

**POLICE**

- **POLICING ASSEMBLIES  
IN AFRICA**
- **LE MAINTIEN DE L'ORDRE LORS  
DES RÉUNIONS EN AFRIQUE**
- **POLICIAMENTO DE ASSEMBLEIAS  
EM ÁFRICA**



AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS  
COMMISSION AFRICAINE DES DROITS DE L'HOMME & DES PEUPLES  
COMISSÃO AFRICANA DOS DIREITOS HUMANOS E DOS POVOS

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# **POLICING ASSEMBLIES IN AFRICA**

## **Guidelines for the Policing of Assemblies by Law Enforcement Officials in Africa**



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## FOREWORD



The African Commission on Human and Peoples' Rights (the African Commission), which is the African organ responsible for ensuring the promotion and protection of human rights in Africa, has strengthened its mandate over time through the work of its actors and informed by the actions, politics and strategies imagined by one and another.

The African Commission has made good use of the many precedents and synergies that have been set up, in order to develop numerous working tools, including the present guidelines on the conduct of law enforcement officials during assemblies. These guidelines rank among some of the achievements of the African Commission, whose thirtieth anniversary we celebrate this year.

The right to peaceful assembly is being severely tested, and one of the most significant challenges is, for instance, the attitude of law enforcement officials in our great African capitals especially during public demonstrations, and in a context where human rights defenders are often the first to be targeted and assaulted by the police.

For this reason, the subsequent mechanisms of the African Commission, including that of the Special Rapporteur on Human Rights Defenders in Africa, have made this topic a priority by adopting, these guidelines, which have thus become part of a growing legal development process.

On reading the guidelines, we can safely conclude that they address issues of freedom of association and assembly, while remaining specific to policing. It is a bold and courageous undertaking.

I take this opportunity to pay tribute to all our partners, a partnership which has stood the test of scientific rigour and which we know how to appreciate at its true value.

These guidelines will undoubtedly enhance the organisation of peaceful assembly throughout Africa. Specifically, they will help law enforcement agents to be true defenders of human rights.

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If the rules and principles contained in the guidelines are properly assimilated and correctly applied, the number of individual cases brought before the African Commission will be reduced. Wouldn't that be an ideal situation?



**Mrs Reine ALAPINI-GANSOU**  
Former Chairperson of the ACHPR  
Special Rapporteur on Human Rights Defenders

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## PREAMBLE

**The African Commission on Human and Peoples' Rights (the African Commission), meeting at its 21st Extraordinary Session, held from 23 February 2017 to 4 March 2017 in, Banjul, The Republic of the Gambia:**

**Recalling** Resolution ACHPR/Res. 363(LIX) 2016 on the Need to Develop Guidelines on Policing and Assemblies in Africa, adopted at its 59th Ordinary Session, held from 21 October to 4 November 2016 in Banjul, The Republic of The Gambia;

**Acknowledging** the differences between State Parties in terms of political and legal systems and traditions and with respect to the structure of law enforcement agencies, but also noting the need for all State Parties to have legal frameworks that protect the right to freedom of assembly, expression and access to information in the context of public assemblies;

**Recognising** that the right to assemble freely with others is a cornerstone of democracy and provides individuals and groups with a platform to express civil, political, economic, social, cultural and environmental rights, to hold government to account, and to raise and defend issues of common interest;

**Recognising** the central role played by the police in ensuring the peaceful conduct of public assemblies and, consequently, protecting freedom of expression and assembly;

**Recalling** its request that State Parties ensure that in the execution of their duties, law enforcement officials fully comply with respect for human rights and the rule of law;

**Further noting** the need to promote and strengthen mechanisms to foster negotiation and communication between all relevant stakeholders involved in public assemblies, including organisers, law enforcement agencies and local authorities;

**Recognising** that particular individuals and groups are especially vulnerable to experiencing limitations on their right to freedom of assembly and to other human rights violations in the context of policing assemblies due to their status or to an intersection of one or more statuses, such as race,

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ethnic group, colour, sex, language, religion, political or any other opinion, national and social origin, fortune, birth, disability, sexual orientation and gender identity, or being journalists or human rights defenders;

**Concerned** about the lack of effective and appropriate monitoring mechanisms and independent police oversight authorities across Africa, and about the inadequate training of and availability of resources to law enforcement officials to promote and protect a rights-based approach to the policing of assemblies;

**Recognising** the need to formulate and lay down principles and guidelines to strengthen the promotion, protection and fulfilment of human rights in the context of policing assemblies in Africa;

**Hereby adopt the following Guidelines for the Policing of Assemblies by Law Enforcement Officials in Africa:**

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# PART 1

## PRELIMINARY PROVISIONS

### 1. General principles governing the right to assemble freely with others

- 1.1. Everyone has the right to assemble freely with others. The right to assembly may be exercised in a number of ways, including through demonstrations, protests, meetings, processions, rallies, sit-ins, and funerals, through the use of online platforms, or in any other way people choose.
  - 1.2. Limitations imposed by the State Party on the right to assemble freely with others must:
    - 1.2.1. Be in accordance with limitations on the right to assemble in terms of regional and international human rights standards. This includes the right to life; freedom from discrimination; equality of, and equal protection before, the law; the right to dignity and freedom from torture and other ill treatment; the right to liberty and security of the person; the right to have a cause heard; freedom of movement; freedom of conscience; the right to privacy; the right to receive and disseminate information and to express opinions; the right to free association; and the right to participate freely in public affairs and equal access to public services, as guaranteed by the African Charter on Human and Peoples' Rights, and other relevant international human rights instruments; and
    - 1.2.2. Comply with the principles of legality; be in pursuit of a legitimate interest as defined by regional and international human rights instruments; be a necessary and proportionate measure to achieve that end within a democratic society; and adhere to the rights of freedom from discrimination and equality before the law.
    - 1.2.3. Participants and organisers of assemblies shall exercise the right to assemble with due respect to the right of others and in compliance with the laws in place which themselves should be consistent with the regional and international human rights standards.
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## 2. Legislative and regulatory framework governing the right to assemble freely with others

