

AN ASSESSMENT OF TANZANIA'S COMPLIANCE WITH INTERNATIONAL RULES AND PRINCIPLES ON PROHIBITION OF EXCESSIVE USE OF FORCE BY INDIVIDUALS

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ABSTRACT

International customary law and principles prohibit the use of excessive force. The legal prohibition on use of excessive force by individuals under international law came from different documents, but specifically to the Code of Conducts for Law Enforcement officials and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. The prohibition guides all operations by law enforcement officials to protect and respect human rights and fundamental freedoms. This article specifically analyses Tanzania's compliance with international rules and principles on prohibition of excessive use of force by individuals. Second, the standard rules and principles which were incorporated in Tanzania are they adequate to prohibit the excessive use of force by individuals?

Keywords: Excessive Use of Force and Human Rights and Freedoms

INTRODUCTION

A State is responsible for the security and peace of the nation. This responsibility includes protecting individual citizens from any harm that can be occasioned to them. This ought to be achieved by using coercive state instruments such as the police force among other instruments. As a general rule, police force while protecting peace and security have obligations to respect and protect human rights and fundamental freedoms of citizens the country. In the realization of protection of human rights with a view to maintain peace and security, police officers must be guided by domestic laws in line with internationally accepted standards. It is in this context; States have taken appropriate measures to enact laws and ratify international instruments so as to reduce human rights violations. The rationale behind is to ensure that citizens are protected, enjoy their rights and have redress whenever such rights are violated.

However, this has not been the case always. Sometimes, there are situation whereby police officials in the course of their duty cause unwarranted bodily harm and sometimes even death to individuals. For example, in February 2021, one Baraka Manyanda was severely beaten by police officers at police station after resisted arrest. He died under medication.ⁱIn this situation police forces fails to balance the use of force in protecting security and peace in context of human right and requirement of the law. This is contrary to the proportionality principle which requires that the force used is to be equal to the resistance advanced or the circumstances in which the force is required to mitigate.ⁱⁱ 20th June 2021 Alpha Nassor a resident of Ilembule Ward in Mpwapwa District, was allegedly severely beaten while under police custody and taken to hospital four days later and he died at the hospital two days later.ⁱⁱⁱ There are several examples for these occurrences, including the killing of Mr. Yusuph Twalib by the police at Tegeta Dar es salaam, the killing of a pregnant woman in Iringa while conducting an operation against illegal local brew, shooting of Basili Njole in Njombe when he was found drinking local brew beyond prescribed hours.^{iv} Also, there was the killing of a man in a police station at USARIVA Arusha,^v police officers killed another individual at Mbeya after being severely beaten by police officers leading to excessive death as a result of bleeding,^{vi} the police shot a dead a man who was in a scuffle at Mburahati area claiming his money from another and police stating that they did so because he had a gun but the witnesses stated that the deceased had no weapon,^{vii} a police guard who allegedly stole from his employer was in police custody at Urafiki Police Station, Dar es Salaam, died soon after he was released from police custody as

he was severely beaten by the police.^{viii} Another most recent event was the killing of one person and injuring of two others by the police at football field in Kigoma. The police were containing a fight that erupted. There are still complaints that the police used excessive force to contain that fight as they used fire arms.^{ix}

This discrepancy invites further investigation into laws governing excessive use of force by police force. This paper examines adequacy of Tanzanian laws in prohibiting the use of excessive force by the police force in light of the accepted international standards and principles. It argues that the existing Tanzanian laws are falling short of international standards in prohibiting excessive use of force. Finally, it recommends for ratification and harmonization of existing laws in protection of peace and security for mankind upon which the existing problem may be addressed.

INTERNATIONAL STANDARDS AND PRINCIPLES ON THE PROHIBITION OF EXCESSIVE USE OF FORCE

The term use of force can be defined in different context and have different meaning. Deadly force meaning the use of force is likely to have lethal consequences for the victim. Police brutality refers to the use of force which cause serious physical and psychological harm to victim. Under this study the use of excessive force refers to the situation where more force is used than which is allowed when examined under administrative or professional guidelines.

