



# REPORT:

## Camps at Calais and Grande-Synthe (France): Policing and Access to Justice

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## Bar Human Rights Committee

1. The Bar Human Rights Committee (“BHRC”) is the international human rights arm of the Bar of England and Wales. It is an independent body, distinct from the Bar Council of England and Wales, dedicated to promoting principles of justice and respect for fundamental human rights through the rule of law. Its membership is comprised of barristers practicing at the Bar of England and Wales, legal academics, and law students. BHRC’s eighteen-person and general membership offer their services pro bono, alongside their independent legal practices, teaching commitments and/or legal studies. BHRC also employs a full-time Coordinator.
2. BHRC’s aims include:
  - To uphold the rule of law and internationally recognised human rights norms and standards;
  - To support and protect practicing lawyers, judges and human rights defenders who are threatened or oppressed in their work;
  - To further interest in and knowledge of human rights and the laws relating to human rights, both within and outside the legal profession;
  - To advise, support and co-operate with other organisations and individuals working for the promotion and protection of human rights; and
  - To advise the Bar Council of England and Wales in connection with international human rights issues.
3. As part of its mandate, BHRC undertakes both scoping and fact-finding missions in order to ascertain the relevant facts relating to and elucidating situations of human rights concerns, whether allegedly committed by State or non-State actors.
4. The remit of BHRC extends to all countries of the world, apart from its own jurisdiction of England and Wales. This reflects the Committee's need to maintain its role as an independent but legally-qualified observer, critic and advisor.

## Introduction

5. This report documents the findings of the two-day scoping and legal observation mission undertaken by the Bar Human Rights Committee (“BHRC”) to camps at Calais and Grande-Synthe in France between 21 and 22 March 2016 (“the Mission”). The Mission was undertaken by two BHRC Executive members, Stephen Cragg QC, barrister at Monckton Chambers, and Gráinne Mellon, barrister at Garden Court Chambers. The Mission was also accompanied by Zahra Hrifia, Legal Caseworker at the Advice for Individual Rights in Europe (“AIRE”) Centre. Ms. Hrifia provided interpretation and translation for the Mission.
6. The report draws on observations from the Mission as well as on information publicly available in reports, statements and news articles and evidence received by the Mission from the Legal Advice Centre in Pas-de-Calais, from Help Refugees UK, and from a dossier prepared by Garden Court Chambers. The report was authored by Stephen Cragg QC and Gráinne Mellon and its conclusions approved by the BHRC Executive.

### **Terms of reference**

7. The Mission was undertaken to consider, assess and report on the migrant/refugee camp in Calais, known as “the Jungle”, and the Grande-Synthe camp near Dunkirk. The Mission focused on (a) the repeated allegations of excessive force used by the French police in the camps and (b) the alleged failure by the French police to protect the camps and their inhabitants from violence and threats of violence by organised groups outside the camps. However, the Mission also had regard to the more general issue of access to legal services and adequate information by those within the camps.

### **Acknowledgments**

8. The Mission was assisted by representatives of Help Refugees and the Refugee Rights Data Project, who facilitated access to both camps in Calais and Grande-Synthe. The Mission was also assisted by Nuala Mole of the AIRE Centre, Alison Harvey of the Immigration Law Practitioners’ Association (“ILPA”) and Nicola Braganza and Hossein Zahir, barristers at Garden Court Chambers, all of whom helped arrange access to and meetings at the camps. BHRC extends its thanks to them, as well as to Jared Ficklin, University of Liverpool and BHRC member who initially proposed to that BHRC should undertake a fact-finding mission to the camps, and to Ella Gunn, Legal Researcher at Garden Court Chambers, who

assisted with research and footnoting of this report. The conclusions reached within this report are those of BHRC exclusively.

9. The Mission wishes to reiterate that while Gráinne Mellon is a member of Garden Court Chambers, she participated in the mission and contributed to this report in her capacity as BHRC Executive Committee member. She did not participate in the parallel research and legal observation conducted by Garden Court Chambers.

### **Funding**

10. The Mission was funded from BHRC central funds.

## Research conducted

11. The BHRC Mission spent two days in two camps in France. The first was the “Jungle” camp in Calais (both the Northern and Southern quarters, the latter of which had been almost completely demolished by the French authorities at the date of the Mission). The second was the newly established camp at Grande-Synthe, run by Médecins Sans Frontières (“MSF”), which had previously been based in Dunkirk.

### **Meetings held**

12. BHRC met with a wide range of officials and organisations in order to obtain as wide an insight as possible into the legal and human rights issues arising in the camps within the terms of reference of the Mission. The groups included:
  - Refugee Right Data Project (Hannah Wahle, Musashi Fujimura, Researchers)
  - Médecins Sans Frontières (Minou Ezdian, Psychologist and Elizabeth Hoffmann, Psychiatrist)
  - Médecins du Monde (Chloe Lorieux, Co-ordinator)
  - The Legal Advice Centre within the camp in Calais (Marianne Humbertot, Co-ordinator, Legal Advice Centre and Solenne Leconte, Project Co-ordinator and Legal Caseworker)
  - United Nations High Commission for Refugees (Veronique Njo, Co-ordinator)
  - Help Refugees UK (Jess Mills and Maddie Harris)
13. BHRC also met and spoke with a number of residents of the camps in both Calais and Grande-Synthe. They included a number of Iranian men who were on hunger strike in the Calais camp.
14. BHRC did not meet with representatives of either the Préfecture, the Gendarmerie or the Compagnies Républicaines de Sécurité (“CRS”) police force during the Mission. This was a short fact-finding trip which concentrated on recording the experiences of the inhabitants of the camps and those non-governmental organisations working most closely with them. BHRC welcomes comments from the local government and police bodies about the contents and conclusions contained in this report, and will review and consider the conclusions in the light of any comments received.

