

control arms

Guns and Policing

Standards to prevent misuse



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Front cover: Cincinnati police point riot guns at demonstrators April 10, 2001. Police fired bean bags and rubber bullets to quell

demonstrators who broke windows downtown in a protest over the police shooting of an unarmed black man. © AP

Summary

This report has been written by Amnesty International for the Control Arms Campaign and is the first in a series of thematic reports to be produced by Amnesty International, Oxfam and the International Action Network on Small Arms (IANSA) during the Campaign. It focuses on what governments can do to improve the effectiveness of policing to help control firearms, without the police themselves resorting to the use of excessive and unjustified force. From an illustrative selection of cases, it argues that adherence to international professional standards in the use of force and firearms must be included in any efforts to improve policing.

The global proliferation of small arms means that police and other law enforcers are under pressure to counter rising levels of violent gun crime and are expected to confront armed offenders. But in many countries the resources for police equipment and training are insufficient. For this reason, but also sometimes as part of deliberately repressive government policy, police resort to excessive and arbitrary force, or use firearms for unlawful killings and as an instrument of torture and ill-treatment against suspects.

Agreed international standards do exist to control the use of force and firearms by the police. They include the *UN Code of Conduct for Law Enforcement Officials* and the *UN Basic Principles for the Use of Force and Firearms by Law Enforcement Officials*. At their heart is the question of what constitutes legitimate force. Police must sometimes be permitted to use force or lethal force, in order to do their job of keeping communities safe and protecting people from life-threatening attacks. But the force used must not be arbitrary; it must be proportionate, necessary and lawful. And it must only be used in self defence or against the imminent threat of death or serious injury.

In order to comply with this essential principle, police must know how to assess rapidly when a threat to life is being made. They need to be extremely well trained in tactical threat assessment so that they can judge in each different context whether a use of force, including lethal force, will be proportionate, necessary and lawful. Too many police forces around the world are trained **how to fire a gun** but not how to decide **whether it should be fired**, or when.

And too few governments have incorporated the UN standards in their national legislation, or show any respect for them in practice.

Governments and law enforcement agencies need to invest significant resources in improvements to meet the UN standards for the effective control of the use of firearms by the police. Examples in the report include the following:

- The UN Code of Conduct states that law enforcement agencies “*should be representative of and responsive and accountable to the community as a whole.*” Yet repeated testimony from the poorest communities in Rio de Janeiro, Brazil, shows that policing practice discriminates violently against them, with frequently fatal consequences.
- The UN Basic Principles state that firearms should only be used by police in self-defence or against the imminent threat of death or serious injury. Yet in Jamaica, which has the highest rate of police shootings per capita in the world, evidence repeatedly contradicts police claims that they were fired upon first and indicates instead a disturbing pattern of extrajudicial executions.
- Police training should emphasise human rights and alternatives to the use of firearms, yet the new police force in Timor-Leste, having been provided with brand new guns, does not appear to have been trained in the tactical skills necessary to assess threats or exercise restraint consistent with the UN standards.

The report cites positive steps by governments and police moving towards a greater respect for the UN standards, for example:

- Under previous legislation in South Africa, police were allowed to shoot suspected thieves, drug dealers and fleeing suspects who posed no threat to life, a clear violation of the UN standards. This law has now been amended.
- In Cambodia, an ambitious project for storage and management of weapons is underway.

The challenge to all governments to help control the misuse of arms is urgent. To achieve this, they must invest more resources in professional policing based on the agreed international standards. Only then can governments provide protection to women, men, and children through legitimate security forces that respect human rights, and gain the widespread support from civil society that is needed to curb the flow and use of illicit arms.

Genuine engagement with the community is imperative in all efforts to improve policing by consent. Initiatives at the community level must be driven by local people, to ensure relevance, ownership, participation, shared responsibility, and understanding. On this basis:

1. All governments and police authorities should promote, publicize, incorporate in law and practice UN standards for law enforcement officials, including the UN Code of Conduct for Law Enforcement Officers and the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.
2. States should explicitly include the promotion and adherence to these UN standards in the UN Programme of Action to Prevent, Combat and Eradicate the Illicit Manufacture and Trade in Small Arms and Light Weapons when it is discussed in 2005 and reviewed in 2006;
3. Bilateral and institutional donors, including agencies of the United Nations, should require local authorities to adhere to these UN standards in all international assistance projects that they fund, particularly where such projects involve community safety;
4. States should support the recommendations of the UN Special Rapporteur on Small Arms to strengthen the implementation of UN standards on the use of firearms;
5. All states should assess recipient states' adherence to UN standards when considering whether to export or supply arms to forces or agencies involved in law enforcement, and should not supply firearms, ammunition or other weapons that present an unwarranted risk of injury or abuse;
6. Civil society organizations and individuals should join the global "Control Arms" campaign and help promote strict adherence to these UN principles by governments and law enforcement organizations.

Guns and Policing

Standards to prevent misuse

"Everyone has the right to life, liberty and security of person" Universal Declaration of Human Rights

"No one shall be arbitrarily deprived of his life" International Covenant on Civil and Political Rights

"In general, firearms should not be used except when a suspected offender offers armed resistance or otherwise jeopardizes the lives of others and less extreme measures are not sufficient to restrain or apprehend the suspected offender," United Nations Code of Conduct for Law Enforcement Officials

Officers "shall, as far as possible, apply non-violent means before resorting to the use of force and firearms. They may use force and firearms only if other means remain ineffective or without any promise of achieving the intended result." United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials

"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" United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials

1. Introduction

This report has been written by Amnesty International for the Control Arms Campaign and is the first in a series of short thematic reports to be produced by Amnesty International, Oxfam and the International Action Network on Small Arms (IANSA) during the campaign.¹ At the launch of the global Campaign in October 2003, the three international organizations published a 100-page report, *"Shattered Lives"*², which examines the worldwide need for concerted state controls on the transfer and use of arms. *"Guns and Policing"* focuses on what governments can do to improve the effectiveness of policing to help control firearms, without the police themselves resorting to the use of excessive and unjustified force. Using an illustrative selection of cases, it argues that adhering to international professional standards in the use of force and firearms must be included in any efforts to improve policing. Why is this so important?

The problem

The global proliferation of small arms is leading to a rise in criminality, banditry and armed violence which is undermining development.³ Every day in countries across the world, police and other law enforcers are under pressure to counter rising levels of violent gun crime and are expected to confront armed offenders. And increasingly, police and customs officers are called upon to detect illicit gun traffickers, collect illicit firearms and persuade communities to report illegal firearms. However, in many countries the resources made available to equip and train police, as well as to make sure they are fully accountable, are insufficient to meet these challenges.

As a result of these pressures and usually due to a lack of training and supervision, some police use excessive and arbitrary force, or use firearms for unlawful killings and as an instrument of torture and ill-treatment against criminal suspects. Between 1997 and 2000 Amnesty International received reports of torture or ill-treatment by state officials in more than 150 countries. In more than 80 countries, people reportedly died as a result of their treatment at the hands of those in authority. Most of the torturers were police officers who used armed threats and violence to subdue their victims.⁴ In some countries, police officers have tended to mistreat vulnerable people – women, members of minority communities or juveniles – who often should rather receive extra care. Communities living in fear may lose trust and respect for the police, leading to loss of cooperation and unwillingness to provide information, which deepens the breakdown in community safety. Police misuse of weapons may lead people to fear leaving their homes – preventing them from earning a living, going to school, seeking medical help, reporting theft and corruption – thereby undermining development.

In extreme cases, political manipulation and corruption of police powers to use force aggravate such situations further, especially when police are ordered by governments to target and kill political activists, suppress peaceful protest, and arbitrarily detain government opponents using firearms.

There are various ways in which force and lethal force can be abused by police:

Operational failure: the arbitrary application of force, where force and firearms are applied without proper proportionality, necessity or legality;

Investigative failure: using force to threaten, punish or torture to obtain confessional evidence;

Detention failure: using force arbitrarily to punish persons who are for some reason subject to official control and restraint;

Protection failure: where the police by neglect or omission fail to protect the vulnerable in society.

The standards

Police and other law enforcers should base their conduct on international professional standards. The UN has developed detailed and specific standards which, while not legally binding per se, nevertheless represent global agreement by states on how to best implement international human rights treaties, through legislation, regulation and during actual law enforcement operations.

The bedrock of these standards consists of the *United Nations Code of Conduct for Law Enforcement Officials* (1979, henceforth, UN Code of Conduct)⁵, the *United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials* (1990, henceforth, UN Basic Principles)⁶ and the *United Nations Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions*.⁷ These are not legally binding instruments but are nevertheless global agreements by governments on how to best implement international treaties on human rights and the use of force during law enforcement operations.⁸ The origins of the UN Code of Conduct go back to a 1975 seminar organized by Amnesty International with police officers in The Hague. It includes a commentary to guide interpretation of its eight articles. The UN Basic Principles consists of 26 different rules setting out specific rights and obligations of police and other law enforcers, including an obligation to use firearms only as a last resort when there is an imminent threat to life.

The term 'law enforcement officials' in the UN standards comprises 'all officers of the law, whether appointed or elected, who exercise police powers, especially the powers of arrest and detention.' This encompasses 'military authorities' and 'state security forces' that exercise such powers, and therefore includes police, customs, immigration and prison officers, as well as paramilitary personnel and border guards.

