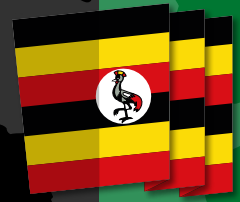


COMMON STANDARDS FOR POLICING IN EAST AFRICA: UGANDA



Assessment of the Uganda Police Force's progress
towards meeting the Common Standards



**RAOUL
WALLENBERG
INSTITUTE**

 Sweden
Sverige
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Government of Sweden

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**RAOUL
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INSTITUTE**
OF HUMAN RIGHTS AND HUMAN DEVELOPMENT



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African Policing Civilian Oversight Forum (APCOF)

Building 23b, Suite 16
The Waverley Business Park
Wyecroft Road
Mowbray, 7925
Cape Town, ZA

Tel: +27 21 447 2415
Fax: +27 21 447 1691
Email: info@apcof.org.za
Web: www.apcof.org.za

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ABBREVIATIONS AND ACRONYMS

| | |
|----------------|--|
| AChHPR | African Charter on Human and Peoples' Rights |
| ACHPR | African Commission on Human and Peoples' Rights |
| ACTV | African Centre for the Treatment and Rehabilitation of Torture Victims |
| APCOF | African Policing Civilian Oversight Forum |
| CAT | Committee against Torture (United Nations) |
| CEDAW | Convention on the Elimination of All Forms of Discrimination against Women |
| CHRI | Commonwealth Human Rights Initiative |
| CRC | Convention on the Rights of the Child |
| CRPD | Convention on the Rights of Persons with Disabilities |
| CSO | civil society organisation |
| EAC | East African Community |
| EAPCCO | East African Police Chiefs Cooperation Organisation |
| GIS | geographic information system |
| HURINET | Human Rights Network Uganda |
| ICCPR | International Covenant on Civil and Political Rights |
| ICRC | International Committee for the Red Cross |
| IGG | Inspectorate of Government |
| IGP | Inspector General of Police |

| | |
|--------------|--|
| JLOS | Justice, Law and Order Sector |
| LGBTI | lesbian, gay, bisexual, transgender, intersex |
| MoU | memorandum of understanding |
| ND | no data |
| NGO | non-governmental organisation |
| NHRI | national human rights institution |
| PSU | Professional Standards Unit, Uganda Police Force |
| RPC | Regional Police Commander |
| RWI | Raoul Wallenberg Institute for Human Rights |
| SIU | Special Investigations Unit, Uganda Police Force |
| SOPs | Standard Operating Procedures (developed by EAC and EAPCCO) |
| SOs | Uganda Police Standing Orders |
| UHRC | Uganda Human Rights Commission |
| UN | United Nations |
| UNCAT | Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment |
| UPF | Uganda Police Force |

INTRODUCTION

The Common Standards for Policing in the East African Community (EAC) ('the Common Standards') were developed in 2010 through a collaborative process involving the EAC and the East African Police Chiefs Cooperation Organisation (EAPCCO), with technical support from partners at the African Policing Civilian Oversight Forum (APCOF) and the Commonwealth Human Rights Initiative (CHRI). The Common Standards establish an agreed framework for policing in the EAC, based on existing regional and international human rights commitments made by EAC member states, and aim to promote improved police effectiveness and respect for human rights across the region. They provide a de facto code of conduct for policing in EAC member states (Burundi, Kenya, Rwanda, South Sudan, Tanzania and Uganda), and, through the active participation of EAPCCO, for police organisations more broadly across the region (Comoros, Djibouti, Eritrea, Ethiopia, Seychelles, Somalia and Sudan).

The Common Standards were initially developed to support the objective of improved policing, first mentioned in the EAC Development Strategy 2006–2010. This objective proposed that a memorandum of understanding (MoU) between EAC police organisations be finalised, and that their training and grades be harmonised. While these first steps towards a regional policing model were primarily concerned with the more effective policing of cross-border organised crime, the Common Standards went further by articulating a framework for policing that spoke to the broader implementation of the EAC's four foundational pillars of good governance. These are: democracy and democratisation; anti-corruption and ethics; the rule of law and access to justice; and human rights and equal opportunities for all.

The final Framework for Good Governance in the EAC ('the Framework') went further to explicitly adopt a broader rights-based policing focus as part of its five related

objectives concerned with the rule of law. These include the development of common standards and practices for the police in the EAC; the protection of rights of marginalised communities in the justice system; and the enactment of regionally shared oversight mechanisms pertaining to law enforcement agencies.

Accordingly, the Framework reflects the importance of this broader notion of rights-based policing as part of an effective criminal justice system in achieving good governance. Policing is a complex system concerned with far more than simple law enforcement, and is reflective of broader social, political and economic dynamics of the society in which it occurs. Policing that is democratic, rights-based and fair can only occur within a society which shares these same values, and, as such, it is paramount that the demand for good policing is reflective of the need for a shared set of values and normative understandings more broadly.

The adoption of the Common Standards represents a concrete regional commitment to developing an approach to policing that reflects these demands for good governance across the region. Their adoption 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 standard for policing within a rights-based framework. The implementation of the Common Standards is an important opportunity to operationalise a progressive standard for rights-based policing, based on regional and international law. Their implementation will therefore become the measure against which that shared vision for policing is given support at the regional level, and promoted at national level.

To date, implementation of the Common Standards has enjoyed sustained commitment by the EAC and EAPCCO. In 2012, the Common Standards were translated into the language of technical operational policing through the adoption of model Standard Operating Procedures (SOPs) on stop and search, arrest and detention, use of force, and public order management. The EAC and EAPCCO have also developed a practice-oriented human rights training manual for police officers, based on the Common Standards and their corresponding SOPs, which has been used as the basis for regional and national training in Uganda, Tanzania and Ethiopia.

What is less clear is the extent to which the implementation efforts at regional level have translated into improved rights-based policing practices at the national level in EAC and EAPCCO member states. To date, there has been no formal assessment of each member's compliance with the Common Standards to identify progress, good practice, and development needs.

To address this issue, the EAC and EAPCCO, together with their technical partners from APCOF and the Raoul Wallenberg Institute for Human Rights (RWI), have embarked on a project to conduct evidence-based assessments of EAC member states' implementation of the Common Standards, and to identify areas where further support can be provided to member states in order to translate the Common Standards into quantifiable improvements to policing effectiveness, cooperation and rights compliance.

Working together with technical partners from APCOF and RWI, the EAC and EAPCCO have developed an agreed set of indicators and measures for the Common Standards that will allow nuanced regional and country-specific studies. The aim of conducting these studies is to promote compliance with the Common Standards, and provide a platform for engagement between the region's police organisations and their stakeholders to identify areas for support and development towards meeting not only the Common Standards, but also, through them, broader goals of good governance as well as rule-of-law and human rights compliance across the region. This study into compliance by the Uganda Police Force with the Common Standards represents a first example of measuring and analysing the implementation of the Common Standards in individual countries.

METHODOLOGY

This study assesses the level of both the procedural and substantial implementation, and related challenges, in the implementation of the Common Standards in Uganda by the Uganda Police Force (UPF).

The value of this study is in its articulation of opportunities and challenges in the successful implementation of the Common Standards at the national level, and in identifying clear areas of development for support by the UPF and its stakeholders.

The assessment is based on a set of monitoring indicators for each article of the EAC Common Standards for Policing as developed by EAPCCO with the EAC, and regional partners from national human rights institutions (NHRIs), police agencies and civil society, and with the technical support of APCOF and the RWI. The initial indicators were prepared for testing, with the UPF agreeing to test the indicators in the first national assessment.

The methodological framework underpinning this study is derived directly from the Common Standards themselves. In the first instance, the Common Standards were reviewed in detail and an initial set of indicators developed. These were then reviewed at a meeting held in Nairobi on 9 and 10 May 2018, attended by the EAC and EAPCCO, as well as representatives of member states, police organisations, police oversight institutions, NHRIs, civil society organisations (CSOs), academics and the donor community. The process of revising the indicators during this consultation resulted in the tabulation of 170 individual indicators, ranging in form from questions of compliance to fiscal calculations and geographic information system (GIS) mapping algorithms. In collecting the raw data, an agreement was reached with the UPF to test the indicators in a Ugandan study, with a local partner from Human Rights Network Uganda (HURINET) contracted to do the data collection.

An inception meeting was held between the UPF and HURINET to prepare for the study. At this meeting, it was agreed not to include media reports and information from CSOs that did not have an MoU with the UPF. This was to ensure that reliable and verifiable information was provided. While media reports were used to identify key issues for further research, the absence of other credible information on policing and perceptions on policing in Uganda is a limitation to the study.

The study was conducted between July and August 2018.

During the analysis, several documents were requested by APCOF to support the analysis. These included:

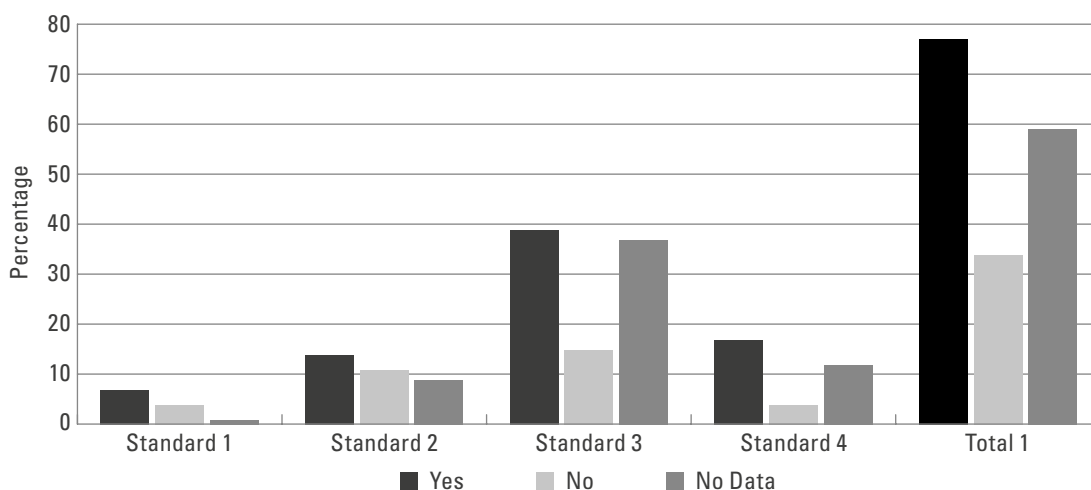
- The UPF Human Resources Policy;
- The UPF Resourcing and Distribution Plan;
- Further information on the UPF briefing sessions on local radio;
- The UPF Policy on the Child and Family Unit;
- The UPF Human Rights Training Module currently offered to all cadets at training schools;
- The UPF Anti-Corruption Strategy of 2019;
- The UPF Minimum Criteria for Recruitment;
- Legislation recently adopted that provides for officers' salaries to be included in the quantum of damages available to successful complainants in civil suits; and
- Parliamentary reports in which the UPF is reporting back to the relevant committees (Defence and Internal; Human Rights).

Unfortunately, this information was not provided and the report was completed in its absence.

The first results of the study were presented at a meeting held in Kampala on 14 August 2019.

In overview, the raw data responses can be tabulated thus:

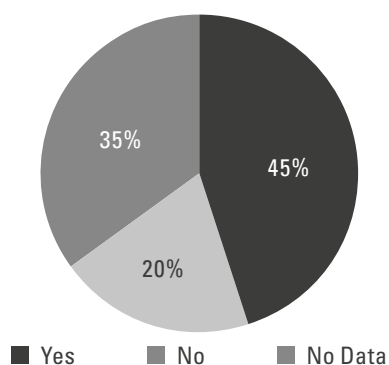
Figure 1: Raw response totals ($n = 170$)



From this raw data, a simple compliance calculation is possible, comprised of two concerns: firstly, in terms of whether there is the requisite governance architecture relating to each standard in place for the UPF to follow, and, secondly, in terms of whether the police adhere to these frameworks. In reflecting the total data set, the ratio of compliance versus non-compliance and no data (ND) returns can be represented.

Based on the raw data, the UPF has a total statistical compliance level of 71.5%, with non-compliance at 31.8%, as represented in Figure 2.

Figure 2: Raw total compliance ($n = 170$)



The UPF can, on the one hand, be commended for efforts made to establish and maintain an internationally accepted standard of policing, particularly in terms of legal and governance frameworks. However, on the other, there remains a need for further work to ensure that areas of non-compliance are identified and remedied through technical support at regional and local level. It is on this basis that the study aims to provide a set of recommendations that, in conjunction with the thematic areas identified, provide a starting point for programmatic interventions to promote the Common Standards at a regulatory and operational level within the UPF.

COMPLIANCE WITH **COMMON STANDARD 1: ROLE OF THE POLICE**

09

The police will:

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

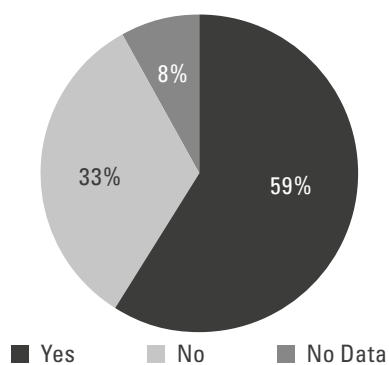
Common Standard 1 requires that the police protect life, liberty and security of the person. This requires the UPF to ensure that:

- Police actions are based on law and human rights;
- The police have a clear structure to implement the mandate;
- The police and public perceive the role of the police as protecting fundamental rights and freedoms; and
- The police are accessible to the public.

Quantitative results

The quantitative results indicate that the UPF has in place the requisite legislative framework and operational architecture to support Common Standard 1, and that there is general compliance with these mandates. In comparison with other results, these results are reported with the most confidence, as 92% of the indicators were answered by respondents.

Figure 3: Standard 1 compliance (n = 12)



Qualitative results

Police actions are based on law and human rights

Uganda has ratified most key international and regional human rights treaties, and the national legislative and policy framework governing policing reflects human rights values and provides guidance on what it means for the police to protect and uphold fundamental rights and freedoms. Operationally, however, there are challenges in the implementation of the legislative and policy framework.

Through its ratification of a range of international, continental and regional human rights treaties, Uganda has made legal and political commitments to uphold and protect human rights and the rule of law, including in relation to the establishment, conduct and oversight of its law enforcement agencies. Sub-regionally, Uganda is a party to the Treaty for the Establishment of the East African Community, which formed the foundation of the work towards establishing and monitoring compliance with a Common Standard for Policing in East Africa.¹ At the African regional level, Uganda's commitments include compliance with the African Charter on Human and Peoples' Rights (AChHPR),² and its Protocol on the Rights of Women in Africa,³ and the African Charter on the Rights and Welfare of the Child.⁴ At the international level, relevant treaties include the International Covenant on Civil and Political Rights (ICCPR),⁵ the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT),⁶ the Convention on the Rights of the Child (CRC),⁷ the Convention on the Rights of Persons with Disabilities (CRPD),⁸ and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).⁹

- 1 Ratified on 7 July 2000.
- 2 Ratified on 10 May 1986.
- 3 Ratified on 22 July 2010.
- 4 Ratified on 17 August 1994.
- 5 Ratified on 21 June 1995.
- 6 Ratified on 3 November 1986.
- 7 Ratified on 7 August 1990.
- 8 Ratified on 25 September 2008.
- 9 Ratified on 22 July 1985.

At the national level, these regional and international human rights commitments have been translated into a rights-based legal and regulatory framework for policing through the Constitution of the Republic of Uganda ('the Constitution')¹⁰ and legislation that governs the conduct of the police.

Chapter Four of the Constitution sets out the rights and freedoms that will be respected, upheld and promoted by all organs and agencies of the state, which includes the UPF. The rights and freedoms with particular relevance to policing include:¹¹

- Equality and freedom from discrimination;
- Protection of the right to life;
- Protection of personal liberty;
- Respect for human dignity, and protection from torture and other ill-treatment;
- Protection from deprivation of property;
- The right to privacy of persons, home and other property;
- The right to a fair trial; Protection of freedom of conscience, expression, movement, religion, assembly and association;
- The right to affirmative action for marginalised groups;
- The rights of women, children and persons with disabilities;
- The right of access to information; and
- Prohibition on derogations from the right to freedom from torture and other ill-treatment, a fair hearing or habeas corpus.

