

Human Rights, Gender and the Role of Police in Democratic Elections

Training Manual



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PREFACE

This manual on Human Rights is unique in one respect. It is designed to impart human rights principles to Tanzanian police officers in order to equip them professionally for the crucial functions they are expected to discharge during the electoral process. The protection of human rights is part and parcel of the exercise of routine police functions. However in an electoral process, the loftiest exercise of the democratic rights of citizens, the protection and observance of human rights comes sharply in focus.

Human rights principles embody generally accepted principles of fairness and justice. The electoral process involves three important stages: the run up to the elections when there are public meetings, marches etc. by political parties with contending interests, the polling day when the citizens cast their ballots while the police are required to ensure that balloting takes place in an atmosphere of peace and tranquillity and the post-election stage when citizens adopt various forms of expressing their views and opinions. Both stages bring concrete challenges to the policing function. Police officers must be able to navigate and negotiate through these contending interests with fairness and impartiality. Above all they should view themselves as facilitators of the democratic process and strive to avoid the taking of any arbitrary measures which would inhibit the exercise of democratic rights by the citizens.

Policing or law enforcement properly so called, is indeed an exercise in the protection of human rights. The United Republic of Tanzania ratified and domesticated the major international instruments aimed at protecting human rights. A few examples will suffice to illustrate this point. The Bill of Rights which forms part of both the Constitutions of the United Republic of Tanzania and the Constitution of the Revolutionary Government of Zanzibar¹ is a tangible expression of adherence to the Universal Declaration of Human Rights, a major international instrument for the protection of human rights. Prominent among the categories of rights embodied in both the constitutions are the right to freedom of assembly, freedom of association, participation in public (political) affairs, personal freedom, just to mention a few. Further the right to life as expressed in the International Covenant on Civil and Political Rights finds its concrete expression in the Tanzanian as well as Zanzibar laws prohibiting murder and similar life threatening acts or omissions as the case may be, and the right to property is upheld by laws prohibiting arbitrary interference with the citizens' property.

To the extent that the police enforce these laws they are contributing in no small way to the protection of human rights. Policing is therefore a palpably strategic scheme for the protection of human rights. Indeed police officers are the first line of defence in the protection of human rights.

Far from inhibiting the efficiency and effectiveness of the policing function, the observance of human rights by police officers promotes the objectives of policing in many ways. When police officers observe human rights they gain the respect and above all the cooperation of the citizens. Public cooperation is a crucial factor in the detection of crime. Public cooperation however, may only be secured where the police have the respect and trust of the citizens.

This Manual on Human Rights is an important contribution to the professional perfection of Tanzanian police officers not only for the democratic management of the electoral process but also for the routine performance of their functions. It is my sincere hope that all of us will treasure this manual and above all treat it as a constant point of reference in the promotion of democratic policing which is the major objective of the Tanzania Police Force.

ERNEST JUMBE MANGU
INSPECTOR GENERAL OF POLICE

AIMS OF THE TRAINING PROGRAMME ON HUMAN RIGHTS, GENDER AND ROLE OF POLICE DURING ELECTIONS

The aim of this training programme is to give police officers the skills necessary:

- To carry out their “traditional “role as preservers of peace in the context of heightened tensions during the election period;
- To ensure that police officers help to protect the security and integrity of the electoral process, participants, institutions and outcomes;
- To conduct themselves in relation to stakeholders in the electoral process (e.g. the principle of neutral, discreet and professional policing);
- To ensure that police officers are aware of particular needs and vulnerabilities that might impact certain individuals and segments of society, and be in a position to respond to these appropriately;
- To ensure all citizens are able to exercise their democratic rights equally, regardless of their social status, gender identity, age, disability or any other factor;
- And to carry out specific tasks on polling day such as accompanying ballot boxes.

CHAPTER

Introduction to human rights



Content

Introduction to human rights

Learning objectives for chapter 1

- 1.1. Introduction
- 1.2. What are human rights?
- 1.3. What is the role of police officers?
- 1.4. Why are human rights important for police officers?
- 1.5. How may police officers limit the human rights of suspected criminals?
- 1.6. International human rights instruments applicable to police officers
- 1.7. The importance of international standards for Tanzanian Police
- 1.8. Summary/Questions for self-evaluation

Learning objectives for chapter 1

After completing this chapter you should be able to:

- Discuss the role of police officials in respecting and protecting human rights
- Define human rights
- Discuss the importance of international standards for Police in Tanzania
- Discuss how police can limit the human rights of suspects

1.1. Introduction

Human Rights form the basis for police agencies that will serve and protect all the communities in Tanzania in an impartial and professional manner. It is important for all police officers to respect the human rights of all the people that they deal with on a daily basis and all persons in their custody and care. It is also important for the community to understand the role of the police officers. This is even more so during the period of elections where police officers are expected to uphold the law, respect the rights of every person while being impartial and professional.

Police officers have a very important role in the protection of human rights because of the fact that they are dealing with people on a daily basis, especially with people who are suspected of committing crime and people who were the victims of crime. This is even more so during the run up to the election, during and after the election process where citizens will be more active in expressing themselves, holding meetings, rallies and processions. It is therefore important for police officers to understand their role as law enforcement officials and as protectors and enforcers of human rights. Police officers should also understand the basic principles of performing their duty with human rights as the basis for their actions.

Police officers are in the position to legally limit some of the very fundamental rights of people, especially people who are suspected of committing a crime, for example during arrest, detention, investigation and searches, and managing crowds and maintenance of public order. There are however factors to take into consideration when limiting rights.

This chapter is a basic introduction and we will look at human rights in general, how it came about, some important international human rights documents, the human rights in legislations of Commonwealth Countries in Tanzania and how important it is for police officers to respect and protect human rights. We will also have a basic look at the role of police officers and how police officers can limit and restrict the rights of suspects. Some human rights will be dealt with in more detail in other chapters.

1.2. What are human rights?

There are many definitions of human rights and people differ about the importance of different rights. Human rights have been defined as ‘generally accepted principles of fairness and justice’ or ‘moral rights that belong equally to all people simply because they are human beings’. This means that human rights belong to all people. There are a few principles that can be applied to explain human rights.

➤ PROVIDES MINIMUM PROTECTION

Human rights are the **minimum protection** that all human beings have the right to enjoy because they are humans. Human rights provide a moral recognition of the dignity and equality of all humans and the need to give all humans an opportunity to develop fully.

➤ INHERENT

Human beings are born free and equal in dignity and rights - this means that their rights are **inherent** - not given, bought, earned or inherited. Just because you are born, you have human rights.

➤ UNIVERSAL

Human rights apply to all human beings. Human rights are generally accepted principles. Human rights are the same for all regardless of race, sexuality, gender, religion, ethnicity, possible disability, political or other opinion, social or national origin - they are **universal** because they are the same for everyone in the world. They are also internationally guaranteed.

➤ INALIENABLE

Human rights cannot be waived or taken away - they are **inalienable**. Human rights cannot be renounced, lost or forfeited. Some human rights can however be limited - but only in accordance with the laws of a democratic society and only to the extent necessary in order to protect the rights of others. The principles of proportionality, legality, accountability and necessity should guide police officers when limiting the rights of a person. Police officers should also be able to justify their actions and also be able to indicate that they were reasonable in their actions.

➤ EQUALITY

All people have the same human rights. As long as you are a human being you are entitled to human rights. Therefore all human beings have the right to **equal** protection of their rights and to equal treatment by law enforcement officers. Police officers may not discriminate against any person by for example treating them differently because of a persons' race, gender, colour, sexuality, language, religion, possible disability, political or other opinion, national or social origin, property, birth or other status.

➤ INDIVISIBLE

Human rights are based on the principle of respect for human dignity. In order to live in dignity, all human beings are entitled to freedom, security and decent standards of living all at the same time - human rights cannot be divided up, they are all interconnected and inter dependent, they are **indivisible**.

➤ FUNDAMENTAL

Life, dignity, and other human values depend on them. Human rights form the basis of every human being.

➤ ABSOLUTE

The core rights are absolute and cannot be limited. Under International Law they are the right to life, the right to be free from torture, the right to be free from slavery and the right to be treated with dignity. However there are certain human rights that may be limited if countervailing social interests are important enough, in particular circumstances, for limited times and purposes to the extent strictly necessary.

➤ OBLIGATION OF THE STATE

Human rights are a legal recognition of the **obligation** of States to provide and guarantee these rights to the humans under their control.

These principles have to be protected and promoted. Human rights may be protected through a Constitution, a Bill of Rights or through the ordinary laws of a country. In Tanzania there is special legislation to protect human rights. Every person has the right to enforce their rights, but sometimes human rights can be limited or restricted if they conflict or interfere with the rights of others. It is also important to respect the human rights of other people so that they can also respect your rights.

1.3. What is the role of police officers?

A police officer is a Law Enforcement Official and according to Article 1 of the United Nations Code of Conduct for Law Enforcement Officials:

“Law enforcement officials shall at all time fulfil the duty imposed upon 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.”

This means that police officers should at all time respect and protect the law. Not only local or domestic legislation but also internationally accepted standards and practices. All police officers should respect the human rights of all suspects, besides that they should also protect the human rights of every person, for example, against abuse by other officials. This is also applicable during the election period.

1.4. Why are human rights important for police officers?

All human beings have basic human rights, regardless of their age, sex, ability or disability, social or economic background, political opinion or ethnic and religious background. These rights have to be respected and protected, without discriminating against any group or individuals. Discrimination refers to the unfair, unequal or prejudicial treatment of individuals or groups, for example on the basis of their age, sex, ethnic background or ability/disability. The Tanzanian Constitution bans discrimination on any grounds and numerous subsequent laws, government policies, action plans and the like have further outlined the necessity to pay particular attention to the needs of women, people with disabilities, youth and other vulnerable groups.

All citizens have equal rights and must be treated equally in front of the law. Ensuring equality and non-discrimination may at times mean treating people differently in order to ensure that they are able to exercise their rights, for example assisting people with disabilities (PWD) in accessing services, or ensuring elderly people or pregnant women are not exposed to strenuous situations (e.g. queueing for hours at a ballot box).

Police officers are in a very unique position. They work with people who break the law and abuse other people's human rights. During election time even more so where different opposition parties try to undermine each other and try to stop each other from having meetings, rallies, marches where they express their rights to freely express themselves or associate with their own political parties. During this period police officers have to be even more vigilant not to be seen to side with one group or political party. Police officers must therefore not only be impartial but must also be seen to be impartial. In the context of elections, they need to ensure citizens are able to vote/participate otherwise in political processes, free from discrimination, verbal or physical abuse, harassment, and violence, including of a sexual or gendered nature.

When police deal with members of the public especially if these people are suspects police have a very important responsibility to respect, protect and promote the basic human rights of every person. Unfortunately police officers are not only in the position to respect and protect human rights, but also to abuse the human rights of people. It is therefore very important for police officers to know and understand their role in respecting and protecting human rights. Police officers should not only know the human rights of suspects or people in detention, but should also know how to apply these rights, and should also know how to protect and respect these rights against abuse by others, including violations of rights by other police officers.

Another aspect of human rights that is equally important for police agencies is the fact that police officers are also human beings, and therefore also have basic human rights that should also be respected and protected. An example would be the right of police officers to have good working conditions. This also includes the right of all officers to be treated with respect and without discrimination regardless of rank; position; age; sex; social, religious or ethnic background and ability/disability.

Police services also need to be provided in a way that is in line with regulations and enables people with particular needs to access these. For example, cases of sexual and gender-based violence (SGBV) and child abuse (CA) need to be handled in an environment which guarantees confidentiality, while for example elderly and persons with disabilities may not be able to access offices if lengthy staircases are involved.

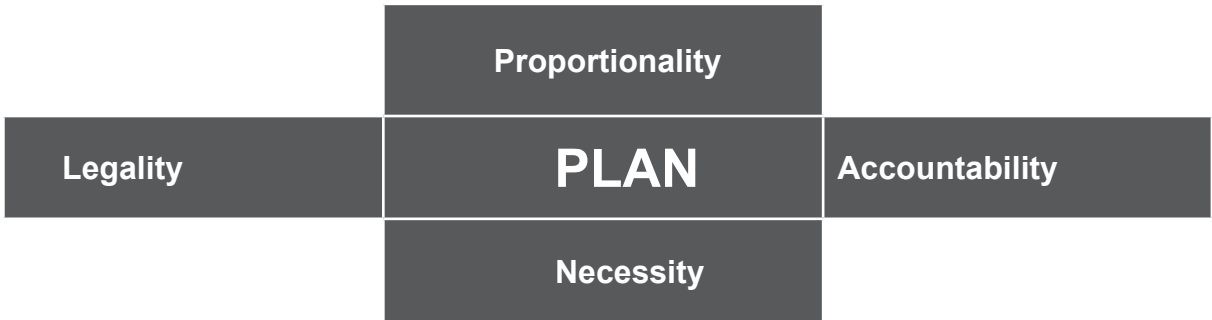
Police officers also have to respect and protect the rights of victims and vulnerable groups in society. They are there to protect and serve the community they work in. In the context of elections, particular groups may be faced with particular needs and vulnerabilities or threats which police officers need to be aware of and, where necessary and mandated to do so, respond to. These can for example be women, elderly or people with disabilities whose democratic right to vote is being obstructed; young men who are pressured to join political party youth groups; female candidates who are subjected to verbal and physical abuse, or threats thereof; people with albinism, children or vulnerable men/women who are targeted due to alleged witchcraft practices; people who are sexually harassed be it at campaign rallies or during voting; real or suspected supporters of one party who are attacked or threatened by another party's supporters or uninvolved persons caught in tensions or violence between supporters of opposing parties.

Police officers can be seen as the first line of protection of human rights. These rights cannot be taken away arbitrarily and without legal justification. In certain instances, for example when a person breaks the law and commits a crime some human rights may be limited by police officers, by for example arrest, detention, use of force, searches, to name a few. When these rights are limited there are important issues that have to be taken into account. Limitations should be necessary, they should be legal, justifiable and proportional, police officers' behaviour should also be ethical, and it is also important to realize that the police officers may be held accountable for their actions. Police officers should know and understand the rights of every person in society. The reason for this is that police officers should be able to understand, respect and protect the human rights of every person that they deal with or who is under their control or in their custody or care. When they limit the rights of suspected criminals they should be able to understand how they should apply the human rights principles and under what circumstances they may be able to limit rights.

1.5. How may police officers limit the human rights of suspected criminals?

Police officers are in the position to limit some of the rights of people who are suspected of committing a crime through for example arrest, detention, investigation of crime, searches and other police activities such as maintenance of public order. This can never be done without legal justification. Therefore it is also important for police officers to know how far they can go in limiting rights of people when dealing with them. When limiting the rights of suspects, police officers should always act within the law (*legality*). They should only act when it is necessary to act (*necessity*), they should, for example, only use the minimum force or action that is necessary to solve or deal with each situation or problem (*proportionality*), and it is also important police officers to act in an ethical way and to realize that after any action of a police officer there will be the question of accountability for the actions (*accountability*).

The acronym PLAN makes it easy to remember the aspects that have to be taken into consideration when limiting human rights.



This is always a good way to measure the actions of police officers.

1.6. International human rights instruments applicable to police officers

There are numerous international documents that play an important role in the protection of human rights around the world. There are various international documents that deal directly or indirectly with police officers and human rights.

Some of them are

- The Code of Conduct for Law Enforcement Officials
- The Convention against Torture or Other Cruel, Inhuman and Degrading Treatment or Punishment (UN 1984) and its Optional Protocol (UN 2002)
- Standard minimum rules for treatment of prisoners
- Principles on use of Force and Firearms
- The Body of Principles for the Protection of all Persons under any form of Detention or Imprisonment
- The International Convention on the elimination of all forms of Racial Discrimination
- Convention on the rights of the child
- Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)
- Basic Principles of Justice for Victims of Crime and Abuse of Power
- African Charter of Human and Peoples Right of 1981 (ACHPR); and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol),

All of these instruments are fully legally binding on the States that are party to them. Tanzania signed several of these international treaties and incorporated the principles into domestic legislation. This means that Tanzania as a country and its Police have to respect the rights set out in these conventions. With the ratification of treaties, the principles contained in the treaties become part of the legal systems of these countries and have to be implemented into local legislation.

1.7. The importance of international standards for Police Officials in Tanzanian

The world is becoming a global village. With international instruments leading the way for governments on how to govern, their role is also important for government officials, and in this instance, the police officers in Tanzania. The Governments of United Republic of Tanzania have started a process of signing and ratifying the international treaties, covenants and rules confirming these rights. With this international standards and practices are incorporated into local legislation and are becoming part of the standards and practices for law enforcement. It is therefore important for police officers not only to know and understand the legislation of their respective countries, but also to take note of international standards and practices.

1.8. Summary/Questions

- What is the role of police officers in respecting and protecting human rights?
- What are human rights?
- Who do human rights apply to?
- Discuss what is meant by discrimination, non-discrimination, equal treatment and equal rights
- Discuss the importance of international standards for the police in Tanzania.
- Explain what is mean by limitation of human rights?
- Discuss how police officers may limit the human rights of suspected criminals
- What questions should a police officer ask when limiting the rights of a suspect?

CHAPTER

Policing in a democracy



Content

Policing in a democracy

Learning objectives for chapter 2

- 2.1. Introduction
- 2.2. What is a democracy?
- 2.3. The role of police officers in a democratic society?
- 2.4. Principles of policing in a free society
- 2.5. United Nations standards and practices applicable to policing in a democracy
- 2.6. UN Practical Steps for Implementing International Standards
- 2.7. Summary
- 2.8. Questions for self-evaluation

Learning objectives for the chapter

After completing this chapter you should be able to:

- Explain the role of police officers in a democratic state
- Discuss what is meant with democracy
- Discuss what is meant with good governance
- Discuss why it is important for police officials to respect and protect human rights of every person in the community irrespective of political affiliation
- Describe the link between human rights and community policing
- To understand what non-discrimination is
- Discuss the international human rights standards and practices for law enforcement officials

2.1. Introduction

Democracy and human rights are dependent on each other. Democracy is important for any country for it gives citizens a chance to participate in decision and policy making at all levels on issues affecting them. Citizens participate in the election of leaders and through that they have a say in the way that the country will be managed and administered.

In a democracy there is political tolerance and people respect the rule of law. This is also the cornerstone for good governance.

In a democratic society, the police and the community work together in order to have a safe, respectful and high life quality for all citizens, regardless of their age, sex, ability or disability, social or economic background, political opinion or ethnic and religious background or any other social identity markers. The good relationship between the police and the community is fundamental in order to ensure protection of all citizens as well as the respect for human rights.

2.2. What is democracy?

Democracy comes from the Greek words *demos* meaning “the people”, and *kratos* meaning “authority”. There are many definitions of democracy such as: government is conducted with the freely given consent of the people; or a system of government in which authority rests with the people. The most common definition is rule by the people. Democracy can also be viewed as an organized system of power – power given to government by its citizens through a process of free and fair elections. Democracy can only exist in a country if the people in it believe and practice the principles of democracy. These are fair and respectful of people’s basic human rights.

Good Governance

The term governance is used to describe the way in which a country is governed. It has a much broader meaning than the term government. ‘Government’ describes the political, economic and administrative processes carried out by the political party that is in power. This can be called the government sector. The term ‘governance’ includes the government sector but adds two more sectors, business and civil society.

Governance is the process whereby public institutions conduct public affairs, manage public resources, and guarantee the realization of human rights. Good governance is realized through institutions like the parliament, courts and government. This includes the police.

Good governance is achieved under a democratic political system in which the actions of all three sectors contribute to the good of society. It is most likely to occur when the government sector has high quality public sector institutions and when the nation has a strong civil society. Good governance is accomplished in a manner that is essentially free of abuse and corruption, and with due regard for the rule of law and human rights.

Some key principles of good governance and an explanation of how each is linked with a particular type of human right.

Good governance principle	Human rights link
Democratic government and processes	A truly democratic government cannot occur unless individuals have guaranteed civil and political rights, and have access to these equally regardless of age, gender, wealth, disability, education level, their background or any other identity marker. This means they can freely express their views without fear of being arrested, tortured or discriminated against.
Effective public sector institutions	These institutions are developed through good government policy but they cannot be administered effectively unless the staff has access to economic human rights, such as adequate pay. Adequate pay enables people to support themselves properly and so reduces corruption. This improves governance. Institutions must serve all citizens equally and without discrimination, respecting minority rights, and should be as representative of the population as possible.
The primacy of the rule of law and an impartial and effective legal system.	The primacy of the rule of law and an impartial legal system protects the civil rights of all people in relation to their property, personal security and liberty. The legal and judicial system should be independent of the government so that it can serve the interests of its citizens equally rather than a particular political party. In this way it protects the civil rights of its citizens against a predatory state.
A strong civil society	Civil society is about people contributing to the governing of their country through their participation in the community, be it for example through associations, trade unions, women's rights organisations or community groups. It is difficult to participate if you are poor, unemployed, hungry, homeless and uneducated. People who live under these conditions are being denied their economic, social and cultural rights. Good governance cannot truly occur until these rights are guaranteed by a government willing to take responsibility for the social security of its people.
A high priority on investing in people	Investing in people means creating a skilled workforce. This cannot occur unless basic economic and social human rights are met including the right to adequate education, health services, food, and shelter, without discrimination against any individuals or particular sections of society.
Careful management of the national economy	A government which does not manage its economy well will not have enough resources to guarantee basic human rights. However, if these rights are not met equally for all citizens it is difficult to create the accountable and transparent institutions so vital to good governance and to sustainable development.

2.3. The role of police in a democratic society

Policing in a democratic society requires police to be willing to be accountable for their actions based on the principles of **legality** (describes whether police have a clear and public legal authority to act), **necessity** (the quality or state or fact of being necessary or a condition arising out of circumstances that compels to a certain course of action by the police) and **proportionality** (asks whether any action is neither excessive nor inefficient to deal with a situation or problem).

