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TEN BASIC HUMAN RIGHTS PRINCIPLES FOR POLICE OFFICERS AND OTHER LAW ENFORCEMENT OFFICIALS IN UGANDA

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FORWARD

The National effort of creating awareness of our human rights and civic duties requires us to continuously educate ourselves and the general public on those aspects of the law touching the promotion, respect and protection of human rights. These series aim at exactly doing that.

Street Law (Uganda) is fully committed to the promotion and protection of human rights through civic education. That is the rationale behind the production of the materials in the “**Learning your Rights Series**”. The objectives are in accordance with the organisation’s mission of working for the promotion of the rule of law, democracy and human rights in Uganda. It is a mission shared with the entire family of Street Law organizations in the individual countries in the continents of North America, South America, Europe and other countries in Africa.

We hope in the nearest future to translate these pamphlets into the major Uganda languages so as to reach a vast number of the population who can not read and write the English language.

It is our hope that this effort will have a far reaching impact on the promotion, respect and protection of human rights in Uganda by both The State and non-state actors.

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Solomon Webalearaali
Executive Director

INTRODUCTION

These 10 basic human rights standards for law enforcement officials are based on the Uganda Constitution, the Criminal Procedure Code Act, The Police Act, The Children Act, The Magistrates Courts Act, The Prisons Act and other international law sources such as; The united nations declaration of basic principles of justice for victims of crime and abuse of power, The UN code of conduct for law enforcement officers and fire arms by law enforcement officials, The UN body of principles for the protection of all persons under any form of detention or imprisonment and The UN standard minimum rules for the treatment of prisoners. The principles are intended as a quick reference for police officers and other law enforcement agencies as well as members of the general public who get to deal with police in the course of law enforcement.

Law enforcement officials include officers belonging to the police, prisons, army, security organizations, all paramilitary groups, private security organizations as well as local government law enforcement officers. This document is intended to raise awareness amongst government officials, parliamentarians, journalists, non governmental organizations and members of the public of some fundamental standards relevant to police work.

For the avoidance of doubt, depending on the context, the word “detainee”, is synonymous with “suspect”.

It is hoped that this booklet will be found extremely useful by law enforcement officials, human rights defenders and members of the general public.

PRINCIPLE 1

EVERY UGANDAN IS EQUAL BEFORE THE LAW

- Everyone is entitled to equal protection of the law without discrimination on any grounds and especially against violence or threats of violence.
- The rights of vulnerable groups such as children, the elderly, women, refugees, displaced persons and members of minority groups should be specially protected.

For the implementation of this principle, it is of great importance that police officers at all times fulfill the duty imposed on them by law, by serving the community and protecting all persons against illegal acts, consistent with the highest degree of responsibility required by their profession. A police officer is legally bound to promote and protect human dignity and maintain and uphold the human rights of all persons. The Police exists essentially for keeping law and order and not keeping a particular regime in power even when the regime has lost credibility or confidence of the people.

Important points to remember:

- Everyone has the right to liberty and security of the persons.
- No one should be subjected to arbitrary arrest, detention or exile.
- Everyone is entitled without any discrimination to equal protection of the law.

- Everyone has the right to freedom of movement.
- Everyone has the right to peaceful assembly.
- Every one has the right to freedom of expression and conscience.

PRINCIPLE 2

VICTIMS OF CRIME SHOULD BE TREATED HUMANELY

Treat all victims of crime with compassion and respect, and in particular protect their safety and privacy. Victims are people who have suffered harm, including mental and physical injury, or in some cases suffer sexual violence.

For the implementation of this principle, All Police Officers should;

- See to it that measures are taken to ensure the protection and safety of victims from intimidations and retaliation.
- Inform victims without delay of availability of medical services and other relevant assistance.
- In the case of women, employ professional techniques that do not degrade the victim or subject them to further humiliation especially in cases of domestic and sexual violence.
- Give particular attention to victims who are vulnerable members of society such as children, women, refugees, people with disability etc.

