts the use of force and firearms in the policing of other assemblies to:<sup>197</sup>

- unlawful, but peaceful, assemblies: avoid the use of force and, if force is necessary, use force to the minimum extent necessary;<sup>198</sup> and
- violent assemblies: use less dangerous means of crowd control, but if force becomes necessary, use it to the minimum extent necessary. The use of firearms is prohibited except when necessary to protect life in the following circumstances:
  - » self-defence;
  - » in the defence of others against the imminent threat of death or serious injury;
  - » to prevent the commission of a crime that presents a grave threat to life; or
  - » to overcome the resistance to arrest of a person, or to prevent their escape, if that person's actions represent a grave threat to life.<sup>199</sup>

### *Use of non-violent tactics*

The Basic Principles promote the development and regulated use of non-lethal incapacitating weapons and other weapons for the differentiated use of force and firearms.<sup>200</sup> Police should be provided with self-defence equipment (including "shields, helmets, bullet-proof vests and bullet-proof means of transport") to decrease the reliance on the use of any force and firearms.<sup>201</sup> Police are expected to utilise non-violent tactics before resorting to force or firearms.<sup>202</sup> It is only when other means would be ineffective or fail to produce the intended result that law enforcement officials are permitted to use force or firearms.<sup>203</sup>

### *Training*

The Basic Principles recommend that all law enforcement officers receive appropriate training and testing on the use of force, and that incidents of force or the use of firearms are reviewed against training programmes and operational procedures.<sup>204</sup> The Basic Principles note that law enforcement officers should only take receipt of firearms following the successful conclusion of special firearms training,<sup>205</sup> which have a particular emphasis on skills that will reduce the need to use force and firearms. These include:

- police ethics;
- human rights, especially in the investigative process;
- alternatives to the use of force and firearms, including the peaceful settlement of conflicts;
- understanding of crowd behaviour; and
- methods of persuasion, negotiation and mediation.<sup>206</sup>



## COMMON STANDARD 4: Police organisations



- 4.1 Police organisations will be a service that upholds the law as opposed to a force that enforces the law;**
- 4.2 Police organisations will strive to promote a police organisation that is operationally independent of the executive and upholds the principles of democratic policing;**
- 4.3 Police organisations will increase public confidence, promote and encourage greater transparency and accountability in all its activities;**
- 4.4 Police organisations will account for violations by officers of citizens' human rights and ensure that inquiries are conducted in a fair and transparent manner; and**
- 4.5 Police organisations will ensure that internal oversight mechanisms are strengthened in accordance with expected standards.**

The International Bill of Rights and the international and regional instruments that expand and refine its provisions provide a framework on how the police must promote and protect human rights. Although there is no set of standards that specifically pertain to police accountability, a review of the accountability provisions in individual instruments reveal several commonalities. These include internal and external oversight, with elements of judicial oversight.

The police are accountable to multiple audiences on various aspect of policing including effective use of resources, performance and conduct. The interaction between civilian political authority and citizens in general with the police in development of policy and strategic plans is a specific subset of external accountability arrangements and is often referred to as accountability before the fact. Alongside these mechanisms of external accountability are a range of "after the fact" systems of oversight, such as accountability for resource utilisation and performance, to bodies such as parliament, the offices of the auditor general, and oversight of conduct to national human rights commissions and specialist oversight bodies. The latter can include investigative bodies and those that oversee recruitment, promotion and discipline within the police. It is generally accepted that external oversight is best supported by strong internal oversight systems, and likewise, internal systems work best when supported by external systems.<sup>207</sup>

Systems of internal accountability include:

- internal police hierarchy: line of command providing a continuous oversight process;
- reporting procedures;
- mechanisms for receiving and dealing with complaints;
- disciplinary procedures;
- criminal procedures; and
- whistle blowing.<sup>208</sup>

External systems of accountability include:

- the judiciary;
- parliament;

- independent bodies such as national human rights institutions, specialist police oversight agencies, auditors, public service commissions, etc;
- civil society and non-governmental organisations; and
- citizens.

### ***General standards for accountability***

Accountability provisions in international and regional instruments reviewed for this report provide for the following basic provisions:

- effective internal accountability mechanisms, including clear chains of command, that are governed by laws and codes of conduct that promote and protect human rights,
- effective and independent external accountability mechanisms;<sup>209</sup>
- investigations into misconduct must be:
  - » impartial;
  - » thorough;
  - » prompt;
  - » transparent;
  - » adhere to high professional standards;
  - » published and made available to the public;<sup>210</sup>
- preventative measures, including visits to places of detention and proper systems of audit for weapons and police budgets;<sup>211</sup>
- internal and external accountability mechanisms must be well resourced;<sup>212</sup>
- compensation must be made available to victims;<sup>213</sup> and
- witnesses and informants must be protected and informed of the processes of accountability to ensure their participation.<sup>214</sup>

### ***External accountability mechanisms***

National human rights institutions (NHRIs) generally have a mandate to investigate complaints against the police as part of their overall mandate to promote and protect human rights.<sup>215</sup> In 1993, the UN General Assembly adopted the Paris Principles which set out the minimum requirements for NHRIs with a view to improving their effectiveness.<sup>216</sup>

The Principles state that institutions must have a constitutional or legislative guarantee of autonomy from the government, including operational and financial autonomy. NHRIs must have a broad mandate to promote and protect human rights that is established by law and supported by adequate resources, infrastructure and powers of investigation.<sup>217</sup>

The Principles recommend that NHRIs have a mandate to submit or hear any matter without referral to a higher authority on matters including:

- legislative and administrative provisions that are intended to protect and preserve human rights;
- violations of human rights; and
- the harmonisation of national legislation, regulations and practices with international human rights.<sup>218</sup>

To support these functions, the Principles confer NHRIs the power to hear any person and obtain any information or documents necessary.

