POLICING HUMANITARIAN BORDERLANDS: FRONTEX, HUMAN RIGHTS AND THE PRECARIOUSNESS OF LIFE

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The article critically examines the peculiar co-existence of the securitization of the border and the growing presence and prominence of human rights and humanitarian ideals in border policing practices. Concretely, it focuses on Frontex, the agency tasked with management of EU’s external borders. Based on interviews with Frontex officials and border guard officers, and on the analysis of relevant policy documents and official reports, the article explores what may come across as a discrepancy between the organization’s activities and its public self-presentation. The objective is to provide an insight into the complex and volatile relationship between policing and human rights, which marks contemporary migration control as well as mundane forms of professional and personal self-understanding.

Keywords: border control, Frontex, human rights, humanitarian borders, policing

The past decade has witnessed two distinct developments in European security policy and practice. On the one hand, there has been a progressive securitization, surveillance and militarization of borders, which are increasingly articulated as visible material and symbolic sites of state and penal power (Guild 2009; Aas and Bosworth 2013). The development has been critiqued by activists and academic observers alike for presenting a threat to migrants’ rights and for creating conditions of physical danger and emotional insecurity (Dembour and Kelly 2011; Weber and Pickering 2011). On the other hand, a growing prominence is given to human rights and humanitarian forms of solidarity within the international and domestic governance, and even more so as an essential building block of the emerging European identity (Van Zyl Smit and Snacken 2009).

The article examines this peculiar co-existence of the securitization of the border and the progressive discursive and legal articulation of responsibilities for vulnerable groups. It poses the following question: how can and does a humanitarian self-perception by European member states and EU agencies co-exist with policies which directly and indirectly contribute to the precariousness of life? While the trends may appear paradoxical, incoherent and mutually contradictory, this article suggests that they should be understood as interrelated, and intends to do so by empirically examining ‘the work’ that the humanitarian discourse does in the policing of European borders. Concretely, it focuses on Frontex, the agency tasked with management of EU’s external borders. Based on interviews with Frontex officials and border guard officers, and on analysis of relevant policy documents and official reports, the article critically examines the growing presence and prominence of human rights and humanitarian ideals in border policing practices. It aims to describe and to understand what may come across as a discrepancy between the organization’s activities and its public self-presentation.

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In so doing, the article charts the intricate dichotomies of hostility and protection, the absence and presence of law, transparency and darkness, help and control, which mark contemporary border regimes as well as the nature of the official knowledge production about the field. More generally, the article addresses the challenges of policing of what will be termed humanitarian borderlands—highly conflicting environments, where the objectives of protecting state security clash with the needs of vulnerable groups in precarious life situations. Our objective is to provide an insight into the complex and often volatile relationship between policing and human rights, which marks contemporary migration control as well as mundane forms of professional and personal self-understanding.

Methodology

The European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union—Frontex—was established in October 2004 and became operational the following year (Council of the European Union 2004). Its overall mission is to promote and coordinate the management of EU’s external borders, and it does so through common risk analysis, training of border guards, and most visibly, through expansive joint return, sea and land border operations. It has approximately 300 employees stationed in its headquarters in Warsaw, and a much larger pool of personnel and equipment at its disposal from member states for potential operations. With a strong political support from the European Commission, Frontex has seen a steady growth in its tasks and responsibilities, as well as budget resources (93.9 mill. euro in 2013) exceeding those of Europol.

The article is based on findings from a larger project which examines the intersections of crime control and border control in Europe. In total, 64 interviews were conducted between 2012 and 2014. Thirty-six of the interviewees (13 of them women) were or had been Frontex employees or had participated in Frontex-related activities. Twelve of the 36 informants were or are members of the so-called Frontex National Expert Pool in Norway (and participated in international Frontex operations part-time, while having a regular job at home), while five are employed full-time at the Frontex Head Quarters in Warsaw, and have different European nationalities. Nine work at the Norwegian National Police Directorate and are responsible for Frontex-related tasks. Ten interviewees were recruited from a variety of police department and agencies in Norway. Nineteen of the interviewed are police officers by training, while the rest are legal professionals, analysts and social scientists. In addition to the interviews, the data consists of an analysis of relevant policy and official documents concerning Frontex, its legal basis, joint operations and risk analysis reports. We have moreover participated in Frontex-related professional events both in Norway and in Warsaw, such as a training seminar for Frontex national pool experts before their deployment on joint operations. We visited the National Coordination Center for Eurosur in Norway as well as seminars organized by Frontex in Warsaw, where we also visited Frontex Head Quarters. The interviews were semi-structured, lasting between one and two hours, and typically took place at the informants’ office or in a meeting room.

