

FRAMING HUMAN POLICING

towards a more
just public service



Quaker
Council for
European
Affairs



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Contributors

Terri Beswick **Kate McNally** **Jack Curham**
Elysia Rezki **Andrew Lane** **Isabel Hamilton**
Martin Leng

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Quaker
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Square Ambiorix 50
1000 Brussels
Belgium

www.qcea.org

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Europe contains a diverse range of policing agencies with different traditions and origins.

In the last two decades, European governments and institutions have framed policing in ways which align to the broader values that they have identified for the European project, based on guaranteeing freedoms and the rule of law.

Concepts of 'community policing' and 'democratic policing' have been widely used as exported by European governments, and police reform has been a pillar of EU Common Security and Defence Policy.

This booklet is written with this context very much in mind, using the expectations of policing as a public good set out in European political discourses, but also in many representations of the police in popular culture in Europe.

The booklet therefore draws on the European Code of Police Ethics as established at the Council of Europe. The Code defines the objectives of the police as follows —

- To **maintain public tranquility and law and order** in society,
- To **protect and respect the individual's fundamental rights and freedoms** as enshrined, in particular, in the European Convention on Human Rights,
- To **prevent and combat** crime,
- To **detect** crime,
- To **provide assistance and service functions** to the public.



ARTWORK: BOUSH MUSA

the starting point

- 1.1** The ideals we have about policing are infused with notions of protection, integrity even-handedness and above all, safety. A police service – like any other public service – is intended to act in service to the public and to be accessible to all without regard to wealth, gender, class, political views or any other marker. These intentions have been expressed in commitments made by European governments at international institutions, as well as in domestic legislation, and in the policies, procedures and oversight of domestic police services.
- 1.2** That sense of equality before the law extends to the recognition that laws apply to everyone, including those who are neither citizens nor even residents of a country. It is based on an understanding of fairness, their contribution to the justice system, and the balance of ‘protection by the law’ and ‘respect for the law’ that we, as members of the public, are asked to place faith and trust in the institution of policing.

- 1.3** The everyday manifestation of human rights and their protection is often in the hands of the police service. It is to this institution that we turn with the expectation that – as a public service governed by the domestic and international laws and commitments of state – we will be able to find an eventual remedy. Police officers make the on-the-spot decisions and carry out the direct actions that – in practice – ensure (or not) everyone’s right to life, expression and assembly, presumption of innocence, and equal treatment by the state. The actions of police officers represent the difference between having rights protected by sentiment and having them respected by law. It is from this perspective that some have suggested that twenty-first century policing should aspire to be the largest human rights profession.

1.4 Yet policing does not always live up to these ambitions. Police action is becoming more openly coercive and about policing as a force, rather than as a service. In some places, uniforms, resources and discourse increasingly mirror a more militarised stance, defining outcomes in terms of order rather than facilitating freedom. There is a real danger that more focus on the security priorities of the government-of-the-day will lead to situations where performing ‘tough on crime’ policies for the government trumps police responsibilities for the everyday safety and security needs of people. This is most visible when resources said to be unavailable for community policing are found for counter-terrorism policing or as a show of force against undocumented migrants.

people on the move

2.1 In many parts of Europe, often out of the public gaze, people experience interactions with the police that challenge what we have been encouraged to believe about policing. Many of them have been displaced because of insecure lives and livelihoods and have sought safety in European countries. People seeking refuge and security have often arrived in European countries without the expected permission. People have travelled from situations of real insecurity and oppression, such as parts of Darfur or Eritrea. Many suffer and escape desperate conditions in transit countries, such as Libya. There is no guarantee of succeeding or surviving the traumatic Mediterranean crossing or the dangerous and uncertain, journeys across land borders. People who make this ‘choice’ are – despite their resilience – made yet more vulnerable due to the consequences of being undocumented on arrival in European countries.

2.2 Finding a place to stay is not straightforward. Accessing meals, information, income and community, sometimes without knowing the local language, represents additional challenges. It is common for people that move countries or even just regions to struggle without the usual support networks that they have in place at home. For people doing so without documentation, there are extra steps to protect oneself from those looking for vulnerable people to exploit (for domestic servitude, cheap or free manual labour, sexual slavery) all while rebuilding their lives.

