

Police and NGOs

Why and how
human rights NGOs
and police services
can and should
work together



European Platform
For Policing
and Human Rights (EPPHR)

European Platform for Policing and Human Rights

This document has been developed by a sub-group of the European Platform for Policing and Human Rights (EPPHR)¹. This Platform was established by police services and human rights NGOs in June 2001 to support the Council of Europe Programme 'Police and Human Rights Beyond 2000'. The Platform provides a practical network for police services, NGOs and other non-commercial bodies within the member countries of the Council of Europe that are interested and experienced in the field of policing and human rights.

The Platform aims to develop awareness of the protection and promotion of human rights among police services within member states of the Council of Europe. In promoting this aim the Platform has published two booklets, one of which is 'Policing in a Democratic Society -- Is your Police Service a Human Rights Champion?' This 'booklet' provides tools to assess the extent to which police practices adhere to and promote the standards and broader democratic values underpinning the European Convention on Human Rights. The second booklet is called 'Police Officers have Rights Too!' The aim of this booklet is to outline to police officers some of their fundamental human rights.

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¹ The European Platform for Policing and Human Rights operates a website located at: www.epphr.dk. It is possible to download documents produced by the Platforms from this site.

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Introduction

Would greater co-operation between police and human rights NGOs be useful? Would it be possible? Would it help the police to do their job better? Would it be helpful to NGOs? What are the barriers to this co-operation? What are the advantages? If the police were to co-operate closely with human rights NGOs how would they go about it? This Guide has been written to address some of these questions.

The aim of this document is to outline the rationale for cooperation between police and human rights NGOs, and to suggest a protocol for how police officers and NGO activists might work together effectively. It seeks to facilitate communication and co-operation between police services and human rights NGOs by analysing the role of both sectors and by putting forward suggestions for how to manage interaction in order to ensure successful partnerships.

The text is divided into two parts. Section I explores the rationale as to why police and NGOs should co-operate, it examines the positive role that the police play in the protection of human rights, and it explains how NGOs can assist police services in order for them to be more effective in their role as human rights protectors. Section II outlines a framework for effective co-operation of human rights NGOs and police.

Section I

The underlying principles of engagement between the police and human rights NGOs are:

- **Respect**
- **Transparency**
- **Inclusiveness**
- **Fairness**
- **Accountability**

The rationale for co-operation between police and human rights NGOs

Human rights and policing -- what is the connection?

For the police the challenge is twofold. The first is to acknowledge that human rights play a central role in policing and the second is to overcome the mistaken impression that complying with human rights standards curtails police effectiveness.

The police role involves human rights protection because police are entrusted to protect the right to life in serious crisis situations; and police maintain order so that all other rights we possess can be enjoyed. In the investigation of crime the police recognise that the rights of victims to physical integrity and property have been violated. They protect the right to assembly and freedom of speech, safeguarding people involved in public protest. They also have the obligation to protect people's rights from threats posed by known individuals or groups. But the key issue is

how can the police protect and respect human rights while also investigating and preventing crime? For many in the police there is an inherent contradiction between these two requirements.

It may be helpful to elaborate the conceptual basis of the relationship between policing and human rights to illustrate the proximity of human rights to policing. This relationship will highlight the positive role the police play in the protection of human rights. It will also be apparent that there is no contradiction between a human rights compliant police service and an effective police service.

Democratic policing is underpinned by three core principles:

- the social contract
- public consent
- the balancing of rights

International human rights standards refer to the relationship between policing and human rights as a means of assisting in the maintenance of order. The maintenance of public order is achieved when the social contract, public consent and the balancing of rights are achieved. Article 28 of the Universal Declaration of Human Rights states:

'Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realised.'

It is the role of the police to assist in the maintenance of this order. The order maintained by the police is one that shall be compatible with respect for individual freedom, human rights and the rule of law.

