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Interim Standard Operating Procedures

Detention in United Nations Peace Operations

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INTERIM STANDARD OPERATING PROCEDURES ON DETENTION IN UNITED NATIONS PEACE OPERATIONS

Contents:

A. Purpose
B. Scope
C. Rationale
D. Procedures
E. Terms and definitions
F. References
G. Monitoring and compliance
H. Contact
I. History

ANNEXES

A. Statement of Detention
B. Detention, Release, Transfer and/or Handover Form
C. Statement of Release or Handover

A. PURPOSE

1. The purpose of these Interim Standard Operating Procedures is to ensure that persons detained by United Nations personnel in United Nations peace operations as defined in these Interim Standard Operating Procedures (hereafter "Mission(s)") are handled humanely and in a manner that is consistent with applicable international human rights, humanitarian and refugee law, norms and standards.

B. SCOPE

2. This document sets forth interim standard operating procedures for the handling of persons detained by United Nations personnel in Missions,[1] and shall be applicable until such time as final standard operating procedures are approved. These Interim Standard Operating Procedures do not confer authority on any Mission or person to undertake detention. As such, they shall only apply to Missions for which such authority has been mandated by the Security Council or the General Assembly, as elaborated in Mission-specific military rules of engagement or police directives on the use of force issued by the Department of Peacekeeping Operations. These Interim Standard Operating Procedures apply to United Nations peace operations and are not intended to apply to other operations which, although mandated or authorized by the United Nations, are not subject to the command and control of the United Nations. They are not intended to establish international legal obligations applicable to all situations of armed conflict or international military interventions; rather, they reflect the policy applicable for all United Nations peace operations as defined in this document.

[1] Except for the United Nations Department of Safety and Security, which is governed under separate authority.

3. These Interim Standard Operating Procedures do not constitute an exhaustive list of procedures that United Nations personnel are required to comply with when dealing with detained persons. Actions taken in application of these Interim Standard Operating Procedures shall be in compliance with Mission-specific military rules of engagement and Status of Forces Agreements (SOFAs) and Status of Mission Agreements (SOMAs), police directives on the use of force and applicable international human rights, humanitarian and refugee law, norms and standards. A Head of Mission or his/her delegate, as appropriate, may issue supplemental guidance relating to the handling of detained persons to meet exigencies within the Mission. All such supplemental guidance shall be consistent with these Interim Standard Operating Procedures and shall comply with applicable international human rights, humanitarian and refugee law, norms and standards.

4. These Interim Standard Operating Procedures provide internal operational guidance to United Nations personnel. They do not address issues of criminal procedure, which are governed by the relevant laws of the Host State.

5. These Interim Standard Operating Procedures are not applicable to Missions mandated to assume executive administration or interim law enforcement functions, where the handling of detainees is governed by the applicable law in the Mission area.

C. RATIONALE

6. United Nations personnel in Missions are sometimes required under the terms of their mandates to detain persons in application of Mission-specific military rules of engagement or police directives on the use of force and related matters. These Interim Standard Operating Procedures provide an operational framework for such detentions.

D. PROCEDURES

General principles

7. **Any person detained by United Nations personnel shall be released or handed over to national law enforcement officials of the Host State or other relevant national authorities (hereafter "national authorities") as soon as possible, as set forth in the section below entitled "Release and handover" (paragraphs 73 to 91)**.[2]

8. Detained persons are entitled to the rights provided in applicable international human rights, humanitarian and refugee law, norms and standards. In particular, the United Nations shall not subject anyone to arbitrary or unlawful detention, and shall ensure that all persons deprived of their liberty are treated in a humane manner and with respect for the inherent dignity of the human person.

9. The fundamental principles and rules of international humanitarian law are applicable to United Nations forces when they are actively engaged as combatants in situations of armed conflict to the extent and for the duration of that engagement, as set out in the Secretary-General's Bulletin on "Observance by United Nations Forces of International

[2] This paragraph shall not apply to persons detained who fall within the scope of Section 8 of the Secretary-General's Bulletin on "Observance by United Nations forces of international humanitarian law" dated 6 August 1999 (ST/SGB/1999/13).

Humanitarian Law", dated 6 August 1999 (reference: ST/SGB/1999/13). Nothing in these Interim Standard Operating Procedures shall affect the applicability of international humanitarian law to operations conducted by the United Nations or the obligation of United Nations personnel to respect such law.

Taking and handling detained persons

Statement of Detention

10. At the time detention commences, a detained person shall be notified orally in a language he/she understands of the reason(s) and factual basis for the detention. At the earliest practicable time thereafter, a detained person shall be given in writing the Statement of Detention at Annex A, the contents of which shall be read to him/her in a language he/she understands, notifying him/her of the following rights:

    a. To obtain information as to the reason(s) and factual basis for detention;
    b. To designate a family member and/or other representative to be notified of the detention;
    c. To make a complaint regarding conditions of detention or treatment;
    d. To make a claim for compensation in relation to bodily injury or damage to property arising from measures taken during detention; and
    e. To receive an inventory of items taken from the detained person and have those items returned under certain conditions.