In addition to a mandate to investigate and conduct hearings, the Paris Principles also provide NHRIs with:

- the power to make recommendations;

- freedom to consider any questions within its competence;
- freedom to address public opinion directly;
- capacity to meet on a regular basis;
- power to establish working groups and set up local or regional sections;
- authority to maintain consultation; and
- encouragement to develop relations with non-governmental organisations.<sup>219</sup>

### *The judiciary*

Several international instruments refer to the use of “judicial authorities” to conduct oversight on policing. The Basic Principles on the Independence of the Judiciary provide some guidance on how the judiciary should be structured to ensure that its oversight over policing is effective, impartial and provides guarantees for human rights and dignity. The Principles promote the enactment of a constitutional guarantee of judicial independence that is observed and respected by all government institutions, including the police.<sup>220</sup> The judiciary is required to make impartial decisions, based on fact and law, without interference from “any quarter, for any reason” and unwarranted or inappropriate interference with the judicial process is not permitted.<sup>221</sup> Further, “the judiciary retains control over all matters of a judicial nature and have exclusive authority to decide whether an issue submitted for its decision is within its competence and defined by law”. This ensures that the judiciary can conduct oversight.<sup>222</sup>

ECOSOC has established Procedures for the effective implementation of the Basic Principles on the Independence of the Judiciary which guide states’ implementation of judicial systems based on the Basic Principles.<sup>223</sup>



**4.6 Police Organisations will implement basic standards for the recruitment of officers, including selection of candidates by proper screening processes to ensure that they exhibit appropriate moral, psychological and physical qualities for the role; and**

**4.7 Recruitment will ensure that the Police Organisations are representative of the community as a whole, with ethnic, gender, language and religious compositions reflective of the population they serve.**

The police will implement basic standards for the recruitment of officers, including selection of candidates by proper screening processes to ensure that they exhibit appropriate moral, psychological and physical qualities for the role. Recruitment will ensure that the police organisations are representative of the community as a whole, with ethnic, gender, language and religious compositions reflective of the population it serves.

The Basic Principles on the Use of Force and Firearms by Law Enforcement Officials sets out basic standards that should be adhered to by governments and law enforcement agencies in the recruitment of officers, including:

- selection by proper screening procedures;
- ensuring candidates exhibit appropriate moral, psychological and physical qualities for the role;
- demonstrate physical fitness (which is subject to periodic review); and
- ongoing professional training.<sup>224</sup>

ECOSOC Guidelines for the effective implementation of the Code of Conduct for Law Enforcement Officials also notes that the selection, education and training of police is of “prime importance”, and that regional cooperation and information exchanges are encouraged, and promotes “adequate” salaries and working conditions for police.<sup>225</sup>



**4.8 Police Organisations will ensure their personnel receive comprehensive and continuous training in observance of human rights and policing; and**

**4.9 Police Organisations will ensure that the training curriculum is periodically reviewed and updated in accordance with changing policing needs.**

The police will ensure members receive comprehensive and ongoing training on their rights and obligations.

Weaved throughout the international law that underpins the Common Standards, is a requirement that police receive comprehensive and ongoing training on their rights and obligations, specifically:

- prohibition against torture;<sup>226</sup>
- appropriate use of force and firearms;<sup>227</sup>
- prevention of extra-judicial killings and enforced disappearances;<sup>228</sup>
- sensitisation to the needs of victims;<sup>229</sup>
- sensitisation to the needs of women<sup>230</sup> and ensuring effective responses to the needs of victims of gender-based violence, as well as processing and investigating these crimes;<sup>231</sup>
- training on the scope for discretion at the various levels of administration of juvenile justice (including investigation)<sup>232</sup> and, for police who are in frequent contact with juvenile suspects, sensitisation training;<sup>233</sup>
- in order to combat corruption, education and training programmes should be organised to enable police officers to meet the requirements for the correct, honourable and proper performance of public functions and that provide them with specialised and appropriate training to enhance their awareness of the risks of corruption inherent in the performance of their functions.<sup>234</sup> Police should also receive continual professional training and education in all aspects pertaining to law enforcement, with special attention to ethics and integrity,<sup>235</sup> and ensure training on issues about corruption.<sup>236</sup>

In addition to those specific requirements, the UN High Commissioner for Human Rights, Centre for Human Rights, has published guidelines on the content of human rights training for the police. These guidelines require states to provide rights-based training to law enforcement personnel on:

- ethics and legal conduct;
- policing in democracies;
- non-discrimination in law enforcement;
- police investigations;
- arrest and detention;
- the use of force, including accountability for the use of force and firearms, permissible circumstances for the use of firearms, and procedures for the use of firearms;
- civil disorder;
- states of emergency;
- armed conflict;
- protection of the human rights of marginalised groups such as juveniles, women, refugees, non-nationals and victims;
- police command and management;
- community policing; and
- police violations of human rights.<sup>237</sup>



**4.10 Police Organisations will not only refrain from engaging in acts of corruption and abuse of power, but will rigorously oppose and combat all such actions; and**

**4.11 Police Organisations will investigate corruption and abuse of power and take preventative measures, including policing anti-corruption tendencies.**

Police will not only refrain from engaging in acts of corruption and abuse of power, but will rigorously oppose and combat all such actions. States are required to implement measures to facilitate the investigation of corruption and abuse of power and to take preventative measures, including police anti-corruption training and enacting domestic legislation that criminalises such actions.

The prohibition against police engaging in acts which amount to corruption and abuse of power is evident in a number of international conventions and other standards. At international law, corruption refers to any act, attempted act or omission in connection with an official duty which is made in response to the demand or receipt of incentives, promises or gifts.<sup>238</sup> Corruption is recognised by the international community as a threat to stability and security, and as detrimental to good governance and the rule of law.<sup>239</sup>

The UN Code of Conduct for Law Enforcement Officials recognises that acts of corruption are incompatible with the nature of law enforcement activities and that the government must enforce the law against any officers who commit acts of corruption.<sup>240</sup> The Code states that law enforcement officers shall not only refrain from engaging in any acts of corruption, but rigorously oppose and combat all such acts.<sup>241</sup>

The UNCAC, which promotes states' obligations to prevent and deal with corruption and create accountability measures to prevent it, applies to police agencies in their capacity as public officials pursuant to the Convention.<sup>242</sup> As signatories to the Convention, states are required to take the following measures to combat corruption:

- introduce anti-corruption policies and practices that that promote the participation of society and reflect the principles of the rule of law, proper management of public affairs and public property, integrity, transparency and accountability;
- periodically review the effectiveness and adequacy of legal and administrative anti- corruption measures;
- collaborate on anti-corruption measures with other states;
- implement systems of public service recruitment which adhere to principles of efficiency and transparency, promote adequate remuneration and promote education and training programmes to enable them to meet the requirements for the correct, honourable and proper performance of public functions and that provide them with specialised and appropriate training to enhance their awareness of the risks of corruption inherent in the performance of their functions;
- enact a Code of Conduct for Public Officials which promotes integrity, honesty and responsibility in the exercise of public functions, in reference to the United Nations Code of Conduct for Public Officials, and which supports reporting and punishment mechanisms;
- take measures to enhance procurement and management of public finances, including promotion of transparency and accountability in the management of public finances, implementing accounting and auditing standards and systems of oversight, and preservation of records;
- take measures to enhance transparency in reporting of public administration activities, including access to information by the public;
- take measures to prevent corruption in the judiciary; and
- take measures to promote the participation of the private sector, including civil society, in raising awareness of and combating corruption.<sup>243</sup>

The United Nations Convention against Corruption (UNCAC) requires the enactment of legislation which makes it a criminal offence for any public official to engage in bribery, embezzlement, misappropriation or other diversion of public property, trade in influence, abuse their function, obtain illicit enrichment or

obstruct justice.<sup>244</sup> The United Nations Convention against Corruption (UNCAC) also encourages measures to protect informers, witnesses and victims of corruption.<sup>245</sup>

The Declaration on Basic Principles for Justice of Victims of Crime and Abuse of Power requires states to consider the enactment of domestic legislation which would proscribe acts constituting an abuse of power and to provide compensation and other remedies to victims of abuse of power by the state and/or its institutions.<sup>246</sup> The Declaration further requires the periodic review of domestic laws in relation to the abuse of power and promotes the establishment of preventative mechanisms and remedies to victims.