Using narrative analysis we aim to understand the informants’ self-presentation concerning their professional identity and cultural values. However, while the broader aim

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1 For an analysis of the origins of Frontex see Neal (2009).
2 The project is entitled ‘Crime control in the borderlands of Europe’ and is funded by the European Research Council StG-2010.
of our project has been to shed light on Frontex as an international policing agency, its organizational culture and work methods, and to examine the changing nature of police professionalism (see Gundhus and Aas forthcoming), our purpose in this article is far more specific. It is not to offer a detailed account of Frontex activities and its organizational culture, but rather to discuss the complex role of humanitarian thinking and the human rights discourse in its operational activities and in its self-presentation. In order to avoid standardized answers and pre-fabricated narratives, we did not specifically focus our interviews on human rights and humanitarian issues, but instead let the informants put their experiences in their own frames of reference. Therefore, when asked about the difficult aspects of their work and their professional challenges, several informants did not mention humanitarian issues at all. Moreover, rather than searching for consistency and rationality in their stories, we 'explore fragmentation and flux in language use' (Sandberg, 2010: 462). The stories that emerge are therefore marked not only by clarity and stability, but also by absences, contradictions and ambivalence. By doing so, the paper offers an insight into the conflicting and ambiguous position of human rights and humanitarian ideals in the policing of European borders.

Frontex: ‘Humanity, open communication, professionalism, trustworthiness, teamwork’

For many observers it would seem paradoxical, even ironic, to link Frontex to humanitarian ideals. The agency has received a fair amount of criticism for its joint operations in the Mediterranean, and has been the most visible representative of the militarization of European borders and of the so-called outsourcing of European asylum rights to third countries (Gammeltoft Hansen 2011). The critique has come from various actors such as non-governmental organizations (NGOs), EU agencies, international organizations and civil society, and has raised questions about whether and how core fundamental rights, particularly the right to life, the respect of human dignity, the right to an effective remedy and the right not to be sent back to torture, persecution and inhumane treatment (i.e. the principle of non-refoulement), are safeguarded at Europe’s external borders (see inter alia FRA 2013a)). While some of the critique has concerned particular EU member states, such as Italy’s controversial and illegal push backs to Libya in 2009 (Human Rights Watch 2009b), and the inhumane reception facilities in Greek detention facilities, also Frontex’ coordination role has been fiercely contested. For example, in 2011, Human Rights Watch published a report entitled The EU’s Dirty Hands, which addressed Frontex involvement in the ill-treatment of migrant detainees in Greece.

While our empirical material does not allow for a direct assessment of its controversial sea operations and the alleged push back activities, it offers an insight into the agency’s organizational culture, into how its officers deal with inhumane conditions

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4 See, e.g. Council of Europe, Parliamentary Assembly (PACE) (2012), the European Committee for the prevention of torture (CPT) report on Italy (Council of Europe, Committee for the Prevention of Torture (CPT) 2010) and European Union Agency for Fundamental Rights (FRA 2013a).
6 This principle is clarified by the ECtHR in the Hirsi case, see ECtHR, Hirsi Jamaa and Others v. Italy [GC], No. 27765/09, 23 February (2012).
7 See also ECtHR, Hirsi Jamaa and Others v. Italy [GC], No. 27765/09.
in detention centres and addresses the issue of deaths at sea and the related right to life, as stated in the article 2 of the Charter of Fundamental Rights of the EU. Despite its tarnished reputation, our interviews and an examination of documents produced by Frontex reveal that human rights and humanitarian ideals feature prominently in the agency’s internal discourse, its training standards and in its self-presentation. Tellingly, the agency’s motto—featured on its business cards—is ‘Humanity, open communication, professionalism, trustworthiness, teamwork’. Seemingly, Frontex aims to systematically achieve more efficient border controls in tandem with the ‘highest possible standard’ of border policing. Its training courses focus not only on the technical aspects of border policing, but increasingly also on human rights (FRA 2013b). The various versions of its Code of conduct all stress the centrality of rights and include ‘[s]pecific provisions on the respect of fundamental rights and the right to international protection and lays out a set of behavioural standards that all staff involved in a Frontex joint operation must follow’ (Frontex 2014c; see also Frontex 2011a). The Quick guide to the code of conduct, handed out to all officers in operations, thus lists the following:

Do:
1. Know and respect the law
2. Inform those in need of international protection about their rights and relevant procedures
3. Respect human dignity at all times and be sensitive to cultural differences
4. Pay particular attention to the need of vulnerable persons
5. Uphold the highest ethical standards
6. Act fairly and impartially at all times
7. Report all violations of the law and the Frontex’ guide to behaviour…

The code of conduct is a reflection of the growing awareness of human rights and humanitarian values on the operational level. In addition to being inscribed into formal rules, such as the Schengen Border Code and Code of Conduct, these principles may also be a part of informal norms and occupational cultures of policing by shaping the use of discretion and practical police performance. However, the process of translation of human rights values and principles into practice can be ambiguous and open to negotiation (Neyroud and Beckley 2001), nor is it by any means clear whether officers in fact perceive such rules as relevant for their daily work. For example, while describing human rights training courses as valuable, several of our informants nevertheless perceived them as something that was primarily relevant for officers from Eastern European countries rather than themselves.