## **Material considered**

15. In addition to conducting interviews in France, the Mission also considered additional materials received. These included:

- A number of video clips from Help Refugees, which set out witness testimony in relation to reported police violence during the demolition of the Northern camp at Calais by the French authorities in February 2016;
- A dossier of witness statements and further material collated by barristers at Garden Court Chambers, London in relation to the situation and conditions in the camps; and
- Seventeen anonymised complaints of police violence received directly from the Legal Advice Centre in Calais.

## Background

16. The political and legal circumstances surrounding the existence of the camps in Calais and Grande-Synthe, previously Dunkirk, is highly complex.
17. The French organisation Le Défenseur des Droits (Defender of Rights) outlines the history of the camps in its October 2015 report *“Exiles and Fundamental Rights: the situation in the territory of Calais”*. The report notes that the central French government policy behind the management of the camps has been to avoid the creation of permanent camps in the area and to discourage people from living in the camps.<sup>1</sup>
18. In essence, informal camps have existed in the port and coastal areas of Calais and Dunkirk since the first British Red Cross administered camp was established in 1999. The current improvised camps are a continuation of the more formal structures which made up the Sangatte detention facility, which was demolished in 2002.
19. The current camps are primarily inhabited by people seeking to gain entry to the UK for a myriad of reasons, including to claim asylum and/or to be reunited with family members in the UK.
20. The UK Government has played an active role in what it calls the management of migratory flows from Calais, ever since Margaret Thatcher and President Mitterrand signed the Treaty for the Channel Tunnel in 1986. Both the British and French governments have now established juxtaposed border controls on both sides of the Channel. The most recent August 2015 Anglo-French Accord (“the Accord”) confirms intensive co-operation between the two States to deal with security, public order, policing and breaches of the law in the Le Nord / Pas-de-Calais region, in particular in relation to the physical and policing infrastructure. .
21. The Accord also has a short section dealing with the need to protect the vulnerable and the need to combat trafficking. The section recalls that the French and UK governments have committed themselves to (amongst other things) the provision of adequate information, advice and support, coupled with “protected accommodation” to assist the removal of vulnerable people to a place of safety where they are able to make a claim for asylum.

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<sup>1</sup> Le Défenseur de Droits (the French Defender of Rights), ‘Exiles and fundamental rights: the situation in the territory of Calais’, October 2015, available at: [http://www.defenseurdesdroits.fr/sites/default/files/atoms/files/20151006-rapport\\_calais\\_en.pdf](http://www.defenseurdesdroits.fr/sites/default/files/atoms/files/20151006-rapport_calais_en.pdf), at 9 onwards.



## Observation at the Calais “Jungle” camp

22. The camp at Calais is not formally recognised as a refugee camp. It is an unofficial camp, “tolerated” in part by the French government and kept under a watchful eye by the British government.
23. Given that it is not an official refugee camp, administered by United Nations High Commission for Refugees (“UNHCR”), it is not subject to international norms in relation to accountability and sanitation.
24. At the time of the Mission, the camp was operating in an *ad hoc* manner, with basic assistance being provided in part by some local NGOs, two health organisations and a smattering of volunteers from around Europe.
25. The camp itself is based on some 18 hectares of uneven sandy heathland on a former landfill site about four kilometres to the east of Calais. For many years, its up to 3,000 residents lacked access to electricity, lighting, sanitary facilities and water supply. The camp itself has been littered with waste and excrement. The occupants lived in a variety of dangerous and temporary shelters, consisting mainly of tarpaulins and precarious shacks.
26. Since then, and as described recently in a judgment by the President of the Upper Tribunal (Immigration and Asylum Chamber) of England and Wales,<sup>2</sup> there has been a “slight improvement” in the camps’ conditions, probably due in large measure to an order dated 2 November 2015 by the Tribunal Administratif de Lille.
27. This order required the Préfet of Pas-de-Calais to take certain specified measures, to be commenced within eight days, including the provision of water access points, the installation of 50 toilets, the introduction of a refuse collection operation, the cleaning of the site and the creation of internal routes to facilitate access for emergency services.<sup>3</sup>
28. The Mission was informed by volunteers that conditions had improved since the municipality delivered more toilets and started to maintain them. However, it was

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<sup>2</sup> *R (on the application of ZAT and others) v Secretary of State for the Home Department* [JR15405/2015; JR 15401/2015] available here: <https://tribunalsdecisions.service.gov.uk/utiac/2016-ukut-61>

<sup>3</sup> Order of the Tribunal Administratif de Lille dated 2 November 2015 available here: <http://www.asylumlawdatabase.eu/sites/www.asylumlawdatabase.eu/files/aldfiles/TA%20Lille%202020%20novembre%202015%20no.1508747.pdf>

apparent that despite those limited improvements, there remained significant problems with sanitation, sewage and waste disposal, and rubbish management on site, as well as with access to adequate healthcare and nutrition. These are of particular concern to vulnerable groups, such as children, the elderly, and those with disabilities, but they pose a risk to all residents in the camp, particularly those who have endured the conditions over a length of time during the winter months.

29. At the time of the Mission, the Southern camp had been almost entirely demolished pursuant to an order of the Tribunal Administratif de Lille dated 25 February 2016<sup>4</sup>. This involved an estimated 3500 persons including 300 unaccompanied children being evicted to a different section of the camp, and the wide scale destruction of communal areas. At the time of the Mission, the only communal facilities remaining in the Southern camp were a bookshop, a number of schools run by volunteers and a makeshift Ethiopian Church.
30. The French government had started to provide some basic accommodation in the Northern camp, in particular the provision of 125 shipping containers, each of which accommodates 12 persons. At the point of the Mission, approximately 1500 persons had been accommodated in these containers. The compound in which they have been placed is accessed by residents by way of a biometric scan. However, a further estimated 4,500 persons, including men, women and children, continue to live in the wasteland surrounding the containers' compound, either in tents or precarious structures erected by residents and teams of volunteers, in cramped conditions, with poor sanitation.
31. BHRC observed that access to medical care within the camp was provided in the main by medical charitable organisations MSF and another charity, Médecins du Monde. BHRC understands that the French government recently commenced providing basic medical referral services, and we spoke to some health care staff employed by the local health service who are working on the site. However, all psychological and psychiatric help continues to be provided by the external charitable organisations referred to above.
32. BHRC observed a large number of children in the camp within families and also a number of apparently unaccompanied children. BHRC understands that Help