These standards revolve around the question of what constitutes legitimate force. As the International Covenant on Civil and Political Rights says, no one shall be *arbitrarily* deprived of their life. This means that if police use lethal force (which they must

sometimes be permitted to do in order to prevent death or injury, or in self-defence), it must not be arbitrary. Force must be proportionate, necessary and lawful. Arbitrary force is what results if a use of force fails on all or any one of these points. In addition, lethal force must *only* be used in compliance with Article 9 of the UN Basic Principles, that is, “*in self-defence or defence of others against the imminent threat of death or serious injury*”. Police need to be trained in threat assessment so that they can judge in each different context whether a use of force, including lethal force, will be proportionate, necessary and lawful. They must be able to assess what a direct threat to life is and when it is being posed.

Implementing these standards

This report looks at some of the most important of these UN standards for the effective control of the use of firearms. It sets out what is required, then compares these standards with the reality, using examples from policing around the world. Unfortunately, these UN standards have not been incorporated into the domestic law of many countries, nor applied in practice. Instead, police have used firearms excessively and unjustifiably, which in turn may have contributed to increased gun crime.

Nevertheless, there are many countries showing positive examples of respect for international professional policing standards, and some are mentioned in this short report. Upholding ethical standards in the use of force can enable police to increase co-operation with local communities and other key stakeholders in society. When ethical “community-based policing” is combined with efficient systems for intelligence gathering, crime prevention, training and supervision, it can be very effective in helping to combat gun crime and in preventing police human rights abuses. In some countries, police response to gun crimes, including rape and domestic violence, has improved and is more respectful of human rights. Local human rights and community-based organizations have played a vital role in these developments.

However, such positive efforts by police and communities need to be accompanied by concerted government programs to make police accountable to democratic authorities. This is only possible if governments provide adequate investment in policing resources and training in professional policing skills. Such programs are an urgent international priority and need to be based on international human rights standards.



Salimata Sanfo, widow of Ousmane Zongo who was shot four times on 22 May 2003 by a police officer in Manhattan, New York. Zongo was unarmed. © AP

2. Policing and Community Safety

The UN Code of Conduct states that every law enforcement agency “*should be representative of and responsive and accountable to the community as a whole.*”

UN Basic Principle 18 requires governments and law enforcement agencies to: “*ensure that all law enforcement officials are selected by proper screening procedures, have appropriate moral, psychological and physical qualities for the effective exercise of their functions and receive continuous and thorough professional training. Their continued fitness to perform these functions should be subject to periodic review.*”

Poor professional training and systems of accountability, as well as a lack of basic police equipment and resources, inhibit the ability of police and other law enforcers to tackle rising gun violence.

In the aftermath of the civil war in Mozambique, for example, the proliferation of firearms and increasing levels of violent crime put the government under pressure to curb crime. After police were re-trained, reports of human rights violations decreased. Subsequently, from late 2000 the incidence of violations has risen again. Despite an active weapons collection program, gun crime persisted. Many armed police routinely tortured or ill-treated criminal suspects, often beating them. Some detainees died under torture, while others were extra-judicially executed. From mid 2002, the incidence of torture decreased but police continued to make unnecessary or excessive use of force and firearms.⁹

In Brazil, despite not being at war, there has been an increasingly severe problem of small arms proliferation and very high levels of urban gun violence, which are exacerbated by poor policing. According to the Ministry of Health, almost 300,000 Brazilians were killed with firearms in the last decade, many as a result of urban violence. Almost 11,000 small arms are now seized by the authorities in Rio de Janeiro state each year.¹⁰

There are two principal police forces on duty in Brazil's cities: the military police who are responsible for maintaining public order and the policing of public spaces, and the civil police who are responsible for investigative policing. The majority of the 37,000 military police in Rio de Janeiro, according to a government study carried out in 2002¹¹, are poorly educated young males, working for a salary of approximately R\$1000 (US\$325) per month on a 24 hours on, 72 hours off shift system. Many supplement their earnings with second jobs, frequently as private security guards, which can be an extra burden and risk for police institutions and the individual officers, as it results in many of them becoming the victims or perpetrators of gun violence.

Policing some Brazilian cities, especially Rio de Janeiro, can be particularly difficult, as heavily armed drug gangs exploit the complex layout of *favelas* (shanty towns) to hide and do business. Police incursions to apprehend suspected drug dealers invariably affect the whole community. The military-style training provided to the police mean that they almost never have the right policing skills and tools for such work, and police often use excessive force and commit extrajudicial executions.

“Police actions are crazy, no one is expecting them and they put the population at risk. That is why sometimes there are stray bullets that kill whoever is around. Only innocents die when the police go up into the *favela*”.¹²

The Brazilian police force stands little chance of being able to control the influx and proliferation of weapons into urban communities, and thus the cycle of violence continues.¹³

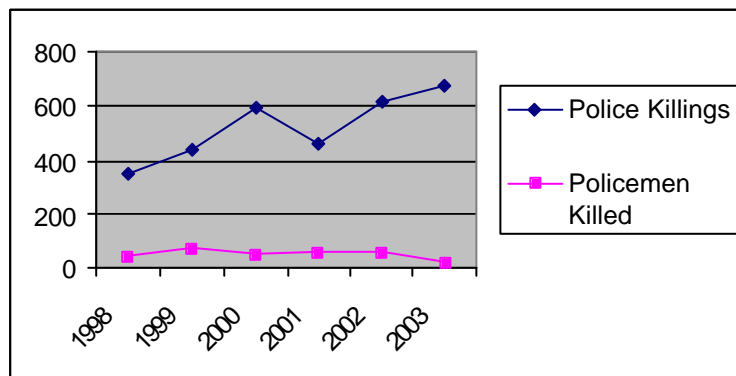
On a research visit to Rio in June 2003, Amnesty International heard repeated testimony from residents of Rio's poorest communities who felt they were the principal victims and targets of a violent and discriminatory public policing policy. On 17 April 2003, for example, four unarmed young men, Carlos Magno de

Oliveira Nascimento, Everson Gonçalves Silote, Thiago da Costa Correia da Silva and Carlos Alberto da Silva Pereira, who all either studied or had jobs, were shot dead during an operation carried out by military police. All technical evidence and testimony has so far indicated that they were summarily executed.¹⁴ The initial military police version of events claimed that they were drug traffickers killed in a shoot-out. But this was soon discredited by official autopsies, which showed that they were killed with shots to the back and the head, and which demonstrated no evidence that there had been an exchange of fire. A witness described one of the men begging not to be killed. The police later claimed that the victims got caught in the crossfire between police and criminals.

While the police continue to act in confrontation with communities rather than in their interests, either as a result of internal police failings or as a result of deliberate government policy, there is little hope that the cycle of violence and the death of innocent civilians will end.

In Sao Paulo, the police explain that the number of deaths caused by the police is a result of the rise in the number of confrontations with criminals in the past two years, and that most of the killings occur in self-defence.¹⁵ Yet the table below shows that the number of policeman killed remains constant, while the number of civilians killed by police rose dramatically.¹⁶

Number of killings by police compared to number of policemen killed in Sao Paulo state:



3. Attacks on Law Enforcers

The 1990 United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials state in the preamble that: *“a threat to the life and safety of law enforcement officials must be seen as a threat to the stability of society as a whole.”*



A police officer at a prayer service, Protea Police Station, Soweto, South Africa, April 2001. More than 200 police officers are killed every year in South Africa. © AP

More than most professions, police officers and other law enforcers do a difficult and often high-risk job and their human rights also need to be respected. They need to defend themselves and protect the public against attackers with firearms, as well as blows, knife or other attacks by violent individuals. But any use of force should be subject to the international human rights standards set out in the UN Basic Principles – crucially, force should be used only when non-violent measures have failed, in a proportionate and lawful manner, and only to the minimum extent necessitated by the situation.

