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SOME ASPECTS OF TREATMENT AND RESPONSIBILITY OF STATE AND POLICE REGARDING HUMAN RIGHTS

Summary: In the contemporary social and political discourse, one of the most powerful ideas is the idea of human rights and freedoms, as well as rights to security and protection of human dignity from various forms of threats and dangers. Human rights without doubt are the highest achievement in the development of man's value system. They represent the sublimation (sum) of the human dimension of all previous teachings (religious, philosophical, legal) and a measure of achieved civilization development of mankind. Therefore, human rights are increasingly becoming an essential element of the existence of modern democratic states (e.g., right to life, freedom of expression, right of association, right to participate in management, etc.). But on the other hand, human rights could not be exercised and enjoyed without the existence of state with strong guarantees and protection of the civil rights. Through the process of implementation of international norms and standards, the state becomes a part of international community and receives or justifies the prerogatives of state appropriate to the modern civilization. In this context, the paper will consider certain aspects regarding the role and responsibility of the state, the security system and police in their achievement of the concept of human rights and freedoms.

Key words: human rights, security sector, police, accountability, control

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Introductory remarks

Without doubt, human rights are increasingly becoming an essential element of existence of the modern democratic state (which simply cannot exist, for example, without the existence of the right of association, freedom of expression, the right of participation in management and others). On the other hand, human rights cannot be exercised and enjoyed without the existence of state and guarantees and protections which state gives. In the process of implementation of international norms, the state becomes part of the international community and gets or justifies the prerogatives of state appropriate to modern civilization. According to Mary Robinson (former High Commissioner for Human Rights), national human rights institutions are, by nature, the best tool that transforms the rhetoric of international instruments into practical reality at the local level. As national, they are more likely to respond to the challenges posed by local conditions and cultures.

Democratic control and supervision is realized by using a series of specific instruments designed to ensure political accountability and transparency of the security system. Such instruments include: constitutional principles, legal rules and institutional and logistical provisions, and most common activities aimed at fostering good relations between different parts of the security system on the one hand and political powers (executive, legislative and judicial power) and representatives of civil society (NGOs, media, political parties, etc.) on the other side (7th point, Recommendation 1713 (2005)).

In every social community it is important to build institutions and structures that influence the function of control and oversight of security institutions. The more the society is built, the possibility for talking about exercising democratic control over security system is bigger. The control is very important component of the democratic process and occurs in all its institutional phases. Ultimately speaking, without giving report of the community we cannot speak of democracy (Бакрески, 2008:48).

The role of state in the concept of human rights

Basically, human rights include the mutual relations of individuals, and relationships between individuals and the state. Hence, the practical task of protection of human rights becomes the task and responsibility of each state respectively. On the modern stage of development of civilization and the human community, the state actually represents the most powerful and orga-

nized structure that can ensure and protect human rights. States are those which participate in the initiation of contracts, in the formulation, adoption and finally, the implementation in its own legislation and its own security system.¹

With the accession to international agreements of many states, they undertake obligation to implement them into national legislation and their own institutional systems², as well as the standards of human rights contained in certain agreements. In this sense, the state becomes an institution that turns abstract standards of the international documents in a specific policy, law, structure and action. In addition, states have an obligation to respect, to enable, to protect and promote human rights.

In many cases the implementation of human rights provided by international document means only request to respect them (which means the absence of restriction and prevention, i.e. non-interference of state in the free life of the individual). Respect primarily relates to the civil and political rights and largely means passive attitude of the state (refraining from acting).³ The second obligation of the state is to provide exercise of human rights. This obligation means that the state should create conditions in which people can live everyday to the line. These are: democratic environments, mechanisms of influence, achievement of actual equality, affirmative action of the state where needed. Protective dimension of human rights includes the activity of the state aimed at preventing violence and limitation of the rights to any person within its territory. The protection consists in building a system of prevention and a system of sanctioning of acts of violation of human rights and freedoms. Prevention means creating a network of institutions and instruments that need to anticipate potential areas of violation of human rights and to act towards their elimination or minimization of adverse effects from these injuries. Sanctioning of violations is accomplished through the actions of independent judicial institutions that provide setting of the illegality of certain activities and impose appropriate penalties which should prevent furt-

¹ According to the Vienna Convention of 1969, agreement is "an international agreement made between states in written form and on the basis of international law, whether contained in one or more instruments and independent of the specific name" (Article 2.1 (a)).

