

Human Rights Standards in Arrest and Detention

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Preparatory Notes to Instructor

Background

United Nations Peacekeeping Operations are frequently mandated to assist in the reforming, restructuring and rebuilding of host country police service. In past conflicts, police often have been directly involved in hostilities and/or associated with human rights violations. Based on this the population generally has little or no confidence in the capacity of the State to provide for their individual safety and security. Effective law enforcement not only restores public law and order but also assists in re-establishing the confidence of the population in the capacity of the State to govern.

In order to re-establish confidence in the rule of law, UN Police have a great responsibility to ensure that law enforcement is exercised lawfully and effectively.

In exercising their functions, UN Police must fully adhere to United Nations human rights norms and standards. Making sure that human rights are respected is central to the work of UN Police components, whose roles can vary from mentoring and advising, training the national police services to actual law enforcement.

Abuse of power might occur in the enforcement of policing functions, such as arrest and detention and in those cases human rights may be violated. Therefore, it is essential for the UN Police to have a clear understanding of the international human rights standards to prevent abuses and to provide for effective investigations and sanctions in case of human rights violations.

Aim

The aim of this module is to provide participants with a clear understanding of human rights standards for the arrest and detention of persons.

The module will also familiarize participants with actions to be taken to prevent and respond to human rights violations in regards to arrest and detention.

Learning Outcomes

On completion of HR Arrest and Detention Module, participants will be able to:

1. Understand the human rights implications related to procedures of arrest and detention and the actions to be taken to prevent and respond to human rights violations in regards to arrest and detention.
2. Define the terms “Arrest”, “Detention”, “Detainee”, “Prisoner”, “Force” and “Body Search”
3. Identify which human rights can be affected by arrest and detention

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4. List the correct post-arrest procedures in conformity with human rights standards
5. Indicate when and how the law allows a police officer to exercise legal powers in accordance with international law
6. Mentor and advise local law enforcement agents on how to apply lawful arrest and detention procedures, paying particular attention to female and child suspects/detainees
7. Recognise the sensitivities of search of persons and properties and other intrusive measures

This training module sets out obligations in arrest and detention activities of UN police as required by international law. These are the minimum standards to be observed. National law of host countries may provide for higher standards, which must then be observed.

Training Sequence

It is suggested that the material contained in this module be delivered over two training units, depending on the number of learning activities decided upon by the instructor. The module, however, is designed to be condensed according to the needs of individual nation's training requirements.

This module provides an overview of the human rights standards applicable to arrest and detention and refers to reporting procedures for human rights violations. It should be delivered after Different Legal Systems and be closely linked to the module on Human Rights Standards in the Use of Force and Mentoring and Advising

Duration

Minimum Session Time	Lecture/Presentation	Questions/Assessment	Session Activities
95 minutes	30 min	15 min.	50 min. activity
Additional Options	Mission Specific	Optional Film	Optional Activity
45 minutes	as needed		45 min. activity

Methodology

The module contains a variety of suggested learning activities to keep adult learners engaged. The facilitation team should use as many of the learning activities as time allows and keep them tailored to the target audience. The aim is for the learning experience to be as interactive as possible. Participants invariably bring to the course some experiences, which must be actively drawn upon to enhance the overall learning experience. Participants should be fully

involved in the learning process through practical exercises, brainstorming sessions, discussion of case studies, working in small groups on specific tasks, etc.

The instructor should inform participants of the content, format and timing. Knowing what to expect, participants can improve their ability to focus on the subject and benefit from the session.

- Definition of key terms
- Human rights affected in arrest procedure
- Post-arrest procedures
- Conditions of detention
- Special requirements for female and child detainees
- Police powers under international law
- Exercises and Summary
- Learning Outcome Assessment
- Optional Learning Activity

* **Please Note:** It is up to the learning institution to decide whether the learning assessment questions are used informally in a group question and answer session, or if they are provided to the participants as a written quiz. In either case, it is recommended that the correct answers are provided at the end of the assessment in order to ensure participants are clear on the key messages.

Instructors are encouraged to add examples and mission-specific information related to the specific deployment of participants, if known.

Instructor Profile

This module is best presented by an instructor who has experience in international human rights law and practice, who could share his/her experience with the group.