Social contract:

The police role within the social contract is to protect individual freedom and security to the best of their capability. The professional standards the police adopt to ensure compliance will be measured against international human rights law and standards that apply to the police as an organ of the state.² In the area covered by the Council of Europe, the most significant standard is that provided by the European Convention on Human Rights (ECHR).

Public consent:

Policing is not carried out in a vacuum but is guided by norms and values. The notion of policing with the consent of the people is central to a democratic way of life. The police cannot assume that they always police with consent; they must therefore constantly work to ensure that the public supports their practices.

Balancing of rights:

Within any democratic society conflicts will arise, e.g. between individual and community concerns. These can be conflicts over interests or over values. If the police have to respond to such conflicts, they

² See international treaties such as ECHR, the International Covenant on Civil and Political Rights (ICCPR), Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), International Covenant on Economic, Social and Cultural Rights (ICESCR), Convention on the Rights of the Child (CRC), Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), Convention on the Elimination on Elimination of All Forms of Racial Discrimination (CERD), but also the 'soft law' provisions such as The UN Code of Conduct for Law Enforcement Officials and the UN Basic Principles on the Use of Force and Firearms.

must ensure that each case of intervention is based on respect for the rights of all those involved. The key issue for the police in achieving a professional service is to correctly manage the balancing act between protecting individual liberty and the maintenance of public order. Compliance with human rights principles by the police is the only way to attain this optimum balance. This holds particularly true where police powers allow limitation of people's rights: care should be taken to ensure that rights are protected in a balanced fashion.

Balancing of rights refers to decisions made by police in situations where a conflict of rights is involved and where police action may result in a limitation of rights. The decision as to where to strike the balance should not be arbitrary and should be based on the key principles of Legality, Necessity, Proportionality, Accountability and Non-discrimination. An example: one person participating in a so far peaceful mass demonstration throws a stone at a window shop. The police called to respond to this incident will be aware of the present conflict of rights. On the one hand the other people have a right to freedom of expression, association and to freedom of movement, and they should be allowed to demonstrate peacefully. On the other hand the local business community has a right to the integrity of their property. The police interference in this scenario will be based on the decision as to what police action is required to restore the equilibrium in the enjoyment of rights by both entities. Where opposing rights are at stake, police policy, strategy and operational

actions should be based on the balancing of rights involved according to key human rights principles.

It may be that the situation does not amount to 'a pressing social need' and therefore does not require interference on the part of the police. On the other hand the situation may amount to 'a pressing social need' that in turn justifies police intervention to limit the rights of, in this case, the drunk.

This is clearly indicated in the Universal Declaration of Human Rights:

'Everyone shall be subject to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the right and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.'

The manner in which a police service carries out its tasks has a direct bearing on whether society will perceive it as legitimate. The more professionally a police service is able to maintain a balance in situations where opposing rights are at stake, the more credibility it will accrue to itself.

The key areas where the police are challenged to respect human rights are those involving sensitive police actions, particularly aspects of criminal investigations, such as arrest, use of force, detention, and surveillance, use of informers and search and interrogation.

There are four main reasons as to why the police commit human rights violations:

1. They may do so because they perceive it as justified on the basis of a 'noble cause', that is, the police may be tempted to act illegally on the grounds that they do so for a higher cause or the good of society. Thus they may acknowledge their wrongdoing while at the same time rationalising it: the 'criminal' will be removed from society, and the public will be grateful to the police for ensuring this. This form of rationalisation is dangerous, for it amounts to a practice of favouring a subjective police view of what is right and wrong over that of the rule of law. The reality is that, by breaking the law, the police become criminals themselves.
2. Another factor facilitating human rights violations by the police is an exaggerated emphasis on obtaining results. In police organisations where there is too much emphasis on efficiency and where compliance with human rights standards are ignored or not viewed as relevant, similar problems may arise. This may develop into a mindset that emphasises thinking along the lines of 'the ends justify the means', the sole focus being on the results to be achieved (such as arresting and convicting a culprit) rather than on the means employed to achieve these ends. Focusing on 'results' while ignoring illegal or unethical policing methods may lead to the undermining of the legitimacy of the police, and ultimately to the undermining of the legitimacy of the State itself.
3. Pressure to take shortcuts by ignoring legal and ethical standards can become part of the ethos of a police organisation. This can lead to situations

where issues of legality and respect for human rights are ignored or deliberately abused.

