

# COMMUNITY PERSPECTIVES ON POLICY & PRACTICE

EXPERIENCE FROM THE AFRICAN COMMISSION ON HUMAN  
AND PEOPLES' RIGHTS

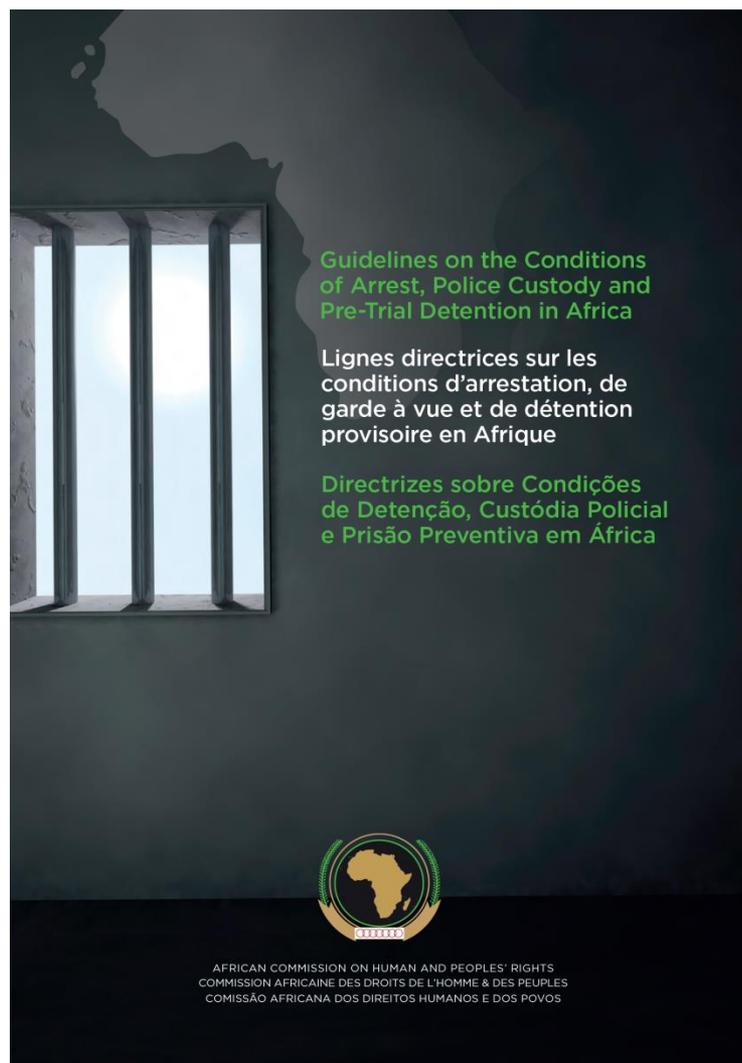
WORKSHOP 4 - 13<sup>th</sup> CONGRESS ON CRIME  
PREVENTION AND CRIMINAL JUSTICE

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Foundation for  
**Human Rights**  
Initiative (FHRI)

# FROM PRACTICE TO POLICY



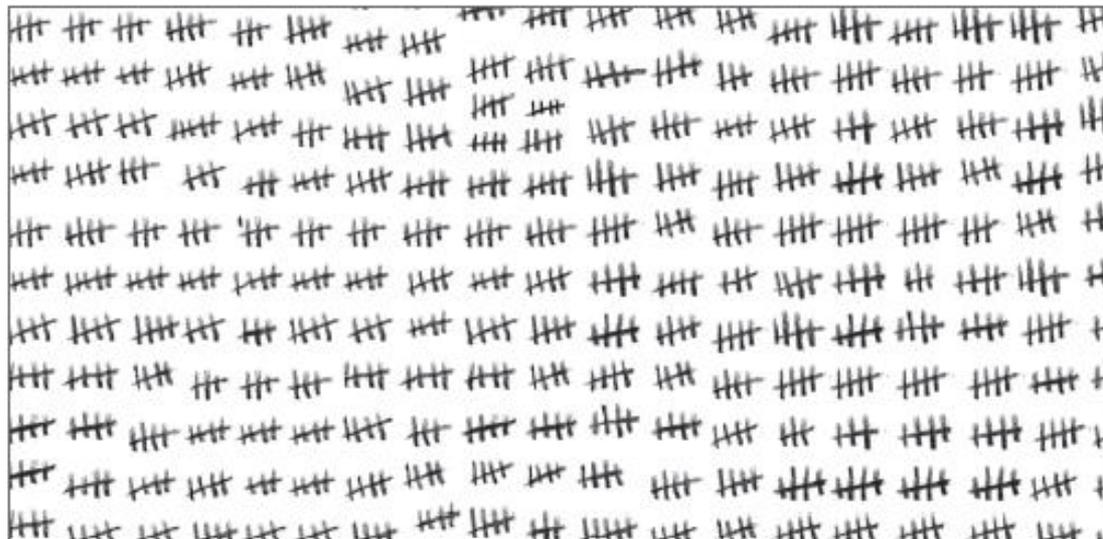
In May 2014 the African Commission on Human and Peoples' Rights adopted the Luanda Guidelines on the Conditions of Arrest, Police Custody and Pre-Trial Detention in Africa