Formerly, at the international level, many laws did not consider the use of force by an individual person. The prohibition of excessive use of force by an individual came under international law when state agents used extreme force led to human rights violations. To address this concern, many rules and principles governing use of force by law enforcement officials came in to being. These are The Code of Conducts for Law Enforcement Officials^x and The Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (BPUFF).^{xi} These instruments govern use of force at times of peace (where there is no armed conflict) by law enforcement officials. Apart from the specific instruments which govern use of force by law enforcement officials, there are several other international instruments under the international level which have provisions prohibiting the use of excessive force. These are: the United Nation Charter of

1945, the Universal Declaration of Human Rights of 1948 and the International Covenant on Civil and Political Rights of 1966.

Generally, the international instruments provide for three general principles governing the use of force, namely necessity,^{xii} proportionality^{xiii} and the precaution^{xiv} principles. The necessity principle requires that the force should be used necessary to the circumstances, each use of force must be for legitimate purpose and it should be minimal force which is reasonable and necessary to the circumstances. The proportionality principle sets a maximum threshold on the force that might be used to achieve specific legitimate objectives. The principle states that whenever there is a lawful use of force and firearms, the law enforcement officials must minimize damage and injury. The precaution principle requires an individual to take protective action before the risk. These principles were incorporated within every document under international law. The implementation of the stated principle requires clear rules and procedures to be followed. The prohibition of excessive use of force is enshrined under international law as explained hereunder.

The BPUFF is one of the laws specifically guiding the use of force by law enforcement officials. The BPUFF prohibits the use of excessive force, it determines and sets the parameters in determining the lawfulness of the use of force by law enforcement personnel. It establishes the standards for the use of force.^{xv} The law states that the State's use of force by law enforcement officials should be regulated.^{xvi} To have lawful use of force, domestic laws must define its objective in a sufficiently clear manner. For instance, the use of force that occurs for personal gain or as punishment which is not proportional to the crime committed would not be compatible with the law. The use of force is justifiable only when absolutely necessary and proportional. The law enforcement officials need to use non-violent means before resorting to the use of force and firearms.^{xvii}

The BPUFF further prohibits excessive use of force by providing the parameters for the use of force, that all human beings are entitled to respect human rights and fundamental freedoms, including the right to life, security of the person and to be free from torture, cruel, inhuman or degrading treatment or punishment. The BPUFF provides other parameters to specific situations which are must follow for law enforcement officials: arrests shall not be discriminate one and must be consistent with international standards. The BPUFF protects the right to life

as one of the rights which infringed by the use of excessive force. The BPUFF states that, no one shall be arbitrarily deprived of his life. The exceptional measures to take life should not be applied in a manner that is arbitrary and such exceptional measures shall be accompanied by law. The prohibition is absolute, non-derogable and forms part of the international law rules, and no situation will justify arbitrary deprivation of the right to life except the circumstances provided under the BPUFF.^{xviii}

In custody or detentions, the BPUFF states that, while policing persons in custody or detentions, law enforcement officials shall not use force except where it is strictly necessary for the maintenance of security and order within the institution.^{xix} The BPUFF requires people who are deprived of their liberty the law enforcement personnel's or other public official be responsible to ensure full account is taken for prohibition against torture.^{xx} The officers in institutions are not allowed to use force except in self-defense or in escape cases, however, the force allowed in those situations should be strictly necessary.^{xxi} The use of force is allowed where there no other means exists and without hurting a human life.

The BPUFF prohibits excessive use of force during assembly. The law enforcement officials may use firearms only when less dangerous means are not practicable. Officials are not allowed to use force except under conditions stipulated under the Basic Principle that covers self-defense. Also, in dispersal of assemblies that are unlawful, but not violent. Law enforcement officials shall avoid the use of force or where practical, shall restrict it to the minimum extent. The BPUFF furthermore prohibits torture, it states that the government to avoid the use of force, should develop non-lethal incapacitating weapons for use in appropriate situations and this will help to reduce means capable of causing death or injury to persons.^{xxii} The use of force that results in pain and suffering which is considered to be excessive, unjustifiable or disproportional would amount to a form of ill treatment.^{xxiii} The use of force which is unlawful and direct to the control of law enforcement official (arrest/detention) or during riot control may amount to torture.