2.3 There is a clear power imbalance. This is why the question of police conduct is so fundamental – the police are a public service bound to enforce the laws adopted by the state, which includes the human rights that people carry with them across borders, simply by virtue of being human. When the very people who are most at risk of being victimised are least able to safely access the services that have been put in place to protect everyone within that territory, the equilibrium between respect for the law and protection by the law is knocked out of balance.

2.4 This is the starting point for this publication. This booklet addresses the expectations, responsibilities and legal standards in which we are all invested, and whose violations contradict the assumptions held about European human rights in practice.

policing europe and its borders

- 3.1** The movement of people travelling and arriving in Europe involves many forms of border crossing, including sea crossings towards Italy, Spain, Malta and Greece. Then there are less visible efforts to cross borders counted in visa rejections, thwarted efforts and blockages in navigating the safe and legal processes to seek asylum or relocate. Despite long-standing refugee and asylum laws, political signals which favour a hostile response to people asking for sanctuary are showing up in police actions.
- 3.2** **‘Pushback’ is a term used to describe the practice by governments of preventing people from seeking protection within their territory** by removing them to a neighbouring country. Blanket deportations enable governments to export their responsibilities under international law to review the merits of any person’s case for asylum. Pushbacks are violations of international law. From the monitoring of these practices, it appears that the term ‘pushback’ is an accurate descriptor of the violent nature of the operations carried out by European police and border services.

They took our clothes and made us sit in the snow and ice – we were frozen. They broke our mobile phones and took our money, and beat us badly. Then they put us in a car and took us back to the border.¹

**ACCOUNT OF A MAN FROM AFGHANISTAN
ABOUT HIS TREATMENT BY POLICE IN HUNGARY
as reported by Oxfam in Serbia**

There were around eight people outside the barracks, each with a thick plastic baton. They would hit you as you walked to the car. They would shout “fuck Islam”. They put 30 of us in the van. [There were] no chairs. I felt like I was suffocating, there was no air. When we arrived at the river, they ordered people to strip to shorts only. They took my phones, my money, €1,500, and my glasses, and broke them.²

**ACCOUNT OF A 26 YEAR OLD MAN FROM MOROCCO
PUSHED BACK FROM GREECE TO TURKEY
as reported by Human Rights Watch**

- 3.3** The terms ‘hostile environment’, ‘no tolerance’, ‘pushback’, ‘influx’, ‘hordes’ are far from what we expect to hear in the same breath as discussions about how to respond to the needs of traumatised people trying to find secure lives and futures. Arriving in Europe – the continent proud of its reputation for upholding the rights of human beings – is no guarantee of safety. Non-governmental organisations have attempted to fill state gaps, supporting people with few resources as official facilities for those arriving remain insufficient. Indeed it is this mismanagement that is at the root of the ‘crisis’ and that has given rise to the political focus on the people arriving as the problem rather than the less-than-organised response or the man-made disasters and injustices that cause people to flee.
- 3.4** **In 2017, seven NGOs based in Brussels set up a humanitarian hub based near Gare du Nord, in an area of the city that has become the temporary home of many people on the move since 2015.** These organisations provided people with legal assistance, basic health care and food. At the request of the Standing Police Monitoring Committee (SPMC) of Belgium’s Federal Parliament, *Medecins du Monde* produced an in-depth report documenting the experiences of people in the Gare du Nord area of Brussels.

Twenty-five percent of the 440 people they interviewed alleged misconduct mistreatment by the police, most often taking place inside police stations, but also prior to detention, upon release, and during arrests, where people reported the police using a disproportionate amount of force.

3.5 Strip searches

In routine police work there are specific conditions that call for the use of strip searching in police custody. It is primarily undertaken to ensure that detainees cannot self harm while in the care of the police, but also to gather evidence such as hidden drug possession. Police officers have to conduct strip searches in ways that maintain the dignity of the detained person, particularly if they are at risk of self-harm.