² In 1993 the UN accepted "Principles concerning the status of national institutions in the area of protection of human rights." With these principles, states are encouraged to establish such institutions and to facilitate their independent action.

³ However, the claim that this implies a completely passive attitude of the state and that does not require any of its activity is simplified and basically does not correspond to reality. In respect of these rights the state is one that needs to create an atmosphere of respect for the rights to build a normative and institutional framework that will enable this respect and safeguards to sanction disrespect.

her violations of human rights, compensate victims and send the message that such behaviour will not be tolerated. The ability of the state to apply force in achieving some of its activities, gives additional component of force as an important element in implementing the legislation and protecting the rights of individuals. As the latest dimension of the action of the state is promotion of human rights. This implies direct involvement of the state in raising awareness of people about their rights and freedoms (through education, information and propaganda), and providing conditions for the existence of such structures outside the state (civil society) which will contribute to raising this awareness. The last element that wraps the change that needs to be done at national level is the element of control (internal, which builds the system, and external, in international documents and institutions). Human rights and fundamental freedoms become the foundation and measure of the legitimacy of the legal and political order of the state. The primacy of the state (national) interest manifested in excessive self-protection of the state begins to be perceived as a real danger that can threaten the realization of human rights and freedoms.⁴

At the national level, within each state, human rights and freedoms are implemented in the Constitution of the state - most states of the world have formal written constitutions and human rights and freedoms of different ways are embedded in them. The first level of implementation of human rights carried out by their inclusion in the constitutional and political commitments, at the level of declarations, strategies and plans. The highest proclaimed and protected values are defined at this level, which are still in concrete formulations given in special laws.⁵ The second level of implementation of the concept of a national level is legislation and legal framework of the particular state. The rule of law (or the existence of state law) involves a situation in which the rights, freedoms, duties and obligations contained in the laws that apply to all people in a given state and contain a guarantee that people will be treated equally in similar situations. The existence of laws creates a sense of security among people regarding their rights and duties. Commitment to Ar-

⁴ Limits are placed on the definition of national security, for centuries the existing imbalance between general and individual good, on the human ability to perceive his country as hostile and as the side in the judicial process.

⁵ For example, the right to life in the Constitution of the Republic of Macedonia is formulated in Article 10 under which: "Human life is inviolable. In the Republic of Macedonia death sentence cannot be imposed on any grounds." Further, this right is specified as the protective mechanisms developed in the Criminal Code, the normative acts regulating the use of force by the state (within the Ministry of Interior and the Ministry of Defense and Ministry of Justice), but widely understood right to life (such as survival) is regulated in the Law on Health protection, the Law on social protection, etc.

ticle 7 of the Universal Declaration, that "all people are equal before law and are entitled without any discrimination to equal protection of the law," the nationwide mean the existence of general law, passed in the proper procedure, which itself implements standards of the concept, a guarantee of their safety, and contains safeguards and sanctions for its violation.

Law is not only the regulation of relations between people, but the basic guarantee of limitation and control of power. The legality of any activity of state bodies and officials is one of the important guarantees of the rights of citizens and minimizing situations of their violation by the state. Of course, no legal concept can provide a guarantee of absolute respect for rights in practice, but it should include the rights according to which individuals and collectives can fight, and rules that will enable each level to seek judicial protection (which stands as the most appropriate at the moment).

However, if people are free and equal in determining the terms of their own life, and enjoy equal rights and duties, they must be able to enjoy the whole range of rights not only in principle (formally, within the legal provisions), but in practice. The rights of citizens must not be only formal but also specific. The problem of effective implementation at the national level recently generated great international interest and activity aimed at developing democratic institutions which will be asked to defend the base on which human rights and freedoms rely.

In terms of state responsibility for the exercise of human rights, it means that the state must create a very wide range of institutions and to define specific mechanisms that will enable the enjoyment and protection of rights, and to provide accountability to citizens and the limitations of the state responsibility in relations with citizens. This also represents a moment of breaking the traditional notion of state (seen from the internal perspective). The right to invoke responsibility when the state seems to damage and do injustice, but even when not feels guaranteed, is one of the foundations of freedom in modern democratic state. This does not mean that the democratic state cannot do anything wrong, but certainly means that the state should be conceived in that way so that it can rectify the injustice. Democratic state leaves the possibility of being wrong not only to its citizens but also to other bodies and even to its legislative power, thus becoming the organization and functioning of the protective institutions.