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<sup>4</sup> Order of the Tribunal Administratif de Lille dated 25 February 2016 available here: <http://lille.tribunal-administratif.fr/content/download/56106/498105/version/1/file/Ordonnance%20de%20référé%20n%201601386...pdf>

Refugees have concluded that 544 unaccompanied children were based in Calais as at June 2016.<sup>5</sup>

33. BHRC spoke to a number of refugees in the camps including a number of Iranian men on hunger strike in what remained of the Southern camp at Pas-de-Calais. These men gave personal accounts of generalised and specific police violence within the camps, as well as a culture of distrust towards the French authorities and in particular the CRS. The Mission was informed on return that the hunger strike had been called off as the French government, UNHCR and the Defender of Rights had agreed to meet the men to discuss conditions and violence within the camps.<sup>6</sup>

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<sup>5</sup> Help Refugees Press Release dated 20 June 2016- “*New Calais Census Released- 700 children in Calais, 78% on their own*” available here: <http://www.helprefugees.org.uk/2016/06/20/new-calais-census-released-700-children-in-calais-78-on-their-own/>

<sup>6</sup> See further ‘*Calais Hunger Strike 2016*’, available at: <https://calaishungerstrike2016blog.wordpress.com>.

## Observation at the Grande-Synthe camp

34. The Mission also conducted a visit of the newly established camp at Grande-Synthe. This camp, opened in early March 2016 is a replacement for the previous camp contained in the northern port of Dunkirk and is understood to accommodate approximately 2500 persons.
35. The Grande-Synthe camp, located near the commune of Grande-Synthe in Dunkirk, was built and funded primarily by Médecins Sans Frontières (“MSF”). It was built with the assistance of the Mayor of Dunkirk against opposition from other higher level politicians. Unlike in Calais, in which the shipping containers have been provided by the French authorities, in Grande-Synthe the cabins have been sourced, funded and erected by MSF.
36. BHRC were informed that the conditions at this new site were considerably better than those of its predecessor at Dunkirk, which had been widely acknowledged to be much worse even than the Jungle in Calais. BHRC noted that many more families and young children were based at Grande-Synthe than at Calais.
37. The Mission were informed by both residents and volunteers alike that the primary issues in the new camp in relation to policing related to the escalating risk and dangers emanating from organised crime groups and those involved in people smuggling within the camp. BHRC was told that the French police were failing to protect the residents from routine and repeated criminality and exploitation at the hands of these groups.

## Legal Framework

38. We do not attempt a comprehensive analysis of the relevant law in relation to the use of force by the police and access to complaints systems and other remedies. However, the relevant principles can be summarised as follows:-
- a. Both French domestic law and international law norms make it clear that the police are only permitted to use such force as is necessary, reasonable and proportionate when carrying out their policing functions in relation to public order situations;<sup>7</sup>
  - b. The police are bound by domestic and international duties to ensure that the most vulnerable, including children, are protected, including the taking of reasonable steps to prevent ill-treatment of which the authorities had or ought to have had knowledge;<sup>8</sup>
  - c. The use of tear gas is capable of giving rise to violations of civil, criminal and human rights law, given the risk of injury and death to which it exposes civilians. The misuse of tear gas includes: use in confined space, use of excessive amounts of tear gas, unnecessary and/or disproportionate use, use against those with compromised health, and/or any other use amounting to ill-treatment;<sup>9</sup>
  - d. Access to investigation by an independent police complaints system is essential for compliance with Articles 2 and 3 of the ECHR (right to protection of life and prohibition on torture and inhuman/ degrading treatment).<sup>10</sup>

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<sup>7</sup> On domestic provisions- see in particular R-431 of the Penal Code and Article R 434-18 of the Internal Security Code; for a summary of European and international standards, see “*The European Convention on Human Rights and Policing: a Handbook for police officers and other law enforcement officials*” Council of Europe, 2013 and “*Human Rights Standards and Practice for the Police*”, The Office of the High Commissioner for Human Rights 2004.

<sup>8</sup> See in particular *Mubilanzila Mayeka and Kaniki Mitunga v Belgium*, Application Number 13178/03, decision of the European Court of Human Rights of 12 October 2006; *PF and EF v UK*, Application Number 28326/09 [2010] ECHR 2015 (decision of the European Court of Human Rights of 23 November 2010).

<sup>9</sup> See UN Basic Principles on Use of Force and Firearms, Office of the High Commissioner for Human Rights 1990 and further ‘*Use of Tear Gas on Peaceful Protestors by Council of Europe Member States*’, Bournemouth University, Civic Hub and the Omega Research Foundation, 25 February 2016, available at: [http://www.civimedia.io/wp-content/uploads/2016/02/USE-OF-TEAR-GAS-ON-PEACEFUL-PROTESTERS-BY-COUNCIL-OF-EUROPE-MEMBER-STATES\\_final.pdf](http://www.civimedia.io/wp-content/uploads/2016/02/USE-OF-TEAR-GAS-ON-PEACEFUL-PROTESTERS-BY-COUNCIL-OF-EUROPE-MEMBER-STATES_final.pdf).

<sup>10</sup> See “*Opinion of the Commissioner for Human Rights concerning Independent and Effective Determination of Complaints against the Police*”, Council of Europe, March 2009, in particular at paragraphs 42-45.