However, one recurring allegation from undocumented migrants in Europe involves humiliation during strip searches by police. In the *Medecins du Monde* study undertaken in Belgium, researchers spoke to twenty-five people who reported being subject to strip searches. Five reported being ridiculed or mocked during the search, and being forced to stay naked for periods of longer than an hour.

The accounts in the report match reports heard directly by QCEA staff from people who were subject to strip searches in Brussels and Antwerp. **These accounts question the necessity of these strip searches for a legitimate policing purpose, and suggest there have been deliberate attempts to dehumanise.**

3.6 Theft and criminal damage

As for most people, mobile phones are an essential means of maintaining contact with loved ones and finding information. **Vandalism of smart phones has been widely reported by people on the move interacting with the police.** The research undertaken on the Bosnia–Croatia border also found that theft of money and phones and vandalism of clothes and other belongings was commonplace.³ UK parliamentarians have recorded interviews with children who had mobile phones smashed and sleeping bags contaminated whilst in Calais, and QCEA staff have heard direct accounts of theft and vandalism in Brussels. Actions that would normally be condemned and punishable by law are of even more concern when those responsible are the same people enforcing those laws.

3.7 Illegal use of chemical agents

Whilst banned in warfare by the Geneva Convention and subsequent international treaties, such as the 1993 Chemical Weapons Convention, chemical agents are legally permissible for use in domestic policing. Given the severity of their effects, chemical agents are deployed sparingly across much of Europe in self-defence, for example when a suspect has a weapon or cannot otherwise be brought under control.

What are chemical agents?

Both pepper spray and CS gas (tear gas) are designed to be used to subdue. Pepper spray requires direct contact with a person's eyes to be effective, whereas CS gas is much more indirect, affecting the atmosphere around a person.



It was the daytime, and they came in a van. They sprayed us from the van. They didn't say anything; they just sprayed.⁴

ACCOUNT OF AN ETHIOPIAN BOY ABOUT HIS TREATMENT BY POLICE IN FRANCE as reported by Human Rights Watch

In 2017, Human Rights Watch reported on policing in and around Calais in France found evidence of the disproportionate use of pepper spray on people as they tried to cross the border. Of 61 people interviewed, 55 claimed to have been on the receiving end of pepper spray in the previous two weeks.⁵

These accounts match with others given by local nongovernmental organisations *L'Auberge des Migrants*, Help Refugees and by other Quaker migration volunteers who have witnessed the violence. Such accounts suggest that chemical agents are not being used as a last resort, but rather as a means of intimidation and punishment.⁶ An investigation by France's Ministry of the Interior found chemical agents were widely used by the *Compagnies républicaines de sécurité* (CRS police unit) without a self-defence justification. Violations of human rights and other law have taken place on a large scale. In many contexts it has had the implicit sanction of local and national political leaders who have encouraged a form of policing that is visibly gendered towards hypermasculine ideals of toughness. Normalising militarised authoritarian styles of policing based on the politics of stability and control are the real threat, not just those arriving, but to European populations in general.

Standards do not guarantee consistent lawful action, but they provide a mechanism for accountability and have an impact on the behavioural culture of an organisation. For example, the 2017 French Ministry of the Interior investigation of policing in Calais noted that police were not complying with an requirement that their unique identifying number be visible on their uniforms.



making "never again" meaningful

- 4.1 Universal human rights laws exist to ensure that, wherever we find ourselves, by the very fact of being human, we can seek protection and justice. European countries developed this form of international law soon after the Holocaust and World War II. The European Convention on Human Rights (ECHR, 1950) contains basic (or 'fundamental') rights, such as right to life, freedom from torture and freedom of expression. It is a recognition that the type of discrimination and atrocities so visible during World War II are indicative of wider cultures of violence and aggression that are allowed to grow; posing a threat to people within and outside of national borders. Forty-seven of the forty-eight countries in Europe have signed the European Convention on Human Rights, which requires all member countries to protect basic human rights in their territories.
- 4.2 Transposed into the domestic legislation of European states, the ECHR is supposed to be the floor – rather than the ceiling – of human rights protection within Europe. Governments and public services are most responsible for ensuring that they work to these commitments. Failing to do so means that a government might find themselves being taken to the European Court of Human Rights, the court that rules on violations of the Convention. The case law, created through the judgements of the Court, is intended to help governments and police services make difficult operational decisions about how best to protect and uphold human rights.
- 4.3 Of all of the freedoms noted in the Convention, the Court has said clearly and consistently that one human right is absolute and can never be breached.⁷ We know from judgements of the Court that "any recourse to physical force which has not been made strictly necessary by [their] own conduct diminishes human dignity and is in principle an infringement of Article 3".⁸

Types of treatment

Torture is the most serious form of violation of Article 3 of the Convention, understood by the Court as deliberately causing very serious and cruel suffering.