Corruption is one of the six priority crime areas of Interpol and the organisation promotes regional cooperation for eradicating the causes and effects of corruption. Interpol defines corruption as “any course of action or failure to act by individuals or organisations, public or private, in violation of law or trust for profit or gain.”<sup>247</sup>

In 1998, Interpol established the Group of Experts on Corruption (IGEC) with a mandate to facilitate the coordination and harmonisation of different national and regional approaches to combating corruption.<sup>248</sup> The IGEC mission statement is as follows:

*We believe in a free and just society. To be truly just, society must embrace high standards of integrity and openly resist corruption. To this end, we join with the community to ensure such standards and accept responsibility to fight all forms of corruption through education, prevention and effective law enforcement.*<sup>249</sup>

IGEC has published two key documents as part of its anti-corruption work. The first, which was adopted by the Interpol General Assembly in 1999, is a Declaration of Intent for Law Enforcement (the Seoul Declaration). Member states of Interpol agreed to implement national integrity programmes which incorporate the following elements:

- the three-tier approach to combating corruption: education and prevention, operational/ investigation, and public relations;
- recognising the necessity for a code of conduct for law enforcement officers, and where practicable, adopting and complying with such a code as recommended by the Interpol Group of Experts;
- refining the recruitment process to include integrity testing, oral interviews, and background investigations in order to determine as far as possible the degree of the applicant’s integrity, without regard to economic or social status, sex, race, religion or political beliefs;
- due to the transnational nature of crime it is essential for law enforcement to cooperate with all legally authorised agencies in the pursuit of justice, both on a national and international level, and to encourage cooperation with all entities with a serious commitment to combating crime in general, but corruption specifically;
- all law enforcement officials should receive continual professional training and education in all aspects pertaining to law enforcement, with special attention to ethics and integrity;
- the management structures involved in anti-corruption initiatives should be responsible for:
  - » reviewing annually, the statements of assets and liabilities of all personnel in accordance with national legislation;
  - » ensuring the unit’s accountability and transparency to the community;
  - » monitoring factors that can identify corruption;
  - » identifying weaknesses in working methods, administrative and legal processes;
  - » ensuring that proper internal and external audit procedures are introduced and maintained;
  - » availing themselves of the advances in information technology and ensuring that these tools are available for all personnel;
  - » creating appropriate structures to protect informants and whistleblowers; and
  - » enforcing efficient and swift procedures to ensure that complaints of the community receive proper attention.
  - » the remuneration received by law enforcement officers should be sufficient to afford them a decent and reasonable standard of living.<sup>250</sup>

IGEC has also published draft Global Standards to Combat Corruption in Police Forces/Services. The objectives of the draft standards are to ensure all police forces and services have high standards of honesty, integrity and ethical behaviour, to promote and strengthen measures to prevent, detect, punish and eradicate corruption, and to bring police officers to justice for acts of corruption.<sup>251</sup>

The Global Standards require each Interpol member state to commit to establishing and maintaining high standards of conduct for the honest, ethical and effective performance of police functions, which include measures on proper use of public resources, reporting acts of corruption, avoiding conflicts of interest and strengthening public confidence in police officers.<sup>252</sup> Police organisations are required to establish and maintain effective systems for recruitment, postings, promotion and termination, and ensure training on issues about corruption.<sup>253</sup>

Additionally, states must establish deterrents to bribery and use their best endeavours to ensure that mechanisms and systems for the prevention, detection, punishment and eradication of corruption are in line with current Interpol practices. This includes strengthening systems of revenue collection, money and property handling, and collection of evidence.<sup>254</sup> States are also required to implement systems for reporting corruption (by both police officers and the public) and facilitate monitoring by oversight bodies.<sup>255</sup>

At a regional level, the EA Bill of Rights will impose a positive obligation on states to progressively take all reasonable legislative and other measures to stamp out corruption and protect whistleblowers.<sup>256</sup>



#### **4.12 Police Organisations will cooperate with role-players within and outside the criminal justice system, including citizens and civil society organisations in fulfilling their mandates.**

The UN Guidelines for the Prevention of Crime emphasise that crime prevention strategies should be underpinned by human rights and the rule of law, and that their effectiveness depends on cooperation between state agencies (including the police) as well as partnership with the community.<sup>257</sup> They also set out the importance of international cooperation, both in terms of capacity-building and training, establishing networks and addressing the links between local crime problems and transnational organised crime.<sup>258</sup>

The Guidelines promote the sustainable integration of crime prevention strategies in a government's crime control structures and programmes by establishing clear plans, taking a multi-sector approach, partnering with the community and ensuring sufficient budgetary allocations.<sup>259</sup> The Guidelines also encourage the development of crime prevention plans with clear targets and priorities which are supported by coordination between the relevant agencies and the public.<sup>260</sup> States should also ensure that agencies and the community have crime prevention capacity through training and cooperation with relevant practitioners.<sup>261</sup>

ECOSOC has issued Guidelines for Cooperation and Technical Assistance in the field of Urban Crime Prevention that sets out standards for cooperation at local (inter-agency) levels on urban crime prevention projects.<sup>262</sup> The Guidelines provide that the multi-agency and coordinated approach to crime prevention should be underpinned by an integrated crime prevention action plan.<sup>263</sup> A comprehensive and efficient integrated crime prevention plan should include:

- the nature and type of crimes to be tackled, objectives of the plan, timelines for achieving the objectives and responsibilities of the cooperating agencies;
- involvement from a range of actors including the police, justice sector institutions, community, economic sector and media;
- consideration of factors such as education, religious, moral and civil values, communities most in need of assistance, and methods of combating cultures of violence and intolerance; and

- action at various levels, including primary prevention (adopting working methods for police that promote crime prevention and civil responsibility); prevention of recidivism (adapting police intervention methods, developing new methods of intervention to promote alternative remedies to crime); and protection of victims by improving their treatment.<sup>264</sup>

A key facility in promoting cooperation is community policing. Community policing principles have been developed by the United Nations Centre for Human Rights based on the principles of the UDHR, Code of Conduct, Tokyo Rules and the experiences of police experts in several member states. They have been designed to help promote greater cooperation and coordination between the police and the communities they serve.