2.1. The enactment, interpretation, implementation and enforcement of national laws and regulations governing the right to assemble freely with others must:

2.1.1. Require law enforcement responses that favour the presumption of the exercise of the right to assemble freely with others by all persons involved, or believed to be involved, in the assembly;

2.1.2. Be consistent with regional and international human rights standards;

2.1.3. Recognise that limitations and restrictions on the right to assembly freely with others must be treated as an exception, and that any limitations or restrictions imposed must be necessary and proportionate, and be:

2.1.3.1. Consistent with the principles of legality, necessity, proportionality, freedom from discrimination and equality before the law as set out in 1.2.2, as well as regional and international human rights standards as set out in 1.2.1;

2.1.3.2. Decided on a case-by-case basis; and

2.1.3.3. Reviewable by competent, independent and impartial administrative and judicial authorities, in both law and practice, within a reasonable period of time.

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## PART 2

# ORGANISATIONAL AND OPERATIONAL REQUIREMENTS FOR A RIGHTS-BASED APPROACH TO THE POLICING OF ASSEMBLIES

### 3. General principles

- 3.1. Law enforcement officials as representatives of the State are under an obligation to respect and protect the right to assembly. For the purpose of these Guidelines, law enforcement officials are all officials or other competent persons or authorities directly or indirectly authorised by the State to exercise policing powers in the context of an assembly operation.
- 3.2. As a general rule, the military should not be used to police assemblies and must only be used in exceptional circumstances and only if absolutely necessary. Military personnel deployed to assembly operations must be subordinate to, and under the command of, the police authorities; be fully trained, in and be bound by, regional and international human rights standards, as well as any national law enforcement policy, guidelines and ethics; and be provided with all necessary instructions, training and equipment to enable them to act in full respect of this legal framework.
- 3.3. The primary role of law enforcement officials in policing assemblies is to ensure the safety of the public and to safeguard human rights of all persons. This role should be clearly articulated in national legislative and regulatory instruments governing assemblies.

### 4. Regulatory framework governing the policing of assemblies

- 4.1. All regulatory instruments and information about law enforcement procedures relating to assemblies must be made accessible in accordance with the right of access to information as expressed in the African Charter and other regional and international human rights standards. Information includes records held by a public body at any level or by a private body performing a public function.
  - 4.2. Law enforcement agencies should have in place, make available, and promote, in the public domain, enforceable standards of conduct for law enforcement officials. Such standards should be consistent with regional and international human rights standards of conduct for law enforcement officials.
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- 4.3. Law enforcement officials must be subject to accountability mechanisms and non-compliance by law enforcement officials with laws and regulations governing assemblies must be treated as an offence. In particular, the use of arbitrary and excessive force and torture or other cruel, inhuman or degrading treatment or punishment should be treated as a criminal offence under national law. Furthermore, disciplinary and criminal procedures for law enforcement officials must accord with the principle of procedural fairness.

## **5. Command structures**

- 5.1. Law enforcement agencies must establish a clear, transparent and single command structure for the policing of assemblies. The operational roles and responsibilities of law enforcement officials within the chain of command should be clearly established, articulated, and publicly known to ensure a single chain of accountability.
- 5.2. Operational commanders must be held responsible if they knew, or should have known, that law enforcement officials under their command resorted to the unlawful use of force or firearms, and if they did not take all measures to prevent, suppress or report such unlawful activity.

## **6. Information, communication and facilitation mechanisms**

- 6.1. Law enforcement agencies have an obligation to promote access to information and should make available, in the public domain, information relevant to the policing of assemblies. Such information should include all regulations, standing orders and instructions, codes of conduct and information about chain of command and operational decision-making. Information should also be provided on the type of equipment generally available to law enforcement officials when policing assemblies and the circumstances in which such equipment will be deployed, as well as procedures and reasons for imposing limitations on the right to assembly by public authorities and information on how to access internal and external complaints mechanisms.
- 6.2. Law enforcement agencies should have and make known a communication mechanism to promote a collaborative and inclusive approach to the preparation, planning and policing of assemblies. The mechanism should be underpinned by principles of transparency, community partnership, and the proactive dissemination of all key information to stakeholders. Stakeholders in this context includes, but is not limited to, assembly organisers, essential service providers, local authorities, the media, other security sector actors, oversight and accountability mechanisms such as National Human Rights Institutions, independent police civilian oversight authorities, and Ombudsmen, and civil society.
- 6.3. To facilitate effective communication, law enforcement agencies should appoint specially trained officials to act as communication liaisons with stakeholders.
- 6.4. Law enforcement agencies must allow for and facilitate the involvement of third parties in dialogue and mediation with assembly organisers prior, during and after assemblies, and provide prompt and relevant information to such third parties for this purpose. Such third parties include Ombudsmen, National Human Rights Institutions, local authorities and civil society organisations.