Instructor Preparations

Required Readings

- Code of Conduct for Law Enforcement Officials (1979)
[<http://www2.ohchr.org/english/law/codeofconduct.htm>];
- Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (1988)
[http://www.unhchr.ch/html/menu3/b/h_comp36.htm];
- Basic Principles for the Treatment of Prisoners (1990)
[<http://www2.ohchr.org/english/law/basicprinciples.htm>];

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- Standard Minimum Rules for the Treatment of Prisoners (1977) [<http://www2.ohchr.org/english/law/treatmentprisoners.htm>];
- OHCHR Training Series N.5, Human Rights and Law Enforcement: A Manual on Human Rights Training for the Police, pages 67-83 [<http://www.ohchr.org/Documents/Publications/training5en.pdf>];

General Preparations

Equipment:

1. Computer and PowerPoint slides
2. Projector and Screen
3. Flip Chart

Materials:

1. Copies of handouts etc.

Symbols Legend

-  Note to the Instructor (Some background information for consideration)
-  Speaking Points (The main points to cover on the topic. Ideally the speaking points are presented in the instructor's own words versus being read to participants)
-  Mission Specific (A point where the session will benefit from mission specific information)
-  Example (Stories that illustrate a point or key message)
-  Sample questions (A list of potential questions to pose to participants)
-  Handout (Indicates a handout is provided to participants at this point)
-  Film (A film that is recommended as a core part of the training or an option)
-  Core Learning Activity (An activity that is strongly recommended for inclusion)
-  Optional Learning Activity (An activity that can be used if there is time and it is appropriate for the participant group. Guidelines for these activities are provided at the end of the unit, section or part – as indicated in the text)
-  Key summary points (Key messages that are worth repeating at the end of the session. Alternatively, the instructor can ask participants what are the main messages they are taking from the session. Instructors can then fill in any points that have been missed.)

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Session Notes

Human Rights Standards in Arrest and Detention	Slide 1
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 **Note to Instructor:** Give the participants a brief explanation why they should pay special attention to this module. Refer to: Background in the Preparatory Notes to the Instructor

Aim The aim of this module is to provide participants with a clear understanding of human rights standards for the arrest and detention of persons. The module will also familiarize participants with actions to be taken to prevent and respond to human rights violations in regards to arrest and detention.	Slide 2
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Learning Outcome On completion of this module participants will be able to: <ul style="list-style-type: none">• Understand the human rights implications related to procedures of arrest and detention and the actions to be taken to prevent and respond to human rights violations in regards to arrest and detention.• Define the terms “Arrest”, “Detention”, “Detainee”, “Prisoner”, “Force” and “Body Search”• Identify which human rights can be affected by arrest and detention• List the correct post-arrest and detention procedures• Indicate when and how a police officer can exercise legal powers in accordance with international law• Mentor and advise local law enforcement agents on how to apply lawful arrest and detention procedures, paying particular attention to female and child suspects/detainees	Slide 3
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Structure of the Presentation	Slide 4
<ul style="list-style-type: none"> • Definition of key terms • Human rights affected in arrest procedure • Post arrest procedures • Conditions of detention • Special requirements for female and child detainees • Police powers under international law • Summary 	

Definitions	Slide 5
<ul style="list-style-type: none"> • Arrest • Arrested person • Detention • Detainee • Prisoner • Force • Body Search 	



Note to instructor: Go through the definition with the participants as follows:

1. Arrest: “The act of depriving the liberty of someone in accordance with the law with charges against him/her”
Purposes of arrest are to:
 - Prevent a person from committing or continuing to commit unlawful acts;
 - Enable an investigation in relation to an alleged unlawful act committed by the person
 - Present the person before a court in order to consider the charges against him/her
2. Arrested person: “a person who has been apprehended for the alleged commission of an offence or by the action of an authority”.
3. Detention: “A period of temporary custody prior to a trial or hearing, following the lawful powers of arrest by police or following the decision of a judge or other legal authority”.

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4. Detainee: “A person who is deprived of personal liberty by the state, but has not been convicted of an offence”.
5. Prisoner: “A person deprived of personal liberty as a result of conviction for an offence”.
6. Force: “Any verbal command or physical action to gain subject control”.
7. Body Search: A body search is conducted after the arrest and is done to identify and secure dangerous items and/or potential evidence. Body searches must be conducted by a person of the same sex as the detainee.”

