

International Police Standards 10 Basic Human Rights Standards for Law Enforcement Officials

Amnesty International



Geneva Centre for the
Democratic Control of
Armed Forces (DCAF)

International Police Standards
10 Basic Human Rights
Standards for
Law Enforcement Officials

Amnesty International



Geneva Centre for the
Democratic Control of
Armed Forces (DCAF)

About Amnesty International

Amnesty International (AI) is a worldwide movement of people who campaign for internationally recognized human rights to be respected and protected for everyone.

AI believes human rights abuses anywhere are the concern of people everywhere.

So, outraged by human rights abuses but inspired by hope for a better world, AI works to improve people's lives through campaigning and international solidarity.

AI's mission is to conduct research and generate action to prevent and end grave abuses of human rights and to demand justice for those whose rights have been violated.

AI's members and supporters exert influence on governments, political bodies, companies and intergovernmental groups.

Activists take up human rights issues by mobilizing public pressure through mass demonstrations, vigils and direct lobbying as well as online and offline campaigning.

About DCAF

The Geneva Centre for the Democratic Control of Armed Forces (DCAF) promotes good governance and reform of the security sector. The Centre conducts research on good practices, encourages the development of appropriate norms at the national and international levels, makes policy recommendations and provides in-country advice and assistance programmes. DCAF's partners include governments, parliaments, civil society, international organisations and security sector actors such as police, judiciary, intelligence agencies, border security services and the military. Further information on DCAF is available at: www.dcaf.ch

Acknowledgements

DCAF wishes to thank Amnesty International for granting the rights to reproduce this publication. DCAF would also like to thank the members of the Editorial Board for their dedication and the time they devoted to review this series.

Editorial Board

The Editorial Board comprises international and regional experts representing civil society, legislative and executive authorities and security forces. The current members of the Editorial Board are:

- Pierre Aepli, Lausanne
- Mamduh Al-Akr, Ramallah
- Mahmud Asfur, Gaza
- Habib El Belkouch, Rabat
- Hans Born, Geneva
- Ghattas Choueiri, Beirut
- Roland Friedrich, Ramallah
- Pascal Gemperli, Geneva
- Ghazi Hamad, Gaza
- Ahmad Issa, Ramallah
- Khalida Jarrar, Ramallah
- Attalah Kuttub, Amman
- Antoine Laham, Geneva
- Jonas Loetscher, Geneva
- Arnold Luethold, Geneva
- Firas Milhem, Ramallah
- Albert van Nuenen Karioen, Apeldoorn
- Haytham Rawahneh, Amman
- DCAF's Police Reform Programme

Graphical assistance

- Wael Dwaik, Ramallah
- Alexander Schwarzer, Geneva

Publisher

Geneva Centre for the Democratic Control of Armed Forces.

Cover picture © Nadeem Abu-Sheikhah, 2008

ISBN: 978-92-9222-086-0

Original version: © Amnesty International Publications, 1 Easten Street, London, WC1X0DW, United Kingdom

© DCAF 2009. All rights reserved.

TABLE OF CONTENTS

Introduction to the Toolkit	6
Introduction to the 10 Basic Standards	8
Background	8
Basic Standards	10
Basic Standard 1: <i>Equal protection</i>	10
Basic Standard 2: <i>Respectful treatment</i>	10
Basic Standard 3: <i>Use of force</i>	11
Basic Standard 4: <i>Policing nonviolent assemblies</i>	11
Basic Standard 5: <i>Use of lethal force</i>	12
Basic Standard 6: <i>Arresting persons</i>	13
Basic Standard 7: <i>Detainees rights</i>	14
Basic Standard 8: <i>Humane treatment of detainees</i>	15
Basic Standard 9: <i>Refusal to obey unjust orders</i>	16
Basic Standard 10: <i>Report violations</i>	17

Introduction to the Toolkit

Legislating for the security sector is a complex and difficult task. Many lawmakers thus find it tempting to copy legislation from other countries. This expedites the drafting process, especially when the texts are available in the language of the lawmaker, but more often than not, the result is poor legislation.

Even after being amended, the copied laws are often out of date before coming into effect. They may no longer be in line with international standards or they may not fully respond to the requirements of the local political and societal context. Copied laws are sometimes inconsistent with the national legislation in place.