4. The law under which the police operate might itself facilitate human rights violations. In some cases police themselves are unhappy with such legislation and would welcome reform.

Why should the police engage with human rights NGOs⁴?

The European Code of Police Ethics in Art. 12 says: 'The police shall be organised with a view to earning public respect.' In its commentary this is interpreted as that the police should have the consent from the population it polices. Ways of achieving consent include showing professionalism, and developing the police into a transparent public service body. Art.18 of this Code says: 'The police shall be organised such that it promotes effective cooperation with other agencies, local communities and NGOs, and other representatives of the public, including ethnic minority groups'.

In a democracy the police have an obligation to consult with the public, including with human rights NGOs. The simple reason is that policing in a democracy is guided by the principle of policing with the consent of the people. To ensure their relevance and legitimacy to the population of their societies the police must carry out their mandate effectively to protect the security and freedom of these individuals. This mandate is achieved not by the police deciding on their own what is best in policing terms for the people but deciding in co-operation and solidarity with the people they serve.

If the police fail to engage with human rights NGOs and other players in civil society in any meaningful way, the imminent danger is that as an institution its horizon of understanding will be limited to the experience of police officers. Hence its capacity to acquire an objective view of society will be seriously curtailed. Police officers' experience will not allow the police to deal with challenging situations in a professional manner. Logically exposure to thinking and reasoning that extends beyond the traditional outlook is required of the police; it is imperative to obtain as wide a perspective as possible to ensure that objective policing decisions are made. There are six main advantages for the police in co-operating with human rights NGOs.

⁴There is no single explicit definition of what constitutes a human rights NGO. NGOs operating in the field of human rights do so out of a concern for the plight of individuals or groups of individuals in the struggle against human rights violations. Such NGOs can be found at local, national, regional and international level, where the scope of their activities naturally varies. Some NGOs focus on specific human rights problems, e.g. the treatment of asylum seekers, migrant workers, national minorities, the Roma and the disabled. Some NGOs are public membership organisations (such as Amnesty International) while others are more specialised with few members. Also, some NGOs insist very strictly on political independence. Some NGOs place a special focus on human rights education and on raising awareness of principles and standards as regards human rights. Many NGOs are major sources of information and capable of monitoring compliance with human rights standards – possibly more effectively than governments. NGOs are therefore essential in the struggle against human rights violations and in the field of providing assistance and compensation to victims of violations. They also play a vital role in promoting solidarity with victims of human rights violations worldwide. There are instances where NGOs (such as the International Commission of Jurists and Amnesty International) have played a very substantial role in the field of standard setting, for example the Convention Against Torture and the Convention on the Rights of the Child. Some NGOs are in a position to deliver services that other segments of society are incapable of. They are for instance able to fill the gaps in information/documentation/training courses. NGOs possess a certain amount of influence and can and do utilise this influence in the political system in order to champion protection afforded to people at risk and further develop this protection.