## **7. Training**

- 7.1. Law enforcement officials must be adequately trained to facilitate the exercise of the right to assemble freely with others.
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- 7.2. All law enforcement officials, regardless of unit, must receive ongoing and continuous training on policing assemblies, with advanced training being made available to any unit established for the specific purpose of policing assemblies. Training for all law enforcement officials should include, at a minimum, the following:
- 7.2.1. The normative framework for the right to assemble freely with others, as well as a clear explanation of the relationship between the right to assembly and other regional and international human rights standards as set out in 1.2.1;
  - 7.2.2. Communication skills training to ensure the effective facilitation of assemblies, including the possible ways non-verbal or other forms of indirect communication can be perceived by assembly organisers and participants as intimidating (for example, the presence or use of certain equipment and the body language of officials);
  - 7.2.3. Understanding participant behaviour, including the different types of group behaviour, and techniques for differentiating between various groups and people and their individual behaviours, rather than dealing with assembly participants as a single, homogenous group;
  - 7.2.4. Techniques in minimising conflict, including the development of negotiation and mediation skills;
  - 7.2.5. Tactics to promote the de-escalation of tension and violence, and methods for minimising the risk of harm to assembly participants, observers and bystanders;
  - 7.2.6. The lawful use of force and firearms in accordance with Guideline 21 of these Guidelines and other regional and international human rights standards;
  - 7.2.7. The proper use of less lethal weapons to minimise the risk of abuse by law enforcement officials. Specific training regimes should be devised for each weapon and should include both theoretical and scenario-based training, as well as shooting at static or interactive targets;
  - 7.2.8. The safety and protection of persons and groups who are particularly vulnerable to limitations on their right to assemble freely with others and/or other human rights violations in the context of assemblies, due to their status or an intersection of one or more statuses. This includes, but is not limited to, race, ethnic group, colour, sex, language, religion, political or any other opinion, national and social origin, economic status, fortune, birth, disability, sexual orientation and gender identity, or being journalists or human rights defenders;
  - 7.2.9. The roles and mandates of internal and external accountability mechanisms, and the obligation of law enforcement officials to cooperate with oversight and accountability structures;
  - 7.2.10. Principles of accountability, including the internal and external mechanisms to which officials are answerable, and the obligations of a law enforcement official to report conduct by colleagues that is excessive, arbitrary or otherwise in violation of law.

## **8. Oversight, accountability and monitoring**

- 8.1. The responsibility of State Parties and law enforcement agencies to respect, protect, promote and fulfil the right to assemble freely with others extends to establishing effective
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procedures for reporting and reviewing any unlawful use of force, and to providing an adequate, effective and prompt remedy to persons who experience human rights violations due to the policing of assemblies. To fulfil this obligation, State Parties should establish effective internal accountability mechanisms and an adequately resourced police civilian oversight body, in the absence of which an Ombudsman or National Human Rights Institution should fulfil this external oversight function.

- 8.2. Oversight mechanisms should be established in law and practice with the mandate and resources to:
    - 8.2.1. Receive complaints from any person concerning misconduct or criminal behaviour of law enforcement officials;
    - 8.2.2. Receive mandatory reports from law enforcement officials of all deaths resulting from the actions of law enforcement officials;
    - 8.2.3. Conduct thorough, prompt and impartial investigations of all complaints received, and, at its own instigation, investigate all suspected cases of arbitrary use of force and/or other human rights violation by law enforcement officials;
    - 8.2.4. Monitor and report on the preparation and execution of all law enforcement operations, including recording and tracking complaints and abuses and maintaining comprehensive records;
    - 8.2.5. Compel law enforcement agencies to cooperate with investigations and have full investigatory powers, including the power to compel the production of any document or other form of evidence;
    - 8.2.6. Make recommendations or findings; refer cases for internal police discipline; refer cases to the public prosecutor; impose disciplinary measures; investigate and report on systemic issues; and make and enforce orders of restitution, compensation, rehabilitation or satisfaction.
  - 8.3. The ability to lodge complaints with monitoring and oversight mechanisms must be guaranteed to all persons without fear of reprisals or punishment.
  - 8.4. State Parties should establish and disseminate information concerning oversight mechanism, systems and processes to guarantee the right of access to information for all persons in accordance with regional and international human rights standards.
  - 8.5. State Parties should establish processes for the systematic collection and public dissemination of disaggregated data and other information about the policing of assemblies on an annual basis. Information may include the number of assemblies, the number of assemblies prohibited, the number of assemblies during which law enforcement officials resorted to the use of force, the number of assemblies dispersed, and information about persons injured or killed as a result of police action during assemblies.
  - 8.6. The right to monitor the observance of human rights in a given society includes the right to engage in active observation of an assembly and to collect, verify, and use information related to the assembly. All persons have the right to seek and receive information and to freedom of expression, and enjoy the right to observe and independently monitor public assemblies without fear of reprisal. This includes civil society organisations, human rights defenders, monitors, journalists and other media workers.
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## PART 3

# PREPARATION AND PLANNING FOR THE POLICING OF ASSEMBLIES

### 9. Preparation for assemblies

- 9.1. Recognising the important expressive role that spontaneous assembly can play in a democracy, law enforcement agencies must have in place processes and procedures to ensure the facilitation of spontaneous assemblies, including in relation to known or scheduled political or social events, commemorative days, and in anticipation of decisions made by courts, parliaments and other state authorities. Lack of prior notification of an assembly does not render an assembly unlawful and should not form the sole basis of a decision by law enforcement officials to disperse an assembly.
- 9.2. As soon as practicable after knowledge is gained of an intended or actual assembly, law enforcement officials should take all reasonable steps to identify and communicate with assembly organisers and/or participants to prepare the facilitation of the assembly in accordance with these Guidelines.