Increased circulation of small arms in many countries has compounded the normal risks inherent in police work. In South Africa, for example, more than 200 police officers are killed every year, the highest global rate for such deaths according to a recent study.¹⁷ Such a high level of killings must have a profound impact on morale and on feelings of safety and security among other officers. Nevertheless, it is important to note that 65% of the 955 police officers killed between 1994 and 1997 lost their lives while off duty (through general criminal activities and altercations, rather

than official policing activities). Only 30% of police officer fatalities took place in the course of fighting crimes such as robbery, car-jacking and burglary, and 61% of these deaths occurred when police officers were robbed of their service pistols. Interestingly, 27% of fatalities were the result of disputes, mostly with colleagues in the police service while on duty.¹⁸

It is in the interests of the police to ensure that government control of weapons is tightened, to safeguard officers while on or off duty. But bad pay, lack of training and equipment, and absence of respect also contributes to massive pressure on police officers doing dangerous work: 260 police officers in South Africa reportedly committed suicide in 1997, more than the total of officers murdered that year.¹⁹

Where political violence is degenerating further into armed clashes, exacerbated by police killings, the number of police casualties can become even higher. In Nepal, for instance, police and other law enforcers have been drawn into a spiral of violence that has taken a heavy toll. During the five years of armed conflict between the Communist Party of Nepal (CPN Maoist) and the Nepalese government up to mid 2002, police were responsible for the majority of killings of over 1,000 "Maoists". Many of these were in suspicious circumstances²⁰. At the same time, government figures show that 873 police personnel, 97 members of the Armed Police Force (APF) and 219 army personnel had been killed since the start of the "people's war".²¹

4. Police shooting – was it an absolute last resort?

According to UN Basic Principle 9, *“intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life.”*

Law enforcement officers must only use firearms for the following purposes, and then *“only when less extreme means are insufficient to achieve these purposes:*

- *“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 [the police officer’s] authority, or to prevent his or her escape”*

Moreover, according to UN Basic Principle 10, *“law enforcement officials shall identify themselves as such and give a clear warning of their intent to use firearms, with sufficient time for the warning to be observed,”* unless the particular circumstances dictate otherwise.²²

Policing and soldiering are quite different professions. Provided that soldiers abide by the laws of war, in combat situations they can shoot to kill or injure enemy combatants. However, according to the UN rules, police and other law enforcement officials must protect the right to life, liberty and security of person - they can only use lethal force when there is a direct or imminent threat to life or of life-threatening injury. This could be in self-defence or to stop another person being killed. Whatever the case, shooting by a police officer to stop a life-threatening attacker should only be an absolute last resort and should never be arbitrary or excessive. This UN rule also applies to police and prison officers guarding detainees or prisoners in places of custody and prisons.²³ Moreover, in penal institutions, firearms should not normally be carried by officers unless absolutely necessary.²⁴

Police using firearms therefore need a very high level of training and supervision, in order to equip them with the tactical threat assessment and control skills necessary to legitimately exercise the use of force including lethal force. Unfortunately too many armed police do not receive such training and supervision.

In 2002, Jamaica had not only one of the highest murder rates in the world, but also had the greatest number of lethal shootings by police per capita worldwide. According to official statistics, an average of 140 people per year have been shot and killed by the

Jamaica Constabulary Force (JCF) and the Jamaica Defence Force (JDF) in the last ten years, in a country whose population is only 2.6 million.²⁵ The high level of gun crime in Jamaica means that law enforcement officers themselves are targeted with guns – 18 JCF officers were killed during 2002. But the Jamaican police use this fact to justify the huge numbers of people shot by the police. As a result there is little trust in the police in some communities, and the cycle of gun violence is perpetuated, with further officers attacked and more civilians killed.

In many cases of suspected extrajudicial executions in Jamaica, police statements are remarkably uniform, alleging that a police patrol came across men acting “suspiciously” who, when challenged, produced firearms and opened fire on the officers; and that the police then returned fire, killing one or more of the men while others escaped. The suspicions raised by the repetition of this account are compounded by the fact that almost every police shooting results in a fatality. Experience shows that many of those shot by the police or others would be expected to survive at least long enough to reach a hospital, but in almost every case of police shootings in Jamaica the person is declared dead upon arrival at medical facilities.

Amnesty International monitored media reports of police killings in Jamaica in 2001 and 2002.²⁶ The print media reported 68 people in 47 separate cases killed by the police. In 44 of these cases, the police reported that the person fatally shot had fired on the police first. But only in six cases were police officers hit by gunfire, and no police officer was killed. In 19 of the cases, the media reported witness statements that contradicted the police version of events. A retired British Army major asked to comment upon these findings said: “*These figures are extremely questionable. It would be expected that whichever party was fired upon first would sustain the greater casualties....the Jamaican police forces’ ability to inflict fatal shots upon moving targets when under fire themselves is remarkable.*”²⁷

For example, Richard Williams was fatally shot by police on 8 June 2001 in Spanish Town, Jamaica, after being beaten for over an hour in front of colleagues at the boatyard where he worked.²⁸ His mother arrived after hearing his screams and tried to intervene. She says that the beating continued as she held her son in her arms and she too was beaten and stamped on. Police then shot her son dead. Witnesses allege that after he was shot a gun was planted on him. Family members have since been intimidated and on 6 August 2001, two members of his family were arrested and detained in a

Kingston lock-up. One of them, Levan Linton, remains in custody. The investigation into the incident was undermined by attempts by police officers to intimidate and harass his family members. Nevertheless, by late 2003, four policemen had been charged with killing Richard Williams, and other police have been charged with assaulting his mother.



Richard Williams, fatally shot by police on 8 June 2001 in Spanish Town, Jamaica. © Private

Such incidents clearly demonstrate when police are not acting within the UN Basic Principles. They are acting criminally by their arbitrary use of force. This underscores the need to properly train armed police officers. Some governments have demonstrated that commitment by investing in firearms training schools. For example, the Metropolitan Police in the United Kingdom have recently built a £5 million firearms training school that will help improve officers' skills.

In 1991, a review of the JCF by British police officers concluded that, '*no...strategy exists in Jamaica...to ensure that the use of firearms is an action of last resort only and not an immediate response...The continuing level of deaths attributable to firearms operations involving the JCF are undoubtedly produced by their use of firearms as an action of first resort.*'²⁹

5. Shooting at peaceful assemblies

UN Basic Principle 13 states that in dispersing unlawful, but non violent, assemblies, law enforcement officials should avoid the use of force. If force needs to be used, for example, to secure the safety of others, they “*shall restrict such force to the minimum extent necessary.*”

According to Principle 14, “*in the dispersal of violent assemblies, law enforcement officials may use firearms only when less dangerous means are not practicable and only to the minimum extent necessary.*” And they may only use them according to the condition of Principle 9, ie only “*in self-defence or defence of others against the imminent threat of death or serious injury.*”

The clear implication of these UN standards is that law enforcement officers must not shoot into a crowd to disperse it, only at those posing a direct threat to life. According to the UN Basic Standards, if official force is to be exercised to the minimum extent necessary, police should be equipped with means other than firearms to disperse violent assemblies and in any case should not use force against a peaceful assembly just because it is unlawful. Where assemblies themselves threaten collective violence, tear gas can be used, but in confined spaces it cannot be used arbitrarily or indiscriminately. Police therefore need to be given a high level of training in riot control techniques, and issued with protective clothing and other legitimate “non-lethal” instruments to avoid the unnecessary use of firearms. They need the skill to know how to act with restraint, using persuasion and other non-violent means as far as possible. Firearms do not have to be deployed at all in a riot situation unless a threat is posed to life. In many circumstances they pose a greater risk to the officers themselves either through loss of the weapon or having it taken.

In November 2000 there were nationwide opposition demonstrations in Mozambique, some of them violent, in which at least 41 people died, including six police officers. In Chimoio, Manica Province, police hit protesters with rifle butts before the march had begun, and in the city of Nampula they reportedly fired without provocation and indiscriminately, shooting dead one person as the crowd dispersed.³⁰

The paramilitary *Polícia de Intervenção Rápida*, Rapid Intervention Police, have used excessive force against peaceful demonstrators.³¹ There is little opportunity for redress for the victims of police human rights violations, who usually have to seek the support of non-governmental organizations to raise their cases with the

authorities. However, in a recent case in September 2003, a criminal investigation was launched immediately after police shot dead a demonstrator in Maputo.³²

On 9 April 2002 thousands of students demonstrated at Alexandria University in Egypt, protesting against US-Middle East policy on the occasion of the visit to Cairo by US Secretary of State Colin Powell. During the demonstration, Muhammad Ali al-Sayid al-Saqqa, a 19-year-old university student, was killed and scores of others, including police officers, were injured. There were reports that Muhammad Ali al-Sayid al-Saqqa had been killed by a bullet fired by a member of the security forces.³³

Reports from the scene of the violence in Egypt indicate that the demonstration started peacefully but events escalated as demonstrators attempted to leave the confines of the university campus to join others outside to march towards the nearby US Cultural Centre. Students reportedly threw stones and bottles at members of the security forces who were aiming to prevent them from marching outside the university campus. A statement issued by the Egyptian Ministry of the Interior on 10 April 2002 made no suggestion that firearms were used by any of the protestors. In the same statement, however, it was noted that the security forces fired buckshot in an attempt to calm down the situation.³⁴

6. Training in the legitimate use of force

UN Basic Principle 19 requires that *“Governments and law enforcement agencies shall ensure that all law enforcement officials are provided with training and are tested in accordance with appropriate proficiency standards in the use of force. Those law enforcement officials who are required to carry firearms should be authorized to do so only upon completion of special training in their use.”*

Principle 20 stipulates that such training should emphasize *“issues of police ethics and human rights, especially in the investigative process”* and *“alternatives to the use of force and firearms, including the peaceful settlements of conflicts, the understanding of crowd behaviour, and ... methods of persuasion, negotiation and mediation.”*

As force should only be a minimal last resort in any law enforcement operations, police need also to be equipped with other skills to try and diffuse tensions peacefully. Clearly, to meet the UN standards, police officers don't just need firearms training in how to shoot straight and how to clean and maintain their weapons. Those

are relatively straightforward skills. They also need a high level of training in how to assess a situation and respond in the most proportionate way to stop or prevent a direct threat to life. For example this could be by containment and negotiation. However, in some circumstances this may equally involve the taking of an attacker's life.

Such training needs to apply tactical threat assessment to real life operational training scenarios and exercises. It needs to be conceptual and operational, with testing and certification based strictly on the UN standards. To achieve the level of skill required, candidates should be carefully selected and given beginner training as well as regular in-service training in the use of force and firearms. This can only be achieved with substantial government investment of resources as well as strict regulations.