## **Violence in the camps**

39. The Mission was repeatedly informed of real concerns about levels of violence in the camps, particularly the camp at Calais. This included allegations of direct police violence and the failure of the police to protect residents of the camp from violence at the hands of citizen individuals or groups.

### **A. Preliminary Observations**

40. BHRC considers that the proper consideration and investigation of issues of policing in the camps is hindered by a number of specific obstacles.
41. Firstly, many residents of the camps are reluctant to disclose their identity for fear of reprisals or fear that by co-operating with an investigation, they may hinder a subsequent asylum claim in the UK or elsewhere.
42. Secondly, the residents of the camp are mobile and can be difficult to stay in touch with, often moving from the camp before an investigation can be launched into their complaint.
43. Thirdly, the camps themselves are unregulated and it is therefore difficult to keep track of individuals and/or to monitor the situation on the ground. The situation on the ground in both camps changes on an almost daily basis.
44. Fourthly, there is limited legal advice and information in the camps and limited opportunity, or process in place to facilitate residents being able to document and lodge complaints against the police.
45. It is against this difficult backdrop that the following observations and recommendations are made.

### **B. Policing in the Camps**

46. The allegations of both direct police violence, the use of excessive force and the failure of the police to protect inhabitants of the camp facing violence from others, have been persistently advanced by residents and are not new allegations.
47. The allegations of excessive force and failure to protect camp residents from “citizen violence” have been almost exclusively confined to Calais where the CRS are present. However, it is also alleged that the gendarmes (the military force charged with police duties) who are based in Grand-Synthe have failed to protect residents of the camps from violent crime at the hands of people-smugglers and

traffickers.

48. BHRC has considered four of the primary human rights concerns in relation to policing in the camps below.

**Use of Excessive force: beatings**

49. The Mission is in receipt of a number of well-sourced and corroborated reports concerning the use of excessive force by the CRS on migrants/refugees in the Calais camp. Beatings include beatings with batons, sticks and truncheons.

50. While the use of excessive force has been reported to occur both inside and outside the camps (but in both cases against camp residents), in the main it appears to occur outside the camps and in two main instances:

- When migrants attempt to board lorries to cross the Channel to enter the UK (or have been found in such lorries), or
- When migrants otherwise attempt to leave the camps, particularly at night, or are located outside the camp whether near the port of Calais or not.

51. The Mission is in receipt of summaries of over 17 complaints received and presently being processed by the Legal Advice Centre in Calais of instances of violence by police of this nature. The Mission understands that the Legal Advice Centre has presented a number of these complaints to the French Public Prosecutor of the Boulogne-sur-Mer Tribunal but that none has, as yet, progressed beyond the stage of initial complaint. The complaints include the following:

- An Iranian child aged 16 who, on 29 January 2016, was found by the CRS in a refrigerated lorry, and was handcuffed and taken with other migrants to a field outside Calais, where he and the others were forced to kneel down in a line and were beaten repeatedly with truncheons;
- An Afghan male, who on 3 February 2016, was detected by CRS in a lorry parked in a supermarket and who, upon leaving the lorry, was beaten with a truncheon and had tear gas sprayed in his face. He had to seek medical treatment for a broken arm, caused by his beating;
- A Syrian male who, in the early hours of the morning on 3 February 2016, was walking on a street in Calais, and was followed by a CRS van. Officers disembarked and hit him with truncheons, kicked him in the chest and sprayed tear gas in his face;

- An Eritrean male who, on 25 November 2015, was encountered by CRS having boarded a lorry to cross the Channel, and was asked to get down. He duly did so, but was then kicked and hit by officers and tear gas was sprayed at his face. While disoriented from his beating, he was knocked down by another lorry and was unconscious for a number of days.
  - An Iranian male who, on 16 December 2015, while attempting to board a lorry, was hit by the CRS with batons on his face and arm in order to prevent him from boarding. He was left on the side of the road and eventually made his way to the MSF clinic where he was transferred to Lille Hospital for surgery on his jaw. His treatment lasted six weeks, during which period he was only able to consume liquids. He has subsequently been diagnosed with post-traumatic stress disorder (PTSD).
52. The evidence assembled by the Legal Advice Centre appears to be corroborated by and consistent with a range of other sources. This includes a witness statement from the Head of Mission of the Calais Project at MSF collated by Garden Court Chambers which states that from 21 December 2015-19 February 2016, 114 patients consulted MSF doctors for injuries caused by violence. 98 of the patients claimed to be victims of violence committed by police forces, 11 by civilians and the remainder by other persons living in the camp.
53. Further, the residents of the Calais camp have routinely asserted that the CRS has used excessive force against residents. The results of the recent study published in March 2016 by the Refugee Rights Data Project (“RRDP”)<sup>11</sup> confirms that 75.9% of respondents reported experiencing violence from the police. Specifically, 42.4% of respondents had experienced physical violence by the police and 26.4% had experienced verbal abuse. A number of respondents to that survey spoke of being beaten with “sticks and batons”, with the injuries caused by the beatings ranging from bruises to broken bones.
54. People allege that verbal abuse was regularly used in conjunction with physical violence and/or tear-gas.
55. Strikingly, the report concludes that over 61% of unaccompanied children “never feel safe” within the camps; and 81.5% of women in the camp have reported suffering police violence since arriving in the camps. A further report from RDDP

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<sup>11</sup> *“The Long Wait: Filling the Data Gaps Relating to Refugees and Displaced People in the Calais Camp”* Refugee Rights Data Project, March 2016 available here: [http://refugeerights.org.uk/wp-content/uploads/2016/06/RRDP\\_TheLongWait.pdf](http://refugeerights.org.uk/wp-content/uploads/2016/06/RRDP_TheLongWait.pdf)



confirms that of these women, 53% indicated that police violence occurred while the women were attempting to journey to the UK; 27% reported experiencing unprovoked police attacks within the camps and 20% when seeking to leave the boundaries of the settlement with the intention of going into Calais town centre.<sup>12</sup>