### 10. Information gathering by law enforcement officials

- 10.1. To facilitate the right to assemble freely with others, law enforcement officials require accurate information to conduct risk assessments and contingency planning, and to plan for the necessary and proportionate deployment and equipping of law enforcement officials. Information may be collected through a system for the prior notification of assemblies, through communication between law enforcement officials and assembly organisers, observers or third parties, and through law enforcement information and intelligence gathering techniques that comply with regional and international human rights standards.
  - 10.2. The collection and processing of information, and the tactics permitted to be used by law enforcement officials in pursuit of this objective, must be regulated by law in a manner consistent with the right of access to information, the right to privacy, the presumption of innocence, and the guarantees of procedural due process pursuant to regional and international human rights standards. Any information collected and processed by law enforcement officials must be limited to what is necessary and proportionate to a legitimate
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law enforcement purpose, and must not be used to harass, intimidate or discourage persons from exercising their right to assemble.

## **11. Communication and facilitation with assembly organisers and other stakeholders**

- 11.1. Law enforcement agencies should prioritise communication with all stakeholders in their approach to the facilitation of assemblies. This approach will foster trust and confidence in the policing of assemblies, assist with risk assessment and contingency planning, and assist in preventing the escalation of tension and violence.
- 11.2. As soon as practicable after notification of intention to hold an assembly is given or knowledge is gained of an intended assembly, law enforcement officials must make every effort to communicate with assembly organisers and/or participants and must be able to evidence their attempts to engage in such communication. To promote effective communication, law enforcement agencies are encouraged to establish formal communication mechanisms in terms of section 6 of these Guidelines.
- 11.3. Communication by law enforcement officials with assembly organisers and/or participants prior to the start of an assembly should be for the purposes of:
  - 11.3.1. Gathering information to assist in risk assessment and contingency planning for the facilitation of an assembly. This includes information such as the expected size and modality of the assembly; the location, time and expected duration of the assembly; the profile of participant groups or persons; any subsequent change in circumstances or context; and any concerns about the security and public safety measures, deployment or policing operation;
  - 11.3.2. Providing information, negotiating, and promoting consensus about planned security and public safety measures (including any limitations or restrictions placed on the assembly), proposed deployment, and the outcomes of risk assessments and contingency planning.
- 11.4. Law enforcement officials should also prioritise advance communication with other key stakeholders, including the intended target(s) of the assembly, essential service providers, local authorities and the media, to provide information and to facilitate coordination, where necessary.

## **12. Risk assessment and contingency planning**

- 12.1. To effectively facilitate an assembly and to ensure that any limitations or restrictions on the right to assembly freely with others are lawful, proportionate, necessary and non-discriminatory, law enforcement agencies should adopt a process of evidence-based risk assessment and contingency planning. Risk assessments and contingency plans should form the core of the briefings to law enforcement officials deployed at an assembly and be communicated to all interested stakeholders.
  - 12.2. Contingency plans should be developed for individual assemblies and be based on a comprehensive risk assessment. Measures foreseen in such plans must satisfy the principles of legality, necessity, proportionality, freedom from discrimination and equality before the law.
  - 12.3. Risk assessments should be informed by continuous information gathering and communication with all relevant stakeholders, favour the presumption of the right to
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assemble freely with others and take into account current and historical factors, such as prevailing political or social tensions, and the protection of persons who are vulnerable to limitations of their right to assemble freely with others.

12.4. Contingency plans must provide law enforcement officials with a course of action to help them respond effectively to the assembly and should include:

12.4.1. The provision of essential services, including emergency services, traffic management and medical services;

12.4.2. The facilitation and management of counter-assemblies or simultaneous assemblies;

12.4.3. Measures to be taken to de-escalate tension, to contain any escalation of tension and to deal with the potential for violence during assemblies;

12.4.4. For the eventuality that non-coercive measures turn out not to be effective, the graduated use of any coercive measures and force in accordance with these Guidelines and other relevant regional and international human rights standards;

12.4.5. Measures to minimise harm in all scenarios, including the protection and safety of law enforcement officials, assembly participants, independent monitors and bystanders, with special measures in place to identify and provide specific protection to groups vulnerable to rights abuses in the context of assemblies;

12.4.6. Considerations relating to adverse weather conditions and other environmental factors;

12.4.7. The availability of law enforcement officials and the obligation of law enforcement agencies and the State in general to ensure that officials have adequate training in the management of assemblies, and sufficient rest, access to food and water.

12.4.8. Maintenance of regular internal communication and adequate record-keeping to ensure that all law enforcement officials deployed to an assembly operation are aware of the tactical and other operational plans;

12.4.9. Maintenance of regular external communication with assembly organisers and participants, independent observers, the media and oversight authorities, including on any changes to the tactical or operational approaches of law enforcement officials during the conduct of an assembly operation;

12.4.10. Other hazards and risks identified in the risk assessment that are specific to the context of the particular assembly.