When we talk about Police in a democratic society, we should take in count the “Seven components” (produced by the *Joint Informal Working Group on Police and Human Rights*, operating under the auspices of the Council of Europe’s program ‘Police and Human Rights 1997-2000’), separating the areas of policing arrangements into seven components. No single component should be considered in isolation. They are not mutually exclusive but rather are intended to overlap, these areas are:

- Basic values
- Staff
- Training
- Management practice
- Operational policing
- Structure and
- Accountability

The *basic values* component should be seen as an ‘umbrella’ which covers the entire document, to encourage not only better policing operations, but more consideration of how to recruit, to employ and to treat staff. How we determine training needs, and how we co-operate with and account to the public, and others, concerned with providing justice and peace.

The *basic values* component raises questions, which have to do with the philosophy of policing in a democratic society.

The following are ways in which the police can ensure that democracy is exercised in the society during an election:

- Facilitating a free and fair election
- Giving all citizens equal rights regardless of their age, sex, ability or disability, social or economic background, political opinion or ethnic and religious background or any other social identity markers, and chance to vote and/or to be voted in
- Facilitating a people driven election where the rule of law is applied, a process that addresses the interests of its citizens.
- Police should be non-partisan without any influence from one political party
- Recognize that there is freedom of speech and expression
- Respect freedom to access to mass media
- Respect of the constitution whose laws are observed at all levels
- Ability to accommodate other people’s ideas even when they differ from one’s own
- Provide security regardless of tribe, religion or political party, regardless of their age, sex, ability or disability, social or economic background, political opinion or ethnic and

religious background or any other social identity markers. Candidates and voters need to be able to exercise their democratic rights free from discrimination, verbal/physical abuse, harassment, and violence, including of a sexual or gendered nature, be it against themselves or their family members or close ones.

Free and Fair Elections

An election is said to be free and fair when;

- The election is not under the control or in the power of one party, candidate or group of people.
- Candidates and voters are able to do what they want while observing the electoral law
- Everyone is treated equally and according to the rule of law without discrimination
- The election outcome is acceptable and appropriate in a particular situation

2.4. Principles of policing in a free society

A law enforcement organization functioning in a free society is one which:

1. Considers that the *Police work for the people*: not the state
2. Police must obey rules and policies of the department. Police must maintain perform their duties equally to all persons **without regard** of their age, sex, ability or disability, social or economic background, political opinion or ethnic and religious background or any other social identity markers **or other non-behavioural human traits**:
Honor human rights and human dignity of its members and the general population;
Support the free exercise of available legal rights of all persons; and
Encourage the *fair and impartial enforcement* of those laws within its jurisdiction;
3. All police duties must be in *strict conformance with legal requirements* contained in the nation's constitution, police act, criminal code and other applicable laws;
4. Police are to serve the public rather than public *repression* of their culture or freedom.
5. Police must think to prevent crime before it happens in order to *keep the public trust, public order, domestic tranquility* and an *acceptable quality of life for all persons within the country*;
6. When possible the police must be a team with the community to **identify and solve community problems which provide opportunities for criminal conduct**;
7. **Actively and effectively investigates** reports of criminal conduct with the objective of **identifying and apprehending** the criminals **so that guilt or innocence may be properly determined in court**.
8. Police must work with the court officers, judges and prosecutors harmoniously to ensure that persons introduced to that system are processed **lawfully, effectively and fairly**;
9. Approves and encourages the use of **non-deadly physical force** by its members only under carefully defined circumstances to further a legitimate and lawful, societal objective, and the use of **deadly force** by its members **only to save the life of any person, including a**

member of the police, from a perceived threat of imminent death or serious injury, or under other circumstances written in a local, public law;

10. Develops, maintains and operates under a ***code of conduct, rules, policies and procedures which provide reasonable guidance*** to police personnel in their behavior and the discharge of their assigned functions while holding them ***accountable*** for the manner in which they perform their duties;
11. In cases of sexual and gender-based violence (SGBV) and/or child abuse (CA), officers need to respond according to the “SOPs for prevention and response to gender-based violence (2012)” and refer cases as quickly as possible to the Gender and Children’s Desks (GCDs) where specially trained GCDs Police Officers are posted
12. All members of the police force who obey these rules and perform within the policies of the department shall be rewarded by promotion and department wide honors, which may be reported to the public. Members should be *discouraged* for not obeying such rules or having bad behavior
13. *Readily accepts and thoroughly investigates complaints of misconduct against police personnel;* and:
14. *Appropriately disciplines* police personnel who are ***fairly determined*** to have violated the established police code of conduct, rules, policies and/or procedures. Appropriate punishment may include all or one of the following: documentation of actions, time off without pay, demotion, transfer, termination or criminal prosecution.

2.5. United Nations standards and practices applicable to command and management

There are some basic human standards and practices that are applicable to policing in a democracy.

- In the exercise of her/his rights and freedoms, everyone shall be subject only to such limitations as are determined by law.¹
- Limitations on the exercise of rights of freedoms shall be only those necessary to secure cognition and respect for the rights of others, and to meet the just requirements of morality, public order and the general welfare in a democratic society.²
- Everyone, regardless of their age, sex, ability or disability, social or economic background, political opinion or ethnic and religious background or any other social identity markers has the right to take part in the government of his/her country, directly or through freely chosen representatives.³
- The will of the people is the basis of the authority of government.⁴
- The will of the people shall be expressed in periodic and genuine elections, which shall be by universal and equal suffrage.⁵
- Every law enforcement agency shall be representative of and responsive and accountable

1 ¹ See Part I and especially Part III of the Constitution of the United Republic of Tanzania and Chapters I and III of the Constitution of the Revolutionary Government of Zanzibar.

2 UDHR, article 29(2).

3 UDHR, article 29(2).

4 UDHR, article 21(1); ICCPR, article 25 (a) - (b)

5 UDHR, article 21(3); ICCPR, article 25(b).

- to the community as a whole.⁶
- Everyone has the rights to freedom of opinion, expression, assembly and association.⁷
- All police officials are part of, and have a duty to serve, the community.⁸

2.6. UN Practical Steps for Implementing International Standards

The United Nations developed a few practical steps that can assist with the implementation of these international standards. They are the following:

A. All Police Officials:

- Exhibit political independence and impartiality at all times:
- Become familiar with the people in the community to which you are assigned.
- Get close to the community. Generally, do not stay in the station when you can patrol in a vehicle; do not patrol in a vehicle when you can patrol on foot.
- Volunteer for community-service assignments.
- At polling places, while providing electoral security, meet first with the electoral officials and maintain a discreet, disciplined and professional demeanour with the voting public.
- When policing rallies and political demonstrations, practice tolerance, and remember that the objectives of public safety and non-escalation should be paramount.

B. Command and Supervisory Officials:

- Establish and enforce policies and strategies of the police agency based on respect for democratic government.
- Introduce community-policing strategies, in which police form a partnership with the community and are seen as part of the community.
- Hold public consultations to discover the specific needs of the local community, including women, youth, elderly and persons with disabilities (PWD) and adopt measures to respond to those needs. Special attention should be paid to needs and vulnerabilities of minority groups or marginalised groups/individuals (e.g. street children), as they might be facing particular vulnerabilities.
- Organize public relations programs encouraging police community cooperation.
- Ensure that the composition of the police agency is representative of the entire community through fair and non-discriminatory recruitment and management policies and practices.
- Establish recruitment procedures and training programs designed to recruit and retain police officials willing and able to meet the demands of democratic policing under democratic government.
- Establish close cooperative contacts with electoral authorities, trade union leaders and non-governmental organizations, including women's groups, youth groups and organisations and PWD associations/organisations.
- Where possible, deploy officers for electoral security according to needs determined by electoral authorities.
- Deploy the minimum number of officers necessary for electoral security.

⁶ UDHR, article 21(3); ICCPR, article 25(b).

⁷ General Assembly resolution 34/169 of 17 December 1979 (adopting the Code of Conduct) [hereinafter Aresolution 34/169"], eighth preambular paragraph, subparagraph (a).

⁸ UDHR, articles 19 and 20; ICCPR, articles 19, 21 and 22; Principles on Force and Firearms, principle 12.

Establish a publicly accessible mechanism for the receipt of citizens' complaints, suggestions and concerns. An example of this is the recently-developed online clients' survey system for Gender and Children's Desks that has been developed jointly by TPF and UNFPA.

2.7. Summary

Police officers have a very important role to play in every democratic society. Especially during democratic elections police officials should be impartial and professional, respecting and protecting the basic human rights of every person in the country.

2.8. Questions for self-evaluation

- What is the link between human rights and policing in a democratic society?
- What is a democracy?
- What is meant by good governance?
- Why it is important for police officials to respect and protect the human rights of all community members?
- Please provide examples of equal treatment?
- Explain the non-discrimination by the police.
- To whom are the police answerable?

CHAPTER

Gender, diversity, social inclusion and elections



Content

Gender, diversity, social inclusion and elections

Learning objectives for Chapter 3

- 3.1. Key definitions
- 3.2. Diversity
- 3.3. Gender, violence and vulnerability in elections s
- 3.4. Responses
- 3.5. Questions for self-evaluation

Learning objectives for Chapter 3

After completing this chapter you should be able to:

- Define gender and why gender, along with other factors, needs to be taken into account in policing.
- Understand different forms of physical, verbal, sexual or economic violence which might occur during electoral campaigns and how these might affect different individuals or social groups differently
- Understand the legal obligation to take these forms of violence seriously, and how to respond to them appropriately
- Understand how police officers should understand, plan for and react to gendered forms of violence in election processes

3.1. Key definitions

According to the Ministry of Home Affairs/TPF “Guidelines for the Establishment of Police Gender and Children’s Desks” (2012), the following key terms are defined as:

Child is a person under the age of 18 years.

Child abuse includes: physical abuse, such as being slapped, pushed, hit with a fist, kicked, or whipped, or threatened with a weapon such as a gun or knife; emotional abuse such as making the child feel worthless or unloved, inadequate or valued only if they needs of another person, or causing the child to feel threatened or in danger; and sexual abuse such as involving the child in any activity for the sexual gratification of another person – even if the child “consented”. This includes sex, attempted sex, and sexual touching. It may also include non-contact activities such as making the child look or watch at pornography or sexual activities. It may also include the use of sexual language when speaking to a child or encouraging a child to behave in a sexually inappropriate manner.

Domestic Violence refers to any physical, sexual, or psychological harm perpetrated by one party against another within the definition of a domestic relationship (affiliation by birth, blood, co-habitation, marriage, love or shared parenthood).

Elderly person means any person who is above sixty (60) years of age as defined by the National Ageing Policy, 2003

Gender means the socially and culturally constructed relation between men and women. This relation varies according to culture and location and it is subject to change over time.

Gender-based violence refers to any physical, psychological, sexual or economic violence perpetrated by a person against another on account of gender.

Harassment means repeated, destabilizing actions towards a person with the intent to persecute, to scorn, or insult, to blame him or her, etc.

Police Gender and Children's Desk means a special unit within a Police Station or any other division as may be designated by TPF with specially-trained officers to attend gender-based violence and child abuse cases.

Sexual violence means any sexual act, attempt to obtain a sexual act, or acts to traffic for sexual purposes, directed against a person using coercion, and unwanted sexual comments, harassment or advances made by any person regardless of their relationship to the survivor/victim, in any setting, including but not limited to home and work. Survivor/victim means any person who is a victim of an alleged gender-based violence or child abuse.

Violence includes and not limited to physical violence, emotional violence, and sexual violence.

It is especially important to note the difference between **biological sex** and **gender**: while biological sex refers to males and females in the biological sense, gender is about the roles and positions in a society as ascribed to men and women. Therefore, different men and different women will be in different positions of power or vulnerability in different contexts and at different times. While often men are in a privileged position over women, other factors may also play a greater role: a male with disabilities, living on the streets as a beggar will be far more vulnerable than an economically successful female lawyer.

Gender also determines in part people's vulnerability to certain forms of violence: women and girls are often more likely to be subjected to sexual abuse and harassment, and violence, including threats thereof. It needs however to be kept in mind that men and boys can also become victims of this kind of violence. Expectations about what kind of behaviour is seen as socially appropriate for men and women can also influence reporting of SGBV, given the different kinds of shame and stigma survivors of this kind of violence may face if they report the crime.

3.1. Diversity

Police officers are by law bound to serve all people equally, and therefore need to be aware of particular needs and vulnerabilities that might affect different people or social groups differently based on their age, sex, ability or disability, social or economic background, political opinion or ethnic and religious background or any other social identity markers.

With the rapid changing of society due to urbanisation, modernisation and globalisation, Tanzanian society has become more diverse, and police officers need to be able to respond positively to this **diversity** in order to fulfil their task of providing security and other services to all people equally and without discrimination.

On the one hand, this means that police officers need to be open to societal change and engage with as broad a group of people as possible (e.g. as part of community policing), but responding positively to diversity also means more effective, accountable and efficient service delivery. As the security sector think-tank DCAF states,

“Good security sector governance involves pursuing the twin goals of efficiency and accountability:

- Efficiency without accountability results in an authoritarian system where order is maintained at the expense of justice.
- Accountability without efficiency results in an ineffective institution that provides security to no one.

These twin goals can only be achieved if you have local ownership and holistic approaches to security. Local ownership involves the police responding to the diverse security needs of the population. It also requires that the police reflect the demographic make-up of the state.

Holistic approaches to security are easiest to achieve with a diverse work force who has both experienced a wide range of different security situations but also has the ability to reach out to different parts of the population. People will trust a police officer who they can identify with. “

3.3. Gender, violence and vulnerability in elections

Although electoral processes should be peaceful and inclusive, in practice they can trigger dynamics that lead to violence and the particular targeting or disadvantaging of certain individuals or sections of society due to their age, sex, ability or disability, social or economic background, political opinion or ethnic and religious background or any other social identity markers. As it is the task of police officers to help ensure peaceful and fair elections and the possibility of all eligible citizens to participate without discrimination, it is necessary for police officers to understand the various kinds of violence that may occur in electoral processes and which groups/individuals are at the highest risk of being affected.

Electoral violence can take different forms. From the point of view of police responses, the following are of most concern:

- 1. Citizens being hindered from participating in voting:** This may occur on an *individual* basis, e.g. a husband or a male relative forbidding a female member of the household from voting, or may occur on a more *systematic* basis if certain groups are blocked from accessing voting stations due to their identity (for example tribal/ethnic background, gender identity or political affiliation) or due to structural issues such people with disabilities or the elderly are not able to access polling stations
- 2. Targeted use of gendered discrimination, sexual abuse, harassment, slander, violence or threats thereof:** Especially female candidates, female supporters of a political party or female voters may be exposed to discriminatory statements, or more seriously the threat or even actual use of sexual abuse, harassment, slander or violence in electoral processes. Some of this may be politically motivated (e.g. an attempt to discredit a female candidate or to intimidate voters), while other cases may be more opportunistic (e.g. groping or other forms of sexual harassment while queuing for voting). These forms of violence can also be targeted at men and boys, as happened for example in the violence surrounding the 2007 elections in Kenya.

These forms of violence can also occur in the context of an escalation of violence, be it before, during or after an election, and target persons unrelated to the electoral campaign. As with other forms of SGBV, certain individuals or groups may be in a ‘double-bind’ when it comes to reporting violence against them out of fear of being charged with a crime themselves. This includes men who have sex with men, undocumented migrants,

sex workers or street children.

3. **Sexual exploitation and abuse** candidates, their supporters and voters, especially women, may face unwanted sexual advances, or the demanding of sexual or other favours by person being in position of power or authority or any person as a condition for accessing services, exercising their rights or in exchange for preferential treatment **Coercion of people to join violent campaigns**: Due to their age, gender and social status, certain groups or individuals may come under pressure or be vulnerable to attempts to be recruited into potentially violence-prone pressure groups. The ones most at-risk in this respect tend to be young men, and to an extent women, in disadvantaged socio-economic conditions. Regional examples of this include the electoral violence in Kenya 2007-2008 and the pre-electoral violence in Burundi 2014-2015.
4. **Vulnerability due to superstitious practices**: Superstitious beliefs such as in witchcraft, sacrifice of children or people with albinism, may put certain people at risk in electoral processes as well. These may include young girls or boys, especially if unaccompanied, people with albinism, and socially vulnerable men or women (e.g. widowers and widows).

Research by Gabrielle Bardal for IFES (see references) on electoral violence and gender in six countries (Bangladesh, Burundi, Guyana, Guinea, Nepal and Timor-Leste) shows that women are:

- “Most frequently victims of intimidation (32 percent of all violence types against women), verbal harassment (11 percent) and physical harm and group clashes (both 10 percent).
- In terms of victim types, women were most often identified as victims when associated with a public role (political party leaders, candidates or supporters made up 48 percent of all women victim types). Voters were the second most commonly reported type of victim (22 percent).
- Women as exclusive perpetrators of electoral violence remain a small subset (4 percent of total incidents); however, women acting together with men compose a significantly larger proportion. Taken together, this means that women acted as perpetrators in almost one-quarter of violent incidents.
- Analysis of women perpetrators reveals that women are most commonly involved in group clashes, verbal harassment and intimidation/psychological abuse. Women’s acts of violence employ significantly lower rates of weapon use: 70 percent of women-only acts employ no weapons, compared to 24 percent of male-only acts. And use of weapons by women is far lower than the rates within the full dataset.”

According to this research, there are several reasons why certain kinds of electoral violence targets women:

- “First, the rapid changes in the roles of women in many countries mean that normal risks of political activity are augmented with the risk of rejecting traditional roles and values.
- Second, familial or social intimidation or pressures that play out in private spaces are not captured by quantitative studies, nor are they included in traditional responses to electoral violence.
- Third, current frameworks tend to exclude public sexist rhetoric and harassment designed to inhibit and intimidate female candidates, voters and activists.

- Fourth, such statistics are just beginning to document economic violence, such as pressure by an employer or targeting businesses of an owner’s due to political beliefs or actions, and are far from addressing familial distribution of resources or control of childcare.
- Finally, these numbers and data collection methods do not capture direct, intimate violence; that is, physical or sexual violence in the home.”

3.4. Responses

As with any crime or misdemeanour, the best response lies in prevention. The key to prevention is

- understanding the nature and scope of the problem,
- taking it seriously,
- training police officers on the nature of the issue and responses,
- liaising with those potentially affected (e.g. associations of PWD, individual candidates, women’s rights organisation with other figures of authority need to respond immediately, e.g. by reinforcing that discrimination, sexual abuse and violence will not be tolerated.

If an act of violence has been committed, police officers should respond immediately and, in cases of SGBV and/or child abuse, refer the cases as quickly as possible to specially trained Gender and Children’s Desk officers.

These approaches are also echoed in the best practices identified by USAID (2013) for preventing electoral violence. USAID recommends:

- “First, identifying the underlying security, political, social, and economic vulnerabilities for electoral conflict to occur, early warning signs can be identified to focus planning for program interventions.
- Second, establishing a profile of the threats, program responses can be specifically crafted to address the conflict emerging from these threats.
- Third, a history of electoral conflict can be a predictor of future electoral conflict. Therefore, previous threat profiles may have relevance for future elections.
- And fourth comprehensive program responses should be multi-sectoral”, in other words involving electoral officials, civil society, law enforcement and media.

USAID also highlights the need for law enforcement to **uphold laws on equality, enforcing gender** and other laws and policies on non-discrimination laws within their jurisdiction and **collaborating with civil society organisations**, including women’s rights organisations, conflict management organisations and PWD organisations on these issues and drawing on their expertise.

Experiences from South Africa and from Kenya collected by EISA and USAID also highlighted the benefits of co-ordination between different actors and the sharing of information on early warning indicators and mapping of violent events.

3.5. Questions for self-evaluation

- Explain, in your own words, the concept of gender and how it relates to different needs or vulnerabilities different people may have
- Discuss how the community you are working in has/has not become more diverse and how you might need to respond to this in your work
- Discuss different forms of violence or discrimination which may occur in electoral campaigns, and how gender and other social factors play a role in vulnerability
- Draw up a detailed action plan on how you can prevent gendered and other forms of discrimination and violence in the area you work in. In the action plan please identify the stakeholders you need to work with for each action (that be women's groups, Village Executive Officers, Village Ambassadors etc.).

References:

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CHAPTER

Community policing

Content

Community policing

Learning objectives for chapter 4

- 4.1. Introduction
- 4.2. Defining community policing
- 4.3. Why is community policing important in a democratic society?
- 4.4. The advantages of community policing
- 4.5. Principles of community policing
- 4.6. International human rights standards applicable to community policing
- 4.7. Summary
- 4.8. Questions for self-evaluation

Learning objectives for chapter 4

After completing this chapter you should be able to:

- Define community policing, stating its main components.
- Describe how community policing is different from “traditional” policing
- Give four advantages for your community when community policing is implemented.
- Explain how community policing would help you in enforcing the law and solving problems.

4.1. Introduction

Community policing is an operational strategy that supports human rights, good governance and democratic policing.

The 21st Century brought new challenges for police all over the world. Crime and criminals are becoming more sophisticated and traditional methods of “fighting crime”, is becoming increasingly less effective. The “traditional” police model of preventative patrols, rapid response to criminal incidents and follow up criminal investigations was researched and the above-mentioned traditional police activities were found to be necessary, but by themselves not able to effectively fight crime. Furthermore, the dependence on high technology to fight crime was found to be helpful and important, but not enough. Police budgets and resources are often inadequate to support the “high tech” approach to fighting crime. This is especially true for police agencies in developing countries. In many countries of the world police agencies discovered that they needed to form partnerships with the community in order to fight crime more effectively.

Community policing forms an integral part of human rights and respect for human rights for all and without discrimination. By working closely with the community to prevent and solve crime police are in a position to better protect the rights of the community. On the other hand the community are in a good position to ensure that police act in a professional way and transparent way and that they respect basic human rights when fulfilling their duties.

Law Enforcement is about people – it is about serving and protecting people and their basic human rights – it is about safeguarding the weak, the innocent and the helpless against the savageness of the criminals, protecting life and property. For this reason law enforcement can not take place in isolation.

Community policing has been developed in response to the realities of change which are confronting police forces over the world. In this chapter we will explore community policing as part of human rights based approach to policing.