The course lasted, after all, five weeks and much of it was about human rights. It was a red thread that went through from day one until the end. And it was quite obvious that Frontex wanted to tutor these people from old Eastern Europe about how to treat people. This was clear for me quite early on and I thought: “This is going to be quite boring in week four or five because there is going to be a lot of repetition.” However, it turned out that there was some progression in it. We got to play a bit. We got scenarios and staged things. We tested ourselves and saw how we do things in practice, how we reacted under pressure, when time was limited. So this was actually positive. (FRN 8, Frontex debriefer)

The institutional focus on human rights has been strengthened by the recent creation of the post of the fundamental rights officer. A human rights lawyer by training, she is to be involved in all stages and aspects of Frontex operations, from the planning of
joint operations to the practical aspects of doing law enforcement at the border and has the capacity to abort an operation if in breach of fundamental rights. Moreover, there has also been established a Consultative Forum for Fundamental Rights, advising Frontex Management Board and Executive Director in all types of Fundamental Right matters. The Consultative Forum consists of 16 representing organizations, nine NGOs and six governmental organizations (Frontex 2014a).

Also the concern for the loss of life at the border features prominently in Frontex documents and promotional material, such as its documentary Borderlands. The lives diverted back to third countries during sea operations are, e.g. seen as lives that have been saved. As a report on operation Hera, conducted near the Canary Islands, revealed:

Total Intercepted in African Coast and diverted during HERA II Operational Phase – 3887 illegal immigrants (57 cayucos or pateras9) till 15/12/2006.

This means that these people were stopped from setting off for a dangerous journey that might have cost their lives. (Frontex 2011b)

The joint operations are thus framed in the language of humanitarianism. Similarly, a look at the discursive framing of the European Border Surveillance System EUROSUR— one of the most prominent and costly Frontex projects—reveals that the system has been publicly justified by three objectives: (1) reduce the number of illegal immigrants entering the EU undetected, (2) reduce the death toll of illegal immigrants by rescuing more lives at sea, and (3) increase internal security of the EU as a whole by contributing to the prevention of cross-border crime (European Commission 2008).

The security objectives of migration control and crime control are thus carefully intertwined with the language of human security and the saving of lives. A senior leader in the Frontex sea operations unit described the organization in an interview as ‘the biggest search and rescue mission in the world’. However, as we shall proceed to argue later on in the text, this mission is hardly discernible from reading the organizational performance indicators and risk analysis reports. This raises a question about the contradictory nature of discourse and practice. Is the humanitarian discourse simply a smoke screen for a repressive practice, as a critical observer might be tempted to conclude? How do humanitarian ideals, professed by Frontex, actually function in operational settings at the border and how are they related to the international human rights standards?

**Humanity and Human Rights at the Border**

Our interviews with Norwegian police officers, who have taken part in Frontex operations, reveal that they by and large see their presence at the border as a means of improving conditions for migrants. As one senior officer put it:

Well. After we...I would say, without bragging, I would say that things have become much better. Because we pointed out, when we started coming to Greece, we pointed out that conditions were terrible for the migrants. It was like watching, it is terrible to say that, but it was like watching a war movie from 1943. Simply like that. Coming close to concentration camps. And we wrote a lot about it.

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8 See also Frontex (2014b).
9 That is, small boats.
What has happened now is that they have expanded the camps. They have gotten in, among other, Medicins sans Frontiers, nurses which are in the area, and the threshold for being sent to a hospital is quite low. So I have to say that if Frontex hadn’t been there, this would never have happened. Never. So one can criticize as much as one wishes, but things have become better. I would say that. (PU5, Frontex Team Leader)

Although rarely explicitly referring to human rights, the informants see Frontex as contributing not only to better conditions in terms of detention, but also to higher levels of policing standards at the border, which is partly also what motivated them to participate in Frontex operations. When asked what he found meaningful in the job, one officer said:

Well…it would be that… it is not as if you help migrants in a way, but when you are there and do a job and try to … Yes, it would be that when you are there and try to do a job a bit more quickly and in a proper way, trying to use the values that you are equipped with from the Norwegian side /…/ It is not anything massive, but you feel like you are doing something for each individual. We tried to influence a little when we saw families with children and saw that the children were freezing, and things are not… said to them that they were allowed to come in at least, sit inside, and such. So you try to influence them to pay attention to such things. Otherwise it is a standard job, very simple and routine. And when there were many we didn’t have time to do much else either. (PU4, Frontex Screener)

The example brings to attention small humanitarian gestures, mentioned by several other officers, which were intended to alleviate migrants’ suffering. It was not unusual to bring clothing from home, buy water bottles and alike. While many of our interviewees did not participate in the first line of border policing, and did not experience the loss of life at first hand, they were aware of it and seemed emotionally affected. Not surprisingly, it is often children—a freezing young girl, newborn babies—that made the deepest impressions. This is evident from the following account from the Filakio detention centre, which was reportedly built for approximately 200 people but housed several times the number.

People lived in several floors with poor access to water. Yes, they got food and some medical supervision, eventually. It came after we arrived. And I will never forget … there was a father … the cells were dark, there was clothing hanging out to dry in front of the windows and stuff, it was like coming to the Middle Ages. With a two-story grid in the front. And there was a father with his daughter of maybe three years in his arms. She was wearing one of those small pink jogging suits. Inside there was chaos … crowded with people. And the only thing he says is; “Please, help me”. This made an impression on me and … it is still here, that image. Because he was in a way a symbol of what those people wanted from me while we were down there. (FRN2, Frontex Screener)

The account draws attention to the less frequently mentioned aspects of border policing, which have to do with emotions, empathy and an urge to help. While much of writing about the securitization of the border is focused on the hard-end technologies and practices of refusal of entry, the accounts above bring forth the emotive reactions of those who are set to perform the tasks. This is also where the officers see their work as having humanitarian elements.