12.5. The outcome of risk assessments and contingency plans should form the basis of a comprehensive briefing for law enforcement officials by operational command prior to deployment to an assembly operation.

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# PART 4

## POLICING DURING ASSEMBLIES

### 13. Communication

- 13.1. Law enforcement agencies should engage in continuous dialogue and negotiation with assembly organisers and participants to proactively address any issues that may arise during the conduct of an assembly operation. Law enforcement agencies should deploy specially trained negotiators to assembly operations for this purpose, based on any need identified during risk assessment and contingency planning.
- 13.2. Law enforcement officials should maintain open communication with all relevant stakeholders, including assembly organisers and participants, other essential services providers and stewards. Law enforcement officials must proactively and continually communicate the intention of the assembly operation, any limitations or restrictions imposed on the assembly and contingency planning in place with stakeholders, and should consider the appointment of a specially trained communication liaison as a focal point for communication with stakeholders.
- 13.3. All communication to assembly participants should be clearly audible and made in a language understood by the intended audience, providing the intended audience with sufficient time to follow the instructions of law enforcement officials of their own accord, including any warnings or directions provided.

### 14. Deployment

- 14.1. Law enforcement agencies must ensure the visible identification of all law enforcement officials deployed overtly in an assembly operation on an individual basis such as their name or service number.
- 14.2. In the deployment of officials to an assembly, law enforcement agencies must take into account the potential adverse influence that the visible appearance of law enforcement officials, deployment tactics and equipping of officials at an assembly can have on the way in which an assembly develops.

14.3. Law enforcement agencies generally should deploy only the minimum number of officials commensurate to the size of the assembly, necessary to ensure the protection and safety of officials, participants, observers and bystanders, and take a graduated approach to any increase of visible policing numbers during the course of an assembly. Any reinforcement units should be stationed out of the sight of assembly participants to the extent that law enforcement command has assessed this to be appropriate in accordance with Guideline 12.

## 15. Documenting assemblies

15.1. Law enforcement officials should document the conduct of an assembly operation, including through the use of photography, providing that such recording and surveillance have a basis in law, are in pursuit of a legitimate interest which is consistent with regional and international human rights standards as set out in 1.2.1, are a necessary and proportionate measure to achieve that end within a democratic society, and satisfy the principles of equality before the law and non-discrimination as set out in 1.2.2.

15.2. The documenting of assembly operations by law enforcement officials must be regulated in national law in compliance with regional and international human rights standards, as set out in 1.2.1.

15.3. Law enforcement officials must not use recording and surveillance tactics as a means to harass or intimidate assembly participants, or to discourage persons or groups from exercising their right to assemble freely with others. Law enforcement agencies must not disseminate information to third parties in violation of the right to privacy, due process, freedom of expression or the right to assemble freely with others.

15.4. Law enforcement officials must notify assembly organisers and participants of the intention to document an assembly and the purpose thereof. Communication should be in a manner that is precise and well understood.

15.5. The retention and use of information gathered through the documentation of an assembly by law enforcement officials must be regulated by national law and in compliance with regional and international human rights standards. Retention and use should be limited to circumstances where the use of force by law enforcement officials or their exercise of the powers of arrest and detention is recorded; where a complaint about the conduct of law enforcement officials is made; where recordings provide evidence of misconduct by law enforcement officials; or where recordings provide evidence of a crime committed by law enforcement officials or others. Recordings should be retained only for so long as is necessary for the relevant purpose.

15.6. All persons have the right to record an assembly, including the right to record the law enforcement presence and action. This right must be protected by law with disciplinary procedures in place for law enforcement officials who seize or damage any equipment, except where such seizure is authorised by an independent judicial authority. Disciplinary procedures refers to internal disciplinary sanctions effected through policing procedures, as well as external criminal procedures.

## 16. Stop, search and arrest

16.1. All persons have the right to liberty and security of the person. The use of stop, search and arrest by law enforcement officials should be strictly limited to circumstances in which there is reasonable suspicion that the individual poses an actual risk of violence or is involved in

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criminal activity, and only where the use of stop and search is in compliance with regional and international human rights standards.

- 16.2. The participation of a person in an assembly is not in itself a reasonable ground to stop, search and/or arrest that person.
- 16.3. The use of arrest for the purpose of removing persons who are acting violently or who are otherwise reasonably suspected of committing an offence has a legitimate function in the context of the policing of assemblies to protect and facilitate the right to assembly freely with others by all persons. In this regard, arrest powers must only be exercised on grounds and procedures established by law. Such laws and their implementation must be clear, accessible and precise, and consistent with the Guidelines on the Conditions of Arrest, Police Custody and Pre-Trial Detention in Africa and with other relevant regional and international human rights standards.

## **17. Facilitation of first aid and other essential services**

- 17.1. Contingency plans must include the provision of prompt assistance by medical service providers for any person injured during an assembly. Law enforcement officials must receive first aid training and ensure that assistance and medical services are provided to any injured person at the earliest possible moment after the use of force and firearms.
- 17.2. Law enforcement officials should be subject to clear and precise protocols for communicating with medical service providers in an assembly context. Law enforcement officials should ensure that traffic management and other contingency planning facilitate the prompt access to medical services for assembly participants, observers and bystanders.
- 17.3. The provision of first aid and other essential services during an assembly must be provided free of charge to assembly participants.