The BPUFF lastly provides for the way in which force is sometimes unavoidable; the enforcement officials shall use force proportional and legitimate to the objective achieved. The law enforcement shall minimize damage and injury, respect and preservation of human life, and assure that assistance and medical aid are rendered to any injured/ affected persons at the

earliest possible moment and last ensure the relatives or close friends of the injured person are notified as early as possible.^{xxiv}

The Code of Conducts for Law Enforcement officials^{xxv} states that law enforcement officials at all the times should fulfil their duties by protecting illegal acts by adhering to professional rules, they are to respect, protect and uphold human rights.^{xxvi} The officials are allowed to use force and may use force only when it is strictly necessary and to the extent required by their duties.^{xxvii} Law officials are not allowed to be involved in acts of torture or other cruel, inhuman or degrading treatment or punishment. Also, the code protects persons who are in custody, that the persons in custody should be protected and respected.^{xxviii}

The United Nations Charter provides for the procedure and as well it prohibits the use of force^{xxix} that all members shall refrain from threat or use of force against the territorial integrity or political independence of any state,^{xxx} the use of force is allowed for self-defense if an attack occurs however, the use of force^{xxxi} should be necessary in self-defense and adherence to the proportionality principle.^{xxxii} The prohibition of excessive use of force under the Charter limits only state use of force.

The Universal Declaration of Human Right (UDHR)^{xxxiii} prohibits the use of excessive force; it protects all the rights without discrimination as one of the principles under the use of force. The law states that all human beings are free and have equal in dignity and rights.^{xxxiv} It prohibits the use of excessive force by protecting the rights which are likely to be violated such as the right to life, liberty and security of the person, the right not to be subjected to torture or to cruel, inhuman or degrading treatment,^{xxxv} and not to be subjected to arbitrary arrest, detention and exile.^{xxxvi} States are responsible in protecting human rights on individual persons. Equally important, law enforcement officials are obliged to respect and protect the human rights. Although the UDHR does not incorporate the provisions on the prohibition of excessive use of force and firearms directly; the interpretation of the above provision prohibits the use of excessive force.

The International Covenant on Civil and Political Rights (ICCPR),^{xxxvii} protects civil and political rights.^{xxxviii} The exercise of these rights has limitations. The use of excessive force by law enforcement officials sometimes violates the civil and political rights. One of the limitations for the use of excessive force under the ICCPR is the use of the proportionality

principle which minimize the use of force.^{xxxix} Where the use of force is likely to violate certain human rights; the proportionality and necessity principle are one of the general principles which are to be applied in use of such force. The ICCPR limits law enforcement officials to use excessive force: It states that the exercise of rights might, be subject to certain restrictions, but these shall only be such as are provided by law and are necessary.^{xl} The ICCPR protects the right to life and no one is to be arbitrarily deprived of this right.^{xli} There is a prohibition from torture in detained areas as it is usually the end result of the use of excessive force and subjecting an individual to inhumane and degrading treatment.^{xlii} The covenant protects the rights of persons in custody or detained, and should be treated with humanity and dignity.^{xliii} However, there is no direct provision that prohibits the use of excessive force; the interpretations to the above provisions somehow incorporate the prohibition of the use of excessive force by state and individuals.

The United Nation Convention against Torture (UNCAT), prohibits torture which is the end results of the use of excessive force and forms part of customary international law and binding all states. The Convention prohibits torture and other cruel, inhuman and degrading treatment or punishment. The law recommends that, states have a duty to make sure that they prohibit torture in any ways.^{xliv} The optional protocol to the UNCAT^{xlv} also affirms torture and other cruel inhuman or degrading treatment constitutes serious violation of human rights and shall be prohibited. The Declaration against torture^{xlvi} likewise considers act of torture as denial of the UN Charter and violation of human rights.^{xlvii} It requires states not to accept torture in their jurisdiction and any act which are inhuman or degrading treatment or punishment. The Declaration requires the training of law enforcement officials and public officials shall ensure the training involves prohibition against torture and other cruel, inhuman or degrading treatment or punishment.^{xlviii} To prohibit the excessive use of force the Declaration recommends, each state shall review its interrogation methods to avoid cases of torture or other cruel, inhuman or degrading treatment of punishment.^{xlix}

The Declaration on Elimination of Violence against Women¹ is also one of the legal documents prohibiting violence against women. It terms violence as the use of excessive force against women and is a bar towards development and peace. Violence includes physical, sexual and psychological harm or suffering to women. The Declaration requires protection of all human

rights and fundamental freedom include: right to life and not subject to torture, inhuman and degrading treatment.