Key Human Rights Relating to Arrest and Detention	Slide 6
<ul style="list-style-type: none">• Right to liberty and security of person and to freedom of movement• Prohibition of arbitrary arrest• Right to be informed of reasons at time of arrest and of any charges• Rights to be brought promptly before a judge• Right to trial within reasonable time, or release• Right to prompt access to a lawyer• Right not to confess or testify against oneself• Right to an interpreter when necessary• Right to prompt notification of family	

 **Note to Instructor:** Before showing the slide, brainstorm with the participants and ask them to list the human rights that relate to arrest and/or detention. Put the participants' answers on a flipchart, compare with the bullet points on the slide and complement the results with the expected outcome.

 **Expected Outcome:**

1. Right to liberty and security of person and to freedom of movement:
Freedom of movement is one of the fundamental rights of individuals. In certain cases, this right can be limited by the State, but only within very strict parameters. Restrictions must be clearly specified in the law, and must be necessary to protect national security, public order, public health or morals or the rights and freedoms of others.
2. Prohibition of arbitrary arrest and detention:
deprivation of liberty is an extremely serious matter and can be justified only when it is both lawful and necessary. No one can be deprived of

his/her liberty without legal reason or process, by an act of Government or with its complicity, tolerance or consent.

What is an arbitrary arrest?

- Not based on legal grounds
 - Not respecting legal procedures
 - Not reasonable/appropriate in the circumstances
 - Not proportional to the legal objectives
 - Discriminatory
 - Without fair, solid and substantial cause
 - Unduly intrusive vis-à-vis other rights
3. Right to be informed of the reason for arrest: Any arrested person shall be informed at the time of his/her arrest the reason for the arrest. This shall be done in non technical language that the arrested person can easily understand. The arresting officer is not required to fulfil this obligation if the arrested person makes it impossible to do so at the time of the arrest. If this occurs, the arresting officer shall inform the person the reason for his arrest at the earliest possible time.
 4. Right to be informed of any charges: Promptly after the arrest, the arrested person has the right to be informed of any charges that will be filed against him. This right can, in certain circumstances, include the legal counsel of the accused.
 5. Right to be brought before a judicial officer: A person who has been arrested for an offence has the right to be taken promptly before a judicial officer.
 6. Right to trial or release: The judge can confirm validity of the arrest and order detention or order the release of the person.
 7. Right to prompt access to a lawyer: Any arrested person must be provided with the opportunity to make contact/engage with a lawyer.
 8. Right not to confess or testify against oneself: An arrested person cannot be forced to testify against himself or make any comments or confessions regarding the incident; there is an implied right to silence.
 9. Right to prompt notification of family: The family of the arrested person shall be promptly notified.
 10. When necessary, language assistance has to be provided.

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Mandatory Arrest Record Information	Slide 7
<ul style="list-style-type: none">• Personal data on Arrestee (name, address, age, gender, description, etc.)• Arresting officer(s)• Reason for Arrest• Date/time of Arrest• Place of Arrest• Date/time of transfer to place of custody• Custodial officer receiving Arrestee• Precise information on place of custody• Details of interrogation• Time of appearance before judge• Details of judicial appearance (who, where)• Information on all other involved officers	

 **Note to Instructor:** Before showing the slide, brainstorm with the participants about which are the mandatory arrest record information and list the result. Show the slide above to complement the result of the brainstorming.

Post-Arrest Procedures	Slide 8
<ul style="list-style-type: none">• Time limitations for arrest and detention• Every person arrested and detained should be brought before a court as soon as reasonably possible in order to:• review the grounds for detention• consider bail or release	

 **Note to Instructor:** As a general rule UN Police have to seek information as to the laws and regulations of the host country/mission in regards to arrest and detention.

-  In principle the arrested or detained person should be brought before a court as soon as reasonably possible in order to:
 - review the grounds for detention
 - consider for bail or release

- The act of arrest and detention, if carried out in an arbitrary manner, can result in violations of human rights. However a person's liberty can be lawfully taken away and the police and courts can, under specific defined conditions, decide in favor of arrest and detention.

In this context deprivation of liberty must be limited to the accomplishment of the lawful and necessary purpose of the arrest and/or detention.

Any person arrested or detained has to be brought "promptly" before a judge. This should not exceed two or three days and preferably is less.

If the defined time frame of the host country/mission is not observed, the accused must be released.

The purpose of the defined time frame is to ensure court supervision in all matters of detention in order to preserve the rule of law and to protect human rights.