The principles are to:

- establish a partnership between police and law-abiding members of the community;
- adopt a community relations policy and plan of action;
- recruit from all sectors of the community;
- train officers to deal with diversity;
- establish community outreach and public information centres;
- liaise regularly with all groups in the community;
- build contacts with the community through non-enforcement activities;
- assign officers to a permanent neighbourhood beat;
- increase community participation in policing activities and community-based public safety programmes;
- involve the community in identifying problems and concerns;
- use a creative problem-solving approach to develop responses to specific community problems, including non-traditional tactics and strategies; and
- coordinate policies, strategies and activities with other government agencies and with non-government organisations.<sup>265</sup>



**4.13 Police Organisations must promote bilateral, regional, multilateral and global law enforcement cooperation and assistance. To further this aim, states should take measures to prevent crime at a domestic level, strengthen information sharing and facilitate technical assistance, including exchange programmes and training.**

States must promote bilateral, regional, multilateral and global law enforcement cooperation and assistance. To further this aim, states should take measures to prevent crime at a domestic level, strengthen information sharing and facilitate technical assistance, including exchange programmes and training.

All five countries of the EAC are members of Interpol, an association of cooperating states. Interpol promotes “mutual assistance and suppression of crime” in the spirit of the UDHR and its Constitution prohibits police actions which are contrary to human dignity and which are political, military, religious or racial in character.<sup>266</sup> Member states are expected to ratify and give effect to international human rights and anti-corruption standards to improve police accountability and oversight. To facilitate international policing operations, Interpol has developed rules on the processing of information and controlling personal data.<sup>267</sup>

The United Nations Declaration on Crime and Public Security promotes security by encouraging states to implement measures to combat serious trans-national crime on a coordinated regional or international level.<sup>268</sup> States must promote bilateral, regional, multilateral and global enforcement cooperation and assistance and, in furtherance of this aim, ensure that they take measures to prevent



such crime at a domestic level, strengthen information sharing and facilitate technical assistance (which includes exchange programmes and police training).<sup>269</sup> States must also take measures to strengthen their own law enforcement systems and to provide other states with assistance to do the same, through methods including training and providing technical assistance.<sup>270</sup>

The UN Model Treaty of Extradition proposes several mandatory grounds for refusing extradition – and on this basis, the police are not to effect the extradition of a person for any reason. These include, *inter alia*:

- for offences of a political nature;
- if there are substantial grounds for believing that the extradition request is made for the purpose of punishing a person on the basis of their race, religion, nationality, ethnic origin, political opinions, sex or status (or their position may be prejudiced for any of those reasons);
- for conduct that is only an offence under military law, not ordinary criminal law;
- if the person is subject to amnesty or the extradition is in relation to an offence for which a statute of limitations applies;
- where the extradition pertains to a decision made in absentia and the person was not provided with notice or opportunity to arrange a defence; and
- if the person has been or would be subject to torture or ill-treatment, or will not receive minimum guarantees in criminal proceedings.<sup>271</sup>

The UN has also established a Model Treaty on Mutual Assistance in Criminal Matters which promotes the “widest measure of cooperation” between states to combat crime.<sup>272</sup> Cooperation includes taking evidence, serving documents, search and seizure, collecting information, original documentation and other evidentiary items.<sup>273</sup> The Model Treaty provides that requests must be carried out promptly and in a manner consistent with the law of the state requested, provided there are no permitted grounds of refusal (which include offences of a political nature or if the purpose of the request is grounded in discrimination of any kind).<sup>274</sup>

The Common African Defence and Security Policy 2004 (CADSP), while not directly referring to policing organisations, recognises that the peace and security of each country is dependent and interlinked with that of neighbouring states and the continent as a whole. The central role played by police in the maintenance of peace and security means that they are key players in regional initiatives. The CADSP identifies a number of “conflicts/tensions” that undermine peace and security and in which police may have a role, including:

- lack of respect for the sanctity of human life, impunity, political assassinations and other subversive activities;
- situations which prevent and undermine the promotion of democratic institutions and structures, including absence of the rule of law, equitable social order, popular participation and good governance;
- improper conduct of electoral processes;
- absence of the promotion and protection of human rights, individual and collective freedoms, equal opportunity for all, including women, children and minorities;
- corruption;
- plight of refugees and internally displaced persons and insecurity caused by their presence;
- illicit proliferation, circulation and trafficking in small arms and light weapons;
- violent and other crimes, including organised and cross border crimes;
- human and drug trafficking; and
- money laundering.<sup>275</sup>

One of the building blocks of the Common Policy includes an African Standby Force, with a police component, for the purpose of preventative deployment and peace building.<sup>276</sup>

The Nairobi Protocol acknowledges that the proliferation of small arms and light weapons is a regional issue and encourages states to take measures to improve cooperation among law enforcement agencies for the promotion of effective policing of this issue and curbing corruption within police agencies associated with the arms trade. Measures include strengthening regional police cooperation through training and information exchange, establishing direct communication systems between police organisations and promoting cooperation with regional bodies such as Interpol.<sup>277</sup>