HIG: Is it almost like humanitarian work?

10 Although, see Pickering and Ham (2014) analyzing border policing actions motivated by a wish to rescue trafficked women.
PU5: It is. You have to use your head also in this way, you simply have to. It is of no use to simply sit down and write name after name and address, where are you coming from, ok, go out. This just wouldn’t do. You have to be a bit of a help worker in all of it. (PU5, Frontex Team Leader)

However, as we shall see later, the humanitarian aspects at times do not fit comfortably with the traditional policing ethos and the task of establishing truthfulness of migrants’ accounts and of apprehending facilitators of their journeys. In practice, empathic aspects need to be reconciled with professional distance and suspicion when interpreting migrants’ stories, or what the following officer calls ‘doing a proper job’.

I mean, we cannot, we cannot help with their case, we cannot do that, but that they feel that there is someone who thinks of them a little bit. Such as, I usually have lots of water in my car when I leave the hotel. There are such big contrasts; you leave a five star hotel and then come to the border. It is 40 degrees, no sanitation. I took water and some crackers and some bread with me. I bought Paracetamol for example, and the cream against mosquitoes and after you are bitten by mosquito. Because there were lots of children who had been bitten by mosquitoes. So this to create trust and such. And you see that there is a child who does not have milk and hasn’t had milk in days, to give milk and such. It is about the human side of it all. It is not just that you come there, do the screening and you are finished with it, back to the hotel. I have done my job. There is also the human side of it. /.../ Although clearly, you have to screen them at the same time and have to watch out not to be fooled; that you do a proper job, there is that as well. (PU7, Frontex Screener)

The distinction between the humanitarian and the traditional policing modus was also pointed out as a distinction between different national police cultures within Frontex: I saw that many of them [Eastern European officers] were very much in the policing mindset, they were like always thinking “policing, investigation, this is wrong”. Very big distance. While many of us were much more concerned about people and that they should get food, drink, new clothes, and that everything should be done in the right order before we started questioning them why they came (FRN8, Frontex debriefer).

The statement is reflective of the fact that there seem to exist pronounced distinctions within Frontex with regard to how individual officers see their role and perform their tasks. Our interviewees frequently invoked differences between East and West, North and South of Europe, and described themselves in terms of their national policing culture which they saw as distinct from, and superior to, other nations. The findings indicate that rather than dealing with a single organizational culture, Frontex functions as a patchwork of policing sub-cultures, which the organization is using considerable efforts to unite through training, guidelines and supervision (Gundhus and Aas forthcoming).

Critics have pointed out that since law enforcement officers are not trained as humanitarian workers, humanitarian needs of migrants at the border should be attended to by NGOs such as the Red Cross (FRA 2013a: 72). While this increasingly seems to be the practice in some countries, in others, such as Cyprus, Greece and Malta, the coast guard and the police still normally respond to humanitarian needs at the border, which often has a direct impact on the individuals in need of assistance as well as the officers themselves. Some officers compared the conditions in Greek detention centres to the World War II and began to question their mission:

The most challenging part for me was what I talked about earlier. Well, it was so bad that my thoughts went to the dark sides of our European history. I began to reflect over – these are very personal
thoughts – but I thought about those who were participating under Nazism, who were involved, were they thinking the same as I am now? Did they try to find a way to justify it? Did they understand that what they were doing was wrong? Is it wrong? Should we be involved in this? Should we not be involved? I have a very large apparatus guarding my back, which in a way supports me that this is good, but then you see, at least I see, that nothing happens. What’s the point? Many such things. This part has been a challenge and we talked a fair amount about it down there, not exactly with the same perspective, but about whether it was right for us to be involved. Are we contributing to something good or are we just helping Greece to do something wrong? /…/

I hope that my children and grandchildren can look back on what their father and grandfather did as something that was right, that he did something good; that this will not be a shadow in European history that I have contributed to. I really hope so. (FRN2, Frontex Screener)

The findings reveal both a considerable level of frustration with the mission (which resulted in a critical report delivered to the national justice authorities), as well as the difficulty of performing policing tasks in multi-jurisdictional areas, where the lines of responsibility become blurred on the ground. Our interviews reveal clear direct operational involvement of Frontex officers in detention facilities, where many of their screening and debriefing tasks are performed and where they may even have their offices. The fact that guest officers are making de facto decisions on the ground has been critiqued due to the fact that, as a coordinator, Frontex in principle should not have any direct enforcement role in joint operations (Human Rights Watch 2011).