A UN transitional administration was set up in the Democratic Republic of Timor-Leste (formerly East Timor) in October 1999, to help reconstruction after decades of massive human rights violations, and widespread destruction in 1999 by the Indonesian security forces and pro-Indonesian militias. The rapid development of a professional police service was a major goal. The police force of about 3,000 began to be set up in April 2001, mostly armed with modern Glock 9mm pistols, but not all.³⁵



Timor-Leste Police Service Training on how to use pistols. Police Academy, Dili, October 2002 © AI

However, human rights violations against civilians by the new, armed police reflect a lack of proper UN-supervised training. In December 2002, for example, two people were shot dead and at least 13 others were injured in the capital, Dili, during rioting lasting eight hours. The findings of an investigation by the UN Police were made public in November 2003. According to the report the police were unable to identify individuals responsible for the killings or provide detailed clarity concerning the circumstances of the shooting.³⁶ During 2003, complaints against the police of assaults and misuse of firearms were frequent. Timor-Leste is now independent, but executive responsibility for policing still lies with the UN. Despite the UN presence, the inadequacy of police training and the lack of proper oversight and accountability mechanisms for the National Police of Timor-Leste (PNTL) have meant that such complaints are often dealt with inconsistently or in some cases not at all.³⁷

Training of new cadets is limited to four months in the Police Academy (increased from three months in September 2003, and is expected to become six months in 2004), and although training in the use of force and firearms forms a significant part of the training, it appeared from direct observation of firearms training that while officers were taught technical skills, i.e. target practice and weapon maintenance, they were not equipped with tactical skills that would enable them to assess threats or exercise restraint consistent with the UN standards.³⁸

The UN Basic Principles also require that “*whenever the lawful use of force and firearms is unavoidable, law enforcement officials shall...ensure that assistance and medical aid are rendered to any injured or affected persons at the earliest possible moment.*”³⁹ In many places, however, such medical assistance may be difficult to find. In Timor-Leste, the (draft) operational procedures state that if a firearm is discharged, officers “*should immediately summon medical assistance for any injured person.*” However, in a country with little or no medical resources this is problematic, and so police officers should be trained in first aid and be issued with wound dressings. Police recruits in Timor-Leste currently receive 12 hours of first aid training.

Nevertheless, under UN supervision, police officers were issued with pepper sprays, batons and Austrian Glock pistols – and there are plans to issue a selected number of Rapid Deployment Service officers with semi-automatic weapons. It is clear that considerable further international support is needed to help build an effective

police service capable of upholding human rights in Timor-Leste. Despite significant progress, the PNTL remains a fragile and underdeveloped institution which is not yet adequately trained, equipped, or sufficiently well-supported, to maintain law and order in a manner consistent with international human rights standards.⁴⁰

Proper firearms training according to the UN standards should be provided to all officers who carry out law enforcement, including personnel of private security companies if they are licensed and authorized to carry firearms. In South Africa, a study in 2002 showed that nearly 100,000 security officers had not been trained for the level of work they undertook; in 1999, three quarters of all security officers had only the lowest-grade qualifications, which enabled officers to be armed and deployed after only five hours of firearms training.⁴¹

7. Policing around war zones

According to the UN Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions, *“Governments shall prohibit by law all extra-legal, arbitrary and summary executions... Exceptional circumstances including a state of war or threat of war, internal political instability or any other public emergency may not be invoked as a justification of such executions.”*

Common Article 3 of the Geneva Conventions prohibits wilful killing, mutilation, torture and other crimes by any party under any circumstances during non-international armed conflict.

Violations of the rights to life and freedom from torture frequently occur when police and other security forces operate in contexts characterised by clashes with armed opposition groups, even though such rights should never be withdrawn under any circumstances.

The conflict between the Communist Party of Nepal (CPN Maoist) and the Nepalese government began in 1996. By the end of October 2002, the conflict had taken a total of more than 7,000 lives. The vast majority of the victims were civilians targeted for their real or perceived support to the CPN Maoist.⁴² Between September and December 2003 alone, following the breakdown of the January 2003 ceasefire, more than 1500 people were killed by both sides, including a substantial number of non-combatants.

The Nepalese police killed a total of 1060 people said to be Maoists between February 1996 and July 2001, according to available official figures in 2002. The government stated that all of them were members of the CPN Maoist and that they had been killed during “encounters” with the police. At least a further 130 people “disappeared” in police custody and many others were tortured.⁴³

In 2002 a senior superintendent of police admitted to Amnesty International that the security forces deliberately kill those they describe as Maoists. He explained that the terrain and lack of detention facilities make it difficult to take wounded Maoists to hospital or captured Maoists to prison.⁴⁴

Human rights abuses by the Maoists have included deliberate killings of an estimated 800 civilians considered “enemies of the revolution”, hostage-taking for ransom, torturing of people taken captive and deliberate killings of members of the security forces after they were taken captive.



Armed policeman in Nepal, 2001. © Panos Pictures/Dermot Tatlow

8. Guns and children

According to the principles of the UN Code of Conduct for Law Enforcement Officials, “*The use of firearms is considered an extreme measure. Every effort should be made to exclude the use of firearms, especially against children.*”⁴⁵

The Convention on the Rights of the Child, ratified by all states except the USA and Somalia, also requires governments to provide a wide range of

protection for all persons under the age of eighteen including during armed conflict.

Police officers are called upon in the UN rules to refrain from the use of firearms against children, who are defined as all persons under the age of eighteen. One of the most shocking violations of this principle is in Honduras where more than 1,500 children and youths were murdered between 1998 and 2002, according to local non-governmental organizations. The perpetrators are in most cases unidentified, although testimonies from survivors and witnesses indicate that they could be police officers or civilians acting with the implicit consent of the authorities, under circumstances suggesting a "social cleansing" campaign.⁴⁶

Since coming to power in January 2002, President Ricardo Maduro has promoted a series of measures to investigate these cases. However, numerous promises and government initiatives to tackle the problem have remained unfulfilled and there has been no decline in the number of deaths. On the contrary, according to data gathered by Honduran NGOs, the number of murders reported has more than doubled over the last two years. News media view the murders and executions as the solution to the growing problem of street crime and violence.⁴⁷

The vast majority of victims belong to the most marginalized sectors of society. The number of female victims appears to have increased over the last two years and rapes of girls and young women by law enforcement officers have been reported. During October 2003, a total of 25 children and youths under the age of 23 were murdered – all with firearms. This is a horrendous figure, but nevertheless constitutes a significant drop from the average of 50-70 murders per month over the previous year. This was the second month of significantly lower child murder rates.⁴⁸

None of the 30 cases presented to the Special Commission to Investigate Child Murders set up by the Maduro government in 2002 has resulted in a conviction. In 11 of these 30 cases the Criminal Investigation Directorate (known by its Spanish acronym DGIC) has finished its investigation: a total of nine policemen were investigated, as well as one police investigator who is a member of the DGIC; one Member of the National Congress; and one member of a "Committee of Public Security", a volunteer neighbourhood security group encouraged by the Ministry of Public Security.⁴⁹



Armed police officers walk near children in this urban neighbourhood of Santo Domingo, Dominican Republic. As in other urban neighbourhoods worldwide, many armed police work in close proximity to children. © AP

9. Gun violence against women

Under the terms of the UN Declaration on the Elimination of Violence against Women⁵⁰, “States should pursue by all appropriate means and without delay a policy of eliminating violence against women,” whether physical, sexual, or psychological in nature, and whether occurring in public or private life (arts. 1, 4). They must “Exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons” (art. 4(c)).

In particular, states are to: “Take measures to ensure that law enforcement officers and public officials responsible for implementing policies to prevent, investigate and punish violence against women receive training to sensitize them to the needs of women” (art. 4(i)).

The *UN Declaration on the Elimination of Violence against Women* sets out standards for all governments and law enforcement authorities to combat violence against women, particularly sexual violence. However, a great deal of ignorance and ignoring of these standards still exists around the world and gun violence against women is often fuelled by a culture of general violence against women.

In Lesotho, the police often fail to investigate or deal sensitively with reports of rape and domestic violence. Victims of such crimes are obliged to make detailed statements at public desks in police stations and are often subjected to humiliating questions.⁵¹ Such failures in the countries of southern and eastern Africa led the Southern African Regional Police Chiefs Coordinating Organization to produce in July 2003 a policy manual for the policing of violence against women.⁵²

In South Africa, more women have been shot at home in domestic violence situations than out on the streets or at the hands of intruders. Male police officers have been responsible for a higher rate of domestic abuse than ordinary civilians: a pilot research study conducted in Johannesburg in the mid-1990s found one in five perpetrators of domestic killing of women relatives or partners to be police.⁵³

In some countries, law enforcement officers have failed to act when confronted with a persistent pattern of sexual violence. In the last ten years in the Mexican city of Ciudad Juárez, more than 370 women have been killed, some with firearms, of whom at least 137 were raped prior to death. Another 70 young women are still missing, according to the authorities, although NGOs say it is over 400. The women are usually workers from the *maquiladoras* (assembly plants) set up by the multinational companies that control the economy of Ciudad Juárez, as well as waitresses, workers in the informal economy or students. Many of them live in poverty, with no option but to travel alone on long bus journeys to their places of work or study. A similar pattern of murders has now begun to emerge in the state capital, Chihuahua.