Furthermore, constitutional interpretation in Uganda also allows for the protection of rights which are not specifically mentioned in the Constitution but which are otherwise embodied in ratified international treaties.¹² This allows for the continuous application of progressive developments in human rights to the Ugandan legal framework, and that of the UPF, without the burden of formal constitutional amendment.

The framework that governs the conduct of the police articulates the rights afforded to persons who are in contact with the police (whether as witnesses, suspects or victims) and establishes the rules for the treatment of persons deprived of their liberty. These are embodied in legislative instruments, including the Penal Code Act, the Criminal Procedure Code, the Police Act and its Regulations, the Prohibition of Torture Act, and the Children's Act, among others.

Significantly, the UPF has established a Human Rights Policy (2019) which is aimed at creating an operational level to improve and 'strengthen the conduct of police officers in the observance, protection and promotion of human rights so as to improve service delivery to every citizen and all the people'.¹³ The Policy contains a number of operative

10 Ratified on 17 August 1994.

11 Constitution of the Republic of Uganda, 1995, as amended in 2000 and 2005 (the Constitution), Articles 21–24, 26–29, 32–35, 41, and 43–44.

12 The Constitution, Article 45.

13 Uganda Police Force, *Human Rights Policy*, 2019, Foreword by J.M. Okoth-Ochola (Esq.), Inspector General of Police, at i.

clauses that provide details on how broad human rights protections in the Constitution and the legislative framework should be operationalised by the UPF. This includes clauses in relation to:

- Key human rights principles such as accountability, non-discrimination, transparency, dignity, empowerment and the rule of law (Chapter Two);
- Operational areas such as investigations, arrests, detention and searches, including special provisions for children, women and persons with disabilities (Chapter Three);
- The use of force (Chapter Four);
- Public order management and the policing of assemblies (Chapter Five); and
- Policing of elections (Chapter Six).

The Policy also acknowledges that the living and working conditions of the police are both, of themselves, human rights issues that require addressing, as well as fundamental building blocks for promoting a culture of rights-based policing within the ranks of the police.¹⁴ Importantly, the Policy also includes a built-in enforcement, implementation and monitoring system to ensure that the Policy is mainstreamed in the work and practices of the UPF, in partnership with key stakeholders, and that specific roles are allocated to various stakeholders within the UPF, from the Police Authority down to individual officers.¹⁵ Although it is too early to know the impact that the Policy will have on improving human rights compliance by the UPF, its establishment demonstrates a commitment at management level to promote a culture of human rights within the Force.

The overall legislative and policy framework is generally consistent with the Constitution's Bill of Rights and begins with the articulation of the functions of the UPF as including the protection of 'life, property and other rights of the individual', and to '[enforcing] the laws of Uganda'. In terms of the regulatory framework governing police actions, there are some exceptions to this general compliance that include, notably, the scope of arrest powers,¹⁶ the rights afforded to persons detained by the police,¹⁷ and the use of firearms,¹⁸ which are discussed in more detail in relation to Common Standards 2 and 3 below.

However, the most significant challenge facing the UPF in terms of ensuring that its actions are based on law and human rights is not the constitutional and legislative framework itself, but how it is implemented at the organisational and individual level. The specific implementation challenges are discussed in detail in relation to the key human rights protections in Common Standards 2 and 3 and include issues regarding

14 Uganda Police Force, *Human Rights Policy*, 2019, at 19–21.

15 Uganda Police Force, *Human Rights Policy*, 2019, at 23–28.

16 As indicated in this study, arrests are not prescribed as a measure of last resort, except in the case of children in conflict with the law, in accordance with the Children's Act, sections 89 and 91(9).

17 As indicated in this study, internationally and constitutionally protected rights of persons in places of detention are not operationalised through legislation governing the Uganda Police Force and are found only in the Prisons Act, sections 57, 59 and 69.

18 As indicated in this study, the regulations governing the use of firearms by the Uganda Police Force are very permissive compared with international law, which requires that there be an imminent threat of death or serious injury, or a grave and proximate threat to life, before a firearm can be lawfully used.

torture and other ill-treatment, arbitrary arrest, conditions of detention, the use of force, and compliance with the 48-hour rule, among others. It is clear from this analysis that areas of support to strengthen the UPF's compliance with the Common Standards will lie in the command, training, supervision and oversight of officers in terms of their adherence to law and human rights in the discharge of their duties.

The police have a clear structure to implement the mandate

The law clearly defines the mandate of the police in terms of its responsibility to maintain public safety and social peace, and includes an implied responsibility to uphold the rule of law and fundamental human rights. There is a clear chain of command, particularly in the first line of supervision of police officers, to implement this mandate.

The Constitution and the Police Act clearly provide for, and define, the mandate of the UPF, which is to protect life and property, prevent and detect crime, maintain law and order, and maintain overall security and public safety in Uganda. Although a duty to uphold and protect the rule of law and human rights is not specifically included, the Constitution does provide for the functions of the UPF to embrace the more restrictive provision of protection of life and property, as well as the preservation of law and order, the prevention and detection of crime, and cooperation with civilian authorities and security organs.¹⁹ However, the Police Act is more explicit in terms of rights protections and provides for the functions of the UPF to include the protection of 'life, property and *other rights of the individual*' (emphasis added). This is in addition to other functions, which include the maintenance of security, the enforcement of the law, the preservation of public safety and order, and the prevention and detection of crime. The Act also allows for the UPF to perform the services of a military force and to carry out any other function assigned to it under the law.²⁰

At a policy level, the Human Rights Policy specifies the roles of various stakeholders within the UPF in implementing a rights-based approach to key operational areas, such as investigations, arrests, searches, detention, public order management, and the use of force. This includes the establishment of District and Divisional Human Rights and Legal Officers, as well as a role for individual officers to 'observe, protect and promote human rights at all times.'²¹

The Police Act also provides for operational mandates directed at individual police officers. These include obeying lawful orders and warrants, being on duty at all times and willing to serve at any station to which the individual may be assigned, preventing the commission of offences, detecting crime, and conducting lawful apprehensions of suspects.²²

To give effect to this mandate, the structure of the UPF is clearly set out in the Constitution and operationalised by the Police Act. The Constitution establishes the

19 The Constitution, Article 212.

20 The Police Act, cap 303 (the Police Act), section 4.

21 Uganda Police Force, *Human Rights Policy*, 2019, at 9.14(a).

22 The Police Act, section 21(a)–(i).

command of the UPF, led by the Inspector General of Police (IGP), and assisted by the Deputy IGP, both of whom are appointed by the President, on the approval of Parliament.²³ The operational command structure of the UPF is further provided by the Police Act, which establishes the regional and district police command structure,²⁴ as well as the composition of the Police Authority to advise the government on policy matters related to the management, development and administration of the UPF.²⁵ The Act further establishes the Police Council, an internal high-ranking body responsible for advising the Police Authority on the development and implementation of UPF policy, and for ensuring the efficient organisation and administration of the UPF.²⁶

The UPF is also governed by Police Standing Orders (SOs), which date back to 1984 and are currently in the process of revision.²⁷ The first chapter of the SOs details the command, organisation and ranks within the UPF, establishing the hierarchical transmission and implementation of orders and responsibilities.²⁸ The SOs affirm that police officers in charge of any police unit or body of police are responsible to the IGP through the normal chain of command, and are responsible for the control, superintendence and discipline of both staff police and civilians under their command.²⁹ The SOs also provide for the regional command system of the UPF, with the Regional Police Commander (RPC) at the helm of the chain of command in a particular region.³⁰ The RPC is the executive officer through whom the IGP's orders, advice, comments, corrections, awards and punishments are transmitted.³¹ The SOs also establish District Police Committees chaired by District Police Commanders and authorised to advise the Police Council on appointments, promotions, and other human resource matters.³²

The police and public perceive the role of the police as protecting fundamental rights and freedoms

While there is no available police survey on this indicator measure, available data indicates a lack of confidence on the part of the public in terms of the role of the police as protecting fundamental rights and freedoms.

There is no data available on the perceptions of police officials regarding their role in the protection of fundamental rights and freedoms. This data could provide important insight into whether human rights training, the development of a Human Rights Policy, and other interventions of the UPF's Human Rights Unit to promote a culture of human rights within the UPF has been internalised by the organisation, and regarding the type of targeted support that could be provided to promote such acceptance if not evidenced in the results of a perception study.

23 The Constitution, Article 213.

24 The Police Act, section 7.

25 The Police Act, sections 8–9.

26 The Police Act, sections 10–11.

27 Information received, on 14 August 2019, from the Uganda Police Force during discussions on the draft study.

28 Uganda Police Standing Orders, Volume I (Police Standing Orders, Vol. I), 7th edition, 1984, at 3.

29 Police Standing Orders, Vol. I, at 4.

30 Police Standing Orders, Vol. I, at 5.

31 Police Standing Orders, Vol. I., section 18.

32 The Police Act, section 12.

Available public survey data indicates a lack of confidence in the ability of the UPF to uphold and protect human rights in the exercise of its mandate. A study conducted to understand community perceptions of the UPF by HURINET found that 41% of respondents did not agree that the UPF respected human rights, while 32% neither agreed nor disagreed. Respondents specifically highlighted the following human rights concerns: the handling of suspects, especially during arrest; the parading of arrested persons before the media, which raises issues of the right to privacy and the presumption of innocence; lack of compliance with the 48-hour rule; slow investigations and follow-up of cases; and restrictions on freedom of assembly and association.³³ Similarly, 65% of respondents averred that the police do not respect the rule of law, while only 27% maintained that, despite the challenges facing the UPF, it tries to adhere to the rule of law. Among the former respondents, the lack of respect by police for court orders was cited as a key issue.³⁴ Public perception is important, as it can reflect the willingness of the public to respect, trust, and cooperate with the UPF, all of which support UPF efforts aimed at effective policing.

The police are accessible to the public

The distribution of stations, personnel and resourcing available to the police makes the UPF geographically visible and accessible to the public, despite a low population-to-police-officer ratio.

15

Budget

The UPF receives a significant share of government expenditure, and this share has increased over time, as can be seen in Table 1.

Table 1: Public order and safety expenditure vs national budget

| Public order and safety | 2014/15 | | | 2014/15 | | |
|-------------------------|-------------|--------------|---------|--------------|--------------|---------|
| | Shs Million | USD | % share | Shs Million | USD | % share |
| Recurrent | UGX648 376 | \$17 200 700 | 10.9 | UGX843 587 | \$22 379 400 | 12.1 |
| Development | UGX136 752 | \$3 627 880 | 3.9 | UGX256 567 | \$6 806 430 | 7.4 |
| Donor | UGX12 417 | \$329 409 | 0.6 | UGX124 | \$3 290 | 0 |
| Total | UGX797 545 | \$21 157 989 | 15.4 | UGX1 100 278 | \$29 189 120 | 19.5 |

33 Mohammed Ndifuna (ed), 'Towards a Democratic and Accountable Policing Service: The Public Perception on the State of Policing in Uganda', November 2017, HURINET, at 83–87, available at https://www.hurinet.or.ug/download/police_reform_accountability/Public-Perception-on-the-State-of-Policing-in-Uganda-2017.pdf (accessed on 23 July 2019).

34 Ibid., at 88.

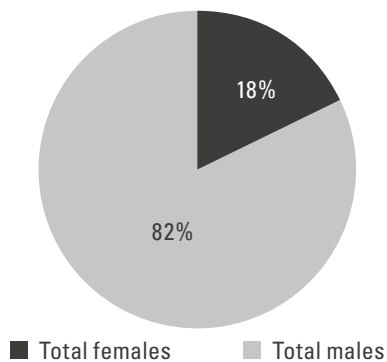
However, budget analysis by the Uganda Human Rights Commission (UHRC) and CSOs raises concerns regarding whether the allocation is adequate to provide effective policing services and to improve police efficiency and responses.³⁵ With the budget that is available, concerns have been raised about large internal UPF allocations on, for example, public order, at the expense of other priority issues such as infrastructure, salaries and equipment.³⁶

Human resourcing

As of 2015, the UPF had 44 897 members, an increase from 42 748 in 2012. The police-to-general-population ratio was 1:1 772 in 2015.³⁷ While there is no clear international standard on a policing-to-population ratio, the 2015 UPF ratio is significantly lower than the commonly cited 1:450 international standard, based on the United Nations' (UN) ratio during peace missions.³⁸

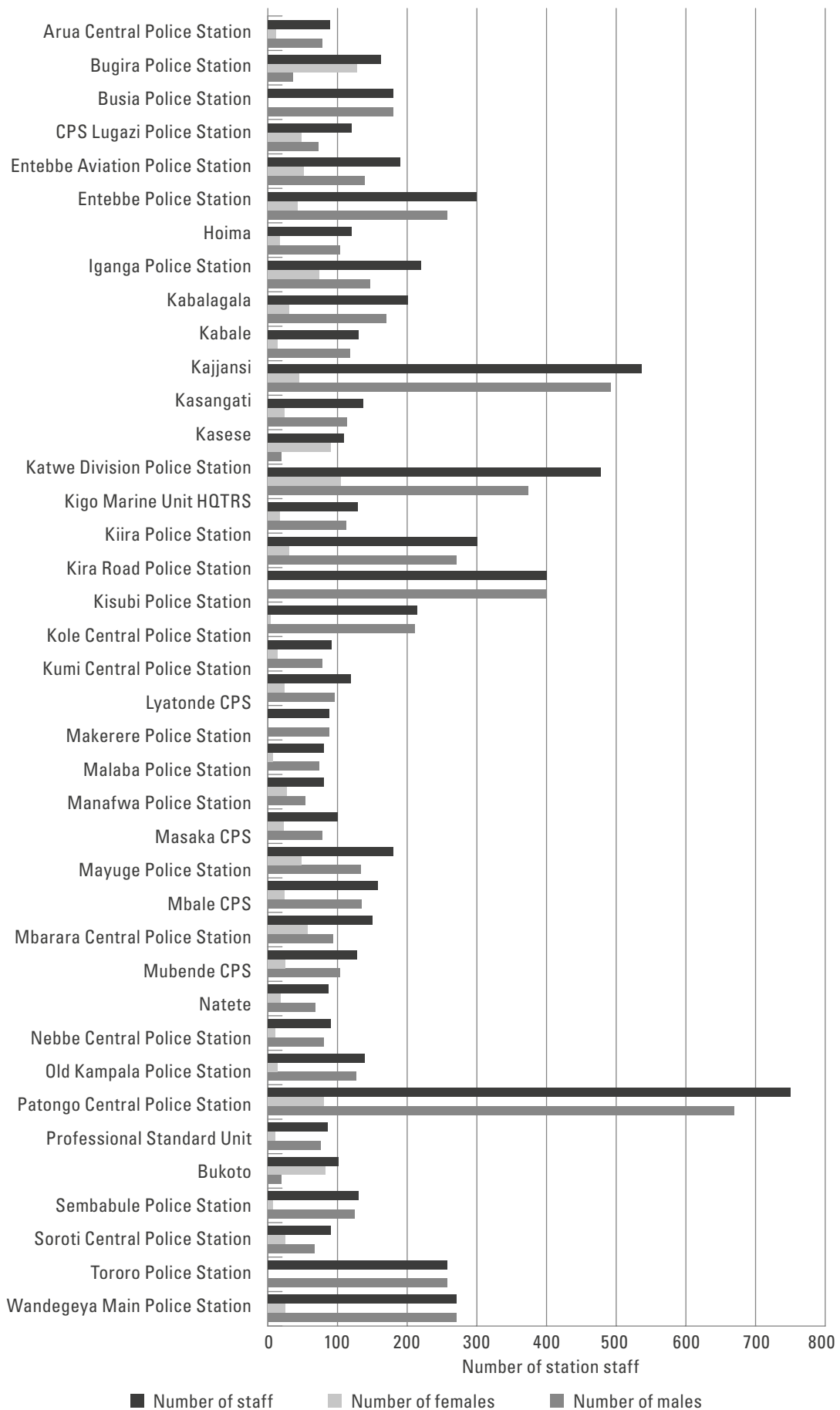
Based on the 2015 figures, 7 700 UPF members are women, which results in a women-to-men ratio of 1:5 – a fact indicating that policing remains very much a career path chosen by men. This is shown below, firstly in the overview at a national level, and secondly at a station level for a number of randomly chosen stations across the country. Having more women in the UPF is important, as research shows that lowering the women-to-men ratio in other jurisdictions has been instrumental in further effecting better and more rights-based policing responses, including lower incidents of use of force and higher reporting of crime by victims of rape and sexual assault.³⁹ The UPF has in place a policy that operational policing be comprised of 30% women officers. Despite efforts to encourage women to join the UPF, women have not applied in the numbers that allow the UPF to achieve that policy objective.⁴⁰