## Endnotes

- 1 See, for example, Article 2, ICCPR. Most instruments reviewed by the authors contained similar provisions.
- 2 UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.
- 3 Guideline 1, Guidelines for the Prevention of Crime – Economic and Social Council Resolution 2002/ 12, annex.
- 4 Guideline 7, Guidelines for the Prevention of Crime, Economic and Social Council Resolution 2002/ 12, annex.
- 5 See ICCPR. Most instruments reviewed by the authors contained similar requirements.
- 6 *Halsbury's Laws of England*, Vol: Constitutional Law and Human Rights, paragraph 6. See also, Declaration of Delhi – International Commission of Jurists, *New Delhi Congress: The Rule of Law in a Free Society*, New Delhi, India, 5–10 January 1959 [http://www.icj.org/article.php3?id\\_article=3088&id\\_rubrique=11&lang=eng](http://www.icj.org/article.php3?id_article=3088&id_rubrique=11&lang=eng) (at 20 October 2008).
- 7 Articles 9–11, UDHR.
- 8 See, *Peter Grant v Jamaica*, Communication No. 597/1994, UN Doc. CCPR/C/56/D/597/194 (1996). The European Court of Human Rights has held that detention of 4 days, 6 hours without being brought before a judge violates the European Convention on Human Rights – although note that the court's latitude for interpreting "promptly" was constrained by the French version of the European Convention which uses the word *aussitot*, which literally means "immediately" (*Brogan v. United Kingdom*, A145-B, 18, 20 (29 November 1988)). See also *Borisenco v Hungary* (852/1999), ICCPR, A/58/40 vol. II (14 October 2002) – a detention of 3 days before being brought before a judicial officer constituted a violation of the requirement for promptness in the absence of any state explanation for the delay.
- 9 See *Hugo van Alphen v The Netherlands*, Communication No. 305/1988, UN Doc. CCPR/C/39/D/ 305/1988 (1990) – the UN Human Rights Committee noted that pre-trial remand in custody must be "necessary in all the circumstances, for example, to prevent flight, interference with evidence or the recurrence of crime." An arrestee must be granted pre-trial release unless one of the above factors, or other equally compelling factors, is present. This idea is echoed by UN General Assembly Resolution 43/ 173, in which the Assembly adopted the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. Principle 39 entitles persons detained on a criminal charge to release pending trial, unless a judicial authority decides otherwise in the interest of the "administration of justice" – UN General Assembly Resolutions 43/173, Annex (1988).
- 10 Articles 9 and 14, ICCPR.
- 11 Articles 9–12, Standard Minimum Rules for the Treatment of Prisoners and Principle 1, Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.
- 12 International law does not provide a fixed time period that will satisfy the requirement of promptness. However, in *Pennant v Jamaica* (647/1995), ICCPR, A/54/40 vol. II (20 October 1998) 118 (CCPR/C/ 64/D/647/1995), the UN Human Rights Committee determined that Article 9 of the ICCPR was not violated by a three day delay in informing the arrested person of the charges brought against him.
- 13 In international human rights treaties, the term "lawyer" is avoided in favour of "legal assistance" because in many countries, providing lawyers to every accused is impractical either because there are few lawyers or it exceeds the budget constraints of the state. There is no precise cut-off after which a detainee must be granted legal assistance, but it is clear that detainees must be given the opportunity to communicate with a legal advisor soon after they are arrested. See Principle 7, Basic Principles on the Role of Lawyers, ("prompt" or maximum 48 hours). If a detainee is interrogated, the right to have access to a lawyer becomes even more important – "to deny access to a lawyer for the first 48 hours of police questioning, in a situation [in this case, interrogation] where the rights of the defence may well be irretrievably prejudiced, is – whatever the justification for such denial – incompatible with the rights of the accused..." – *Murray v United Kingdom*, EcoHR, Case No. 41/1994/488/570 (1996).
- 14 See UN Human Rights Committee Communication No. 219/1986, *Guesdon v France* – "the right to have the free assistance of an interpreter if the accused cannot understand or speak the language used in court as provided for by Article 14, Paragraph 3(f) enshrines other aspects of the principles of fairness and equality of arms in criminal proceedings. This right arises at all stages of the oral proceedings. It applies to aliens as well as to nationals". While this provision speaks to court proceedings, it also has application to policing as access to justice is predicated on promoting "equality of arms" in criminal proceedings – if it can be demonstrated that a lack of interpreter at any stage in investigation, charge or prosecution created inequality that was irremediable by the provision of an interpreter during court appearances.
- 15 Article 14, ICCPR. These provisions are echoed in subsequent international instruments, notably the Body of Principles for the Protection of All Persons Under Any Form of Detention, Principles 10–20.

- 16 Article 14(7), ICCPR.
- 17 Preamble, Article 1 and Article 4(m), Constitutive Art of the African Union.
- 18 Article 5, African Charter on Human and Peoples' Rights.
- 19 Article 7, African Charter on Human and Peoples' Rights.
- 20 Article 3(b), Treaty Establishing the East African Community, 1999.
- 21 Articles 6(d), 7(2) and 8(1), Treaty Establishing the East African Community, 1999.
- 22 Section 8(ii)(g), Solemn Declaration on a Common African Defence and Security Policy.
- 23 Preamble, Guidelines on the Role of Prosecutors, Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August–7 September 1990, report prepared by the Secretariat (United Nations publication, Sales No. E.86.IV.1), chap. I, sect. D.
- 24 Guideline 1, Guidelines on the Role of Prosecutors, Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August–7 September 1990, report prepared by the Secretariat (United Nations publication, Sales No. E.86.IV.1), chap. I, sect. D.
- 25 Guidelines 4–5, Guidelines on the Role of Prosecutors, Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August–7 September 1990, report prepared by the Secretariat (United Nations publication, Sales No. E.86.IV.1), chap. I, sect. D.
- 26 Guidelines 12–13 and 18, Guidelines on the Role of Prosecutors, Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August–7 September 1990, report prepared by the Secretariat (United Nations publication, Sales No. E.86.IV.1), chap. I, sect. D.
- 27 Guidelines 21–24, Guidelines on the Role of Prosecutors, Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August–7 September 1990, report prepared by the Secretariat (United Nations publication, Sales No. E.86.IV.1), chap. I, sect. D.
- 28 Article 1, UN Code of Conduct for Law Enforcement Officials.
- 29 Guidelines for the Effective Implementation of the Code of Conduct for Law Enforcement Officials, UN Economic and Social Council Resolution 1989/61, annex, Part IA and IIA.
- 30 Guidelines for the Effective Implementation of the Code of Conduct for Law Enforcement Officials, UN Economic and Social Council Resolution 1989/61, annex, Part IA.
- 31 Guidelines for the Effective Implementation of the Code of Conduct for Law Enforcement Officials, UN Economic and Social Council Resolution 1989/61, annex, Part IB.
- 32 Principles 1–3, International Code of Conduct for Public Officials, General Assembly Resolution, 51/59, annex.
- 33 Principles 4–6, International Code of Conduct for Public Officials, General Assembly Resolution, 51/59, annex.
- 34 Principles 10–11, International Code of Conduct for Public Officials, General Assembly Resolution, 51/59, annex.
- 35 Article 4, UN Code of Conduct for Law Enforcement Officials. For the right to privacy, see ICCPR, ICESCR.
- 36 Commentary to Article 1, UN Code of Conduct for Law Enforcement Officials.
- 37 See Section 4e (community policing).
- 38 Article 3, UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.
- 39 Commentary to Article 3, UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.
- 40 Commentary to Article 3, UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.
- 41 Preamble and Article 1, UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.
- 42 Article 8, UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.
- 43 Article 1, UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.
- 44 Article 7, UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.
- 45 Article 24, UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.
- 46 Article 25, UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.
- 47 Article 25, UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.
- 48 Article 21, UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.
- 49 Articles 2, 22 and Commentary to Article 3, UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.
- 50 Article 23, UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.
- 51 Preamble, UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.
- 52 Preamble, UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. The Basic Principles also refer to resolutions of a number of UN committees and congresses, including Resolution 14 of the Seventh United Nations Congress on the Prevention of Crime and Treatment of Offenders, which acknowledge that the use of force by law enforcement officials must be consistent with human rights norms.
- 53 Article 9, UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