The main protective mechanism of human rights and freedoms in a democratic state is the judiciary. The right to effective remedy by the competent national tribunals and the right to a fair and public judging by an independent and impartial tribunal (given in Article 10 of the Universal Declaration) is the foundation of building such a judicial system that: a) is an inde-

pendent authority; b) is independent; c) equally treats all people; c) allows the implementation of appropriate procedures through which the charge will be proved, and d) during the entire procedure will take care to respect the rights of the defendant and all participants in the proceedings. The right to a fair trial is specifically protected under the European Convention on Human Rights and Fundamental Freedoms (Article 6).⁶ The significance of national judicial system in the realization of human rights and freedoms is emphasized by the inability to initiate proceedings before the European Court of Human Rights prior to use of all legal means at the disposal of man within the national system. This is a great confidence, but also a responsibility that is given to national courts and other judicial authorities. States are encouraged to establish other specific institutions for facilitating and protecting human rights and freedoms. There are commissions and other bodies which are formed at certain levels of government (whether it is general coverage of all human rights or for a specific group or specific rights)⁷.

The most specialized role in protecting the human rights in terms of violations that can be caused by the state (any of its authority, official or officer) is given to the Ombudsman institution.⁸ Office of the Ombudsman exists in many countries under different names (Ombudsman, the Public Advocate, State Mediator, etc.). An important element of the existence of this institution is the guarantee of its independence.⁹ Ombudsman should provide protection to each individual who believes to be the victim of unfair action by any state authority. To perform this task common law provides broad authority for the Ombudsman and different mechanisms and means for implementation of

⁶ Everyone is entitled to fair and public trial, within a reasonable time by an independent and impartial tribunal established by law to consider and determine his civil rights and obligations or any such criminal charges against him.

⁷ As such Committees for Inter-relationships of central and local level, Interresor special committee to implement the Convention on the Rights of the Child, Department at the Ministry of Labour and Social Policy on gender equality, inter-parliamentary lobby group within the Parliament of the Republic of Macedonia to promote and protect the rights of persons with disabilities.

⁸ In the Republic of Macedonia this institution was established in 1998. The institution has a great significance in establishing the new position of the individual in relation to the state and the primacy of human rights within the modern state. Term (task) of the Ombudsman is the protection of human rights and freedoms in situations when they are violated by state officials or in connection with the work of state bodies (at any level), or as defined in Article 2 of the Ombudsman Law: "The Ombudsman Office is a country body that protects the constitutional and legal rights of citizens when they are violated by bodies of state administration and by other bodies and organizations with public powers."

⁹ This is achieved by legally defined precise criteria for selection and that selection is usually done by the parliament of a country.

these powers are at his/her disposal.¹⁰ Recommendations of the Ombudsman must be taken into account and it must be acted in accordance with them. If the state agency does not act on these recommendations, the Ombudsman gives report to the legal body responsible for control of the executive. In some countries specialized ombudsman offices are formed such as ombudsman for children, for gender equality, for minority or police ombudsman and other.

Role and responsibility of police in the Republic of Macedonia – the concept of human rights

Basically the system of national security of modern states relies on the military and police. These security authorities have an important place, role and specific tasks in the structure of the security system to protect the state and citizens from various forms of dangers and threats to peace and security on both internal and external plan. Police in the Republic of Macedonia perform its function within the Ministry of Interior (MOI). It is responsible for overall operation of the police at all hierarchical levels. The Constitution and laws of the Republic of Macedonia established the legislative framework of functional activities and responsibilities of the police. Thus, under the Act of Interior¹¹ the following categories are determined: internal affairs; organization and jurisdiction of the Interior; category, status and specific duties and powers of the workers; control the execution of works in the ministry; rights and obligations of employment of workers; material liability or compensation and disciplinary responsibility of workers in MOI (Article 1 of the Act of Interior). The term of the Interior under the Act includes the following activities and tasks: realization of the system of public and state security, prevention of violent overthrow of the democratic institutions established by the Constitution of the Republic of Macedonia; protection of life, personal safety and property of citizens, prevention of incitement of national, racial or religious hatred and intolerance; prevention of crimes and offenses, detection and apprehension of the perpetrators and taking other measures stipulated by law to prosecute perpetrators of such acts, civil affairs and other matters specified by this or special laws (Article 2 of the Act of Interior). The organizational

¹⁰ In examining the legality and fairness of the acts of state structures, Ombudsman has access to the entire state documentation. He does not necessarily adhere to strict forms that are attributable to certain state agencies while joining them. He has the right to initiate investigations and to express opinions and recommendations.