Figure 4: National staff sex ratio



- 35 Uganda Human Rights Commission, 2016, at xxiv, available at <http://apcof.org/wp-content/uploads/2016/07/APCOF-PTD-Uganda-Proof-3.pdf> (accessed on 12 July 2019). See, also, Sarah Mount, 'A Force for Good? Improving the Police in Kenya, Tanzania and Uganda', 2014, Commonwealth Human Rights Initiative, at 77, available at https://humanrightsinitiative.org/publications/police/A_FORCE_FOR_GOOD_Improving_the_Police_in_Kenya_Tanzania_and_Uganda.pdf (accessed on 1 August 2019).
- 36 Sarah Mount, 'A Force for Good? Improving the Police in Kenya, Tanzania and Uganda', 2014, Commonwealth Human Rights Initiative, at 84, available at https://humanrightsinitiative.org/publications/police/A_FORCE_FOR_GOOD_Improving_the_Police_in_Kenya_Tanzania_and_Uganda.pdf (accessed on 1 August 2019).
- 37 Uganda Police Force Statistical Abstract, 2015, at. viii.
- 38 Africa Check, 'Is There 1 Police Officer Serving Every 390 Kenyans, as Kenyatta Said?', 8 February 2018, available at <https://africacheck.org/reports/is-there-1-police-officer-serving-every-390-kenyans-as-kenyatta-said/> (accessed on 10 July 2019).
- 39 See, for example, Amie M. Shuck, et al., 'Women Police: The Use of Force by and against Female Officers', *Women & Criminal Justice*, Volume 16, Issue 4, 2005, pp. 97–117.
- 40 Information received, on 14 August 2019, from the Uganda Police Force during consultations on the draft study.

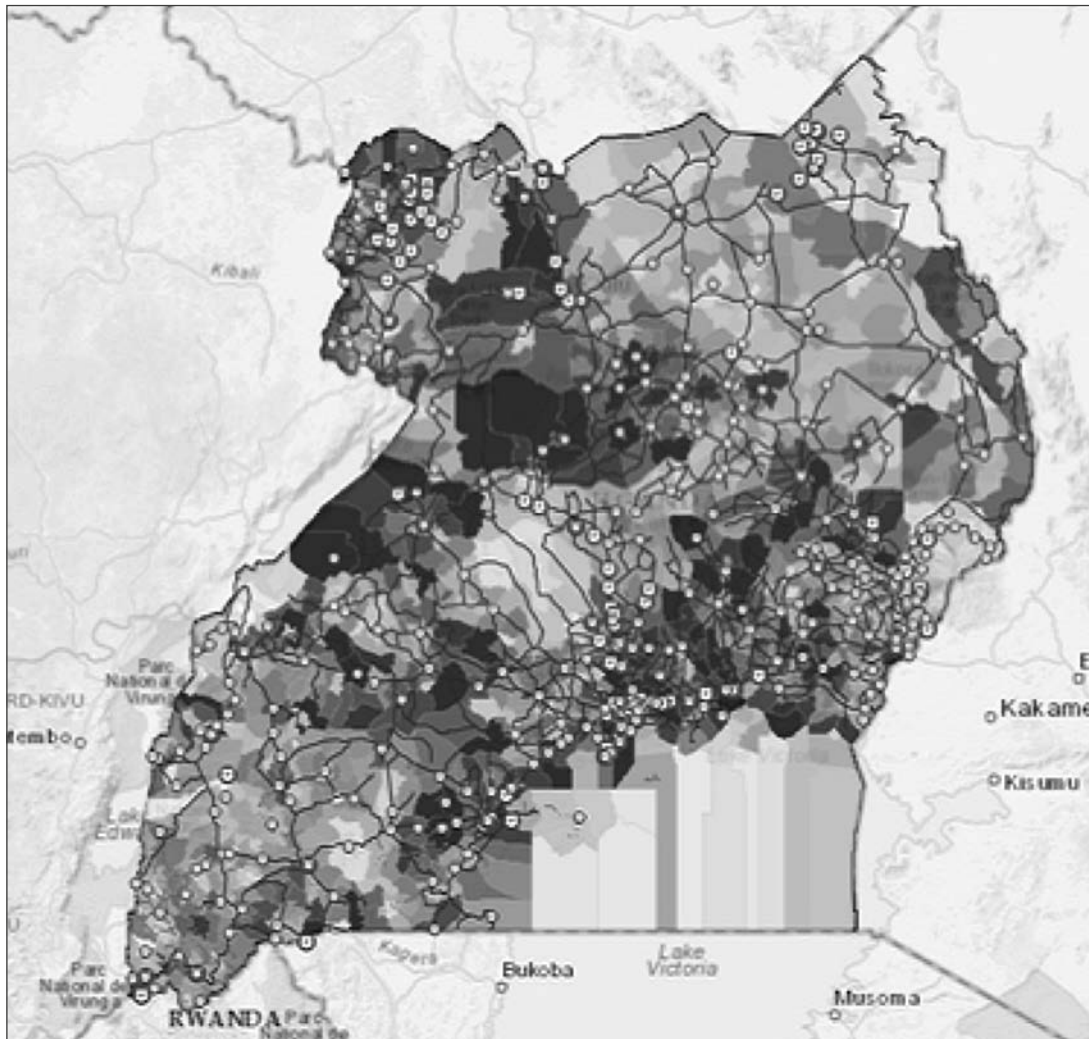
Figure 5: Select station staff v sex ratio distribution



Geographical distribution

While Uganda is a relatively small country, it does present a wide range of landscapes, many of which are in themselves difficult to police, and, as of 2016, a rural population of 83.56% of the total population.⁴¹ Nonetheless, as shown in Figure 6, the police are well spread out and the locations of stations and posts have been chosen owing to their strategic relevance. Such relevance is visible both at the level of the country itself and in narrowing the focus to the distribution of stations in Kampala itself.

Figure 6: Police station distribution (national)



Source: <https://www.upf.go.ug/wp-content/uploads/2018/07/UPF-Strategic-PLan-2015-2020.doc.pdf?x45801>

41 World Bank staff estimates based on the United Nations Population Division's World Urbanisation Prospects, reported in <https://www.indexmundi.com/facts/uganda/indicator/SP.RUR.TOTL.ZS> (accessed on 5 August 2019).

Approachability and community confidence in the context of accessibility

Visibility and proximity of policing services, reflected in the quantitative analysis above, are not the only or most accurate measures of police effectiveness and rights compliance. The commitment by the organisation and its individual officers to rights-based and equitable service delivery has as significant an impact on the issue of accessibility as budgetary, police-to-population ratios, police station distribution, and police transport.

Research by HURINET, the Foundation for Human Rights Initiative, the African Centre for the Treatment and Rehabilitation of Torture Victims, and the Human Rights Centre indicates that there is improved confidence in the police on the part of the community, and an increase in the demand for police services by members of the public. The research found that the UPF has increased its visibility in the community, and is working more closely with members of the public to prevent crime under the auspices of the neighbourhood watch programmes and through mechanisms such as community forums for discussing matters of security and policing services.⁴² However, other research suggests ongoing issues of accessibility, including the unavailability of members to the public and difficulties experienced by CSOs in accessing and meeting with UPF officials to discuss issues and promote dialogue.⁴³ The UHRC reports that accessibility is further hampered by lack of awareness on the part of the community about police processes, by language barriers, and by some community members being afraid of the police, and hence not being able to insist on their rights in accessing justice.⁴⁴

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- 42 Mohammed Ndifuna (ed), 'Towards a Democratic and Accountable Policing Service: The Public Perception on the State of Policing in Uganda', November 2017, HURINET, available at https://www.hurinet.or.ug/download/police_reform__accountability/Public-Perception-on-the-State-of-Policing-in-Uganda-2017.pdf (accessed on 23 July 2019).
- 43 Sarah Mount, 'A Force for Good? Improving the Police in Kenya, Tanzania and Uganda', 2014, Commonwealth Human Rights Initiative, at 81, available at https://humanrightsinitiative.org/publications/police/A_FORCE_FOR_GOOD_Improving_the_Police_in_Kenya_Tanzania_and_Uganda.pdf (accessed on 1 August 2019).
- 44 Uganda Human Rights Commission, *12th Annual Report, 2009*, at 13.

COMPLIANCE WITH

COMMON STANDARD 2: POLICING IN ACCORDANCE WITH THE RULE OF LAW

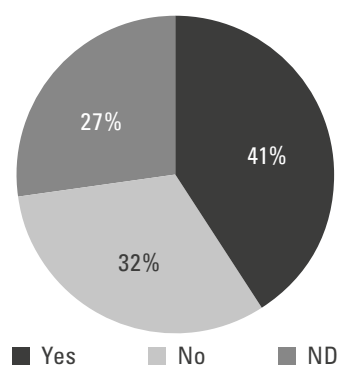
The police will fulfil their functions in accordance with the rule of law:

- a. The police will not arbitrarily arrest or detain, and will only deprive persons of their liberty in accordance with the law;
- b. 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;
- c. The police will act in a manner that upholds the presumption of an accused person’s innocence until proven guilty in accordance with the law;
- d. The police ensure that upon arrest, detention or charge, there is a presumptive right to bail or bond;
- e. The police ensure the right of detained persons 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;
- f. The police ensure that arrested and detained persons have access to interpreters and legal assistance, as required; and
- g. The police ensure that arrested and detained persons are treated humanely and kept under humane conditions.

Quantitative results

In quantifying the results, it is clear that the UPF has in place a legislative framework and operational architecture that largely supports compliance with Common Standard 2. However, the confidence factor in reporting this data is low, with 27% of the indicators not returning any data.

Figure 9: Standard 2 compliance (n = 34)



Qualitative results

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

The right to liberty and security of the person is guaranteed by law, and arrest is only permitted, inter alia, in the execution of a warrant or where the arresting officer has reasonable grounds to suspect that a person has or is about to commit an offence. However, in neither law nor practice are alternatives to arrest utilised, or detention treated as a measure of last resort, except in the context of juvenile justice where implementation of alternatives is not always evident. Although it is general practice that registers are maintained in police cells, this is not a legislative requirement. There are verifiable complaints about arbitrary arrest against the UPF, which contribute significantly to the numbers of complaints received by the UHRC against the UPF.

The right to liberty and security of the person is guaranteed by the Constitution.⁴⁵ Limitations on this right are only permitted in the context of an arrest or detention in the execution of a sentence or order of the court, where there is a reasonable suspicion that a person has committed, or is about to commit, a criminal offence under the laws of Uganda, or to prevent the spread of an infectious or contagious disease, among others.⁴⁶

⁴⁵ The Constitution, Article 23.

⁴⁶ The Constitution, Article 23, and the Police Act, section 23.

The UPF is authorised by law to carry out arrests,⁴⁷ and is required to exercise careful discretion when making an arrest without a warrant or summons.⁴⁸ In making an arrest, officers must ensure that the following rights of an arrested person are respected and are communicated to the arrested person:⁴⁹

- The right to life, dignity and freedom from discrimination as fundamental constitutional rights protections;
- The right to be held in a place sanctioned by law;
- The right to be informed, in a language that they understand, of the reasons for the arrest, restriction or detention, and of their right to a lawyer of their choice;
- The right to be brought to court as soon as possible, but not later than 48 hours after arrest;
- The right to have their next of kin informed, at their request and as soon as practicable, of the arrest or detention;
- The right of access to their next of kin, lawyer and personal doctor;
- The right to access medical treatment, including, at the request and at the cost of that person, access to private medical treatment;
- The right to bail;
- The right to compensation for unlawful arrest, restriction or detention;
- The right of habeas corpus;
- The right to protection from torture and other cruel, inhuman or degrading treatment or punishment; and
- The right to a fair trial.

The constitutional framework is supported by provisions regarding arrest in the UPF Human Rights Policy, which emphasises that all actions of UPF officers must be in accordance with the rule of law and that all persons deprived of their liberty are treated with humanity and with respect for their inherent dignity.⁵⁰ The Policy echoes the constitutional protections set out above, and expands them to include specific instructions that arrests are only to be made following a ‘thorough investigation’.⁵¹

Upon arrest, UPF officers can conduct a search of the suspect, with strict regard to decency and with women only permitted to be searched by a woman officer.⁵² The UPF Human Rights Policy further elaborates on the obligations of officers regarding searches, including the fact that suspects should be informed of the reason for the search prior to it being conducted, that a written record of the search be drawn up, including any items confiscated during the search (and receipts provided to the suspect), and that strip and internal body searches are only conducted in private, with

47 The Constitution, Articles 212 and 213, the Criminal Procedure Code Act of 1950 (‘Criminal Procedure Code Act’), and the Police Act, section 23.

48 Uganda Police Standing Orders, Vol. II, ‘Crime and the CID’, Chapter 14, sections 2 and 9.

49 The Constitution, Article 23.

50 Uganda Police Force, *Human Rights Policy*, 2019, at 3.1.1 and 3.2.

51 Uganda Police Force, *Human Rights Policy*, 2019, at 3.2(b).

52 Criminal Procedure Code Act, section 6.

the latter only being conducted by a trained medical professional upon the informed consent of the suspect, or by court order.⁵³ These more expansive provisions echo those at the African regional level, as set out in the Guidelines on the Conditions of Arrest, Police Custody and Pre-Trial Detention in Africa ('the Luanda Guidelines').⁵⁴ However, no information was available concerning compliance of UPF officers with the provisions of the law and policy with regard to searches.

During the carrying out of an arrest, the law provides that the police may use force if necessary, but only to the extent reasonable or necessary to apprehend the person.⁵⁵

Accountability measures are built into the legislative framework insofar as that, if officers of the UPF fail to respect the constitutional rights of arrested persons, recourse is available through the courts or the UHRC.⁵⁶

The legal framework pertaining to the right to liberty and to freedom from arbitrary arrest is largely compliant with a rights-based approach. However, it does not provide for the use of arrest as a measure of last resort. The only exception to this is the juvenile justice system, but there are reports that children in conflict with the law are not always diverted from the criminal justice system, despite the legal imperative for the UPF and other criminal justice actors to do so.⁵⁷

Furthermore, an important mechanism to ensure rights protection is the recording of information about arrested and detained persons, and access to that information by arrested persons, their lawyers, and oversight authorities. However, there is no provision in Ugandan law that requires such records to be maintained and made accessible at station level. The SOs do provide that the following be maintained at every station: a Station Diary Book in which all occurrences at a police station are to be recorded, including arrests; and a Lock-up Register, which records all information on detainees in police cells and indicates the length of time spent by each in custody.⁵⁸

Despite a legal framework that is largely compliant with a rights-based approach to arrest, implementation of the procedural safeguards for arrest is weak, and there are reports of significant levels of non-compliance with the right to freedom from arbitrary arrest. Of the 620 complaints of human rights violations registered by the UHRC against the UPF in 2016, 433 were attributed to unlawful arrest and detention and to deprivation of personal liberty beyond 48 hours.⁵⁹ In 2017, of the 621 complaints registered by the UHRC against the UPF, 294 concerned unlawful arrest and detention and deprivation of personal liberty beyond the 48-hour limit.⁶⁰ However, from the

53 Uganda Police Force, *Human Rights Policy*, 2019, at 3.4.

54 African Commission on Human and Peoples' Rights, Guidelines on the Conditions of Arrest, Police Custody and Pre-Trial Detention in Africa, adopted during its 55th Ordinary Session in Luanda, Angola, from 28 April to 12 May 2014, at Guideline 3(d).