4.2. Defining community policing

There are many different definitions of community policing. Views on community policing may even differ from country to country depending on culture, views about society and a variety of other factors. There are a few basic ingredients that are universal.

- One of the most important ingredients is the **partnership** between police and the community.
- The main aims of community policing is to **combat, reduce or solve crime**.
- Community policing promotes **better relationships** between the police and all members of the community and promotes respect for human rights.

Community policing is a philosophy, a management style, and an organizational strategy that promotes pro-active partnerships between the police and the community to address the causes of crime, and fear of crime and other community issues.

Community Policing is therefore a new philosophy of policing, which accepts that the police can only effectively and efficiently solve problems related to crime, fear of crime, social and physical disorder, and neighbourhood decay, if the citizens and the police enjoy mutual trust, respect and cooperation. The ultimate goal is to establish an active and equal partnership between the police and the public through which crime and other community safety issues can jointly be determined and solutions can be designed and implemented.

4.3. Why community policing?

Criminals are intelligent human beings. In this age of information and advanced science, criminals have become involved in more complex activities. They have created more complex organizations. This has taken place due to the following reasons:

- They make use of the law
Criminals have competent attorneys advising them on the law. They understand the rules of evidence and the burden of proof necessary to convict or charge them. Likewise, they form legal corporations and businesses that they use to further their criminal activity.
- They understand government
Criminals know how laws are made and enforced. They know how to influence votes and lobby for power.
- They are concerned about societal impact
Criminals provide jobs and security for workers. They get involved in charitable activities. They protect some people and groups. Loyalty is created for support and assistance.

There are many reasons for implementing community policing as an operational strategy. The most important realities affecting the police and demand for implementation of community policing are the following:

- There is a growing demand for more professional, responsive, and customer-oriented policing

- Effective community policing can better provide security to all members of a community, regardless of their age, sex, ability or disability, social or economic background, political opinion or ethnic and religious background or any other social identity markers
- Community policing allows for a better understanding of, and thereby more effective responses to particular needs of marginalised and vulnerable sections of a community
- There is an increase in the socio-economic stimuli of crime
- Police are expected to be more accountable to the community and more transparent
- There are unrealistic expectations on the part of the community about the effectiveness of traditional police responses
- There is growing evidence of the shortcomings of the traditional policing approach in providing a long term answer to crime and problems of disorder
- There is a growing realization that in the absence of community support, neither more money, more personnel, better technology, nor more authority will enable the police to deal with the monumental burden of crime
- Police personnel want to participate in determining and managing their future (participative management)
- There is strong evidence that police resources will become more scarce in the future and that the police will be forced to do more with less

4.4. The advantages of community policing

Experiences all over the world in countries where Community Policing were implemented, indicates it offers several distinct advantages:

- reduced incidence of crime and a reduction in fear of victimization
- increased citizen satisfaction with the services provided by the police
- better coordination and allocation of responsibilities between the police and other criminal justice and social service agencies
- more opportunities for proactive action
- the full support of the community for the efforts of the police
- the support of the community for efforts aimed at supplementing or obtaining more police resources
- the active participation of the community in crime prevention and problem-solving activities
- a greater willingness on the part of the community members to report crime, give information and cooperate in investigations
- the enhanced partnership between the police and the public generally leads to a better appreciation of the constraints and problems confronting the police
- increased job satisfaction for police personnel – especially patrol officers

4.5. Principles of community policing

Some of the basic principles of community policing are as follow.

Community policing:

- should promote the reassessment of the question who is responsible for public safety and it

redefines the roles and relationships between the police and the community

- should promote openness and respect for human rights, as well as equality of all in front of the law and non-discrimination
- requires shared ownership, decision-making and accountability, as well as a sustained commitment from both the police and the community
- clarifies the role of the police officer as providing law enforcement through serving the community rather than through repression
- establishes new public expectations of the police and (include quality of service, customer (community) satisfaction, responsiveness to community defined issues, and cultural sensitivity) standards whereby the effectiveness of the work done by the police is measured (e.g., response time and arrest/crime statistics)
- increases understanding and trust between the police and members of the community
- empowers and strengthens community-based efforts
- requires constant flexibility to respond to all emerging issues
- requires an ongoing commitment to developing long-term and pro-active program or strategies to address the underlying conditions that create problems in the community
- requires knowledge of which resources are available in the community and how they can be obtained and used, as well as the ability to develop new resources within the community
- requires commitment from the top management of the police and other local government agencies, as well as sustained personal commitment from all levels of management and other key personnel
- decentralizes police services, operations and management, relaxes the traditional “chain of command,” and encourages innovative and creative problem solving, thereby making fuller use of the knowledge, skill and expertise of the members of the organization without regard to rank
- shifts the focus of police work from responding to individual incidents to addressing problems that are identified by the community and the police, stressing the use of problem-solving approaches to implement traditional law-enforcement methods of law enforcement
- requires a commitment to the development of new skills through training (e.g., problem solving, networking, mediation, facilitation, conflict resolution, gender-sensitive policing, cultural competency or literacy)

Community policing challenges police and civil officials to provide the leadership that is necessary to address the issues with which communities are faced. Fundamental to the philosophy of community policing is the hope for a better future, as it provides a framework for examining and pro-actively responding to demographics which change, social disorder and physical decay. Community policing focuses on neighborhood maintenance and revitalization, if necessary and it advances creative and comprehensive interventions for insidious social epidemics such as

‘gangsterism’, drug-dealing and social disorders such as alcohol abuse, domestic violence and child molestation.

4.6. International human rights standards applicable to community policing

There are some basic international standards or guidelines for police officers that can be applied when implementing community policing: They are the following:

- **Establish a partnership between police and law-abiding members of the community**
It is important for police to establish a partnership with community members. This can be done in different ways. In Japan for example police work in the community using the “Koban” system. In other countries community and police work together in community police forums or crime prevention forums. The important element of this guideline is that police and community should work together in a pro-active way to prevent and also solve crime.
- **Adopt a community relations policy and plan of action**
Police should develop and adopt policies and plans of action on how to implement community policing and how to improve police community relations.
- **Recruit from all sectors of the community**
Police should represent all sectors of the community. This will also help to create better communication and relations with all sectors of the community. This will also promote the principles of equality and non-discrimination.
- **Train officers to deal with diversity**
The world is becoming a smaller place. With modern transport and communication more and more people are moving and migrating to different countries all over the world. Communities are becoming more diverse. Police officers have to deal with diverse societies and should be trained in how to deal with cultural diversity. This includes interacting with people of different nationalities, ethnic and religious backgrounds but also with different gender identities, as well as political outlooks.
- **Establish community outreach and public information programmes**
Police should promote the principles of community policing by educating the public and informing them about the police and their role in society. This can be done through community outreach and public information programmes.
- **Liase regularly with all groups in the community**
There should be good and effective communications between the police and the community. One way is to develop proper channels of communication with groups in the community and then to make sure that there is continuous and regular communication. This can be done through for example community policing or crime prevention forums. The names and functions of these forums may differ from country to country.

- **Build contacts with the community through non-enforcement activities**
Police should also get involved in other activities in the community, for example social or recreational events. This will create trust between police and the community.
- **Assign officers to a permanent neighbourhood beat**
Community policing is a philosophy that should apply to every police officer. Every police officer should promote and apply the principles of community policing and respect for human rights. It is however important that certain police officers should be involved in permanent neighbourhood beats.
- **Increase community participation in policing activities and community-based public safety programmes**
The role of police is to protect and serve the community. It is important for all parts of the community to have a say in their own protection and safety. Therefore it is important for community members to participate in policing activities and to assist the police in developing community-based public safety programmes.
- **Involve the community in identifying problems and concerns**
Community members should be given the opportunity to provide inputs to the police on their problems and concerns for the area where they stay. This includes issues of discrimination and marginalisation, and particular vulnerabilities certain individuals or different segments of the community may face.
- **Use a creative problem-solving approach to develop responses to specific community problems, including non-traditional tactics and strategies**
With a more sophisticated criminal element police have to come up with more creative ideas to solve problems in the community. Police should always strive to develop new innovative approaches and tactics to cope with new trends, developments and crime.
- **Coordinate policies, strategies and activities with other government agencies, and with non-governmental organisations**

There are many agencies and organization who are also involved in community projects, crime prevention and the study crime and related subjects. Police should coordinate with these organizations to develop policies, strategies and activities to deal with crime.

There are many other strategies, theories and guidelines that can be applied to community policing. Each country have to develop their own strategies and activities that will suit their own situations and cultures.

4.7. Summary

Community Policing focuses on the establishment of a partnership between the public and the police. It supports human rights and it helps to create an open and transparent police. It is a philosophy, which recognizes and accepts the role of the community in the management and delivery of police services. The community is an active partner in the decision-making process. This partnership provides the means by which priorities, the allocation of resources, and the problems of crime are addressed.

The principles of Community Policing serve as a framework to guide the activities and responsibilities of the police and the community. These principles are a requirement for the effective implementation of Community Policing.

4.8. Questions for self-evaluation

- Write in your own words what you understand about the term Community Policing.
- Describe some of the basic principles of community policing.
- Name five advantages of Community Policing for police officers.
- Name five advantages of Community Policing for community.
- Describe your role as a police officer with regard to Community Policing.
- Draft an action plan on how you might, in practice, implement community policing principles in your everyday work (For example, this could include a daily walk around the town greeting people; monthly village dialogue on elections/vulnerable groups; biweekly meetings with Village Chiefs and Ward Executives to engage them in supporting peaceful elections; engaging with local women's rights organisations and associations of PWD)
- Discuss how increasing diversity in communities and society requires the police force and its officers to change their ways of policing

References

Police Stranding Order No.25/2011.

Crime Prevention (Police Handbook)

Voter's Rights and Responsibilities (Police Handbook)



CHAPTER

Conflict resolving

Content

Conflict resolution

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- 5.1. Introduction
- 5.2. Definition of conflict
 - 5.2.1. Origin of conflict
 - 5.2.2. Factors which intensify conflict
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- 5.5. Conflict styles
- 5.6. Steps to managing conflict within yourself
- 5.7. Steps to managing conflict with another
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- 5.9. Negotiation and conflict resolution
- 5.10. Roles people play in conflict situations
- 5.11. Role integrity and cooperation
- 5.12. Summary
- 5.13. Questions for self-evaluation

Learning objectives for chapter 5

After completing this chapter you should be able to:

- Define conflict, stating its main components.
- Differentiate conflict and violence
- State and set out methods and strategies of dealing with conflict.

5.1. Introduction

During elections police are often expected to resolve or manage conflict. If you have to deal with people, especially during very exciting times such as rallying for elections, marches, public meetings and other situations where people express very emotional issues, you will, sooner or later, have to deal with conflict. Conflict is not inherently bad. In fact, conflict simply stems from differing viewpoints. Since no two people view the world exactly the same way, disagreement is quite normal. In fact, anyone who agrees with you all of the time is probably telling you what you want to hear, not what he or she actually believes.

The reason conflict has received such bad press is because of the emotional aspects that come along with it. When there is conflict, it means that there is strong disagreement between two or more individuals. The conflict is usually in relation to interests or ideas that are personally meaningful to either one or both of the parties involved.

Unmanaged conflict can lead to violence and insubordination. The key to managing conflict effectively is to learn the skills necessary to become a good conflict manager.

5.2. Definition of conflict

Various opinions and views exist regarding conflict of which the following concepts are just a few examples:

Conflict is regarded as:

- competition
- rivalry
- destructive
- negative
- possible crime

While closer investigation creates a different image.

Conflict can be defined as a relationship between two or more parties with irreconcilable or opposing needs. Furthermore conflict is also a struggle for limited power, status and resources and where the opponent will do everything in his power to vandalize, injure or shut out the other party.

Any definition should contain the following elements against the background of the aforementioned. There must be two or more parties involved. These parties must assume direct opposite points of view. There must be a certain process present during which rivalry occurs to achieve specific results.

Conflict has two facets, namely latent (slumbering) and active conflict. Latent conflict exists in a relationship where parties are of the opinion that their own needs cannot be satisfied because of the presence of the other party. Active conflict starts the moment when force is used in an attempt to neutralize the other party in order to satisfy their needs. All police officials should be able to understand the difference between latent and active conflict and make sure that effective crime prevention addresses latent conflict. It is here where the informed official knows and understands the state of mind of his/her community and will in this way be able to prevent active conflict by early mediation and negotiation.

5.2. Understanding conflict

In order for police officers to understand conflict they have to understand the origins of conflict and also the factors which may intensify conflict.

5.2.1 Origins (sources) of conflict:

The origin of conflict is visible on different levels.

- **Facts**
People often differ on facts available in a situation. An example of this is if different facts of for and against the smoking habit are available.
- **Processes**
People differ in their opinion about which process should be followed in completing a specific task. An example of this is if two friends differ in the planning of their day. Both know they should do some shopping and gardening but they differ on what should be done first. Should they first go to the shops or first do some gardening.
- **Goals / Aims**
People differ in their goals in life. An example of the difference in goals is the employer and employee who before employment differ about the wages which will be paid in completing the job.
- **Values**
People differ about certain values in life. An example of different values is the difference between political or religious groups.

5.2.2. Factors which intensify conflict

Police Officials must be aware of the fact that there are sources of conflict. There are also certain factors, which aggravate conflict. The factors include the following:

- **Communication breakdowns**

Because communication is a complex process beset by many barriers, these barriers often

provoke conflict. It is easy to misunderstand another person or group of people if two-way communication is hampered in some way. Clear communication can thus prevent conflict in certain circumstances.

➤ **Aspirations of different members**

The higher the aspirations of member the greater the possibility that conflict can become a reality. If there are aspirations in a community there can also be discord within that community's political aspirations.

➤ **Perceptions**

As distrust increases between groups' negative perceptions will develop which intensify conflict. The perception of one group can disturb the true image of another group. Such a disturbed perception arises commonly and many examples are found in the differences between the sexes. During election campaigns, negative stereotypes and perceptions may be willingly or unwillingly mobilised, be it against individuals or communities. These stereotypes and prejudices may be targeted against individual members or against a group based on their age, sex, ability or disability, social or economic background, political opinion or ethnic and religious background or any other social identity markers.

➤ **Change of strategy**

When conflict increases-the concerned groups normally move away from positive strategies like problem solving, negotiation and reconciliation to intimidation, threats and treachery. If those concerned are further emotionally worked up (anger or frustration) aggressive strategies will increase. Accordingly the police must ensure that the community is encouraged to be involved in constructive methods of problem solving and crisis intervention. To achieve this it is important that the members must know and understand the local community. This skill can only be ensured by continuous communication with the community.

➤ **Group changes and association**

In fighting gangs there is always a larger group commitment. Individual mergers ignore personal differences and the group expects its members to form a unity. Leadership styles change from democratic to autocratic and the group becomes more, task orientated. The cause of the conflict becomes a common goal and struggle becomes more intense. In communities where there are fighting gangs, it is a natural tendency for members of the community to choose sides. In this way the community is divided and impartiality no longer exists. Members of the police should be able to identify these signs in good time to prevent large-scale conflict. In this respect member can act as mediator between fighting factions or even talk to a specific group to counteract the escalation of conflict.

5.3. Conflict and violence

Conflict on its own is not necessarily negative, but if it is not addressed it could result in public and even organised violence. Therefore it is important that (police officials) should be aware of

those factors which could change conflict into violence. Violence is behaviour aimed at injuring people and damaging or destroying property. It is however interesting to note, that should a person be able to read the conflict signs, which could result in violence and acts accordingly, the violence can be prevented. Some of these signs are:

- Increased frustration and threat.
- Absence of forums, procedures or a third party that can be trusted.
- The acceptance of the ideology of violence (“violence can be used”).
- Poor social control (the community does not prevent harmful conflict)

The decline of group norms.

- The absence of perceivable alternative solutions to the problem.
- A perception that there could be injustice.
- A perception that self-responsibility does not really exist.
- In the perception of the one party, the “other party” acts inhumanly.
- A history of violent action

By identifying these symptoms a police official can prevent large-scale crime and keep immunity. An uninformed police official can possibly contribute to frustration and promote violence.

5.4. Dealing with conflict

The members of the police are as a result of the nature of their task, in direct opposition to the person transgressing-the law. The police official cannot afford, however to focus on the behaviour of the transgressor alone and in this way handles perceptible conflict. It is also important to identify latent conflict, act preventively and in doing so reduce the possibility of visible conflict.

Theoretically there are various means (styles) to handle conflict. Every person has his/her own personality and disposition and will give preference to a specific style. It is important to know and understand the style which he/she prefers.

5.5. Conflict styles

People adopt different ways to handle conflict in a situation. There is no one best way to deal with conflict. It depends on the current situation. Here are the major ways that people use to deal with conflict.

- Avoid it. Pretend it is not there or ignore it. Use it when it simply is not worth the effort to argue. Usually this approach tends to worsen the conflict over time.
- Accommodate it. Give in to others, sometimes to the extent that you compromise yourself. Use this approach very sparingly and infrequently, for example, in situations when you know that you will have another more useful approach in the very near future. Usually this approach tends to worsen the conflict over time, and causes conflicts within you.

- **Competing.** Work to get your way, rather than clarifying and addressing the issue. Competitors love accommodators. Use when you have a very strong conviction about your position.
- **Compromising.** Mutual give-and-take. Use when the goal is to get past the issue and move on.
- **Collaborating.** Focus on working together. Use when the goal is to meet as much current needs as possible by using mutual resources. This approach sometimes raises new mutual needs. Use when the goal is to cultivate ownership and commitment.

The conflicting styles can also be explained by using the behaviour of animals to understand it better. The following explanation will ensure that you will be able to identify and apply the different conflicting styles.

The turtle (withdrawing). Turtles withdraw into their shells to avoid conflicts. They give up their personal goals and relationships. They stay way from the issues over which the conflict is taking place and from the persons they are in conflict with. Turtles believe it is hopeless to try to resolve conflicts. They feel helpless. They believe it is easier to withdraw (physically and psychologically) from a conflict than to face it.

The shark (forcing). Sharks try to overpower opponents by forcing them to accept their solutions to the conflict. Their goals are highly important to them, and the relationships are of minor significance. They seek to achieve their goals at all costs. They are not concerned with the needs of others. They do not care if others like or accept them. Sharks assume that conflicts are settled by one person winning and one person losing. They want to be the winner. Winning gives sharks a sense of pride and achievement. Losing gives them a sense of weakness, inadequacy, and failure. They try to win by attacking, overpowering, overwhelming, and intimidating others.

The cat (smoothing). To cat the relationship is of great importance while their own goals are of little importance. Cats want to be accepted and liked by others. They think that conflict should be avoided in favour of harmony and that people cannot discuss conflicts without damaging relationships. They are afraid that if the conflict continues, someone will get hurt, and that would ruin the relationship. They give up their goals to preserve the relationship. Cats say, “I will give up my goals and let you have what you want, in order for you to like me.” Cats try to smooth over the conflict out of fear of harming the relationship.

The rabbit (compromising). Rabbits are moderately concerned with their own goals and their relationships with others. Rabbits seek a compromise: they give up part of their goals and persuade the other person in a conflict to give up part of his goals. They seek a conflict solution in which both sides gain something - the middle ground between two extreme positions. They are willing to sacrifice part of their goals and relationships in order to find agreement for the common good.

The owl (confronting). Owls highly value their own goals and relationships. They view conflicts as problems to be solved and seek a solution that achieves both their own goals and the goals of the other person. Owls see conflicts as a means of improving relationships by reducing

tension between two persons. They try to begin a discussion that identifies the conflict as a problem. By seeking solutions that satisfy both themselves and the other person, owls maintain the relationships. Owls are not satisfied until a solution is found that achieves their own goals and the other person's goals. And they are not satisfied until the tensions and negative feelings have been fully resolved.

Explore whether one animal is better than another, or if there is one animal we should all try to imitate. Although the groups may identify the fox or owl as the ideal, ensure that they recognise that we need to be sufficiently flexible to be able to be like each of the animals. Each animal has its unique value in different situations.

Problem solving and skillfully negotiated compromises are the only approaches that remove the actual sources of conflict. They are the only resolution techniques that help improve the things on the long run. The other approaches amount to short term measures and people or groups that fall back on an avoidance strategy are simply running away from the problem. Sometimes the time available will however not allow sufficient time for negotiation and forcing and smoothing will be used to get cooperation.

5.6. Steps to manage a conflict within yourself

(NOTE TO TRAINERS: IT IS SUGGESTED THAT SECTIONS 4.6-4.8 INCLUDE PRACTICAL ROLE PLAY EXERCISES FOR PARTICIPANTS)

"It's often in the trying that we find solace, not in getting the best solution". The following steps will help you in this regard.

Step 1: Name the conflict, or identify the issue, including what you want that you aren't getting. Consider:

Writing your thoughts down to come to a conclusion.

Talk to someone, including asking them to help you summarize the conflict in 5 sentences or less.

Step 2: Get perspective by discussing the issue with your friend or by putting it down in writing. Consider:

How important is this issue?

Does the issue seem worse because you're tired, angry at something else, etc.?

What's your role in this issue?

Step 3: Pick at least one thing you can do about the conflict.

Identify at least three courses of action.

For each course, write at least three pros and cons.

Select an action - if there is no clear course of action, pick the alternative that will not hurt, or be least hurtful, to yourself and others.

Briefly discuss that course of action with a friend.

Step 4: Then do something.

Wait at least a day before you do anything about the conflict. This gives you a cooling off period.

Then take an action.

Have in your own mind, a date when you will act again if you see no clear improvement.

5.7. Steps to manage a conflict with another

Step1: Know what you don't like about yourself, early on in your career. We often don't like in others what we don't want to see in ourselves.

Write down 5 traits that really irritate you when see them in others.

Be aware that these traits are your "hot buttons".

Step 2: Manage yourself. If you and/or the other person are getting heated up, then manage yourself to stay calm by

Speaking to the person as if the other person is not heated up - this can be very effective!

Avoid use of the word "you" - this avoids blaming.

Nod your head to assure them you heard them.

Maintain eye contact with them.

Step 3: Move the discussion to a private area, if possible.