Intake of detained persons

11. Within 36 hours of the commencement of detention, the Commanding Officer shall ensure that a completed copy of the United Nations Detention, Release, Transfer and/or Handover Form at Annex B is delivered to the Detention Focal Point, the Chief of the Human Rights Component of the Mission and the Head of Mission or his/her delegate.

12. Within 36 hours of the commencement of detention, the Commanding Officer who has custody of the detained person or his/her delegate shall provide a written notification to the International Committee of the Red Cross with the following information:

    a. The identity of the detained person, including nationality;
    b. The reason(s) and basis for detention;
    c. The date, time and place of the person's detention; and
    d. The location where the detained person is being held.

13. The Detained Persons Register shall be updated to reflect the details of the initial detention listed in the previous paragraph and any material change in circumstances (e.g., release, handover, transfer, escape, illness, death) of the detained person.

Detention Focal Point

14. The Detention Focal Point shall be a senior staff member selected by the Head of Mission. The Detention Focal Point shall: a) have legal expertise; and b) not be placed under the authority, command and control of the Head of the Military Component or the Head of the Police Component of the Mission. The Detention Focal Point shall report directly to the Head of Mission.

15. The Detention Focal Point shall be authorized to inquire as to any matter related to detention by United Nations personnel and to provide advice in connection therewith to the Head of Mission or any other personnel of the Mission. He/she shall have unimpeded access to all records relating to the handling of any detained person.

Notification of detention and visitation

16. The Commanding Officer who has custody of the detained person or his/her delegate shall make reasonable efforts to notify as soon as possible the person designated by the detained person of the location of the detained person. The detained person shall be allowed to communicate orally or in writing with designated family members and other representatives.

17. The Commanding Officer shall make accommodations for a reasonable number of visits of the detained person by the designated family members or other representatives, consistent with operational and security requirements.

Prohibition of discrimination

18. Detained persons shall not be subjected to discrimination on any grounds, including sex; race; colour; language; religion; political or other opinion; national, ethnic or social origin; sexual orientation or identity; association with a national community; property; birth; disability or other status.

Prohibition of torture and cruel, inhuman or degrading treatment or punishment

19. Detained persons shall not be subjected to torture or to cruel, inhuman or degrading treatment or punishment. For the purposes of these Interim Standard Operating Procedures, "torture" is defined as "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 or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him 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".[3] The terms "cruel, inhuman or degrading treatment or punishment" should be interpreted so as to extend the widest possible protection against abuses, whether physical or mental, including the holding of a detained person in conditions which deprive the detained person, temporarily or permanently, of the use of any of his/her natural senses, such as sight or hearing, or of his/her awareness of place and the passing of time.[4]

Provision of food and water

20. Detained persons shall be provided at the usual hours with food of nutritional value adequate for health and strength, of wholesome quality and well prepared and served. Detained persons shall be provided with meals that are in accordance with accepted religious practices. Where reasonably practicable, meals shall be consistent with customs and traditions.

21. Clean drinking water shall be available to detained persons at all times.

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[3] Article 1, *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (10 December 1984).

[4] Footnote 1, Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, General Assembly Resolution 43/173 (9 December 1988).

Safety

22. United Nations personnel shall be responsible for the safety and well-being of detained persons until the person is released or handed over to the national authorities. Detained persons shall not be detained in areas exposed to the dangers of the elements or combat.

Health and hygiene

23. A detained person shall be permitted to wear his/her own clothing if it is clean and suitable. Where this is not possible, the detained person shall be provided with clothing suitable for the climate and adequate to keep him/her in good health. Such clothing shall not be degrading or humiliating.

24. Detained persons shall be required to keep themselves clean, and to this end they shall be provided with water and with such toilet articles as are necessary for health and cleanliness, and which are ordinarily provided to military members of national contingents or members of formed police units.

25. Detained persons shall have access to fresh air and opportunities for regular daily exercise.

Use of force and physical restraints

26. The use of force in relation to the handling of detained persons shall be strictly in accordance with international standards on the use of force, Mission-specific military rules of engagement and police directives on use of force and related matters.

27. Instruments of restraint may only be applied in the following circumstances: a) as a precaution against escape during a transfer or handover; b) on medical grounds by direction of qualified United Nations medical personnel; or c) by order of the responsible Commanding Officer, if other methods of control fail, in order to prevent a prisoner from injuring himself or others or from damaging property. Instruments of restraint shall never be applied as a punishment, and shall not be applied for any longer time than is strictly necessary.

28. Only purpose-designed handcuffs or flexi-cuffs shall be used as restraints. All United Nations personnel likely to use restraints shall be trained in their proper use in accordance with international standards.