55 Criminal Procedure Code Act, section 2(3). See, also, the Police Act, section 28, on the use of firearms.

56 The Constitution, Articles 50–55.

57 Children's Act, section 89 and 91(9). See, also, Penal Reform International, *A Review of Law and Policy to Prevent and Remedy Violence against Children in Police and Pre-Trial Detention in Uganda*, 2012, at 10.

58 Police Standing Orders, Vol. I, Chapter 8, sections 42–44.

59 Uganda Human Rights Commission, '19th Annual Report to the Parliament of the Republic of Uganda', 2016, at 210–211.

60 Uganda Human Rights Commission, '20th Annual Report to the Parliament of the Republic of Uganda', 2017, at 202.

format of reporting on the disposal of cases by the UHRC, it is difficult to track cases that were filed against the police and their result. What is known is that, in 2016, the UHRC referred 3 370 complaints to other justice agencies for action, of which 509 were criminal matters involving complaints against the police.⁶¹ In the same year, 593 complaints were disposed of successfully by the UHRC, with 140 being finalised as a result of mediation, 262 being closed on investigation, and 139 being disposed of at the UHRC Tribunal,⁶² though the percentage of cases dealing with police complaints that were disposed of is unknown.

An arrest can be arbitrary if it is based on discrimination of any kind, and there are persistent reports of arbitrary arrest on the basis of discrimination as a result of political affiliation (as discussed above), sexual orientation, gender identity (as discussed below), and socio-economic status. In terms of the latter, there are reports that UPF 'swooping exercises' disproportionately impact on poor and marginalised persons, and target, inter alia, sex workers, members of the LGBTI community, street vendors and street children⁶³ for offences as minor as being a rogue and vagabond, or idle and disorderly.

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

The law requires that suspects are promptly informed of the reason for the arrest, in a language that the person understands. However, implementation of this procedural right is reportedly weak.

Article 23(3) of the Constitution provides that a person arrested, restricted or detained must be informed immediately, in a language that the person understands, of the reasons for the arrest. This is reinforced by the UPF Human Rights Policy which requires that all persons be informed orally or in writing in a language and format that is accessible and understood by the arrested person. This provision mirrors the more expansive interpretation by the African Commission on Human and Peoples' Rights (ACHPR) of the provision of information to suspects in the Luanda Guidelines.⁶⁴ However, implementation of this procedural right is reportedly weak for a range of reasons, including the deliberate failure of arresting officers to afford arrested persons this important procedural right, a lack of resources for providing language interpreters or accessible formats, and a lack of community awareness that leads to low levels of demand for relevant information on arrest.⁶⁵

61 Uganda Human Rights Commission, '19th Annual Report to the Parliament of the Republic of Uganda', 2016, at 212–213.

62 Uganda Human Rights Commission, '19th Annual Report to the Parliament of the Republic of Uganda', 2016, at 215.

63 Human Rights Awareness and Promotion Forum, *The Implication of the Enforcement of Idle and Disorderly Laws and the Human Rights of Marginalised Groups in Uganda*, 2016.

64 Uganda Police Force, *Human Rights Policy*, 2019, at 3.1.1(e). See, also, African Commission on Human and Peoples' Rights, Guidelines on the Conditions of Arrest, Police Custody and Pre-Trial Detention in Africa, adopted during its 55th Ordinary Session in Luanda, Angola, from 28 April to 12 May 2014, at Guideline 5.

65 See United States Department of State, *2014 Country Reports on Human Rights Practices – Uganda*, 25 June 2015, available at <http://www.refworld.org/docid/559bd52f12.html> (accessed on 5 August 2019).

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

The law and policy protect the right to the presumption of innocence, with limitations regarding the burden of proof for bail applications. No data was available regarding the UPF's current approach to investigative interviewing and safeguards against self-incrimination, torture, and other ill-treatment in an interview environment.

The Constitution guarantees all accused persons the right to be presumed innocent until proven guilty, or until such person has pleaded guilty,⁶⁶ and protects the right to freedom from self-incrimination.⁶⁷ However, the presumption of innocence is subject to limitations which allow for the reversal of the burden of proof, contrary to international law.⁶⁸ For example, with regard to granting of bail, the burden of proof is on the suspect to demonstrate that they qualify for bail, which raises concerns in relation to the presumptive right to bail or bond discussed below.⁶⁹

The UPF Human Rights Policy has a section that specifically provides for investigations in the context of rights-based policing practices. In terms of such section, officers are to respect a range of human rights, including the presumption of innocence, the right to silence, the right to freedom from self-incrimination, the right to privacy and the right to a fair trial, as well as the prohibition against torture and other ill-treatment.⁷⁰ The Policy makes it clear that the only purpose of investigation is to identify victims, recover evidence, discover witnesses, discover the cause, manner and location of a crime, and identify and apprehend perpetrators.⁷¹ However, in terms of operational practice, no data was available regarding current investigative interviewing to allow for an assessment of the extent to which the framework governing UPF interviews and interrogations complies with the presumption of innocence.

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

The law provides for custody time limits of no more than 48 hours from the time of arrest until a person is brought before a judicial authority for a bail determination, unless released earlier on police bond. However, except in policing policy, bail is not considered to be a presumptive right in Uganda, and there is significant non-compliance based on the prevalence of 48-hour rule violations in complaints received by the UHRC against the UPF.

66 The Constitution, Article 28(3)(a).

67 The Constitution, Article 28(11).

68 The Constitution, Article 28(4).

69 *FHRI v Attorney General*, Constitutional Appeal No. 3 of 2009.

70 Uganda Police Force, *Human Rights Policy*, 2019, at 3.1.

71 Uganda Police Force, *Human Rights Policy*, 2019, at 3.1.1.

The Constitution guarantees the right of all persons arrested or detained to be brought to court as soon as possible, but not later than 48 hours from the time of their arrest.⁷² The Police Act further directs that, on arresting a suspect without a warrant, the UPF bring such person before a magistrate within 48 hours, unless released earlier on bond.⁷³ Bail does not, however, enjoy the status of a presumptive right in Uganda.⁷⁴ Such a presumptive right would require the burden of proof to be on the state (including the UPF) to show why bail should *not* be granted in the circumstances. In addition to the challenges inherent in the legal framework regarding bail, the UPF also report that there are practical challenges in the uptake and use of bail by officers. These are associated with concerns regarding suspicion of corruption, or fear of mob justice, if suspects are released back into the community.⁷⁵ However, the UPF's Human Rights Policy does recognise a presumptive right to bail or bond, which is in line with Uganda's obligations under the AChHPR as interpreted by the Luanda Guidelines.⁷⁶

Implementation of the 48-hour rule is weak, which contributes significantly to complaints received by the UHRC against the UPF. In 2018, the UHRC registered 323 complaints of infringement of the right to personal liberty specifically related to detention beyond 48-hours, which accounted for 34.5% of the total 936 complaints of human rights violations registered.⁷⁷ The UHRC notes that this represents a broader trend over the past ten years, as it consistently receives between 181 and 438 complaints annually of detention beyond the 48-hour limit (peaking in 2016 at 438 complaints).⁷⁸ The UHRC has also expressed concern at the number of complaints of prolonged detention and torture received against the UPF Special Investigations Unit (SIU).⁷⁹

The Justice, Law and Order Sector (JLOS) has reported that implementation of the 48-hour rule is hampered by a range of factors, including:

slow investigations caused by lack of training in professional investigative procedures, inadequate provision of equipment for efficient and quick investigations, overreliance on confessions, delays by resident state attorneys, corruption, a backlog of court cases, too few judges, inadequate legal aid services, the [deliberate] detention of suspects beyond 48 hours ... and the practice on the part of the police of arresting perceived suspects before concluding investigations.⁸⁰ The last observation has been echoed by the UHRC, which notes that the practice of arresting suspects before the conclusion of

72 The Constitution, Article 23(b).

73 The Police Act, section 24.

74 *Foundation for Human Rights Initiative v Attorney General*, Constitutional Petition No. 20 of 2006 [2008] UGCC 1 (26 March 2008).

75 Information received, on 14 August 2019, from the Uganda Police Force during discussions on the draft study.

76 Uganda Police Force, *Human Rights Policy*, 2019, at 3.3(b). See, also, African Commission on Human and Peoples' Rights, Guidelines on the Conditions of Arrest, Police Custody and Pre-Trial Detention in Africa, adopted during its 55th Ordinary Session in Luanda, Angola, from 28 April to 12 May 2014, at Guideline 7(a).

77 Uganda Human Rights Commission, *21st Annual Report*, 2018, at 4.

78 Uganda Human Rights Commission, *21st Annual Report*, 2018, at 4.

79 Uganda Human Rights Commission, *21st Annual Report*, 2018, at 5.

80 Justice, Law and Order Sector, *Annual Performance Report 2014/2015*, summarised by Roselyn Karugonjo-Segawa, 'Pre-Trial Detention in Uganda', African Policing Civilian Oversight Forum and Uganda Human Rights Commission, 2016, at 7, available at <http://apcof.org/wp-content/uploads/2016/07/APCOF-PTD-Uganda-Proof-3.pdf> (accessed on 12 July 2019).

investigations not only has an impact on the length of time detainees spend in detention beyond the 48-hour limit, but also negatively impacts the work flow of other justice sector stakeholders, such as the Directorate of Public Prosecutions.⁸¹ The causes of delayed investigations by the UPF have been observed by the UHRC as including 'lack of motivated, skilled and specialised human resources; lack of equipment for investigations; use of a manual system to store and retrieve files, many of which went missing in the process; corruption', and lack of capacity to conduct scientific investigations.⁸²

The UHRC has also observed that the absence of courts in the vicinity of police stations, as well as a lack of vehicles, make compliance difficult, with better compliance with the 48-hour rule occurring at stations located close to court facilities.⁸³ This is supported by research which reveals that infrastructure challenges, such as lack of transport and means of communication, contribute to the challenge, particularly in rural areas.⁸⁴

The judiciary has recognised that detention in police custody beyond 48 hours constitutes illegal detention.⁸⁵ It has awarded compensation to complainants in a number of cases, has reaffirmed that the 48-hour rule is a fundamental component of the constitutional right to liberty, and has indicated that violations of the rule create an unacceptable risk of torture and other ill-treatment.⁸⁶ The UHRC has also emphasised that police detention facilities, which face significant challenges in terms of the provision of food, water and basic hygiene facilities, are not suitable for long stays.⁸⁷

The police ensure the right of detained persons 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

The right to habeas corpus is a constitutional guarantee, and both the UHRC and the courts have made findings/awarded compensation in civil claims against the police for unlawful detention. However, there are issues regarding accessibility to the courts, which limit the availability of habeas corpus in practice.

The Constitution guarantees the right of all persons to apply for a writ of habeas corpus as a non-derogable right.⁸⁸ However, both the UHRC and the UN Committee against Torture (CAT) have expressed their concern that the limitations on access to habeas

81 Uganda Human Rights Commission, *21st Annual Report*, 2018, at 5.

82 Uganda Human Rights Commission, *21st Annual Report*, 2018, at 6.

83 Uganda Human Rights Commission, *12th Annual Report*, 2009, at 87.

84 Sarah Mount, 'A Force for Good? Improving the Police in Kenya, Tanzania and Uganda', 2014, Commonwealth Human Rights Initiative, at 76, available at https://humanrightsinitiative.org/publications/police/A_FORCE_FOR_GOOD_Improving_the_Police_in_Kenya_Tanzania_and_Uganda.pdf (accessed on 1 August 2019).

85 *Omar Awadh Omar and 10 others v Attorney General*, Constitutional Petition Numbers. 55 & 56 of 2011.

86 See, for example, *Kidega Alfonso v Attorney General*, High Court Civil Suit No. 4 of 2000 [2008] UGHC 86 (June 2008). See, also, Uganda Human Rights Commission, *17th Annual Report*, 2014, at 18.

87 Uganda Human Rights Commission, *17th Annual Report*, 2014, at 18.

88 The Constitution, Articles 29(9) and 44(d).

corpus by potential complainants limit its effectiveness in practice. These concerns centre on the lack of awareness by potential complainants of their right to seek compensation, with suspects remaining without judicial review of their detention for 'significantly longer periods' than the 48 hours prescribed by law.⁸⁹

There are also concerns generally about the capacity of the UPF to meet its liabilities when awards of compensation are made against it by the courts in civil claims. According to information provided by HURINET, UGX1.2 billion in civil claims against the police has been awarded by the courts, but the UPF has only allocated UGX75 million for the payment of such claims.⁹⁰ Part of recognising the right to compensation is making adequate budgetary allocations to ensure that this right is realised in practice in respect of complainants who have been granted awards by the courts. Legislation was recently enacted that may partly address the issue of funding allocation, with the salary of officers against whom a civil judgment is made being available as part of the funds from which the court can order that a payment be made to successful claimants.⁹¹

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

The law guarantees the right of all accused persons to the services of a lawyer. However access to a lawyer is limited in practice because of limited knowledge of the right by arrested persons, and the lack of comprehensive provision for legal aid services.

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The Constitution provides for the right to have a lawyer of one's choice and for the lawyer to be informed of the arrest.⁹² In practice, access to legal services by arrested persons is limited for a number of reasons. As noted above, suspects are not always informed of their rights by arresting officers and are thus not aware of their constitutional right to legal representation from the moment of arrest. Even when they are aware of their rights, suspects may not be able to afford a lawyer, and legal aid services are generally limited to matters that attract sentences of life imprisonment or death.⁹³ For foreign nationals and persons with disabilities, access-to-justice issues are further compounded by the lack of available language and sign-language interpreters and other services available to the UPF. This constrains affected persons and suspects in their ability to, respectively, access policing services and their rights on an equal basis with others.⁹⁴

The UPF has no influence over the legal aid policy or budget in Uganda, nor over the provision of resources for interpretive services, which means that issues of availability and affordability of legal and interpretive services are outside the organisation's sphere of control. However, the UPF can improve training, supervision

89 Committee against Torture, Concluding Observations: Uganda, CAT/C/CR/34/UGA, at 6(b). See, also, Uganda Human Rights Commission, *12th Annual Report*, 2009, at 87.

90 Information provided by HURINET to the report authors.

91 Information provided, on 14 August 2019, by HURINET during consultations on the draft study.

92 Constitution, Article 23.

93 Constitution, Article 38(3)(e).

94 Uganda Human Rights Commission, '20th Annual Report to the Parliament of the Republic of Uganda', 207, at 23, available at www.uhrc.ug (accessed on 23 July 2019).

and oversight of arresting officers regarding the notification and provision of rights at arrest. This will ensure that suspects know of their right to access legal and interpretive services from the moment of the arrest. It will also ensure the facilitation of legal services at all stages of the investigation, including during questioning. It should be noted that there are reports that officers have denied suspects this right at such stages.⁹⁵

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

The law protects all persons from cruel, inhuman or degrading treatment. However the conditions of detention in police custody significantly compromise the UPF's compliance with the obligation to ensure humane treatment and conditions during detention. The UHRC conducts independent monitoring of places of detention, including police cells.

The Constitution guarantees respect for human dignity and protection from inhuman treatment, which extends to all persons, including those in police custody.⁹⁶ The UPF Human Rights Policy provides an expansive set of operational guidelines regarding detention and the duties of detaining officers, and these are consistent with the international legal framework on this matter, most notably the Luanda Guidelines.⁹⁷ In particular, the Policy sets out a range of procedural guarantees for persons deprived of their liberty in police custody, including the right to be held in humane conditions in a gazetted place of detention which is subject to independent monitoring by the UHRC. Included in the Policy are provisions relating to the duties of individual detaining officers.⁹⁸ The Policy encompasses:⁹⁹

- Regular and periodic checks on detainees to ensure their safety and security and dietary needs;
- Provision of adequate nutrition that meets basic dietary needs of detainees, including the adoption of special measures to accord with the religious and moral beliefs of detainees;
- Immediate reporting of any mistreatment of detainees;
- Restrictions on the use of instruments of restraint;
- Provision of reading and writing materials for detainees;
- Prohibition against torture;
- Training, and assignment, of at least two officers in psychological care and counselling;

95 US State Department, *Uganda 2014 Human Rights Report*, at 8.

96 Constitution, Article 24.

97 African Commission on Human and Peoples' Rights, *Guidelines on the Conditions of Arrest, Police Custody and Pre-Trial Detention in Africa*, adopted during its 55th Ordinary Session in Luanda, Angola, from 28 April to 12 May 2014, at Part 2.