56. Finally, reports of direct physical violence of this nature have been corroborated by a number of French and international human rights organisations including:

- The Defender of Rights, which in its 2015 report outlines that there has been a “multiplication and intensification” of police violence since 2012 and refers to “numerous testimonies from migrants stating that they have been attacked by the police, most often at the edge of the motorways near to or within heavy goods lorries.” The report also refers to cases of migrants being hit on the motorway by police vehicles, and confiscation by police of mobile phones and digital equipment used by volunteers to record police misconduct,<sup>13</sup>
- The United Nations Committee for Human Rights, which on 21 July 2015 stated that “the Committee is concerned about allegations of bad treatment, excessive use of force and disproportionate use of intermediary weapons and in particular at the time of questioning, forced evacuation and maintaining law and order. It is also concerned about continuing “ethnic profiling” and allegations of police harassment, verbal abuse and the abuse of force against migrants and those seeking asylum in the city of Calais [...]”<sup>14</sup>
- Human Rights Watch, whose report of 20 January 2015 documents abuses by French police against migrants and asylum-seekers in Calais, including beatings and attacks with pepper spray as migrants and asylum seekers walked in the streets or hid in trucks in the hope of traveling to the United Kingdom: “the migrants and those seeking asylum have described what appear to be routine abuse by police officers which they attempted to hide, in lorries or when they were walking in the city. Nineteen people including

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<sup>12</sup> “*Unsafe Borderlands: Filling Data Gaps Relating to Women in the Calais camp*” Refugee Rights Data Project, June 2016, available at: [http://refugeerights.org/wp-content/uploads/2016/06/RRDP\\_UnsafeBorderlands.pdf](http://refugeerights.org/wp-content/uploads/2016/06/RRDP_UnsafeBorderlands.pdf)

<sup>13</sup> Le Défenseur de Droits (the French Defender of Rights), *‘Exiles and fundamental rights: the situation in the territory of Calais’*, October 2015, available at: [http://www.defenseurdesdroits.fr/sites/default/files/atoms/files/20151006-rapport\\_calais\\_en.pdf](http://www.defenseurdesdroits.fr/sites/default/files/atoms/files/20151006-rapport_calais_en.pdf), at 71-78.

<sup>14</sup> Human Rights Committee, Concluding Observations on the Fifth Periodic Report on France dated 17 August 2015 available here (see paragraph 15): [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/SessionDetails1.aspx?SessionID=899&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/SessionDetails1.aspx?SessionID=899&Lang=en)

two children stated that the police had mistreated them at least once in particular by beating. Eight had had arms or legs fractured or other visible injuries which according to them had been caused by the police in Calais and in the area. Twenty one of them including two children told the police that they had been sprayed with tear gas. [...]”<sup>15</sup>

- The United Nations Committee Against Torture, which, in its published findings in respect of France, expressed concern about allegations of excessive use of force by the police and gendarmerie against migrants in Calais and noted barriers for victims to complain about police violence. The Committee recommended the State to strengthen the fight against excessive use of force by the police and gendarmerie and to better protect communities targeted by hate crimes, including migrants.<sup>16</sup> France has until 13 May 2016 to respond to the Committee’s recommendations.

57. In light of all the above, Human Rights Watch has called on France to launch an independent investigation into allegations of abuse in Calais and to issue clear instructions to law enforcement officials working in Calais that they should only use force, including pepper spray, as a last resort, and only when strictly necessary and proportionate to achieving a legitimate aim, such as protecting their safety or the safety of others.<sup>17</sup>

58. BHRC is aware that on 14 January 2015, the prefect for Pas-de-Calais denied unjustified use of force by the police against migrants in Calais.<sup>18</sup> Further, BHRC are aware of the French government’s statement in its reply to the UN Committee against Torture’s list of issues, in which it was said that eight investigations have been opened into complaints of violence by police officers against migrants and asylum seekers in Calais. In one of those cases, the French Government asserted that a police officer received a suspended sentence of three months’ imprisonment

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<sup>15</sup> Human Rights Watch, ‘France: Migrants, Asylum Seekers Destitute – Investigate Reports of Police Abuse in Calais, Provide Shelter’, 20 January 2015, available at: <https://www.hrw.org/news/2015/01/20/france-migrants-asylum-seekers-abused-and-destitute>.

<sup>16</sup> Convention Against Torture, 57<sup>th</sup> Session, 18 April 2016-13 May 2016: Concluding Observations on France available here: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/117/36/PDF/G1611736.pdf?OpenElement>

<sup>17</sup> Human Rights Watch, ‘Submission to the United Nations Committee against Torture on France’, 21 April 2016, available at: <https://www.hrw.org/news/2016/04/21/submission-united-nations-committee-against-torture-france>.

<sup>18</sup> Human Rights Watch, ‘France: Migrants, Asylum Seekers Destitute – Investigate Reports of Police Abuse in Calais, Provide Shelter’, 20 January 2015, available at: <https://www.hrw.org/news/2015/01/20/france-migrants-asylum-seekers-abused-and-destitute>.

and a 1,000 Euro fine for aggravated violence.<sup>19</sup>

59. The Mission were also informed by the Legal Advice Centre that a number of complaints have been presented to the IGPN (“the police of police”) and are pending before the Public Prosecutor of the Boulogne-sur-Mer Tribunal.
60. Based on all the above, BHRC has grave concerns about the excessive use of force in the form of beatings in and around the camps at Calais. BHRC is of the view that immediate steps must be taken in order to prevent the future use of excessive force by the French police. The Mission is particularly concerned about the purported frequency of incidents of this nature and on the impact of such violence on vulnerable groups such as accompanied and unaccompanied children and women.
61. The recommendations of the Mission in this respect are contained in paragraph 114 below.