1. NGOs are a source of expertise, specialist knowledge and advice in the area of human rights. Police can benefit from the opportunity to exchange knowledge on human rights issues, and to analyse, evaluate and revise police policy, procedures and operations accordingly. Human rights NGOs possess valuable knowledge of how to ensure protection of human rights at the local, national, regional and international levels that may be of use in the police's operational functions. NGOs can provide background knowledge on the country of origin of an ethnic minority group or on the background of victims of domestic violence for example. They can also supply country-specific knowledge for officers serving in peace missions or other international roles.
2. A significant reason for the police to engage with human rights NGOs is to receive assistance in achieving neutrality in their relations with wider society. Co-operation with human rights NGOs can help the police target their policing at groups that are hard to reach, e.g. members of ethnic minority groups, economically deprived people, homeless people, drug addicts, prostitutes, ex-prisoners, members of the gay, lesbian and transgender community or victims of domestic abuse. Due to negative past experiences these groups may hesitate to report a hate crime to the police or to look for police protection - but may more readily contact a human rights NGO.
3. Co-operation with human rights NGOs provides the police with more credibility and increases the public's trust in their work. An

important first step for the police on their way to building trust with the wider community is engagement with human rights NGOs.

4. Co-operation sensitises the police to weaknesses in their human rights compliance. NGOs can assist the police with the development of a human rights ethos. NGOs can for instance assist the police in developing effective training interventions and identifying mechanisms to provide for an accountable policing service. The police conduct self-monitoring in order to address weaknesses and deal with allegations of misconduct. However, such mechanisms are generally internal and not independent. External civilian monitoring mechanisms are still rare and are usually aimed at dealing with exceptional circumstances. Regular contact with grassroots human rights NGOs would provide an opportunity for the identification of threats to human rights compliance and allow for solutions to be identified.
5. Co-operation with NGOs can lead to access to new resources and opportunities for the police. In our resource-strapped world this is an aspect to be welcomed. There is significant expertise within the NGO community on police-related matters which the police is not making use of.
6. Closer police co-operation with NGOs can help dispel myths and falsehoods about NGOs. Working closely with human rights NGOs allows for a deeper understanding of the NGO and thus provides for the rejection of common generalisations, exaggerations and myths surrounding some NGOs.

Why should human rights NGOs engage with the police, after all, are not the police the source of most human rights violations in society?

As political, social and cultural contexts differ from country to country, it may not always be wise or practical for human rights NGOs to engage directly with a police organisation. They may consider their influence better aimed at the relevant government ministry, at monitoring or complaints bodies. Nevertheless, where there are police organisations open to positive human rights development and human rights NGOs with the capacity to engage with the police, it is self-evident that human rights NGOs should make the most of this opportunity. Indeed, failure to do so may result in the NGOs' inability to substantially influence human rights protection.

Engaging with the police is fundamental if NGOs want to succeed in strengthening human rights protection. The police has a pivotal role to play in promoting, respecting and protecting human rights. NGOs must acknowledge that they can more positively influence the police to become human rights compliant if they do engage directly with the police.

This means that human rights NGOs can involve themselves in providing constructive criticism of the current and past human rights compliance record of the police, while at the same time engaging with the police to assist them to become a human rights compliant police service.

Moreover NGOs have a lot to gain and learn by engaging with the police as they can develop a more comprehensive understanding of operational policing and the practical

application of human rights. If NGOs are not familiar with the challenges and difficulties faced by the police in the every day practice of their duties it will be more difficult for them to put forward realistic and applicable comments and proposals, which the State can take on board. So part of the effectiveness of human rights NGOs will depend on their knowledge of human rights standards and of how to apply these to operational policing.

What are the disadvantages/threats for NGOs in engaging with the police?

A major concern for human rights NGOs is whether engagement with the police is possible without compromising their independence, credibility and impartiality and therefore their legitimacy. This scenario could arise should the police attempt to use their relationship with an NGO merely as a public relations ploy to legitimise their conduct without introducing genuine human rights reforms into their organisation and practices. In addition, NGOs may find it difficult to combine their monitoring role with maintaining close involvement in developing a human rights strategy for the police. NGOs may at times issue critical statements about police non-compliance with human rights and therefore need to take on a 'split personality': it might be necessary to speak with two perhaps contradictory voices at the one time – criticise the police when necessary while at the same time continue with its developmental work with the police.