98 Uganda Police Force, *Human Rights Policy*, 2019, at 3.3.1 and 3.3.4.

99 Uganda Police Force, *Human Rights Policy*, 2019, at 3.3.4.

- Assessment of detainees for illness (physical and mental) or drug/alcohol use; and
- Establishment of good working relationships with the International Committee for the Red Cross (ICRC).

The Human Rights Policy further elaborates on the specific protections for detainees who are women and children or who present with a disability. These are discussed in more detail in Section 5 below.

While the provisions regarding the procedural safeguards for detainees are a very positive step, no information was available concerning general compliance with these safeguards. Furthermore, the Human Rights Policy does not elaborate on the physical conditions of detention. In that regard, information relating to the conditions of detention in Uganda's police stations and posts indicates that holding cells are dilapidated and overcrowded, and have inadequate space, lighting, ventilation, food, water and provisions for health care.¹⁰⁰

There are regular inspections of police stations and posts by institutions independent of the UPF. In 2018, the UHRC conducted inspection visits to 409 police stations and 384 police posts, and, while it noted that some improvements had been made, there were still human rights concerns requiring increased funding for the UPF by the Ministry of Finance, Planning and Economic Development to ensure humane detention facilities. Among the challenges observed were the continued use of the bucket waste-disposal system.¹⁰¹ Further, the UHRC expressed concern that violations of the 48-hour rule exposed detainees to torture and other challenges resulting from poor conditions of detention in police custody.¹⁰² The extent of compliance by the UPF with recommendations made by the UHRC following inspection and monitoring visits is not known. However, the UPF did note that it reports directly to the Parliament of Uganda on all recommendations made by entities such as the UHRC.¹⁰³ The UPF is progressively endeavouring to address the conditions and accessibility of station buildings and posts through new builds when funding is available, and through renting new premises.¹⁰⁴

100 Roselyn Karugonjo-Segawa, 'Pre-Trial Detention in Uganda', African Policing Civilian Oversight Forum and Uganda Human Rights Commission, 2016, at 12, available at <http://apcof.org/wp-content/uploads/2016/07/APCOF-PTD-Uganda-Proof-3.pdf> (accessed on 12 July 2019).

101 Uganda Human Rights Commission, *21st Annual Report*, 2018, at xxiv.

102 Uganda Human Rights Commission, *21st Annual Report*, 2018, at 5.

103 Information received, on 14 August 2019, from the Uganda Police Force during a discussion on the draft study.

104 Information received, on 14 August 2019, from the Uganda Police Force during a discussion on the draft study.

COMPLIANCE WITH

COMMON STANDARD 3:

POLICE ACTIONS

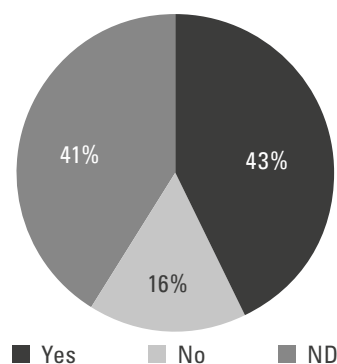
The police will act in a manner that:

- a. 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;
- b. Upholds the right to life, liberty and security of the person;
- c. Ensures all fundamental rights and freedoms without discrimination;
- d. Upholds the prohibition against the use of torture and inhuman forms of treatment and punishment;
- e. Ensures that all persons deprived of their liberty are treated with humanity and respect;
- f. Adheres to the absolute prohibition against extra-judicial executions;
- g. Ensures victims are treated with compassion and dignity;
- h. Does not discriminate against women, juveniles and minority communities; and
- i. Recognises the right of all persons to peaceful assembly.

Quantitative results

In quantifying these results, there is a potentially problematic imbalance between compliance and non-compliance, as well as a lack of a substantive regulatory framework governing the actions of the UPF. The confidence factor is somewhat higher than that calculated for Common Standard 2, with only 16% of the indicators remaining unanswered.

Figure 10: Standard 3 compliance ($n = 91$)



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Qualitative results

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

The UPF has a clear set of values as well as a Code of Conduct which are consistent with the Common Standards, although these fail to explicitly mention the role of the UPF in upholding and protecting human rights and the rule of law. There exists in law a system for performance review and discipline, and regulations that promote non-partisan policing practices, but the extent of compliance in practice is not clear owing to a lack of available data. Non-partisanship is required by law, and the police have an explicit annual budget. However, there is not a clear distinction between the executive direction, policy role and operational independence of the police.

The values that underpin the Common Standards are incorporated, on the whole, in the UPF's core documents, such as the vision, mission statement, Code of Conduct, and disciplinary codes, although these fail to make clear mention of the role of the UPF in upholding and protecting human rights and the rule of law.

The Constitution establishes the vision of the UPF as a nationalistic, patriotic, professional, disciplined, competent and productive security agency which is bound by the values of non-partisanship and impartiality.¹⁰⁵ The mission of the UPF is to secure life and property in partnership with the public, and in a committed

¹⁰⁵ The Constitution, Article 211(3).

and professional manner so as to promote development. The organisation's stated values include professionalism, ethics and integrity, accountability, patriotism, nationalism, discipline, cleanliness, academic liberalism, academic excellence, transparency, equal opportunity and affirmative action.

These values are reflected in the training curriculum,¹⁰⁶ the SOs,¹⁰⁷ and the Disciplinary Code of Conduct. The Code of Conduct contains a number of the basic principles set out in the Common Standards, and includes provisions regarding the obligation of all officers to remain non-partisan, not to use their authority for undue gain, to uphold and protect human rights, and to treat all persons in a manner that is humane and non-discriminatory, among others.¹⁰⁸

In terms of issues of non-partisanship, the Political Organisations Act further prohibits members of the UPF from founding or promoting a political party, being a member of a political party, or engaging with or supporting a candidate or political party. Similarly, the Ugandan Public Service Standing Orders, which apply to all public servants as well as UPF officers, prohibit any public officer from engaging in any politically related activities, including holding a political office or being a founding member of a political party.¹⁰⁹ However, as discussed, there are compliance issues regarding non-partisanship, with concerns raised by the UHRC and other stakeholders about politically motivated arrests, allegations of torture, and harassment of politicians and journalists.

As regards disciplinary procedures, the UPF Disciplinary Code of Conduct sets out the type of action that may amount to misconduct by a police officer, which includes malingering and neglect of duty, among others, and establishes the sanctions and penalties to which a police officer may be subject if found guilty of misconduct.¹¹⁰ The UPF has disciplinary courts to hear complaints against officers. These are instituted by the IGP, who has the power to decide whether to issue an order that a complaint be discharged or dismissed or that an officer be subjected to a caution, fine or demotion. Any sentence imposed by the IGP is confirmed by a disciplinary committee prior to its imposition. Members of the public can also lodge written complaints relating to police misconduct via the District Police Commander or the IGP.¹¹¹

The Professional Standards Unit (PSU), which is an internal unit within the UPF, has also been established to investigate complaints against the police relating to unprofessional conduct and human rights violations. Although based in Kampala, the PSU has offices in Mbale, Masaka, Hoima, Gulu, Arua, Jinja and Mbarara. Significantly, the PSU office is separate from the police premises in Kampala, which encourages accessibility by members of the public who may be concerned about visiting police headquarters to lodge a complaint. Between 2007 and 2014, the PSU received 10 000

106 Uganda Police Force, 'Curriculum for the Cadet Officers' Initial Training Programme Leading to the Award of a Post-Graduate Diploma in Police Studies', 2015 at ii.

107 The Police Standing Orders, Vol. I & II, 7th edition, 1984.

108 See Code 2, Disciplinary Code of Conduct, Uganda Police Act.

109 Uganda Public Service Standing Orders, 'Participation of Public Officers in Political Activities' (F-p), Clauses 1–5, 2010, at 124.

110 See Code 2, Disciplinary Code of Conduct, Uganda Police Act.

111 The Police Act, section 70(1).

complaints, though there is no available data regarding the nature or outcome of these complaints.¹¹² In cases of serious misconduct amounting to possible criminal conduct, the Police Act does not provide for a system of referral of police disciplinary matters to the Department of Public Prosecution, and, in practice, cases are only referred with the approval of the Director in Charge of Human Rights and Legal.¹¹³ However, the UPF reports that, in the case of a complaint being investigated as an administrative issue, and if it appears that there may also be a violation of criminal law, this is referred by the PSU for criminal investigation.¹¹⁴

The effectiveness of these systems that establish values and enforce discipline within the UPF are largely unknown owing to a lack of available data. However, research indicates that, given the significant human rights challenges facing the UPF in the exercise of its mandate, such internal systems requiring strengthening.¹¹⁵

In terms of its budget, as set out above, the UPF receives approximately 19.5% of government expenditure (as of 2014/15). As noted, budget analysis by the UHRC and CSOs raises concerns regarding whether the allocation is adequate in order to provide effective policing services¹¹⁶ and to improve police efficiency and responses.¹¹⁷ With the budget that is available, concerns have been raised about large internal UPF allocations on, for example, public order at the expense of other priority issues such as infrastructure, salaries and equipment.¹¹⁸

Upholds the right to life, liberty and security of the person

There exist in law provisions on the use of force and firearms. However, these fall short of international legal standards. Training in the use of force has been mainstreamed, though the PSU and UHRC have observed an increase in the number of complaints received regarding the excessive use of force by the police resulting in death or serious injury. Data was not available on the use, storage and distribution of firearms, or on the availability of less-lethal equipment.

- 112 Roselyn Karugonjo-Segawa, 'Pre-Trial Detention in Uganda', African Policing Civilian Oversight Forum and Uganda Human Rights Commission, 2016, at 16, available at <http://apcof.org/wp-content/uploads/2016/07/APCOF-PTD-Uganda-Proof-3.pdf> (accessed on 12 July 2019).
- 113 Sarah Mount, 'A Force for Good? Improving the Police in Kenya, Tanzania and Uganda', 2014, Commonwealth Human Rights Initiative, at 77, available at https://humanrightsinitiative.org/publications/police/A_FORCE_FOR_GOOD_Improving_the_Police_in_Kenya_Tanzania_and_Uganda.pdf (accessed on 1 August 2019).
- 114 Information received, on 14 August 2019, from the Uganda Police Force during consultations on the draft study.
- 115 See, for example, Roselyn Karugonjo-Segawa, 'Pre-Trial Detention in Uganda', African Policing Civilian Oversight Forum and Uganda Human Rights Commission, 2016, at 16, available at <http://apcof.org/wp-content/uploads/2016/07/APCOF-PTD-Uganda-Proof-3.pdf> (accessed on 12 July 2019). See, also, Sarah Mount, 'A Force for Good? Improving the Police in Kenya, Tanzania and Uganda', 2014, Commonwealth Human Rights Initiative, at 77, available at https://humanrightsinitiative.org/publications/police/A_FORCE_FOR_GOOD_Improving_the_Police_in_Kenya_Tanzania_and_Uganda.pdf (accessed on 1 August 2019).
- 116 Uganda Human Rights Commission, *21st Annual Report*, 2018, at 11.
- 117 Uganda Human Rights Commission, 2016, at xxiv, available at <http://apcof.org/wp-content/uploads/2016/07/APCOF-PTD-Uganda-Proof-3.pdf> (accessed on 12 July 2019). See, also, Sarah Mount, 'A Force for Good? Improving the Police in Kenya, Tanzania and Uganda', 2014, Commonwealth Human Rights Initiative, at 77, available at https://humanrightsinitiative.org/publications/police/A_FORCE_FOR_GOOD_Improving_the_Police_in_Kenya_Tanzania_and_Uganda.pdf (accessed on 1 August 2019).
- 118 Sarah Mount, 'A Force for Good? Improving the Police in Kenya, Tanzania and Uganda', 2014, Commonwealth Human Rights Initiative, at 84, available at https://humanrightsinitiative.org/publications/police/A_FORCE_FOR_GOOD_Improving_the_Police_in_Kenya_Tanzania_and_Uganda.pdf (accessed on 1 August 2019).

The right to life is guaranteed by the Constitution, which prohibits the arbitrary, intentional deprivation of life except in the context of the death penalty.¹¹⁹ The Criminal Procedure Code allows for the use of force ('all means necessary') to make an arrest, providing that the force is reasonable in the circumstances and necessary to make the arrest.¹²⁰ The Police Act does not impose a general obligation to use necessary and proportionate force, including in the context of the use of firearms.¹²¹ This is not consistent with international law, which requires that any use of force be reasonable, necessary and proportionate, and limits the use of firearms to circumstances in which there is an imminent threat to life. The courts have, however, applied requirements of necessity and proportionality. In *Byarugaba v Uganda*, the court convicted a police officer for using a firearm against persons escaping from lawful custody – as permitted under the law – because, as both suspects were unarmed and handcuffed, the officer could have made the arrest without having to use such force. Thus the use of force was considered to be both unnecessary and disproportionate.¹²²

The UPF has mainstreamed training in the use of minimum force in its curriculum.¹²³ Such training also forms part of refresher courses offered to police officers at all levels and ranks, as well as training for specialised units such as the Field Force Unit and Crime Intelligence, among others. According to information provided by HURINET, police records indicate that, on average, 10 000 officers are trained annually and all receive training in the minimum use of force.¹²⁴

In terms of compliance, the UHRC indicates an increase in cases of the use of force and an increase in the use of excessive force by police resulting in death or injury.¹²⁵ There was no data available regarding the number of police officials prosecuted under domestic law for excessive or unlawful use of force. However, the UHRC and other observers have expressed concerns regarding the excessive use of force in the context of public assemblies and the right to freedom of assembly, among others.¹²⁶

Ensures all fundamental rights and freedoms without discrimination

Discriminatory practices are prohibited by law. However, there are reports of discrimination, arbitrary arrest and harassment of persons by UPF officers on the grounds of political opinion, sexual orientation and gender identity, and socio-economic status.

119 The Constitution, Article 22.

120 Criminal Procedure Code Act, section 2.

121 The Police Act, section 28(1).

122 [1973] 1 EA 234 (CAK).

123 See Module 2: Security Management; Module 4: Police Duties and Procedures; Module 6: Human Rights; Module 9: Constitutionalism and Good Governance; Module 13: Martial Arts; Module 15: Counter-Terrorism; Module 18: Field Training (Weapons Handling).

124 Information received by the report authors from HURINET.

125 See Uganda Human Rights Commission, *21st Annual Report*, 2018.

126 See Uganda Human Rights Commission, *21st Annual Report*, 2018, at 26. See, also, Uganda Human Rights Commission, '20th Annual Report to the Parliament of the Republic of Uganda', 2017, at 23, available at www.uhrc.ug (accessed on 23 July 2019).

The Constitution recognises the right of all persons to equality before the law and prohibits discrimination on any basis, including sex, race, colour, ethnic origin, tribe, birth, creed or religion, social or economic standing, political opinion or disability.¹²⁷ The UPF Disciplinary Code of Conduct further provides that officers must uphold and protect human rights and treat all persons in a manner that is consistent with their right to non-discrimination.¹²⁸

Data was not provided regarding the prevalence of complaints against the UPF for discriminatory conduct. However, research by CSOs indicates that there are challenges in terms of compliance with standards of non-discrimination, particularly on the basis of political opinion, sexual orientation and gender identity, and socio-economic status, as well as in relation to human rights defenders.