Moreover, the mission was problematic for some officers not only because of the general humanitarian situation, but also because they were faced with concrete acts of maltreatment or reprehensible behaviour by other border guards. They talk about the challenges of being a guest officer, the necessity of having a diplomatic attitude and finding the right balance of critique and respect towards the hosts. One officer thus describes the inherent contradiction between ‘the fact that we are there to assist the Greek police at the same time as I deeply disagree with their methods and with the way they talk to people’ (FRN 2, Frontex Screener). This is evident in the following incident:

I remember especially one episode when there was a guy, a Greek with a big baton in his hand and hiding behind sunglasses. He commanded some kids that they should collect food. And he stood there and was hitting a fence with the baton to speed things up. It had to proceed quickly. And then I felt – it was early in the morning – that this is something I react strongly against. You cannot do this. And I said to my colleague that I had to do something about it there and then. So I went to him, took the sunglasses off and said to him in English: “This is not something you should do as long as we are here. I hope in fact you never do it again because you are scaring the kids.” And I saw that he was quite upset and there was a strange mood in the room. (FRN8, Frontex debriefer)

While some our interviewees are quite vocal and engaged about humanitarian issues, for the majority, migrants’ suffering nevertheless seems to be experienced as part of the job and is not considered particularly challenging. The officers participating in Frontex operations are generally quite experienced and see the tragedies at the border as part of a broader specter of hardship they have encountered throughout the years. This professional distance is also revealed in the fact that, when asked about the most challenging part of their mission, weather conditions were regularly mentioned, while suffering of the migrants was generally not. They seem to be quite clear that they are not a humanitarian but a police organization and see humanitarian concerns as something that can be outsourced to the Medecins sans Frontieres.
Moreover, the nature of the police officers’ tasks also seems to direct their focus towards establishing the *truthfulness* of the migrants’ stories rather than seeing their vulnerability. Migrants are being ‘screened’ and ‘debriefed’ about their identity, about facilitators of their journeys, travel routes, false documents, etc. In such a set-up, migrants appear first and foremost as a source of information to reveal smugglers and other crime-related activities rather than subjects deserving of protection. In this ambiguous juxtaposition of compassion and utilitarian thinking also what may, at first, appear as humanitarian gestures get an additional edge. When describing a screening interview, one officer explained:

“Here there are no police officers that are going to beat you up”, like they are afraid of, to put it simply. “Here you are just going to tell us why you come here and how you traveled and the whole package. This is what I need to know, that’s it.” And then I always buy, with my own money, a case of water, right. You just have it with you, just that is enough. And a little chocolate and such. Just that is enough to gain trust, so that they understand that this is a bit different. (PU5, Frontex Team Leader)

Help is therefore given not only for its own sake, but to establish trust and ensure cooperation in order to aid the overall objectives of the policing mission. This peculiar nature of the humanitarian impulse at the border results in what Weber and Pickering (2011: 171) term ‘the ambiguous architecture of risk’, where it is most often expected from the same border control authorities that are tasked with keeping illegalized people out to also be in charge of their safety and perform search and rescue missions. However, the dichotomy between help and suspicion is encountered not only at the individual level, described above, but in central ways also marks Frontex as an agency and the EU’s responses to irregular migration more generally. In what follows, we shall examine this dichotomy as it is evident in the agency’s knowledge production and the consequences it has for its responses to migrant mortality and for the structural conditions for protecting the right to life at EU’s external borders.

**The Ambiguous Architecture of Risk: The Intersections of Geopolitics and Biopolitics**

While the previous sections revealed the centrality of the humanitarian self-image, both at the level of Frontex as an organization and in the narratives of the deployed officers, this stands in a contrast to the scarcity of systematic knowledge pertaining to migrants’ vulnerability. The discrepancy is nowhere more visible than in the agency’s risk reports, which are the primus motor of its operation and form the basis for all central decisions pertaining to joint operations and knowledge exchange. For example, the CIRAM risk analysis model presents the following definition of threat and vulnerability:

Vulnerability: it is determined by the capacity of a system to mitigate a threat. Vulnerability is understood as the factors at the border or in the EU that might increase or decrease the magnitude or likelihood of the threat. (Frontex 2012: 109)

In this context, vulnerability refers to vulnerability of the border (rather than of humans crossing it) and involves the geographical attributes of the border, existence and effectiveness of border control measures, existence of return agreements, as well as presence of diasporic communities, which may represent a pull factor attracting migration. Irregular migrants, including those with legitimate protection needs, are therefore first and foremost defined through their risk qualities—as threats—rather
than through their vulnerability. The model defines a threat ‘as a force or pressure acting on the external borders’. (ibid.: 20). It is measured according to a series of statistical indicators, such as: the number of refused entries at the border, the number of third country nationals apprehended at the border, number of facilitators intercepted, etc.

Despite its extensive apparatus for data collection, which includes sophisticated technological surveillance systems, monthly statistical reports by member states, in-depth interviews with informants, exchange of information with third countries, etc., Frontex does not systematically collect information about migrant mortality and deaths at the border. Nor are its performance measures structured accordingly, even though the right to life is enacted in the Charter of Fundamental Rights of the EU and imposes, among other, an obligation on states to take preventive measures and other appropriate steps to safeguard the lives of those within their jurisdiction (FRA 2013a: 29). 11

While the right to life has been extensively debated in relation to the duty of assistance to boats in distress, and the adequacy and timing of Frontex search and rescue operations, 12 far less attention has been paid to how the right is institutionally anchored in the agency’s performance measures and its mechanisms of knowledge production. Yet, it is our argument that it is precisely through the lack of a ‘will to knowledge’ about migrant mortality that the discrepancy between humanitarian and security considerations becomes most visible. Moreover, a question can be raised whether the lack of recording leads to certain forms of inaction, and if so, what the consequences are.