# REGIONAL CONCERN

In 2011 the ACHPR identified **prison overcrowding** & the **length of time that people spend in pretrial detention** as one of the most serious challenges facing correctional services in Africa

In Nigeria, the average length of pretrial detention nationally has been reported at **3.7 years.**<sup>4</sup>

In 2010, half of Nigeria's pretrial detainees had been detained for **between 5 and 17 years.**<sup>5</sup>



# REGIONAL STATISTICS

	% Pretrial Detainees
Libya	90
Liberia	90
DRC	83
Congo Brazzaville	75
Benin	75

	Occupancy - % over capacity
Benin	363
Zambia	279
Uganda	260
Sudan	255
Chad	232

# REGIONAL ACTION

- In **2012** the Commission adopted a **resolution** to develop new guidelines on police custody and pretrial detention across Africa.
- In **2013 regional consultations** took place in Johannesburg, Nairobi, Dakar, Tunis and at the ACHPR Session in Banjul.
- In May **2014** – following consultations across all regions the '**Luanda Guidelines**' were adopted at the ACHPR session in Angola.

# THE LUANDA GUIDELINES

Designed to be a practical guide - trace nine key elements:

**1 Arrest** - grounds for arrest, procedural guarantees, the rights of arrested persons, and the requirement that arrested persons are notified of their rights.

**2 Police Custody** – including safeguards for persons subject to police custody, access to legal services and safeguards during questioning and the recording of confessions.

**3 Decisions around Pretrial Detention** - including the safeguards for suspects who are subject to a pretrial detention order, review procedures mechanisms to minimise prolonged pre-trial detention.

# THE LUANDA GUIDELINES

**4 Registers** – this section addresses the type of information that should be recorded in all forms of registers – from arrest and police custody registers.

**5 Deaths in Custody** – and the procedures that should be followed in the event of a death in police custody or pretrial detention.

**6 Conditions** – including conditions in police custody and pretrial detention and specific safeguards that apply to these places of detention such as the separation of categories of detainees.

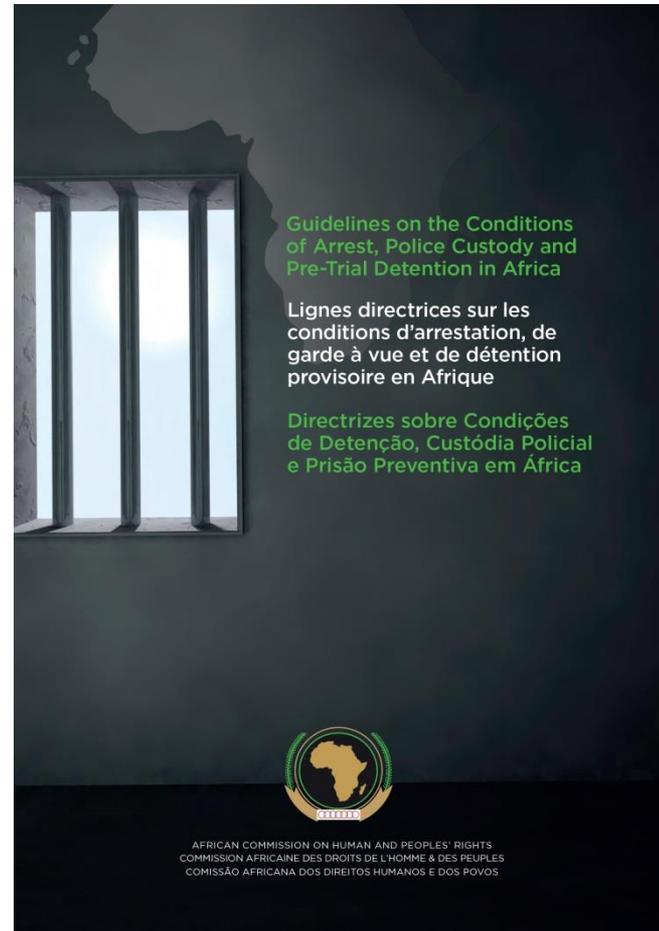
# THE LUANDA GUIDELINES

**7 Vulnerable Groups** – covers groups identified by the African Charter as being vulnerable or having special needs within the criminal justice system including women, children, persons with disabilities and non-nationals.