In summary under the international level, the study has found that the prohibition of excessive use of force is not completely adequate. The laws have shown the problem exists and somehow solved via law provisions that prohibits excessive use of force by law enforcement officials. However, many instruments not directly prohibit the use of excessive force by law enforcement officials the main instruments; the Basic Principle on the Use of Force by Law Enforcement Officials^{li} and the Code of Conducts for Law Enforcement Officials^{lii} lacks binding force and the issue not be taken seriously.

THE TANZANIA LEGAL FRAMEWORK ON PROHIBITION OF THE EXCESSIVE USE OF FORCE

The use of excessive by police officials has impact in human rights. Tanzania like many other countries is affected by use of excessive force. It is in this context that the Constitution of United Republic of Tanzania protects human rights and it affirms on the principles of freedoms, justice, fraternity and harmony. The Constitution protects all rights and prohibits the excessive use of force in the exercise of the rights. Article 12(2) states that every person is entitled to recognition and respect of his dignity as one of the parameter for the use of force that all human beings are entitled to respect human rights and fundamental freedom, Article 13(6)(d)(b) provides for the presumption of innocence, a person who has been charged with a criminal offense shall not be treated as if he/she is guilty of the offense until proved so by a competent court of law, this Article protects human rights and freedom to persons who are innocent until found guilty. Article 13(6)(d) requires human dignity to be protected in all activities pertaining to criminal investigation and process in one way or another this article prohibits excessive use of force to all criminal justice process and Article 13(6) (e) provides that no person shall be subjected to torture or inhumane or degrading treatment. The prohibition of the use of excessive force under the Constitution is not direct, however the interpretation of the rights disallows the use of excessive force.

Where there is a violation of human rights and freedoms, the Constitution under Article 107A,^{liii} 107B and 108 gives power to the High Court to dispense justice and gives remedies for human rights violation in the country. This is read in tandem with Article 30(3) which vests the jurisdiction of enforcement of human rights in the High Court and Article 30(2) which provides for limitations upon the enforcement and preservation of human rights and freedoms and duties that the rights shall not in the way causes the interference with individual freedoms and public interest. In this way the Constitution forbid the excessive use of force and protects human rights and freedoms.

The Tanzania Penal Code spells out behaviours that are offences and their punishments. It prohibits excessive use of force. Section 18A allows the use of force proportionately only when one is acting under self-defence or is trying to defend another person against any unlawful act of assault or violence to the body, to defend his own property and any property if its lawfully possessed, under his custody or under his care or the property of any other person against any unlawful act of seizure or destruction or violence. Section 18B provides for the right of self-defence or defence of property. A person shall be entitled to only use such reasonable force as may be necessary of that defence.^{liv}

The penal code further states that every person shall be criminally liable for any defence resulting from excessive force used in self-defence or in defence of another or in defence of property. Any person, who causes the death of another as a result of excessive force used in defense, shall be guilty of manslaughter.^{lv} Further, where a person is charged with criminal offense of use of force; out of arrest or attempt to arrest, the court may consider whether the means used were necessary or the degree of force used was reasonable for the apprehension of such person, have regard to the gravity of the offense which had been or was being committed by such person and the circumstances in which such offense had been or was being committed by such person.^{lvi}

The Criminal Procedure Act (CPA)^{lvii} provides for guidelines and procedures to be followed in the investigation of crimes and the conduct of criminal trials. It provides for ways to be followed in criminal justice system. The police officers as the main actors have mandates under the law to protect human rights and freedoms and have power to use force. The CPA provides

for police powers and procedures that every police officer shall exercise in performing the duties imposed on him as police officer.^{lviii}

Among the rules which prohibits the use of excessive force: a police officer shall accompany and protects the rights of a person who is under restrain for investigation not to subject a person to indignity.^{lix} Police have power to arrest with and without warrant and if a person resists reasonable force is allowed to be used.^{lx} The use of force is allowed, but should not subject a person to more indignity than is necessary and an officer during arrest shall not do an act likely to cause the death of that person unless he believes on reasonable grounds doing that is necessary to protect life or prevent serious injury.