PRINCIPLE 3

DO NOT BE EAGER TO USE FORCE

Do not use force except when strictly necessary and to the minimum extent required under the circumstances. Police should use non violent means as far as possible before resorting to the use of force. Whenever the lawful use of force is unavoidable, Police Officers should;

- Exercise restraint in such use and acting proportionally to the seriousness of the offence.
- Minimize damage and injury, and respect and preserve human life.
- Ensure that all possible assistance and medical care are rendered to any injured or affected persons at the earliest possible time.
- Ensure that relatives or close friends of the injured or affected persons are notified at the earliest possible time.
- Where injury or death is caused by use of force by police, the incident should be promptly reported for immediate investigation.

PRINCIPLE 4

DO NOT USE EXCESSIVE FORCE TO DISPERSE ASSEMBLIES

Avoid using force when policing non-violent assemblies. When dispersing violent assemblies, use force only to the minimum extent necessary.

Every person in Uganda has the right to participate in peaceful assemblies, whether political or non political, subject only to very limited restrictions imposed in conformity with the law and which are necessary in a democratic society to protect such values like good governance and human rights. Police involvement with lawful and peaceful assemblies should emphasize the protection of persons participating in such assemblies and those nearby;

- In the policing of assemblies that are unlawful but non-violent, police should avoid the use of force. If force is indispensable, for example to secure the safety of others, the police should restrict force to the minimum extent necessary i.e. should employ proportional force.

PRINCIPLE 5

USE OF FIRE ARMS IS RESTRICTED

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

The use of fire arms is an extreme measure which should be strictly regulated because of the risks of death or serious injury

involved. The compliance of this principle requires, among other things, that **police officers must not use fire arms except for the following objectives and only when less extreme means are insufficient to achieve these objectives;**

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

PRINCIPLE 6

ALL ARRESTS SHOULD BE LAWFUL

Do not arrest a person unless there are legal grounds to do so. The arrest should be carried out in accordance with lawful arrest procedures. Therefore;

- An arrest or detention should only be carried out strictly in accordance with law and by competent officers or persons authorized for that purpose.
- Police or other authorities which arrest a person should exercise only the powers granted to them under the law.
- Any one arrested must be informed at the time of arrest of

the reasons for the arrest.

- Officials carrying out arrest should identify themselves to the person arrested and, on demand, to others witnessing the event if circumstances permit.

PRINCIPLE 7

DETAINEES ACCESSIBILITY TO THEIR FAMILIES, LAWYERS AND MEDICAL HELP IS A MUST;

Ensure all detainees have access to their family and legal representatives and to any necessary medical assistance.

Experience in Uganda has shown that it is often in the first hours or days of detention that the detainees are at the greatest risks of being ill-treated, tortured, made to “disappear”, or killed. A suspect must be presumed innocent and treated as such;

- Detainee should be promptly told of their rights including the rights to lodge complaints about their treatment while being arrested or during detention.
- A detainee who does not understand or speak the language used by authorities responsible for his or her arrest is entitled to receive information and have the assistance, free of charge of an interpreter in connection with the legal proceedings subsequent to his or her arrest, including during arrest about the ground for the same.
- A detainee who is a foreigner should be promptly informed of his or her right to communicate with the relevant embassy or diplomatic mission.

- All detained refugees and asylum-seekers should be allowed to access the local representatives of the UNHCR.
- If a detainee identifies himself or herself as a refugee or an asylum-seeker or otherwise indicates fears at being returned to his or her country, It is incumbent on the detaining officials to facilitate contact with UNHCR.
- Police officers or other competent authorities should ensure that accurate information on the arrest, place of detention, transfer and release of detainees is available promptly in a place where relatives and other concerns can obtain it.
- Relatives and friends have a constitutional right to visit a detainee in accordance with the institution's hours of receiving visitors.

PRINCIPLE 8

TREAT ALL DETAINEES HUMANELY

All detained persons must be treated humanely. Do not inflict, instigate or tolerate any act of torture or ill-treatment in any circumstances.