¹¹ Official Gazette of the Republic of Macedonia, No. 92/2009; see also Strategy for police reforms, December, 2004

structure of the ministry includes: two organizational units responsible for technical matters and to perform civil affairs, two bodies within the Department - Bureau of Public Security (BPS) and the Department for Security and Counterintelligence (DSC). For performing police tasks requiring a higher degree of specialization and competence, and to perform work for the departments of Interior and the regional centres for border affairs Central Police Services are formed. These services perform more tasks, including: performing work in the field of fight against organized crime, forensics, working for the departments of Interior and the regional centres for border affairs, etc. Also, according to the Law on Crisis Management there is possibility for police to take certain measures and activities in cooperation and support of the Army and other state administration bodies for dealing with crisis situations. From the above, it can be concluded that the police have a major and significant role in the performance of safety – protective function in the state. To perform their responsible duties adequate preparation and equipment are required. In fulfilling its tasks within the Ministry and in cooperation with other competent authorities and institutions, these bodies and units with special competencies and appropriate organizational forms for greater efficiency are obliged continuously to develop and regulate mutual relations of cooperation and coordination in the implementation of security-protection feature.

Police is integral part of the Ministry (within the BPS) which perform police duties by police officers. Namely, under the Act of Police, the police is responsible for police matters relating to: protection of life, personal safety and property of citizens, protection of freedoms and rights of man and citizen guaranteed by the Constitution of the Republic of Macedonia, laws and ratified international documents, prevention of crimes and misdemeanours, detection and apprehension of the perpetrators and taking other measures stipulated by law to prosecute such crimes, maintenance of public order, regulation and control of road traffic, control of movement and residence of foreigners, state border crossing control, aid to and protection of citizens in case of urgent need, providing specific figures and objects, and other matters specified by law (Article 5 of the Act of Police). Also, police provides assistance to state agencies, municipalities and the City, to legal entities and individuals in saving people and property from natural disasters and other accidents (Article 6 of the Act of Police).

In the performance of their quite extensive and complex tasks arising from the Constitution and positive law, police are entitled to apply necessary tools such as the police powers, too, which sometimes, directly or indirectly affect human rights and freedoms (such as authentication and determining the identity of persons and objects, collecting information, summons, arrest, de-

tention and others – Article 28 of the Act of Police). Also, in implementing their tasks and powers, the police have a legitimate right to use suitable means of coercion. Coercion (in the sense of Article 80 of the Act of Police) means use of legitimate, appropriate and proportionate physical or mechanical pressure, by means and in the manner prescribed by law, directed against a person by a police officer, just in case when police work cannot be performed otherwise. Means of coercion that are allowed under the Act of Police are: physical force, baton, handcuffing, a device for forcibly stopping vehicles, official dog, chemical substances, firearms, and special types of weapons and explosive means.

According to the reports of the Ombudsman of the Republic of Macedonia in the last few years there is incomplete survey of cases of misuse or abuse of police powers by the Sector for Internal Control and Professional Standards. The principle of presumption of innocence is continuously violated by many stakeholders and in different ways. Despite actions taken to improve conditions in detention rooms in police stations, there are still places of detention below the standards. In 2010, there was 5.89 % of the total number of received complaints concerning the police actions. Of these, 28.57 % are concerned of measures taken to protect life and property of citizens, 13.03 % for violence or excessive use of force, 11.76 % for the delay, 10.08 % for ungrounded or unlawful deprivation of freedom, 0.42 % for retention in the police station more than 24 hours, and 36.13 % were referred to other causes (Народен правобранител, 2011:34,36).

Internal control mechanisms, however, are obliged to act upon complaints of citizens about police work, to verify information received from the media or information obtained otherwise for inadequate treatment of citizens by police and filed charges or given reprimand for police officers for whom it was concluded that they committed injury when performing police procedures. In 2010, 22 complaints were filed by citizens who complained of infringement of rights in police procedure, by and with the help of NGOs. Although 38 cases were registered in 2010, it appears that certain amount of fear among citizens is present to report cases to be adequately investigated in the future. Of the 16 cases for which complaints have not been filed to the sector for internal control and professional standards by certain NGOs, in 5 cases the citizens themselves reported injury in SICPS, but in 5 cases the citizens had not enough evidence to prove police abuse and they were given legal advice by NGOs, and in 6 cases, citizens did not want to petition the sector because of fear and distrust of the system which should examine their complaints (Томшиќ-Стојковска, 2010: 28, 30).