Step 4: Give the other person time to vent.

Don't interrupt them or judge what they are saying.

Verify that you're accurately hearing each other. When they are done speaking :}

Ask the other person to let you rephrase (uninterrupted) what you are hearing from them to ensure you are hearing them.

To understand them more, ask open-ended questions. Avoid "why" questions - those questions often make people feel defensive.

Repeat the above step, this time for them to verify that they are hearing you. When you present your position

Use "I", not "you".

Talk in terms of the present as much as possible.

Mention your feelings.

Step7: Acknowledge where you disagree and where you agree.

Step 8: Work the issue, not the person. When they are convinced that you understand them:

Ask "What can we do to fix the problem?" They will likely begin to complain again.

Then ask the same question. Focus on actions they can do, too.

Step 9: If possible, identify at least one action that can be done by one or both of you.

Ask the other person if they will support the action.

If they will not, then ask for a "cooling off period".

Step 10: Thank the person for working with you.

Step 11: If the situation remains a conflict, then:

Conclude if the other person's behaviour conflicts with policies and procedures in the workplace and if so, present the issue to your supervisor.

Consider whether to agree to disagree.
Consider seeking a third party to mediate.

5.8. What behaviors help in managing conflict?

- **Use “I” statements.** Let the other party know how you **feel** when the conflict is occurring. Let the other person know how you **react** to the conflict. Let the other person know which of your rights you feel is being ignored in the conflict.
- **Be assertive, not aggressive.** Speak about your feelings and your reactions. Keep the statements focused on how you are behaving, thinking, and feeling rather than on how the other is acting.
- **Speak calmly, coolly and rationally.** In this way you will be listened to, and you will be able to maintain better control of yourself. Otherwise the other person may be put in a defensive attitude.
- **Avoid blaming.** This will keep the communication flow going. It encourages understanding and empathy for each other’s feelings. It recognizes that for a conflict to exist there must be at least two parties who are adversely affected by the conflict.
- **Create an atmosphere of healing.** In an attempt to heal the wounds resulting from a conflict, all parties involved must feel that they are being listened to and understood; that their rights are being respected. They must feel the desire to work things out and a commitment to the process of working out the problems. They must feel wanted and cared for by the parties involved.
- **Be willing to forgive.** Forgiveness is a powerful tool of healing. You have a chance for personal growth by forgiving others for their part in the hurt and pain you suffered. At times, this is the only way to resolve a conflict.
- **Be willing to forget.** Once you have “resolved” a conflict and felt like you were listened to, cared for, and understood, then “let go” of the conflict. Once you have implemented an agreed resolution, put aside the conflict. Put it behind you. Get it out of your mind. Forget it. Don’t bring it up in the future as if it had not been resolved. If you write down the resolution of the conflict, you will have written proof that it is over and is to be forgotten.
- **Be honest.** In resolving a conflict it is imperative that you be honest with yourself and others about your feelings, and reactions to the conflict and to the resolutions. If you are feeling in a way you think you must, or in a way the others wants you to, not “being yourself,” then the resolution of the conflict is a false one. The conflict is sure to recur. You gain nothing by being dishonest in the management of conflict. You waste your time and energy and end up feeling failure or guilt rather than growth.
- **Focus on feelings rather than on content.** Effective listening and responding are key elements in the productive resolution of conflict. Listen for the feelings and emotions of the other and reflect them with empathy and understanding. This creates an atmosphere of being cared for and listened to. It reduces defensiveness. It focuses on the process involved rather than on the issues, and it brings the parties to a clearer recognition of their individuality and humanity. To focus on feelings clarify the issues, eliminating extraneous items.
- **Show respect for yourself and for others.** You will gain more in resolving a conflict by

showing respect (*honey*), than by showing disrespect (*vinegar*), e.g., being vindictive, taking revenge, threatening, yelling, accusing, belittling, ostracizing, ignoring. If you are on the receiving end of disrespect, remove yourself as soon as possible. When the other has cooled down, perhaps the discussion can be continued in a respectful manner. If you lose your “cool” and become disrespectful, stop as soon as you can by either removing yourself or by silencing yourself. Maintaining a respectful atmosphere is essential in resolving conflict. This includes respecting all people regardless of their age, sex, ability or disability, social or economic background, political opinion or ethnic and religious background or any other social identity markers and not discriminating based on these. It also requires being sensitive to prejudices or stereotypes commonly levelled against members of certain groups as well as particular needs and vulnerabilities.

- **Be willing to apologize or admit a mistake.** It is necessary to admit to one’s mistake and to apologize for one’s behaviour before a stalemate in conflict resolution can be overcome. It takes courage, character, and fortitude to admit an error: a lack of judgment; an uncalled for action; disrespectful behaviour; or a lack of caring, concern, or understanding. Stronger relationships can result when such willingness is exhibited.
- **Be willing to compromise.** If you cling to your position as the only one to be considered, you are closing out the other person(s). To succeed in resolving conflict, all parties must feel like they have gained in the resolution. In order to resolve a conflict where the opposing parties are at opposite extremes on an issue, there is a need to come to the middle if all are to experience a “winning” posture. Only through compromise can each be a winner in conflict resolution. Without compromise, you have both given in and lost, or have gotten your own way with the other party having lost. Ideally, all parties should feel that they have won.

5.9. Negotiation and conflict resolution

Negotiation takes place when two or more people are communicating and at least one of them has a specific goal in mind. Police officials should learn effective negotiation skills, because all police officials spend a lot of their time negotiating and mediating between conflicting parties. An example is when a married couple is experiencing marital problems and the wife complains to the police that the husband threatens to injure her. The police official is then expected to give assistance and handle the conflict.

Negotiation skills, like any other crucial communication skill, need to be developed through diligent study and regular practice. It is essential for every negotiator to be a good listener and communicator.

5.10. Roles people play in conflict situations

From the pre-negotiation stage to the negotiation and post-negotiation stages, people involved in the intervention process play a number of roles. Local, regional and international governmental and non-governmental representatives may find themselves assisting peacemaking efforts in a variety of ways, including (adapted from Mitchell, 1993):

- **Explorer:** Carries messages between parties and reassures them about the room for negotiation and notes areas of common ground.

- **Convenor:** Initiates the resolution process by encouraging parties to take part and working to remove obstacles which impede peacemaking activities.
- **Analyser:** Performs political, social or economic analysis of the conflict to assist other interveners in determining causes of conflict and courses of action.
- **Designer:** Helps parties and interveners in creating a resolution process, which will appropriately and effectively address the conflict issues.
- **Communicator:** Serves as the communication interface between parties involved in the process and those outside the process, such as the media, general public or international community.
- **Decoupler:** Finds ways for external parties who have become involved in the conflict to disengage while saving face and attempts to engage other external actors who can play less biased roles in endorsing the process or encouraging parties to participate.
- **Unifier:** Helps with intra-party negotiations to repair divisions and assists them in creating a common understanding of the conflict and their goals and objectives.
- **Enskiller:** Empowers parties with the skills required to negotiate, communicate interests, analyse scenarios and research aspects of the conflict.
- **Educator:** Provides expert opinion or technical information to parties about aspects of the conflict issues.
- **Envisioner:** Helps parties think about the conflict and possible solutions in new ways by using creative option-generating processes or bringing in relevant data.
- **Evaluator:** Helps parties assess possible solutions and their impact on the resolution of the conflict.
- **Guarantor:** Ensures that parties do not incur unacceptable costs either through involvement in the process or if the process breaks down.
- **Legitimiser:** Encourages parties to accept the process by granting their moral, political or financial approval.
- **Facilitator:** Assists parties in communicating to one another by creating a safe process for discussions, framing or reframing the issues and parties' understanding of the conflict and fostering a forum for effective listening and problem-solving.
- **Enhancer:** Brings in resources to expand the options for settlement or reward participation in the process.
- **Enforcer:** Monitors agreements and codes of conduct so that momentum for the process can be sustained.
- **Reconciler:** Prepares parties for long-term relationship building activities which are designed to reduce patterns of negative behaviors, destructive stereotyping and miscommunication.

This extensive list of roles shows the complexity of starting and maintaining peace processes. The range of skills, knowledge, resources and aptitudes required to be effective in these roles is unlikely to be found in one person or intervening body. Whether by design or happenstance,

when a number of actors are engaged in different aspects of intervention work, there are certain challenges that merge.

For those involved in conflict resolution efforts, there are three central concerns regarding the roles of other actors:

- Ensuring that the necessary roles related to each type of activity (e.g. convener, envisioner, or facilitator) is being filled.
- Ensuring that the roles that a specific actor plays do not have conflicting principles and objectives.
- Ensuring that role players work co-operatively to achieve common goals.

5.11. Role Integrity

To keep a negotiation process moving forward requires a number of roles. Role-integrity relates to ensuring that when a person plays multiple roles, none of the roles compromises the others. Some roles operate on fundamentally contradictory principles. For example, one of the characteristics of the role of a third-party facilitator is impartiality. If the facilitator is also seen as an advocate or patron for a party to the conflict, other parties may feel that the process is biased. There are other role combinations, such as enforcer and reconciler, which can compromise an intermediary's credibility or continued participation.

The central point is that individuals or organizations who are providing procedural or substantive assistance to the primary parties involved in the conflict need to continually assess whether or not the roles they are playing compromise their continued participation. When concerns related to the role players arise which threaten the process, appropriate action should be taken. This may include de-coupling people from a given role or even removing them from the process.

Conflict management and human rights practitioners may play a number of roles when operating in a system of conflict, sometimes simultaneously. At times, the roles human rights and conflict management actor's play are complementary. There are times, however, when they are not. Actors in both fields need to gain an understanding of the combinations of roles that promote resolution processes and those creating discord. When specific roles are not clearly understood or defined, parties may lose confidence in the resolution process. It also hinders the ability of actors in both fields to function effectively.

Resolving the tension related to the roles that human rights and conflict resolution actors play is founded on maintaining role-integrity. For the intervention team, this requires designing a process which ensures that these roles are filled, that actors are playing complementary roles, and that they are coordinating their activities to achieve common objectives and goals.

Role Co-operation

When interveners involved in various aspects of the conflict are not coordinating their efforts and, while their intentions may be good, their actions may impede or disrupt other activities. It is important for designers of a peace process to recognize that a number of people will be taking on different roles. The peace process needs to ensure that these people are aware of major events and decisions made by parties so that all people involved in the peace effort are working co-operatively towards common goals of peace, justice and reconciliation.

5.12. Summary

Conflict can be defined as a relationship between two or more parties with irreconcilable or opposing needs. The origin of conflict is visible on different levels, namely facts, processes, goals and values. Police officials must know that there are factors, which can intensify conflict between parties. These factors are the aspirations of different members, communication breakdowns, perceptions, change of strategy, group changes and association with groups.

People adopt different ways to handle conflict in a situation. There is no one best way to deal with conflict. It depends on the current situation. The major ways that people use to deal with conflict is avoidance, forcing, smoothing, compromising and confronting. Problem solving and skilfully negotiated compromises are the only approaches that remove the actual sources of conflict. They are the only resolution techniques that help improve the things on the long run.

Sources of Conflict during Election Process:

- Lack of good election campaigns time table.
- Delay of election documents/facilities at polling stations.
- Lack of names of some registered voters at polling stations.
- Delay in announcement of election results after election
- Certain individuals or groups not being able to exercise their right to vote.
- Verbal/physical abuse, harassment, or violence threatened or used against certain individuals or groups based on their age, sex, ability or disability, social or economic background, political opinion or ethnic and religious background or any other social identity markers

5.13. Questions for self-evaluation

- Discuss the five different styles in which conflict is handled.
- Explain what different roles people can play in conflict situations.
- Provide examples of conflict that occurred at your work and how you dealt with it.
- Describe the steps to manage a conflict within yourself.
- Describe the steps to manage a conflict with another.

Additional Questions

- Discuss the conflict which can arise in democratic election?
- Discuss how a person's gender identity, ethnic/religious background, age, ability/disability or social status increase their vulnerability in such as conflict
- Describe how the conflict can be resolved?

Reference

Crime Prevention (Police Handbook)

CHAPTER

Maintenance of public order



Content

Maintenance of public order

Learning objectives of chapter

- 6.1. Introduction
- 6.2. Meetings, functions and processions in Tanzania
- 6.3. International Standards applicable to Maintenance of Public Order
- 6.4. Summary
- 6.5. Questions for self-evaluation

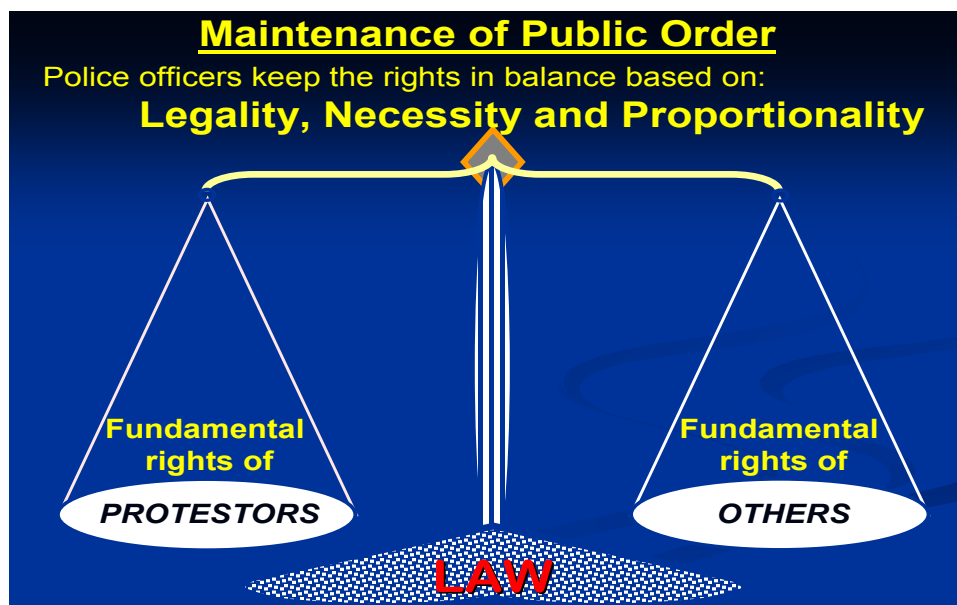
Learning objectives for chapter 6

After completing this chapter you should be able to:

- Discuss the rights of people to demonstrate, assemble and express themselves
- Describe the balance between the rights of people to exercise their legal rights and freedoms without infringing the rights of others and observance of the law by all parties
- Explain the responsibilities of police officers in maintaining public order
- Discuss the principles applicable to use of force to disperse assemblies

6.1. Introduction

It is the role of police to secure peace, stability and security in a country. This is even more so during elections when the citizens are more actively involved in the process of election campaigns, marches, assemblies and other activities where they express themselves and associate themselves with specific political parties or groups. It is important for police to be impartial and to allow people to express themselves within the parameters of the law. When policing major incidents, including assemblies and demonstrations, police officers requires more than just an understanding of the legal responsibilities of participants in such events. It also requires a simultaneous understanding of the rights, freedoms and obligations, under the law, of those people who participate and of those who do not participate, regardless of their age, sex, ability or disability, social or economic background, political opinion or ethnic and religious background or any other social identity markers. There should always be a balance between the rights of people to exercise their legal rights and freedoms without infringing the rights of others and observance of the law by all parties. Maintenance of public order deals with the balance between different people's rights and observing the law.



The phenomenon of people taking to the streets to express their feelings and opinions

publicly on any topic that is close to their hearts is common enough in most countries of the world. Such events, rallies, demonstrations, or whatever they may be called, are seen as logical consequences of liberty and democracy, as well as of individual and collective freedom.

The rights and freedoms applicable to assemblies, demonstrations, rallies and similar events

- The right to hold opinions without interference (ICCPR, Article 19.1)
- The right to freedom of expression (ICCPR, Article 19.2)
- The right of peaceful assembly (ICCPR, Article 21)
- The right to freedom of association (ICCPR, Article 22.1)

The exercise of those rights is not without limits.

Restrictions can be imposed on it, provided that:

- they are lawful; and
- necessary:
 - for respect of the rights or reputation of others; or
 - for the protection of national security or of public order, or of
 - public health or morals.

(ICCPR, Articles 19.3, 21 and 22.2)

6.2. Meetings, functions and processions in Tanzania

In Tanzania every political party that has been provisionally or fully registered have right to hold and address public meetings to solicit for membership and to publicise themselves. (Political Parties Act, Section II)

➤ **Notice procedure**

Political parties must give a written notice of the meeting to the police officer in charge of the area concerned. The notice must be submitted not less than 48 hours before the meeting. The written notice must contain the following:

- The name of the political party submitting the notification
- The place and time at which the meeting will take place
- The agenda and general purpose of the meeting
- Other particulars that may be from time to time be specified by the Minister, published in the Gazette.

If a political party follows the correct procedure they can proceed to hold the meeting unless and until the police officer in charge of the area provides an order directing that the meeting cannot take place.

➤ **When a stop order can be given by the police**

The police officer in charge of the area may in the following situations issue a stop order to the political party who issued notice.

- Where another political party or other persons gave a previous notification that they will hold a meeting or other function or procession in the same place and at the same time.
- Where the meeting or procession is intended to execute, or be used for an unlawful purpose.
- Where the meeting is likely or intended to cause a breach of the peace or to prejudice the public safety in the area.
- Where the political party or group of persons giving the notification is not a registered political party or are not identified as an authorised representative of the political party concerned.

The stop order shall be in writing and in such a form so that it is able to disclose the reasons for its issuance and state whether or not the political party concerned may hold the at the venue at another time or date convenient to it in the same area.

It is important to realize that a stop order should only be issued as a matter of last resort.

➤ **The role of the police during marches, meetings and processions**

The police have a critical role to secure peace, stability and security in a country during the election campaign, during the election period and also after the elections. During marches, meetings and processions it is also the role of the police:

- To facilitate peaceful and orderly meetings and to provide protection to members of the political parties as well as to their leaders.
- To ensure that all political parties and candidates enjoy equal rights with regard to election campaigns.
- To ensure the right of every individual for a peaceful and undisturbed home life, including freedom from discrimination, verbal/physical abuse, harassment, and violence, including of a sexual or gendered nature, which may affect any person regardless of their sex..
- To deal with persons disturbing a meeting or who attempts to create disorder.

Police action

When police officers have to act during marches, meetings or processions it is important to take the following principles into consideration.

- LEGALITY
- NECESSITY
- PROPORTIONALITY

It is also important that police officers always act in an ethical way and that they realise that

they will be held accountable for their actions.

Legality

Before the police undertake any action, the operational commander will ask whether he or she has any legal authority to intervene. In other words, whether the police has the necessary mandate according to local legislation. The authority to intervene and the restrictions on such intervention must be clear to the police *before* they take any measures. The principle of legality requires a clear legal framework *justifying* intervention by the police.

Necessity (situational appropriateness)

This second principle requires of the police to assess a particular situation to be able to respond within the framework of legality. The prevailing circumstances of a specific situation will guide the police in deciding which actions to take. This principle gives effect to the notion that every situation where a crowd needs to be managed, will be different and that operational decisions should be based on the actions of the crowd rather than prescribed procedures. The principle of situational appropriateness requires that police actions should be *reasonable and justifiable* and that all factors must be taken into account.

Optimisation

The principle of optimisation concerns the optimal use of equipment and personnel to reach or obtain the goal set out in the planning phase. The optimal use of equipment and personnel should be possible when a complete analysis is made of the particular situation. This analysis entails the consideration and study of all factors which could possibly influence the effective achievement of suitable action to contain the situation.

Proportionality

The principle of proportionality requires that the police consider the purpose of the limitation, its nature and extent as well as the *relationship* between the limitation and its purpose. It concerns the relationship between the means the police apply during a public order situation, and the end sought to be achieved. The police should suitably equip members according to the circumstances before they are deployed. Already during the planning phase, the police should determine which methods and equipment may be regarded as least forceful in the circumstances. This process should logically lead to a decision to use the *least forceful* (restrictive) methods to attain the lawful goal of maintaining public order. When the use of force is unavoidable, it must cease immediately once police members attain the objective of the operation.

Cases of SGBV and CA

Officers need to be aware of TPF guidelines on how to immediately respond to cases of SGBV and CA which might arise during or after electoral processes, how to report these and to which specifically trained Gender and Children's Desk officers cases should be referred to as quickly as possible.

The use of force to disperse assemblies

The Basic Principles on the Use of Force and Firearms of particular importance for "policing" assemblies and demonstrations:

Basic Principle 14 states that:

- In dispersing UNLAWFUL but NON-VIOLENT assemblies law enforcement officials shall avoid the use of force or, where that is not practicable, shall restrict the use of force to the minimum extent necessary ;
- in dispersing VIOLENT assemblies law enforcement officials may use firearms only when less dangerous means are not practicable;
- AND only to the minimum extent necessary;
- AND ONLY under the conditions stipulated in Basic Principle 9 namely:

Law enforcement officials shall not use firearms against persons except:

- in self-defence or 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 their authority,
- or to prevent his or her escape, and only when less extreme means are insufficient to achieve these objectives.

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

- Basic Principle 14 does not allow indiscriminate firing into a violent crowd as an acceptable tactic for dispersing that crowd.