#### **Use of excessive force: Tear Gas**

62. The Mission received numerous reports from professionals (legal and medical), volunteers and residents of the camps concerning repeated and excessive use of tear gas both inside and outside the camps.
63. BHRC were told that tear gas is deployed primarily in the evenings and at weekends and often (but not exclusively) when international volunteers have left the camps.
64. It further appears from what the Mission were told that tear-gas is deployed primarily:
  - To deter/prevent refugees from boarding trucks; or to punish them for having attempted to do so;
  - At entrances to the camps to dissuade refugees from leaving the camps;
  - When refugees are encountered outside the camps (i.e. in the town or local supermarket);
  - Towards specific individuals during beatings (see above);
  - During demolitions of the Southern camp to further prevent refugees from building new tents/shelters.

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<sup>19</sup> Reply by the French government to the Committee Against Torture’s list of issues, paragraph 135, February 2016.

65. BHRC has had sight of summaries of complaints received by the Legal Advice Centre concerning the use of tear gas directed to individuals. These relate primarily to individuals who were attempting to board, or had in fact boarded, lorries travelling to the UK or having done so. One of the complaints in particular was from a 16 year old Afghan boy who, late at night on 28 January 2016, was subjected to direct use of tear gas when he was apprehended in the back of a lorry.
66. Further, BHRC has had sight of a number of witness statements from professionals (both legal and medical), volunteers and residents themselves, which outline the prevalence of the use of tear gas both inside and outside the camps. Two witnesses, both volunteers, indicated that the use of tear gas can be for as long as two hours, and appears both to be indiscriminate in that it is used in communal areas and disproportionate in that it has been deployed on occasion without any obvious public disorder trigger or provocation.
67. A number of volunteers recalled that on one occasion in February 2016, they had picked up over 300 empty tear gas canisters and on another occasion, also in February 2016, that they had seen up to three wheelbarrows of empty tear gas canisters being wheeled into a warehouse.
68. Further, the RRDP report confirms that 69.9% of respondents to their survey had been exposed to tear gas since arriving in Calais.<sup>20</sup> The study found that 20.5% experienced tear gas on a daily basis during their time in the camp, while 42.3% had been exposed multiple times a week. The report states that it was often reported that tear gas was often not used to disperse a crowd but was targeted towards a specific individual. One particular respondent explained that the police detonated a tear gas canister in the back of a van in which he was locked into, having been found attempting to travel to the UK.
69. BHRC notes that these reports from a variety of sources within the camp appear to be corroborated by and consistent with a range of other domestic and international human rights organisations:
- The Defender of Rights’ 2012 decision, which stated that several incidents of harassment against migrants in Calais involving the police had occurred between 2009 and 2011. This decision also recorded “*police harassment and violence against migrants and migrant rights activists, especially the*

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<sup>20</sup> Ibid, footnote 13.

*inappropriate use of tear gas during operations*”<sup>21</sup> based on testimony and documentation provided by NGOs, activists and police officers.

- The Defender of Rights’ 2015 report, which outlines that a number of videos and witness statements have been submitted by Calais Migrant Solidarity confirming “disproportionate and unjustified use of tear gas on migrants, sometimes at close range and most often when there were walking along motorways”. Médecins du Monde have also confirmed that a number of people reported being “victims of tear gas sprayed close to their eyes or face.”<sup>22</sup>
- The United Nations Committee for Human Rights, who on 21 July 2015 stated that “the Committee is concerned about allegations of bad treatment, excessive use of force and disproportionate use of intermediary weapons.”<sup>23</sup>
- Human Rights Watch, whose report of 20 January 2015 documented abuses by French police against migrants and asylum-seekers in Calais, including beatings and attacks with pepper spray as migrants and asylum seekers walked in the streets or hid in trucks in the hope of travelling to the United Kingdom.<sup>24</sup>

70. The Mission understands from the recent Human Rights Watch report that an investigation is currently underway to identify the police officers in question in the cases with the most substantive evidence, and to determine the circumstances in which tear gas has been used. The Mission is also aware that the Defender of Rights has sought information as to the volume of tear gas used in Calais compared with use in the rest of France, but that this information has not yet been disclosed.<sup>25</sup>

71. BHRC reiterates that the use of tear gas for the purposes of law enforcement is only lawful if its use is both necessary and proportionate.

72. BHRC is highly concerned at what appears to be the apparently routine use of tear gas by CRS on the inhabitants of the camps, as well as the mounting evidence that tear gas is being used in circumstances when it is simply unnecessary and disproportionate to do so, including in confined spaces and/or in a manner which

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<sup>21</sup> Défenseur des Droits, Décision MDS 2011-113, 13 November 2012

<sup>22</sup> Ibid, footnote 15.

<sup>23</sup> Ibid, footnote 16.

<sup>24</sup> Ibid, footnote 17.

<sup>25</sup> Ibid footnote 15.

directly targets an individual.

73. BHRC reiterates that tear gas should be deployed in a manner which is particularly vigilant of vulnerable groups, including women and children.
74. The recommendations of the Mission in relation to the use of tear gas are outlined at paragraph 114 below.

### **Use of Excessive force: Evictions and demolitions**

75. BHRC received repeated reports from professionals (legal and medical), volunteers and residents of the camps of excessive force during the evictions of the Southern camp on or around 29 February 2016. The reports highlighted excessive and indiscriminate use of tear gas, use of rubber bullets as well as allegations of direct physical force.
76. While the Mission did not witness the demolition, which commenced on or around 29 February 2016, it has considered material, in both written and video format, from this period.
77. Further, BHRC has received witness evidence including from a female British volunteer who asserts that she was subject to excessive force at the hands of the CRS while attempting to document the evictions. She outlines three particular instances on 26 February 2016, 27 February 2016 and 1 March 2016 which included the following:
  - A tear gas canister being shot at her face;
  - Being pushed, slapped and strangled by a number of CRS officers who had their badges covered;
  - Threats of violence at the hands of CRS officers;
  - Being pushed in the chest and twice falling to the ground.
78. The reports BHRC received of police violence during the evictions and demolitions appear to be consistent with objective evidence indicating that excessive force was used during this process, and in particular considerable newspaper commentary and video evidence detailing specific examples of police violence.<sup>26</sup>

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<sup>26</sup> See in particular: 'Jungle Volunteer', available at: <https://vimeo.com/157412763>; Refugee Rights, 'Press

79. BHRC reiterates its concern as to the excessive use of force including excessive deployment of tear gas by the police in circumstances where police officers are seeking to disperse residents and/or clear the camp.
80. The recommendations of BHRC in relation to the use of force in any proposed further eviction/demonstration is outlined at paragraph 114 below.