29. Hands may only be restrained in front of the detained person. Restraints shall be checked regularly to ensure proper circulation and minimise discomfort. Restraints shall be removed if the detained person requires to undertake ablutions. Detained persons shall not be attached by use of the restraint to a vehicle or any other object.

Privacy and accommodation

30. Detained persons shall be protected from any exposure to public curiosity.

31. Female detained persons shall be separated from male detained persons.

32. Detained persons may be accommodated separately on the basis of age, sexual orientation or identity, clan membership, religious belief or any other factor that might pose a legitimate threat to the safety or welfare of themselves or others, subject to paragraphs 18 and 53.

Medical services

33. Detained persons shall receive a medical screening as soon as possible by qualified United Nations medical personnel and in any event within 24 hours:

    a. After detention commences;
    b. After any use of force against them;
    c. After allegations that they have been subjected to ill-treatment or abuse;
    d. When injured or unwell; and
    e. When necessary to determine the existence of physical or mental illness.

34. Medical examinations shall only be conducted with the consent of the detained person and only for legitimate medical reasons. Where a detained person is unwilling or unable to give his/her consent because of incapacity, a medical examination and necessary treatment of the detained person shall be conducted to save the detained person's life, alleviate pain or prevent long-term injury to the detained person. If the detained person is a child, medical examinations shall be conducted with the consent of the child and – when possible – the child's parent or other appropriate adult relative or guardian, unless the examination is deemed medically necessary by qualified United Nations medical personnel.

35. The medical condition of women who are pregnant or who are nursing children shall be monitored. Women who are pregnant or nursing shall be given priority in relation to special care and, if needed, medical treatment. More generally, the specific needs of women shall be catered for.

36. Detained children, elderly detained persons, and any detained person with a physical or mental disability shall be given priority in relation to special care and, if needed, medical treatment.

37. Where a detained person has been injured, and whenever otherwise practicable, he/she shall be medically examined by United Nations qualified medical personnel prior to his/her release, transfer or handover. Details of the examination shall be recorded and attached to the form in Annex B, including the treatment provided and recommended continuing treatment.

38. A detained person who has undergone medical treatment shall be provided with a report in a language he/she understands, indicating the nature of the detained person's illness or injury and the duration and kind of treatment received and of any continuing treatment requirements. A copy of the original report shall be placed with the detained person's record in the Detained Persons Register.

39. Medical personnel providing treatment to a detained person shall, where necessary and reasonably practicable, have access to an interpreter.

40. All medical information concerning detained persons is to be treated as confidential and shall not be disclosed to any non-medical person without the informed consent of the detained person. In exceptional cases where the detained person has withheld consent, the Head of Mission may authorize disclosure of medical information for purposes of internal investigations or when it is in the best interests of the detained person to do so.

Questioning of detained persons

41. Questioning of detained persons shall be governed by the Mission-specific rules of engagement or police directives on the use of force and related matters.

42. The following information shall be recorded when a detained person is asked to provide his/her identity and/or address:

a. The detained person's responses;
b. If the detained person declines to answer, his/her refusal; and
c. The identity of any United Nations personnel present at that time (name, post and Index Number).

Searches of detained persons

43. United Nations personnel are authorized to search detained persons for arms, ammunition, weapons, explosives, drugs or any other items that may cause harm or damage property.

44. United Nations personnel performing a search shall not humiliate or embarrass detained persons being searched. Search procedures shall take into account gender and age, and be sensitive to other factors, such as race, religion, disability and cultural practices. It is prohibited to strip search detained persons.

45. Searches of detained persons shall be conducted by two persons of the same sex as the detained person.

46. Male United Nations personnel may search female detained persons only: a) at the moment detention commences; b) for imperative security reasons such as when there is a reasonable belief that the female is carrying a weapon; and c) when no female United Nations personnel are available to carry out the search.

47. The purpose of the search shall be clearly stated to the detained person in a language he/she understands before he/she is searched and his/her consent preferably sought before the search is conducted.

Items taken from detained persons

48. A dangerous item carried by a detained person or seized as part of activities that led to detention, such as explosives or a biological hazard, may be destroyed upon approval of the Commanding Officer to avoid the risk of harm to other persons or damage to property.

49. Any item destroyed shall be photographed or filmed prior to destruction. A detailed description of any item destroyed shall be recorded in the Detained Persons Property Register.

50. All items in the possession of the detained person shall be taken and registered in the Detained Persons Property Register as soon as possible and shall be distinctly tagged for identification purposes.

51. All items not confiscated or destroyed shall be returned to the detained person at the time of release or transferred to the national authority at the time of handover.

Children

52. The detention of a child shall be used only as a measure of last resort and for the shortest possible period of time.

53. Children shall be separated from other detained persons unless it is considered contrary to their best interests. However, in cases where a child is detained with members of

his/her family, the child shall not be separated unless keeping the child with the family member would be against his/her best interest.

54. United Nations personnel shall notify as soon as possible the child's parent or other adult relative or guardian of the child's detention, and shall make accommodations for regular visitation of the detained child by the child's adult relative or guardian.

