



Will the EU stand up for the rule of law?

In brief

International law includes rules intended to limit the violence of war. But these rules are currently being undermined, as the US government seeks to rewrite international law in an attempt to justify its actions in the Middle East (in particular, its use of armed drones). In February 2014 the European Parliament passed a [resolution](#) urging that the EU should take a stand on this issue, but the EU has not yet done so. The difficulty is that any policy decision would require the agreement of all twenty-eight EU Member State governments.

US drone strikes and the rule of law

Ever since the 9/11 attacks we have become used to hearing that the US is fighting a “war on terror”, and is using [armed drones](#) (remote-controlled flying robots that carry weapons),¹ as well as other armaments, to kill Islamist militants across the Middle East. What is less well known is that while doing this, the US government is seeking to rewrite the rules of international law that protect the most fundamental of all human rights: [the right to life](#).

The US government is not the only government that could be accused of breaching international law in its use of armed drones – the governments of both [the UK](#) and [Israel](#) have been responsible for drone strikes that are highly questionable from the perspective of international law. The US government, however, is unique here – not only in the greater extent of its use

Inside this issue:

Quaker House Diary	p. 4
Introducing our new policy volunteer!	p. 4
Where now for the circular economy?	p. 5
What are Quakers doing at the EU?	p. 7

of armed drones, but also in the blatancy of its breaches of international law, and in its attempt to rewrite international law so as to broaden the range of circumstances in which killing is permissible.

This attempt to rewrite international law has been strongly criticised by non-governmental organisations including [Amnesty International](#) and [Human Rights Watch](#), as well as by [the European Parliament](#), by a [committee of the Parliamentary Assembly of the Council of Europe](#),² and by the [United Nations Human Rights Council](#). This is an issue that should be of concern to anyone who cares about the rule of law, or about the protection of human life.



The rule of law is one of the basic values of the EU.
Photo Credit: Succo

Undermining international law

International law distinguishes between the taking of human life in the course of warfare (or, to use the technical legal terminology, in the course of “armed conflict”) and the taking of human life in other circumstances.

(1) Armed drones were discussed in detail in the [February-March 2015 edition](#) of Around Europe.

(2) The Parliamentary Assembly of the Council of Europe is an international body consisting of members of national parliaments from forty-seven European countries. The Council of Europe is completely independent of the EU.



“Armed conflict” is a legal concept, with a [specific legal definition](#). In the times and places where there is an armed conflict (in the legal sense of the term), international law accepts that members of the armed forces on opposing sides will fight and kill each other. On the other hand, it is forbidden under international law for a state to kill human beings outside the context of armed conflict. If a state does this – for example, by assassinating its political opponents – then this is not legally regarded as warfare, but as state-sponsored murder.³

Even within armed conflict, there are rules of international law designed to limit the consequences of the violence. These rules are known as “[international humanitarian law](#)”, and are exemplified by the [1949 Geneva Conventions](#). Most importantly, it is [forbidden](#) to target civilians. While international humanitarian law recognises that it can sometimes be difficult to distinguish combatants from civilians, it is the legal responsibility of a state taking part in an armed conflict to [take precautions](#) to ensure that anyone it targets is a combatant. Furthermore, even an attack on a military target is [forbidden](#) if it would cause disproportionate harm to the civilian population.

All of the above are established rules of international law, but this does not prevent the US government from seeking to reinterpret them to suit its own purposes. For example, the US carries out [drone strikes in Pakistan](#) as part of a strategy of “[targeted killing](#)” – killing suspected Islamist militants far away from any battlefield.⁴ Significantly, it is the CIA that carries out these drone strikes rather than the US Air Force, so even the US government does not treat these drone strikes as part of the US's ordinary military activities. According to international law as conventionally understood, these drone strikes are illegal because they do not take place in the course of armed conflict. The US government, however, [argues](#) that the concept

of armed conflict should be broadened so that all killings by the US in the course of the “war on terror” are considered to take place in the course of armed conflict.

The US government is similarly undermining international humanitarian law by [seeking to redraw the legal distinction between combatants and civilians](#). Again, this takes place in the context of an attempt to justify US drone strikes. According to an [article](#) published in 2012 in the New York Times, the US government “counts all military-age males in a strike zone as combatants” unless

“Some states seem to want to invent new laws to justify new practices.”