Inhuman treatment is understood by the Court to be treatment or punishment that involves the infliction of intense physical or mental suffering.

Degrading treatment is when the Court assesses an objective of the treatment or punishment is to humiliate or debase, possibly contributing to adverse affects on the victim's personality. This is explained in a case from Greece in 1968, the decision recorded: "Degrading treatment or punishment is designed to arouse in the victim feelings of fear, anguish and inferiority capable of humiliation and debasing them and possibly breaking their physical and moral resistance."⁹

Article 3 of the Convention prohibits torture and inhuman or degrading treatment or punishment, and allows no exception even in the event of a public emergency threatening the life of the nation.¹⁰

- 4.4** Police officers are frequently asked to keep their countries and communities safe by running toward complex and dangerous situations. Their job is rarely straightforward and sometimes requires considered physical restraint against violent people through the use of force. However, compliance with law applies in the same way to police officers as it does to all other citizens. Excessive, disproportionate, violent or otherwise unlawful action by police officers is not justified by law.¹¹ In fact, court judgements also show that there is a positive duty on countries not only to refrain from breaching Article 3, but also to act to prevent torture, inhuman or degrading treatment and to investigate allegations of such misconduct.¹² It is easy to say "never again" on podiums and in speeches, but as the living, breathing embodiment of people's protection, it is through the actions of police that "never again" is made meaningful or not.

standards

- 5.1** European Court of Human Rights judgements also point to the positive duty to prevent misconduct. Following an incident of police violence in Bulgaria, the European Court of Human Rights ruled that national legislation regulating police services must include adequate and effective safeguards against arbitrary or abusive force, and even against avoidable accident.¹³ Beyond law, governments and their public services comply with international standards that they have elected to adhere to. The act of negotiating and endeavouring to set collective standards is another path to establishing norms. **Standards might not guarantee consistent lawful action, but they represented a public mechanism for accountability that in itself can have an impact on the behavioural culture of an organisation.** A particularly relevant set of principles for police conduct has been agreed at a European level, but is not widely known.

5.2 European Code of Police Ethics

The European Code of Police Ethics is a recommendation adopted by the Committee of Ministers of the Council of Europe in 2001. In the appendix of this eighteen-year-old document it contains a number of non-binding principles designed to influence policing practice with Council of Europe member states. It therefore represents standards to which European countries have signed up, and should be actively working to meet. A central tenet of the Code is that police operations must be conducted in accordance with the domestic law of the country to offer due process to protect individual officers from ill-founded allegations through thorough investigations. Much of the Code is based in the case law of the European Court of Human Rights, and is therefore a useful reference tool in helping to avoid breaches of the Convention.

Articles of the European Code of Police Ethics include:

- The police shall not inflict, instigate or tolerate any act of torture or inhuman or degrading treatment or punishment under any circumstances.
- The police may use force only when strictly necessary and only to the extent required to obtain a legitimate objective.
- Police personnel shall carry out orders properly issued by their superiors, but they shall have a duty to refrain from carrying out orders which are clearly illegal and to report such orders, without fear of sanction.
- The police, in carrying out their activities, shall always bear in mind everyone's fundamental rights, such as freedom of thought, conscience, religion, expression, peaceful assembly, movement and the peaceful enjoyment of possessions.
- Police personnel shall act with integrity and respect towards the public and with particular consideration for the situation of individuals belonging to especially vulnerable groups.