In some cases, there is simply no model law available in the region for the type of legislation that is needed. This has been the case in the Arab region, where the security sector has only slowly begun to be publicly debated. It is thus difficult to find good model laws for democratic policing or for parliamentary oversight of intelligence services.

It is therefore not surprising that many Arab lawmakers have felt frustrated, confused, and overwhelmed by the task of drafting legislation for the security sector. They found it difficult to access international norms and standards because little or no resources were available in Arabic. Many of them did not know where to search for model laws and several were about to give up. Some eventually turned to DCAF for assistance.

The idea of a practical toolkit for legislators in the Arab region came when practitioners began looking for a selection of standards, norms and model laws in Arabic that would help them draft new legislation. Experts from the Arab region and DCAF thus decided to work together and develop some practical tools.

Who is this toolkit for?

This toolkit is primarily addressed to all those who intend to create new or develop existing security sector legislation. This includes parliamentarians, civil servants, legal experts and nongovernmental organisations. The toolkit may also be helpful to security officials and,

as a reference tool, to researchers and students interested in security sector legislation.

What is in the toolkit?

The bilingual toolkit contains a series of booklets in English and Arabic that provide norms and standards as well as practical examples in various areas of security sector legislation. The first two series deal with police legislation, as Arab demand for support has been highest in this area.

Series 1 (in dark blue colour) contains three booklets, which can be considered together as the main framework of international norms and standards for democratic policing, namely the *Guidebook on Democratic Policing* (OSCE), the *European Code of Police Ethics* (Council of Europe), and the *Ten Basic Human Rights Standards for Law Enforcement Officials* (Amnesty International).

Series 2 (in orange colour) provides some practical examples of (National) Police Legislation. The Editorial Board has carefully selected examples of national legislation from different regions of the world, which promote a community oriented policing model. These examples not only represent approaches from different cultural and societal backgrounds, such as Africa, Asia or Europe, but also show a variety of state models and police organisation.

The Indian *Model Police Act, 2006* has been drafted by the Police Act Drafting Committee, set up by the Union Ministry for Home Affairs, and circulated to all states and territories to be used as model for drafting state police acts. India is a federal parliamentary republic comprised of 28 states and 7 union territories. The constitution ascribes authority over police to the states. Each state and union territory thus has its own police force. At the union level, federal police agencies, which are part of the Ministry of Home Affairs, support the states in their duties.

In Japan, the *Police Law, 1954* and the *Police Duties Execution Law, 1948* are very early models of community-based policing. Some experts praise Japan for devising the concept of community policing. The largely centralised but federal

parliamentary monarchy counts 47 prefectures within an ethnically homogenous society, which provides for a national police system with a structure of prefectural police agencies and a national police agency at the top of the hierarchy. The national police agency is in charge of creating and implementing policies and standards.

In the 9 provinces of the federal parliamentary Republic of South Africa, the national, provincial and local governments all have legislative and executive authority. The South African Police Service reports to both national and provincial governments. Promulgated in 1995, shortly after the end of apartheid, the *South African Police Service Act (No 68 of 1995)* establishes the South African Police Service according to community-based, democratic standards.

In Sweden, a decentralised unitary state and parliamentary monarchy, there are 21 independent police authorities governed by a national police service, which reports to the Ministry of Justice. The *Police Act (1984:387)* defines the organisation of the police bodies on national and district levels. It also lists the police's duties and its powers.

In Switzerland, a federal state with direct democracy and strong subsidiary federalism, authority over the police lies with the 26 Cantons (states). The Canton of Zurich has recently developed new police legislation. In 2004, the cantonal parliament approved the *Law for the Organisation of the Police*, which defines the relations between the different cantonal police forces. The *Police Law 2008*, adopted by referendum, regulates the relation between the police and the public and defines police powers and duties.

Additional series will be added as the needs arise. The existing series can easily be expanded through the addition of new booklets, based on demand from the Arab region.

For the latest status of publications please visit: www.dcaf.ch/publications

What is the purpose of this toolkit?

The toolkit seeks to assist lawmakers in the Arab region in responding to citizens' expectations. Arab citizens demand professional service from police and security forces, which should be effective, efficient and responsive to their needs. They want police and security organisations

and their members to abide by the law and human right norms and to be accountable for their performance and conduct. The toolkit thus promotes international standards in security sector legislation, such as democratic oversight, good governance and transparency.

The toolkit offers easy access in Arabic and English to international norms as well as examples of legislation outside the Arab region. This allows to compare between different experiences and practices.

