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## Human Rights and Law Enforcement Agencies: Responsibility and Accountability

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*(continued from the previous issue)*

### General Aspects of Policing in Democracies

#### (a) Fundamental principles

The fundamental democratic principles set out in human rights texts are the principles of:

- ♦ Participatory and representative government where by people have the right, directly or indirectly to take part in the government of their country;
- ♦ Equal access to public service;
- ♦ Universal and equal suffrage based on free and periodic elections;
- ♦ Respect for fundamental freedoms.

#### (b) Political rights and the role of the police

In many ways, police can be seen as facilitators of political rights, enabling people to enjoy them. This means:

- ♦ Securing the correct balance between public order and exercise of the rights (by individual and groups);
- ♦ Maintaining impartiality and not discriminating between individuals and groups seeking to exercise the rights.

More broadly, police is to maintain social order (social peace and tranquility) so that political processes can be conducted constitutionally and lawfully and so that political rights necessary for those processes can be enjoyed. In fact, Article 28 of the Universal Declaration of Human Rights states, "Everyone is entitled to a social and international order in which the rights and freedom set forth in this declaration can be fully realized."

The maintenance of social order is one of the prime police functions.

#### (c) Specific provisions on policing and democratic elections

Police and security forces play a dual role in election setting. Effective administration of justice during an election period requires a balance between, on the one hand the need for the electoral security and maintenance of order on the other hand, the need for non-interference with rights and for an environment free of intimidation. The Code of Conduct for Law Enforcement Officials imposes a duty of service to the community on all officers of the law. This notion necessarily requires that security forces strive to ensure that all citizens benefit from elections that are administratively sound and free of any disruptive forces seeking to undermine the free expression of popular will.

In the case of national police services, any police presence at places of registration or polling should be discreet, professional and disciplined. In general, this requires that police and security personnel be posted in the minimum necessary number to assure security in a given location. This "minimum necessary number" is usually determined in consultation with electoral officials. In any event, police should never be positioned in such a way as to impede legitimate access or to intimidate voters.

In resolution 34/169 of 17<sup>th</sup> December 1979, by which it adopted the Code of Conduct for Law Enforcement Officials, the General Assembly stated that:

"Like all agencies of the criminal justice system, every law enforcement agency should be representative of and responsive and accountable to the community as a whole."

Representative, responsive and accountable policing, in other words democratic policing, is fundamental to policing in democracies.

### **Representative policing**

This means that police must ensure that their ranks are sufficiently representing the community they serve. Minority groups must be adequately represented within police agencies, through fair and non-discriminatory recruitment and also policies through policies designed to enable members of those groups to develop their career within the agencies.

Furthermore, police need to consider the qualitative make up of the personnel within a police agency as well as the numerical makeup. This means ensuring not only that there are adequate number of police, properly representative of the population but also officials have the willingness and capacity to carry out democratic policing in a democratic political system.

### **Responsive policing**

These require police to be aware and responsible to public needs and expectations. Clearly, the public needs and expects police to:

- Prevent and detect crime;
- Maintain public order.

### **Accountable policing**

This can be achieved in the following three ways:

- Legally – as with all individuals and institutions in states where the rule of law prevails, police is accountable to the law;
- Politically – police is accountable to the public they serve through the democratic political institutions of government, in this way, their

policies and practices of law enforcement and order mainly will come under public scrutiny;

- Economically – police personnel are accountable for the way in which they use resources allocated to them. This goes beyond scrutiny of their main law enforcement functions and is an additional form of democratic control over the entire command, management and administration of a law enforcement agency;

Considering policing in democracies highlights political aspects of policing. This can be sensitive and difficult area because:

- (a) Circumstances in countries engaged in transition to democratic government create particular difficulties for police. In such cases police need to be actually sensitive to the need for impartiality and non-discrimination.
- (b) In countries with long-established democracies, there is a tendency to ignore or underplay the political aspect of policing— a tendency arising partly out of concern to remain non-partisan and unbiased. This can lead to a certain naivety in some highly political situations.

However, in a very broad sense, policing is something a highly political activity. This can be done if all police retain awareness that they do not serve a particular government or a particular regime. The bases of all policing activity are the constitution and the law. Police serve the rule of law and the ends of justice. *(concluded)*