*– Christof Heyns, United Nations Special Rapporteur on extrajudicial, summary or arbitrary executions
(commenting on US drone strikes)*

proved otherwise. [In some cases](#) the US has launched drone strikes to attack rescuers who were helping those injured by previous drone strikes, or to attack those attending the funerals of those killed by previous drone strikes.

Why the EU needs to take a stand

The rules of international law have an indispensable function in limiting the damage caused by war. Moreover, the rule of law is an important principle to uphold – we are all protected by the existence of laws that limit the power of governments, and we would not want to live in a world in which lawless, arbitrary state violence were seen as acceptable. If the US government – the world's most powerful government – is subverting the rules of international law that protect human life, then this needs to be challenged by other world powers. This is important not only for the sake of those whose lives are currently at risk in the Middle East, but also to avoid setting a dangerous precedent for the future.

QCEA therefore calls upon the EU to take a united stand on this issue. The EU, as a union of twenty-eight Member States, can have a global influence far greater than that of the national government of any one Member State. The EU's foundational values (as set out

(3) There are some very limited circumstances in which international law permits a state to kill a human being outside the context of armed conflict. However, none of these exceptions are relevant to the present discussion.

(4) The term “targeted killing” is somewhat misleading. [The evidence suggests](#) that these drone strikes kill many more civilians than they kill Islamist militants.



in the [Treaty on European Union](#), the document that sets out the basic rules of the EU) include the rule of law and respect for human rights. QCEA calls upon the EU to put these values into practice.

While many EU citizens are unaware of it, the EU is already active in the field of [foreign policy](#). The EU's foreign policy positions are agreed by the national governments of the Member States – for important decisions unanimity is generally required. Once a decision has been taken, the EU's position is promoted by a political official known as the [High Representative](#) (currently the Italian politician Federica Mogherini) who acts like a foreign minister for the EU, and by a specially dedicated EU diplomatic service known as the [European External Action Service](#). The [European Parliament](#) also discusses foreign policy issues and seeks to influence decisions, although its role in setting EU foreign policy is limited. The [stated objectives](#) of EU foreign policy include the promotion of the rule of law and the protection of human rights.

“The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights....”

– The Treaty on European Union, Article 2

What is the EU doing?

In February 2014 the European Parliament passed a [resolution](#) on the use of armed drones. While this resolution did not explicitly mention the US, it contained thinly disguised criticism of the US's attempt to rewrite international law, and called on the Member State governments “to adopt an EU common position on the use of armed drones”. Very recently, in March 2015, the European Parliament passed [another resolution](#) in which it reiterated its concerns.

In spite of the views expressed by the European Parliament, at present there is no EU common position on how to respond to the behaviour of the US government. When questioned by MEPs, both [the current High Representative](#) and [her immediate predecessor](#) (Catherine Ashton) have emphasised that, in general terms, any actions taken against Islamist militants must comply with international law.

However, they have avoided commenting in public on whether or not they believe that the US is in fact complying with international law. This means that the EU is making no public challenge to the US government's attempt to rewrite international law. It is possible that the EU is more forthright in confidential diplomatic discussions, but even if this is the case, the EU is still making a weak response to the situation.

The problem here is that the High Representative's hands are tied by the requirement for unanimity among Member State governments. Many Member State governments are reluctant publicly to criticise the US government – the fact that most EU Member States are also members of NATO, and therefore military allies of the US, is clearly a factor in this. The UK government, in particular, is in a difficult position as a result of its own [legally questionable](#) use of armed drones, as well as its [close collaboration](#) with the US government on armed drone use. In short, the ideals of the EU are being overridden by the demands of realpolitik.

The lack of an EU common position on this issue became apparent in March 2014, when the United Nations Human Rights Council in Geneva passed a [resolution](#) (proposed by Pakistan) on the human rights implications of the use of armed drones. Like the resolution passed by the European Parliament the previous month, this resolution included thinly disguised criticism of the US. Out of the nine EU Member States that held seats on the United Nations Human Rights Council at the time, only one (Ireland) [voted](#) with the majority in favour of the resolution. Two EU Member States (France and the UK) voted against it, while the remaining six (Austria, the Czech Republic, Estonia, Germany, Italy, and Romania) all abstained. Given that the EU's foundational values include the rule of law and respect for human rights, this is a poor performance.