6.3. International Standards applicable to Maintenance of Public Order

Human Rights Standards

- All measures for the restoration of order shall respect human rights
- Restoration of order shall be achieved without discrimination
- Any limitations on rights shall be only those determined by law
- Any action taken and any limitations on rights shall be solely for the purpose of securing respect for the rights and freedoms of others, and for meeting the just requirements of morality, public order and the general welfare
- Any action taken and any limitations on rights shall be only those consistent with the requirements of a democratic society
- No exceptions are permitted with regard to the right to life; the right to freedom from torture; the prohibition of slavery; the prohibition of imprisonment for failure to fulfil a contractual obligation; the prohibition on ex post facto laws; the recognition of everyone as a person before the law; or the right to freedom of thought, conscience and religion
- Non-violent means shall be attempted before the use of force
- Force shall be used only when strictly necessary

- Force shall be used only for lawful law enforcement purposes
- Force applied shall be proportional to the lawful law enforcement objectives
- Every effort shall be made to limit damage and injury
- A range of means for the differentiated use of force shall be available
- No unnecessary limitations on the rights to free speech, assembly, association or movement shall be imposed
- No limitations shall be imposed on freedom of opinion
- The independent functioning of the judiciary shall be maintained
- All wounded and traumatized persons shall be immediately cared for

Human Rights Practice

All police officials

- Adopt community policing strategies, and monitor levels of social tensions between various groups in society, and between those groups and the authorities
- Ensure all citizens are able to fully participate in electoral processes and that these are free from discrimination, verbal/physical abuse, harassment, and violence, including of a sexual or gendered nature
- Be alert as to any preparations for unlawful demonstrations
- Be tolerant of unlawful, but peaceful, non-threatening assemblies, so as not to escalate the situation unnecessarily
- Establish contacts with representatives and individuals in the crowd
- Where it is necessary to disperse a crowd, always leave a clear and obvious corridor of escape
- Deal with a crowd as a group of independently thinking individuals, not as a single-minded mass
- Avoid unnecessarily provocative tactics
- Develop crowd-control techniques which minimize the need for the use of force
- Enrol in training programmes to improve your skills in first aid; responses to SGBV and CA; self-defence; the use of defensive equipment;
- the use of non-lethal instruments; the use of firearms; crowd behaviour; conflict resolution; and personal stress management
- Acquire and practise the use of shields, defensive vests, helmets and non-lethal instruments
- Acquire, practise and utilize a range of means for the differentiated use of force, including non-lethal incapacitating weapons
- Study and employ techniques for persuasion, mediation and negotiation
- Plan in advance for the gradual, progressive use of force, beginning with non-violent means

Command and supervisory officials

- Issue clear standing orders on respect for peaceful, free assembly
- Introduce community policing strategies, and monitor levels of social tensions between various groups in society, and between those groups and the authorities
- Instruct officials to be tolerant of unlawful, but peaceful, non-threatening assemblies, so as not to escalate the situation unnecessarily. The paramount objectives to be remembered in developing crowd control strategies are the maintenance of order and safety and the protection of human rights, not the enforcement of legal technicalities regarding permits or unlawful but non-threatening behaviour
- Establish and enforce clear standing orders on the use of force and firearms
- Provide regular training in first aid; self-defence; the use of defensive equipment; the use of non-lethal weapons; the use of firearms; crowd behaviour; conflict resolution; stress management; and persuasion, mediation and negotiation
- Acquire and issue defensive equipment, including helmets, shields, bullet-proof vests, gas masks and bullet-proof vehicles
- Acquire and issue non-lethal incapacitating and crowd-dispersal instruments
- Acquire the broadest possible range of means for the differentiated use of force
- Establish clear reporting guidelines for every incidence of the use of force or firearms
- Strictly regulate the control, storage and issuing of firearms, including procedures for ensuring that officers are accountable for arms and ammunition issued to them
- Prohibit the use of weapons and ammunition which cause unwarranted injury, damage or risk
- Develop strategies to reduce the risk that officers will be forced to use firearms

6.4. Summary

Police officials play a critical role when it comes to the maintenance of public order. They have to ensure the balance between the rights of people to exercise their legal rights and freedoms without infringing the rights of others and observance of the law by all parties. When police officials act to maintain public order their actions should always be legal, necessary, proportional and they have to act in an ethical manner.

6.5. Questions for self-evaluation

- Do people have the rights to demonstrate, assemble and express themselves? Discuss.
- Describe the balance between the rights of people to exercise their legal rights and freedoms without infringing the rights of others and observance of the law by all parties.
- What role do police officers play to ensure the rights of protestors while protecting the rights of the public?
- When may police stop an assembly?
- What are the responsibilities of police officers in maintaining public order?
- What principles are applicable to use of force to disperse assemblies?

CHAPTER

Arrest



Content

Arrest

Learning objectives of chapter 7

- 7.1. Introduction
- 7.2. Definitions
- 7.3. Purpose of arrest
- 7.4. Reasons for arrest
- 7.5. When is arrest allowed?
- 7.6. Arbitrary arrest
- 7.7. What are the rights of persons upon arrest?
- 7.8. Rights immediately following arrest
- 7.9. What are the duties of police officers upon arrest?
- 7.10. The UN suggestions to Implementing International Standards applicable to Arrest
- 7.11. Summary
- 7.12. Questions for self-evaluation
- 7.13. Resource material and recommended reading

Learning objectives for chapter 7

After completing this chapter you should be able to:

- Provide a basic definition of arrest
- Describe the purpose of arrest
- Discuss how to arrest
- Describe when arrest is allowed
- Discuss why police officers may not arrest arbitrarily
- Discuss the rights of suspects upon arrest
- Provide examples of the responsibilities of police officers upon arrest

7.1. Introduction

Arrest is important in the process of law enforcement and administration of Justice. Arrest is one of the most serious infringements on the rights of an individual. Therefore an arrest should only be effected when necessary and in accordance with the law. In this chapter the topic arrest will be discussed.

7.2. Definitions

There is no clear definition of arrest in Tanzanian domestic legislation that governs the duties and functions of the police. The Criminal Procedure Act, (No 9 of 1985) however explains how arrest may be effected.

Before we continue with the topic arrest it is important to provide basic definitions of arrest, detention and imprisonment from an international perspective. The following definitions have been drawn from the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. Although they may differ from country to country these definitions may enable you to understand the basic rights during the legal processes that are followed during law enforcement.

➤ **Arrest**

Arrest means the act of apprehending a person for the alleged commission of an offence or by the action of a lawful authority. Arrest is a lawful method to secure the attendance of a suspected criminal at his or her trial.

➤ **Detention**

Detained person means any person deprived of personal liberty except as a result of conviction for an offence.

Detention means the condition of detained persons as defined above.

➤ **Imprisonment**

Imprisoned person means any person deprived of personal liberty as a result of conviction for an offence.

Imprisonment means the condition of imprisoned persons as defined above.

7.3. Reasons for arrest

“No one shall be deprived of his [or her] liberty except on such grounds and in accordance with such procedure as are established by law”
(ICCPR, Article 9.1).

This provision makes it clear that the reasons for an arrest, as well as the procedures that should be followed during an arrest, must be found in the laws of the State. In Tanzania this can be found in the Criminal Procedure Act. No. 9/1985 hereafter referred to as the C.P.A.

In Law Enforcement, the usual purposes to arrest are:

- To prevent a person from committing, or continuing to commit, an unlawful act;
- To enable an investigation to be carried out in relation to alleged unlawful act committed by the person arrested; or
- To present a person before a court for consideration of any charges against him or her.

It is important for law enforcement officials to take note of the fact that all arrest should be legal. This principle of legality is violated if somebody is either arrested or detained on grounds which are not clearly established in, or which are contrary to, domestic law. Arbitrary arrest is therefore illegal and should be avoided.

An arrested person is always presumed to be innocent until proven guilty in a recognized court of law. For this reason every arrested person should be treated humanely and in accordance with the law. Arrest is not a punishment or a method to temporarily remove unwanted persons in society in order to clean up the area, but should be brought before a judicial authority for the purpose of having the legality of his arrest or detention reviewed without delay, and shall be released if the detention is found to be unlawful.

7.4. How to arrest

Section 11(1) of the C.P.A. states that:

“In making an arrest the police officer or any other person making the arrest shall actually touch or confine the body of the person being arrested, unless there be a submission to the custody by word or action.”

An arrest can be affected with a warrant or without a warrant.

➤ **Arrest with a warrant**

The most regulated powers of arrest are those, which are allowed under a warrant of arrest. A warrant is a formal legal document, which authorizes someone to take action. In Tanzania any individual Magistrate may at any time issue a warrant directing the arrest of any person whom he reasonable believes has committed an offence within local limits of his jurisdiction. (Section 17 C.P.A.).

➤ **Arrest without a warrant**

Arrest without a warrant normally takes place when a person commits a crime in the presence of a police officer. There are also some specific exceptions depending on domestic legislation. It is important to keep the principles of legality, necessity and proportionality into account when arresting a suspect without a warrant.

Section 31(1) of the C.P.A. states that " A police officer making an arrest shall, without unnecessary delay and subject to the provisions herein contain as to bail take or send the person arrested before a court having jurisdiction in the area of the police station."

According to Section 16 of the C.P.A. any private person may also arrest a person who in his presence commits any of the offences referred to in Section 14 of the C.P.A.

7.5. When is arrest allowed?

Whenever a person is arrested, it must be for the alleged commission of an offence or by the action of an authority (Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment, Principle 36.2).

In law enforcement practice not every alleged commission of an offence automatically leads (or should automatically lead) to the arrest of the person(s) responsible. There are a number of factors which influence the decision whether to affect an arrest or not. The gravity and consequences of the offence committed, combined with the personality and behavior, at the time of apprehension, of the suspect(s), will be basic considerations. Inevitably the quality and experience (i.e. competence) of law enforcement officials involved will also have a bearing on the outcome of a particular situation in which the discretion whether or not to arrest is exercised.

7.6. Arbitrary arrest

Police officer may never arrest a person arbitrarily and without just cause. This fact is emphasized in Tanzanian legislation as well as in regional and international human rights standards.

➤ **Article 15 of the Constitution of the United Republic of Tanzania** states that:

- (1) Every person has the right to freedom and to live as a free person
- (2) For the purpose of preserving individual freedom and the right to live as a free person, no person shall be arrested, imprisoned, confined, detained, deported or otherwise deprived of his freedom save only:

(a) Under circumstances and in accordance with procedures prescribed by law.

(b) In the execution of a judgment order or a sentence given or passed by court following a decision in a legal processing or a conviction for a criminal offence.

➤ **Article 9 of the Universal Declaration of Human Rights**

"No one shall be subjected to arbitrary arrest, detention or exile."

➤ **Article 6 of the African Charter on Human and People's Rights**

“Every individual shall have the right to liberty and security of his person. No one may be deprived of his freedom except for reasons and conditions previously laid down by law, in particular, no one may be arbitrarily arrested or detained.”

7.7. What are the rights of persons upon arrest?

There are some basic rights that every person who is arrested should have. This places an obligation on police officers to respect and protect the basic rights of people who are arrested. Arrested persons have certain rights immediately upon arrest and also after arrest.

Rights immediately upon arrest

➤ **Right to liberty/freedom and security of a person and to freedom of movement**

A person may only be arrested on such grounds and in accordance with such procedure as are established by law. This is the principle of legality. This principle of legality is violated if somebody is either arrested or detained on grounds which are not clearly established in, or which are contrary to, domestic law. A person may not be arrested or detained arbitrarily (without legal grounds).

➤ **Right to be treated with dignity and respect**

The arrested person has the right to be treated with dignity and respect. Police officers should for example not swear or use abusive language towards the arrested person, because this infringe on the persons dignity.

➤ **Right to be informed of the reasons for arrest**

Every person that is arrested has the right to be informed, at the time of the arrest, of the reasons for his or her arrest. (Section 23(1) C.P.A.)

➤ **Right to remain silent. (This is linked to the right against self-incrimination)**

An arrested person should have the right to remain silent. No one shall be compelled to confess or to testify against her- or himself. Every person has the right not to incriminate him or herself. This right is affirmed by the fact that police officers may state that a person has the right to remain silent and that everything that may be say may be taken down and used afterwards as evidence in a court of law. This however does not mean that the suspect should not provide for example basic details like name, address and reasons for being at a specific place.

➤ **Right to be informed of the charges against him or her**

An arrested person also has the right to be promptly informed of any charges against him or her. There is no clear definition as to what is meant by “promptly” and this period may differ according to domestic legislation.

➤ **Right to remain silent. (This is linked to the right against self-incrimination)**

An arrested person should have the right to remain silent. No one shall be compelled to confess or to testify against himself. Every person has the right not to incriminate him or herself. This right is affirmed by the fact that police officers may state that a person has the right to remain silent and that everything that may be said may be taken down

and used afterwards as evidence in a court of law. This however does not mean that the suspect should not provide for example basic details like name, address and reasons for being at a specific place.

➤ **The right to be informed of all the rights**

Although suspects have basic rights upon arrest they also have the right to be informed about these rights by the police officer who arrested him or her. Any person shall, at the moment of arrest and at the commencement of detention or imprisonment, or promptly thereafter, be provided by the authority responsible for his [or her] arrest, detention or imprisonment, respectively with information on and an explanation of his rights and how to avail himself [or herself] of such rights.

➤ **To be presumed innocent**

Every arrested person has the right to be presumed innocent until proved guilty according to the law in a public trial at which he has had all the guarantees necessary for his or her defence. It is for the court to decide if a suspect is guilty. This can only be done after all the evidence was heard and the person was proven to be guilty beyond reasonable doubt.

7.8. Rights immediately following arrest

Police officers should be aware that particular international and national guidelines exist for the treatment of female and under-age detainees (e.g. Standard Minimum Rules for the Treatment of Prisoners (SMR) and the UN Standard Minimum Rules for Non-custodial Measures (the ‘Tokyo Rules’) and the more detailed UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders, otherwise known as “the Bangkok Rules” (2010). For more information on these rules, see the references at the end of this section, where there are links to two handbooks on this issue. Many of these apply mainly to correctional facilities but do also have a bearing on officers making arrests, including having separate detaining facilities for men and women, as well as for adults and unaccompanied minors.

In Tanzanian legislation, the Criminal Procedure Act and the Penal Code have general provisions with regards to human rights of detainees. The TPF standard operating procedures have specific guidelines on the arrest procedures, whereby women should be arrested or searched by female police officers. Officers need to ensure that during arrests of minors, the provisions of the Children’s Law are taken into account.

➤ **Right to be brought to a place of custody**

Persons should only be detained in legally accepted places of custody.

➤ **Right to apply for bail**

Persons have the right to apply for bail when they have been charged for committing an offence that is bailable.

➤ **Right to be brought promptly before a judge or other officer authorized by law**

Anyone who is arrested shall be brought promptly before a judicial authority. To be brought to a place of custody and to be brought promptly before a judge or other officer authorized by law to exercise judicial power who will decide on the lawfulness and the necessity of the arrest, (ICCPR, Article 9.3; Body of Principles, Principles 11 and 37. The time period for a person to be brought before a court may differ from country to country. This period

is more commonly referred to and known as police custody. The period that follows it is what is known as pre-trial detention.

➤ **Right not be tortured or treated in a cruel inhumane or degrading way**

The prohibition of torture applies to persons under any form of arrest, detention or imprisonment. Police officers are explicitly prohibited from taking advantage of the situation of a detained person to obtain a confession, to incriminate him or herself or to testify against others.

➤ **Right to a fair trial within a reasonable time**

A person detained on a criminal charge shall be entitled to fair trial within a reasonable time or to release pending trial.

➤ **Right to notify family members and other appropriate persons about the detention**

Promptly after arrest and after each transfer from one place of detention or imprisonment to another, a detained or imprisoned person shall be entitled to notify or to require the competent authority to notify members of his family or other appropriate persons of his choice of his arrest, detention or imprisonment or of the transfer and of the place where he is kept in custody.

➤ **Right to legal assistance and to communicate with them**

An arrested person has a right to the assistance of a legal counsel and must be provided with reasonable facilities to exercise this right. Legal counsel must be provided by a judicial or other authority if the arrested person has no legal counsel of his or her own choice, and free of charge if the arrested person does not have sufficient means to pay.

The following are the rights that support the right to legal representation. Arrested persons and their legal representatives have the following rights:

- To receive prompt and full communication of any order of detention, together with the reasons therefore ;
- To communicate with each other and have adequate time and facilities for consultation in full confidence and without delay or censorship;
- To communicate with each other within the sight but not within the hearing of a law enforcement official; (...) such communications to be inadmissible as evidence against the detained person unless connected with a continuing or contemplated crime;
- To have access to the recorded information on the duration of any interrogation, the intervals between interrogations and the identity of the officials who conducted the interrogations and other persons present;
- To have effective opportunity to be heard by a judicial or other authority
- To take proceedings according to domestic law before a judicial or other authority to challenge the lawfulness of the detention in order to obtain the release of the detainee, if it is unlawful;
- To make a request or complaint regarding the treatment of the detainee, particularly in

the case of torture or other cruel, inhuman or degrading treatment, to the administrative or higher authorities and, when necessary, to appropriate authorities vested with reviewing or remedial powers.

7.9. What are the duties of police officers upon arrest?

With every right there is an obligation on police officers to respect and fulfil these rights. Therefore police officers have the following duties during and after arrest.

➤ To inform the suspect of his/her rights

This means that the police officers should inform the arrested person of his rights and how to avail him or herself of such rights. The especially important for police officers to inform arrested persons of following rights:

- The right to remain silent and not to admit guilt, and that silence will not be interpreted as an admission
- The right to contact a relative or close friend and be visited by such person
- The right to contact a legal representative and communicate with him or her confidentially
- The right that a legal representative will be appointed if the suspect is unable to pay for a lawyer
- The right to be brought before a court within a reasonable time (as stipulated in the law of each country)
- The right to be questioned in the presence of a legal representative, unless the right is waived; and
- If the suspect is a foreign national, the right to contact diplomatic or consular officials of his or her country

➤ To keep record of the following data

Police officers must keep record of the following data:

- The reasons for the arrest
- The time of the arrest
- The time transferred to a place of custody
- The time of appearance before a judicial or other authority
- The identity of the law enforcement officials concerned
- Precise information concerning the place of custody
- The details of questioning or interrogation.
- The property of the detained person kept by the police.

To this should be added:

- The date and time that the individual was brought into custody
- Their medical condition
- Each visit by detention officers, lawyers, doctors and family or friends
- Exercise periods
- Time and date of transfer to detention facility or release.
- The arrest record shall be communicated to the detainee, or to his legal counsel
- Where necessary, an interpreter shall be provided during interrogation

7.10. The UN suggestions to Implementing International Standards applicable to Arrest

According to the Standard Minimum Rules for the Treatment of Prisoners (1955), prisons are required, among other things, to

- detain women and men in separate institutions,
- keep young prisoners separated from adults, and
- use female officers to supervise and attend women prisoners.

These have since been updated and made more specific in the Bangkok Rules on the Treatment of Female Prisoners.

To all police officers:

- Review regularly, for a clear understanding of your powers of arrest, and of the procedures to adopt upon and following arrest
- Participate in training to develop and maintain the necessary inter-personal skills, and especially skills of communication, to enable you to effect arrests expertly, discretely and with due respect for human dignity
- Where resistance is not evident, attempt calm, polite, disarming language when effecting an arrest, resorting to strong, authoritative tones only when necessary
- Develop and maintain the necessary technical and tactical skills to enable you to carry out arrests expertly, discretely and with due respect for human dignity
- Develop and maintain skills in use of handcuffs and other means of restraint
- Develop your self-confidence, including thorough self-defence skills.
- Seek an arrest order/warrant, whenever possible
- Carry a small card in your uniform, setting forth the rights of an arrestee, and read those rights, verbatim, to the arrestee once he has been secured
- Study conflict resolution techniques, through in-service training, or in available community educational programmes
- Keep careful arrest records, with detail as the first rule of thumb

To Command and supervisory officials:

- Issue and enforce clear standing orders on arrest procedures
- Provide continuous training to all officers on procedures for arrest, the rights of the arrested, and techniques for effecting arrest safely and humanely
- Provide training in inter-personal skills, conflict resolution techniques, self-defence, and the use of restraint mechanisms
- Develop standard forms for the recording of arrest information, based upon this chapter, and the laws and procedures for arrest in your jurisdiction
- When arrests can be planned in advance, ensure that a range of options is available, and that planning, preparation, briefing, and tactics adopted are appropriate to the circumstances and conditions under which the arrest is to be effected
- Debrief the involved officers after every arrest, and carefully check the arrest record to be sure it is complete
- Establish procedures to ensure the unhindered access of legal counsel to arrested persons

7.11. Summary

Arrest is a serious infringement on the rights of any person. Therefore police should ensure that they respect and protect the rights of every arrested person.

7.12. Questions for self-evaluation

- Provide basic definitions of arrest, detention and imprisonment
- What is the purpose of arrest?
- How can a person be arrested?
- When is arrest allowed?
- What are the rights of persons upon arrest?
- What particular issues do police officers need to keep in mind when arresting women or underage persons?

- Provide 5 examples of the duties of police officers towards the arrested person?

References:

AdvocAid (2011) “United Nations Rules for the Treatment of Female Prisoners - Bangkok Rules Training Booklet,” <http://www.advocaidsl.com/wp-content/uploads/2011/03/AdvocAid-Bangkok-Rules-training-booklet-Nov-11.pdf>

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CHAPTER

Use of force and firearms



Content

Use of force and firearms

Learning objectives for chapter

- 8.1. Introduction
- 8.2. Basic International Principles on Use of Force and Firearms Law Enforcement Officials (LEO's)
 - 8.2.1. The use of force
 - 8.2.2. Accountability for the use of force and firearms
 - 8.2.3. Permissible circumstances for the use of firearms
 - 8.2.4. Procedures for the use of firearms
 - 8.2.5. After the use of firearms
- 8.3. Methods to explain proportionality
- 8.4. Use of force continuum
- 8.5. The Golden Rule
- 8.6. Summary
- 8.7. Questions for self-evaluation

Learning objectives for chapter 8

After completing this chapter you should be able to:

- Explain the Basic Principles for Use of Force and Firearms by police officers
- Provide examples to explain proportionality during use of force.
- Explain the different levels of force that can be used
- Describe the procedures to be followed before, during and after the use firearms

8.1. Introduction

The use of force is one of the aspects of law enforcement where police officers can easily abuse the human rights of persons. When police have to use force and firearms, the most important aspect to remember is the principle of proportionality using *minimum* force. This means that if no force is needed to for example to arrest a person, you should not use any force at all and if you need to use force you should only use the necessary force needed to arrest a person. The principle of proportionality requires that the method, which employs the minimum force to achieve a goal, should always be chosen. An important thing to remember when arresting a suspect is that there needs to be a balance between doing your duty well and respecting the rights of the suspect. When suspects are arrested they have not yet been found guilty by a court of law. It is important to remember that police officers may not use arrest or excessive use of force to punish and that the suspect is innocent until proven guilty.