The defined time frame does not mean:

- automatic bail for the accused (the accused may, for example, be ordered a new period of detention and remanded in custody)
- that the investigation must be completed within that time frame
- that the police must wait for the time frame to be expired before bringing the person in front of a judge

It is up to **YOU** as UN Police to make yourself aware of the judicial requirements in the country of your mission.

Conditions of Detention	Slide 9
<ul style="list-style-type: none"> • Adequate facilities for detention • Humane and respectful treatment of detainees • Outside contacts 	



Learning Activity: Conditions of Detention

The purpose of this group discussion activity is to raise participants' awareness of the conditions required during detention.



Learning Activity Time Required:

	5 minutes	for activity introduction and instructions
	10 minutes	for work small groups discussions
	10 minutes	for small group reports in large group*
Total time:	25 minutes	*total time dependent number of groups



Activity Guidelines:

1. Divide the participants into three groups.
2. Ask each group to brainstorm regarding one bullet point in the slide and come up with a list regarding their topic.
3. Ask participants to present their results in the plenary (the large group), and complement with the expected outcome.



Expected Outcome:

1. Adequate facilities for detention:
 - Officially recognized places of detention only
 - Humane
 - Healthy
 - Adequate food
 - Adequate water (both drinking water and for bathing/showering)
 - Adequate shelter (minimum floor space, lighting, heating, ventilation...)
 - Adequate clothing
 - Adequate medical services
 - Adequate exercise facilities and opportunities
 - Adequate items and facilities for personal hygiene
2. Humane and respectful treatment of detainees:
 - Presumption of innocence
 - Respect of the inherent dignity
 - Absolute prohibition of torture and cruel, inhuman or degrading treatment or punishment
 - Prohibition of violence or threats

- Protection from torture and violence by other detainees
- Respect for religious and moral beliefs
- Respect for the special status and rights of women
- Respect for the special status and rights of children
- Prohibition on taking advantage of a detainee's situation to force confession or self-incrimination
- Law and regulations set out the measures for discipline and order
- Limitations of measures for discipline and order to those only necessary for safe custody

3. Outside contacts for detainees:

- Legal representatives
- Family
- National prison inspectors and international monitors (national commissions and agencies, UN, ICRC, others)
- Medical personnel
- Judge
- Religious authorities

Principle:

All people deprived of their liberty are vulnerable to violations of human rights. Some categories of detainees such as women and juveniles are particularly at risk. Furthermore, detainees in police custody usually have not been convicted of any crime. Therefore they are to be presumed innocent.

General principles are set out in Article 10 of the International Covenant on Civil and Political Rights which require:

- All persons deprived of liberty to be treated with humanity and respect for the inherent dignity of human person.
- Accused person to be segregated from convicted person and given separate treatment appropriate to their status as non-convicted person.
- Accused juveniles are to be separated from adult detainees.

Working with partners:

UN police and other mission partners such as UN human rights officers and UN correction officers, as part of their functions, regularly visit detention places and engage with detainees. UN police can cooperate with these partners to support local police to notify detainees' family members or communities.

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<p>Definition of Torture in the Human Rights Context</p> <p>Any act committed by a public official or person acting in official capacity intentionally causing severe pain and suffering, whether mental or physical, for purposes such as:</p> <ul style="list-style-type: none">• Obtaining information or a confession• Punishing, intimidating or coercing• Discrimination	<p>Slide 10</p>
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Definition of Torture:

- Any act committed by a public official or person acting in official capacity intentionally causing severe pain and suffering, whether mental or physical, for purposes such as:
- Obtaining information or a confession
- Punishing, intimidating or coercing
- Discrimination

Torture, according to the United Nations Convention Against Torture, is "any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him/her or a third person information or a confession, punishing him/her for an act he/she or a third person has committed or is suspected of having committed, or intimidating or coercing him/her or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions."

Prohibition of Torture: Torture is prohibited by:

- *Article 5 of the Universal Declaration of Human Rights (UDHR) and Art. 7 of International Covenant on Civil and Political Rights, which both read: "No one shall be subject to torture or cruel, inhuman or degrading treatment or punishment"; and*
- *Article 2 of the UN Convention Against Torture, which reads:*
"1. Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.

2. No exceptional circumstances whatsoever, whether a state of war or a threat or war, internal political instability or any other public emergency, may be invoked as a justification of torture.