**8 Accountability and Remedies** – includes a range of measures such as judicial oversight, habeas corpus, minimum standards of conduct for law enforcement officials, complaints mechanisms, data collection, access to information, oversight and monitoring mechanisms and the process of inquiries.

**9 Implementation** – requires that states adopt legislative, administrative, judicial and other measures to give effect to the Guidelines, give consideration to the Guidelines in their State Reports and ensure relevant training.

# FROM PRACTICE TO POLICY



# WHAT WE DO

- PAS trains lay persons e.g. teachers, retired civil servants, community workers in basics of the law, procedures and processes of access to justice.
- They provide basic legal advice and education to detainees to aid in self representation
- Advocate for the rights of detainees, make their voices heard on matters pertaining to expeditious and fair trials and coordinate with other justice sector actors

**PAS helps to follow up files of pretrial detainees at the police to expedite first appearance in court**



# A paralegal sensitizes court users before commencement of court



**PAS helps to identify the vulnerable e.g. the elderly on pretrial detention to fast track their trials**



# PAS helps to link detainees to their relatives for required assistance to access justice



# PAS & THE GUIDELINES

PAS contributed to the development of the guidelines – it was important that they:

- Reflect and promote the work on the ground
- Provide practical guidance to practitioners

## **8. Access to legal services**

- a. States should establish a legal aid service framework through which legal services for persons in police custody and pre-trial detention are guaranteed.
- b. Legal services may be provided by a number of service providers including lawyers, paralegals and legal clinics, depending on the nature of the work and the requisite skills and qualifications.

# A REGIONAL PERSPECTIVE



APCOFs interest in the sector:

- Police arrest and detention is an early point of contact with the criminal justice system
- It sets the tone for subsequent interaction
- It can have a dramatic effect on police community relations
- It generates a significant complaint case load for oversight agencies

Through the Global Campaign for Pretrial Justice engaged in an extensive regional consultation process with the African Commission resulting in:

- Recognition of the importance of the policing in the protection and promotion of human rights
- A legitimate and credible standard on a rights based approach to police arrest and detention

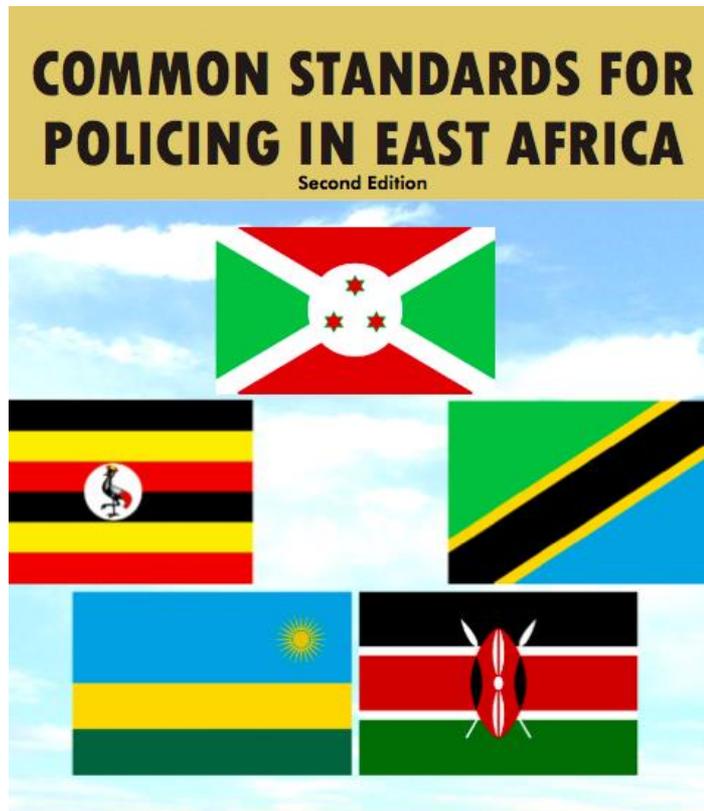


# IMPLEMENTATION

Inclusive approach that marked the adoption of the Guidelines furthered in the development of a multi stakeholder implementation plan which includes:

- **Accessibility** of the guidelines
- **Endorsed** by regional and sub-regional bodies
- **Sustained focus** by the ACHPR through promotion, monitoring & reporting
- **Tools and technical support** to support local implementation and national action plans

# EAST AFRICAN CASE STUDY



The East African Community (EAC) and East African Police Commissioners Cooperation Organization (EAPCCO) adopted a *Common Standard for Policing in East Africa*

The next step is to develop Standard Operating Procedures (SOPs) – working with a group of experts – including National Human Rights Institutions.

EAPCCO supporting the operationalisation of the SOPS and Common Standards through a police orientated and practical Training Manual on Human Rights.

- Provides clear opportunity to domesticate and institutionalize the Luanda Guidelines in the region
- Wide dissemination of the SOPS and their inculcation into police practice and culture.