As with all limitations of basic human rights, the most important aspects to take into consideration when using force are principles of legality, necessity and proportionality. Police officers should also act in an ethical way and they have to realize that they will be held accountable for their actions.

The intentional use of lethal of force may only be applied when strictly unavoidable in order to protect life.

In this chapter the use of force and firearms will be discussed.

8.2. Basic International Principles on Use of Force and Firearms by Law Enforcement Officials (LEO's)

The United Nations developed basic international principles on the use of force and firearms. They are the following.

8.2.1. The use of force

On the use of force the following principles serve as guidelines for police officers.

- Everyone has the right to life, security of the person, and freedom from torture and other cruel, inhuman or degrading treatment and punishment.
- Non-violent means are to be attempted first.

- Force is to be used only when strictly necessary.
- Force is to be used only for lawful law enforcement purposes.
- No exceptions or excuses shall be allowed for unlawful use of force.
- Use of force is to be always proportional to lawful objectives.
- Restraint is to be exercised in the use of force.
- Damage and injury are to be minimised.
- A range of means for differentiated use of force is to be made available.
- All officers are to be trained in the use of various means for differentiated use of force.
- All officers are to be trained in the use of non-violent means.

8.2.2. Accountability for the use of force and firearms

Use of force and firearms are very serious infringements on people's basic human rights. Police officers should always be accountable for their actions. On the issue of accountability the following principles serve as guidelines.

- All incidents of the use of force or firearms shall be followed by reporting and review by senior officials.
- Superior officials shall be held responsible for the actions of police under their command if the superior official knew or should have known of abuses but failed to take concrete action.
- Officials who refuse unlawful superior orders shall be given immunity. Officials who commit abuses of these rules shall not be excused on the grounds that they were following superior orders.

8.2.3. Permissible circumstances for the use of firearms

The circumstances under which force may be used may differ from country to country. The following circumstances were identified where the use of force are permissible.

- Firearms are to be used only in extreme circumstances.
- Firearms are to be used only in self-defence or defence of others against imminent threat of death or serious injury.
- To prevent a particularly serious crime that involves a grave threat to life.
- or
- To arrest or to prevent the escape of a person posing such a threat and who is resisting efforts to stop the threat.
- and
- In every case, only when less extreme measures are insufficient.
- Intentional lethal use of force and firearms shall be permitted only when strictly unavoidable in order to protect human life.

8.2.4. Procedures for the use of firearms

- The officer is to identify himself or herself as a police officer.
- and
- The officer is to give a clear warning.

- and
- The officer is to allow adequate time for the warning to be obeyed.
- but
- This shall not be required if the delay would result in death or serious injury to the officer or others.or
- If it is clearly pointless or inappropriate in the circumstances to do so.

8.2.5. After the use of firearms

- Medical aid is to be rendered to all injured persons.
- The relatives or friends of those affected are to be notified.
- Investigations are to be allowed for where requested or required.
- A full and detailed report of the incident is to be provided.

8.3. Methods to explain proportionality

To know which method will have the minimum force, the potential force of each method should first be identified. Measuring the method on a point's scale can do this.

The potential levels of “physical force methods” can, for instance, be measured on a point's scale of 1-10. A relative point is allocated to methods which have fewer disadvantages for the community, e.g. 1, and a high point is allocated to methods which contain potentially serious consequences for the suspect, the community and the police officer.

This example will also explain the principle of proportionality and show the different levels of force that can be used during the arrest of a suspect.

POTENTIAL FORCE LEVELS DURING ARREST

I. POLICE OFFICERS PRESENCE: IDENTIFICATION OF AUTHORITY

The first step is when a police officer identifies himself or herself as a police officer (visually and verbally) - Being in uniform and telling the suspect that you are a police officer.

II. VERBAL DIRECTIONS

Giving verbal directions, commands of arrest to the suspect. When a police officer tells the suspect that he or she is under arrest or when she or he verbally instructs or commands the person to do something. (Example: When a suspect tries to flee and the police officer shouts at him/her to stop.)

III. EMPTY HAND CONTROL

➤ SOFT EMPTY HAND CONTROL

These are techniques that a police officer can use that have the minimal chance of injury. (Example: When a police officer touches the person on the shoulder and instructs him/her to come along, or takes hold of an arm, moving the suspect)

➤ HARD EMPTY HAND CONTROL

These are techniques that a police officer can use that have a probability of injury. (Example: If there is a certain amount of resistance to use techniques to force the suspect to submit, like pressure points on the body, come along techniques, take down techniques and joint manipulation techniques, such as bending arms and fingers.)

IV. MOTOR DYSFUNCTION TECHNIQUES

These are techniques that police can use if there is more resistance that are sure to cause some degree of injury. (Example: Lateral vascular neck restraints—if police officers have been trained in using these techniques—or foot/leg/arm strikes as dynamic application of pressure to nerve motor areas to cause temporary dysfunction of the limb and simultaneous mental stunning; other strikes resulting in temporary loss of mobility or mechanical control (Karate, Aikido, etc).

V. CHEMICAL AGENTS

The use of chemical agents such as CO/OC gas (teargas) or pepper gas should only be used if it was approved by police headquarters and strictly in accordance with safety procedures by trained police officers and in line with legal directives controlling these agents. (Example: Tear gas should not be used in confined or closed areas.)

VI. BATONS AND IMPACT WEAPONS

These impact weapons should only be used as departmentally approved and by trained police officers.

VII. USE OF FIREARMS

Firearms should be used only as the last resort. Firearms may only be used when necessary to protect yourself and innocent bystanders and while effecting an arrest. If you decide to use your firearm during arrest, it is important that you first shoot a warning shot if it is possible under the circumstances. If you shoot, try to shoot at a part of the body that is unlikely to result in the death of the person. Remember the purpose of arrest is to get the suspect to appear in court.

Normally firearms should only be used in self-defence or in defence of others against imminent threat of death or serious injury. When you shoot in self-defence (protecting your life or the life of someone else), the purpose of the shooting becomes different.

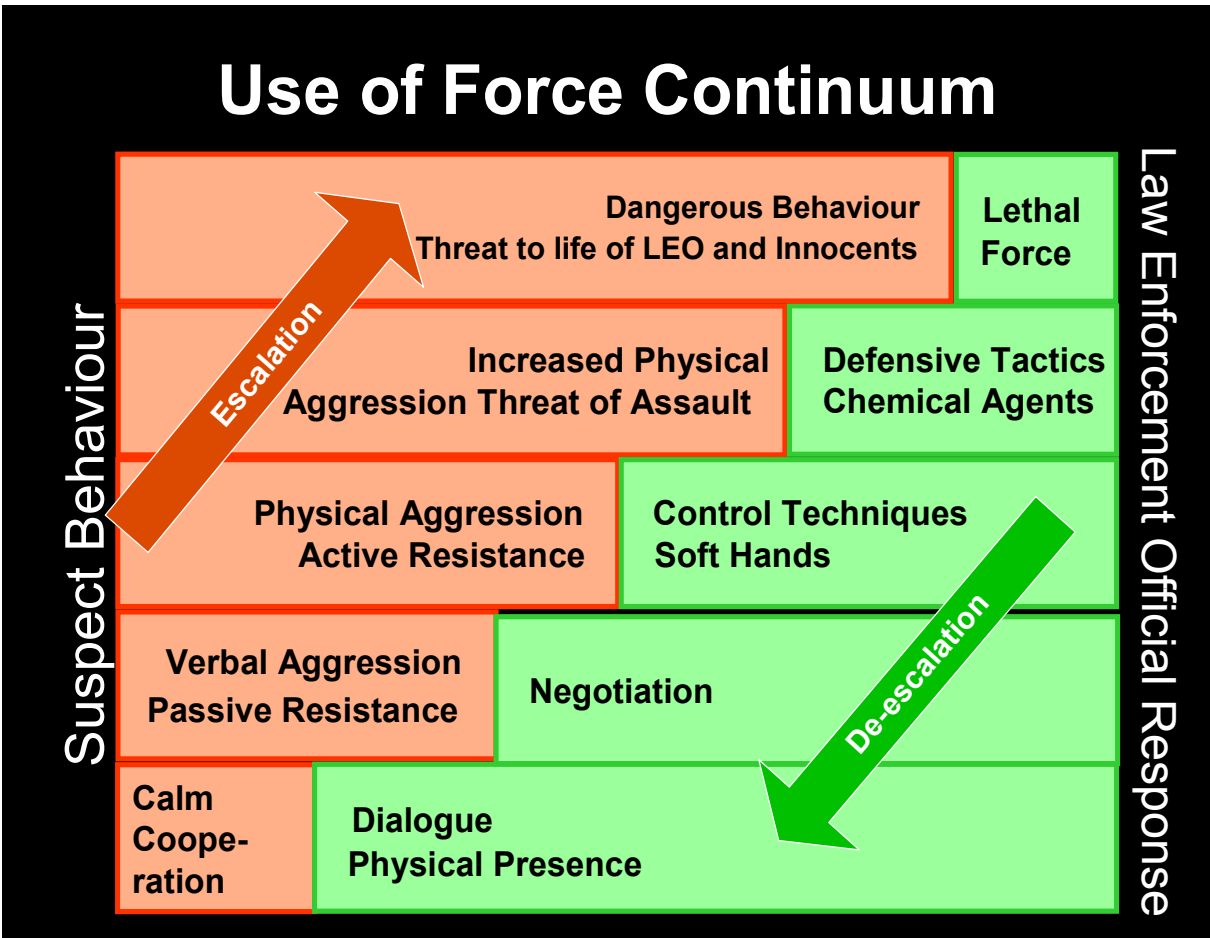
A valuable hint is that the “points of a method” also imply caution to apply it. In other words, the higher the point the method has which the police officer wants to apply, the more cautious he or she has to be in applying it. As a rule one has to be more cautious when shooting at someone than when arresting a person, and more cautious when arresting than when writing a written notice.

The principle of Proportional Use of Force should always be taken into account. The reason for this is that, in addition to consequences such as **post-traumatic stress** on the police officer because he or she has killed someone, **large civil claims** may also be laid against the police. It can also to large extent strain community relations.

8.4. Use of force continuum

When applying force police officers should always take into consideration proportionality. This means that if no force is needed to for example arrest a person, you should not use any force at all and if you need to use force you should only use the necessary force needed to arrest a person. The more the resistance, the more force you can use. This can be referred to as escalation of force. On the other hand if the person submits you as the police officers should stop using force or use less force. This is referred to as de-escalation of force.

The force used by the police officers should be in response to the behaviour of the suspect in each situation.



To enable police officers to use proportional force and to de-escalate in situations that are under control, they need to receive proper training and equipment. Police officers should constantly practice the different techniques for example soft and hard empty hand techniques.

8.5. The Golden Rule

The Golden Rule can be summed up in one sentence, which is “Do unto others as you would have them do unto you.” The principle behind this is simple: All police officers, like other people, want to be treated with respect, sensitivity and fairness. Thus it means that police

officers should treat others with respect, sensitivity and fairness, since he or she also wants to be treated in this way.

This principle should always be considered in making decisions. The reason for this is the well-known fact that every action causes an equal and opposite reaction. It also operates in interpersonal relationships. Someone who acts in a friendly way toward other people will find that people react in a friendly way toward him or her. Conversely, the bombastic, unfriendly and hostile police officer can expect a similar hostile reaction from the community.

The result of individual police officers applying the Golden Rule in their everyday police work is effective and professional policing.

8.6. Questions for self-evaluation

- Provide examples to explain proportionality during use of force.
- What is meant by the use of minimum force?
- Describe the different levels of force that can be used during arrest, starting with minimum force and ending with maximum force.
- Describe the procedures to be followed before, during and after the use firearms
- What is meant with escalation and de-escalation of force?



CHAPTER

The role of police in elections

Content

The role of police in elections

Learning objectives for chapter

- 9.1. Introduction
- 9.2. What is the role of police officers during elections?
 - 9.2.1. Pre election period
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- 9.3. The role of other organizations and institutions
 - 9.3.1. The National Electoral Commission
 - 9.3.2. The Registrar of Political Parties
- 9.4. Offences during the election period to be on the lookout for
- 9.5. Summary
- 9.6. Questions for self-evaluation

Learning objectives for chapter 9

After completing this chapter you should be able to:

- Discuss the role of police during democratic elections
- Explain the importance of police neutrality during the election process
- Discuss the traditional role of the police in any democratic society
- Discuss the role of police during the pre-election period
- Discuss the role of police officers on the day of the election
- What is the role of police officers after the day of the election?
- Discuss the importance of international standards for Police in Tanzania

9.1. Introduction

The Constitution of Tanzania guarantees the human rights of every person in the United Republic of Tanzania. This includes the right to vote and the right to freedom of expression and the right to freedom of association. Elections are one of the most important foundations of any democracy. All citizens, without discrimination, have the right to determine and choose their leaders and representatives in various organs of government. This is done through election campaigns where political parties publicize their programmes and political agendas to the voters. By voting the citizens choose among contesting political parties, the politicians and their programmes and agendas. In a free and fair election the results of an election reflects the intentions of the voters as expressed through their basic right to vote, free from discrimination, verbal or physical abuse, harassment, and violence, including of a sexual or gendered nature.

Police officers play a very important role during elections. They have a critical role in ensuring a free and fair election process free from violence and intimidation where democracy will prevail.

Additional

The general roles of police are as follows:-

- To maintain law and order throughout the whole electoral process.
- To ensure security of the people and property during campaign and election.
- To ensure the security of presiding officers and polling assistant before, during and after election.
- To provide security of candidates of campaign and election.
- To make sure that campaigns are conducted peacefully.
- To ensure a conducive environment for free and fair election, abiding to laws and regulations without any kind of discrimination.
- To ensure the security of polling stations.
- To ensure safety and security of voting facilities at polling stations, during voting, counting of votes and transportation.
- To ensure that the voters are not threatened or disturbed at the polling stations.
- To ensure that no any person except voters are allowed at the voting area without authority from Electoral Commission.
- To ensure peace and security before, during and after election results.

N.B:- Police when executing these duties should work with integrity, observing human rights and avoid unnecessary use of excessive force.

The Constitution of the United Republic of Tanzania lays down the status of the Police Force vis-à-vis political parties. The Constitution includes the Bill of Rights, which was incorporated into the Constitution in 1996 and provides for the rights essential to democracy, such as:

- Freedom of expression
- Freedom of religion and thought
- Freedom of association
- Freedom from any form of discrimination

In this chapter we will discuss the role of the police in ensuring these rights during the election period.

9.2. What is the role of police officers during elections?

Police officers are representatives of the state and not a political party. Their role is to preserve the peace during the election period. Their role is to assist in ensuring a smooth, free and fair election. They should also assist to protect the security and integrity of the electoral process, participants, institutions and outcomes of the election. There are some guidelines for police conduct during elections. They are:

- **Respect for the human rights of every citizen**
When fulfilling their duties police officers should respect and protect the human rights of every citizen irrespective of political affiliation. Therefore police officers should know and understand the basic rights of every citizen.
- **Professional conduct**
Police officers must be professional in their demeanour and personal appearance.
- **Alertness**
Prompt response by police to a given situation will often be necessary to prevent a minor incident from becoming a major incident. Therefore police officers should always be alert in noticing and responding to any incident with the potential to deteriorate and disrupt the electoral process.
- **Approachable**
Police officers should always be approachable and accessible to any voter who may need his or her assistance
- **Neutrality and impartiality**
Police should not only be neutral and impartial but they must be seen to be neutral and impartial. They may not discriminate against any person or group of persons when fulfilling their duties, regardless of their age, sex, ability or disability, social or economic background, political opinion or ethnic and religious background or any other social identity markers.
- **Fairness**
Elections are normally politically charged. Police officers should be sensitive in the way

that they handle situations especially between two rival parties. Police officers must always strive to avoid conduct that can be interpreted as unfair, high handed or politically motivated.

- Use of force
Police officers must refrain from using excessive force. Force may only be used when necessary, justifiable, and proportional. Excessive use of force, especially during the election period, especially on the Election Day is a very serious matter and can easily be misinterpreted.

There are specific tasks for police during the election process and specifically during the day of the election. The role of the police during these periods will be discussed in more detail.

9.2.1. Understanding the Election Chain

Election is the process of choosing a person or a group of people for a political position by voting. National elections in Tanzania and Zanzibar are held to choose a President, Member of Parliament and Councilors for the Local Authorities. These national leaders are elected for a five-year term. In the presidential elections, the winning candidate is the one who gets most votes. In parliamentary elections, candidates run in a constituency while the local councils the candidates run in a ward. The candidate who gets the most votes wins the election. In parliament and local council, there are special seats for women. These women get their positions through the proportional representation where a party list is used. Every political party is required to provide a list containing a given number of names.

The election chain refers to the interconnected activities in an election. The chain looks at specific stages starting from the voter registration to vote addition and announcement of results. The different stages are what are referred to as the loop. They are connected to each other and therefore activities of one loop affect the other loop. It is therefore important for police officers to understand and follow activities at each loop of the chain in order to provide appropriate security.

9.2.2. Pre-election period

The pre-election period is a critical part of any democratic election process. This is the period when political parties are given the opportunity to register and then to market and promote themselves. This is normally a difficult period for the police because of the fact that there is heightened tension between different political parties and their supporters. During the election campaign there are more political activities in the form of political rallies, meetings, marches, demonstrations where police are expected to keep the peace and ensure the security of all the participants as well as other members of the public and their property that are not involved in the political activities.

Pre-election processes can be periods of particular risk to different sections of society. Young men and street children may be coerced or pressured to join political party 'youth' wings; these 'youth wings' may engage in extortion of wealthier citizens and the elderly; people with albinism may be targeted for reasons linked to superstition and beliefs in witchcraft; female candidates or supporters may be exposed to verbal and physical abuse, harassment and violence, also of a

sexual nature; people with disabilities, the elderly, women, youth but also trans- and intersex persons may be intimidated or discouraged from participating fully in the electoral process. It should be noted, however, that men and boys may also become victims of sexual and gender-based abuse, harassment and violence.

Police are only human beings and it can sometimes be very difficult to be neutral in instances where there are opposing political parties in conflict with each other. Professional police officers however are able to be neutral and can deal with conflict in a way that respects the basic human rights of every person.

The role of the police is to maintain law and order. During the pre-election process the primary responsibility of the union-wide Police Force is:

- To protect the integrity of the electoral process, and outcomes of the election
- To safeguard the security of the persons and property during the campaign and voting period
- To ensure the safety of electoral officers administering the election before, during and after the election.
- To provide security for candidates during the campaigns and election
- To ensure and preserve a free, fair, safe and lawful atmosphere for campaigning by all parties and candidates, as well as for their supporters and the general population, without discrimination

Even during the election period police must still fulfil their traditional role. According to the Police Force Ordinance, the Tanzanian Police Force has the following functions:

- To protect life and property
- To prevent and detect crime
- To repress internal disturbances
- To maintain security and public tranquillity
- To apprehend offenders
- To bring offenders to justice
- To duly enforce written laws and order

9.2.3. Voter Registration

A Constitutional amendment introduced the system of a Permanent Register of Voters. The Returning Officer supervises the registration of voters. A qualified voter presents himself or herself to the Registration Assistant for registration at the polling district. To register one;

- Needs to appear in person
- Fill an application form
- Answer any questions asked by the Registration Assistant

A resident whose application is accepted is issued with a Certificate of Registration. An application of a person who fails to meet the requirements can be rejected.

Registration of voters stops three months before the elections. After the register is compiled, the register is put in a convenient place for voters, candidates and political parties to inspect it.

The people who inspect the register can raise objections to the Returning Officer if a person on the role does not qualify to vote.

During the registration period, violence, threats and intimidation may be used by different parties to keep certain segments of the population from registering and exercising their constitutional rights. This may happen on an individual basis (e.g. husbands forbidding their wives from registering) or may be communal (e.g. people of a certain ethnic or religious background being intimidated). Others may face structural obstacles, such as trans- and intersex persons who have been assigned a different sex at birth, street children or itinerant persons, or PWD.

9.2.4. Voter Registration Offences

It is an offence for any person to:

- Intentionally give any false statement in order to get registration or a registration certificate for him/herself or for another person
- Double registration
- Present oneself for registration as a voter in a polling district while their earlier application in another district is pending investigation
- Forge or fraudulently deface or destroy any certificate of registration
- Duplicate a certificate of registration or any official mark on the certificate of registration

Upon conviction, such a person is liable to a fine not exceeding twenty thousand shillings or to imprisonment for a period not exceeding two years or both.

9.2.5. Nomination of Candidates

There are two steps of nominations namely;

- Party Nominations
 - Commission Nominations
- **Party Nominations**
- Each political party is responsible for their party nominations. A political party may have more than one candidate in a constituency or ward. The party has to present one candidate to the commission as each party can only have one candidate per constituency or ward for elections. Each party therefore decides on their nomination process in which the commission does not interfere.
- **Commission Nominations**
- The nomination day must not be less than five days and not more than twenty-five days after parliament is dissolved. In order for each category of candidates to qualify, they have to fulfil the following conditions.

Presidential and Vice Presidency Candidate

- Citizen of the United Republic of Tanzania by birth
- Age forty and above
- Member of the political party and nominated by that political party

- Qualifies to be a member of parliament or House of Representatives
- No conviction by any court with the offence of tax evasion
- Must be supported in writing by not less than 200 registered voters from at least ten regions out of which two regions should be from Zanzibar
- Payment of 1,000,000/= shillings
- Present their nomination papers not later than four o'clock of the nomination day.

The nomination papers contain:

- Name, address and occupation of the candidate
- The names, addresses of the supporters
- Numbers of the supporters registration certificates
- Certificate by the candidate that s/he is willing and qualified to stand for elections
- Four half size card photographs

When the Electoral Commission receives the nomination papers, they place the papers of each candidate at a conspicuous place to enable other candidates to look at and raise objections if any.