55. Upon the handover of a detained child to a national authority, the Head of Mission or his/her designated representative shall obtain a written commitment from such authority that the child will not be recruited for the participation in hostilities. If the national authorities refuse to provide such written commitment, the detained child shall not be handed over, but instead shall be released. The Commanding Officer who has custody of the detained child or his/her delegate shall immediately advise the Head of Mission or his/her delegate of the refusal.

Foreign nationals

56. A foreign detained person shall have the right to communicate with the appropriate embassy, consular official or diplomatic representative without delay. The Mission shall inform the detained person of such right and shall grant embassy, consular or diplomatic representatives access to the detained person for the purpose of such communication.

Refugees or persons under the protection of an international organization

57. If the detained person is a refugee, stateless or otherwise under the protection of an international organization, he/she shall have the right to communicate orally or in writing with a representative of the competent international organization. The detained person shall be provided with useful contact information for the relevant international organization and the means to accomplish such contact.

Photographs and records concerning detained persons

58. In addition to other records set forth in these Interim Standard Operating Procedures, detained persons shall only be photographed or have information recorded concerning them for:

    a. Identification purposes; or
    b. Recording any injuries or matters relating to their well-being.

59. Any photographs taken of a detained person or information recorded concerning the detained person shall remain the property of the United Nations.

Media and public information

60. All media inquiries concerning a detained person shall be directed to the Mission's designated public information focal point. No information concerning a detained person shall be disclosed to the media or otherwise publicly disclosed by United Nations personnel without the authorization of the Head of Mission or his/her delegate.

Disclosure of information

61. Information relating to a detained person may only be released to the Host State or State of nationality with approval of the Head of Mission, in accordance with applicable procedures, including Mission-specific SOFAs or SOMAs.

62. Unauthorized disclosure of information including photographs or film relating to a detained person is strictly prohibited and, if committed by United Nations personnel, could constitute an act of serious misconduct and may lead to disciplinary measures.

Serious illness or death

63. In the event of suspected serious illness or the death of a detained person, the Commanding Officer who has custody of the detained person or his/her delegate shall immediately notify and consult qualified United Nations medical personnel and transmit both an oral and a written notification to the Head of Mission or his/her delegate. This notification shall be copied to the Detention Focal Point, the Chief of the Human Rights Component of the Mission, and the International Committee of the Red Cross.

64. The Head of Mission or his/her delegate shall inform the detained person's family or other appropriate person as soon as possible of the detained person's serious illness or death.

65. Where a detained person has died, the Head of Mission or his/her delegate shall notify the detained person's family or other appropriate person in writing in an official language of the host country as soon as possible of the cause of death and shall advise how to recover the detained person's body from the United Nations. A written notification on this matter shall be immediately sent by the Head of Mission to the Under-Secretary-General for Peacekeeping Operations via code cable.

66. As soon as possible after the death, the Head of Mission shall ensure that a timely investigation of the circumstances surrounding the death be undertaken in accordance with existing procedures.[5]

Transfer

67. Any detained person may be transferred from one Commanding Officer to another Commanding Officer based on operational requirements, with due consideration to the detained person's usual place of residence and/or access to visits from family.

68. At the time of transfer the relevant portion of the United Nations Detention, Release, Transfer or Handover Form at Annex B shall be completed and a copy provided to the person taking custody of the detained person. Another copy shall be filed with the Detained Persons Register and submitted to the Detention Focal Point and the Chief of the Human Rights Component of the Mission.

69. All items taken from the detained person, other than items confiscated or destroyed, shall be transferred with the detained person. The Detained Persons Register and the Detained Persons Property Register shall be updated to reflect the transfer.

Complaints

70. Detained persons have the right to complain orally or in writing in relation to their treatment or the conditions of their detention. All complaints, whatever their source, shall be recorded in the Detained Persons Complaints Register.

71. All complaints concerning the treatment of a detained person, including those alleging torture or cruel, inhuman or degrading treatment or punishment, shall be reported immediately to the Detention Focal Point, with a copy to the Chief of the Human Rights Component of the Mission.

[5] See DPKO/DFS Policy Directive and Standard Operating Procedure re Boards of Inquiry (effective 1 June 2008).

72. The Head of Mission shall ensure that all complaints are investigated in a timely manner, including those involving allegations of misconduct.[6] The Commanding Officer shall be directly responsible for promptly investigating all complaints that do not constitute allegations of misconduct. In all cases, the detained person shall be notified of the status and actions taken in relation to his/her complaint in writing in a language the detained person understands as soon as possible, even after his/her release or handover.

Release and handover

Length of detention[7]

73. A detained person shall not be held by United Nations personnel for more than 48 hours before being: a) released; or b) handed over to the national authorities. Persons may be held for an additional 24 hours if they are in transit and in the process of being handed over to the national authorities.