The scarcity of Arab literature on security sector legislation has been a big problem for Arab lawmakers. The toolkit seeks to address this deficiency. One of its aims is to reduce time lawmakers spend on searching for information, thus allowing them to concentrate on their main task. With more information becoming available in Arabic, many citizens and civil society groups may find it easier to articulate their vision of the type of police and security service they want and to contribute to the development of a modern and strong legal framework for the security sector.

Why is it important to have a strong legal framework for the security sector?

A sound legal framework is a precondition for effective, efficient and accountable security sector governance because:

- It defines the role and mission of the different security organizations;
- Defines the prerogatives and limits the power of security organizations and their members;
- Defines the role and powers of institutions, which control and oversee security organizations;
- Provides a basis for accountability, as it draws a clear line between legal and illegal behaviour;
- Enhances public trust and strengthens legitimacy of government and its security forces.

For all these reasons, security sector reform often starts with a complete review and overhaul of the national security sector legislation. The point is to identify and address contradictions and the lack of clarity regarding roles and mandates of the different institutions.

10 Basic Human Rights Standards for Law Enforcement Officials

All governments are required to adopt the necessary measures to instruct law enforcement officials, during basic training and all subsequent training and refresher courses, in the provisions of national legislation in accordance with the UN Code of Conduct for Law Enforcement Officials as well as other basic international human rights standards applicable to law enforcement officials. These standards should be made available as widely as possible to the general public and fully respected under all circumstances. They should be reflected in national legislation and practice, and regular public reports issued on their implementation. Exceptional circumstances such as a state of emergency or any other public emergency do not justify any departure from these standards.

All governments should adopt an active and visible policy of integrating a gender perspective into the development and implementation of training and policies for law enforcement officials.

Introduction

These '10 Basic Human Rights Standards for Law Enforcement Officials' were prepared by Amnesty International in association with police officials and experts from different countries. They are based on United Nations law enforcement, criminal justice and human rights standards. They are intended as a quick reference, and not as a full explanation of or commentary on the applicability of international human rights standards relevant to law enforcement. This document is intended to raise awareness amongst government officials, parliamentarians, journalists and non-governmental organizations of some fundamental standards which should be part of any police training and police practice. It is hoped that police authorities will be able to use these 10 basic standards as a starting point to develop detailed guidance for the training and monitoring of the conduct of police agents. Certainly, it is the duty of all officers to ensure that their colleagues uphold the ethical standards of their profession - the standards outlined here are essential for exercising that responsibility.

Background

Everyone shares responsibility to uphold the Universal Declaration of Human Rights (UDHR) in its entirety. Nevertheless the UDHR contains a number of articles which are particularly relevant for law enforcement work:

- Everyone has the right to life, liberty and security of person (Article 3, UDHR)
- No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment (Article 5, UDHR)
- All are equal before the law and are entitled without any discrimination to equal protection of the law (Article 7, UDHR)
- No one shall be subjected to arbitrary arrest and detention (Article 9, UDHR).
- Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which they have had all the guarantees necessary for their defence (Article 11(1), UDHR)
- Everyone has the right to freedom of opinion and expression (Article 19, UDHR)
- Everyone has the right to freedom of peaceful assembly and association, and no one may be compelled to belong to an association (Article 20, UDHR)

Other documents directly relevant to policing work are the following United Nations law enforcement, criminal justice and human rights instruments:

- UN Code of Conduct for Law Enforcement Officials
- UN Guidelines for the effective implementation of the Code of Conduct for Law Enforcement Officials
- UN Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions
- UN Declaration on the Protection of All

Persons from Enforced Disappearances

- UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
- UN International Covenant on Civil and Political Rights
- UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials
- UN Standard Minimum Rules for the Treatment of Prisoners (hereafter referred to as Standard Minimum Rules)
- UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (hereafter referred to as Body of Principles)
- UN Convention on the Rights of the Child
- UN Rules for the Protection of Juveniles Deprived of their Liberty
- UN Declaration on the Elimination of Violence against Women
- UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power
- UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)

The UN Code of Conduct for Law Enforcement Officials, the UN Standard Minimum Rules and the UN Body of Principles set out several important principles and prerequisites for the humane performance of law enforcement functions, including that:

- Every law enforcement agency should be representative of, and responsive and accountable to, the community as a whole
- The effective maintenance of ethical standards among law enforcement officials depends on the existence of a well-conceived, popularly accepted and humane system of laws
- Every law enforcement official is a part of the criminal justice system, the aim of which is to prevent and control crime, and the conduct of every official has an impact on the entire system
- Every law enforcement agency should discipline itself to uphold international human rights standards and the actions of

law enforcement officials should be open to public scrutiny

- Standards for humane conduct of law enforcement officials lack practical value unless their content and meaning become part of the creed of every law enforcement official, through education and training and through monitoring.