QCEA advocates for the EU Member State governments to agree a common position on this issue – a position consistent with the rule of law and with the protection of human rights. If the EU Member State governments are to stand up to the US government, they need to speak with a single voice.

Tim Harman



Introducing our new policy volunteer working on the EU and Israel-Palestine!

My name is Theodora Klountzou Heath, I have recently joined the staff of QCEA and I am delighted to be working on the Palestine & Israel project. Before I relocated to Belgium with my husband and our two children, I lived in Israel and the Occupied Palestinian Territories for four years where I taught European Studies and Research Methods to MA students at Al Quds University in the West Bank. I also worked as Project Manager revamping the University's website which was successfully relaunched in less than a year.

I have a true interest in the Israeli-Palestinian conflict and the Middle East peace process. My research interests



also include EU Foreign and Security Policy, Common Security and Defence Policy (CSDP), Security Sector Reform (SSR), Europeanisation theories, EU Enlargement and Human Rights. I hold a BA in European Studies from the University of East London and an MA in International Relations from the University of Kent. I also hold a PhD in Contemporary European Studies from the University of Sussex. My research was on Europeanisation and the CSDP, testing whether CSDP operations can provide a vehicle for Europeanisation in the countries in which they are deployed and whether in fact CSDP can be a practical mechanism/instrument with the potential to export EU values and principles to the near abroad.

QUAKER HOUSE DIARY

3-4 February: During the stakeholder forum on Corporate Social Responsibility (CSR), Alexandra joined other NGOs in asking the European Commission why a mandatory requirement that businesses consider human rights was not an EU policy. She also learned about the Commission's plans for an energy union on 5 March, and on 6 March joined a European Investment Bank consultation on their policies to help mitigate climate change through funding.

25 February: During a Civil Society Development Network (CSDN) meeting, Tim discussed with other peacebuilding NGOs the protection of civilians.

27 February-1 March: Tim and George attended the European Workers' weekend with three Quaker Peace & Social Witness (QPSW) peaceworkers and another programme assistant from the Quaker United Nations Office (QUNO) in Geneva.

9 March: Dora joined the QCEA team as our policy volunteer on the Israel-Palestine Programme.

10 March: Gordon published a blog on the Responsibility to Protect based on his participation in a CSDN meeting organised by our partners in the European Peacebuilding Liaison Office (EPLO).

13 March: The QCEA Finance Committee held its semi-annual meeting during which it approved the 2014 accounts.

17 March: Alexandra joined discussions on the internal social aspects in building peaceful societies, particularly in education. A further discussion on innovative ways to fund development sparked interesting discussions on 20 March.

18 March: George represented QCEA at a discussion with Benedek Javor MEP and NGOs on the European Parliament Industry Committee's opinion on the circular economy.

21 March: George spoke to several dozen Friends in Sussex and Surrey on how to advocate Quaker values to politicians, and the European decision-making process.

24 March: Tim convened and chaired a meeting of a new group of NGOs working on armed drones. Alexandra attended a lunchtime debate on human rights and climate change in the European Parliament.

Staff at QCEA: Alexandra Bosbeer, Tim Harman, Dora Klountzou Heath, Andrew Lane, Gordon Matthews, George Thurley.



Where now for the circular economy?

In brief

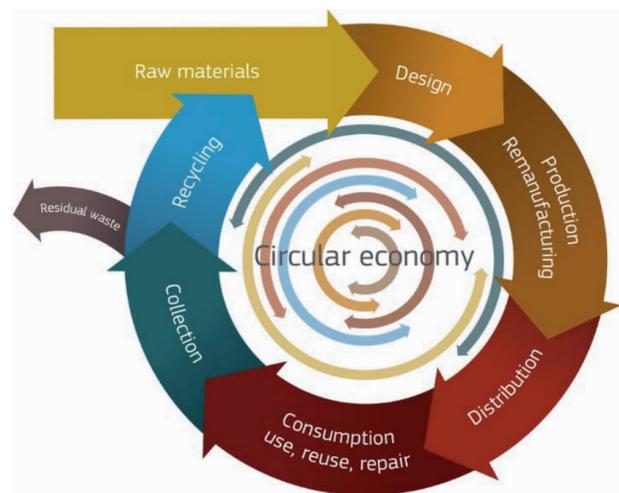
Moving towards a circular economy would benefit both the economy and the environment by bringing the former more in line with the latter. Despite this, the European Commission recently withdrew its circular economy proposals, disregarding protests from civil society, the European Parliament and some EU Member States. The Commission has promised a new “more ambitious” package, but questions remain: will we get an improved package or will the process of moving towards a resource-efficient European economy simply have been delayed by a year or more?