Local police have failed to respond to emergency calls reporting that women are being beaten or raped, and despite the fact that these crimes have now been continuing for a decade, have failed to establish effective emergency response systems. There have been unjustifiable delays in initial investigations, the period when there is a greater chance of finding the woman alive and identifying those responsible, and a failure to follow up evidence and witness statements which could be crucial. In other cases, the forensic examinations carried out have been inadequate, with contradictory and incorrect information being given to families about the identity of bodies, thereby causing further distress to them and disrupting their grieving process. In one case there are allegations that a federal police officer was involved in abductions, yet this evidence was not fully investigated.⁵⁴

It is essential that police training challenges common discriminatory beliefs and attitudes which make women particularly vulnerable to armed violence.



Norma Andrade, mother of Lilia Alejandra whose body was found in February 2001 in Ciudad Juárez. Next to her is Lilia's daughter. © AI

10. Targeting ethnic and racial minorities

States parties to the International Convention on the Elimination of All Forms of Racial Discrimination “undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law,” including in the enjoyment of “the right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution” (art. 5, 5(b)).

The UN Guidelines for Command and Supervisory Officials in police training emphasize, amongst other things, the duty of police commanders (a) to issue clear orders on the special vulnerability and protective needs of refugees and non-nationals; (b) to develop cooperative schemes with community representatives to combat racist and xenophobic violence and intimidation; (c) to organize foot patrols for areas of high refugee concentration, and consider establishing police sub-stations in such areas;

and (d) to establish special units with the legal, linguistic, and social skills needed for work that focuses on the protection of immigrants, rather than the enforcement of immigration laws.⁵⁵

All states must act with due diligence to prevent racist or ethnic violence. Although the UN standards above do not explicitly address the issue of firearms, they have profound implications for the manner in which police may apply such force. If agents of the state such as armed police officers appear to persistently target racial or ethnic minorities this requires immediate investigation and far reaching remedial action by government and police authorities. Yet in some countries the authorities have been slow to act against police targeting of ethnic or racial minorities.

In Greece, for example, members of ethnic minorities and immigrants are particularly at risk of abuse, although members of the majority Greek population are not spared. Xenophobia and racial profiling have played a part in the abuses suffered by minority groups in Greece. These include Roma and foreign nationals, who are often undocumented immigrants from Albania, as well as immigrants and asylum-seekers from the Middle East, Asia and Africa. The marginalized and insecure status of many members of these groups, as well as financial constraints and language obstacles, ensure that few file formal complaints.⁵⁶ In Zefyri, Attica in October 2001, a young Romani man was shot dead through the back of his head when he failed to stop his car for a police patrol. The police officer who killed him was charged with "reckless homicide"; however, he was released on bail after five days in custody and returned to service, provoking riots in the Romani community.⁵⁷

11. Storage and issuance of firearms

UN Basic Principle 11 calls on governments to *"Regulate the control, storage and issuing of firearms, including procedures for ensuring that law enforcement officials are accountable for the firearms and ammunition issued to them."*

In some countries the storage and distribution of police firearms and ammunition is so poor that it encourages police to rent them out to criminals in exchange for some of the proceeds of gun crime, or even to commit gun crime themselves. Countries particularly at

risk are those where police stations and officers fail to store weapons safely, keep inadequate records of ammunition and guns issued to each officer and have lax monitoring and investigation procedures for the use of police firearms and ammunition.

A basic question is whether or not police are issued firearms as regular equipment. Norway and the UK are amongst the few countries in the world which have a largely unarmed police force but which rely on the rapid deployment of specialist firearms officers. For such specially-trained officers, firearms are stored in armouries at police stations or in patrol cars and may be used in self-defence or in situations of imminent threat to life, usually with the permission of a police commissioner.⁵⁸

In 2003, an audit of firearms control laws in twelve of the countries belonging to the Southern African Development Community (SADC)⁵⁹ found that only Mauritius and South Africa had legislation providing for the control and management of state firearm stockpiles, despite the widespread concern over leakages from such stockpiles.⁶⁰

Lax storage facilities available for police firearms fuels armed crime in many countries. For example, many policemen in Cambodia used to take their weapons home at night and they would be used off duty in domestic and neighbourhood disputes. Now, however, an ambitious project of management and storage of weapons is underway. After a successful project to store army weapons, the European Union has funded a programme for police weapons in Phnom Penh, Kandal and Kampong Speu provinces.⁶¹ The EU coordinating body claims that this project has:

- registered all weapons belonging to the National Police in a centralized computer database.
- built one safe storage depot in each province for police weapons not in daily use. Each building is capable of storing 1,260 weapons.
- constructed a larger storage depot for national reserve weapons in Phnom Penh. This has a storage capacity of over 7,000 weapons.
- equipped each police post with a rack to lock up the duty weapons. A total of 477 racks were produced for the three provinces. This represents a storage capacity of 5,670 weapons.

- installed additional racks in the Ministry of Interior in Phnom Penh for an extra capacity of 800 weapons.
- provided training courses in logistics, weapons management and computer skills were held for relevant police officials

All law enforcement institutions need to keep accurate records of issues and returns of weapons and ammunition. They should also have strict regulations that make breaches of record-keeping a matter for discipline, and that require officers to report all discharges from their weapons - legitimate, negligent or otherwise – for investigation by an appropriate authority.

12. Legitimate police weapons

UN Basic Principle 2 calls upon governments and law enforcement agencies to *“develop a range of means as broad as possible...that would allow for a differentiated use of force and firearms.”*

Principle 11 requires governments to *“prohibit the use of those firearms and ammunition that cause unwarranted injury or present an unwarranted risk.”*

Police generally use lower velocity weapons than military forces do because the tactical environment is completely different from the military one. Police operations occur at much closer range than military engagements because of the need to identify whether a threat to life is being made or not and to ensure the safety of the public. High velocity ammunition travels much further and with far greater energy than a 9mm hand gun round, so in an urban setting it poses a much greater risk to the public particularly if the projectile misses the target person. In addition, with full metal jacket ammunition, high velocity rounds have the potential to pass through the target person's body and continue on into another person with sufficient energy to kill or cause serious injury, whereas the 9mm round is more likely to stay in the body, making it safer for bystanders around an incident.

So in many countries, police operating under normal patrol circumstances do not carry high velocity automatic assault rifles. Instead, police are issued with a revolver or, increasingly, a 9mm pistol or semi-automatic carbine more suited to the peacetime threats posed by the criminal use of firearms, provided they are trained and supervised for using such weapons.

However, the issuance of firearms needs to be kept constantly under review in line with the changing tactical threat assessment. In the UK, for example, changes in the threat assessment caused in part by the use of high velocity weapons and body armour by armed criminals is increasingly driving the UK authorities to arm specialist police units with high velocity weapons in 5.6mm/.223 calibre.

The choice of police weapons should be dependent on an objective and thorough threat assessment process carried out by the police and government authorities. The critical question is what types of equipment are needed in each situation to stop a direct threat to life while protecting the lives of officers and members of the public. Increasingly the trend is to deploy “less than lethal” alternatives to

live rounds to permit further differentiation of the use of force and lethal force, although safety concerns persist regarding the use of electrical weapons and chemical irritants.

A differentiated range of police equipment with which to apply appropriate minimal force in varying circumstances, as required by the UN Basic Principles, is chronically lacking in most developing countries. Police in poorer, developing countries usually have to choose between using, or threatening to use, their own bodily strength, handcuffs, a baton or stick, tear gas canisters, or a firearm.

However, new “less than lethal” technologies introduced to policing are sometimes alleged to be inherently abusive and even lethal. Pepper spray, for example, has been implicated in deaths of people in custody in the US.⁶² New security technologies can also be easily misused. In March 2003 a metal and plastic projectile fired by a police officer from a “less lethal launcher” permanently injured a woman in Geneva, Switzerland, leaving fragments in her face which cannot be removed for fear of paralysis. This allegedly occurred before any other means of control had been attempted.⁶³ The manufacturer warned that this particular weapon should not be aimed “towards face, throat or neck”.⁶⁴

New baton rounds (L21A1 plastic bullets) introduced into the armouries of British police forces travel faster and hit harder than the ones they replaced. This is deemed necessary as they are now being used in different tactical environments. The old ones, which were used for crowd control in Northern Ireland, had variable quantities of propellant and could thus cause variable damage. The new ones, being more accurate, are now available for use in tactical situations all over the UK to stop armed threats, and have been used in a number of police firearms operations where police claim live rounds would have previously been used, thus preventing the loss of life.⁶⁵

Taser guns, adopted by some police forces, shoot out two darts on wires that trail back to the gun, through which an incapacitating 50,000 volt electric shock is delivered. As of 2002, taser guns had been marketed to police forces in at least eighteen countries around the world, and during 2003 were on trial in another four countries.⁶⁶ There have been a number of deaths in North America of people shot by tasers. Amnesty International is calling for tasers to be rigorously and independently investigated to ascertain their compatibility with human rights standards before being authorised for use by police forces.⁶⁷

13. Reform of armed policing

The UN Special Rapporteur on Small Arms and Human Rights has recommended that *“all States should incorporate into their own laws the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials”*

Moreover, all states should *“address the root causes of violence in their communities, provide training on the basic norms regarding the use of small arms to State agents who carry them, and work with community groups on other practical interventions.”*⁶⁸

Reform of police use of firearms is a complex set of tasks and requires sustained political will and investment of resources. The rising number of documented cases of fatal shootings by the police led the Brazilian government to implement a series of policy measures in the mid-1990s. The Sao Paulo administration transferred police officers involved in fatal shootings to different districts, and provided psychological assistance and professional re-training, including in human rights standards, for a six-month period. Police fatal shootings fell from 60 in September 1995 to 13 in October 1995 and remained at a monthly average of 9.9 in the first three months of 1996.⁶⁹ Whilst these figures were high by international standards, the level of fatal shootings had dropped significantly from the monthly average of 111 during 1992. However, the reform was not systematic enough. Multiple killings and massacres in the periphery of the city of Sao Paulo had increased by July 1996 and raised concerns that in addition to drugs-related violence these may have included vigilante-style killings with some police involvement.⁷⁰ In addition, the Brazilian government’s report to the UN in 1996 admitted a “lack of information on a nationwide basis for fatal shootings by police”.