The term “law enforcement officials” includes all officers of the law, whether appointed or elected, who exercise police powers, especially the powers of arrest and detention. This should be given the widest possible interpretation, and includes military and other security personnel as well as immigration officials where they exercise such powers.

Basic Standard 1

Everyone is entitled to equal protection of the law, without discrimination on any grounds, and especially against violence or threat.

Be especially vigilant to protect potentially vulnerable groups such as children, the elderly, women, refugees, displaced persons and members of minority groups.

For the implementation of Basic Standard 1 it is of great importance that police officers at all times fulfil the duty imposed on them by law, by serving the community and protecting all persons against illegal acts, consistent with the high degree of responsibility required by their profession. They must promote and protect human dignity and maintain and uphold the human rights of all persons, among which are the following:

- Everyone has the right to liberty and security of the person
- No one should be subjected to arbitrary arrest, detention or exile
- All persons deprived of their liberty have the right not to suffer torture or cruel, inhuman or degrading treatment
- Everyone is entitled without any discrimination to equal protection of the law
- Everyone has the right to a fair trial
- Everyone has the right to freedom of movement
- Everyone has the right to peaceful assembly
- Everyone has the right to freedom of expression

No law enforcement official may inflict, instigate or tolerate any act of torture or other cruel, inhuman or degrading treatment or punishment, nor may they invoke superior orders or exceptional circumstances such as a state of war or threat of war, or political instability or other public emergency as a justification for such acts. Special attention should be given to the protection of human rights of members of potentially vulnerable groups, such as children, the elderly, women, refugees, displaced persons and members of minority groups.

Sources include: UN Code of Conduct for Law Enforcement Officials (Articles 1,2,5), Beijing Declaration and Platform for Action (paragraph 2.2.4)

Basic Standard 2

Treat all victims of crime with compassion and respect, and in particular protect their safety and privacy

Victims are people who have suffered harm, including mental and physical injury, emotional suffering, economic loss or substantial impairment of their fundamental rights through acts or omissions that are in violation of criminal law.

- For the implementation of Basic Standard 2, police officers must:
- Ensure that, if needed, measures are taken to ensure the protection and safety of victims from intimidation and retaliation
- Inform victims without delay of the availability of health and social services and other relevant assistance
- Provide without delay specialist care for women who have suffered violence
- Develop investigative techniques that do not further degrade women who have been victims of violence.
- Give particular attention to victims who have special needs because of the nature of the harm inflicted on them or because of factors such as race, colour, gender, sexual orientation, age, language, religion, nationality, political or other opinion, disability, ethnic or social origin, etc.

Sources include: UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (Principles 4, 14, 15, 16 and 17), CEDAW - General Recommendation No 19 (11th Session, 1992)

Basic Standard 3

Do not use force except when strictly necessary and to the minimum extent required under the circumstances

The implementation of Basic Standard 3 involves, among other things, that Police officers, in carrying out their duty, should apply non-violent means as far as possible before resorting to the use of force. They may use force only if other means remain ineffective or without any promise of achieving the necessary result. Basic Standard 3 must be implemented in accordance with Basic Standard 4 and 5.

Whenever the lawful use of force is unavoidable, police officers must:

- Exercise restraint in such use and act in proportion to the seriousness of the offence and the legitimate objective to be achieved
- Minimize damage and injury, and respect and preserve human life
- Ensure that all possible assistance and medical aid are rendered to any injured or affected persons at the earliest possible moment
- Ensure that relatives or close friends of the injured or affected person are notified at the earliest possible moment
- Where injury or death is caused by the use of force by police officers, they shall report the incident promptly to their superiors, who should ensure that proper investigations of all such incidents are carried out.

Sources include: UN Code of Conduct for Law Enforcement Officials (Article 3), UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (Principles 4, 5, 6 and 9)

Basic Standard 4

Avoid using force when policing unlawful but nonviolent assemblies. When dispersing violent assemblies, use force only to the minimum extent necessary.