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- 54 Article 9, UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.
- 55 Article 5, UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.
- 56 Article 10, UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.
- 57 Article 11, UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.
- 58 Preamble, The Nairobi Protocol for the Prevention, Control and Reduction of Small Arms and Light Weapons in the Great Lakes Region and the Horn of Africa, 2004.
- 59 Article 6, The Nairobi Protocol for the Prevention, Control and Reduction of Small Arms and Light Weapons in the Great Lakes Region and the Horn of Africa, 2004.
- 60 Articles 7(c) and 4(b), The Nairobi Protocol for the Prevention, Control and Reduction of Small Arms and Light Weapons in the Great Lakes Region and the Horn of Africa, 2004.
- 61 Article 2, UDHR.
- 62 Article 3, ICCPR.
- 63 Article 2, International Convention on the Elimination of All Forms of Racial Discrimination. "For the purposes of the Convention, racial discrimination is defined as any distinction, exclusion, restriction or preference based on race, colour, descent or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life" – Article 1, ICERD.
- 64 Articles 2 and 4–6, CERD.
- 65 Article 4(1), ICCPR.
- 66 Preamble, Convention on the Elimination of All Forms of Discrimination Against Women.
- 67 Article 2, Convention on the Elimination of All Forms of Discrimination Against Women. For the purpose of this Convention, discrimination against women means "any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on the basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field" – Article 1, Convention on the Elimination of All Forms of Discrimination Against Women.
- 68 See Articles 2, 3, 4 and 8, Protocol to the African Charter on Human and Peoples' Rights on Women in Africa.
- 69 Preamble and Articles 1-2, Declaration on the Elimination of Violence Against Women.
- 70 Article 3, Declaration on the Elimination of Violence Against Women.
- 71 Article 4, Declaration on the Elimination of Violence Against Women.
- 72 Model Strategies and Practical Measures on the Elimination of Violence Against Women in the Field of Crime Prevention and Criminal Justice, UN General Assembly Resolution 52/86, annex, paragraph 4.
- 73 Model Strategies and Practical Measures on the Elimination of Violence Against Women in the Field of Crime Prevention and Criminal Justice, UN General Assembly Resolution 52/86, annex, Part III and paragraph 10(a).
- 74 Model Strategies and Practical Measures on the Elimination of Violence Against Women in the Field of Crime Prevention and Criminal Justice, UN General Assembly Resolution 52/86, annex, paragraphs 12(a)–(b).
- 75 Slide 6, Presentation – Gender Mainstreaming in Eastern Africa, "Responses and Policy Issues – Expert Presentation" (Sandra Oder, ISS). Proposed measures include training designed to ensure that police officers can effectively respond to the needs of victims of gender-based violence, as well as processing and investigating these crimes; gender responsive policies, protocols and capacity building to increase police professionalism and access to service (measures may take the form of codes of conduct and screening recruits for previous involvement in gender-based violence); establishment of women-only units; and the active recruitment of more women police officers.
- 76 Article 10, ICCPR.
- 77 Article 17(2), African Charter on the Rights and Welfare of the Child.
- 78 Rule 1, United Nations Minimum Rules for the Administration of Juvenile Justice.
- 79 Rule 9, United Nations Minimum Rules for the Administration of Juvenile Justice.
- 80 Rules 2.1, 2.3, 5–8, 10.1–10.3, 11.1–11.2 and 13, United Nations Minimum Rules for the Administration of Juvenile Justice. See also, Principles 16.3–16.4, Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.
- 81 Rule 12, United Nations Minimum Rules for the Administration of Juvenile Justice.
- 82 Rules 2–3, United Nations Rules for the Protection of Juveniles Deprived of their Liberty.
- 83 Rule 11(b), United Nations Rules for the Protection of Juveniles Deprived of their Liberty.
- 84 Rules 2, 7, 11(b), 12–13 and 18, United Nations Rules for the Protection of Juveniles Deprived of their Liberty.
- 85 United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), UN General Assembly Resolution 45/112, annex, Part VI.
- 86 United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), UN General Assembly

- Resolution 45/112, annex, paragraphs 5–6 and Part III.
- 87 United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), UN General Assembly Resolution 45/112, annex, Part IV.
- 88 United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), UN General Assembly Resolution 45/112, annex, paragraph 46.
- 89 Article 3, Convention on the Rights of the Child, Article 4, African Charter on the Rights and Welfare of the Child.
- 90 Article 40(2), Convention on the Rights of the Child.
- 91 Article 40(4), Convention on the Rights of the Child.
- 92 Article 37, Convention on the Rights of the Child, Articles 5, 7–9 and 16, African Charter on the Rights and Welfare of the Child.
- 93 Articles 13 and 15, Convention on the Rights of the Child.
- 94 Article 8, Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography.
- 95 Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime, Economic and Social Council Resolution 2005/20, annex, paragraph 3. See also, Guidelines for Action on Children in the Criminal Justice System, Economic and Social Council resolution 1997/30, annex, Part III.
- 96 Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime, Economic and Social Council Resolution 2005/20, annex, paragraphs 3–4.
- 97 Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime, Economic and Social Council Resolution 2005/20, annex, Parts III–XIV. See also, Principles 16.3–16.4, Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.
- 98 Guidelines for Action on Children in the Criminal Justice System, Economic and Social Council Resolution 1997/30, annex, paragraphs 8(a) and 10.
- 99 Guidelines for Action on Children in the Criminal Justice System, Economic and Social Council Resolution 1997/30, annex, paragraph 11.
- 100 Guidelines for Action on Children in the Criminal Justice System, Economic and Social Council Resolution 1997/30, annex, paragraphs 14–15, 20–21 and 24–25.
- 101 Articles 21(1) and 21(8), Draft East African Bill of Rights, 2007.
- 102 Only Uganda has signed the Migrant Workers Convention. However, all states are signatories to ICCPR and Convention on the Elimination of All Forms of Racial Discrimination, which provide for all the rights provided in the Migrant Workers Convention (i.e. states must guarantee basic due process and freedom from torture and must not discriminate in the application of these protections for any reason, including ethnicity).
- 103 Article 16, International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.
- 104 Articles 36 and 39, International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.
- 105 Article 7, International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.
- 106 Articles 16 and 18(3)(a), International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. See also, Articles 14(3)(a) and (f), ICCPR. See also, Principle 16.2, Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.
- 107 Article 17, International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.
- 108 Article 10, International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.
- 109 Articles 16, 18 and 83, International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.
- 110 Article 18, International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.
- 111 Article 21, International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.
- 112 Article 18(7), International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.
- 113 Article 22, International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.
- 114 Article 82, International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.
- 115 Article 5, Convention on the Elimination All Forms of Discrimination, Article 12, ICCPR, Article 4, Convention on the Elimination of All Forms of Discrimination Against Women.
- 116 Articles 3, 16 and 33, Convention Relating to the Status of Refugees.
- 117 Article 14, ICCPR.
- 118 Article 3, Convention Against Torture, Cruel, Inhuman or Degrading Treatment or Punishment, Article 3(3), Convention Governing the Specific Aspects of Refugee Problems in Africa.
- 119 Article 1, Convention Against Torture.