3. An order from a superior officer or a public authority may not be invoked as a justification of torture.”

- The Article 5 of the Code of Conduct for Law Enforcement Officials indicates the full extent of the prohibition of torture:

“No law enforcement official may inflict, instigate or tolerate any act of torture or other cruel, inhuman or degrading treatment or punishment, nor may any law enforcement official invoke superior orders or exceptional circumstances such as state of war or a threat of war, a threat to national security, internal political instability or any other public emergency as a justification of torture or other cruel, inhuman or degrading treatment or punishment.”

<p>Special Requirements for Female Detainees</p> <ul style="list-style-type: none"> • Female officer to be present during all contact with female offenders/detainees. • Female detainees must be housed separately from male detainees • Female officers to supervise and search female detainees. • Special facilities for pregnant detainees and detained nursing mothers 	<p>Slide 11</p>
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- Arrested or detained females must not suffer discrimination and must be protected from violence, including sexual harassment, abuse, exploitation and humiliating or degrading treatment. Rape and other forms of sexual violence are a form of torture
- Special protection for pregnant detainees and nursing mothers (pregnant detainees and nursing mothers should be detained as a last resort)

Requirements

- Female officer to be present during all contact with female offenders/detainees
- Female detainees must be housed separately from male detainees and have separate sanitary facilities. Preferably female and male detainees must be housed not only in separate cells but also in separate buildings

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- Female officers to supervise and search female detainees
- Special facilities, including medical care, for pregnant detainees and detained nursing mothers

Special Requirements for Child Detainees	Slide 12
<p>Children are to benefit from all human rights guarantees. In addition, the following rules need to be applied to child detainees.</p> <ul style="list-style-type: none">• Detention or imprisonment of children must be an extreme measure of last resort• Their families or, in absence, their communities must be notified of their detention to arrange for meals and quick release from custody• Children must be separated from adult detainees	

 **Note to instructor:** Discuss the age limit of children in the country of the participants. Complement their answer with the information provided in the expected outcome.

 **Expected Outcome:**

The instructor will advise the participants that the host country will have legislated the legal age relating to juveniles and it will be the responsibility of the UN Police to make him/her aware of that information once in mission.

In the context of UN Peacekeeping Operations, persons under the age of 18 are considered children.

1. Children must benefit from all human rights guarantees.

In addition the following rules shall be applied to children:

- Detention or imprisonment of children shall be an extreme measure of last resort, and detention shall be for the shortest possible time
- Children shall be separated from adult detainees, unless this is not in their best interests, for example if the family adults are also being held and the child wishes to stay with them (a case by case approach is required)
- Children must be treated in a manner that promotes their sense of dignity and worth
- Detained children shall receive visits and correspondence from family members
- Parents are to be notified of any arrest, detention, transfer, sickness, injury or death

- Upon arrest and during detention the age of the person must be immediately recorded. If the police is in doubt about the exact age of the teenager, the arrested/detainee in question has to be treated as a child.
2. Special requirements for other groups:
- Groups such as persons with disabilities, elders, refugees and IDPs, migrant workers, minorities and indigenous persons require special protections measures, including upon arrest and during detention. UN Police should become familiar with the specific standards for these groups and apply them accordingly.
 - In exercising their functions, UN Police officers must not discriminate against any person on any grounds, such as gender, race, colour, language, religion, political or other opinion, national, ethnic or social origin, sexual orientation, association with a national community, property, birth or other status.

<p>UN Responsibilities under a Non-Executive Mandate</p> <p>Under a non-executive mandate, UN Police have a responsibility to ensure that the host country police carry out the arrest and detention process in full compliance with international human rights standards.</p>	<p>Slide 13</p>
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<p>UN Responsibilities under a Non-Executive Mandate (cont.)</p> <p>If a UN Police witnesses, discovers, or in any other way is made aware of a human rights violation, the UN Police officer is to:</p> <ul style="list-style-type: none"> • Put an end to the violation and/or prevent further violations • Ensure assistance to the victim as necessary • Mentor and advise accordingly • Report the human rights violation to his/her immediate supervisor • Report the human rights violation to the Human Rights component of the mission and consult on further necessary action 	<p>Slide 14</p>
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-  When witnessing or being informed about a human rights violation the UN Police officers shall:

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- Intervene with local police or other state officers in view of putting a stop to the human rights violation (type and level of engagement will depend on the specific situation and mandate);
- Ensure assistance to the victim as necessary (the person may be wounded and requiring medical assistance and/or be seeking ways to file a complaint for reparation);
- Determine on what and how to mentor/advise local police to avoid further violations
- Document the human rights violation properly
- Promptly share the information and report the human rights violation to Human Rights components in the mission through appropriate mission procedures;
- Consult with the Human Rights component of the mission on further or coordinated action necessary
- Support Human Rights components monitoring, investigations and advocacy activities



Note to Instructor:



Use a current non-executive mission, Sudan (UNMIS)/Liberia (UNMIL) as an example.