Everyone is allowed to participate in peaceful assemblies, whether political or non-political, subject only to very limited restrictions imposed in conformity with the law and which are necessary in a democratic society to protect such interests as public order and public health. The police must not interfere with lawful and peaceful assemblies, otherwise than for the protection of persons participating in such an assembly or others.

The implementation of Basic Standard 4 involves, among other things:

- In the policing of assemblies that are unlawful but non-violent, police officers must avoid the use of force. If force is indispensable, for example to secure the safety of others, they must restrict such force to the minimum extent necessary and in compliance with the other provisions in Basic Standard 3
- Firearms shall not be used in the policing of nonviolent assemblies. The use of firearms is strictly limited to the objectives mentioned in Basic Standard 5
- In the dispersal of violent assemblies police officers may use force only if other means remain ineffective or without any promise of achieving the intended result. When using force police officers must comply with the provisions in Basic Standard 3
- In the dispersal of violent assemblies police officers may use firearms only when less dangerous means are not practicable and only to the minimum extent necessary to achieve one of the objectives mentioned in Basic Standard 5 and in accordance with the provisions in Basic Standard 3 and Basic Standard 5.

Sources include: UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (Basic Principles 9,10 and 11)

Basic Standard 5

Lethal force should not be used except when strictly unavoidable in order to protect your life or the lives of others

The use of firearms is an extreme measure which must be strictly regulated, because of the risk of death or serious injury involved. The implementation of Basic Standard 5 requires, among other things, that police officers must not use firearms except for the following objectives and only when less extreme means are insufficient to achieve these objectives:

- In self-defence or in defence of others against the imminent threat of death or serious injury
- To prevent the perpetration of a particularly serious crime involving grave threat to life
- To arrest a person presenting such a danger and resisting the police officer's authority, or to prevent his or her escape

In any event, intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life.

Police officers must identify themselves as such and give a clear warning of their intent to use firearms, with sufficient time for the warning to be observed, unless to do so would unduly place the officers at risk or would create a risk of death or serious harm to other persons, or would be clearly inappropriate or pointless in the circumstances of the incident.

Rules and regulations on the use of firearms by police officers must include guidelines that:

- Specify the circumstances under which police officers are authorized to carry firearms and prescribe the types of firearms and ammunition permitted
- Ensure that firearms are used only in appropriate circumstances and in a manner likely to decrease the risk of unnecessary harm
- Prohibit the use of any firearms or ammunition that cause unnecessary injury or present an unnecessary risk

- Regulate the control, storage and issuing of firearms and ammunition, including procedures for ensuring that police officers are accountable for firearms and ammunition issued to them
- Provide for warnings to be given, if appropriate, when firearms are to be discharged
- Provide for a system of reporting and investigation whenever police officers use firearms in the performance of their duty.

Sources include: UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (Principles 9, 12, 13, and 14)

Basic Standard 6

Arrest no person unless there are legal grounds to do so, and the arrest is carried out in accordance with lawful arrest procedures

To make sure that an arrest is lawful and not arbitrary, it is important that the reasons for the arrest and the powers and identity of arresting officers are known. Therefore the implementation of Basic Standard 6 involves, among other things:

- Arrest or detention shall only be carried out strictly in accordance with the provisions of the law and by competent officials or persons authorized for that purpose
- Police or other authorities which arrest a person shall exercise only the powers granted to them under the law
- Anyone arrested must be informed at the time of arrest of the reasons for the arrest
- The time of the arrest, the reasons for the arrest, precise information identifying the place of custody, and the identity of the law enforcement officials concerned must be recorded; in addition, the records must be communicated to the detained person or to his or her lawyer
- Officials carrying out an arrest should identify themselves to the person arrested and, on demand, to others witnessing the event
- Police officers and other officials who make arrests should wear name tags or numbers so that they can be clearly identified. Other identifying markings such as the insignia of soldiers battalions or detachments should also be visible
- Police and military vehicles should be clearly identified as such. They should carry number plates at all times.
- A person should not be kept in detention without being given an effective opportunity to be heard promptly by a judicial or other officer authorized by law to exercise judicial power, and be entitled to a trial within a reasonable time, or to release. It should not be the general rule that persons awaiting trial are detained in custody, but release may be subject to guarantees to appear for trial.