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- 120 Article 5, UN Code of Conduct for Law Enforcement Officials, Preamble, Article 1 and Article 16, Convention Against Torture.
- 121 Article 2, Convention Against Torture, Article 5, UN Code of Conduct for Law Enforcement Officials.
- 122 Articles 4 and 8, Convention Against Torture.
- 123 Article 9, Convention Against Torture.
- 124 Articles 2–3, Convention Against Torture. Although neither Rwanda nor Tanzania have signed the CAT, they are signatories to the ICCPR which contains a general prohibition against the use of torture, cruel, inhuman or degrading treatment or punishment.
- 125 Article 15, Convention Against Torture.
- 126 Article 11, Convention Against Torture.
- 127 Article 4, Convention Against Torture.
- 128 Article 13, Convention Against Torture.
- 129 Article 14, Convention Against Torture.
- 130 Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, General Assembly Resolution 55/89, annex, Principles 2 and 5.
- 131 Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, General Assembly Resolution 55/89, annex, Principle 3(a).
- 132 Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, General Assembly Resolution 55/89, annex, Principle 3(b).
- 133 Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, General Assembly Resolution 55/89, annex, Principle 4.
- 134 Part 1A, Resolution on the Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa.
- 135 Part 1B, Resolution on the Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa.
- 136 Parts 1C–F, Resolution on the Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa.
- 137 Part 3, Resolution on the Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa.
- 138 Articles 10–13 and 16, Convention Against Torture.
- 139 Article 1, Optional Protocol to the Convention Against Torture, Cruel, Inhuman or Degrading Treatment or Punishment.
- 140 See, [http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-9-b&chapter=4&lang=en](http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-9-b&chapter=4&lang=en) (at 21 December 2008).
- 141 Part 2C, Resolution on the Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa. See also, Section 3e (Protection of Persons in Custody).
- 142 Article 10(1), ICCPR, Article 6, African Charter on Human and Peoples' Rights, Articles 5(1)–(3), Draft East African Bill of Rights, 2007.
- 143 Article 10(1), ICCPR, Article 6, African Charter on Human and Peoples' Rights, Articles 5(1)–(3), Draft East African Bill of Rights, 2007.
- 144 Article 6, UN Code of Conduct for Law Enforcement Officials.
- 145 Preamble, Standard Minimum Rules for the Treatment of Prisoners.
- 146 Article 84(1)–(2), Standard Minimum Rules for the Treatment of Prisoners.
- 147 Articles 84(2) and 86–93, Standard Minimum Rules for the Treatment of Prisoners.
- 148 Articles 5(4), 5(5)(a) and 6(3), Draft East African Bill of Rights, 2007.
- 149 Article 95, Standard Minimum Rules for the Treatment of Prisoners, and Article 9, ICCPR.
- 150 General Clause, Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.
- 151 For the purpose of the Principles, detention is defined as “any person deprived of personal liberty except as a result of conviction for an offence” – Use of Terms (b), Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.
- 152 Principles 1–2, Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.
- 153 Principles 9 and 36, Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.
- 154 Principles 10–19, Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.
- 155 Principle 32, Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.
- 156 Principles 27 and 38, Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.
- 157 Principle 38, Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.
- 158 Principle 23, Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.



- 159 Principle 8, Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.
- 160 Principle 20, Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.
- 161 Principles 3–4, Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.
- 162 Principles 7 and 27, Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.
- 163 Principle 29, Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.
- 164 Principle 5, Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.
- 165 Principle 24, Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.
- 166 Principles 6–7, Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.
- 167 Principle 21, Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.
- 168 Principle 30, Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.
- 169 Principles 33–34, Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.
- 170 Rule 1, United Nations Minimum Standard Rules for Non-Custodial Measures.
- 171 Rule 2.2, United Nations Minimum Standard Rules for Non-Custodial Measures. According to Rule 2.1, the Minimum Standards apply to all persons subject to prosecution, trial or the execution of a sentence.
- 172 Rule 5.1, United Nations Minimum Standard Rules for Non-Custodial Measures.
- 173 Rule 15, United Nations Minimum Standard Rules for Non-Custodial Measures.
- 174 Rules 2–3, United Nations Minimum Standard Rules for Non-Custodial Measures.
- 175 Kampala Declaration on Prison Conditions in Africa, UN Economic and Social Council Resolution 1997/36, annex.
- 176 Principle 1, Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions.
- 177 Principles 2–4 and 6–7, Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions.
- 178 Principles 9–17, Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions.
- 179 Principle 10, Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions.
- 180 Principles 13–14 and 16, Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions.
- 181 Principle 11, Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions.
- 182 Principles 18–19, Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions.
- 183 Principle 20, Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions.
- 184 Preamble, Declaration on the Protection of All Persons from Enforced Disappearances. The Declaration, which has been signed by Burundi, Kenya and Uganda, is not yet in operation. However, it is included as part of the common standards, as it provides a framework for rights that are already articulated in the ICCPR and Convention against Torture, but with specific reference to enforced disappearanc
- 185 Preamble, Declaration on the Protection of All Persons from Enforced Disappearances.
- 186 Preamble and Article 1, Declaration on the Protection of All Persons from Enforced Disappearances.
- 187 Articles 2–5, Declaration on the Protection of All Persons from Enforced Disappearances.
- 188 Articles 6–7, Declaration on the Protection of All Persons from Enforced Disappearances.
- 189 Article 16, Declaration on the Protection of All Persons from Enforced Disappearances.
- 190 Article 17, Declaration on the Protection of All Persons from Enforced Disappearances.
- 191 Article 6, Declaration on the Protection of All Persons from Enforced Disappearances.
- 192 Articles 9–14, Declaration on the Protection of All Persons from Enforced Disappearances.
- 193 For the purposes of this Declaration, a victim is defined as a person who, individually or collectively, have suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that are in violation of criminal laws operative within member states, including those laws proscribing criminal abuse of power – Article 1, Declaration on Basic Principles for Justice of Victims of Crime and Abuse of Power.
- 194 Articles 4 and 11–16, Declaration on Basic Principles for Justice of Victims of Crime and Abuse of Power.
- 195 Part 3, Resolution on the Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa.
- 196 Article 21, ICCPR. See also, Article 15, Convention on the Rights of the Child, Article 11, African Charter on Human and Peoples’ Rights, Article 9(1)(d), Draft East African Bill of Rights, 2007.
- 197 Article 12, UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.
- 198 Article 13, UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.
- 199 Articles 9 and 14, UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.