In July 2014 the European Commission published its Circular Economy package. This package was a set of binding regulations on waste, and a communication intended to encourage European Union Member States, businesses, and industries to move from a linear economic system to a [circular one](#). A circular economy maintains the value of resources for as long as possible, by keeping them in circulation, notably using repair and reuse. When materials reach the end of their useful lives, useful elements are extracted and recycled back into the loop as secondary raw materials. A circular economy would reduce resource consumption, combat insecurity of supply, and reduce dependence on imports and - eventually - eliminate waste. There are also economic benefits linked to the circular economy, such as providing cost-savings for businesses, and creating quality local jobs. The recent Commission proposals aimed to do this principally with [targets](#) to reduce waste, increase recycling, and phase out landfill.

Before the package had been discussed between the European Commission, the European Parliament and the Council of the EU, the Commission decided to curtail the decision-making process. In December, the new Juncker Commission announced its intention to withdraw the package from its [2015 work plan](#). They did promise to produce a new “more ambitious” policy before the end of 2015. The proposal existed in limbo for a few months until the decision was confirmed at the start of March in a [low-key Commission press release](#).

What do European Citizens want?

The December announcement sparked protests from a broad range of sources, which were still unable to change the Commission's decision: [environmental NGOs and campaigners](#), the [European Parliament](#), the [Environment Council](#), and [businesses and industry](#). Environmental campaigners, QCEA included, had generally lauded the new approach of the package. The linear economy perpetuates the unsustainable view that humanity controls the earth and can use and dispose of its resources at will. A circular economy on the other hand, is based on the recognition of the [finite nature of resources](#), as well as [the limits of our power over them](#). Fundamentally it seeks to reform our economy to be more in tune with the natural world.



A simplified circular economy. Source: EC, 2014.

Some businesses support moving towards a circular economy, following the Commission proposal, as it offered substantial economic benefits. Secondary raw materials are cheaper than virgin raw materials (as they involve less energy-intensive processing). Recycling, reuse and repair also [create many more locally-based jobs](#) (in collection, sorting, processing, repairing and distribution) than landfill or incineration. The Commission itself that estimated an advanced circular economy could generate net savings of over €600 billion, thanks to using less energy and fewer raw materials, and create hundreds of thousands of jobs.

Although many businesses recognise the benefits of increasing their resource efficiency, some, led by the



“To stop your mind does not mean to stop the activities of mind. It means your mind pervades your whole body.” –
Shunryu Suzuki, *Zen Mind, Beginner's mind*

influential lobby [Business Europe](#), saw the policy as a barrier to competitiveness. The Juncker Commission's [overriding focus](#) is [economic growth and jobs](#), and this, along with its desire to counter growing Euro-scepticism by regulating less, meant it didn't take much for them to follow the lobbyists' lead. Their decision to develop a new policy results in a messy compromise - enough people objected to the withdrawal that the Commission could not do away with it entirely, but neither did they want to keep it as it was.

The current situation

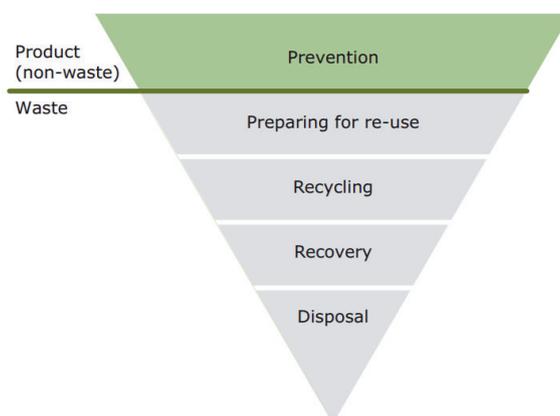
The stated plan is to revamp the package, and the Commission's Directorates-general (DGs), led by DG Environment and DG Internal Market and Industry (recently christened DG GROW), have started work on the new proposals. Though they have not revealed much, there have been a few clues regarding the shape the new package might take.