## **18. Facilitating multiple assemblies**

- 18.1. The right to assemble freely with others extends to the right to engage in simultaneous or counter-assemblies.
- 18.2. If law enforcement officials impose limitations or restrictions on simultaneous or counter-assemblies, such restrictions must be legal, necessary, proportionate and comply with the principle of non-discrimination and equality before the law.
- 18.3. If law enforcement officials deem it impossible to facilitate counter or simultaneous assemblies precisely as planned, preference should be given to the facilitation of the first notified assembly and alternatives must be provided to the other assemblies. The alternatives should take into account any need for the counter or simultaneous assembly to occur within the sight and sounds of the other assembly, and any additional policing resources required to ensure the facilitation of all assemblies and the protection of all assembly participants, observers and bystanders. This should be based on a progressive assessment of the situation.

## **19. Enforcing conditions on assemblies**

- 19.1. Law enforcement agencies typically will merely enforce prior decisions imposed by the appropriate authorities. Restrictions may be imposed during the course of an assembly, where necessary and proportionate, as for instance in cases where the situation rapidly deteriorates and becomes violent.
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- 19.1.1. The grounds under which such restrictions may be imposed by law enforcement authorities shall be clearly laid out by law.
  - 19.1.2. Negotiation and mediation shall be employed prior to imposition of conditions in the course of assemblies, where feasible.
  - 19.1.3. Any limitations imposed shall be clearly communicated.
  - 19.1.4. Any limitations imposed must be based on a clear evidence base and calculation of risk, and satisfy the requirements of legality, necessity, proportionality and non-discrimination.
  - 19.1.5. Where law enforcement agencies deem that limitations should be imposed during the course of an assembly, they must provide alternatives to assembly organisers and participants, which are consistent with the right to assemble freely with others. This includes alternatives that facilitate an assembly within the sight and sound of the target audience.
- 19.2. If assembly organisers and/or participants do not comply with conditions imposed before or during the assembly, the response by law enforcement officials must be legal, proportionate, necessary and non discriminatory.
  - 19.3. Law enforcement agencies must not disperse assemblies simply for technical violations of limitations or restrictions without other serious cause, and any dispersal should be based on the obligation to make continuous assessments of the situation.

## 20. De-escalation

- 20.1. All action taken by law enforcement officials during the management of assemblies where participants are not acting peacefully must satisfy the requirements of legality, necessity, proportionality, freedom from discrimination and equality before the law, and accord with regional and international human rights standards.
  - 20.2. Operational commanders must continuously monitor assemblies with the aim of identifying and pro-actively addressing issues as they arise. Their response to any situations must give priority to de-escalation tactics that favour the presumption of the right to assemble freely with others, such as open communication, negotiation and dialogue with assembly organisers and participants. The tactics must demonstrate flexibility in the enforcement of restrictions and limitations on an assembly, and tolerance for individual conduct that does not comply with restrictions, limitations or terms of notification. De-escalation tactics must also take into account the potential adverse influence that the visible escalation of law enforcement tactics can have on the way in which an assembly develops.
  - 20.3. Law enforcement officials should be trained to differentiate between individual and group behaviour, and to identify and remove specific persons identified as acting in an unlawful or violent manner while continuing to facilitate the enjoyment of the right to assemble freely with others for all other persons.
  - 20.4. Crowd control strategies, such as containment, should be implemented with precaution, be lawful and proportionate, and never amount to collective detention. Containment tactics must allow for exit routes for assembly participants and observers who want to leave the assembly.
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20.5. Resort to force must only be made if and when other, less harmful, means of de-escalation have failed. The use of force by law enforcement officials must be in strict compliance with Guideline 21 and other regional and international human rights standards.

## **21. Use of force and firearms**

### **21.1. General principles**

21.1.1. The use of force and firearms by law enforcement officials must be regulated under national law in conformity with General Comment No. 3 on the African Charter on Human and Peoples' Rights on the Right to Life (Article 4) and other relevant regional and international human rights standards.

21.1.2. The use of force is an exceptional measure. In carrying out their duties, law enforcement officials shall, as far as possible, apply non-violent methods before resorting to the use of force and firearms. Force and firearms may only be used if other means of achieving a legitimate law enforcement objective are ineffective or unlikely to be successful. Law enforcement officials must, as far and for as long as possible, differentiate between peaceful assembly participants and those who engage in violent acts. An assembly should be deemed peaceful if its organisers have expressed peaceful intentions, and if the conduct of the assembly participants is generally peaceful. 'Peaceful' shall be interpreted to include conduct that annoys or gives offence as well as conduct that temporarily hinders, impedes or obstructs the activities of third parties. Isolated acts of violence do not render an assembly as a whole non-peaceful.

21.1.3. Where the use of force is unavoidable, law enforcement officials must minimise damage and injury, respect and preserve human life, and ensure at the earliest possible moment that assistance is rendered to any injured or affected person and that their next of kin is notified.

21.1.4. The intentional use of lethal force by law enforcement officials and others is prohibited unless it is strictly unavoidable in order to protect life, thus making it proportionate, and all other means are insufficient to achieve that objective, thus making it necessary. Assessment of legality, necessity and proportionality should be based on the relevant facts with a requirement for reasonable grounds, rather than mere suspicion or presumption, of risk or harm.