There were also attempts in Rio de Janeiro to reform policing policies and practices, particularly in 1998-2000 during an effort to tackle internal corruption. Nevertheless, these attempts were not fully based on international standards. Confrontational and repressive policing - which often enjoy support from large sections of the voting public who believe these are the only way to combat armed crime - continued to dominate while arms proliferation and crime continued to be at extremely high levels⁷¹.

As a consequence of the continued reliance on confrontational and repressive methods of policing, in both Rio and Sao Paulo there has been a dramatic increase in fatalities during police operations. In

the first five months of 2003, 521 civilians were reported killed in confrontations with the police in Greater Rio, compared to 900 in the whole of Rio state throughout 2002. In Sao Paulo there was a 51% rise to 435 official recorded killings of civilians by police in the first five months of 2003, compared to the same period in 2002.⁷² Although the new Brazilian government passed a law in late 2003 to restrict private gun ownership, transfer and use, gun violence is unlikely to be significantly reduced without more deep-rooted reform of policing.

14. Laws and Regulations

UN Basic Principle 11 requires that “*Rules and regulations on the use of firearms by law enforcement officials should include guidelines that...specify the circumstances under which law enforcement officials are authorized to carry firearms and prescribe the types of firearms and ammunition permitted...*” as well as a range of other provisions as indicated in this report.

The first step is to ensure that a legal framework based on the UN standards is in place and then to see that this framework is actually implemented. Binding treaties such as the International Convention on Civil and Political Rights (ICCPR) provide a legal basis for incorporating the UN standards on law enforcement into domestic police and criminal laws and regulations.⁷³ Laws which may require review and reform in any country include the constitution, as well as specific laws on the police and other law enforcement services, laws on firearms and illegal weapons, and laws on criminal procedures and the administration of justice.

The majority of Southern African countries allow the use of lethal force for the sole purpose of effecting an arrest, including where no life is under threat. For example, killings committed while effecting a lawful arrest or preventing the escape of a lawfully detained person are considered exceptions to the right to life guaranteed in the constitutions of Botswana, Lesotho, Zambia and Zimbabwe.⁷⁴

Under apartheid-era legislation, police in South Africa were allowed to shoot suspected thieves, drug dealers, fleeing suspects, and others posing no direct threat to the police or the public.⁷⁵ Even though this involved a clear violation of international human rights standards, including the *UN Basic Principles*, the South African government has been slow to amend this legislation. The central provision at issue is Section 49 of the Criminal Procedure Act of

1977. In November 1998, the South African Parliament adopted a revised draft Section 49 to make it compatible with the country's new Constitution. It was subsequently assented to by then President Nelson Mandela and, on 11 December 1998, published.⁷⁶ Yet the new law was not promulgated and put into operation by the government.⁷⁷

Thus, in May 2002, the Constitutional Court ruled that Section 49(2) of the 1977 Criminal Procedure Act, which permitted the unrestricted use of 'deadly' force by police or any other person against a fleeing suspect, violated the right to life.⁷⁸ In response to the Court ruling, the South African Police Service leadership, with backing from the Minister of Safety and Security and the Vice President, delayed implementation of the legal change until the government had provided sufficient resources for a comprehensive police firearms retraining programme consistent with the directions of the Constitutional Court ruling.⁷⁹ In order to lay the ground for the new law, in May 2002 the Police Service leadership issued a new interim order to all police officers using firearms, thereby replacing the 1997 *Special Service Order*. The new police order stipulated that "*force which could cause death or grievous bodily harm to the person being arrested*", including the use of firearms, may only be used if the member believes on reasonable grounds that it is necessary to protect him or her self or any other person from "*imminent or future death or grievous bodily harm*". Eventually, in July 2003 the South African government put the legal amendment into effect.⁸⁰ The new regulations are a considerable improvement on the 1977 apartheid-era law.

In Romania, since the mid-1990s, dozens of people were killed and many more injured in incidents in which police officers shot at suspects avoiding arrest who were not posing a threat to life. Domestic legislation allowed officers to shoot "*to apprehend a suspect who is caught in the act and attempts to escape without obeying an order to stay at the scene of the crime,*" in breach of international human rights standards. In September 2000, the Ministry of the Interior issued new instructions on the use of force and firearms which restricted the above provision to cases of "crime, considered as serious". It remained unclear who would assess whether a crime was serious and on what basis. The conduct of officers who shot at suspects of petty crimes continued to be considered as legal use of firearms. A new law on the organization and functioning of the police which came into force in May 2002 failed to revise these provisions.

15. Reporting and investigation

UN Basic Principle 11 also requires that “*Rules and regulations...provide for a system of reporting whenever law enforcement officials use firearms in the performance of their duty.*”

Basic Principle 22 requires governments and law enforcement agencies to “*establish effective reporting and review procedures for all incidents*” in which injury or death is caused by police, or where they use firearms in the performance of their duty. Government and police authorities should also “*ensure that an effective review process is available and that independent administrative or prosecutorial authorities are in a position to exercise jurisdiction in appropriate circumstances.*”

Too often, these regulations are absent or neglected and persons affected by police use of firearms are denied access to an independent process. In 1994, the US Congress authorized the Justice Department to conduct investigations of city police departments alleged to have committed systematic civil rights violations. An investigation of Cincinnati police followed protests and rioting that were sparked by the shooting of an unarmed African-American man, Timothy Thomas, in April 2001. The agreement required the police department to institute improvements in a wide range of areas, including complaint procedures, training, use-of-force policies, and supervision.⁸¹

In March 2001, Jamaican police shot dead seven young men and boys aged 15 to 20 in Braeton, near Kingston.⁸² The police claimed to have been fired upon by the seven, who were then killed when officers returned fire. But local residents said they heard the young men begging for their lives before being shot one at a time. The police had failed to preserve evidence at the scene of the shooting, allowed forensic evidence to be contaminated, moved the bodies before their positions had been independently examined, and deliberately removed spent shells from the scene, preventing identification of the position from which weapons were fired.

A police firearms tactician commissioned by Amnesty International thought it “inconceivable” that two of the men had received their wounds in the manner described by the police, and concluded that shots appeared to have been “deliberately aimed” at the heads of five of the men. He recommended that “*a forensic examination is undertaken to the floor of the premises to establish if there is a gunshot pattern in the floor that corresponds to these gunshot wounds*” and that

“ the firearms training records of Constable Edwards are examined to establish his proficiency with a handgun and that this be compared with the actions claimed during this incident” - neither of which had been undertaken by the Jamaican police.⁸³ The firearms expert examined the floor himself and found 9mm holes that corresponded to the holes in Andre Virgo’s head, indicating that he had been held down and then shot. In November 2003, it was announced that six of the lower ranking police officers involved in the incident are to be charged in connection with the killings, out of the approximately ten officers who surrounded the house in which the killings took place.⁸⁴

All discharges of weapons by police officers should be rigorously investigated and subject to disciplinary procedures.