When asked about the collection of information about migrant mortality, this was seen as difficult or impossible at all levels of the organization and was described as a task for NGOs and national authorities. The development of the Eurosur surveillance system clearly exemplifies the point. The system has been legitimated ‘as a new tool to save migrants’ lives’ (European Commission 2008; 2013). However, approaching completion, the collection of data about migrant mortality, or any kind of systematic data about their vulnerability, is not routinely included in the system. The system has thus created advanced possibilities for creating better maps of the border, collecting a number of information about irregular border crossings, etc. However, it is unclear how much information about border deaths will be included, if any. As a senior Frontex official responsible for risk analysis explained in 2013:

We were thinking some time ago that we should start it [collecting information about casualties], but at that moment it was too early. But especially now that the Eurosur is becoming now - and one of the main purposes for Eurosur is to prevent the loss of life - so we thought that we should perhaps establish something more systematic. Of course, Eurosur as such should provide opportunity for that, it is important of course, and also to a certain extent an issue related to land borders. There are areas which are mountainous and with the circumstances we can see people dying or sometimes there are floodings and all that, so it is important. But we don’t do it systematically at this stage, but our intention is to start taking action on that. (FR3)

While technical possibilities for seeing and recording are considerable and getting better, the will to do so seems to be weak at the institutional level. The Eurosur system

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11 See also ECtHR, L.C.B. v. The United Kingdom, No. 23413, 9 June (1998).

12 For example, at least 56 people died in an incident in October 2012 where an airplane reportedly crossed a migrant boat in distress without assisting or initiating a search and rescue (SAR) operation. A subsequent investigation clearly stated that Frontex has to ensure that its staff or deployed officers inform without delay the competent authorities and that the necessary follow-up steps to initiate a SAR operation are taken (Council of Europe, PACE, Committee on Migration, Refugees and Displaced Persons 2015).
became operational in December 2013, and records with great precision incidents at
the border, such as refusal of entry, document falsification, irregular exit and entry,
drug smuggling and alike. However, it is unclear whether casualties at the border are to
be systematically recorded. Consequently, this is left to sporadic individual initiatives,
while being left out of the agency’s official risk discourse and knowledge production.
By contrast, one of the Norwegian police officers working at the Greek–Turkish border
as screener and debriefer, himself recorded data about the numbers of casualties in
his operational area: 26 (in 2010), 25 (2011) and 10 (2012). The invisibility of border-
related deaths in the official statistics therefore does not always seem to come naturally
to the officers working on the ground who experience the incidents first hand.

The structure of the risk discourse in Frontex reveals the disjunction between state
security and human security. Risk analysis is clearly framed in the language of state
security, and consequently even when addressing migrants’ vulnerability, tends to
frame it in the language of state security and organized crime. An account from a
Frontex sea operations officer in an official promotional booklet, published by Frontex
at its five-year anniversary, exemplifies the point:

I was on mission last week. It was Force 8 to Force 9. Thunderstorm with hail. We got the call that
there was a search and rescue case. We started looking just as the weather got very bad. Out of 12 peo-
ple who were reported missing, eight of them had been washed dead onto the shore. Among these
there was a seven-year-old girl. This girl had been promised heaven in the European Union, but she
had been cheated of her life. She paid to be dead. The facilitators, the people traffickers, left her to
die. It’s very painful, very distressing. (Frontex 2010: 35)

While the organization is not silencing the issue of migrant mortality, the account is
an expression of what might be described as performative aspects of humanitarian
thinking, where a staged or performative humanity is framing migrant vulnerability
in the language of organized crime and putting the blame exclusively on facilitators.
The discursive leap from vulnerability to organized crime is similar to the one often
observed in the trafficking discourse, where the objectives of combating crime stand in
contrast to the needs of victims and may ultimately lead to a weaker focus on their vul-
erability (Pickering 2011). While migrants are shown empathy, they find themselves
caught between two competing logics of policing. This is in line with previous studies of
police culture, which find an underlying tension between softer, more service oriented,
approaches to policing associated with an image of ‘police as social workers’, and the
dominant, masculine conceptions of ‘proper’ police work as crime fighting and catching
offenders, which is guided by ‘us versus them’ mentality (Loftus 2009; 2010).

The Politics of Numbers and Governing the Border Through Humanity

The ethics of security is, as Burgess (2011) points out, intrinsically related to geopolitical
reason. Looking at the language of security deployed by Frontex internally, it would
seem that the primary subject of security (i.e. deserving of protection) is the citizenry of
the European Union. Migrants, as citizens of the global South, do not feature as objects
of state knowledge, either on the EU level or on the level of individual member states.
While Frontex risk analysis units have the capacity to direct its teams of screeners and
debriefers at the border to collect, through extensive interviews, information about
smuggling routes, modes of transport and the like, this knowledge apparatus does not
collect information about migrants’ vulnerability, and mortality. Their hardship is as a rule seen as a subset of (organized) crime, rather than an object of knowledge in itself.