Concluding remarks

From the above it can be concluded that the police in modern conditions of life has a specific mission and a meaningful role in achieving security-protective function of the state and citizens. Namely, in democratic societies - free people really expect much from the police. In accomplishing its mission, the police must be trained to enable the right balance, provide on the one hand respect for human rights and freedoms, and on the other hand, the pursuit of legal authority is vested under positive national legislation and ratified international conventions, on behalf of the people, to protect people and its institutions. In fact, police have the power to act as agent for the purpose of social order, not as aim sufficient on its own. Aspect of government should not prevail over the aspect of service, because it can lead to various abuses and further narrowing the rights and freedoms of citizens which police is actually obliged to protect and promote.

In the Republic of Macedonia with the introduction of modern system of education, education and training of personnel in the field of security (through various types and forms of police training) is intended to provide an adequate account of security and police education of staff, with a high degree of professionalism, expertise, competence and culture in the execution of complex safety-protective functions in society (Myprocki, 2007:83). Besides the regular and continuous system of institutional education and training, staff in the field of security and through so-called process of lifelong learning (in the professional and working environment) should always be directed toward expanding and deepening the knowledge about the principles of democracy, rule of law and human rights. In this regard, the process of education and training of personnel in the field of security in public and private sector should be open, transparent and dynamic process that will be accomplished according to the needs of a democratic society, and continuously coordinated with modern standards for police education within the European Union.

For optimal and efficient performance of their responsible duties, we think that there is a need for adequate, regular and continuous educational preparation and training of police so that they could effectively carry out quite extensive and complex security tasks and challenges in contemporary society.

The need for coercion in the implementation of national laws in terms of ensuring their compliance and responsiveness to the consequences of acting contrary to law, is certainly as old as the law. The contents of enforcements and methods of accomplishing the compulsion suffered tremendous

changes during its existence, and one of the biggest changes are just about the development of the concept of human rights and basic freedoms.

At present, the key influence that has committed human rights enforcement against police and police activities (in countries of developed democracy) can be summarized in several areas:

- The use of police powers - a request to clearly justify the necessity and proportionality in the use of basic powers such as arrest, search, investigation, seizure of property, interception and eavesdropping.
- Use of force - an absolute necessity and justification.
- Decision-making - must be logical and appropriate rights in the European Convention on Human Rights and Freedoms.
- The obligation of care - a positive obligation to defend the rights of the convention and protection of life and other rights (such as private and family life, freedom of expression, etc.).
- Respect the rules of justice - openness, transparency, fair investigation.

It is very easy for those who have power in their hands to abuse that power for various reasons (ignorance of law and procedures, inadequate human and technical capacities and resources, inappropriate use of the principle of "necessity"). Starting from the fact that basic police function itself fits implementation of law, enforcement of the rule of law and ensuring social order, when the police violate the law for any reason, it means denying its own function, the cause of its own existence. This leads to a position which was brought out in the beginning that the relationship between exercises of the functions of police and human rights is a symbiotic one (they are complementary and cannot without each other).

It is precisely because of this that the exercise of the police function implies the existence of an appeal, effective mechanisms that will enable the realization of the application in practice and relevant bodies that will be involved in the monitoring processes, investigations and defining sanctions. This rule applies only to police and not because of it thoughtfully. Simply, human rights pulled one of the basic reasons of its existence in the ability to ask certain checks over the state and its activities (and the police are instrument of the state). These checks are not intended to make these organs ineffective and inefficient, but to ensure the existence of such a community in which the individual has a central place that can provide real protection of the individual and which adjusts the forms of state action toward this fundamental objective.

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Неки аспекти о односу и одговорности државе и полиције у вези људских права

Сажетак: У савременом друштвеном и политичком дискурсу, једна од најмоћнијих идеја је идеја људских права и слобода, као и права на безбедност и заштиту људског достојанства од различитих облика претњи и опасности. Људска права су, без сумње, највећи успех у развоју система вредности човека. Она представљају сублимацију (збир) људских димензија свих претходних учења (религиозних, филозофских, правних) и мера постигнутог цивилизацијског развоја човечанства. Дакле, људска права све више постају битан елемент постојања модерних демократских држава (нпр. право на живот, слободу изражавања, право удруживања, право на учешће у управљању, итд). Али, с друге стране, људска права се не могу остваривати и уживати без постојања државе, уз јаке гаранције и заштиту грађанских права. Кроз процес имплементације међународних норми и стандарда, држава постаје део међународне заједнице и прима или оправдава прерогативе државе одговарајуће савременој цивилизацији. У том контексту, рад ће се бавити одређеним аспектима питања улоге и одговорности државе, система безбедности и полиције у њиховом остваривању концепта људских права и слобода.