Detainees are inherently vulnerable because they are under the control of the law enforcement officials who therefore have a duty to protect them from any violation of their rights by strictly observing procedures designed to respect the inherent dignity of the human person. Accurate record keeping is an essential element of the proper administration of places of detention from ill-treatment including torture.

- Law enforcement officials should be aware that rape of women in their custody constitutes a serious criminal offence and an act of torture under International Law.
- A detainee may not be compelled to confess, or otherwise incriminate himself or herself or testify against any other person. While being interrogated, no detainee should be subjected to violent threats or methods which impair his or her capacity of decision or judgement.
- Children should be detained only as a last resort and for the shortest possible time. They should be given immediate access to relatives, legal counsel and medical assistance. Relatives and guardians should be informed immediately of their whereabouts. Juvenile detainees should be kept separate from adults and detained in separate cells. They should be protected from torture and ill-treatment, including rape, sexual abuse whether by law enforcement officials or other detainees.
- Registers of suspects should be kept in all places of detention including police stations and military bases. The register should consist of a bound book with numbered pages which cannot be tampered with. Information to be entered in them should include;
 1. The name and identity of each person detained.
 2. The reasons for his or her arrest or

detention.

3. The names and identities of officials who arrested the detainee or transported him.
4. The date and time of the arrest.
5. The detainee's age and place of residence

PRINCIPLE 9

EXTRA JUDICIAL EXECUTIONS OR “DISAPPEARANCES” ARE ILLEGAL AND PROHIBITED.

Police should not carry out, order or cover up extrajudicial execution or “disappearances”, and should refuse any orders to that effect.

No one should be arbitrarily and indiscriminately deprived of life. An extra judicial execution is unlawful and so is deliberate killing carried out by or on the order of, someone at the level of a public office. It is done contrary to the due process of law.

All police officers and all other law enforcement personnel's should be aware of their right and duty to disobey unlawful orders. Obeying of such orders might result in serious human rights violations and the breach of International law. The need to disobey an unlawful order should be taken as a duty, taking precedence over the normal duty to obey orders. The duty to disobey an unlawful order entails the right to disobey it. Obeying unlawful orders that lead to human rights abuses may result in one being prosecuted at the International Criminal Court (ICC) one day. All law enforcement offices should

remember that no regime lasts forever. Those thought to be untouchable a few years ago in Liberia and Sierra Leone are now undergoing trial at the Hague.

In the case of **Uganda Vs Abdallah Nasur (1982) HCB 1**, the accused was charged for murder of a former Mayor of Masaka. The accused branded him a traitor and guerrilla, arrested and forcibly bundled the deceased in a car boot. He subsequently displayed him at various places in Masaka including the Army Barracks. The accused there slit the throat of the deceased with a bayonet, stabbed him in the stomach and twisted the knife several times in the body in broad day light. During his trial, he attempted to rely on the defence of superior orders and Court rejected it saying malice afore thought had been established. Further that the defence of superior orders was unacceptable because there is no law in Uganda which permits private or public killing except after conviction by a Court of Law.

The above case taught us two lessons;

- (a) To learn to disobey illegal orders from superiors and;
- (b) That regimes are not permanent

PRINCIPLE 10

TAKE ACTION ON ANY BREACH OF THESE PRINCIPLES

Report all breaches of these principles to your senior officers and the office of the Director of Public Prosecutions. Do everything within your power to ensure steps are taken to investigate these breaches.

All violations of human rights by the police or other law enforcement personnel including any breaches of these principles, should be investigated fully, promptly and independently for instance by the office of the Director of Public Prosecutions. The main objective of these investigations should be to establish the facts and bring to justice those responsible. In the course of the investigations the following questions need to be answered;

- Has a violation of human rights or a breach of law been perpetrated? If so, by whom?
- If the public official has committed a crime or breach of regulations, was he or she acting under orders or with acquiescence of other officials?
- What can be done to avert the perpetration? Or the acquiescence pointed out above?