The example reveals the intensely political, rather than practical, nature of counting, particularly when it comes to mortality (Andreas and Greenhill 2010; Weber and Pickering 2011). The act of collecting mortality numbers is an expression of a political will to acknowledge and to know a phenomenon. Knowledge of death is therefore intrinsically connected to an acknowledgement of death; it is a denial of invisibility of dead bodies. To be countable therefore presupposes that one is recognized as countable (Rose 1999; Weber and Pickering 2011). As Andreas and Greenhill (2010: 1) point out:

In practical political terms, if something is not measured it does not exist, if it is not counted it does not count. If there are no “data”, an issue or problem will not be recognized, defined, prioritized, put on the agenda, and debated. Therefore, to measure something — or at least claim to do so — is to announce its existence and signal its importance and policy relevance.

According to estimates, approximately 20,000 people have died since 1988 at European borders (Fortress Europe 2014). According to the International Organization for Migration (2014), more than 3,000 migrants have drowned in the Mediterranean in 2014 alone. However, while deaths at sea and at EU’s external borders are counted, they are not by state or EU official bodies, but by various NGOs, academics and journalists (Weber and Pickering 2011). These often sporadic, partial and impassioned acts of counting are also deeply political. They are nevertheless not an expression of the same political reason which marks state-sponsored acts of counting, namely, the biopolitical reason which frames the numbers within the state biopolitical discourse. The famous biopolitical power/knowledge constellation, outlined by Foucault (1997: 246)—where the state through systematic collection of information aims to maximize life on its territory and where the ‘mortality rate has to be modified or lowered; life expectancy has to be increased’—does not apply at the border. As Foucault points out, the main objective of collecting statistics on mortality is to control it and to augment the biopolitical ‘power to make live’ (ibid. 247).

This exclusion from the traditional biopolitical rationalities has let some observers to argue that asylum seekers and irregular migrants at the border find themselves in the position of homines sacri, where their lives are marked by precariousness and bareness. This view, popularized by Giorgio Agamben (1998), stresses the essentially violent nature of sovereignty, its ability to incur death and to exclude life from the sphere of legal protection (Aas 2011). Reports about the conditions in Greek detention centres and the tragic death toll at the EU’s southern sea borders indeed bring credibility to such a conclusion. Nevertheless, our findings reveal a more complex and nuanced terrain. While not part of the regular, state-sponsored biopolitical reason, which is concerned with EU citizens and their health and security, migrants are objects of a different type of politics which can be usefully characterized as ‘minimalist biopolitics’ (Redfield 2005; Walters 2011). This type of political reason employs the language of humanity and humanitarian assistance and usually characterizes the activities of national and international humanitarian actors (Fassin 2011), and increasingly, as revealed by this study, also aspects of policing. Empathy and the will to help are actively employed and displayed both by individual officers as well as by Frontex at the level of its self-presentation. Although not seen as ‘proper’ security subjects of the state, migrants are
nevertheless seen as deserving compassion. The emotive impact of migrants’ mortality was particularly visible in the aftermath of the October 2013 tragedy near the island of Lampedusa, where nearly 470 migrants lost their lives. In what may appear as another example of performative humanity, the tragedy brought Italy to declare a national day of mourning and posthumously award the victims Italian citizenship (Guardian 2013).

However, as Fassin (2011) observes in his illuminating study Humanitarian Reason, we would be missing the point if we saw compassionate inclinations simply as emotional and free of, or outside of, politics. Quite the opposite, he argues that the politics of compassion—or humanitarianism—is becoming an increasingly salient mode of governance that concerns populations in situations of precariousness. Viewed in this perspective, the seemingly paradoxical display of compassion by agents who are charged with the task of making border controls more efficient, begins to make sense as a particular style of ‘humanitarian government’, which deploys moral sentiments in contemporary politics.

On both the national and the international levels, the vocabulary of suffering, compassion, assistance, and responsibility to protect forms part of our political life: it serves to qualify the issues involved and to reason about choices made. (Fassin 2011: 2)

According to Fassin, humanitarian reason governs precarious lives in situations of great suffering, inequality and need. However, rather than mobilizing the language of injustice and rights, it deploys moral sentiments of compassion, empathy and assistance. Its ability to create fantasies of goodness and moral community on the part of the helpers, gives humanitarianism a remarkable consensual force (Fassin 2011).

It is pertinent to ask whether the humanitarian language employed by Frontex is an example of this new style of governance. By doing so, we do not wish to minimize or critique the agency’s efforts to improve the migrants’ situation nor question the sincerity of the sentiments reported by individual officers. Nevertheless, a question can be asked about the rewards of this generosity in political terms (Fassin 2011: xi). Is Frontex, through its attempts to (re)define itself as a humanitarian agent, tapping into a new style of governance, which increasingly pervades international spaces, and employs it to strengthen its external legitimacy and reputation? For a relatively young organization, which is receiving a considerable amount of public criticism, this may seem a prudent and likely strategy. If so, what are the consequences for migrants’ rights and for our understanding of the nature of transnational policing?