74. A detained person may be kept in United Nations custody for more than 72 hours if: a) the relevant national authorities make a written request to the Head of Mission asking that the Mission temporarily detain such person on their behalf; b) the Mission has a mandate to assist national law enforcement authorities in the apprehension and detention of alleged criminal offenders; and c) the Head of Mission considers such temporary detention to be a reasonable and appropriate manner of discharging such mandate in relation to the particular case.

75. In cases where paragraph 74 applies, the detained person may be detained by the Mission for up to the maximum period permitted under the national criminal law of the Host State or as otherwise specified in the Mission's mandate. Such detention shall fully comply with applicable international human rights, humanitarian and refugee law, norms and standards.

Release

76. A detained person shall be released as soon as the detention is no longer warranted in accordance with the Mission-specific military rules of engagement or police directives on the use of force and within the time limits set forth in paragraphs 7, 73, 74 and 75 above.

77. At the time of release, the information contained in the United Nations Detention, Release, Transfer or Handover Form at Annex B shall be completed.

78. The Commanding Officer who has custody of the detained person or his/her delegate shall submit immediately after the release a completed copy of the United Nations Detention, Release, Transfer or Handover Form at Annex B to the Head of Mission or his/her delegate, with copies to the Detention Focal Point and the Chief of the Human Rights Component of the Mission.

79. The Detained Persons Register and the Detained Persons Property Register shall be updated to reflect the release of the detained person. At the time of release, the detained

[6] See: "Directives for Disciplinary Matters Involving Civilian Police Officers and Military Observers in conjunction with the prerogatives of the Office of Internal Oversight Services", dated 1 July 2003, and "Directives for Disciplinary Matters Involving Military Members of National Contingents", dated 1 July 2003, in conjunction with the prerogatives of the Office of Internal Oversight Services as set forth under General Assembly Resolutions 59/287 and 59/300.

[7] Paragraphs 73-75, inclusive, shall not apply to persons detained who fall within the scope of Section 8 of the Secretary-General's Bulletin on "Observance by United Nations forces of international humanitarian law" dated 6 August 1999 (ST/SGB/1999/13).

person shall be given a copy of the Statement on Release at Annex C and have the contents read to him/her in a language he/she understands.

Handover

80. In instances where the detained person is not released, he/she shall be handed over as soon as possible to the national authorities within the time limits set forth in paragraphs 7, 73, 74 and 75 above. However, detained persons shall not be handed over to any authority in situations where there are substantial grounds for believing that there is a real risk the detained person will be tortured or ill-treated, persecuted, subjected to the death penalty or arbitrarily deprived of life. In such cases, detained persons shall be released. The risk assessment shall be made by the Detention Focal Point, in consultation with relevant heads of components.

81. If the national authorities refuse to accept handover, the detained person shall not be handed over, but instead shall be released. The Commanding Officer who has custody of the detained person or his/her delegate shall advise the Head of Mission or his/her delegate of the refusal.

82. The United Nations shall seek to include in SOFAs, SOMAs or in arrangements supplemental thereto provisions that require the Host State to ensure that:

a. Persons detained by United Nations personnel who are handed over to national authorities shall at all times in the course of any subsequent detention and legal proceedings be treated by the State, its officials and authorities in accordance with the obligations of the State under relevant international treaties and customary international law, including international humanitarian law, the International Covenant on Civil and Political Rights, the Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment and Punishment, and the Convention on the Rights of the Child, as applicable;

b. In the event a person detained and handed over by United Nations personnel is subsequently prosecuted, tried and convicted by the courts of the Host State, no sentence of death will be sought or imposed; and

c. United Nations personnel and the International Committee of the Red Cross shall continue to have access to persons detained and subsequently handed over to the officials of the Government for the purposes of verifying that the treatment of such persons by the Government, its officials and authorities is in accordance with the obligations of the Government.

83. Where reasonably practicable, handover to a national authority shall occur at the location where the person was initially detained.

84. Until the handover is complete, the detained person remains the responsibility of relevant United Nations personnel engaged in the handover. Handover is considered complete when effective control over the detained person is passed from United Nations personnel to the national authorities.

85. At the time of handover, the detained person shall be given a copy of the Statement of Handover at Annex C, the contents of which shall be read to him/her in a language he/she understands.

86. At the time of handover, or as soon as possible thereafter, the following information shall be communicated by the Commanding Officer who has custody of the detained person or

his/her delegate to the national authorities receiving the detained person and the person(s) nominated by the detained person:

a. Information concerning the identity of the detained person;
b. Date, time and place of the person's detention;
c. Reason(s) and factual basis for detention;
c. Place of handover; and
d. Identity of the national authority who received the handover.

87. The Commanding Officer who has custody of the detained person or his/her delegate shall submit immediately after the handover a completed copy of the United Nations Detention, Release, Transfer and/or Handover Form at Annex B to the Head of Mission or his/her delegate, with copies to the Detention Focal Point and the Chief of the Human Rights Component of the Mission.