The CPA requires a suspect awaiting interrogation to be treated with humanity and respect of his dignity. Suspects should not be subjected to any cruel inhumane or degrading treatment by police officers.^{lxi} Police officer likewise has special duties, to vulnerable groups, for instance when a suspect is a child who is in conflict with law, the police officer needs to inform a parent or guardian that the child is under restrain and the offence committed. The human rights of a child should be observed.

The Police Force and Auxiliary Service Act (PFASA) provides powers, duties, the organization and discipline powers of police.^{lxii} The PFASA provides for the duties of police force: to peace, maintenance of law, prevention and detection of crime, apprehension and guardian of offenders and protection of property.^{lxiii} The PFASA provides for general powers and duties of police officers, that police officers shall promptly obey and exercised all orders and warrants lawfully issued to them.^{lxiv} Police officers are allowed to use arms against any person in lawful custody charged with or convicted of any offense when such person is escaping or attempting to escape, where such police officer has reasonable grounds to believe that he cannot otherwise prevent escape and given warning to such person that he is about to use such arms against him and such warning is unheeded.^{lxv}

Police officer may use force also rescue any other person from unlawful custody, prevent or attempt to prevent the lawful arrest of any other person,^{lxvi} where such police officer has reasonable ground to believe that any other person is in danger of grieves bodily harm and that he cannot otherwise effect such arrests or prevail such rescue, the powers conferred to a police officer by this section shall be in addition to and not in derogation of any other powers conferred on such police officer by any other law.^{lxvii}

The Law of Child Act^{lxxviii} provides for reforms and consolidation of laws relating to children. The law protects the rights of vulnerable group when a child is in conflict with the law as an accused person or victim. It stipulates the rights of the child, promotes, protects and maintains the welfare of the child with a view of giving effect to the international and regional conventions on the rights of the child. Part (ix) of the Act provides for a child in conflict with law, a child as an accused person or victim. Police officers have a duty under the law to protect the rights of children though they are in conflict with law. The law prohibits any act of torture and other cruel, inhuman and degrading treatments to children.^{lxxix}

The Police General Order (PGO) contains rules governing police administration. The PGO states police force has origin in the constitution of the united republic of Tanzania. The PGO provides for guiding principles to police action: the protection of life and property as one of the essence of force,^{lxxx} the act of torture and any inhuman or degrading treatment to any person by member of force is intolerable,^{lxxxi} the use force is allowed, but the use of force will only be acceptable to the extent considered necessary to achieve legitimate objective,^{lxxxii} and every member of police force in the performance of his duties has specific responsibility towards protection of vulnerable groups of the country.^{lxxxiii}

One of the duties to police force is protection of life and property. Here the use of force and firearms is inevitable. The PGO states, arms and force should be used following the procedures laid down under this document and following the rules and conditions under section 29 of the Police Force and Auxiliary Service Act.^{lxxxiv} The PGO provides for conditions in the use of force. Force is allowed to be used on a person charged or convicted with a felony and where a person is escaping and the officer believed he cannot prevent escape, to rescue of attempt to prevent lawful arrest of any person, defense of another who may be seriously injured /killed by assault armed and for self defense. The firearms should not be used with the aim of killing or inflicting a serious injury or should be directed at legs only. The reason behind these conditions is that each officer should be personally accountable and responsible for any recklessness for the improper use of weapons under his custody. Responsibility arises where police officer intentionally fire and cause death and use excessive force to carry out his duties.