Conclusion: Policing Humanitarian Borderlands

We have shown so far the somewhat paradoxical and incongruous discursive prominence of humanitarian narratives and sentiments employed in the practices of border policing by Frontex officers and the agency as a whole. We have pointed out that the latter may be employing and promoting the discourse as a mode of governance and as a way of legitimating its own existence. In terms of analysis, Fassin (2011) suggests that the increasing relevance of humanitarian reason and governance has taken place at the expense of the language of rights, which may in fact be gradually becoming outdated. The mobilization of emotional responses of compassion and the urge to assist practically thereby takes precedence over formal structures of rights and legal obligations.
This may certainly seem the case considering the persisting structural obstacles facing those wishing to claim the right to asylum in Europe, as well as the conspicuous absence of the right to life in Frontex’ internal organizational discourse.

However, our findings also partly contradict this predicament and reveal that the language of humanitarian assistance has grown alongside an intensified organizational focus on human rights. Frontex is increasingly and actively employing the language of human rights in its training courses for border guards and in its organizational structure. Exemplified by its Fundamental Rights Strategy and its Code of Conduct, it aims to raise the standards of police professionalism, including a lower threshold for reprimanding incorrect conduct of its officers. The development is partly a result of political struggles and pressure by other EU actors, such as the Council of Europe, PACE and the Committee on Migration, Refugees and Displaced Persons (2013). It is also an example of a more general trend within modern policing (Neyroud and Beckley 2001) and penal governance, where human rights have become, as Whitty (2011) observes, a significant organizational risk (legal and reputational), which needs to be managed alongside other organizationally defined forms of risk.

Interestingly, the emotive narratives of compassion and humanitarian assistance are more prominent in the interviews with border guard officers who at the same time seldom explicitly mention human rights. Most of our interviewees nevertheless consider humane treatment of migrants as an important part of their professional identity, which also distinguishes them from other, less humane, police cultures. On the other hand, Frontex seems to have appropriated the language of fundamental rights as a standard item of its self-presentation. We are in a limited position to judge the impact of these developments on practice. As pointed out by previous research, human rights principles per se provide no firm base for police practice and can be subject to considerable flexibility of interpretation and enacting (Neyroud and Beckley 2001). The fact remains though that migrants’ lives remain imperiled and their deaths are not systematically counted nor analyzed as organizationally defined forms of risk. Nor is there a systematic evaluation of the consequences of Frontex operations and diversion practices for migrant security, for the right to life and for the principle of non-refoulement. There is therefore a persisting and fundamental incoherence and discrepancy between the discursive attentions paid to human rights and humanitarian ideals and the practical focus on minimizing risk as defined by the objectives of state security.

This incoherence and duality characterizes the nature of policing of what might be termed humanitarian borderlands. The notion of a borderland is employed not only to denote the geographical proximity to the border, but also alludes to an uncertain, intermediate space or a region which is neither lawless nor marked by a well-functioning rule of law. In such a context, policing is conducted in a shifting terrain between conditions which are at the same time regulated and unregulated, humane and inhumane. This type of policing is, paradoxically, often conducted simultaneously with, against and through humanity. The mission is framed and legitimized through the language of humanitarianism and human rights, officers are partly required to perform their tasks as humanitarian agents, at the same time as they find themselves complicit and practically involved in deeply inhumane conditions.

Moreover, policing in humanitarian borderlands is marked by the challenges of working in multi-jurisdictional spaces with unclear lines of responsibility and frequent blame
shifting between EU bodies, national authorities of member states and third countries. Officers are exposed to situations which, naturally and professionally, require of them certain emotional responses and sentiments, but which may also lead them to become emotionally distant or have difficulties processing the experiences in the aftermath of the operations (Solberg 2011). And while the persistent absence of official recording of border-related deaths might be seen as a sign of political indifference, the tragedies can have a great impact on the individual level—a situation for which officers often feel unprepared. As one officer put it, ‘You get thrown to the wolves. Suddenly you are at the frontline. You see the fates of those coming over. You find people in cars who are dehydrated, who are about to die. You can in fact risk finding people who are dead already’ (FRN8). These challenging tasks are often invisible to the national public and are poorly acknowledged by national police and justice authorities.

While such conditions may be relatively common in international policing operations in the Global South, such as UN peace keeping operations (Goldsmith and Sheptycki 2007, Van der Spuy 2010), what is peculiar about Frontex is that it is operating in the humanitarian borderlands of Europe. Consequently, its operations are exposed to a greater level of scrutiny and demands for transparency, but at the same time also vested with a greater sense of political urgency. While the police are, colloquially, often described as ‘the thin blue line’ between order and disorder, the good and evil, in the case of border police the line gets an additional meaning of being a boundary marked by global inequality. Frontex is fending off migration pressures at Europe’s doorstep, which is a crucial insight into the realpolitik behind its controversial yet persistent organizational growth.

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