88. The Detained Persons Register and the Detained Persons Property Register shall be updated to reflect the handover of the detained person.

Items taken from detained persons

89. All items taken from the detained person shall be returned to the detained person or handed over to the national authority taking custody of the detained person. United Nations personnel shall not be under any obligation to return items that are dangerous and that have been or are intended to be destroyed in application of these Interim Standard Operating Procedures.

90. Any item handed over to a national authority shall be signed for by the person taking custody of the item.

91. The Detained Persons Property Register shall be updated with the relevant details of the property handed over.

Implementation measures

Detention registers

92. The Head of Mission or his/her delegate shall be responsible for keeping and maintaining all documents related to detention under these Interim Standard Operating Procedures. The Head of Mission or his/her delegate shall ensure that the following registers are maintained and examined as required:

a. Detained Persons Register;
b. Detained Persons Property Register; and
c. Detained Persons Complaints Register.

Reporting

93. In addition to the Mission's regular reporting through daily and weekly Situation Reports of overall detention statistics and special detention cases, Heads of Missions shall report every six months the following information by code cable to the Under-Secretary-General for Peacekeeping Operations, copying the United Nations High Commissioner for Human Rights: a) information regarding number of persons detained by the United Nations during the reporting period and the applicable grounds for detention; b) copies of any Mission-level legal, operational or administrative issuances pertaining to detention by the United Nations; and c) any other information related to detention in the reporting period,

including an analysis of gaps and challenges in the implementation of these Interim Standard Operating Procedures.

Internal evaluations

94. The Head of Mission, or his/her delegate, shall establish a capacity in the Mission to conduct regular internal evaluations in relation to the implementation of all aspects of these Interim Standard Operating Procedures, including the safety and well-being of persons detained, the use of force, administrative policies and practices and the effectiveness of authority, command and control arrangements.

Access and monitoring by the Human Rights Component and the International Committee of the Red Cross

95. The Human Rights Component of the Mission and the International Committee of the Red Cross shall be:

    a. Promptly informed of all detentions and shall be granted unconditional access to detained persons at all times, including the right to visit detained persons and hold confidential interviews with detained persons; and

    b. Notified of all detained persons that are released, transferred or handed over to a national authority in accordance with these Interim Standard Operating Procedures.

96. The International Committee of the Red Cross shall be permitted to conduct visits to detained persons in accordance with its usual working modalities.

97. The Human Rights Component of the Mission shall be granted access to all documents relating to the taking, handling and management of detained persons. The Human Rights Component shall monitor the detention condition of persons who have been handed over to a national authority, as part of its regular monitoring function and at its discretion. To this end, the Head of Mission or his/her delegate shall take appropriate measures to secure access of United Nations personnel to the detained person.

Training

98. Without prejudice to the responsibility of troop and police contributing countries to ensure that their personnel are aware of and fully comply with applicable international human rights, humanitarian and refugee law, norms and standards, the Mission shall provide appropriate training to all relevant personnel to ensure that they understand these Interim Standard Operating Procedures.

99. It is the responsibility of all commanders to ensure that all those under their authority or command who handle detained persons have received sufficient training to understand and apply these Interim Standard Operating Procedures. DPKO will provide pre-deployment training material on detention to all Troop Contributing Countries and Police Contributing Countries. Training in relation to these Interim Standard Operating Procedures and the applicable international standards on detention shall be conducted by the Mission during induction and as regularly as may be necessary thereafter to supplement the Pre-Deployment Training Programme.

Provision of resources

100. The Detention Focal Point, in coordination with the Director or Chief of Mission Support or his/her delegate, shall ensure that the resources necessary for implementation of

these Interim Standard Operating Procedures are included in the Mission's budget submission for each budgetary cycle. Subject to the allocation of funds by the General Assembly, the Detention Focal Point, in coordination with the Director or Chief of Mission Support or his/her delegate, shall ensure that all related equipment and materials are procured in a proper and timely manner.

Evaluation of the Interim Standard Operating Procedures

101. These Interim Standard Operating Procedures shall remain in force until such time as Final Standard Operating Procedures are adopted. At the end of the 12-month period following the entry into force of these Interim Standard Operating Procedures, the United Nations shall conduct a comprehensive review and evaluation of the implementation and effectiveness of these Interim Standard Operating Procedures, to be led jointly by the Department of Peacekeeping Operations and the Office of the High Commissioner for Human Rights. Following the completion of that review, any recommendations for amendments to these Interim Standard Operating Procedures shall be considered and incorporated, where necessary, prior to the final Standard Operating Procedures being promulgated.