One likely change is a move away from [focussing on waste](#), which is the last stage of the linear economy, but rather seeking to design waste out. QCEA agrees that looking at the whole life-cycle of materials and products is necessary, and is the best way to use resources more efficiently, reducing our impact on the natural environment. For instance, if we see the waste stream as a running tap, waste measures attempt to clean up after the tap, while it would be best to simply turn it down or off. Waste prevention is therefore a key element, as it involves designing products to last longer, to be more easily repairable, using reusable or refillable packaging rather than single-use products, and so on.

Push or pull?

However, QCEA is concerned that the legislation may be diluted in other ways. For example, Commission sources have hinted that the recycling targets may be weakened or dropped entirely. Sabine Weyand, head of the cross-departmental group on the package, has suggested that there is “no point” in ambitious targets “if they only lead to infringements.” Director of DG

Environment Karl Falkenberg has stated his preference to 'push' increased recycling by cutting off landfill and incineration, rather than seeking to 'pull' it with targets, as in the withdrawn package. It is certainly true, as Weyand indicates, that EU Member States' recycling rates vary wildly. Some Member States send nearly [95% of their waste to landfill](#), while [Austria already recycles 70% of its waste](#). Clearly for the former, a 70% recycling target by 2030 is ambitious, but not impossible, especially at an EU-wide level.



Source: EU, 2008.

The European Waste hierarchy: waste prevention; preparation for reuse, recycling, (energy) recovery and disposal.

It seems clear that this new-found scepticism of recycling targets follows the pervasive preference for deregulation. The view is that social or environmental regulation represents a barrier to

economic growth, encapsulated by the derisive term “[red tape](#)”. This debate raises the important question as to whether the European Union is aiming to improve the well-being of all Europeans and our natural environment - which it can accomplish best using regulation - or if it prefers to pursue unsustainable economic growth to the benefit of the few.

It is also of concern that DG GROW has been given joint responsibility for the file. An optimist might take this as an indication of the proposal's importance as it is seen as part of the overriding agenda. A pessimist could say that the environmental parts of the previous package are likely to be jettisoned in the name of reducing the regulatory burden on businesses. Thus, advocating for the circular economy to remain a central priority, while retaining its goal of improving environmental stewardship, is crucial. The Commission is planning a public consultation, between April and July, to collect views on their circular economy agenda, enabling citizens and NGOs to participate in the process.

Incineration

Another issue with the EU's wider waste and energy policy is the role of incineration - also referred to as energy from waste (EfW). Incineration is one step



better than landfill; recovering the energy from materials is preferable to just burying them, but it still results in loss of value. However, a [Commission official has said that incineration](#) is pivotal. He even advocated shipping waste between countries with too much landfill and those with excess incinerator capacity. While this is technically a step up in terms of the hierarchy, it would be entirely possible for those Member States with a high landfill rate to go straight to recycling, rather than rely on incineration. Supporting the incineration industry could create situations where waste must be created in order to fuel incineration plants, making it harder to prevent waste in the first place. The goal of the circular economy is to eliminate waste and increase energy efficiency, not to deliberately create waste to burn.

What next?

Along with the revised waste proposals (based on the previous package), the Commission intends to publish a roadmap setting out a time-line of measures for the rest of the Commission's five-year mandate. The aforementioned public consultation will feed into this roadmap. Many have argued that a roadmap is not a

concrete enough proposal to have been worth delaying the process by at least a year. There is, after all, already a [roadmap on resource efficiency](#). However, the Commission has rather limited itself with the timing. Promising a replacement package within a year means that it would be difficult to bring anything more substantial than a roadmap.

So the way forward for the European circular economy is unclear. It is crucial that the Commission publishes a new package that takes the old one as its baseline - on everything, including proposed targets. QCEA calls for a circular economy plan that focusses on moving to the top of the waste hierarchy, encouraging reuse, repair and refurbishment in order to avoid a focus on incineration and recycling. The Commission should also seek to enable waste prevention through legislation on design; to increase durability and the use of replaceable parts and recyclable materials. Economic measures play a vital role in incentivising all of these changes, by shifting taxes to resources, and reducing tax burdens for repair and reuse businesses. Now is the time to make sure the new proposal brings human and planetary well-being forward.