- UN Police's role is also crucial to prevent human rights violations by the local police:
 - By knowing the international standards and mentoring, advising and training the host country police accordingly, UN Police can limit the occurrence of violations
 - By reporting on human rights violations, UN Police can help to determine responsibilities through investigations and sanctions. Accountability is an effective deterrent against human rights violations
 - By actively collaborating with mission partners such as human rights officers, judicial affairs and correction officers, UN Police can facilitate coordinated action by the mission in support of human rights and the rule of law

If a UN Police officer witnesses, discovers, or in any other way is made aware of a human rights violation, he/she is to approach the host country police officer concerned and report the findings to his/her superior officer, and decide on an appropriate intervention to stop the human rights violation.

UN Police are required to report human rights violations to their supervisors for transmission to the Human Rights components.

However under the general mandate to mentor and advise the situation has to be appropriately addressed.

 Working with partners:

UN Police must be familiar with the work of partners working in the same operation, such as human rights officers and corrective officers, who, as part of their functions, also engage with police authorities and visit detention places. For example, Human Rights Officers monitor the national police and interview detainees, and advise the police on respect for human rights in their procedures and practice.

UN Responsibilities under an Executive Mandate	Slide 15
<p>Under an ‘executive’ mandate UN Police have the responsibility to carry out the arrest and detention processes. Any arrest and subsequent detention have to be carried out in accordance with the law of the host country and full respect for international human rights standards.</p>	

 **Note to Instructor:**

e.g

Use the current executive mission (Timor Leste) as an example. Let them read the mandates of the mission and discuss the responsibilities of UN Police.

-  The instructor should emphasize that in addition to the mandate there are specific mission ‘Directives of Use of Force and Firearms’ (DUF) or ‘Directive on Detention, Searches and Use of Force for United Nations Police Officers on Assignment with the United Nation’ and the ‘Rules of Engagement for UN Police Formed Units of the United Nation’ (ROE). These specific DUF and/or ROE (which are confidential) will be provided once the participant arrives to his/her mission. Upon arrival in the mission it is the participant’s responsibility to make him-/herself familiar with these documents.
-  In situations when arrest and detention are carried out directly by the UN Police, they must fully comply with human rights standards. Abuse of authority, excessive use of force and other serious misconducts possibly committed by UN Police have to be reported to the Head of Mission who will start a preliminary investigation.

Summary of Key Messages	Slide 16
<ul style="list-style-type: none"> • Human Rights relating to arrest and detention • Formal procedures for arrest and detention 	

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<ul style="list-style-type: none">• Police powers under international law in regards to arrest and detention• Mentor and advise host country police in regard to arrest and detention	
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Note to Instructor: *If time allows divide class in groups and hand out the exercises in the Optional Learning Activity: Child Detainees, Arrest of Alleged “Freedom Fighters” and Arrest for Alleged Prostitution. See the last pages of the module*

Learning Outcome Assessment

It is up to the learning institution to decide whether the learning assessment questions are used informally in a group question and answer session, or if they are provided to the participants as a written quiz. In either case, it is recommended that the correct answers are provided at the end of the assessment in order to ensure participants are clear on the key messages.

At the end of the entire unit and/or the conclusion of the STMs instructors may want to choose some of the following questions for review.

Questions

1. What is 'arrest', 'detention' and 'force'?
2. List the HRs relating to arrest and detention.
3. What are the specific requirements relating to female and child detainees?
4. What are the UN Police requirements when a HR violation is identified?



Expected Outcome:

1. The definitions of "arrest", "detention" and "force" are:

Arrest: "The act of depriving the liberty of someone in accordance with the law with charges against him/her". Purposes are to:

- Prevent a person from committing or continuing committing unlawful acts;
- Enable an investigation in relation to an alleged unlawful act committed by the person
- Present the person before a court in order to consider the charges against him/her

Detention: "A period of temporary custody prior to a trial or hearing, following the lawful powers of arrest by police or following the decision of a judge or other legal authority.