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- 200 Articles 2–3, UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.
- 201 Article 2, UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.
- 202 Article 4, UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.
- 203 Article 4, UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.
- 204 Articles 19–20, UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.
- 205 Article 19, UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.
- 206 Article 20, UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.
- 207 See, Stone, C. and Ward, R. “Democratic Policing, A Framework for Action,” *Policing and Society* 10, 2000.
- 208 Commonwealth Human Rights Initiative, *Police Accountability: Too Important to Neglect, Too Urgent to Delay*, New Delhi, 2006.
- 209 Guidelines for the Effective Implementation of the Code of Conduct for Law Enforcement Officials, UN Economic and Social Council Resolution 1989/61, annex, Part IB, Articles 9–14, Declaration on the Protection of All Persons from Enforced Disappearances.
- 210 Articles 10–14 and 16, Convention Against Torture, Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, General Assembly Resolution 55/89, annex, Principles 2 and 5, Principles 9–17, Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions, Articles 9–14, Declaration on the Protection of All Persons from Enforced Disappearances and Articles 5, 7–8, 10–11 and 13, Convention against Corruption.
- 211 Article 1, Optional Protocol to the Convention Against Torture, Cruel, Inhuman or Degrading Treatment or Punishment, Principles 33–34, Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment and Nairobi Protocol for the Prevention, Control and Reduction of Small Arms and Light Weapons in the Great Lakes Region and the Horn of Africa, 2004.
- 212 Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, General Assembly Resolution 55/89, annex, Principle 3(a).
- 213 Article 14, Convention Against Torture, Articles 4 and 11–16, Declaration on Basic Principles for Justice of Victims of Crime and Abuse of Power.
- 214 Article 13, Convention Against Torture, Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, General Assembly Resolution 55/89, annex, Principles 3(b) and 4.
- 215 Commonwealth Human Rights Initiative, *Police Accountability: Too Important to Neglect, Too Urgent to Delay*, New Delhi, 2005, p. 62.
- 216 Paris Principles.
- 217 Principles Relating to the Status and Functioning of National Institutions for the Protection and Promotion of Human Rights (Paris Principles), General Assembly Resolution, 4 March 2003, A/RES/48/134, available at <http://daccessdds.un.org/doc/UNDOC/GEN/N94/116/24/PDF/N9411624.pdf?OpenElement> (at 9 September 2009).
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- 221 Principles 2 and 4, Basic Principles on the Independence of the Judiciary, Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August–6 September 1985, report prepared by the Secretariat (United Nations publication, Sales No. E.86.IV.1), chap. I, sect. D.2., annex.
- 222 Principle 3, Basic Principles on the Independence of the Judiciary, Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August–6 September 1985, report prepared by the Secretariat (United Nations publication, Sales No. E.86.IV.1), chap. I, sect. D.2., annex.
- 223 Procedure 1, Procedures for the Effective Implementation of the Basic Principles on the Independence of the Judiciary, Economic and Social Council Resolution 1989/60, annex.
- 224 Article 18, Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.
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- 228 Principle 3, Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions and Article 6, Declaration on the Protection of All Persons from Enforced Disappearances.
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- 230 Article 16, Declaration on Basic Principles for Justice of Victims of Crime and Abuse of Power.
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- 234 Article 7, Convention Against Corruption.
- 235 Interpol, Supporting the Initiatives of the Interpol Group of Experts on Corruption, Resolution No. AGN/68/RES/4, Seoul, 1999.
- 236 Articles 4.3–4.6, Interpol Group of Experts on Corruption, Global Standards to Combat Corruption in Police Forces/Services.
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- 241 Article 7, UN Code of Conduct for Law Enforcement Officials.
- 242 Article 1(a)(ii), Convention Against Corruption.
- 243 Articles 5, 7–8, 10–11 and 13, Convention Against Corruption.
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- 246 For the purpose of the Declaration, a victim is defined as a person who individually or collectively has suffered harm, including physical or mental harm, economic loss or substantial impairment of their fundamental rights, through acts or omissions that do not yet constitute violations of national criminal laws but of internationally recognised relating to human rights – Article 18, Declaration on Basic Principles for Justice of Victims of Crime and Abuse of Power.
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- 251 Article 1, Interpol Group of Experts on Corruption, Global Standards to Combat Corruption in Police Forces/Services.
- 252 Article 4.1, Interpol Group of Experts on Corruption, Global Standards to Combat Corruption in Police Forces/Services.
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- 254 Articles 4.8 and 4.13, Interpol Group of Experts on Corruption, Global Standards to Combat Corruption in Police Forces/Services.
- 255 Articles 4.12 and 4.16, Interpol Group of Experts on Corruption, Global Standards to Combat Corruption in Police Forces/Services.
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- 269 Articles 2-4, United Nations Declaration on Crime and Public Security, General Assembly Resolution 51/60, annex.
- 270 Article 9, United Nations Declaration on Crime and Public Security, General Assembly Resolution 51/ 60, annex.
- 271 Article 3, Model Treaty on Extradition, General Assembly resolution 45/116, as amended by Resolution 52/88.
- 272 Preamble, Model Treaty on Mutual Assistance in Criminal Matters, General Assembly Resolution 45/117, as amended by Resolution 53/112.
- 273 Article 1(2), Model Treaty on Mutual Assistance in Criminal Matters, General Assembly Resolution 45/ 117, as amended by Resolution 53/112.
- 274 Articles 1 and 6, Model Treaty on Mutual Assistance in Criminal Matters, General Assembly Resolution 45/117, as amended by Resolution 53/112.
- 275 Article 8, Solemn Declaration on a Common African Defence and Security Policy.
- 276 Paragraph A(1)(ii), "The Building Blocks of A Common African Defence and Security Policy", Solemn Declaration on a Common African Defence and Security Policy.
- 277 Articles 4(a) and 16-17, The Nairobi Protocol for the Prevention, Control and Reduction of Small Arms and Light Weapons in the Great Lakes Region and the Horn of Africa, 2004.

Indicators for the Common Standards for Policing in the East African Community (EAC) were approved in 2019 by the East African Police Chiefs Cooperation Organisation (EAPCCO). Their approval is a concrete regional commitment to developing an approach to policing that reflects the legal, political and community demands for good governance and rule of law within the East African region.