The PGO explains the technique on the use of force “use of force continuum”.^{lxxxv} This is a graphic which describes the use of force used by police personnel in the response taken by

suspects/ offenders. The use of force by police officer is determined by the circumstance finds him at the time force used. Grounds which consider the level of force at the circumstance: age, size, fitness, experience, skill level, strength and number of officers and suspects. The level of force depends on the circumstance model, the level of force should start at the lowest level and should increase depend on the situation. This model has six components which determine the level of force to be used: threat assessment meaning the threat should exist to justify the use of force, the level of threat affects the level of force be used, level of resistance meaning the resistance of the suspects/offender determines the level of force to be used whether the level of resistance is static, active, ominous and so on.^{lxxvi}

The consideration to the level of force whether is high or low depends: on the obedience of the suspect/offender to the command by police officer, achievement of the control/compliance to the course of action and if the threat has injury.^{lxxvii} The PGO further provides for the justification principles on the use of the use of force: the threat dictates the degree of force to be used and the injury which may occur during resistance and if the level of force is justified the degree of injury is of no significance.^{lxxviii}

CRITICAL ASSESSMENT OF THE TANZANIA'S COMPLIANCE WITH INTERNATIONAL RULES AND PRINCIPLE ON PROHIBITION OF EXCESSIVE USE OF FORCE

The government has adopted the rules and regulations on the use of force which are stipulated under international legal framework. The laws in Tanzania provide for the restrictions on the use of force and prohibits the excessive use of force. Following the requirement under international law on the prohibition of the excessive use of force that entails restrictions be provided by law and are necessary to protect the rights. The laws in Tanzania protect the rights to life, prohibit inhuman and degrading treatment in detained areas and arrest and the use of force by police officers is regulated. The laws state at what occasion the police officers are allowed to use force and for what purposes. Hereunder is the critical assessment of Tanzania's compliance with international rules and principles of the prohibition of excessive use of force.

The Constitution does not cover all the rules under international level that prohibits the use of excessive force, however, it provides for protection to human rights and fundamental freedoms in Tanzania. The interpretation of the provisions somehow grasps the contents of the prohibition of the excessive use of force. The Constitution protects human rights and fundamental freedoms under articles 12-29. All the rules and principles under the Constitution shall not be exercised in the manner that restrains the rights and freedom of others.^{lxxix}

The Criminal Procedure Act prohibits the use of excessive of force. It requires the police officer to exercise his power and duties imposed on him as a police officer to protect and enforce the rights.^{lxxx} The police officer is allowed to use force and not to subject a person to more indignity than necessary and shall not cause death of the person unless is necessary to protect or prevent serious injury. The CPA prohibits cruelty, inhuman and degrading treatment to persons under restraint and to respect their dignity.^{lxxxi}

The Police Force and Auxiliary Service Act, is another Act which provides for limitation of the use of force during work,^{lxxxii} the use force and arms by police officer should be the last resort. The law allows the police officer to use arms against a person in lawful custody charged with or convicted with an offense only when the police follow the grounds under Section 29.^{lxxxiii} The police officer in these circumstances needs to give a warning that he is about to use force and the force should be reasonable and necessary. The law allows the police officers to use force during assembly the force used should be reasonable and necessary.^{lxxxiv}

The Penal Code of Tanzania likewise follows the international rules on the prohibition of the excessive use of force. The law provides for the accountability for improper use of force under section 18B.^{lxxxv} The penal code allows the use of force under Section 18A for self-defense against any danger and protection for property. Contrary to the above provision, a person will be guilty for excessive use of force.

With reference to international laws on the prohibition of excessive force and firearms, Tanzania laws specify the situations under which the law enforcement officials are allowed to use force, however, the grounds are not adequate as compared to the international rules. One of the grounds under international laws that allows the use of force and firearms directly is against imminent threat of death; this ground was not incorporated in Tanzania, one of the grounds in comparison with the above is when the police officer or another person is in danger

of grievously bodily harm.^{lxxxvi} As provided earlier, the international rules and principles on the prohibition of the use of excessive force and firearms are somehow adequate compared to Tanzania laws. The prohibitions of the use of excessive force in Tanzania are so narrow to give a chance for police officers to rely on the use of force and firearms as first option. Incidences of torture many occur in Tanzania there is no direct provision to punish torture under the penal laws only under the bill of rights in the constitution of the united republic of Tanzania article 13(6)(e).