➤ **Parliamentary Candidate**

A person wishing to run for a parliamentary seat must have the following qualifications:

- Citizen of the Republic
- Age 21 and above
- Ability to read and write in Kiswahili or English
- Member of a political party and candidature proposed by that political party
- Not convicted by any court for the offence of evading tax
- Nominated in writing by not less than twenty five nominators who are voters registered in the polling district within the constituency for which the person is aspiring to be a candidate
- Submit nomination papers to the Returning Officer not later than four o'clock of the nomination day. The nomination papers should contain:
 - Name, address and occupation of the candidate
 - Names, addresses of the nominators and numbers of their registration certificates.
 - A certificate by the candidate the s/he is willing and qualified to stand for elections
 - Half size photo card photographs
 - 50,000/= shillings

Upon receipt of nomination papers, the Returning Officer will place the papers at a conspicuous place for other candidates to inspect and objections if they wish.

➤ **Local Government Authority**

A person who wants to contest Local Authority Elections must have the following qualifications:

- Citizenship
- Age 21 and above
- Normal residence within the area of jurisdiction of the local authority
- Ability to read and write in Kiswahili or English
- Member of and sponsorship by a political party
- Lawful means of livelihood
- No conviction by a court for the offences of evading tax
- Nomination in writing by not less than ten nominators registered voters in the ward where the candidate is aspiring
- Nomination papers presented the Returning Officer not later than four o'clock on the day of nomination. The papers should contain;
 - Name, address and occupation of the candidate
 - Names, addresses and numbers of the registration certificates of the nominators
 - Certificate by the candidate that s/he is willing and qualified to stand for elections
 - Four half size post card photographs
 - 5,000/= shillings

Upon receipt of nomination papers the Returning Officer will place the papers in a conspicuous place to enable other candidates inspect and make objections if they wish.

➤ **Offences and Penalties in Relation to Nomination Papers**

Any person who:

- Forges, fraudulently defaces or destroys any nomination paper
- Delivers to the Returning officer nomination papers known to be forged
- Knowingly nominates more than one Presidential, Parliamentary or Local Authority candidate
- While holding any official office or acting in any official capacity makes any statement or performs any act with intent to discourage any other person from seeking nomination or to procure any person who had been nominated to withdraw his or her candidature

Upon conviction, a fine of twenty thousand or imprisonment for up to two years or both.

Upon conviction, a fine of twenty thousand or imprisonment for up to two years or both.

Other offences and penalties are:

- A person knowingly, by uttering, print or broadcasting, publishes any statement of withdrawing of any candidate for the purpose of promoting the election of another candidate shall be liable upon conviction to imprisonment for a term of up to two years
- Any person who corruptly includes or procures another person to withdraw from being a candidate to an election in consideration of payment or promise of payment, and any person who withdraws in pursuance of such inducement or procurement, commits an

offence of corrupt practice and liable on conviction to imprisonment for a term of up to five years

- A person knowingly makes false statement or material to such form or statutory declaration delivered to a Returning Officer can upon conviction be fined up to ten thousand or imprisonment of up to twelve months or both

9.2.6. Election Campaigns

Election campaigns are organised by the candidate, candidate's political party or agents. They prepare a campaign programme and submit it to the Returning officer. After receiving all the programmes, the Returning Officer convenes a meeting with all the candidates, political parties or agents to coordinate the campaign programme in order to avoid clashes. After the meeting, the Returning Officer submits a copy of the coordinated programme to the Police Officer Commanding District in which the constituency is situated in order to organise security. The agreed programme constitutes a notice of the campaign meetings.

➤ **Methods of Campaign**

- Campaign meetings
- Door to door campaigns
- Campaign through the media. All should have equal access and opportunities to the use of media
- Use of posters, T-shirts and other publicity material

Campaigns are not allowed on Election Day

➤ **Offences and Penalties**

This needs to be verified

- Sell or offer to sell voter's certificate of registration
- Buy or offer to buy voter's certificate of registration
- Bribe voters to vote for a candidate
- Receive bribe in order to vote for a candidate
- Be in possession of another person's voter certificate of registration
- Use of state resources for candidates campaigns

➤ **The Role of the Police**

- Receive notice from candidates, their agents or political party of intentions to hold campaign meetings or activities in their area of jurisdiction
- Ensure that the activities will not be a threat to security and that the activity does not clash with another candidate
- If there is a threat or a clash e.g. same venue, the police can deny approval of the said activity
- If the police approve of the activity the police provide security

As during the pre-election phase, certain sections of the population may be exposed to more

intimidation or violence than others. For example, female candidates, spouses of male candidates or female supporters may be exposed to verbal and physical abuse, harassment and violence, also of a sexual nature; people with disabilities, the elderly, women, and youth may be intimidated or discouraged from participating fully in the electoral process; and young men may be coerced to participate in violent activities or be targeted upon suspicion of being part of party youth wings. Again, while SGBV is most often used against women and girls, men and boys may also become victims of sexual and gender-based abuse, harassment and violence.

9.2.7. On the day of the elections

On the day of the election the most important role of the police is to fulfil their “traditional” role in terms of preserving the peace and maintenance of law and order. Besides their normal role they are also expected to help in ensuring that the election runs smoothly. There should be good cooperation between the police and all political parties to ensure orderly polling and complete freedom to voters to exercise their right to vote without being subject to any annoyance or obstruction. This means that specific tasks will be carried out by police officers on the day of the election such as:

- Providing security for electoral officials at the polling stations
- Maintaining peaceful conditions, law and order around the polling stations
- Ensuring that no one, except the voters, enters the polling station without a valid pass from the Election Commission
- Ensuring that voters can vote freely and without hindrance, including freedom from discrimination, verbal/physical abuse, harassment, and violence, including of a sexual or gendered nature. It should be noted that certain sections of the population, e.g. the elderly and PWD, but also pregnant women, may have special needs that should be attended (e.g. not being able to queue in the sun for hours).
- Ensuring that no one intimidates or interferes with voters
- Ensuring that voters can enter or leave the polling station freely and without hindrance
- Assist in dealing with people who misconduct themselves at the polling station
- Ensuring the security of election material at voting and counting stations and during the transportation thereto.
- Accompanying ballot boxes to and from the polling station
- Police should ensure that election material are not stolen, hijacked, destroyed or fraudulently altered by any group of person.

When working at the polling station police should be

- Police need to observe impartiality and non-discrimination
 - Police should remain non-partisan and neutral
 - Police need to retain an awareness that they do not serve a particular regime or political party but that they are a national institution and that they represent the State
 - Police official who work at policing stations should be friendly, discreet, professional and disciplined
- **Election and Voting Procedures**

The Returning Officers and Assistant Returning Officers determine the number and location of polling stations after registration. Polling stations will usually be in public buildings such as schools, public offices, dispensaries, health centres, court buildings and community hall accessible to the voters.

At the polling station the following are authorised to be there:

- Director of Elections
- A member of the Commission
- Returning Officer
- Assistant Returning Officer
- Presiding Officer
- Assistant Presiding Officer
- Police Officers
- Polling officers
- Polling agents for political parties
- International observers
- Local observers
- Voter
- Candidate
- A person assisting an incapacitated person

All the officers in the polling station must be authorised to be at the polling station by the Electoral Commission. The Commission provides them with identification badges stating their role at the polling station.

➤ **Voting**

Voting takes place from seven in the morning to four o'clock in the afternoon. Voters are expected to vote at the station where they were registered. Voting is by secret ballot. The polling station should not have any campaign material. If there are posters of a candidate or any other campaign material, it should be removed before polling begins.

Before polling begins, all the election materials are inspected by the Presiding Officer in the presence of the polling officers, police officer, agents and observers. The Presiding Officer must display an empty ballot box to ensure that it is empty. Thereafter, the Presiding Officer must close and seal the ballot box ready for voting. The ballot boxes are placed usually in the middle of the room where everyone can see them.

When the Presiding Officer opens the polling station, the voting process begins. The voter must present himself or herself to the polling station in person. They must bring with them their registration certificate. The presiding officer will ensure that they are the voter they claim to be and that they have not voted before. If the Presiding Officer is satisfied, then the voter is presented with the ballot papers to mark and cast their vote. An incapacitated voter can choose a person to assist them in marking the ballot. After the voter casts their vote, they dip their left small finger in indelible ink. The ink is waterproof and serves as an indicator that the person has voted.

The Polling station closes at four o'clock in the afternoon. However, if there are people still on the queue, then the presiding Officer should allow them to vote.

➤ **Close of Poll**

Once voting has been completed the Presiding Officer in the presence of authorised persons seals the ballot boxes. The polling agents present can present their perceptions about the manner the voting was conducted in the polling station. The Presiding Officer then prepares a report.

➤ **Electoral Offences and Penalties**

It is an offence for any person:

- To forge or counterfeit or fraudulently destroy any ballot paper or the official mark
- Who is a returning officer or Presiding Officer knowingly or negligently to fail to put an official mark or a stamp on a ballot paper
- To supply any ballot paper to any person without due authority
- To fraudulently put into any ballot box any paper other than the authorised ballot paper
- To remove any ballot paper from polling station without authority
- To destroy, take, open or interfere with ballot boxes without due authority. Upon conviction, such a person shall be liable to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding two years or both.
- To furnish false evidence or make a false statement in a declaration of proof of identity as a voter. Upon conviction such a person can be fined up to ten thousand shillings or imprisonment for up to twelve months or both.
- Who violates the maintenance of secrecy at elections? Upon conviction such a person shall be liable on conviction to a fine of up to twenty thousand shillings or to imprisonment for a term of up to four years or both.
- To vote or attempt to vote more than once or induce or procure another person to vote more than once. Upon conviction, such a person is liable to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding five years or both.
- To give another person his or her registration certificate for purposes of obtaining a ballot paper. Upon conviction, such a person is liable to a fine not exceeding five hundred thousand shillings or to imprisonment for a period not exceeding five years or both.

9.2.8. After the elections

The period after the election when the results are made known and political leaders are sworn in to their new posts are also a very important part of any democratic process. During this process police officers should continue to preserve the peace and maintain law and order.

The post-election stage may see violence against individuals or groups, and as in the previous stages, certain groups may have particular vulnerabilities. These include the risk of becoming victims of SGBV (which applies to men and women, girls and boys, as well as trans- and intersex persons), groups or individuals being 'scapegoated' and vulnerable individuals (e.g.

elderly, PWD) being caught inadvertently in violence between two opposing sides and not being able to flee.

➤ **Counting of the votes**

The first important period after the elections is the counting of the votes. In Tanzania the votes will be counted at the polling stations. The police have an important role to ensure the safety of the people working at the counting office and to secure the parameters of the counting station.

Votes are counted at each polling station where the votes were cast. Before counting the votes, the Presiding Officer or the Assistant in the presence of the agents and other authorized persons should ascertain and record of all vote cast, unused ballot papers, inspect the seals on the boxes to ensure they have not been tampered with. The ballot boxes are then unsealed and opened. The Presiding Officer then counts aloud the number of ballot papers in each box without opening them and records the number. The Presiding Officer or the Assistant then unfolds each ballot paper, displays it and reads out the name of the candidate.

A ballot paper will not be valid if;

- It does not bear an official mark
- Anything is written or marked to identify the voter
- It is not marked
- Marked in a way that the voter's preference is not clear

When the counting is complete, the Presiding Officer will in detail record the findings. The valid, disputed and rejected ballot papers will be sealed separately and separate report of the Presidential, Parliamentary and Local Authority elections are prepared. The authorised persons present are allowed to state in a prescribed form to confirm the report or complain. Each count agent is given a report. The presiding officer seals their report and presents it to the Returning Officer with all the other ballot material from the polling station.

➤ **Vote Addition and Announcement of the results**

Addition of votes is at two levels:

- The Returning Officer level for parliamentary candidates
- The Commissions level for Presidential votes

Before the vote addition begins, the Returning Officer or the Assistant Returning officer deals with the disputes and announces the results of each polling station in the constituency. Within reason, the Returning or Assistant Returning Officer can check the addition or recount the votes of a particular polling station. Where there is a tie for parliamentary or local authority, the Returning Officer must report to the Commission and another election held within thirty days. The Returning Officer submits a report of the results of the Presidential election in the constituency to the Commission. The Commission receives all the reports of the presidential votes from all the constituencies and ascertains the successful candidate.

9.3. The role of other organizations and institutions

There are different role players in the election process. The Registrar of Political Parties (RPP), the National Election Commission (NEC), International Organisations such as the United Nations, National and International Non- Governmental Organisations. They all have a roll to play in ensuring a free and fair election. It is important for the police to have a good and professional working relationship with all the role players in the election process.

9.3.1. Electoral Bodies

There are two bodies that supervise elections namely:

- National Electoral Commission (NEC) that monitors election exercise in Tanzania and its Islands.
- Zanzibar Electoral Commission (ZEC) that monitors election exercise in Zanzibar.

The functions of the commission are as follows:

- Supervises national elections
 - Facilitates the registration of voters
 - Maintains and revises the voters register
 - Determines the number of constituencies
 - Promotes voters – education and awareness
- Additional Information
- Supervise election time tables.

9.3.2. The Registrar of Political Parties

Registers all political parties wanting to take part in the elections. No unregistered party is allowed to participate in any way in the elections.

9.3.3. International Organisations

Various bodies representing interests of different international constituencies are allowed to provide election education to citizens and to monitor the elections. These bodies may be NGOs (non-government organisations), foreign delegations from various countries, and international and regional bodies such as the United Nations, the Commonwealth and the African Union. Members of any such organisations need to be accredited and should at all times be clearly identifiable.

9.4. Summary

There are offences which are very specific to the election period that police officers have to be on the lookout for, they are for example

- Cheating in application forms to register as a voter
- Forging or destroying nomination papers of a candidate
- Dealing with ballot papers in a fraudulent manner
- Selling, or offer to sell, or buy or offer to buy ballot papers

- Putting in a ballot box anything else than a ballot paper
- Print ballot papers without official authority
- Selling, or offer to sell, or buy or offer to buy, destroy, damage, deface or alter a voters card without official permission
- Voting in the election without authority to do so.
- Bribe voters in order to influence their decision on how to vote
- Solicit or receive a bribe so as to vote one way or another
- Prevent, obstruct or bar a person from voting
- Vote more than once in the elections
- Carry out campaign propaganda at the polling station

9.5 Questions for self-evaluation

- What is the role of police officers during democratic elections?
- Why is it important for police officers to be neutral during the election process?
- What is the traditional role of the police in any democratic society?
- Do police have any extra role to play before the day of the election? Discuss.
- What is the role of police officers on the day of the election?
- What is the role of police officers after the day of the election?
- Are the police representing any specific political party?
- What kind of specific vulnerabilities and needs might arise during the various stages of the process, based on age, sex, ability or disability, social or economic background, political opinion or ethnic and religious background or any other social identity markers?

CHAPTER

Human rights violations



Content

Human rights violations

Learning objectives of the chapter

- 10.1. Introduction
- 10.2. Definition of human rights violations
- 10.3. Role and responsibility of the State in protecting human rights
- 10.4. Complaints procedures and remedies available when human rights are violated
- 10.5. Victims of human rights violations
- 10.6. Who monitors human rights?
- 10.7. UN standards and practices in cases of police violating human rights
- 10.8. Consequences of human rights violations by police officers
- 10.9. Summary
- 10.10. Questions for self-evaluation

Learning objectives for chapter 10

After completing this part of the chapter you should be able to:

- Explain what is meant by human rights violations.
- Discuss the consequences of human rights violations by police.
- Provide examples of human rights violations.
- Explain the role and responsibility of the State in protection of human rights?
- Discuss what may happen when law enforcement officials violate human rights?
- To explain the rights of victims of human rights violations?
- Discuss what is meant by torture
- Discuss the possible consequences of human rights violations for police officers

10.1. Introduction

Police officers have a duty to serve and protect all the members of the community that they work in. They have to enforce and also uphold the law. This also means that they have to conduct their duties as police officers in a disciplined and professional manner, respecting, protecting and promoting human rights. Police are sometimes in a very difficult position when doing their job. On the one hand the public want police officers to be tough on crime and criminals and on the other hand police officers are expected to respect and protect the human rights of suspected criminals. During elections different political parties expect special treatment and favours from the police. Police are therefore sometimes a difficult situation for police officers, especially if they were not well trained or do not understand how to apply human rights principles in their daily activities. Therefore it does happen occasionally that some police officers in their line of duty violate the human rights of others. These actions are always regarded as serious misconduct and should be dealt with severely. Some examples of human rights violations by police officers are:

- Genocide;
- Enforced or Involuntary Disappearance;
- Extra-Legal, Arbitrary or Summary Executions
- Unlawful arrest and detention;
- Excessive use of force;
- Torture;
- Inhumane and degrading treatment of arrested and detained persons;
- Discrimination;
- Unlawful search and seizure procedures;
- Unlawful investigation methods;
- Illegal corporal punishment;
- Inhumane treatment of complaints of victims of human rights violations;
- Defeating the ends of justice (covering up crime), and, increasingly,
- Sexual and Gender-Based Violence in its different forms.

In this part of the chapter human rights violations will be discussed in more detail.

10.2. Definition of human rights violations

Human rights violations can be defined as violations either of national criminal laws or of internationally recognized standards relating to human rights that have not yet been incorporated into national laws.

In principle, there are two ways to address the issue of violations of human rights. From the victim's standpoint, the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power proposes two definitions for such violations. The first characterizes them as "a violation of criminal laws operative within Member States, including those laws prescribing criminal abuse of power". Central to such violations is the individual or collective harm and suffering caused to persons, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that can be imputed to the State. The second definition concerns those "acts and omissions [imputable to the State] that do not yet constitute violations of national criminal laws but of internationally recognized norms relating to human rights."

10.3. Role and responsibility of the State in protecting human rights

International human rights law creates legally binding obligations for States. These obligations include the requirement to adapt (or create) national legislation in accordance with the international norms, as well as to refrain from practices that are in contravention of those norms. When we talk about the State it also includes persons acting on behalf of the State, including public officials such as police officers. Ultimate responsibility for the acts of individual officials lies with the State.

Although there are international complaints mechanisms available and the exact procedures by which States can be held accountable for human rights violations can be found in all sources of law, including decisions of international and regional courts, resolutions of the United Nations General Assembly, and, of course, in specialized human rights instruments themselves. The focus in this chapter will be on national State responsibilities and complaints procedures.

There is a responsibility on every law enforcement officials as a representative of the state to respect, protect and promote the human rights of every person. Every State has a role and responsibility in protecting the human rights of every person, regardless of their age, sex, ability or disability, social or economic background, political opinion or ethnic and religious background or any other social identity markers, and without discriminating between different persons. Some of the aspects that can assist States to fulfil this role and responsibility are:

- To ensure that every police officer is trained and educated in applying human rights in their daily duties and activities.
- To implement proper structures to monitor and evaluate police actions and to ensure that they adhere to human rights standards and practices.
- To create mechanisms and structures to deal with complaints, for example internal complaints or disciplinary units, external complaints mechanisms for example National Human Rights Commissions, Ombudsman or similar institutions.
- To develop proper complaints procedures
- To develop structures to investigate complaints of human rights violations

In view of the fact that human rights violations are acts or omissions that constitute a violation either of criminal laws operative within the territory of the State or of internationally recognized norms related to human rights, States are under an obligation to exert judicial control over such acts or omissions as well as to protect the victims thereof. Where a human rights violation is also a violation of criminal laws, the implications for judicial control are prescribed in national law. In purpose and scope criminal law is, however, normally more concerned with the perpetrator than with the victims of crime. Aspects of compensation and redress to such victims quite often become the object of subsequent civil proceedings. As for internationally recognized norms of human rights that are not yet incorporated into national laws, courts and tribunals at the national level are nevertheless under an obligation to take those norms into consideration insofar as they form part of customary international law, or belong to treaty law to which that State is a party.

10.4. Consequences of human rights violations by police officers

Violations of human rights by police officers can only make the already difficult task of law enforcement even more difficult; we must remember that when the law enforcer becomes the lawbreaker, the result is not only an assault on human dignity, and on law itself, but the creation of obstacles which prevents the progress of effective policing.

The negative effects of police violations of human rights are in practice as follows:

- they destroy, little by little, public confidence in the police;
- they often lead to civil unrest;
- they isolate the police from the community;
- they often prevent effective prosecutions in court;
- they result in the guilty going free and the innocent being punished;
- they leave the victim of crime without justice for his suffering;
- they result in police officers becoming “enforcers” in stead of “*law* enforcers” (removing the element of “law” from “*law* enforcement”);
- they force the police to be reactive, rather than preventive in their approach;
- they can damage the credibility of the State; and
- It can result in States having to respond to the International Human Rights Monitoring mechanisms, such as the United Nations Special Rapporteur on Torture, the African Commission on Human and Peoples Rights.

In contrast with this, respect for human rights by the police actually improves police effectiveness. In this sense, respect for human rights by police, in addition to being a legal and ethical obligation, also makes practical sense. When police are seen to respect, uphold and protect human rights:

- public confidence in the police grows and community co-operation with the police increases;
- a contribution is made to the peaceful resolution of conflicts and complaints;
- prosecutions of offenders are successful;
- police are seen as part of the community, performing a valuable social function;
- the fair administration of justice is served and, consequently, confidence in the system increases;
- an example is set for others in society to respect the law;
- police get closer to the community and are accordingly better able to prevent crimes through pro-active policing;

- the media begins to support the police and the police receive support from the international community and politicians.

Police officers who respect human rights thus receive benefits which result in more effective policing, while at the same time a law enforcement structure is built that does not rely on fear and physical force, but rather on honour, professionalism and legality.

10.5. Complaints procedures and remedies available when human rights are violated

It is important for governments to have complaints procedures and remedies available to people when their human rights were violated. Violations of human rights committed by law enforcement officials are detrimental to the integrity of the entire law enforcement organization and may even reflect on the credibility of governments. Governments should recognize the fact that human rights violations occur and may occur in the future. Their occurrence must be prevented and if it was impossible to prevent it they should be prepared to deal with these situations by investigating all complaints promptly, thoroughly and impartially.