- All detainees should only be kept in recognised places of detention. Such places of detention should be visited regularly by qualified and experienced persons appointed by, and responsible to, a competent authority distinct from the authority directly in charge of the administration of the place of detention.
- The detention of refugees and asylum seekers should normally be avoided. No asylum-seeker should be detained unless it has been established that detention is necessary, is lawful and complies with one of the grounds recognized as legitimate by international standards. In all cases, detention should not last longer than is strictly necessary. All asylum-seekers should be given adequate opportunity to have their detention reviewed by a judicial or similar authority. Reference regarding the detention of refugees and asylum seekers should be made to the competent authorities, as well as to the office of the United Nations High Commissioner for Refugees (UNHCR) and other refugee assistance organizations.

Sources include: UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (Principles 2, 8, 10, 11, 12, 20 and 29), UN Standard Minimum Rules for the Treatment of Prisoners (Rule 55), UN Convention relating to the Status of Refugees (Article 31), Conclusion 44 of the UNHCR Executive Committee

Basic Standard 7

Ensure all detainees have access promptly after arrest to their family and legal representative and to any necessary medical assistance

Experience worldwide has shown that it is often in the first hours or days of detention that detainees are at greatest risk of being ill-treated, tortured, made to “disappear”, or killed. Unconvicted detainees must be presumed innocent and treated as such. The implementation of Basic Standard 7 requires, among other things, that:

- Detainees should be promptly told of their rights, including the right to lodge complaints about their treatment.
 - A detainee who does not understand or speak the language used by the authorities responsible for his or her arrest is entitled to receive information and have the assistance, free of charge if necessary, of an interpreter in connection with the legal proceedings subsequent to his or her arrest.
 - A detainee who is a foreigner should be promptly informed of his or her right to communicate with the relevant consular post or diplomatic mission.
 - All detained refugees and asylum seekers should be allowed access to the local representative of the UNHCR and to refugee assistance organizations, regardless of why they are being detained. If a detainee identifies himself / herself as a refugee or an asylum seeker, or otherwise indicates their fear at being returned to their country, it is incumbent on the detaining officials to facilitate contact with these organizations.
 - Police officers or other competent authorities must ensure that all detainees are fully able in practice to avail themselves of the right to notify family members or others immediately of their whereabouts. All detainees should be informed of this right. If they do not have the financial or technical means to send word to their relatives, the officers must be ready to communicate the
 - Police officers or other competent authorities must ensure that accurate information on the arrest, place of detention, transfer and release of detainees is available promptly in a place where relatives and others concerned can obtain it. They must ensure that relatives are not obstructed from obtaining this information, and that they know or are able to find out where the information can be obtained. (See also the commentary to Basic Standard 8)
- Relatives and others should be able to visit a detainee as soon as possible after he or she is taken into custody. Relatives and others should be able to correspond with the detainee and make further visits regularly to verify the detainee’s continued wellbeing.
 - Every detainee must be informed promptly after arrest of his or her right to a legal counsel and be helped by the authorities to exercise this right. Moreover, every detainee must be able to communicate regularly and confidentially with their lawyer, including having meetings with their lawyer within sight but not within hearing of a guard or police officer, in order to help prepare the detainee’s defence and to exercise his or her rights.
 - An independent doctor should promptly conduct a proper medical examination of the detainee after taken into custody in order to ascertain that the detainee is healthy and not suffering from torture or ill-treatment, including rape and sexual abuse. Thereafter, medical care and treatment shall be provided whenever necessary. Every detainee or his or her legal counsel has the right to request a second medical examination or opinion. Detainees, even with their consent, must never be subjected to medical or scientific experimentation which may be detrimental to their health.
 - Female detainees should be entitled to medical examination by a female doctor. They should be provided with all necessary pre-natal and post-natal care and treatment. Restraints should only be used on pregnant women as a last resort and should never put the safety of a woman or foetus at risk. Women should never be restrained during labour.