Under international rules, law enforcement officials are not allowed to use force when a person is under police control^{lxxxvii} and the use of force which is unlawful and direct to the control of law enforcement officials will amount to torture. As above stipulated very often incidences of police use of excessive force in Tanzania occur in custody or detained areas. Similarly, under international law, the law enforcement officials are not allowed to use force and firearms to a person who escapes unless he possesses something which is dangerous and force should be the measure of last resort when a person attempts to escape. To the assembly the international rules states, force is not allowed at all, however in violent assemblies, law enforcement officials may use firearms only when less dangerous means are not practicable and force be used when necessary to the minimum extent. In any circumstances force should be used: under self-defense, against imminent threat of death or serious injury and to prevent serious crime involving grave threat of life.^{lxxxviii}

CONCLUSION

The international rules require the use of force to be regulated by nation laws with international standards. Indeed, the use of force in Tanzania is regulated following the international standards on the use of force. Tanzania's compliance with rules and principles for prohibition of excessive use of force are not strict compare to the international rules. The provisions on the prohibitions of the use of excessive force are incorporated, however are not adequate. The incidences of police officers use of excessive force is not only contributed by inadequate of the laws, also unaccountability and police officers -citizens relationships. The author recommends for the enactment of separate law which will govern the use of force and firearms by police

officers. The law should contain the procedures on how to use force and firearms and all the principle which are stipulated under the international standards should be incorporated.

ENDNOTES

- ⁱ Tanzania Human Rights Report, Legal and Human Rights Center, Dar es Salaam, 2021, pp. 21-24.
- ⁱⁱ *Ibid.*
- ⁱⁱⁱ *Ibid.*
- ^{iv} Legal and Human Rights Centre, Tanzania Human Rights Report, Tanzania, 2014, p.26.
- ^v Global TV Online, “Kijana Apigwa Risasi Ndani ya Kituo cha Polisi USARIVA Arusha”, 19th February 2019, available at <https://www.youtube.com/watch?v=Km-YXdfI7WE>.
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- ^{vii} Mwananchi, “Polisi Matatani Wakidaiwa Kuua”, *Mwanachi*, 24th January 2022, available at Polisi matatani wakidaiwa kuua - Mwananchi, (Accessed 25th February 2022).
- ^{viii} Global TV Online, “Mapya!Mlinzi Anayedaiwa Kuuawa na Polisi, Mabosi Wake Wasimulia Tukio Zima Lilivyokuwa”, *Youtube*, 8th November 2021, <https://www.youtube.com/watch?v=uMK42fJgnjg&t=10s>, (Accessed 24th February 2022).
- ^{ix} EATV, “Polisi Kigoma Waua na Kujuhi”, *EATV*, Tuesday, 15th March 2022, available at <https://www.eatv.tv/news/current-affairs/polisi-kigoma-waua-na-kujuhi>, (Accessed 18th March 2022).
- ^x The Code of Conduct for Law Enforcement Officials, 1979.
- ^{xi} The Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, 1990.
- ^{xii} The Code of Conducts for Law Enforcement officials, 1979, Article 3.
- ^{xiii} The Basic Principles on The Use of Force and Firearms by Law Enforcement Officials, 1990, Principle 5.
- ^{xiv} *Ibid*, Principle 5 (b).
- ^{xv} *Ibid*, Principle 1.
- ^{xvi} The United Nations, Use of Force and Firearms by Law Enforcement, New York, 2017 P.18-19.
- ^{xvii} *Ibid*, Principle 4.
- ^{xviii} The United Nations, Use of Force and Firearms in Law Enforcement, New York, 2017.p. 21. Also see Principle 9 of the Basic Principles on the Use of Force by Law Enforcement officials, 1990.
- ^{xix} The Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, 1990, Principle 15.
- ^{xx} The Declaration on Protection of All Persons, from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1975, Article 5.
- ^{xxi} The Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, 1990, Principle 16.
- ^{xxii} *Ibid*, Principle 3.
- ^{xxiii} A/52/44(1997), A/56/44(2001).
- ^{xxiv} The Basic Principles on the Use of Force by Law Enforcement Officials, 1990, Principle 5.
- ^{xxv} The Code of Conducts for Law Enforcement Officials, 1979.
- ^{xxvi} *Ibid*, Article 2.
- ^{xxvii} *Ibid*, Article 3.
- ^{xxviii} The Code of Conducts for Law Enforcement Officials, 1979, Article 6.
- ^{xxix} The United Nation Charter 1945, Article 51.
- ^{xxx} *Ibid*, Article 2(4).
- ^{xxxi} *Ibid*.
- ^{xxxii} *Ibid*, Article 51.
- ^{xxxiii} The Universal Declaration of Human Rights, 1948.
- ^{xxxiv} *Ibid*, Article 1.
- ^{xxxv} The Universal Declaration of Human Rights, 1948. Article 5.
- ^{xxxvi} *Ibid*, Article 9.
- ^{xxxvii} The International Covenant on Civil and Political Rights, 1966.
- ^{xxxviii} *Ibid*, Article 3.