Force: "Any verbal command or physical action to gain subject control"

2. The key HRs relating to arrest and detention are:

- Right to liberty and security of person and to freedom of movement
- Prohibition of arbitrary arrest
- Right to be informed of reasons at time of arrest
- Right to be promptly informed of any charges

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- Right to be brought promptly before a judge
- Right to judicial determination of legality of arrest/detention, and to release where so decided
- Right to trial within reasonable time, or release
- Right of prompt access to a lawyer
- Right not to confess or testify against oneself
- Right to an interpreter where necessary
- Right to prompt notification of family

3. The specific requirements relating to female and child detainees are:

Female detainees:

- Arrested or detained females must not suffer discrimination and shall be protected from violence, including sexual harassment, abuse, exploitation and humiliating or degrading treatment. Rape and other forms of sexual violence are a form of torture
- Special protection/facilities for pregnant detainees and nursing mothers (detention as last resort)
- Female officer to be present during all contact with female offenders/detainees.
- Female detainees must be housed separately from male detainees (preferably in different buildings)
- *Female officers to supervise and search female detainees.*

Child detainees:

- Children must benefit from all of human rights guarantees. In addition the following rules need to be applied to children.
- Their families must be notified of their detention to arrange for meals and fast release from custody.
- Detention or imprisonment of children must be an extreme measure of last resort
- Children must be separated from adult, unless this is not in their best interests, for example if the family adults are also being held and the child wishes to stay with them (a case by case approach is required)
- State which actions UN Police has to take when a HR violation is identified:
- Mentor and advise accordingly
- Report the human rights violation to his/her immediate supervisor for transmission to the human rights component

4. Following a HR violation further action should be taken:

- Intervene and stop the violation (as the mandate allows)
- Determine on what and how to mentor/advise
- Document the violation properly
- Report the violation to Human Rights components in the mission
- Support Human Rights components with possible investigations
- Follow up with the Human Rights components



Optional Learning Activity: Case Studies

The purpose of this activity is for participants to learn about human rights violations and procedures through real case scenarios. The three exercises are: Child Detainees, Arrest of Alleged “Freedom Fighters” and Arrest for Alleged Prostitution.



Learning Activity Time Required:

	10 minutes	for activity introduction and instructions
	15 minutes	for work small groups discussions: exercise 1, 2 or 3
	20 minutes	debrief in the large group*
Total time:	45 minutes	*total time dependent number of groups



Exercise 1: Child Detainees

You are a UN Police officer in a mission where the host country police have executive authority. You arrive at your workplace and during a morning cell inspection you locate two male children of 16 years old in the cells. You speak to the officer in charge of the cells who informs you that the two young males were arrested the previous night for drunkenness and are being held until they are sober and ‘to teach them a lesson’. You also establish that no attempt has been made to contact either boy’s families.



Activity Guidelines:

1. Divide the participants into small groups and ask them read the exercise.
2. Ask them to establish if there has been a human rights violation and what actions you would take in this situation.



Expected Outcome:

1. Human Rights Issues :
 - Detention, arrest or imprisonment of children must be an extreme measure of last resort, and detention shall be for the shortest possible time

- Detained children shall receive visits and correspondence from family members
 - Parents are to be notified of any arrest, detention, transfer, sickness, injury or death
 - Keep separated from adult detainees
2. Actions:
- Check the mandatory arrest record information and the cell book
 - Engage/speak with the two detainees
 - Mentor and advise accordingly the national police
 - Report incident in writing to immediate supervisor
3. Following further action could be taken:
- Intervene and stop the violation (as the mandate allows)
 - Determine if there is need for water, food or medical assistance for the detainees and be in contact with the two boys' community and UN partners
 - Determine on what and how to mentor/advise
 - Document the violation properly
 - Report the violation to Human Rights components in the mission
 - Support Human Rights components with the investigation
 - Follow up with the Human Rights components

Exercise 2: Arrest of Alleged “Freedom Fighters”

Late one evening a man, accompanied by his brother and a neighbour, was driving his truck on a main road between two towns. The vehicle was stopped by two police officials who asked the driver to produce the papers of the vehicle in which they were traveling. Although the driver was in fact the legal owner of the truck, he could only provide papers that were in the name of the former owner of the vehicle. The truck did not have any registration plates. The police impounded the truck and its contents.