Despite relatively robust protections in the law against partisan policing (see above), concerns have been raised regarding the arbitrary and discriminatory use of arrest, including 'preventive' arrest and force in response to public demonstrations, particularly in relation to actions by members of opposition political parties, search-and-seizure operations at media houses,¹²⁹ and the confiscation of journalists' equipment.¹³⁰ In 2018, the UHRC reported that there were a number of cases of alleged arrest and torture of journalists, and that it had received three complaints of torture and harassment of journalists at its Central Region office.¹³¹ In one case, the victim was allegedly tortured by security officers 'under the watch' of the UPF.¹³² Security forces, including the UPF, have also been accused of arbitrarily arresting and detaining opposition leaders, politicians, activists and demonstrators on politically motivated grounds.¹³³

A study by the Consortium on Monitoring Violations Based on Sex Determination, Gender Identity and Sexual Orientation raises concerns regarding discrimination and human rights violations against persons on the basis of their sexual orientation or gender identity. According to the Consortium, more than half of the 89 human rights violations reported to it by persons on the basis of sexual orientation or gender identity in Uganda related to the police, with all of the 47 documented police violations characterised by arbitrary arrest on the basis of profiling and discrimination.¹³⁴ Although same-sex conduct is illegal in Uganda, which does provide the UPF with the legal grounds to arrest persons on the basis of sexual orientation if it is lawful to do so, the UPF's compliance with its constitutional and

127 The Constitution, Article 21.

128 See Code 2, Disciplinary Code of Conduct, Uganda Police Act.

129 See, for example, Sarah Mount, 'A Force for Good? Improving the Police in Kenya, Tanzania and Uganda', 2014, Commonwealth Human Rights Initiative, at 76, available at https://humanrightsinitiative.org/publications/police/A_FORCE_FOR_GOOD_Improving_the_Police_in_Kenya_Tanzania_and_Uganda.pdf (accessed on 1 August 2019).

130 Uganda Human Rights Commission, *21st Annual Report, 2018*, at 27.

131 Uganda Human Rights Commission, *21st Annual Report, 2018*, at 26.

132 Uganda Human Rights Commission, *21st Annual Report, 2018*, at 120.

133 Uganda Human Rights Commission, '20th Annual Report to the Parliament of the Republic of Uganda', 207, at 7 and 11, available at www.uhrc.ug (accessed on 23 July 2019). See, also, Uganda Human Rights Commission, *21st Annual Report, 2018*, at 26.

134 'Uganda Report of Violations Based on Gender Identity and Sexual Orientation', The Consortium on Monitoring Violations Based on Sex Determination, Gender Identity and Sexual Orientation, July 2015, at 23, available at https://www.outrightinternational.org/sites/default/files/15_02_22_lgbt_violations_report_2015_final.pdf (accessed on 23 July 2019).

legislative obligations demands that arrested and detained LGBTI persons be afforded all other rights available to suspects, including the right to dignity, freedom from arbitrary arrest, and freedom from discrimination.

Upholds the prohibition against the use of torture and inhuman forms of treatment and punishment

Torture is criminalised in Uganda, in accordance with UNCAT, but remains an issue for the UPF, as reflected in the number of complaints received by the PSU, UHRC and CSOs. Data was not available on measures taken by the UPF to train officers in the prevention and prohibition of torture or on the outcome of complaints or investigations into allegations of torture.

Torture is prohibited under the Constitution¹³⁵ and, in 2012, the Prevention and Prohibition of Torture Act was passed to give effect to this fundamental human rights protection.

In 2018, complaints of torture lodged with the UHRC ranked highest among the complaints received, at 346 complaints, which was an increase of 13% from the previous year.¹³⁶ The PSU reports that, between 2011 and 2016, it registered 542 cases of torture, of which 27 resulted in death in police custody.¹³⁷ Between 2012 and 2016, the UHRC registered 1 572 cases of torture, with complaints against the police comprising the majority (1 016). Of the cases registered with the UHRC, 46 of the victims had died.¹³⁸ The African Centre for the Treatment and Rehabilitation of Torture Victims (ACTV) registered 5 673 cases of torture over the same period, of which 2 583 were alleged to have been committed by the UPF. In 2018, the ACTV reported that it had registered 63 allegations of torture committed by the UPF,¹³⁹ while lawyers, CSOs and the media alleged other incidents.¹⁴⁰ However, there is no data available on the outcome of the cases reported to the PSU, UHRC or ACTV.

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Ensures that all persons deprived of their liberty are treated with humanity and respect

Generally, persons deprived of their liberty are afforded safeguards in law to ensure their treatment with humanity and respect, which includes separation of categories of detainees, and access to medical practitioners, lawyers and family. However, compliance is not always achieved owing to both budgetary and infrastructure constraints, including weaknesses in the training, supervision and oversight of officers in the exercise of their duties in accordance with the law.

135 The Constitution, Article 24.

136 Uganda Human Rights Commission, *21st Annual Report, 2018*, at xxiv.

137 Information provided by HURINET (without source).

138 Information provided by HURINET (without source).

139 US State Department, *2018 Country Reports on Human Rights Practices: Uganda*, 13 March 2019, available at <https://www.state.gov/reports/2018-country-reports-on-human-rights-practices/uganda/>.

140 US State Department, *2018 Country Reports on Human Rights Practices: Uganda*, 13 March 2019, available at <https://www.state.gov/reports/2018-country-reports-on-human-rights-practices/uganda/>.

The Constitution guarantees the right of detainees to access medical assistance and doctors,¹⁴¹ lawyers,¹⁴² and their next of kin.¹⁴³ The law also requires that categories of detainees be held separately, for instance that men be detained separately from women and adults separately from children.¹⁴⁴ This is supported by the UPF Human Rights Policy, which echoes these provisions.¹⁴⁵

No data was available on the extent to which complaints had been received and resolved regarding adherence to these key procedural safeguards. There is reportedly general compliance with the requirement providing for the separation of men and women,¹⁴⁶ but there are issues of non-compliance concerning the separation of adults from children in custody¹⁴⁷ and concerning access to medical services and family.¹⁴⁸

Adheres to the absolute prohibition against extra-judicial killings

The SOs and the UPF Human Rights Policy require that registers be kept and maintained at each police station and post, and that these registers provide a record of detainee movement. Incommunicado detention is not permitted by virtue of constitutional protections regarding access by next of kin, doctors and lawyers to persons deprived of their liberty. Although statistical data was not available on instances of extra-judicial killings, including any independent investigations into death as a result of police action, there are reports that mention instances of extra-judicial killings in respect of which investigations and findings remain outstanding.

The SOs provide that registers be kept and maintained at each police station and post. This includes a Station Diary Book, in which all occurrences at a police station are to be recorded, including arrests, and a Lock-up Register, which records all detainees in police cells and indicates the length of time spent by each in custody.¹⁴⁹ The UPF Human Rights Policy further requires that records of all arrests be made available to detainees or their legal counsel.¹⁵⁰

The law does not expressly prohibit incommunicado detention, but it is de facto prohibited through constitutional protections regarding access by detainees to next of

141 The Constitution, Articles 235(b) and (c).

142 The Constitution, Article 23.

143 The Constitution, Article 23(5)(a).

144 Criminal Procedure Code Act, section 8. See, also, the Police Act, section 23.

145 Uganda Police Force, *Human Rights Policy*, 2019, at 3.3.

146 Roselyn Karugonjo-Segawa, 'Pre-Trial Detention in Uganda', African Policing Civilian Oversight Forum and Uganda Human Rights Commission, 2016, at 23, available at <http://apcof.org/wp-content/uploads/2016/07/APCOF-PTD-Uganda-Proof-3.pdf> (accessed on 12 July 2019).

147 US State Department, *2018 Country Reports on Human Rights Practices: Uganda*, 13 March 2019, available at <https://www.state.gov/reports/2018-country-reports-on-human-rights-practices/uganda/>.

148 See, for example, Roselyn Karugonjo-Segawa, 'Pre-Trial Detention in Uganda', African Policing Civilian Oversight Forum and Uganda Human Rights Commission, 2016, at 7, available at <http://apcof.org/wp-content/uploads/2016/07/APCOF-PTD-Uganda-Proof-3.pdf> (accessed on 12 July 2019).

149 Police Standing Orders, Vol. I, Chapter 8, sections 42–44.

150 Uganda Police Force, *Human Rights Policy*, 2019, at 3.3.

kin, doctors and lawyers.¹⁵¹ Furthermore, the Constitution and the UPF's own Human Rights Policy provide that all arrested persons be detained in an authorised place, and that details of police stations be published in an official gazette.¹⁵²

No data was available on the extent to which there is compliance with the maintenance of registers, or regarding the requirement that individuals be held in officially recognised places of detention. With regard to the latter, research indicates that concerns have been expressed, including during Uganda's Universal Periodic Review, relating to the use of 'safe houses' or unofficial places of detention,¹⁵³ and the UHRC has received complaints of persons being held in non-gazetted or unofficial places of detention, although the number of complaints received has dropped since 2009. Of note is the recent re-designation of the Nalufenya facility as a police station.¹⁵⁴

Ensures victims are treated with compassion and dignity

The UPF does not have a specific policy on victim support and empowerment. However, Child and Family Units are provided for in policy. There was no data available on the implementation of this policy or the effectiveness of the Child and Family Units.

Despite constitutional provisions that require the treatment of all persons with respect for their dignity and humanity, the UPF does not have a broad policy or operational guidance for officers on the treatment of persons who are victims or witnesses to crime. To measure compliance with this indicator would therefore require both the establishment of a policy and assessment as to whether victims receive assistance from the police in accordance with that policy.

There is a specific policy with regard to the establishment of Child and Family Units to deal with matters relating to this specific form of victimisation.¹⁵⁵ However, no information was available on whether these units have been established and how they are functionally operating.

Does not discriminate against women, juveniles and minority communities

No data was available on the existence and implementation of policies and procedures relating to non-discrimination, equal opportunity and diversity. However, special measures exist in laws that are designed to protect the rights of women, children and other vulnerable groups, including persons with disabilities, though with varying levels of compliance in practice.

151 The Constitution, Article 23(5).

152 The Constitution, Article 23(2). See, also, Uganda Police Force, *Human Rights Policy*, 2019, at 3.3(e).

153 A/HRC/19/16, at 92, and A/HRC/WG.6/UGA/3, at 30.

154 'IGP Ochola Tasked to Account for Nalufenya Torture Acts', Observer Media, 30 April 2018.

155 Information received, on 14 August 2019, from the Uganda Police Force during consultations on the draft study.

As discussed above, the Constitution recognises the right of all persons to equality before the law and prohibits discrimination on any basis, including sex, race, colour, ethnic origin, tribe, birth, creed or religion, social or economic standing, political opinion or disability.¹⁵⁶ Furthermore, the UPF Disciplinary Code of Conduct requires that officers treat all persons in a manner that is consistent with their right to non-discrimination.¹⁵⁷ In addition to limitations on discriminatory conduct, the Constitution recognises the right to affirmative action¹⁵⁸ and makes provision for the protection of the rights of women,¹⁵⁹ children,¹⁶⁰ persons with disabilities,¹⁶¹ and minorities.¹⁶² From a policing perspective, these further constitutional protections oblige the UPF to ensure the provision of special protective measures for persons to whom additional constitutional rights have been afforded on the basis of their vulnerability to discrimination and other human rights violations in a criminal justice context. The UPF's Human Rights Policy further elaborates by providing specific operational guidance on the treatment of women, children and persons with disabilities.¹⁶³

As regards women, this requires the UPF to have in place measures to ensure that women in contact with the police enjoy their rights, including the right to dignity, in full equality with men, and that their rights are protected, taking into account maternal considerations.¹⁶⁴ By law, the UPF is required to ensure that women are searched only by women UPF officers and that they are held separately from male detainees.¹⁶⁵ While the Prisons Act elaborates on additional special measures that should be taken regarding the safe and dignified custody of women and any accompanying children, no further information was available on internal policies or regulations for the UPF, apart from the provisions of the Human Rights Policy which require the supervision of women by women officers only, the separate detention of men and women, and the provision of special facilities for pregnant women and nursing mothers.¹⁶⁶ Furthermore, there was no information available regarding whether officers receive training in special measures for women and whether there have been complaints concerning the UPF's treatment of women. However, research indicates general compliance by the UPF with the basic legislative requirements for searching and separating detainees.¹⁶⁷

With respect to women and children as victims of crime, as mentioned earlier, the UPF has in place Child and Family Units and policies to support responses to crime against this group.¹⁶⁸ However, data was not available regarding the effective functioning of these units.

156 The Constitution, Article 21.

157 See Code 2, Disciplinary Code of Conduct, Uganda Police Act.

158 The Constitution, Article 32.

159 The Constitution, Article 33.

160 The Constitution, Article 34.

161 The Constitution, Article 35.

162 The Constitution, Article 36.

163 Uganda Police Force, *Human Rights Policy*, 2019, at 3.3.1–3.3.3.

164 The Constitution, Articles 23(1) and (3).

165 Criminal Procedure Code Act, section 8. See, also, the Police Act, section 23.

166 Uganda Police Force, *Human Rights Policy*, 2019, at 3.3.2.

167 Roselyn Karugonjo-Segawa, 'Pre-Trial Detention in Uganda', African Policing Civilian Oversight Forum and Uganda Human Rights Commission, 2016, at 23, available at <http://apcof.org/wp-content/uploads/2016/07/APCOF-PTD-Uganda-Proof-3.pdf> (accessed on 12 July 2019).

168 Information received, on 14 August 2019, from the Uganda Police Force during consultations on the draft study.

In terms of children, the Constitution requires that all laws enacted be in the best interest of the child, and that children be held separately from adults while in custody.¹⁶⁹ The age of criminal responsibility of a child is 12 years, and national legislation affirms the constitutional protections by prohibiting the detention of children under the age of 18 years together with adults.¹⁷⁰ However, determining the age of a child in Uganda can be difficult, with not all children being registered at birth. Consequently, decisions on the age of a child by the UPF and other law enforcement and criminal justice agencies are largely arbitrary and based either on appearance or an inspection of the teeth.¹⁷¹ Nonetheless, where the age of a person is undetermined, the law requires that the person be treated as a child until such time as a final determination is made.

The Children's Act further provides that children in conflict with the law be detained only as a measure of last resort, and then for the shortest period possible, and that they be afforded treatment that accords with the right of the child to dignity and respect, taking into account the child's age. Where the detention of a child is deemed necessary by the UPF or other justice sector institutions, the child's parents or guardians must be informed immediately, and the child must be given access to a lawyer or other legal service provider and be permitted to have their parent or guardian present at all stages of the criminal justice process.¹⁷² These provisions are generally reflected in the UPF's Human Rights Policy, which further elaborates on the need for specially trained UPF officials to handle juvenile justice issues, and for the facilitation of unannounced visits of inspectors to juvenile facilities to ensure accountability for any violations of established law and procedure.¹⁷³

No data was available on the implementation of the Children's Act in the UPF context. However, research indicates that there are challenges with compliance, primarily in relation to the failure by law enforcement to treat detention as a measure of last resort and to implement appropriate alternatives to arrest and detention.¹⁷⁴

Furthermore, no data was available on internal policies or regulations for the UPF, on whether officers receive training in special measures for children, and on whether there have been complaints regarding the UPF's treatment of children. Notably, though, the UHRC has observed that lack of skills in handling children in conflict with the law has resulted in some UPF officers not implementing the provisions of the Children's Act.¹⁷⁵

Persons with disabilities are afforded constitutional protections regarding the right to respect and dignity, and the UPF has an obligation to take measures to ensure the protection of rights, as well as the enjoyment of rights on an equal basis with

169 The Constitution, Articles 34(1) and 34(6).

170 The Children's Act, section 94(4).

171 Justice, Law and Order Sector, 'Annual Performance Report 2009–2010', September 2010, at 20.

172 The Children's Act.

173 Uganda Police Force, *Human Rights Policy*, 2019, at 3.3.1.

174 Roselyn Karugonjo-Segawa, 'Pre-Trial Detention in Uganda', African Policing Civilian Oversight Forum and Uganda Human Rights Commission, 2016, at 15, available at <http://apcof.org/wp-content/uploads/2016/07/APCOF-PTD-Uganda-Proof-3.pdf> (accessed on 12 July 2019).