National remedies can include legal proceedings, whether criminal or civil, arbitration or conciliation mechanisms, independent complaints procedures, a national ombudsman or national human rights commission. The names and responsibilities of these organizations may differ from country to country. Their functions are normally regulated in domestic legislation.

It is important to note that for crimes relating to sexual and gender-based violence and child abuse, the TPF has specially trained officers. While it is important for officers to respond immediately as situations develop also where SGBV and CA are involved, cases should be referred to these specially trained officers as soon as possible at the Gender and Children's Desks.

10.6. Who monitors human rights?

There are various other groups on national, regional and international level that can monitor the police. The implementation of human rights standards is closely watched at several levels. At the national level, human rights are monitored by:

- concerned government agencies and services, including the police;
- national human rights institutions (such as a Human Rights and Good Governance Commission of Tanzania or an Ombudsman);
- human rights and other non-governmental organizations (NGOs), including women's organisations and those of PWD;
- the courts;
- parliament;
- the media;
- professional organizations (such as lawyers, doctors, etc.);
- trade unions;
- religious organizations; and
- Centres at universities.

At a second level, regional organizations have developed mechanisms to monitor human rights within the relevant countries. Although there are many regional mechanisms including the

Inter-American Commission on Human Rights, the Inter-American Court of Human Rights, the European Commission of Human Rights, the European Court of Human Rights and the Committee of Ministers of the Council of Europe, the most important mechanism in Africa is the African Commission on Human and Peoples' Rights. At the international (global) level, human rights are monitored by a number of international NGOs, such as Amnesty International and Human Rights Watch, and by the United Nations.

Within the United Nations, four principal types of monitoring are carried out:-

The first is "conventional" (or treaty-based) monitoring, such as the Committee Against Torture, the Human Rights Committee, the Committee on the Rights of the Child and the Committee on the Elimination of Discrimination Against Women.

The second is "extra-conventional (or charter-based) monitoring, such as United Nations Human Rights Commission, Special Rapporteurs, and working groups with in the UN established by the Commission.

The third is monitoring through peacekeeping and human rights field operations. The fourth, and most recent, is monitoring which is carried out by the United Nations High Commissioner for Human Rights, under his global mandate to promote and protect human rights.

10.7. UN standards and practices in cases of police violating human rights

Law enforcement organizations have a duty, on the basis both of national laws and of State obligations under international law, to investigate human rights violations.

Individual law enforcement officials must be held accountable for their actions. This requires internal monitoring and review procedures. In the event of human rights violations adequate disciplinary measures and/or legal proceedings must be initiated.

The UN developed some standards and practices that can serve as a guideline in cases of police violating human rights.

- Law enforcement officials shall respect and protect human dignity, and shall maintain and uphold the human rights of all persons.
- Law enforcement agencies shall be accountable to the community as a whole.
- Crime scenes shall be carefully processed.
- Superior officers shall be held responsible for abuses if they knew, or should have known, of their occurrence and did not take action.
- Police are to receive immunity from prosecution or discipline for refusing unlawful superior orders.
- Obedience to superior orders shall not be a defence for violations committed by the police.

10.8. Victims of human rights violations

It is important to realize that victims of human rights violations, especially violations committed by police officers, are also victims. These victims are sometimes in an even more difficult position than other victims due to the fact that police officers are the perpetrators - people who are suppose to protect and respect human rights.

Victims should be treated with compassion and respect for their dignity. They should also have the right to access to the mechanisms of justice and to prompt redress. Survivors of SGBV and

CA will need particular medical, psycho-social and emotional care but, importantly, specific rules and regulations apply for the kind of evidence required which needs to be collected and other operational procedures. All suspected and confirmed cases of GBV and CA should therefore be referred to specially trained members of the TPF immediately and be reported.

The UN developed some standards and practices that can serve as a basic guideline for dealing with victims.

- Effective mechanisms shall be established to ensure internal discipline and external control, as well as the effective supervision of law enforcement officials.
- Law enforcement officials who have reason to believe that a violation has occurred, or is about to occur, shall report the matter.
- Provisions shall be made for the receipt and processing of complaints against law enforcement officials made by members of the public, and the existence of those provisions shall be publicised.
- Investigations into violations shall be prompt, competent, thorough and impartial.
- Investigations shall seek to identify victims, recover and preserve evidence, discover witnesses, discover cause, manner, location and time of the violation, and identify and apprehend perpetrators.

10.9. Summary

States are responsible to respect, protect and promote the human right of every person. Police as representatives of the state and not a political party have to ensure that these responsibilities are met. Such responsibilities include equal treatment of all Tanzanian citizens and responding to the needs of victims of crime and abuse of power.

Victims of human rights violations are also victims. States should implement structures, procedures and processes to deal with complaints of human rights violations. All complaints of human rights abuses should be investigated promptly, thoroughly, impartially and in a professional manner. Perpetrators should be dealt with through proper legal proceedings. Victims of human rights violations should be dealt with compassion and respect for human dignity.

10.10. Questions for self-evaluation

- What is a violation of human rights?
- What is the role and responsibility of the State in the protection of human rights?
- What remedies exist at the national level for human rights violations?
- What is the role and responsibility of a national ombudsman?
- What is the role and responsibility of a national human rights commission?
- What happens when law enforcement officials violate human rights?
- Is there a duty to investigate such violations?
- Who is accountable for human rights violations by law enforcement officials?
- Who monitors human rights?
- What are the rights of victims of human rights violations?
- Discuss the possible consequences of human rights violations for police officers?
- What should officers do in the case of a suspected or confirmed case of SGBV or child abuse?



CHAPTER

Safety procedures for security forces dealing with the media

Content

- 11.1 The wider definition of journalists
- 11.2 Importance of journalist's safety
- 11.3 Roles and obligations of police in protecting journalist's safety
- 11.4 How police in operations respond to the media
 - 11.4.1 Police relations with the Media during operations
 - 11.4.2 Preparing Members of the Security Forces
 - 11.4.3 How to Respond When Media Representatives arrive
- 11.5 How to deal with media during demonstrations
 - 11.5.1 Before demonstrations
 - 11.5.2 During demonstrations
 - 11.5.2.1 Lessons Learned
 - 11.5.2.2 Media positions during demonstrations
 - 11.5.2.3 Importance of neutral media perimeters
 - 11.5.2.4 How to establish a neutral media perimeter
 - 11.5.2.5 Management of partners in the perimeters
 - 11.5.3 After demonstrations
- 11.6 Questions for self-evaluation.

Safety Procedures for Security Forces dealing with the Media

Learning Objectives for Chapter 11

After completing this chapter you should be able to:

- Define who is a journalist
- Discuss the importance of journalist's safety
- Articulate the roles and obligations of police in protecting journalists safety
- Respond to the media in a scene of police operations
- Deal with media before, during and after demonstrations
- Dedicate neutral media perimeters during demonstrations
- Answer questions for self-evaluation.

Introduction

In recent years, there has been disquieting evidence of the scale and number of attacks against the physical safety of journalists and media workers as well as of incidents affecting their ability to exercise freedom of expression by threats of prosecution, arrest, imprisonment, denial of journalistic access, and failures to investigate and prosecute crimes against them. This evidence has been repeatedly brought to the attention of the international community by inter-governmental organizations, professional associations, non-governmental organizations (NGOs) and other stakeholders.

Statistics gathered by UNESCO, as well as by other organizations such as the Committee to Protect Journalists (CPJ), Reporters Sans Frontières (RSF), the International News Safety Institute (INSI), the International Freedom of Expression Exchange (IFEX) and the Inter American Press Association (IAPA) all testify to the staggering number of journalists and media workers killed while performing their professional duties.

Furthermore, according to IFEX, in nine out of ten cases, the perpetrators of these crimes are never prosecuted. Impunity, which may be understood as the failure to bring perpetrators of human rights violations to justice, perpetuates the cycle of violence against journalists and must be addressed.

The safety of journalists and the struggle against impunity for their killers are essential to preserve the fundamental right to freedom of expression, guaranteed by Article 19 of the Universal Declaration of Human Rights. Freedom of expression is an individual right, for which no one should be killed, but it is also a collective right, which empowers populations through facilitating dialogue, participation and democracy, and thereby makes autonomous and sustainable development possible.

The 2015 World Press Freedom Index by Reporters Without Borders shows that Tanzania fell by -6 points (down from #69). Tanzania is now ranked 75 out of 180 countries surveyed in 2014, with an abuses score of 10.99⁹.

⁹ Code of Conduct, article 1.

Without freedom of expression, and particularly freedom of the press, an informed, active and engaged citizenry is impossible. In a climate where journalists are safe, citizens find it easier to access quality information and many objectives become possible as a result: governance and poverty reduction; conservation of the environment; gender equality and the empowerment of women; justice and a culture of human rights, to name a few¹⁰

11.1 Who is a Journalist?

According to the 2010 Annual Report of the Special Rapporteur on the right to freedom of expression (11 August 2010, A/65/284), Journalists are individuals who are dedicated to investigating, analysing and disseminating information, in a regular and specialised manner, through any type of written media, broadcast media, (television or radio) or electronic media.

The UNESCO's Journalists Safety Indicators of 2013 defines journalists as audio-visual recording staff and technicians, translators, fixers and all support personnel, editors, managers and owners, from all different types of media outlets: print, broadcast and online; commercial, public and community; heads of journalists' unions and professional bodies; self-regulatory bodies.

The definition can also be extended to all media workers who conduct general journalism, photojournalism, investigative journalism, crime reporting, environmental reporting, etc.).

In terms of contractual status, the definition covers all media workers under fixed contract; freelance; citizen journalists (understood as social media producers who generate a significant amount of public interest journalism).

As you can see in the definitions, above, the advent of new forms of communication has extended the definition of journalism into new areas, including citizen journalism.

11.2 The importance of journalists' safety

Freedom of expression is a fundamental element of the Universal Declaration of Human Rights [Article 19], and is widely seen as underpinning other democratic freedoms such as the right to form political parties, the right to share political ideas, the right to scrutinise the actions of public officials, and so on. In this sense, it also supports good governance and democratic accountability.

Article 18 of the constitution of the United Republic of Tanzania states that:

Every person -

- a. has a freedom of opinion and expression of his ideas;
- b. has a right to seek, receive and, or disseminate information regardless of national boundaries;

When the rights of journalists to receive and impart information is compromised through their security or safety, the rights of everyone to seek and receive information and ideas is also compromised. [Freedom of Expression and Public Order, Training Manual, UNESCO 2015]

¹⁰ Intensity of violence and harassment to which journalists and other news and information providers were subjected during the year

- c. has the freedom to communicate and a freedom with protection from interference from his communication;
- d. has a right to be informed at all times of various important events of life and activities of the people and also of issues of importance to the society.

For this reason, media are considered to require special protections to enable them to operate freely. It follows therefore that journalists need to be free and safe to provide the content that is carried on media platforms. This content represents an exercise of the public expression of our collective rights.

In a world of increasingly ubiquitous digital content it is important to understand that the term journalist is now wide-ranging and includes not just those media workers who are formally organised in a professional body or employed by a media organisation.

With the increasing concern for the rising number of journalists who are harmed and in the worst cases, killed in the line of duty, the protection of journalists from injury and surveillance has become increasingly important., Police and security organs are acting on behalf of the state and have the responsibility to act in accordance to the obligations of the state to provide protection for the safety and security of journalists.

“Where State officials are directly involved in these attacks, the State bears direct responsibility for those officers who are its agents” [Freedom of Expression and Public Order, a Training manual, UNESCO 2015].

11.3 The role of police (as state actors) in protecting journalist’s safety

The 2013 UNESCO Journalists Safety Indicators rests the primary responsibility of the protection of journalists, as with any other citizen with the State. The state has to ensure that national laws, administrative and judicial systems protect and promote freedom of expression and safeguard the lives and professional rights of journalists. It is also accepted in international law that the State is responsible for all the actions of its officials and organs, even if they are acting outside of the law and/or are formally independent. The State is also responsible if non-state actors violate journalists’ safety when under the direction or control of the State and may be held responsible if it is negligent in upholding its human rights responsibilities when those rights are threatened by non-State actors such as criminals or terrorists.

Much of the State’s responsibility for journalists’ safety is inherent in general State obligations to uphold human rights. More specifically, and for the purposes of these indicators, States can be seen as having specific responsibilities, for example by ensuring that journalists working in conflict areas are treated as civilians and protected as such, rather than as combatants. It is also necessary for the State to investigate threats and acts of violence against journalists effectively; to ensure control over its military, judiciary and law-enforcing agency based on rule of law; and to proactively counter impunity. States need to develop and implement appropriate laws, regulations and policies that enable journalists’ safety to be protected. Those who hold political offices in government or political parties are included in this section of the indicators as well.

11.4 How to respond to the media in a scene of police operations

When a police officer is assaulted or killed in the line of duty, this is an attack against the community because the police represent that community and the officer was killed as a result of his or her efforts to protect the community. It is the same when a journalist is attacked or killed for his or her work; this is also an attack against the community, to which he or she was providing information. As a result, it is important to not only inform and guide journalists, but also to protect them in the discharge of their mandates.

Journalists and the police both play an important role in society as protectors of democracy. Although their missions and means and ways of working are different, both overlap in terms of their areas of operation, and they must cooperate to achieve their respective goals.

Journalists provide a link between security forces and citizens, who read, watch or listen to the media. Looked at from this perspective, it is important for security forces to be transparent, honest and credible in order to maintain public confidence and their own legitimacy.

Security forces should designate spokespersons in advance, and decide which level of spokesperson is authorised to deal with different events, so as to avoid any ambiguity and to be able to communicate well with the public or when dealing with media perimeters and arrests of journalists.

Since 80% of all communication is non-verbal, it goes without saying that all members of security forces are continually communicating through their attitude and behaviour, even without formally addressing the media. Members of security forces should be aware that what they say in their personal lives via social media may have an impact on the image of their respective services.

11.4.1 Police relations with the Media during operations

Security forces should establish a policy on media relationships to provide guidance to their staff on expectations and to journalists on how to get information.

The policy should be widely publicised, including through organisational websites.

The simple and clear policy should contain, among other things, the following information:

- a) How can the media get information? There are two approaches: either a decentralised approach whereby media representatives make contact directly with the heads of various units or a centralised approach whereby all requests are analysed and processed by the same office. It is important to put in place a simple and rapid system for providing information to media, whether by phone or email.
- b) Different levels of spokesperson, including who should speak and when.

In special situations of high risk and upon negotiations with the media:

- Security forces can establish a maximum access zone (a limit which the media may not breach);
- Designate an onsite spokesperson to provide journalists with real time information updates;
- Consider 'group' access (for one TV camera, TV journalist, newspaper reporter, photographer, radio journalist), who can then share information with other members of the press who are present.

- c) A central contact point in case of arrests or other problems on the ground.

11.4.2 Preparing Members of the Security Forces

Security forces should raise the awareness of all of their staff about the media relations policy through a briefing and by incorporating the media policy into internal procedures.

11.4.3 How to Respond When Media Representatives arrive

Even though there are leaders and spokespersons, all security forces staff must be prepared to respond when media representatives arrive at a scene of police operations. To reassure and protect journalists, and to communicate well, staff should:

- a) Hold an initial meeting with representatives of the media;
- b) Advise the media representatives that they are not spokespersons, but that they will inform their superiors that the media are present;
- c) Invite the media to enter the media perimeter for security reasons, referring them to the rules relating to perimeters;
- d) Refrain from giving out any information about the operation, leaving this to designated officers; and
- e) Notify other members of security forces about the media presence and the agreed location of the media perimeter, so as to avoid any conflicts over this.

11.5 How to deal with media during demonstrations

This is an important area for the media and the police because demonstrations have proved to be an area where the media have complained about potential mistreatment from the police and other security forces in Tanzania.

Demonstrations are democratic exercises undertaken to express an opinion or position. Security forces have a mandate to ensure everyone's safety: the demonstrators, police and other citizens. Demonstrations are demanding for security forces but essential in a free society. Security forces should not judge the relevance of the cause or message. To maximise the chance of success, security forces should make plans for three phases: before, during and after the event.

11.5.1 Before demonstrations

Issue a technical briefing to journalists to:

- a) Explain how the security forces will ensure crowd control;
- b) Clarify what will and will not be tolerated on the part of the protesters;

Police's right to privacy or right to one's image

Limitations on police privacy are also warranted by the need to maintain proper oversight of the police and the right of the public to be informed as to how police are behaving.

There will be instances where legitimate security concerns require that the police take steps to guard their identity. However, such concerns must be distinguished from privacy concerns and, in any case, these precautions should be carried out only as far as is reasonably necessary and through providing police with masks or employing other means to hide their identity rather than through restricting the right to record.

- c) Clarify the rules of engagement with the media (who are the spokespersons, where are the media lines and boundaries) and establish operational rules for the police and the media (what is expected from both parties).

Brief all police officers on the work of journalists during the protests and the established operational rules.

Establish a code of conduct for the protesters (what will and what will not be tolerated) and disseminate it via the Internet, media and social media.

Issue statements through the media to remind protesters of the rules and to reinforce the message that the police are determined to let people express themselves.

11.5.2 During demonstrations

- Establish a safe media perimeter where representatives of the media will be given information and will be able to observe the event.
- Do not give interviews on the ground in order to avoid confrontations with protesters as well as any possibility of being photographed or filmed against a negative background, such as forceful arrests, or coarse signs or language from protesters.
- Disseminate current information to the media with and over social media to let participants know about intentions.
- Provide a neutral and quiet central location for dealing with media requests during the event.
- Invite journalists to follow the event, as they would a tennis match, from a position on the sidelines and not between security forces and demonstrators. This will allow the media to observe the actions of both parties.
- Inform the media and citizens of the intentions and movements via social media so they can avoid getting caught up in the action (e.g. when an event is declared illegal and it needs to be brought to an end, the media should be notified).
- Do not prevent the media from taking pictures; security forces have neither the authority nor the legitimacy to impose such limits on freedom of the press.
- Do not seize equipment; security forces have neither the authority nor the legitimacy to impose such limits on freedom of the press or freedom of expression.

11.5.2.1 Lessons Learned elsewhere

- Providing journalists with a card, armband or other identifying accreditation can put them at risk vis-à-vis protesters, who might see them as allies of the police.
- Press cards should be used as a way to identify journalists, not to sort them or deny them access to the media perimeter or a media room.
- Journalists play a role in disseminating information to the public, and keeping them away can generate public mistrust. It is in the interest of the security forces to be transparent. It is important not to forget that the role of the journalists is to convey information to the general public.

11.5.2.2 Media positions during demonstrations.

The media can occupy three positions during a demonstration:

a) **In the crowd: (to consider when the demonstration is moving or is impromptu).**

This approach is the least demanding in terms of preparation on the part of the security forces, because the media are in the crowd with the protesters. However, media safety is not assured and the main focus will be on the security forces rather than the protesters (the media will tend, for example, to cover the response of security forces rather than the protesters who attack them). Furthermore, during crowd control operations, the media may find themselves caught in the crossfire between the police and suspects.

b) **Embedded (with the security forces- to consider when there is a real danger to the media, so as to ensure their safety):**

In contrast to when they are in the crowd, the media can only observe the actions of the protesters. Furthermore, this position is very demanding in terms of preparation and the media could be seen as a propaganda tool for the police.

c) **In a neutral media perimeter**

(To consider for most demonstrations with a view to ensuring fair and neutral media coverage). This allows them to see both sides: When a perimeter is carefully established, the media are safe while being able to serve both parties. The perimeter should be close enough to observe the action while affording protection to the media.

To encourage media to go into the perimeter, a spokesperson from the security forces should be placed there to provide information to the media.

11.5.2.3 Importance of Neutral Media Perimeters:

- A perimeter restricts journalists to go where they want and ultimately end up not following safety instructions.
- Allows for the media to come together;
- Reduces stress during operations;
- Makes it clear from where journalists may access the event;
- Relieves the pressure on commanding officers, by keeping the media at a distance;
- Gives negotiators or units of rapid response exclusive access to the immediate vicinity of the incident, by keeping the media at a distance;
- Provides a central location for disseminating information to the media; and
- Offers a secure location for the media.

11.5.2.4 How to establish a neutral media perimeter:

If possible, or location is known in advance, undertake a survey of the area;

- Select, or provide a safe and secure location.
- Use tape or a barricade, or physical landmarks to delimit the media zone;
- Establish an exit, or emergency exit in case of danger or use of gas;
- Keep away bystanders and distractions (people gesturing behind TV reporters, noise, block any visible addresses that should not be identified, etc.);
- Engage the media by having a source of information, a spokesperson, on site;

- Provide an interesting vantage point (which has a good view of the event and is easily accessible) that is satisfactory for the media and which encourages them to remain there:

11.5.2.5 Management of partners in the perimeters:

- Notify the first aid / health care services/ fire department;
- Do not speak for other services such as the fire department, paramedics, etc.;
- Do not antagonise potential witnesses;
- Special attention should be given to hostage situations or situations involving armed or barricaded individuals. In both cases, communications play a strategic role, because the perpetrators are listening and, indirectly, we participate in or shape the negotiation. As a result, messages should be approved by the negotiators, because everything is important: words and images.

11.5.3 After demonstrations

- Release journalists who have been detained during a police action as soon as they are identified as journalists.
- Stress the good behaviour of demonstrators and do not generalise based on isolated events (e.g. where a small group of protesters causes property damage).
- When releasing any information or statement (to the media), do not judge the objectives of the demonstrators; remain neutral since it is not for the security forces to convey political messages.
- Communicate internally regarding the outcome of the demonstration in order to show the rest of the force that demonstrations can run smoothly.
- Finally, provide an assessment of the demonstration to the media.

11.6 Questions for self-evaluation

1. Do you recognise a fixer as Media Workers? Why?
2. Why is Journalists Safety important?
3. What could be the reasons for the decline in Press freedom Indicators for Tanzania in 2015?
4. How can the Media obtain information from Security Forces?
5. What can Security Forces do to the Media before demonstrations?
6. In which scenario can the Media embed themselves with security forces during demonstrations?
7. Provide brief explanations on what you understand about Neutral Media Perimeters.
8. What can Security Forces do to the Media after demonstrations?

11.7 Important references

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