5.3 Accountability and the outsourcing of public services

In recent years there has been an increase in the privatisation of policing and an outsourcing of other security work to large corporations, such as G4S, and smaller local companies. In some parts of Europe private security companies have contracts to be present at refugee camps and asylum seeker accommodation centres, or manage immigration detention centres. Local private security companies are currently contracted to guard refugee camps in Bosnia–Herzegovina to where Croatian police ‘pushback’ people seeking to cross the border. A group of academics coordinated by Aston University have undertaken research interviews at these camps with people on the move, police and private security personnel.


- 5.4 Private security training is generally of a much lower standard than police training and the vetting procedures are less thorough or almost completely absent. There can often be a complicated relationship between police and private security. But, Article 3 of the European Convention on Human Rights places a positive obligation on police to take steps to prevent and investigate ill treatment by private individuals.¹⁴ Increasing the understanding of police services of Article 3 should help to reduce their own human rights violations, but also encourage them to ensure that crimes committed by private security are properly investigated.

why laws and standards are not enough

- 6.1 Anyone within the territory of one of the forty-seven countries who have signed the European Convention on Human Rights is said to be able to bring a case to the Court when one of their Convention rights has been violated, and after their attempts to find legal redress at a national level have been exhausted. The idea for this booklet started out as an attempt to provide accessible information about standards for police conduct in Europe in the hope that, by better informing people on the move, migration volunteers and police officers, we could make a contribution to ensuring that people's human rights would be upheld in interactions with Europe police. In seeking to untangle the divergence across countries, and to make sense of real experiences in light of the established standards, the booklet ended up looking very different.

6.2 In reality, accessibility of information will not – on its own – disrupt police violence. There are deep divisions in the structure of European societies that, even for those born in Europe, continue to shape different levels of access to the benefits of human rights laws and practice. Policing is carried out by people, with people and is fallible to the same biases and prejudices that you find in society as a whole. There are persistent and insidious notions of who belongs, who deserves and who is a threat in the eyes of police and public. Leftover colonial ideas give the impression that Europe still has the right to determine, restrict, or derogate from so-called universal human rights and fundamental freedoms. And even the Commissioner for Human Rights at the Council of Europe has recognised the influence of racism on police action, including in excessive use of force or poor treatment of detainees.¹⁵

6.3 Notwithstanding high profile devastating exceptions, such as Srebrenica, Europe has embraced a story of the inevitable advancement of human rights. There is a well-understood narrative of progress and improvement for the post-World War II, post-Holocaust European human rights institutions. But for people arriving in Europe seeking secure lives and futures, there is a gulf between how we talk about human rights in theory versus the practice. Those who are most vulnerable to injustice are least able to access justice. In focusing on the positive steps within law, institutions, and policies, less attention was paid to the broad spectrum of how human rights are being experienced across European societies in practice, beyond the level of individual cases.

 **If one really wishes to know how justice is administered in a country, one does not question the policemen, the lawyers, the judges, or the protected members of the middle class. One goes to the unprotected – those precisely who need the law’s protection most, and listen to their testimony.**

JAMES BALDWIN

it doesn't have to be this way

- 7.1** Amnesty International’s 2019 report on the violence on the Balkans route contains many detailed first hand accounts of violence by police, especially in Croatia.¹⁶ The report observes that, when migration levels peaked in 2015, the relationship between police and people on the move was much more positive.
- 7.2** Observation of police behaviour includes **positive examples of human rights-centred policing, and also acts of compassion by individual police officers**. For example, QCEA staff have heard accounts from people who were given small amounts of money by police officers to allow them to buy food and bus tickets. In another example shared with another NGO, a police officer involved in a pushback that involved driving a long distance to leave a group of people in woods on the Bosnia–Croatia border, stopped at a market with the group to let them choose food that he then bought for them. These small acts of kindness are some times undertaken as the personal risk.
- 7.3** When listening to the experience of people on the move it is also clear that police behaviour is not judged entirely by levels of physical violence, but also by their impact on their ability to find a safe place to live or reach an intended destination. For example, whether police let people go or detain them and pass their custody to immigration and removal officials, has a direct impact on how their lives are affected by the structural violence of border policies, and therefore their perception of police officers.