175 Uganda Human Rights Commission, *21st Annual Report*, 2018, at 13.

other persons.¹⁷⁶ Despite the enactment of the Persons with Disabilities Act, there are no additional, specific legislative provisions that protect the rights of persons with disabilities in their interactions with the police and other justice agencies. The UPF's Human Rights Policy does require that officials make 'special adjustments to accommodate detainees with physical, mental or other disabilities in order to ensure access to services on an equal basis'.¹⁷⁷ However, beyond this Policy, data was not available on the existence of internal UPF procedures on, or training in, the rights of persons with disabilities in order to give effect to the requirement for reasonable accommodation. Research indicates that persons with disabilities experience a range of challenges relating to access to appropriate information and care while in police detention, which is particularly acute for persons with intellectual and psychosocial disabilities.¹⁷⁸ However, official data was not available on: the number and treatment of persons in contact with the UPF; whether there are internal procedures in place; whether training is received by officers; and whether there have been complaints regarding the UPF's treatment of persons with disabilities.

As regards budgetary issues (as discussed above), there is the impact of infrastructure and services on accessible policing services for persons with disabilities and for the elderly. The issue of physical access to police stations and posts makes accessibility to policing services for persons with disabilities and the elderly more difficult than for others. The UHRC reports that these groups experience limitations in their ability to access policing services because of a lack of access ramps at police stations and posts, which in effect amounts to indirect discrimination. For persons with disabilities, accessibility issues are further compounded by the lack of sign-language interpreters and other services available to the UPF. This constrains affected persons and suspects in their ability to, respectively, access policing services and their rights on an equal basis with others.¹⁷⁹ Budgetary allocations that address these and other accessibility issues are required so that the necessary infrastructure and services are provided in order to ensure equal access to policing services for all persons in Uganda.

Recognises the right of all persons to peaceful assembly

There exists a legislative framework that is not in full compliance with international law, particularly with regard to the use of force and to the declaration of certain assemblies as 'illegal'. Research indicates that there are non-compliance issues in terms of the implementation of the legal framework, though no data was available on complaints of non-compliance with the right to peaceful assembly and on the resolution thereof.

¹⁷⁶ The Constitution, Article 35.

¹⁷⁷ Uganda Police Force, *Human Rights Policy*, 2019, at 3.3.3.

¹⁷⁸ Roselyn Karugonjo-Segawa, 'Pre-Trial Detention in Uganda', African Policing Civilian Oversight Forum and Uganda Human Rights Commission, 2016, at 16, available at <http://apcof.org/wp-content/uploads/2016/07/APCOF-PTD-Uganda-Proof-3.pdf> (accessed on 12 July 2019).

¹⁷⁹ Uganda Human Rights Commission, '20th Annual Report to the Parliament of the Republic of Uganda', 2017, at 23, available at www.uhrc.ug (accessed on 23 July 2019).

The Constitution protects the right to freedom of assembly and to peaceful and unarmed demonstration.¹⁸⁰ The Police Act further provides the UPF with the power to, inter alia, regulate assemblies and processions and to stop and order the dispersal of ‘unlawful’ assemblies.¹⁸¹ This was declared unconstitutional in 2008.¹⁸² However, the Public Order Management Act now empowers the IGP to regulate the conduct of all public assemblies and, in the interests of crowd management and control, to ban the convening of a meeting. This effectively brings back into effect powers which the court had previously declared as rendering the right to freedom of assembly illusory.

The provisions of the Police Act and the Public Order Management Act are not in compliance with international legal standards, particularly in relation to the use of force (covered above) and the declaration of assemblies as ‘illegal’. Further, with respect to the broad non-compliance with the law on the use of force in Uganda (discussed above), the provisions of the Police Act relating to the use of force in the dispersal of assemblies do not comply with international law, as they permit the use of ‘such force as is reasonably necessary’, without regard for the requirements of legality, proportionality and necessity and provide officers with immunity who use force resulting in harm or death.¹⁸³ Although these provisions were declared unconstitutional by the courts,¹⁸⁴ research indicates that challenges persist in terms of the proportionate, legal and necessary use of force in the conduct of assembly operations by the UPF. The Public Order Act may be revised, with an opportunity provided for political parties and interested persons to make inputs to the Attorney General regarding possible areas for revision.¹⁸⁵

The UPF’s Human Rights Policy does provide operational guidance in terms of key assembly-management issues. Such guidance is more in line with international law, including, in particular, the ACHPR Guidelines on the Policing of Assemblies by Law Enforcement Officials in Africa.¹⁸⁶ Specifically, the Policy requires that the UPF take a precautionary approach to the use of force and other measures which may lead to the dispersal of an assembly. This includes emphasis on adopting strategies to monitor and address social and political tensions, as well as due regard for tactics to de-escalate tension. Only after this may graduated use of force be employed. However, the Policy still refers to assemblies without notice as ‘unlawful’, which is inconsistent with both the ACHPR Guidelines and international principles.¹⁸⁷ Regarding the question of the legality of assemblies, assemblies themselves should not be deemed ‘illegal’, on the basis that requirements for permission are not a reasonable, necessary or

180 The Constitution, Article 29(1)(d).

181 The Police Act, sections 33–36.

182 *Muwang Kivumbi v Attorney General* (Constitutional Petition No. 9 of 2005) [2008] UGCC 4 (27 May 2008).

183 The Police Act, section 36.

184 *Mwandha v Attorney General* (Constitutional Petition No. 5 of 2007) [2019] UGCC 5 (30 May 2019).

185 Information received, on 14 August 2019, from the Uganda Police Force during consultations on the draft study.

186 African Commission on Human and Peoples’ Rights, Guidelines on the Policing of Assemblies by Law Enforcement Officials in Africa, adopted at its 21st Extraordinary Session, held from 23 February to 4 March 2017 in Banjul, The Republic of the Gambia.

187 Uganda Police Force, *Human Rights Policy*, 2019, at Chapter Five. See, also, African Commission on Human and Peoples’ Rights, Guidelines on the Policing of Assemblies by Law Enforcement Officials in Africa, 2017, at Guideline 9.1.

proportionate limitation on the right to peaceful assembly.¹⁸⁸ The ACHPR Guidelines are explicit and state that ‘lack of prior notification of an assembly does not render an assembly unlawful and should not form the sole basis of a decision by law enforcement officials to disperse an assembly’.¹⁸⁹

No data was available regarding recognition by the UPF of the right of all persons to peaceful assembly, including the existence and implementation of policy or regulations. Research, however, suggests non-compliance with aspects of the legislative framework, though with the caveat that a broad power to use force in the context of assembly dispersals is, in itself, creating an enabling environment for potential human rights violations relating, inter alia, to freedom of assembly, the right to life, and freedom from arbitrary arrest and detention (as well as to grounds of discrimination based on political opinion). There are reports of excessive use of force, of live ammunition being fired to disperse demonstrations deemed ‘illegal’ by the UPF, and of the banning and dispersal of demonstrations or other gatherings held by the political opposition.¹⁹⁰ The UHRC has expressed concern regarding the refusal, for various reasons, of the UPF to grant permission for public meetings, assemblies and music concerts, including politically motivated grounds.¹⁹¹ However, data was not available on the number of complaints received of alleged violations of the right to freedom of assembly by the UPF and of the excessive or illegal use of force by the UPF in the management and dispersal of assemblies.

188 See African Charter on Human and Peoples’ Rights, Article 11. See, also, African Commission on Human and Peoples’ Rights, *Guidelines on the Policing of Assemblies by Law Enforcement Officials in Africa*, 2017; and African Commission on Human and Peoples’ Rights, *Guidelines on Freedom of Association and Assembly in Africa*, 2017.

189 African Commission on Human and Peoples’ Rights, *Guidelines on the Policing of Assemblies by Law Enforcement Officials in Africa*, 2017, at Guideline 9.1.

190 See, for example, Human Rights Watch, ‘World Report 2019: Uganda’, available at <https://www.hrw.org/world-report/2019/country-chapters/uganda#c667ea> (accessed on 22 July 2019).

191 Uganda Human Rights Commission, *21st Annual Report*, 2018, at 27.

COMPLIANCE WITH

COMMON STANDARD 4: POLICE ORGANISATIONS

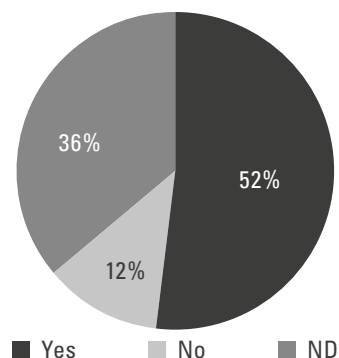
The police will account for violations of officers against citizens' human rights. Furthermore:

- a. 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;
- b. The police will ensure members receive comprehensive and ongoing training on their rights and obligations;
- c. 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 enhancing domestic legislation, that criminalise such actions;
- d. In fulfilling their mandate, the police will cooperate with role-players within and outside the criminal justice system, including citizens and civil society organisations;
- e. States must promote bilateral, 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; and
- f. The police will account for violations by officers of citizens' human rights.

Quantitative results

In quantifying these results, compliance levels are at just over 50%. However, this standard also has the highest number of indicators without data, at 36%.

Figure 11: Standard 4 compliance ($n = 33$)



Qualitative results

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

The UPF is subject to a range of internal and external oversight mechanisms that seek to promote accountability for human rights violations. No data was available on the extent to which violations are identified and addressed through these various mechanisms, on the number and type of sanctions imposed on officers found to have committed violations by external bodies, or on the outcome of internal disciplinary procedures for misconduct falling short of serious criminal or human rights violations.

As set out above, the UPF has a system of internal discipline, including disciplinary courts, to hear complaints against officers,¹⁹² and the PSU is empowered to investigate complaints against police relating to unprofessional conduct and human rights violations.¹⁹³ Between 2007 and 2014, the PSU received 10 000 complaints, though there is no data available regarding the nature or outcome of these complaints.¹⁹⁴ For the period from 2011 to 2016, the PSU further reported that there were 27 cases of deaths in police custody registered and investigated. However, no data was provided regarding the outcome of these investigations. Further, no data was received regarding internal disciplinary procedures, including the outcomes of disciplinary court actions. While data is theoretically available, the UPF notes that it is a lengthy and difficult

¹⁹² The Police Act, section 70(1).

¹⁹³ Roselyn Karugonjo-Segawa, 'Pre-Trial Detention in Uganda', African Policing Civilian Oversight Forum and Uganda Human Rights Commission, 2016, at 16, available at <http://apcof.org/wp-content/uploads/2016/07/APCOF-PTD-Uganda-Proof-3.pdf> (accessed on 12 July 2019).

¹⁹⁴ Roselyn Karugonjo-Segawa, 'Pre-Trial Detention in Uganda', African Policing Civilian Oversight Forum and Uganda Human Rights Commission, 2016, at 16, available at <http://apcof.org/wp-content/uploads/2016/07/APCOF-PTD-Uganda-Proof-3.pdf> (accessed on 12 July 2019).

process to obtain it.¹⁹⁵ It further notes that, while the outcomes of PSU investigations are referred to the legal department for review, and sent to relevant commanders for action, the process is bureaucratic and not efficient. As a result, outcomes are not always implemented immediately, which means officers with charges against them can be promoted.¹⁹⁶

Externally, the UPF is subject to oversight by the Inspectorate of Government (IGG), the UHRC, the judiciary and Parliament. The IGG operates as an independent ombud, established by the Constitution, and investigates allegations of corruption and abuse of office by, among others, members of the UPF.¹⁹⁷ No data was available regarding the extent to which the IGG is receiving and deciding on complaints against the UPF, though research indicates that the IGG has expressed concerns about levels of corruption within the UPF.¹⁹⁸

The UHRC, which has been established in terms of the Constitution, has a mandate: to investigate complaints made by any person, or group of persons, regarding violations of any human rights; to visit places of detention with a view to assessing and inspecting the conditions of detainees; and to make recommendations. The UHRC is also mandated to issue periodic reports on its findings and to submit annual reports to Parliament on the state of human rights and freedoms in the country.¹⁹⁹ The UHRC's broad investigative mandate does not require that a complaint be lodged, and it can initiate investigations of its own accord, including in relation to human rights violations by the UPF.²⁰⁰ If the UHRC investigation results in a finding of a human rights violation, it has a number of options available to it. Those relevant to the UPF environment include: an order that a detained person be released; the payment of compensation; or any other legal remedy or redress.

Since its inception, the UHRC has handled thousands of complaints. In 2017, it received 621 complaints against the UPF, including complaints concerning alleged violations of freedom from arbitrary arrest and deprivation of personal liberty.²⁰¹ However, as set out above, the format of reporting on the disposal of cases by the UHRC makes it difficult to track cases filed against the police and their outcome. Where awards are made, the UHRC reports that it experiences a lack of compliance with its orders, among others by the UPF. No data was available to assist with the analysis of the effectiveness of UHRC processes in holding the police to account for human rights violations, and of the outcomes/follow-up in relation to UHRC decisions and awards.

The judiciary also plays an important role in holding the UPF accountable for human rights violations, though challenges regarding access to justice more broadly in Uganda (including the issue of case backlogs) make court action largely inaccessible and underutilised.²⁰² Where the courts have heard matters involving alleged police

195 Information received, on 14 August 2019, from the Uganda Police Force during consultations on the draft study.

196 Information received, on 14 August 2019, from the Uganda Police Force during consultations on the draft study.

197 The Constitution, Article 225.

198 Inspectorate of Government, *Report to Parliament January to June 2015*, at 7 and 13.

199 The Constitution, Articles 51–53.

200 The Constitution, Article 52(1)(a).

201 Uganda Human Rights Commission, '20th Annual Report to the Parliament of the Republic of Uganda', 2017, at 202.

202 Justice, Law and Order Sector, *Annual Performance Report 2014/2015*.

violations, they have upheld fundamental constitutional protections, including protections in relation to violations of the 48-hour rule as well as to torture and ill-treatment while in police custody.²⁰³ However, no data was available regarding the number of cases of police violation of human rights heard by the judiciary or the outcome of such matters.

The Constitution provides a role for the Parliament of Uganda in the regulation of the UPF.²⁰⁴ As part of this mandate, Parliament has raised concerns regarding budgetary allocation, allegations of torture and other ill-treatment, and the use of force.²⁰⁵

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

A public service policy sets the standards and criteria for the selection of UPF officers. However, minimal information was available regarding the selection criteria and screening processes, and whether these are implemented in practice. Further, no data was available concerning the extent to which the UPF's demographics are representative of the community as a whole in terms of ethnic, gender, language and religious compositions.

A public service policy exists within the UPF to serve as a guide on the recruitment of personnel. The policy establishes standards and criteria for the selection of candidates, which is reinforced by the SOs. Although the UPF does not have its own policy on recruitment, it refers to the minimum criteria established by the public service policy in order to guide its recruitment processes.²⁰⁶ The UPF does have minimum criteria for qualification for recruitment into local and regional positions, as well as at officer cadet level, which, for recruits at cadet level, includes five A-level credits, of which two must be English and Mathematics.²⁰⁷

In terms of entry criteria, the UPF is currently undertaking a recruitment drive and has made public the following eligibility criteria for potential recruits, with a recruitment process based on 'rule and merit':²⁰⁸

203 See *CPL Opió Mark v Attorney General* Civil Circuit No. 611 of 2006, High Court of Uganda. See, also, *Martin Edeku v Attorney General* HCCS 93A/89, High Court of Uganda.

204 The Constitution, Article 214.

205 Roselyn Karugonjo-Segawa, 'Pre-Trial Detention in Uganda', African Policing Civilian Oversight Forum and Uganda Human Rights Commission, 2016, at 17, available at <http://apcof.org/wp-content/uploads/2016/07/APCOF-PTD-Uganda-Proof-3.pdf> (accessed on 12 July 2019).

206 Information received, on 14 August 2019, from the Uganda Police Force during consultations on the draft study.

207 Information received, on 14 August 2019, from the Uganda Police Force during consultations on the draft study.

208 Uganda Police Force, 'IGP to Flag off Country Wide Recruitment', 22 July 2019, available at <https://www.upf.go.ug/the-igp-to-flag-off-country-wide-recruitment/> (accessed on 5 August 2019).