Another issue of concern for some NGOs is that of receiving payment from police when providing resources for the benefit of the police service (for example through consultancies or training). If NGOs accept payment, they are potentially susceptible to a conflict of interest and the undermining of their credibility and independence.

A further risk is the possible use of human rights NGOs by the police to replace genuine engagement with local community organisations and individual members of the community which is vital to democratic policing.

What are the disadvantages/threats for the police in engaging with the human rights NGO's?

There is a possible danger of an NGO overtly politicising the police, e.g. if police officers become associated with the ideology of a particular NGO, resulting in the perceived loss of the police's impartiality.

In addition, some police officers within the service may feel threatened (or even betrayed) by seeing the police co-operate with those NGOs that usually criticise the police.

Yet another threat looms if the police try to play safe and only invite those NGOs supportive or less critical of the police. This can result in fewer opportunities for the police to add value to their own policy and practice.

Section II

A template for police and human rights NGOs to work and co-operate effectively

This section will concentrate on exploring a template that police and human rights NGOs can use to map out future partnerships⁶.

The template will attempt to clarify responses to the following questions:

1. How to build trust?
2. What are the aims and activities of the partnership?
3. What is the nature of the partnership? (rules of engagement)
4. Which NGOs should the police engage with?
5. At what level in the police and NGO organisation does the engagement take place?
6. What are the communication mechanisms?
7. How is the engagement monitored to ensure progress is being made?
8. What is the level of resources required to achieve the aims of the partnership?

1. Building trust

In order to develop the aims of the partnership any resistance to the initiative, on either of the part of the police or the NGO, needs to be addressed.

Trust requires transparency and it is important to ensure that both parties understand each other, the work they do, their strategic priorities, their mandate and policies, structure etc. One way to tackle resistance is to engage in trust-building activities. Suggestions for building trust in both entities could involve informal joint collaborations in small-scale ventures, e.g. making presentations on each other's mission statements, structures and procedures and the work both are engaged in. In addition, invitations could be issued to attend seminars, conferences and sporting activities that both entities may be organising. Or a meeting can be arranged between the two groups aimed at identifying commonalities rather than differences. At this meeting prejudices and perceived reasons for mistrust between both organisations could be discussed. It is important for

⁶Several of these points made in this section have been taken from Appendix 1 to the Council of Europe report on 'Police and Human Rights - Beyond 2000' Report of the final Working Conference organised under the Council of Europe programme 'Police and Human Rights 1997 -2000' and the launch of the programme 'Police and Human rights - beyond 2000' Background Documents for the Working Groups: Working Group 2: Co-operation between Police and NGOs. 'Co-operation between the police and NGOs. Exchange of ideas for co-operation' by Francesco Guillen, head of research at the Escola de policia de Catalunya and lecturer on Constitutional law at the Autonomous University of Barcelona. Strasbourg 2001.

the chair of such a session to be a neutral person with experience in mediation.

2. Agree the aims/activities of the partnership

The overall aim of the engagement should be to produce relevant and genuine improvement in the level of human rights protection. Specific and realistic sub-aims should be also drafted to ensure the realisation of the overall aim. It is vital that both parties are realistic about what can be achieved in a given timeframe.

Both entities should agree a plan of activities to achieve the aims. Such activities should focus on enhancing police compliance with human rights with NGO assistance. This assistance could take many forms, e.g. at a strategic level, how to introduce human rights standards into the police organisation as a whole, or devising monitoring of policing operations and practices, or reviewing training curricula, etc.

3. Agreement of rules of engagement for this partnership

Partnerships should be based on respectful and non-confrontational communication that results in 'win-win' situations. The principles underpinning police-NGO contact could be respect, transparency, inclusivity, fairness and accountability.

The police must also accept that human rights NGOs are not mere 'buffers' to be used as a means of avoiding engagement with the police's other critics. The human rights NGOs are not the sole representative voices for all those who are concerned about or take an interest in policing in their society.