16. Accepting responsibility

UN Member States “should take into account and respect the Basic Principles within the framework of their national legislation and practice” and “are invited to report progress achieved in their implementation to the UN Secretary General every five years.”⁸⁵

Reports by governments to the UN Secretary General on their progress in implementing the UN Basic Principles have been non-existent or patchy. Nevertheless, some detailed reports mentioning the UN Basic Principles with recommendations for improvements have been made by the UN Human Rights Committee (HRC) and the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, for example on France, Honduras, Nepal, Portugal, Turkey and the USA.⁸⁶

For example, commenting on France’s report in 1997, the HRC stated that it was “*seriously concerned at the number and serious nature of the allegations it has received of ill-treatment by law enforcement officials of detainees and other persons who come into conflictual contact with them, including unnecessary use of firearms resulting in a number of deaths, the risk of such ill-treatment being much greater in the case of foreigners and immigrants.*” It was concerned that in most cases there was “*little, if any, investigation of complaints of such ill-treatment by the internal administration of the police and the gendarmerie nationale, resulting in virtual impunity.*” The Committee was concerned that “*no independent mechanism exists to receive individual complaints from detainees.*”⁸⁷

Responsibility for changing police action must also be accepted by governments. In April–June 2003, following an intense campaign by human rights groups including Amnesty International, as well as diplomatic interventions from several governments, the Jamaican government committed itself to a series of measures designed to prevent and punish unlawful police killings. These include measures to:

- improve autopsies on civilians killed by police;
- reduce the backlog in Coroner's Court inquiries into police killings;
- explicitly and publicly state that unlawful killings by police officers will not be tolerated

It also:

- publicly requested that the Director of Public Prosecutions make a decision on whether to prosecute members of the Crime Management Unit implicated in the unlawful killing of the Braeton Seven;
- sought and received expert assistance from the governments of the UK, USA and Canada with the investigation of the killing of four persons in Crawley by officers from the Crime Management Unit on 7 May 2003; and
- disbanded the Crime Management Unit which has been implicated in numerous abuses of human rights.⁸⁸

Under pressure from civil society and the business community concerned about rising levels of violent crime, the Malawi government, with British and Norwegian aid, expanded its reform of the police and criminal justice sector in 1999. With civil society and NGO cooperation it has engaged community representatives in hundreds of new Community Policing Forums across the country. Awareness of basic human rights standards for policing and the dangers of the proliferation of firearms are spread using posters, radio, TV and other media, including a video film entitled “Protecting our lives” .⁸⁹

Although it is too early to tell how effective this has been in reducing violent crime and countering the illegal possession of firearms, there have been indicators of increased reporting of illegal firearms by the community to the police. Increased public awareness of policing issues has helped police gather more information and build public support for policing by consent. Nevertheless, reform of the Firearms Act regarding the use of force and firearms is still inadequate, and there is a lack of transparency regarding both investigations of police misuse of firearms, and police issuance of firearms licences to civilians.⁹⁰

Many development agencies are yet to be persuaded of the need to single out the issue of controlling small arms as a crucial issue of concern and project involvement, and do not see institutional reform of policing and guns as a development issue.⁹¹ In Cambodia, the EU has provided a series of fourteen training courses for policemen in rural areas with the aim of improving their relations with the local villagers⁹². When the villagers trust the police, then they will hand in their illegal weapons; but they will only trust the police when neither the police, nor the police weapons are seen as a

threat to the villagers. This again shows the importance of weapons management and weapons security.



A police officer, Malawi. From a video on community safety and firearms control. © Malawi Pictures and the Malawi Community Safety and Firearms Control Project

UN Basic Principle 24 states: “Governments and law enforcement agencies shall ensure that superior officers are held responsible if they know, or should have known, that law enforcement officials under their command are resorting, or have resorted, to the unlawful use of force and firearms, and they did not take all measures in their power to prevent, suppress or report such use.”¹⁹³

Command responsibility does not absolve individual police officers of their own responsibility for the unlawful use of force and firearms. UN Basic Principle 26 stipulates that “*obedience to superior orders shall be no defence*” to such conduct. Principle 25 specifies that governments and law enforcement agencies shall not punish police officers who refuse to carry out an order to use force or firearms that is in conflict with UN policing standards, or who report such use by other officers.

Provisions need to be included in force standing orders, and these need to be available to and understood by all officers.

17. Recommendations

The challenge to all governments to help control the misuse of arms is urgent. To achieve this, they must invest more resources in professional policing based on the agreed international standards. Only then can governments provide protection to women, men, and children through legitimate security forces that respect human rights, and gain the widespread support from civil society that is needed to curb the flow and use of illicit arms.

Genuine engagement with the community is imperative in all efforts to improve policing by consent. Initiatives at the community level must be driven by local people, to ensure relevance, ownership, participation, shared responsibility, and understanding. On this basis:

1. All governments and police authorities should promote, publicize, incorporate in law and practice UN standards for law enforcement officials including the UN Code of Conduct for Law Enforcement Officers and the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials;
2. States should explicitly include the promotion and adherence to these UN standards in the UN Programme of Action to Prevent, Combat and Eradicate the Illicit Manufacture and Trade in Small Arms and Light Weapons when it is discussed in 2005 and reviewed in 2006;
3. Bilateral and institutional donors, including agencies of the United Nations, should require local authorities to adhere to these UN standards in all international assistance projects that they fund, particularly where such projects involve community safety;
4. States should support the recommendations of the UN Special Rapporteur on Small Arms to strengthen the implementation of UN standards on the use of firearms;
5. All states should assess recipient states' adherence to UN standards when considering whether to export or supply arms to forces or agencies involved in law enforcement, and should not supply firearms, ammunition or other weapons that present an unwarranted risk of injury or abuse;

6. Civil society organizations and individuals should join the global “Control Arms” campaign and help promote strict adherence to these UN principles by governments and law enforcement organizations.

Notes

¹ The Geneva-based Small Arms Survey, in its 2004 Yearbook, will publish a more in-depth study of this subject. The United Nations Special Rapporteur on Small Arms and Human Rights also intends during 2004 to elaborate proposals to improve implementation of international law enforcement standards for the use of firearms.

² Amnesty International and Oxfam International, *Shattered Lives: the case for tough international arms control*, London and Oxford, October 2003

³ Department for International Development (DFID), *Tackling Poverty by Reducing Armed Violence Recommendations from a Wilton Park Workshop, 14-16 April 2003*, United Kingdom, Crown Copyright, June 2003 (ISBN 186192 566 2)

⁴ Amnesty International, *Take a Step to Stamp Out Torture*, October 2000 (AI Index: ACT 40/013/2000)

⁵ United Nations General Assembly, *Code of Conduct for Law Enforcement Officials*, adopted by Resolution 34/169 of 17 December 1979

⁶ United Nations Economic and Social Council, *Basic Principles on the Use of Force and Firearms by Law Enforcement Officials*, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August – 7 September 1990.

⁷ United Nations Economic and Social Council, *Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions*, recommended in Resolution 1989/65 of 24 May 1989.

⁸ The text agreed by governments in the UN Basic Principles states that they “should be taken into account and respected by Governments within the framework of their national legislation and practice”, *op cit*

⁹ Amnesty International, *Policing to protect human right: A survey of police practice in countries of the Southern African Development Community, 1997-2002*, July 2002 (AI Index: AFR 03/004/2002)

¹⁰ *Data on Brazilian and foreign-produced small arms seized by police and stockpiled at the Division of Control of Firearms and Explosives (DFAE) between 1950 and 2001 – Viva Rio/ISER in partnership with the Government of the State of Rio de Janeiro, Secretariat of Public Security, Civil Police, Division of Control of Firearms and Explosives (DFAE), July 2003*

¹¹ Núcleo de Pesquisa e Análise Criminal, State Secretariat for Public Security. Study available on-line at www.novapolicia.rj.gov.br

¹² A statement from a resident of a *favela* in Rio de Janeiro in Luke Dowdney, *Children of the Drug Trade: A Case Study of Children in Organized Armed Violence in Rio de Janeiro*, Viva Rio/ISER, 2003, pg. 83 (http://www.coav.org.br/publique/media/livroluke_eng.pdf)

¹³ Amnesty International research

¹⁴ Amnesty International, *Brazil: Rio de Janeiro 2003: Candelária and Vigário Geral 10 years on*, August 2003, (AI Index: AMR 19/015/2003)

¹⁵ *Folha de Sao Paulo*, 3 July 2002

¹⁶ From official statistics published quarterly by the Secretary of Public Safety, state of Sao Paulo

¹⁷ Anthony Minnaar, "An analysis of attacks on and murder of members of the South African Police Service: Searching for preventative and protective strategies", Paper presented to the Tenth International Symposium on Victimology, Montreal, Canada, 6-11 August 2000, pp. 4-7

¹⁸ NEDCOR and the Institute of Security Studies, *Crime index*, Vol 2, 1998, Pretoria

¹⁹ *The Sowetan*, 2 March 1998

²⁰ For example, on 22 February 2000, 15 civilians were killed by police apparently in reprisal for the killing of 15 policemen during an attack by members of the CPN (Maoist) on a police station at Ghartigaun, Rolpa district three days before. Amnesty International, *Nepal: A spiralling human rights crisis*, April 2002, (AI Index: ASA 31/016/2002)

²¹ Government of Nepal, statistics released in October 2002. Roughly another 1500 people have been killed in the conflict between September and December 2003 by both sides, including civilian and security forces casualties, but a breakdown showing police casualties is not yet available.

²² ie "unless to do so would unduly place the law enforcement officials at risk or would create a risk of death or serious harm to other persons, or would be clearly inappropriate or pointless in the circumstances of the incident."

²³ UN Basic Principle 16 prohibits the use of firearms against detainees "except in self-defence or in the defence of others against the immediate threat of death or serious injury", or when "strictly necessary to prevent the escape of a person in custody or detention presenting [a grave threat to life]."

²⁴ Rule 54(3) of the UN *Standard Minimum Rules for the Treatment of Prisoners* specifies that: "Except in special circumstances, staff performing duties which bring them into direct contact with prisoners should not be armed. Furthermore, staff should in no circumstances be provided with arms unless they have been trained in their use."