E. TERMS AND DEFINITIONS

102. For the purpose of these Interim Standard Operating Procedures, the following terms and definitions shall apply:

a. *Child*: A person who is under the age of 18. Where there is doubt as to whether the detained person is a child he/she should be treated as a child.

b. *Commanding Officer*: A member of the Mission who is vested with the authority to direct, coordinate and control United Nations military or police personnel.

c. *Detention*: The temporary deprivation of liberty of a person by United Nations personnel in a United Nations peace operation. Detention commences when a person is deprived of his/her liberty and ends upon release or handover.

d. *Detained Persons Register*: A bound register with numbered pages which records a detained person's: identity; the reason for the detention; the place, day and hour the person was detained; the contact details of the detained person's relative (if provided by the detained person or otherwise known); and subsequent release, transfer or handover.

e. *Detained Persons Property Register*: A bound register with numbered pages which records the property in possession of the detained person at the time of detention and at the time of release, transfer or handover.

f. *Detained Persons Complaints Register*: A bound register with numbered pages which records all complaints and how the complaints were addressed.

g. *Elderly Person*: Any person who is over the age of 60. Where there is doubt as to whether the detained person is elderly he/she should be treated as elderly.

h. *Handover*: The act of passing a detained person from the effective control of United Nations personnel to national authorities.

i. *Transfer*: The act of passing a detained person from the effective control of one Commanding Officer to another Commanding Officer.

j. *United Nations peace operation*: A peace operation established by a decision of the United Nations Security Council or General Assembly, managed by the Department of Peacekeeping Operations and operating under United Nations command and control.

k. *United Nations personnel*: All members of the United Nations peace operation, including military members of national contingents; other United Nations military personnel such as military observers and military liaison officers; United Nations police personnel, including members of formed police units; and civilian staff members and United Nations Volunteers.

F. REFERENCES

103. Normative or superior references

a. International human rights, humanitarian and refugee law, norms and standards[8]

b. Secretary-General's Bulletin on "Observance by United Nations Forces of International Humanitarian Law", dated 6 August 1999 (reference: ST/SGB/1999/13)

c. Mission-specific military rules of engagement, police directives on the use of force and related matters, SOFAs, and SOMAs

104. Related procedures or guidelines

Supplemental guidance pertaining to detention as issued by the Head of Mission or his/her delegate.

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[8] As set-forth *inter alia* in the relevant provisions of the following instruments: *Universal Declaration of Human Rights* (adopted and proclaimed by General Assembly resolution 217 A (III) of 10 December 1948); *International Covenant on Civil and Political Rights* (adopted by the General Assembly of the United Nations on 16 December 1966; treaty in force since 23 March 1976); *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (adopted by the General Assembly on 10 December 1984; treaty in force since 26 June 1987); *Standard Minimum Rules for the Treatment of Prisoners* (Economic and Social Council resolution 663 (XXIV) of 31 July 1957); *Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment* (General Assembly resolution 43/173 of 9 December 1988); *Code of Conduct for Law Enforcement Officials* (General Assembly resolution 34/169 of 17 December 1979); *Basic Principles on the Use of Force and Firearms by Law Enforcement Officials* (Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, welcomed by General Assembly resolution 45/121 of 18 December 1990); *Convention on the Rights of the Child* (General Assembly resolution 44/25 of 20 November 1989); *United Nations Standard Minimum Rules for the Administration of Juvenile Justice* (General Assembly resolution 40/33 of 29 November 1985); *Guiding Principles on Internal Displacement* (contained in the annex of document E/CN.4/1998/53/Add.2 dated 11 February 1998); *Guidelines for the Effective Implementation of the Code of Conduct for Law Enforcement Officials* (Economic and Social Council resolution 1989/61 of 24 May 1989); *International Code of Conduct for Public Officials* (General Assembly resolution 51/59 of 12 December 1996); *Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (recommended by the General Assembly resolution of 4 December 2000); *Convention Relative to the Treatment of Prisoners of War* (adopted 12 August 1949); *Geneva Convention relative to the Protection of Civilian Persons in Time of War of August 12, 1949* (adopted 12 August 1949), *Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts* (adopted 12 December 1977), and *Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts* (adopted 12 December 1977).

G. MONITORING AND COMPLIANCE

105. Implementation of these Interim Standard Operating Procedures will be monitored by Heads of Missions or their delegates.

H. CONTACT

106. The designated focal points for these Interim Standard Operating Procedures in the Department of Peacekeeping Operations are PD/OROLSI/DPKO and OMA/DPKO.

I. HISTORY

107. These Interim Standard Operating Procedures are new procedures and were not amended.

APPROVAL SIGNATURE: A. L. M

DATE OF APPROVAL: 25. 1. 2010

ANNEX A

STATEMENT OF DETENTION[9]

This statement shall be handed to every detained person as soon as possible after the detained person has been detained by United Nations personnel

You have been detained by United Nations personnel for the following reason(s):

……on the following factual basis:……

You have the following rights:

a. To obtain information as to the reason(s) and factual basis for detention;
b. To designate a family member and/or other representative to be notified of the detention;
c. To make a complaint regarding conditions of detention or treatment;
d. To make a claim for compensation in relation to bodily injury or damage to property arising from measures taken during detention; and
e. To receive an inventory of items taken from the detained person and have those items returned under certain conditions.