Sources include: UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (Principles 8, 11, 14, 15, 16, 17, 18, 19, 20, 22, 24, 25 and 29), Conclusion 44 of the UNHCR Executive Committee

Basic Standard 8

All detainees must be treated humanely. Do not inflict, instigate or tolerate any act of torture or ill-treatment, in any circumstances, and refuse to obey any order to do so

Detainees are inherently vulnerable because they are under the control of law enforcement officials who therefore have a duty to protect detainees from any violation of their rights by strictly observing procedures designed to respect the inherent dignity of the human person. Accurate record-keeping is an essential element of the proper administration of places of detention. The existence of official records which are open for consultation helps to protect detainees from ill-treatment including torture. The implementation of Basic Standard 8 requires, among other things, that:

- No person under any form of detention may be subjected to torture, or to cruel, inhuman or degrading treatment or punishment, and law enforcement officers have a right and a duty to disobey orders to carry out such acts. No law enforcement official may inflict, instigate or tolerate any act of torture or other cruel, inhuman or degrading treatment or punishment, nor may they invoke superior orders or exceptional circumstances such as a state of war or threat of war, or political instability or other public emergency as a justification for such acts.
- Law enforcement officials should be instructed that rape of women in their custody constitutes an act of torture that will not be tolerated. Similarly, they should be instructed that any other forms of sexual abuse may constitute torture or cruel, inhuman or degrading treatment and that offenders will be brought to justice.
- The term "cruel, inhuman or degrading treatment or punishment" should be interpreted so as to extend the widest possible protection against abuses, whether physical or mental, including holding a detainee in conditions which deprive him or her, even temporarily, of the use of any of his or her natural senses, such as sight or hearing, of his or her awareness of place or passing of time. Compliance with the other basic standards for law enforcement are also essential safeguards against torture and ill-treatment.
- A detainee may not be compelled to confess, to otherwise incriminate himself or herself or to testify against any other person. While being interrogated, no detainee may be subject to violent threats or methods which impair his or her capacity of decision or judgement. Female guards should be present during the interrogation of female detainees and should be solely responsible for carrying out any body searches of female detainees.
- Children should be detained only as a last resort and for the shortest possible time. They should be given immediate access to relatives, legal counsel and medical assistance and relatives or guardians should be informed immediately of their whereabouts. Juvenile detainees should be kept separate from adults and detained in separate institutions. They should be protected from torture and ill-treatment, including rape and sexual abuse, whether by officials or other detainees.
- Refugees and asylum seekers detained for noncriminal reasons should never be detained together with common law prisoners. Conditions and treatment should be humane, and appropriate to their status as refugees.
- Detainees should be kept separate from imprisoned persons and, if requested, be kept reasonably near their usual place of residence. All detainees should if possible wear their own clothing if it is clean and suitable, sleep singly in separate rooms, be fed properly and be allowed to buy or receive books, newspapers, writing materials and other means of occupation as are compatible with the interests of justice.
- Registers of detainees should be kept in all places of detention including police stations and military bases. The register should consist of a bound book with numbered pages which cannot be tampered with. Information to be entered in them should include:
 - The name and identity of each person detained
 - The reasons for his or her arrest or detention

- The names and identities of officials who arrested the detainee or transported him
- The date and time of the arrest and of the transportation to a place of detention
- The time, place and duration of each interrogation and the name of the person or persons conducting it
- The time of the detainee's first appearance before a judicial authority
- Precise information concerning the place of custody
- The date, time and circumstances of the detainee's release or transfer to another place of detention.

Other measures that can contribute to the proper treatment of detainees are:

- Police officers and other competent authorities should allow representatives of the local or national bar and medical associations, as well as local or national members of parliament, appropriate international bodies and officials, to visit any police station and facilities, including detention centres, without restriction for the purpose of inspection.
- These bodies and officials must be able to make unannounced visits
- These bodies and officials must have access to all parts of each place of detention and all detainees and be able to interview them freely and without witnesses
- These bodies and officials must be able to make return visits whenever they wish
- These bodies and officials must be able to make recommendations to the authorities concerning the treatment of detainees
- The treatment of detainees should conform as a minimum to the standards laid down in the UN Standard Minimum Rules and the Body of Principles.

Sources include: UN Code of Conduct for Law Enforcement Officials (Article 5); UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (Principles 1,2,6, 12, 21 and 23); UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Article 2); UN Standard Minimum Rules for the Treatment of Prisoners (Rules 55, 85, 86, 87, 88, 91, 92 and 93); UN International Covenant on Civil and Political Rights (Article 10); UN Convention on the Rights of the Child (Article 37), Conclusion 44 of the UNHCR Executive Committee

Basic Standard 9

Do not carry out, order or cover up extrajudicial executions or "disappearances", and refuse to obey any order to do so

No one should be arbitrarily or indiscriminately deprived of life. An extrajudicial execution is an unlawful and deliberate killing carried out by, or on the order of, someone at some level of government, whether national, state or local, or with their acquiescence. There are several important elements in the concept of an extrajudicial execution:

- It is deliberate, not accidental
- It violates national laws such as those which prohibit murder, and/or international standards forbidding the arbitrary deprivation of life.