### **Failure to protect**

81. The Mission has received reports of widespread police failure to take positive steps to protect residents of the camps from violence at the hands of those inside the camp, in the main from people-smugglers and traffickers (“camp violence”), as well as from outside attack at the hand of right-wing groups and individuals (dubbed “citizen violence”).
82. These reports refer repeatedly to the prevalence of “citizen violence”, and include allegations of fascist and right-wing groups travelling to Calais to attack migrants, particularly at night and/or when migrants are walking to and from the lorries.
83. It was plain to the Mission that there are real concerns about this issue in both camps. BHRC was told in particular about a heightened risk from people-smugglers and traffickers in the newly established camp at Grande-Synthe. BHRC has considered a statement from a long-term volunteer in the camp confirming incidents of stabbing and shooting within the camps, as well as one particular incident in mid-February 2016 in which a gun battle broke out between smugglers in which approximately 50 shots were fired.
84. BHRC has received direct anecdotal evidence on the issue of “citizen violence” both within the camps and outside the camps, including in Calais town and en route to and from the highways and port.
85. BHRC have been told that many residents of the camps believe that the police themselves may be complicit or involved in such attacks. Many residents have

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Release’, 4 March 2016, available at: <http://refugeerights.org.uk/uncategorized/4-march-2016/>; ‘Megan in Calais’, available at: <http://meganincalais.wix.com/2016/>; Reuters, ‘Video shows French police using violence against migrants in Calais’, 12 May 2015, available at: <http://uk.reuters.com/video/2015/05/12/video-shows-french-police-using-violence?videoId=364200785>; Independent, ‘Video: Calais Jungle is evicted by police with tear gas, rubber bullets and water cannons’, 29 February 2016, available at: <http://www.independent.co.uk/news/world/europe/video-calais-jungle-is-evicted-by-police-with-tear-gas-rubber-bullets-and-water-cannons-a6903386.html>; Human Rights Watch, ‘Daily Brief’, 29 February 2016, available at: <https://www.hrw.org/the-day-in-human-rights/2016/02/29-0>; Amnesty International, ‘Calais: ‘Jungle’ demolitions must not bulldoze refugee rights’, 29 February 2016, available at: <https://www.amnesty.org.uk/press-releases/calais-jungle-demolitions-must-not-bulldoze-refugee-rights>; Medecins Sans Frontieres, France: Anger, loss as French police raze Jungle camp, 14 March 2016, available at: <http://www.msf.org/en/article/france-anger-loss-french-police-raze-jungle-camp>.

explained that the attackers often wear police uniform, or have similar batons or boots to the CRS. BHRC is unable to substantiate any such allegation at this stage.

86. However, BHRC expresses real concern as to the frequency of “citizen violence” against the camps, and considers that this raises a *prima facie* concern about the extent to which the police (who are a heavy presence in/around the camp) can be said to be protecting the residents of the camps, the majority of whom are vulnerable.
87. BHRC highlights that the reports received by the Mission appear consistent with the experiences of residents recorded by the Legal Advice Centre. In this respect, BHRC notes the press release of the Legal Advice Centre dated 12 February 2016 which reported violent attacks by both French police and apparently racist vigilantes. The report was supported by the few international aid groups working in the camps, including Médecins sans Frontières and Médecins du Monde. The British newspaper The Independent reported on 12 February 2016 that Marlene Malfaid, MSF medical co-ordinator for the Jungle claimed that “*the agency sees about 12 incidents a week of people who have been victims of violence. In the past week alone, they have had a dozen reports, eight regarding police violence and four of “non-police” attacks.*”<sup>27</sup>
88. Further, BHRC notes that the RRDP survey indicates that 45.4% of respondents have experienced violence (whether physical, verbal or sexual) by citizens (as opposed to police officers) 28.9% reported verbal abuse, 27.1% physical violence, and 1.4% sexual violence.<sup>28</sup> Further, 45.8% of female respondents reported experiencing violence by citizens, 22.2% of which was physical abuse and 40.7% of which was verbal abuse. Over 73% of female respondents indicated that they “never feel safe” or “do not feel very safe” within the camps.<sup>29</sup>
89. BHRC reiterates that there is an obligation on the police to provide effective protection to residents in the camps, in particular children and other vulnerable persons and to take reasonable steps to protect life and to prevent ill-treatment of which the police have knowledge or of which they should have had knowledge.
90. BHRC highlights in particular, that the importance of police protection is particularly acute for women and children who by virtue of their gender and age

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<sup>27</sup> Independent, ‘Calais Jungle refugees targeted by armed far-right militia in brutal campaign of violence, 12 February 2016, available at: <http://www.independent.co.uk/news/world/europe/calais-jungle-refugees-targeted-by-armed-far-right-militia-in-brutal-campaign-of-violence-a6870816.html>.

<sup>28</sup> Ibid, footnote 13.

<sup>29</sup> Ibid, footnote 14.



respectively are vulnerable to particular types of violence and abuse.

91. The prevalence of smugglers, militia and political gangs in both camps and particularly in Grande-Synthe mean women and children are particularly at risk of violence and exploitation.
92. The recommendations of BHRC in relation to protection in the camps are outlined below at paragraph 114.