### **21.2. Operational Procedures**

21.2.1. In the planning, preparation and conduct of an assembly operation, tactical and other measures must be taken to avoid the use of force and, where force is unavoidable, to minimise the harmful consequences of the use of force. If the use of force is necessary and proportionate, but the need for force could reasonably have been prevented from arising in the first place by exercising all precautions in planning and preparation for an assembly operation, operational commanders must be held accountable.

21.2.2. Whenever law enforcement officials resort to the lawful use of force or firearms, officials shall:

21.2.2.1. Exercise restraint in such use and act in proportion to the seriousness of the offence and the legitimate objective to be achieved;

- 21.2.2.2. Minimise damage and injury, and respect and preserve human life;
  - 21.2.2.3. Ensure that assistance and medical aid are provided to any injured person at the earliest possible opportunity;
  - 21.2.2.4. Where force or firearms are used, report the incident promptly to their commanders.
- 21.2.3. Restrictions on the use of firearms must be provided for in law. These restrictions should limit the use of firearms to circumstances in which there is an imminent risk of death or serious injury to a person, or to prevent the commission of a serious crime involving a grave threat to life, and only when less extreme measures are insufficient to achieve these objectives. Whenever law enforcement officials resort to the use of firearms, they must identify themselves and give a clear warning of their intention to use firearms with sufficient time for the warnings to be observed. Shots fired into the air or other warning shots should not be used in the context of an assembly operation.
- 21.2.4. Firearms are not an appropriate tactical tool for the policing of assemblies. Firearms must never be used to disperse an assembly. The indiscriminate discharge of firearms into a crowd is a violation of the right to life.
- 21.2.5. Weapons that cannot be used safely and effectively in crowd control settings, such as multiple projectile shotguns, must be prohibited from use in the policing of assemblies.
- 21.2.6. Crowd control weapons, including less lethal crowd control weapons, should only be used when there are legitimate grounds for the use of force or for dispersal, and only when their use is necessary and proportionate and in circumstances when other less harmful means have been attempted and found to be ineffective or will be ineffective under the circumstances.
- 21.2.7. To minimise the harmful effects on assembly participants, observers and bystanders, law enforcement officials must exercise particular caution when using crowd control devices or other less lethal weapons which have the potential for use in an arbitrary and/or discriminate manner and/or are indiscriminate in their effects. The inherent effects and proper use of crowd control devices must be independently and regularly evaluated and controlled.
- 21.2.8. Less lethal weapons, designed for the purposes of crowd control, may be abused by law enforcement officials who presume that such weapons are never lethal. Therefore, less lethal crowd control weapons should only be used by well-trained law enforcement officials in order to prevent and minimise deaths, injuries and harm, and in a manner that complies with regional and international human rights standards. Prior to use, there must be in place precautionary measures such as appropriate independent testing of and training in the use of each type of device, in a range of situations, and in accordance with international standards.

### **21.3. Means required to ensure a rights-based approach to the use of force and firearms**

- 21.3.1. Law enforcement agencies should provide officials with a range of appropriate personal protective equipment and appropriate less-lethal weapons to reduce reliance on methods that are capable of causing death or serious injury. Appropriate protective and less-lethal equipment includes shields, helmets, batons, bulletproof
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jackets and other equipment and less-lethal weapons. Any equipment or weaponry provided to law enforcement officials must have been independently tested and verified for accuracy, reliability and suitability to crowd management situations and must comply with regional and international human rights standards.

21.3.2. The use of remote-controlled less lethal weapons for the policing of assemblies is discouraged, and their procurement by State Parties must be subject to independent review of their compliance with regional and international human rights standards. If such weapons are used, law enforcement officials must be trained in the use of such equipment, remain actively in control of the delivery of force, limit the use to circumstances in which it is justified, reasonable, proportionate and necessary, and use the equipment in a manner that minimises the risk of physical or mental harm to all persons.

21.3.3. Firearms should only be used in compliance with the African Commission's General Comment No. 3 on the African Charter on Human and Peoples' Rights on the Right to Life and Principle 9 of the UN Basic Principles on the Use of Force and Firearms.

21.3.4. Law enforcement officials must receive training on the lawful, proportionate and necessary use of force and on alternatives to the use of force, such as understanding crowd behaviour and techniques in crowd facilitation and management, de-escalation and a graduated response to tension or violence, and on first aid.

21.3.5. Law enforcement officials should be subject to internal and external systems of monitoring and mandatory reporting on the use of force.

## 22. Dispersing assemblies

22.1. The dispersal of assemblies should be a measure of last resort, and law enforcement officials must act on the presumption that although they have powers to intervene in an assembly, they should only do so in circumstances in which it is legal, necessary, proportionate and non-discriminatory to do so.

22.2. If assembly participants are generally behaving peacefully, law enforcement officials must avoid the use force to disperse the assembly. Where force is deemed to be a lawful and proportionate response, law enforcement officials must only use the minimum level of force necessary.

22.3. Where participants in an assembly are acting non-peacefully or in violation of the law, law enforcement officials should use, to the extent possible, communication and de-escalation strategies and measures for the containment of individuals committing or threatening violence or, if necessary and proportionate, the arrest of individuals who are committing or preparing to commit violent acts, before attempting to disperse an assembly.

22.4. When the dispersal is unavoidable, lawful, proportionate and necessary, law enforcement officials must clearly communicate an intention to disperse the assembly to participants, and provide participants with a reasonable opportunity to disperse voluntarily, before taking any action. Force must never be used against peaceful demonstrators who are unable to disperse from the assembly.