Its unlawfulness distinguishes an extrajudicial execution from:

- A justifiable killing in self-defence
- A death resulting from the use of force by law enforcement officials which is nevertheless consistent with international standards
- A killing in an armed conflict situation which is not prohibited by international humanitarian law

In an armed conflict, even if not an international armed conflict, armed officers and soldiers of the government, as well as combatants of armed political groups, are prohibited from carrying out arbitrary and summary executions. These acts would constitute breaches of Common Article 3 of the Geneva Conventions (which also prohibits mutilation, torture or cruel, inhuman or degrading treatment, hostage taking and other gross abuses).

The "disappeared" are people who have been taken into custody by agents of the state, yet whose whereabouts and fate are concealed. It is a grave violation of human rights to carry out disappearances.

- No order or instruction of any public authority, civilian, military or other, may be invoked to justify an extrajudicial execution

or a “disappearance”. Any person receiving such an order or instruction has a duty to disobey it.

All police officers and all other law enforcement personnel should be aware of their right and duty to disobey orders the implementation of which might result in serious human rights violations. Since those violations are unlawful, police officers and others must not participate in them. The need to disobey an unlawful order should be seen as a duty, taking precedence over the normal duty to obey orders. The duty to disobey an unlawful order entails the right to disobey it.

The right and duty to disobey an order to participate in “disappearances” and extrajudicial killings are incorporated in the UN Declaration on Disappearances (Article 6) and in the UN Principles on Extra-Legal, Arbitrary and Summary Executions (Principle 3). The UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials protect the right to disobey by stating that no criminal or disciplinary sanction should be imposed on law enforcement officials who, in compliance with these Basic Principles and the UN Code of Conduct for Law Enforcement Officials, refuse to carry out an order to use force and firearms or who report such use by other officials.

To implement Basic Standard 9, it is important that the use of force and firearms by the police strictly complies with all the provisions in Basic Standard 3, Basic Standard 4 and Basic Standard 5.

Sources include: UN Code of Conduct for Law Enforcement Officials (Preamble and Articles 1, 2, 8); UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (Preamble)

Basic Standard 10

Report all breaches of these Basic Standards to your senior officer and to the office of the public prosecutor. Do everything within your power to ensure steps are taken to investigate these breaches.

All violations of human rights by the police or other law enforcement personnel, including any breaches of these Basic Standards, should be investigated fully, promptly and independently, for instance by the office of the public prosecutor. The main objective of these investigations is to establish the facts and to bring to justice those responsible:

- Has a violation of human rights or a breach of principles or of national law been perpetrated? If so, by whom?
- If a public official has committed a crime or breach of regulations, was he or she acting under orders or with the acquiescence of other officials?
- Has the office of the prosecutor opened a criminal investigation and, if there is sufficient admissible evidence, sought to prosecute?

Sources include: UN Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions (Principle 1 and 3); Common Article 3 of the Geneva Conventions; UN Declaration on the Protection of All Persons from Enforced Disappearances (Preamble and Article 6)

مركز جنيف للرقابة الديموقراطية على القوات المسلحة
شارع المعارف ٣٤
رام الله / البيرة
الضفة الغربية
فلسطين

تلفون: +٩٧٢ (٢) ٢٩٥ ٦٢٩٧
فاكس: +٩٧٢ (٢) ٢٩٥ ٦٢٩٥

DCAF Head Office, Geneva

By Post:

Geneva Centre for the Democratic Control of Armed Forces (DCAF)
P.O.Box 1360
CH-1211 Geneva 1
Switzerland

For Visitors:

Geneva Centre for the Democratic Control of Armed Forces (DCAF)
Rue de Chantepoulet 11
CH-1201 Geneva 1
Switzerland

Tel: +41 (0) 22 741 77 00

Fax: +41 (0) 22 741 77 05

DCAF Ramallah

Al-Maaref Street 34
Ramallah / Al-Bireh
West Bank
Palestine

Tel: +972 (2) 295 6297

Fax: +972 (2) 295 6295