Potential recruits must:

- Be Ugandan citizens with a valid national ID (NIN);
- Have no criminal record;
- Be available to attend 12 months of police basic training;
- Be physically fit;
- Be ready to work in any part of the country; and
- Possess good communication skills.

There are reports that implementation of the recruitment process has been a challenge, with CSOs citing irregularities in the recruitment, appointment and promotion process as well as allegations of nepotism, favouritism and corruption.²⁰⁹

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

Human rights training is part of the UPF curriculum at all levels, with approximately 10% of officers trained annually in human rights.

Human rights form a core aspect of the UPF training curriculum at all levels. For example, the curriculum for cadets includes a number of modules that sensitise recruits to their human rights obligations, including modules on constitutionalism and good governance, sexual and gender-based violence, and human rights protections generally.²¹⁰ On average, approximately 10 000 police officers (which is approximately 10% of all officers) are trained in human rights annually, including new recruits, those attending refresher courses in police training schools, and those attending workshops organised by external stakeholders.²¹¹ No data was available regarding whether the EAC/EAPCCO Human Rights Training Manual has been incorporated into the UPF training curriculum.

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

The UPF has in place an anti-corruption strategy. However, no data was available regarding the implementation of that strategy, including its impact on transparency in recruitment, appointment, promotion and termination processes, remuneration, or whether action has been taken by the UPF in response to allegations of corruption by its officers.

209 Information received by report authors from HURNIET.

210 See Module 6: Human Rights; Module 9: Constitutionalism and Good Governance; and Module 10: Sexual and Gender-Based Violence.

211 Information received by report authors from HURINET.

In 2019, the UPF adopted an anti-corruption strategy which includes roles for both the PSU and Crime Intelligence.²¹² However, no data was available on the implementation of this strategy.

The Justice, Law and Order Sector Development Plan III included anti-corruption measures as a key result area and sought to reduce to zero reports of corruption in a number of areas, including payment for police bond.²¹³ Despite this, the UHRC has identified bribery and corruption by UPF officers as continuing to have a detrimental impact on access to justice in Uganda. In some instances, acts of corruption between police officials and suspects have contributed to the disappearance of case files and exhibits.²¹⁴ Furthermore, research by HURINET raises concerns regarding the payment of money to investigating officers for not pursuing particular cases.²¹⁵ Public-perception surveys relating to corruption indicate that the proportion of Ugandans who perceive the police as corrupt increased to 71% in 2017, from 63% in 2012.²¹⁶

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

Cooperation with external stakeholders is part of the UPF's commitment to rights-based policing practices. While no data was available concerning this indicator measure, research indicates that the UPF does engage with other role players, including the JLOS and CSOs.

The UPF's Human Rights Policy lists active participation by the community in public planning and decision-making as one of its key tenets of a rights-based approach to policing. This includes active encouragement of CSOs, community leaders, and other relevant stakeholders to become involved in planning and other activities related to public safety, law enforcement, and the protection of human rights.²¹⁷

However, no data was available on the extent to which this obligation is being met, including the extent of any partnerships between the police and other relevant role players, systems for sustained interaction between the UPF and other stakeholders, and engagement in neighbourhood watch and other ad hoc community forums. However, the UPF is a member of the JLOS, and HURINET reports that, in the context

212 Information received, on 14 August 2019, by the Uganda Police Force during consultations on the draft study.

213 Uganda Human Rights Commission, *21st Annual Report*, 2018, at 12.

214 Mohammed Ndifuna (ed), 'Towards a Democratic and Accountable Policing Service: The Public Perception on the State of Policing in Uganda', November 2017, HURINET, at 83–87, available at https://www.hurinet.or.ug/download/police_reform_accountability/Public-Perception-on-the-State-of-Policing-in-Uganda-2017.pdf (accessed on 23 July 2019).

215 Mohammed Ndifuna (ed), 'Towards a Democratic and Accountable Policing Service: The Public Perception on the State of Policing in Uganda', November 2017, HURINET, at 35 and 43, available at https://www.hurinet.or.ug/download/police_reform_accountability/Public-Perception-on-the-State-of-Policing-in-Uganda-2017.pdf (accessed on 23 July 2019).

216 Thomas Isbell and Dominique Dryding (2018), 'Ugandans Endorse Rule of Law, but Distrust and Perceive Corruption to Mar Views on Courts', *Afro Barometer Dispatch No. 253*, cited in Uganda Human Rights Commission, *21st Annual Report*, 2018, at 11.

217 Uganda Police Force, *Human Rights Policy*, 2019, at 2.3.1.

of collecting data for the compilation of this report, it experienced openness to cooperation by the UPF.²¹⁸

States must promote bilateral, multilateral and global law enforcement and crime prevention cooperation and assistance

No data was provided regarding this indicator measure. However, there is evidence of the UPF's engagement in a range of international forums that promote crime prevention cooperation and assistance.

No data was available concerning this measure, including whether the UPF is an active participant in regional cooperation organisations and mechanisms. However, the UPF website reports on a range of initiatives taken by the organisation in relation to its membership of EAPCCO, including the recent joint operation with INTERPOL that resulted in the arrest of 27 persons for a range of transnational crimes.²¹⁹ The UPF has also demonstrated active engagement with EAPCCO and the EAC through piloting the training on the EAC/EAPCCO Human Rights Training Manual with technical partners from APCOF, as well as piloting the indicators through the development of this study.

218 Information received from HURINET.

219 Uganda Police Force, '27 Arrested in INTERPOL Joint Operations', 19 October 2019, available at <https://www.upf.go.ug/27-arrested-in-interpol-joint-operations/> (accessed on 6 August 2019).

RECOMMENDATIONS

The purpose of this study was to assess the extent to which the UPF is implementing the Common Standards for Policing in East Africa at the legislative, policy and operational levels, using available data. By undertaking such an assessment, the UPF and its stakeholders at the regional and national level have an evidence-based assessment of progress, good practice and, importantly, development needs in order to promote the practical realisation of the Common Standards.

The recommendations set out in this final part of the study relate directly to the evidence-based development needs that were identified through data and research.

Recommendation 1: Dissemination and popularisation of the Common Standards for Policing in East Africa

Although not a finding of the indicator study itself, consultations held to discuss the draft text of this study highlighted the need to disseminate and popularise the Common Standards for Policing in East Africa among UPF management, rank-and-file officers, and UPF stakeholders. One strategy for accomplishing this is to combine such action with the dissemination and sensitisation planned in relation to the UPF's Human Rights Policy (see Recommendation 2 below) internally within the UPF, and with regard to other criminal justice stakeholders and the community.

Recommendation 2: Dissemination and popularisation of the UPF Human Rights Policy

As detailed throughout this study, the 2019 UPF Human Rights Policy provides significant operational guidance regarding a rights-based approach to policing in a number of key areas such as search, arrest, detention, the use of force, public order management, and stakeholder engagement. For the most part, the Policy is consistent with international law, and particularly with key regional instruments such as the Common Standards for Policing in East Africa as well as the ACHPR's Luanda Guidelines and the Guidelines on the Policing of Assemblies. Significantly, the Policy contains specific directives regarding the enforcement, implementation and monitoring of the Policy, and also articulates roles for various stakeholders within the UPF in implementing the Policy.²²⁰ To ensure that the Policy is known and applied beyond just the UPF's Human Rights and Legal Services personnel, technical and financial resources must be allocated to sensitisation, implementation, enforcement and monitoring as envisaged in the Policy itself. This includes, at a minimum:²²¹

- Copies of the Policy being made available to the UPF and other stakeholders (including community groups) in accessible formats;
- Training for UPF officials and stakeholders in the Policy at district and regional level;
- The establishment of indicators, much like those developed for the Common Standards, to measure compliance by the UPF with the Policy, and regular monitoring of compliance by Human Rights and Legal Services;
- An internal complaints mechanism for officials to comment on, or voice complaints about, human rights issues;
- Dialogue and sensitisation events with stakeholder groups regarding the Policy; and
- Accountability measures for officers violating the Policy.

Recommendation 3: Perception study for UPF officers

As indicated in this study, there is no information regarding the perception of police officers on their role in the protection and promotion of fundamental rights and freedoms. Such data would provide an important insight into whether human rights training, the Human Rights Policy of 2019, and other interventions of the UPF's Human Rights and Legal Services which aim to promote a culture of human rights are having an impact, and whether there is further targeted support that can be offered internally by the UPF and its technical partners at regional level to promote a rights-based policing culture. With support available from the UHRC and its regional partners, the UHRC should design and commission such a study and undertake it as part of its

²²⁰ Uganda Police Force, *Human Rights Policy*, 2019, at Chapter Eight and Chapter Nine.

²²¹ Uganda Police Force, *Human Rights Policy*, 2019, at Chapter Eight.

broader aim of promoting implementation of the Common Standards (see Recommendation 1) and the Human Rights Policy (see Recommendation 2).

Recommendation 4: Study on the barriers to women joining the UPF

On p. 15 above, it was noted that, despite the UPF having in place a policy that operational policing be comprised of 30% women officers, women have not applied for jobs in numbers that allow the UPF to achieve that policy objective.²²² The male-to-female ratio is (as of 2015) 1:5, which means that policing in Uganda is, and remains, a male-dominated profession. As indicated above, lowering the women-to-men ratio in operational policing is linked with better rights-based policing outcomes in other jurisdictions.²²³

Uganda's efforts to achieve its policy objective require an understanding of the barriers to women applying for, and joining, the UPF. The UPF should therefore utilise the technical support available from its partners at the UHRC and at the regional level to design and undertake a study in order to understand these barriers with a view to identifying how its recruitment policy and practices can encourage more women to obtain operational policing positions.

Recommendation 5: A training needs assessment, and materials for UPF officers at station level on the rights of suspects and on bail

One of the key findings of this study is that, while the constitutional, legislative and policy framework governing the UPF is generally compliant with international and regional human rights standards, there is a gap in terms of implementation of these standards at the station level. This is particularly so in relation to issues of arbitrary arrest, procedural safeguards for persons who are arrested and detained, the 48-hour rule, and the provision of police bail.²²⁴ Police officers do receive human rights training, but there is an identified need to ensure that officers are reminded of their obligations with respect to the rights of suspects beyond the information received during basic training. To that end, the UPF should develop posters and other materials that provide information on human rights obligations at the station level. These could then be displayed publicly at every police station and post in the country. Such materials will not only serve to remind officers of their obligations, but their public display will also have the effect of building community confidence in the UPF by promoting transparency and accountability (both of which have been identified as fundamental tenets of a rights-based approach to policing in the 2019 UPF Human Rights Policy).²²⁵

Apart from efforts to improve human rights literacy within the rank and file of the UPF,

222 Information received, on 14 August 2019, from the Uganda Police Force during consultations on the draft study.

223 See, for example, Amie M. Shuck, et al., 'Women Police: The Use of Force by and against Female Officers', *Women & Criminal Justice*, Volume 16, Issue 4, 2005, pp. 97–117.

224 See, for example, 4.2.1 of this study.

225 Uganda Police Force, *Human Rights Policy*, 2019, at 2.3.2 and 2.3.4.

it is clear from this study that improved compliance with the Common Standards will require improvements in command, training, supervision and oversight of officers in terms of their adherence to the law and human rights in the discharge of their duties. As a first step, the UPF should consider a training needs assessment that specifically looks at human rights training as part of basic training as well as management training. This will clarify how issues of supervision and internal oversight are understood and taught, with a view to strengthening adherence to policies and procedures. From there, improvements to the current curriculum can be made, with regular reviews being undertaken to assess the effectiveness of the training undertaken by the relevant UPF unit in ensuring continuous improvement.

Recommendation 6: Reports on the outcomes of disciplinary cases and human rights complaints against police officers

As detailed throughout this report, the UPF is subject to a range of internal and external oversight mechanisms, including the PSU and the UHRC, that seek to promote accountability for human rights violations. However, data on the extent to which violations are identified and addressed through these mechanisms, including the number and type of sanctions imposed on officers found to have committed violations, is not readily or publicly available. As part of its ongoing commitment to increase transparency and accountability,²²⁶ the UPF should ensure that data on the outcome of disciplinary cases and human rights complaints against officers is published regularly. Similarly, the UHRC should make data on the specific outcome of cases involving complaints against UPF officers available as part of its annual reporting to the Parliament of Uganda. At present, the format of reporting on the disposal of cases by the UHRC in its annual reports makes it difficult to track cases filed specifically against the police, and the outcome of those cases.²²⁷

Recommendation 7: Specialised training in the prevention of torture and other ill-treatment

UPF officers receive human rights training. However, given the challenges experienced by the UPF with regard to ongoing complaints of torture and other ill-treatment,²²⁸ specific training concerning the prohibition against torture and other ill-treatment, and specifically the Torture Prevention Act, should be developed and provided for all officers. Training in the prevention and prohibition of torture and other ill-treatment should be developed and included in the regular basic training for all UPF officials, as well as in regular in-service and advanced training. In the development of training materials, the UPF should take advantage of the technical assistance available from the UHRC and non-governmental organisations (NGOs). Furthermore, the training needs of the UPF must be regularly reviewed, and, if complaints of torture and other ill-treatment persist, training should be reviewed and adjusted.

226 Uganda Police Force, *Human Rights Policy*, 2019, at 2.3.2 and 2.3.4.

227 See 4.2.1 of this study.

228 See, for example, Uganda Human Rights Commission, *21st Annual Report*, 2018, at 5.

Recommendation 8: Development and popularisation of a Police Service Charter

To improve community trust and accountability in the UPF, and to promote professionalism across its ranks, consideration should be given to the development of a Police Service Charter. The development of the Charter would not only assist in establishing an agreed set of service delivery standards within a rights-based framework for internal UPF purposes, but public consultations on the development of the Charter could be an important public relations exercise in gaining the trust and confidence of the community and in allowing the views of its members to be incorporated in the Charter.

Recommendation 9: Training in investigative interviewing for detectives and other relevant officers

Apart from other efforts on the part of the UPF to prevent and combat torture and other ill-treatment, as well as in fulfilment of the Human Rights Policy's aim of improving police investigation standards, advanced training should be developed and offered to detectives and other relevant officers in investigative interviewing. At the regional level, EAPCCO is in the process of developing an SOP on investigative interviewing which takes a rights-based approach to the process of interviewing suspects and witnesses. This SOP, which can also inform the development (or, where it exists, the revision) of internal UPF SOs on questioning and interrogation, should provide the basis for the development of the training. In the development and delivery of this training, the UPF can draw on the support of technical partners at the regional level, including EAPCCO.

Recommendation 10: Development of a victim support policy and training

The UPF does not currently have a specific policy on victim support and empowerment. The rights-based treatment of victims and witnesses by the UPF is very important to effective policing for a number of reasons. For instance, improved public confidence in the UPF can encourage reporting of crime as well as cooperation with regard to investigations. To promote practices that improve the UPF's engagement with victims and witnesses, the UPF should develop a victim support policy, including a complementary training module as part of basic training. In the development of these materials, involvement by other stakeholders, including those from other justice sector institutions and civil society, as well as technical partners at national and regional level, should be encouraged in order to ensure a best-practice approach.

Recommendation 11: Availability of UPF policies and other documents

As noted in the methodology section of this study, it was difficult to obtain a number of UPF documents, including policies, which would have assisted in the research and in the compilation of the findings for this report. Many of these documents, including the Human Rights Policy, the Anti-Corruption Strategy, and the minimum criteria for recruitment are documents that the UPF could make available in the public domain via, for example, its website, with hard copies available at each station or post, providing that such information is an important element in achieving the UPF's objective of improving transparency as part of its Human Rights Policy.²²⁹ That Policy provides that, insofar as the documents do not constitute a risk to national security or public safety, all 'policies, plans, documents, rules and regulations, and other information that affects' safety and well-being, should be made available in the public domain.²³⁰

229 Uganda Police Force, *Human Rights Policy*, 2019, at 2.3.4.

230 *Ibid.*



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