Кључне речи: људска права, безбедност, полиција, одговорност, контрола

Summary

Police as a state institution and administrative body responsible for internal affairs is under political supervision and always the one that governs the state wants to have the police as a tool for editing and realization of their political views. Mechanisms for protection against possible abuses of police powers are nothing but mechanisms for their control. Macedonian control and supervision of police work can be accomplished by: Parliament, Government, Courts, Ombudsman, civil society, etc.

Analyzing the situation in our country, we can conclude that Macedonia has an extensive matrix of formal police control and oversight mechanisms at all levels (executive, legislative, judicial – public prosecutor, administrative, internally and externally). Yet, despite all these mechanisms of accountability, in practice the control is problematic. Extremely important are members of these bodies to develop the highest degree of sensitivity to human rights and freedoms and awareness of their role in protecting human rights.

The starting point in the functioning of the police are seemingly simple: crime is a threat to human rights, fight against crime is a function of the

state, and the specific nature of the crime requires special measures to effectively oppose to it. The safety of the individual is absolute social value; human rights are based on the concept of security and guarantee that security means that crime should be prevented. This is indisputable. It takes special measures to protect human rights and basic freedoms. However, on the other hand, the measures themselves represent a kind or level of restriction of the basic human rights and freedoms (e.g., enjoyment of property, the right to privacy, freedom of movement). This means that in a situation measures taken to combat crime may pose a threat to human rights, or turn into its opposite. This is a basic paradox in carrying out police functions.

At the present stage of development of the community in any way we cannot be satisfied with the explanation that the police protect the state. Police is a manifestation of state authority; however, at this degree of development of human community, it is an authority that must be directed toward protecting the rights and freedoms of citizens (individuals). Thus, the concept of human rights becomes the undisputed new context and limits the exercise of the violence. However, the balance between necessity and possibility of legitimate use of force and respect for human rights and freedoms, i.e. the realization of activities of the police not only in the protection of human rights and freedoms, but in a way that fits the concept is very unstable and is easily rebalanced (usually in terms of restriction or violation of rights of people)

Резиме

Полиција, као државна институција и орган управе надлежан за унутрашње послове, под политичким је надзором и онај који управља државом увек жели да има полицију као средство за уређивање и остваривање својих политичких ставова. Механизми за заштиту од могућих злоупотреба полицијске власти нису ништа друго него механизми за њихову контролу. Македонску контролу и надзор рада полиције могу вршити: Скупштина, Влада, судови, омбудсман, цивилно друштво итд.

Анализирајући ситуацију у нашој земљи, можемо закључити да Македонија има широку матрицу формалне полицијске контроле и механизма надзора на свим нивоима (извршну, законодавну, судску – јавни тужилац, административна, интерна и екстерна). Ипак, и поред свих тих механизма одговорности, у пракси је контрола проблематична. Изузетно је важно да чланови тих тела развијају највиши степен осетљивости за људска права и слободе и свести о њиховој улози у заштити људских права.

Полазна тачка у функционисању полиције наизглед је једноставна: криминал је опасност за људска права, борба против криминала је функција државе, а специфична природа злочина захтева посебне мере за ефикасно супротстављање. Безбедност појединца је апсолутна социјална вредност, људска права се заснивају на концепту безбедности и гаранцији да ће се злочин спречити. То је неспорно. Потребне су посебне мере за заштиту људских права и основних слобода. Међутим, саме мере представљају неку врсту или степен ограничења основних људских права и слобода (нпр. уживање имовине, право на приватност, слобода кретања). То значи да мере за борбу против криминала и саме могу представљати претњу за људска права, или се претворити у своју супротност. То је основни парадокс у обављању полицијских функција.

У садашњој фази развоја заједнице ни на који начин не можемо бити задовољни образложењем да полиција штити државу. Полиција је манифестација државног органа, али је на овом степену развоја људске заједнице она орган који мора бити усмерен ка заштити права и слобода грађана (појединаца). Дакле, концепт људских права постаје неприкосновен нови контекст и ограничава вршење насиља. Међутим, равнотежа између потреба и могућности легитимне употребе силе и поштовања људских права и слобода, односно реализација активности полиције не само у заштити људских права и слобода, али на начин који се уклапа у концепт, веома је лабилна и лако се поремети (обично у смислу ограничења или кршење права људи).