conclusions

- 8.1** Human rights standards are sometimes portrayed as obstacles to effective policing and border management. On the contrary, policing should be about defending human rights, mainly by preventing forms of violence and other harm to the public. Some specific aspects of police work protect rights and freedoms in very visible ways, such as facilitating safe public protest, or being present at places of worship that are vulnerable to hate crime. Policing also requires close engagement and cooperation with the public and can therefore only be conducted in ways that earn the trust of the public. Allowing the current politics of hierarchy, supremacy and control to entrench inequalities through policing undermines the integrity of policing as a public service. **Making false distinctions between humans beings who can enjoy safety and security and those who cannot falls short of the universality which Europe celebrated as the antidote to the racism and genocide of the Holocaust.**
- 8.2** But, while political leaders are either benefiting electorally from increasing fear of migration (e.g. Hungary, Italy, Croatia) or more concerned that challenging xenophobic politics is an existential threat to their government (e.g. France, Germany, Netherlands), a change in political discourse in Europe is unlikely to come from the top down. The examples of violations in Article 3 are simply the physical manifestations of this discourse that “migrants don’t deserve public services” (even protection) or that “they shouldn’t be here”. **Violent police actions are the logical outcome of policies which espouse ‘hostile environments’, ‘no tolerance’ and ‘pushbacks’;** they cannot be dismissed as sad exceptions when they in fact reflect deeper flaws in policy.
- 8.3** At the other end of the spectrum, the examples in Section 7 of this booklet demonstrate what is possible when police take bottom–up steps to respect and uphold the human rights of people arriving in Europe. **Every act of kindness, every gesture of professionalism is an act of rehumanising treatment.** It is just as important to look at what is possible, what positive practice exists and where standards are being upheld. The solutions, no matter how micro, are both a starting point for expansion and a clear rejection of the idea that nothing can be done. If everyone is expected to respect the law, then we should also be ready to protect everyone with the law. In a Europe that is strongly invested in its reputation for human rights, the actions of European police are a real test of the integrity of that reputation.

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Quakers and human rights: a history

One of the founding principles of the Religious Society of Friends (Quakers) was the recognition that every person is unique and their life must be valued. This quickly led Quakers to take radical positions based on their spiritual experience, such as opposition to war and the death penalty.

These ideas led to a wide range of practical projects undertaken by members of the Society, such as the first attempt at mental health care, in the house of John Goodson in 1673, and later the first mental health hospital, the Retreat, which was established in 1796 and continues its work today.

Another well known example is Elizabeth Fry who led campaigns for improved detention conditions in Britain in the 19th Century. She later also advised on prison regimes in France, Germany, Italy and Russia. In recognition of the impact of her work, her image could be found on British £5 notes for many years. Today, Quakers continue to be active as prison chaplains, prison visitors and campaigners for reform of immigration detention.

Michael Bartlet, former Parliamentary Liaison Secretary for Quakers in Britain, has written, “An early conception of human rights is implicit in the seventeenth century political and religious experience of Friends. Such rights are inherent in the ‘neighbour principle’ as a source of social responsibility, common to world faiths.” Some Quakers have also been influenced by the writings of Thich Nhat Hahn who has argued that Buddhism’s focus on personal liberation through the cycle of life should today be understood as a requirement for work to bring about social liberation for all people.

Around the world, Quaker organisations are working to promote and protect human rights. This includes peacebuilding efforts by Kenyan Friends, and the Sanctuary Everywhere programme led by American Friends Service Committee in the US. The work of the Quaker United Nations Office in Geneva has also included a human rights programme for many decades, positively affecting global discussions on child soldiers, conscientious objectors to military service and the children of prisoners.



Policing should uphold the rights of everyone, everywhere.

Universal human rights laws exist to ensure that wherever we find ourselves, we can seek protection and justice by the very fact of being human. Countries across Europe have agreed to uphold these standards.

The actions of police officers represent the difference between having rights respected in theory, and having them protected in practice. However, many migrants and refugees in Europe find their human rights violated by police officers and private security personnel – the very people entrusted with guaranteeing these fundamental protections 'on the ground'.

In this booklet, QCEA makes the case that twenty-first century policing should aspire to be the largest human rights profession, backed up by policies which emphasise the universal protections we all enjoy.

**#SanctuaryEverywhere
www.qcea.org**