The three people in the vehicle were taken to a nearby police station and put in a detention cell, but none of the three men was ever told the reason for their detention. At the police station the driver was questioned for several hours to determine whether he was a “freedom fighter” or not.

At no time was he questioned about the ownership of his truck. The man was not ill-treated during his period in detention, and was released with his brother at 0300hrs the next morning. However, the neighbour who had been traveling with them was kept in custody. Eventually it was established that the

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neighbour had been accused of war crimes during the “rebel regime”, and he has been detained in prison pending trial.



Activity Guidelines:

1. Divide the participants into small groups and ask them read the exercise.
2. Ask them to determine the police officers procedures and action towards the three men.
 - Whether the arrest of the three persons by police officers was legal.
 - What was the offence committed by the driver?
 - What was the offence committed by his brother?
 - What was the offence committed by the neighbour?
 - Whether the interrogation and detention of the driver was legal.
 - Whether the detention of his brother was legal.
 - Whether the detention of the neighbour is legal?
 - Whether any human rights violations were committed by the police officers in respect of the driver.
 - Whether any human rights violations were committed by the police officers in respect of his brother.
 - Whether any human rights violations were committed by the police officers in respect of the neighbour.



Expected Outcome:

- Though the driver was the legal owner he was not in possession of the documents to prove it.
- He was in possession of the documents of the previous owner.
- The vehicle was without registration plates.
- There is a reasonable suspicion regarding the ownership of the vehicle.
- They were not informed about the reasons of their arrest. Discuss whether the arrest of the driver, his brother and the neighbour was legal.
- The driver was not questioned regarding the ownership of the truck.
- The driver and his brother were detained until 0300 hrs in the following morning. Discuss whether the interrogation of the driver and his detention, like the one of his brother, was legal.

Exercise 3: Arrest of Alleged Prostitution

At 1900 hrs, while she was returning from her work place in market X, a woman was arrested by three men dressed in civilian clothes, and when she tried to inquire about who they were and why she was being arrested, she was handcuffed hard and commanded to walk to the police station which was about 500 meters from that point.

While they were walking to the police station the woman was continuously insulted by one of the three men. He stated that she was a prostitute and that was the reason she went home at that late hour. He claimed in a harsh way that her husband had reported her to the police for going out with a couple of men in the town. When she asked to call her husband, the police denied her the chance reminding her that she was under arrest and had no right to talk to anybody.

Upon arrival at the police station, the woman was dumped into a dirty and smelly police cell with three other men who apparently were very drunk.

The next day, she was released and told, that she should report back to the police in a week's time.

Activity Guidelines:

1. Divide the participants into small groups and ask them read the exercise.
2. Ask them the following questions:
 - Identify which human rights were violated during her arrest and detention.
 - The woman confidentially tells her experience to a friend who is a cleaner at the UN Police station. The cleaner gets concerned and shares the information with UN Police. What would you do if you were a UN Police in that station?
 - What advise would you give to the local police in regard to their action towards this woman?

Expected Outcome:

1. Identify which human rights were violated during her arrest and detention
 - 1900hrs do not seem to be too late.....
 - Arresting officers dressed in civilian clothes and never identified themselves to the woman
 - They never told her the reason for her arrest

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- Handcuffs just on mere asking why she was being arrested – she was not violent
 - Degrading treatment - insults
 - Denial to communicate with her husband
 - Detained without any charge - deprivation of her liberty without any legal ground.
 - Detained with male suspects
 - Conditions of detention were below standards (smell, dirty)
 - Told to report back to the police (intimidation)
2. The woman confidentially tells her experience to a friend who is a cleaner at the UN Police station. The cleaner gets concerned and shares the information with UN Police. What would you do if you were a UN Police in that station?
- Monitor closely and verify information
 - If confirmed, report the violation to UN Police supervisor for transmission to UN human rights component.
 - Advise the woman to seek legal redress and help her get in contact with appropriate UN components/organisations
 - Follow up the issue, including the need for appropriate investigation to determine responsibilities of the officers
3. What advise would you give to the local police in regard to their action towards this woman?
- Arrested or detained females shall not suffer discrimination and shall be protected from violence, including sexual harassment.
 - Female officer to be present during all contact with female offenders/detainees
 - Female detainees must be housed separately from male detainees
 - Female officers to supervise and search female detainees.