If you are under 18 years of age, pregnant or a nursing mother, or unwell or injured, please notify the United Nations personnel who have detained you.

You may be examined by a medical professional. The purpose of the medical examination is to:

a. Determine your immediate physical and mental health care needs;
b. Determine if you are suffering from any infectious diseases;
c. Document any injuries, medical condition and illness;
d. Inform the United Nations and any other appropriate authorities of any medical care or supervision you may require; and
e. Ensure the continuity of your medical care while you are held in detention by United Nations personnel.

If you do not agree to a medical examination, you should notify United Nations personnel.

You may be photographed and have information recorded about you for the following purposes:

a. Identification; and
b. Recording any injuries.

[9] This statement shall be translated into a language the detained person understands, and when given to the detained person should, where reasonably practicable, be read aloud to the detained person.

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ANNEX B

DETENTION, RELEASE, TRANSFER AND/OR HANDOVER FORM

DETAINED PERSON DETAILS

NAME
(First name, middle name, family name, alias)

SEX: [ ] M [ ] F **HAIR COLOUR** **EYE COLOUR**

MOTHER'S NAME
FATHER'S NAME
ADDRESS

HEIGHT **BUILD**

DISTINGUISHING MARKS

DATE OF BIRTH
NATIONALITY
NATIONAL IDENTIFICATION CARD DETAILS

ID DETAILS OF UN PERSONNEL AND ANY OTHER PERSONS INVOLVED IN THE DETENTION

DETENTION DETAILS

DATE **TIME** **LOCATION**
REASONS FOR DETENTION
FACTUAL BASIS FOR DETENTION
CONDITION OF THE DETAINED PERSON AT THE TIME OF DETENTION

DID THE DETAINED PERSON MAKE A STATEMENT? YES [ ] NO [ ] IF YES ATTACH COPY OF STATEMENT

INVENTORY OF ITEMS TAKEN FROM THE DETAINED PERSON

(ATTACH COPY)

RELEASE OF DETAINED PERSON

DATE **TIME** **LOCATION**
REASON FOR RELEASE

PROPERTY RETURNED TO THE DETAINED PERSON

PROPERTY RETAINED AND REASON FOR RETENTION (EACH ITEM OF PROPERTY)

LOCATION OF PROPERTY RETAINED

ID DETAILS OF UN PERSONNEL AND ANY OTHER PERSONS WHO WITNESSED THE RELEASE

TRANSFER OF DETAINED PERSON

DATE **TIME** **LOCATION**

REASON FOR TRANSFER

PROPERTY TRANSFERRED WITH THE DETAINED PERSON

ID DETAILS OF UN PERSONNEL WHO TRANSFERRED AND RECEIVED THE DETAINED PERSON
NAME **UN ID NUMBER** **UNIT**
SIGNATURE

HANDOVER OF DETAINED PERSON

DATE **TIME** **LOCATION**

REASON FOR HANDOVER

PROPERTY HANDED OVER WITH THE DETAINED PERSON

ID DETAILS OF UN PERSONNEL AND ANY OTHER PERSONS INVOLVED IN THE HANDOVER
DETAILS OF NATIONAL AUTHORITY WHO RECEIVED THE DETAINED PERSON
NAME **NATIONAL ID NUMBER AND DETAILS** **AUTHORITY**

CONDITION OF DETAINED PERSON

WAS THE DETAINED PERSON INJURED DURING DETENTION? YES [ ] NO [ ] IF YES, DESCRIBE INJURIES

DID THE DETAINED PERSON RECEIVE MEDICAL ATTENTION? YES [ ] NO [ ] **IF YES, DESCRIBE**

ID DETAILS OF THE PERSON WHO PROVIDED MEDICAL EXAMINATION AND/OR ASSISTANCE
NAME **UN ID NUMBER** **UNIT**

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ANNEX C

STATEMENT ON RELEASE OR HANDOVER[10]

This statement shall be handed to any detained person released or handed over by United Nations personnel.

You were detained by United Nations personnel at [location] from [date/time] to [date/time]. You are no longer detained by the United Nations.

You have the right to make a complaint to the United Nations concerning your treatment or the conditions of your detention by United Nations personnel.

You have the right to claim compensation for any bodily injury or property damage from the United Nations which is attributable to any wrongful action on the part of United Nations personnel and is related to your detention. Any such claim must fulfil the requirements of United Nations General Assembly resolution 52/247 and, therefore, must be submitted within six months of the time at which you became aware of the cause of the injury or damage, and in any event no later than one year following the termination of the mandate of the peacekeeping mission whose personnel detained you.

Should you wish to make a complaint or seek compensation you are to contact:
[*Insert here the name of the relevant appointment and their contact*].

[10] This statement shall be translated into a language the detained person understands, and when given to the detained person should, where reasonably practicable, be read aloud to the detained person.