George Thurley

Castle or Community? Quakers' role in building the new Europe.

Quakers from all European Meetings are invited to gather in Brussels on **4-6 December 2015**, to voice their concerns, find out what issues are of concern to Friends and what is being done to affect policies at the European level. How do we act to build the Europe we want, together as Quakers?

Save the date!

What are Quakers doing at the EU?

There is a wide variety of non-governmental organisations in Brussels and in Strasbourg. Many are the EU advocacy offices of global organisations. Some are faith groups promoting religious tolerance or the rights of the members of their own faith. There are a great many commercial lobbyists - [the Transparency Register](#), a public register of the organisations active in contacting the European Commission and the European Parliament, lists over 8000 organisations. Half of these are commercial lobbyists and another thousand are professional advisers and lawyers. Non-governmental organisations (NGOs) make up only a quarter of the organisations registered to lobby the EU institutions.

QCEA is small fry in this sea of lobbying organisations. We represent a small faith group with only about 20,000 members. The European membership of several

other churches is several thousand times as large. So what are we doing here?

As Quakers, our faith is based on the conviction that we can all have direct experience of God's presence and discern God's will for us and for the world. Since our origins in 17th century England we have sought to live out our testimonies to truth, peace, equality, and simplicity. The Religious Society of Friends is recognised as an historic peace church: the challenge of how to honour the people on all sides of conflicts continues to be a living one. The staff here at the QCEA office in Brussels keep in mind that we are not simply an interest group lobbying the EU: we are people speaking to other people who happen to work in EU institutions.

A [stakeholder](#) is someone who has an interest in a project. If we think of the EU as such a project,



almost everyone in the world has an interest, whether as a citizen of an EU Member State or a citizen of a third country affected by EU policies.

Stakeholders take action in different ways. Some attend meetings and call for the institutions to achieve a certain high standard. This is necessary: the presentation of a radical alternative reminds us all that things do not have to be as they are. One crucial dimension of stakeholder or civil society participation in policy-making is the totally different view, the one that cracks open our understanding of how things should be and brings us all to a different place, where we can see new ways forward. The promotion of [restorative justice](#) might be an example of this approach.

The people working for QCEA get to know the people with whom we are in dialogue, and to understand their situation. They are not enemies but people with their own reasons for doing the work they do. They are often striving for similar goals. We make suggestions based on our own expertise and observations, about how common goals might be achieved. And very often our suggestions are taken on board. Friendly conversations can bring us all to a better shared understanding.

We also work in partnership with other NGOs in several more or less formal networks. One example is the [Human Rights and Democracy Network \(HRDN\)](#), a collaboration of more than forty human rights organisations working at the EU level. Last year QCEA played a significant part in an HRDN campaign in which candidates for the European Parliament pledged to

promote human rights (see stand4humanrights.org); our ongoing relationships with those who were elected as MEPs means we can discuss opportunities for the Parliament to stand for human rights both inside and outside the EU.

The stand4humanrights campaign was promoted by QCEA staff and supporters - we wrote e-mails and so did many of you who had signed up to receive QCEA action alerts. The work continues for our staff in Brussels. We are able to converse with MEPs about human rights issues during meetings of the Friends of Human Rights and Democracy group, for example

Transparency is a crucial element of democratic governance. QCEA recently joined with 44 other NGOs to call for increased transparency in the revision of the European Commission's own guidelines on impact assessment. The [European Ombudsman](#), Emily O'Reilly, is an active contributor to the promotion of [transparency on many fronts](#), from the negotiations for the EU-US free trade deal (Transatlantic Trade and Investment Partnership or TTIP) to the Commission's expert groups, which often seem to be biased in favour of commercial interests.

QCEA aims to work with our partners and the people in the institutions here, to promote fundamental values of peace, human rights, democratic governance, sustainability, and economic justice. We do this by working alongside the many people who have similar aims. We welcome your support: your prayers, your time, your responses to our action alerts, and your subscriptions and donations. Thank you!

Alexandra Bosbeer



Around Europe

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