### **Access to justice**

93. While the primary scope of the Mission was in relation to policing in the camps at Calais and Grande-Synthe, it became quickly apparent to the Mission that a crucial and related issue was the lack of adequate legal advice, representation and observation within the camps.
94. *Firstly*, BHRC observed the limited availability of legal advice to individuals in the camp at Pas-de-Calais. The Legal Advice Centre was an available resource to residents. However, this resource was burnt down on 17 March 2016 in a suspected arson attack.<sup>30</sup> In any event, BHRC noted that this resource was funded by donations from the public and a crowd funding appeal, and while the four members of staff clearly worked very hard, they were simply unable to offer services to all those who needed them.
95. The Mission noted that there was no otherwise structured State provision of legal advice or information in the camp. Likewise, the Mission noted that no international or regional body was present permanently in the camp in order to give advice, assistance or information to residents of the camp.
96. In Grand-Synthe, there did not appear to be any provision or access to legal advice whatsoever.
97. BHRC notes that in January 2016, medical charities based in the camp commenced a system of documenting incidents of police violence within the camps including dates, times, allegations and injuries sustained. Medical staff then refer suitable cases to the Legal Advice Centre for further action to be taken.
98. BHRC commends the work being done to document incidents of police harassment and violence, but considers that more extensive and comprehensive

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<sup>30</sup> Free Movement, 'Arson attack on French lawyers in Calais', 21 March 2016, available at: <https://www.freemovement.org.uk/arson-attack-on-french-lawyers-in-calais/>.

legal advice is required to help with enforcement and documentation of violations of rights by the police, as well as, of course, a need for advice for residents about other issues, not least their immigration status and options

99. BHRC considers that the lack of formal, structured, accessible and adequate legal advice in the camp hinders the ability of residents of the camp to make decisions as to their future (for instance in relation to a possible asylum claim) and the enforcement of their rights more generally, in particular in relation to making a complaint against the police.
100. *Secondly*, BHRC considers that the lack of legal observers within the camp also impacts on the residents' access to justice. BHRC notes that on 5 February 2016 the Legal Advice Centre invited independent observers to come to the camps to assist with observing the imminent demolition, and to assist with the documentation of alleged abuses by the police.
101. BHRC considers that the presence of lawyers and advisers in the camps, whether in a legal advisory or observation capacity, is essential to ensuring that the camps at Calais and Grande-Synthe are managed in a way which complies with the rule of law, and with principles of international human rights law. As it presently stands, the camps are unregulated and largely operate in a legal limbo. This means that it is difficult to track, document and process violations of human rights law within the camps. The presence of lawyers and advisers would go some way to plugging this gap, and restoring the faith of the residents in their ability to access effective justice.
102. While BHRC commends the impressive work of the volunteers in Calais, it is noted that these volunteers are operating in an extreme situation. They, in the main, do not have the ability or resources to provide the legal advice or information required in the circumstances in which the residents find themselves.
103. The recommendations of BHRC in relation to access to justice are outlined at paragraph 115 below.

### **Access to information**

104. In addition to issues relating to access to justice, BHRC was concerned by the lack of adequate information within the camps.
105. BHRC was informed of many examples where residents of the camps were unable to access basic information as to the management and decision making within the

camps. One lawyer, present during the evictions, informed BHRC that no official interpreters were provided by the French Government during the demolitions. This meant that when the time came for residents to leave, it was sometimes not possible for them to know which of the transfer buses provided to them they should board. As a result of this some residents became separated from their families and transferred to different parts of France.

106. The absence of regulation or accountability within the camps poses significant difficulties for residents and volunteers alike and feeds into what BHRC observed as a culture of misinformation and distrust of the authorities.
107. It was unclear, for instance, if either the French or UK governments have carried out any public education efforts to inform residents in the camp of the available options for relocation other than reaching the UK (or indeed reaching the UK). Efforts to inform certain categories of persons (in particular unaccompanied minors) are being made by both French and British lawyers, but they are limited in number and invariably on an ad hoc and informal basis.
108. BHRC was concerned at the lack of any attempt by the French or UK governments to ensure adequate information was provided to residents in the camp both in relation to the enforcement of their rights and as to issues surrounding their day-to-day life within the camps.
109. BHRC's recommendations in relation to the provision of adequate information within the camps is outlined at paragraph 115 below.

## **Recommendations**

110. BHRC makes the following recommendations in relation to policing in the camp:
  - a. The French government should organise and fund an independent investigation into allegations of police abuse and neglect of power within the Calais camps, and ensure full investigation of allegations of police violence and failure to protect vulnerable people within the camp;
  - b. Clear instructions should be issued to law enforcement officials working in Calais that they should only use force, including tear gas, as a last resort and only when strictly necessary and proportionate to achieving a legitimate aim, such as protecting their safety or the safety of others;

- c. There should be further training of police officers and security officers in excessive force/use of intermediary weapons in particular the use of tear gas;
- d. All police officers and gendarmes working in the Calais area should be equipped with mobile body cameras which would be activated at the start of their operations;
- e. That immediate steps are taken to deal with people-smugglers/traffickers within the camps;
- f. That immediate training is provided to the police in their obligations to protect and care for children within the camps in the camps.

111. BHRC makes the following recommendations in relation to the provision of legal advice and information in the camp:

- a. That the French and UK governments jointly contribute to the provision of a permanent legal advice centre within the camps;
- b. Independent legal/human rights observers or monitors should attend the camps including during key times (weekends, evenings, at the point of any further demolitions/evictions) for the purposes of documenting any abuses or violence which may occur;
- c. A template for the documentation and monitoring of police abuses should be developed and available for use of national and international observers.
- d. The French government shall make available the services of interpreters to residents of the camps including at key points of camp management-including evictions and demonstrations, as well as on arrest and detention.

112. BHRC proposes to continue to monitor the situation in relation to violence and access to justice in the camps at both Calais and Grande-Synthe.