xxxix *Ibid*, Article 19(3), 21 and 22(2).

xl *Ibid*.

xli *Ibid*, Article 6.

xlii The International Covenant on Civil and Political Rights, 1966, Article 7 and 9.

xliii *Ibid*, Article 10.

xliv The International Covenant on Civil and Political Rights, 1966, Article 2.

xliv The Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 2002.

xlvi The Declaration on the Protection of all Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1975.

xlvi *Ibid*, Article 2.

lviii *Ibid*, Article 3.

lix *Ibid*, Article 8.

¹ The Declaration on Elimination of Violence Against Women, 1993.

li The Basic Principle on the Use of Force by Law Enforcement Officials, 1990.

lii The Code of Conducts for Law Enforcement Officials, 1979.

liii The judiciary shall be the authority with final decision in dispensation of justice in the united republic of Tanzania. (2) in delivering decisions in matters of civil and criminal matters in accordance with the laws, the court shall observe the following principles, that is to say - (a) impartiality to all without due regard to one's social or economic status; (b) not to delay dispensation of justice without reasonable ground; G. N. No.150 of 2005 (c) to award reasonable compensation to victims of wrong doings committed by other persons, and in accordance with the relevant law enacted by the parliament; (d) to promote and enhance dispute resolution among persons involved in the disputes. (e) to dispense justice without being tied up with technicalities provisions which may obstruct dispensation of justice.

liv The Penal Code, 1996, Cap. 16, [R.E 2019], Section 18B.

lv *Ibid*, Section 19.

lvi *Ibid*.

lvii The Criminal Procedure Act, Cap. 20, R.E 2019.

lviii *Ibid*, Section 6.

lix *Ibid*, Section 5 *Ibid*.

lx The Criminal Procedure Act, Cap. 20, R.E 2019, section 11, 14 and 28.

lxi *Ibid*, Section 55.

lxii The Police Force and Auxiliary Service Act, Cap. 322, Section 3.

lxiii *Ibid*, Section 4.

lxiv *Ibid*, Section 27.

lxv *Ibid*.

lxvi The Police Force and Auxiliary Service Act, Cap. 322, Section 29.

lxvii *Ibid*.

lxviii The Law of the Child Act 2009, Cap.13, R.E 2019.

lxix *Ibid*, Section 13.

lxx The Police General Order No. 274, Rule 13.

lxxi *Ibid*, Rule 15.

lxxii The Police General Order No 274, Rule 16.

lxxiii *Ibid*, Rule 18.

lxxiv *Ibid*, Rule 4 and 6.

lxxv Police General Order No. 274.

lxxvi The Police General Order No. 274, Rule 5.

lxxvii *Ibid*, Rule 10.

lxxviii Police General Order No. 274.

lxxix The Constitution of the United Republic of Tanzania, 1977, Cap.2 R.E 2008, Article 30.

lxxx The Criminal Procedure Act, 1985, Cap. 20, R.E 2019 Section 6.

lxxxi *Ibid*, Section 21 And 55 (1) (2).

lxxxii *Ibid*, Section 29.

lxxxiii *Ibid*.

lxxxiv The Criminal Procedure Act, 1985, Cap. 20, R.E 2019, Section 44.

lxxxv The Penal Code, Cap. 16 R.E, 2019.

lxxxvi The Police Force and Auxiliary Service Act, Cap. 322, R.E 2019, Section 29.

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- lxxxvii The Basic Principles on The Use of Force and Firearms by Law Enforcement Officials, 1990, Rule 3.
lxxxviii *Ibid*, Principles 12-14.