²⁵ Amnesty International, *Jamaica: Jamaicans for Justice (JFJ)* January 2002 (AI Index: AMR 38/005/2002)

²⁶ This was not an exhaustive study, and was based on statements made by the police and reported in the media during 2001 and 2002. However, it does

provide strong evidence of the pattern of police accounts in many fatal shootings.

²⁷ Amnesty International, *Jamaica: The killing of the Braeton Seven – A justice system on trial*, March 2003 (AI Index: AMR 38/005/2003)

²⁸ Amnesty International, *Richard Williams, Beaten in his mother's arms: Appeal* October 2001

²⁹ Amnesty International, *Jamaica: Killings and Violence by Police: How many more victims?* April 2001 (AI Index: AMR 38/007/2001)

³⁰ Information compiled by Amnesty International from published reports and confidential sources

³¹ *Ibid*

³² *Ibid*

³³ *Amnesty International Annual Report 2003*, p95 (AI Index: POL 10/003/2003); and Letter from Amnesty International to the Egyptian Minister of the Interior, unpublished 2002.

³⁴ "Buckshot" is normally pellet-filled cartridges fired from a shotgun.

³⁵ Amnesty International, *Terror Trade Times 4*, June 2003, (AI Index: ACT 31/002/2003)

³⁶ United Nations Mission of Support in East Timor, *Executive Summary of investigations of police responses to the riots on 4 December 2002*, 14 November 2003

³⁷ Amnesty International, *The Democratic Republic of Timor-Leste: A new police service - a new beginning* July 2003 (AI Index: ASA 57/002/2003)

³⁸ *Ibid*

³⁹ UN Basic Principle 5. This article includes other provisions such as the obligation to: "Ensure that relatives or close friends of the injured or affected person are notified at the earliest possible moment." Yet, in Brazil for example, relatives are rarely informed of police shootings and struggle to locate loved ones.

⁴⁰ Amnesty International, *A New Police Service, A New Beginning*, op cit

⁴¹ Amnesty International, *Policing to protect human rights*, op cit

⁴² Amnesty International, *Nepal: A deepening human rights crisis: Time for international action*, December 2002 (AI Index: ASA 31/072/2002)

⁴³ Amnesty International, *Nepal: A spiralling human rights crisis*, April 2002, (AI Index: ASA 31/016/2002)

⁴⁴ Amnesty International, *A deepening human rights crisis*, op cit

⁴⁵ Paragraph C of the Commentary to the UN Code of Conduct, op cit

⁴⁶ Amnesty International, *Honduras: Zero Tolerance for Impunity: Extrajudicial executions of children and youths since 1998*, February 2003 (AI Index: AMR 37/001/2003) See also the report of the UN Special Rapporteur on extrajudicial, summary or arbitrary executions to the Commission on Human Rights: Mission to Honduras, 14 June 2002, E/CN.4/2003/3/Add.2

⁴⁷ *Ibid*

⁴⁸ Casa Alianza, *Child Murders Start to Drop but Still No Convictions on Casa Alianza Cases*, 13 November 2003 - www.casa-alianza.org

⁴⁹ *Ibid*

⁵⁰ United Nations General Assembly, *Declaration on the Elimination of Violence against Women*, Resolution 48/104 of 20 December 1993.

⁵¹ Amnesty International, *Policing to protect human rights*, op cit

⁵² SARPPCO, *Manual and Reader on Policing Violence Against Women and Children*, July 2003

⁵³ Lisa Vetten, *Man Shoots Wife: A pilot study detailing intimate femicide in Gauteng, South Africa*, Johannesburg: People Opposing Women Abuse, 1995, p16

⁵⁴ Amnesty International, *Intolerable Killings: Mexico: 10 years of abductions and murder of women in Ciudad Juárez and Chihuahua*, August 2003 (AI Index: AMR 41/026/2003)

⁵⁵ OHCHR training manual, op cit, page 77

⁵⁶ Amnesty International, *Greece: In the shadow of impunity: Ill-treatment and the misuse of firearms*, September 2002 (AI Index: EUR 25/022/2002)

⁵⁷ *Ibid*

⁵⁸ Association of Chief Police Officers, *Manual of Guidance on Police Use of Firearms*, United Kingdom, 2001

⁵⁹ Botswana, Lesotho, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Swaziland, Tanzania, Zambia, and Zimbabwe.

⁶⁰ Cross, Peter, Rick de Caris, Etienne Hennop and Angus Urquhart, *Law of the Gun: An Audit of Firearms Control Legislation in the SADC Region*, SaferAfrica and Saferworld, Pretoria and London. June 2003

⁶¹ Press release from EU ASAC, the Programme of European Union Assistance on Curbing Small Arms and Light Weapons in Cambodia, 14 November 2003

⁶² Amnesty International, *The Pain Merchants: security equipment and its use in torture and other ill-treatment*, December 2003 (AI Index: ACT 40/008/2003)

⁶³ *Ibid*

⁶⁴ www.fnherstal.com/html/FN303.htm

⁶⁵ The Omega Foundation, *A Review of the human rights implications of the introduction and use of the L21A1 baton round in Northern Ireland and proposed alternatives to the baton round*, March 2003

⁶⁶ Phone call between Amnesty International USA and Taser International in March 2002.

⁶⁷ Amnesty International, *The Pain Merchants*, op cit

⁶⁸ Commission on Human Rights, *Prevention of human rights violations committed with small arms and light weapons*, Preliminary report submitted by

Barbara Frey, Special Rapporteur, in accordance with Sub-Commission resolution 2002/25, 25 June 2003

⁶⁹ Amnesty International, *Commentary on Brazil's First Report on the Implementation of the International Covenant on Civil and Political Rights*, July 1996 (AI Index : AMR 19/26/96)

⁷⁰ *Ibid*

⁷¹ Amnesty International research.

⁷² Amnesty International, *Candelária and Vigário Geral 10 years on*, op cit

⁷³ In 2002, 45 states had not ratified the ICCPR, although some of these had signed. These were: Andorra, Antigua and Barbuda, Bahamas, Bahrain, Bhutan, Brunei Darassalam, China (signed), Comoros, Cook Islands, Cuba, Djibouti, Eritrea, Fiji, Guinea Bissau (signed), Holy See, Indonesia, Kazakstan, Kiribati, Laos (signed), Liberia (signed), Malaysia, Maldives, Marshall Islands, Mauritania, Micronesia, Myanmar (Burma), Nauru (signed), Niue, Oman, Pakistan, Papua New Guinea, Qatar, Saint Kitts and Nevis, Saint Lucia, Samoa, Sao Tome and Principe (signed), Saudi Arabia, Singapore, Solomon Islands, Swaziland, Tonga, Turkey (signed), Tuvalu, United Arab Emirates, and Vanuatu. Sources: *Amnesty International Annual Report 2003*; United Nations High Commissioner for Human Rights.

⁷⁴ Amnesty International, *Policing to protect human rights*, op cit

⁷⁵ Wyndham Hartley, 'New Non-lethal Force Law Still Not Implemented', *Business Day*, 25 November 2002. Meeting with Capt Bongani Mbhele, Head of Human Rights Unit, Division of Policing Standards, South African Police Service, 13 December 2002.

⁷⁶ Judicial Matters Second Amendment Act, 1998, which however only came into operation in July 2003.

⁷⁷ Constitutional Court of South Africa, Case CCT 28/01, decided on 21 May 2002, page 56

⁷⁸ *Ibid*, p65

⁷⁹ Information from the South African Police Service, 13 December 2002.

⁸⁰ National Commissioner, South African Police Service, Special Service Order Relating to the Use of Force in Affecting Arrest, 18/5/1 , 24 May 2002

⁸¹ *Amnesty International Annual Report 2002*, p259 (AI Index: POL 10/001/2002)

⁸² Amnesty International, *The Killing of the Braeton Seven – A justice system on trial*, March 2003 (AI Index AMR 38/005/2003)

⁸³ *Ibid*

⁸⁴ Amnesty International Press Release, *Jamaica: Braeton Officers Charged – Milestone in ending police impunity*, 5 November 2003 (AI Index: AMR 38/020/2003)

⁸⁵ Resolution on the United Nations Basic Principles on the Use of force and Firearms by Law Enforcement Officials adopted by the United Nations

Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August – 7 September 1990

⁸⁶ Such reports can be found on the website of the UN High Commissioner for Human Rights: http://www.unhchr.ch/hchr_un.htm

⁸⁷ United Nations, Concluding observations of the Human Rights Committee: France. 04/08/97. CCPR/C/79/Add.80. (Concluding Observations/Comments)

⁸⁸ Amnesty International, *Jamaica: Welcome developments: Is an end to police impunity in sight?* 25 June 2003 (AI Index: AMR 38/015/2003)

⁸⁹ Brian Wood, with Undule Mwakasungura and Robert Phiri, *Report of the Malawi Community Safety and Firearms Control Project*, Lilongwe, August 2001.

⁹⁰ Amnesty International, *Policing to Protect Human Rights*, op cit

⁹¹ DFID, *Tackling Poverty by Reducing Violence*, op cit. The absence of any discussion of policing in this report of meeting of development and small arms experts is a stark omission.

⁹² The Working Group for Weapons Reduction in Phnom Penh has organized 22 public forums for local authorities, policemen and officials to dialogue together on weapons reduction, security and their role in responding to the above problems in their communities and building trust among themselves.

⁹³ See also Basic Principle 26

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