It must also be stressed that, as the police have a wider remit than the NGOs, it has to be acknowledged that NGOs cannot exert influence in areas not covered in the initial agreement. Neither should the police expect the NGOs to act as their informers.

The partners need to be realistic about accepting points of contention between NGOs and the police. In other words, there is a need to accept that in some fields conflict between police and NGOs will continue, and that both the police and the NGOs will have to understand this, while at the same time attempting to maintain the co-operation in areas of common interest.

In summary, an atmosphere of critical respect should be established so that comments, suggestions and complaints are welcome information that is analysed and positive lessons integrated in everyday practices. A time frame for completion of the initial process of police-NGO engagement should also be agreed.

4. Identify how police should decide which NGOs they should engage with

How is inclusivity and representation to be guaranteed? One difficulty the police may encounter is how to decide from the myriad number of NGOs operating in the same field which one to work with.

There are criteria the police can use to decide which NGOs they should engage with. These criteria are the following:

- Stability
- Accountability
- Represents its constituency authentically
- Can add value to policing

- The NGO should be stable -

The NGO should be legally registered as a non-profit organisation. The NGO should have clearly stated aims and objectives. It should be reliable, credible and should seek to obtain tangible results for the target group it is working for. It should be interested in long-term progress rather than just pursuing the issue of concern relating to their target group. The NGO should be independent enough to stand by its agenda. The NGO should operate in accordance with the purposes and principles of the United Nations, the International Bill of Rights and the European Convention on Human Rights.

- The NGO should be accountable -

The NGO should be accountable to the community and the people it aims to protect or help. The NGO should publish annual reports of its activities and independently audited financial reports. It should conduct regular external evaluations and accept responsibility for its failures.

- The NGO should be capable of adding value to the police -

The NGO should be able to add value to the police role of ensuring community safety by enhancing police capacity to protect and respect human rights. The degree to which they are capable of doing so should be a measure of their potential appeal to the police.

5. Agree the status of engagement in both entities

At the outset it should be clarified at what level engagement is to be conducted by the police and NGO – either at the national, regional or local level. To ensure that the relationship is institutionalised, the contact between a police service and an NGO should preferably be at senior managerial level or else have the approval of senior management. Individual and personal contacts have lesser impact and are more fragile and do not possess the benefits

of institutional backing and delivering the desired effects.

6. Agree mechanisms for communication

To ensure a productive conflict-free relationship it is vitally important to agree on mutually acceptable mechanisms for consultation.

The lines of communication and the topics to be addressed should be agreed in advance. In addition, lines of communication should be clearly established, explicitly stating who should speak to whom in each organisation. Finally it should be agreed how decisions are to be made and communicated.

Access by both entities to relevant and necessary information should be a pre-condition for joint engagement. It should also be made clear that this requirement can be restricted when dealing with issues of a confidential nature. Clarity around the transparency of the process will ensure that trust and confidence is built into the engagement.

7. Agree monitoring and review arrangements to measure effectiveness

Agree transparent benchmarks to monitor and evaluate progress in achieving the agreed aims. Regular monitoring should be accompanied by periodic evaluations. The advantage of having

clear indicators to gauge performance is to reduce criticism that the NGO is undermining its credibility and independence by engaging with the police and vice versa. Should no progress be made, the NGO or police can decide whether to withdraw from the engagement.

8. Resource the partnership

Both entities should provide adequate resources to facilitate the engagement and thereby ensure sustainability. Inadequate resourcing of the agreement could lead to frustration and delay or halt progress. It is better to decline a proposal to develop work jointly than to establish a bad precedent. When declining to engage it is important to explain the reasons in order not to forestall future co-operation.

Payment by the police to NGOs for the provision of services such as training, auditing and consultancy should not put the credibility of the NGO at stake if done in a transparent, open and accountable manner.

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