22.5. The authority to issue an order for dispersal should be limited to operational commanders who are present at the operation or to well-informed officers on the ground. Such orders should only be given in situations where there is a serious, widespread and imminent threat

to the safety of persons, of substantial damage to property, or to the rights and freedoms of others, providing that all reasonable attempts have been made to minimise the harm. Use of force in the dispersal of assemblies must comply with these Guidelines and other regional and international human rights standards.

22.6. Firearms may never be used simply to disperse an assembly.

22.7. Observers of an assembly, including journalists, must not be prevented from observing and recording the dispersal operation.

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# PART 5

## POLICING AFTER AN ASSEMBLY

### 23. Detained persons

- 23.1. Detention by law enforcement officials should only be used as a measure to enforce criminal law, and no person must be held in detention for more than 48 hours without access to a judicial authority in conformity the Guidelines on the Conditions of Arrest, Police Custody and Pre-Trial Detention in Africa. National regulatory frameworks, policies, training and standard operating procedures, including those specifically in relation to the policing of assemblies, must promote the use of alternatives to police custody, including court summons or police bail or bond.
- 23.2. The use of detention by law enforcement officials in the context of assemblies must conform to the provisions of the Africa Charter and, in particular, Parts 2 (General Protections) and 7 (Vulnerable Groups) of the African Commission's Guidelines on the Conditions of Arrest, Police Custody and Pre-Trial Detention in Africa. This includes the provision of safeguards, such as the presumptive right to bail and bond; the right to have detention reviewed without delay by a competent authority; and access to confidential and independent complaints mechanisms, legal services, family, interpreters and medical assistance; and the right not to be subjected to torture, cruel, inhuman or degrading treatment or punishment.
- 23.3. Contingency planning must include measures for the safe custody of persons arrested and held in detention at the assembly site and their safe and timely transfer to a recognised place of detention. This should include planning for occasions involving public assemblies where numerous arrests are deemed necessary, although mass arrests, which may amount to arbitrary detention, must be avoided. Law enforcement officials should not deprive persons of their liberty if there are inadequate resources to facilitate individual arrests.

### 24. Debriefing and review

- 24.1. Law enforcement agencies must have in place post-assembly debriefing processes. These processes should promote monitoring, evaluation and learning, and identify both failings and good practices in the law enforcement operation in relation to facilitation of the right to assemble freely with others; the effectiveness of risk assessments and contingency

planning, internal and external communication, deployment and equipment; the use of force; the health, safety and working conditions of law enforcement officials deployed to the operation (in particular where law enforcement officials died or were seriously injured); and tactics, decision-making and future training needs.

- 24.2. Law enforcement agencies are encouraged to make reports of the debriefing available to any person, including but not limited to, assembly organisers, participants, oversight authorities and other relevant stakeholders.
  - 24.3. Any use of force by law enforcement officials during the conduct of an assembly operation should be subject to an automatic and prompt review by a competent and independent authority. Law enforcement officials who are the subject of a review must not be deployed to assembly operations until the conclusion of such review.
  - 24.4. The discharge of a firearm by a law enforcement official during an assembly operation must be promptly reported by operational command to a competent authority, such as any oversight authority with a mandate to review and report on police conduct and operations.
  - 24.5. State Parties must conduct a thorough investigation and account of circumstances surrounding every case of death or serious injury of persons in the context of assemblies.
  - 24.6. If a person dies as a result of law enforcement action, a prompt, impartial and independent inquiry into the cause of death must be undertaken by an independent judicial authority. The purpose of the investigation is to determine the cause, manner and time of death, the persons responsible, and any pattern or practice that may have brought about that death. The investigating authority must have access to all necessary information and persons to conduct their inquiry.
  - 24.7. Law enforcement agencies should publicly communicate the findings of any internal debriefings and/or investigations, whether internal and external, resulting from each assembly operation.
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# PART 6

## IMPLEMENTATION

### 25. Implementation measures

25.1. In accordance with Article 1 of the African Charter, States must adopt legislative, administrative, judicial and other measures to give effect to the Charter, and should take into account these Guidelines to ensure that the rights and obligations contained herein are guaranteed in law and practice, including during conflict and states of emergency. State Parties are encouraged to adopt or review existing legislative, administrative and other provisions to assess compatibility with these Guidelines, and to repeal laws that violate the rights enshrined in the African Charter.

25.2. State Parties are encouraged to disseminate these Guidelines to law enforcement officials, and other state security and justice agencies, Ombudsmen, National Human Rights Institutions, National Preventative Mechanisms, statutory oversight authorities, the civil authority responsible for receiving notification of assemblies, and civil society.

### 26. Application

State Parties remain responsible for ensuring that the provisions of the African Charter, these Guidelines, other relevant instruments developed by the African Commission pursuant to the Charter and other international human rights standards are applied to the policing of assemblies.

### 27. Training

State Parties must ensure that all officials who are involved in the facilitation or management of assemblies are properly trained in relation to the provisions of these Guidelines. The provisions of these Guidelines and other instruments developed by the African Commission pursuant to the States' obligation to popularise the African Charter pursuant to Article 25 should be incorporated into the curricula of all basic and in-service training for relevant public officials.

### 28. Reporting

State Parties shall provide information on national compliance with these Guidelines in their periodic reports to the African Commission pursuant to Article 62 of the African Charter.

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