



COMMISSIONER FOR HUMAN RIGHTS
COMMISSAIRE AUX DROITS DE L'HOMME



CommDH/Speech(2012)3
English only

“Making Human Rights real needs a renewed commitment”

by Thomas Hammarberg,
Council of Europe Commissioner for Human Rights

Amnesty Chair Lecture – University of Ghent, Belgium

Ghent, 9 March 2012

Six years have passed since I took up my functions as Council of Europe Commissioner for Human Rights and my mandate comes to an end in March. When starting back in 2006, I said that I would focus on implementation and seek to provide concrete input to help the protection of human rights - to move from rhetoric to enforcement.

Summing up, I can say that there have been some positive changes concerning the overall situation of human rights, in particular when it comes to awareness raising. More people now know about human rights and defend them. The work of non-governmental organisations, human rights defenders and independent monitoring bodies is also a promising example.

However, I must also say that I have observed worrying steps backward in Europe, both in the effective respect of human rights and in the political support to the principles behind them.

I see a deterioration of human rights protection in several issues: independence of the judiciary, media freedom, discrimination, xenophobia, protection of vulnerable groups of people. In times of economic crisis, social protection has also been eroded. Further, counter-terrorism measures have contributed to a widespread deterioration of human rights. In particular, complicity or silence in the US-initiated war on terror has brought Europe brutally backward. Human rights suffered as a result of the response to these terrorist attacks and the hysteria that spread around and the very close cooperation that developed between the security agencies combined with the lack of democratic control of these bodies

Shortcomings in these fields must be addressed with more determination and energy if we want to make human rights real. I would like to highlight some main issues where urgent action is particularly needed.

In several Council of Europe member States, the judiciary is structurally dysfunctional, where corruption and political interference are still flagrantly present. Court proceedings are too often excessively lengthy and pre-trial detention is also over used in cases when there is no risk that the suspect will abscond or sabotage investigations. It is estimated that no less than one in every four prisoners in Europe today is detained on remand - that is before final conviction.

I have noticed that different forms of control and pressure over the variety and content of broadcast and print media have hampered their independence and pluralism. In a number of European states media freedom is undermined through criminalisation of defamation; law-induced censorship; intimidation, harassment and even murder of journalists; politicisation of the allocation of radio and television frequencies; and monopoly tendencies undermining pluralism in the media landscape. Another threat against freedom of expression is the temptation to over-regulate Internet-based social media.

Much of my work has focused on steps to be taken to protect certain groups in society from discrimination. People with disabilities are among the most vulnerable people in society, in particular persons with mental health problems or intellectual disabilities. Persons with disability remain largely

excluded from key sectors of life, including access to adequate and humane health care, decent work and housing, public places, transportation, quality education and sometimes even civil rights, such as the right to vote. As adequate support is not always provided, many persons with disabilities and their families live in poverty and disparaging living conditions. They are also particularly vulnerable to violence and abuse, sometimes at the hands of the very persons who are supposed to be their carers.

Though legal protection of their rights has developed at international and European level, these standards have not yet been translated into concrete policies and real results on the ground. The needs of persons with disabilities are still given low priority in state and municipality budgets. More recognition, protection and social inclusion should be ensured for them.

The living conditions of older persons are another major concern. The elderly have been forced to take much of the burden of recent economic problems and austerity budgets. I have seen signs of deep old-age poverty in several countries. Many of the victims are women, often with very minimal pensions. The situation in care homes for elderly persons differs greatly, but there are institutions which are substandard and where the residents are not well taken care of – and in some cases even abused or neglected. There is a need for a deeper, Europe-wide discussion on the rights of older people.

One of the most discriminated minority in Europe are the Roma, who still live in abject misery and suffer alienation in many European countries. Urgent measures must be taken to ensure more humane housing standards for Roma families, grant access to quality education and foster social inclusion. To this end, it is crucial to guarantee that all Roma, in particular children, have personal identity documents and are no longer treated as stateless. It has to be recognised that the root of all these problems is the wide-spread anti-Gypsyism, to which some politicians have also contributed.

Other human beings who suffer marginalisation and stigmatisation are lesbian, gay, bisexual and transgender persons. They are grossly discriminated in several member states just because of their sexual orientation and gender identity. This is very much a question of knowledge and attitudes. It is particularly important that credible opinion builders in each society demonstrate the courage to address these prejudices and make clear that international standards and national legislation already prohibit discrimination against these groups.

Setbacks were particularly evident in the protection of the human rights of migrants. This was, is and will be a highly controversial issue in Europe. Attitudes towards asylum-seekers and migrants have gradually become more negative and this has influenced policies. Political leaders have all too often fed a negative perception of migrants in the public opinion, in particular in connection with national and regional elections. They have chosen to follow – rather than lead – public opinions, thus feeding xenophobic movements. These racist and xenophobic tendencies have unfortunately spread all over Europe.

It is a vicious circle which has negative consequences for our democracies. It is thus crucial to refocus the debate on the human rights dimensions of migration. Europe should adopt a more humane migration policy and asylum procedures based on human rights principles. This will require co-ordination between European countries and at least a minimum level of solidarity between them.

The struggle for gender equity must continue. Despite some progress in awareness and legal protection, discrimination against women persists in employment, education and political participation. Furthermore, violence against women remains a significant yet under-estimated problem. Taboos, ignorance and machismo still surround the issue of domestic violence, contributing to its persistence. Women in all parts of Europe continue to be victims of rape, sexual exploitation and forced prostitution. Male politicians are still much too passive on these issues.

We have child poverty in Europe – millions of children grow up in destitute families or have been placed in care homes or other institutions. About half of the member states have not banned corporal punishment of children. There are alarming reports about tragic cases of physical, sexual and psychological violence and abuse. The Council of Europe's campaigns for the rights of the child have sent signals which must be taken seriously by authorities in the member states.

Some of the problems I have mentioned here relate directly to the current economic crisis and have worsened since 2008. It should of course be recognised that governments are facing extremely difficult times when seeking to boost the economy and rebalance public finances. Considerations of the human rights impact of different policies must not be forgotten in this endeavour. Plans and strategies which sacrifice individual economic and social rights, as well as the democratic process, would be greatly mistaken. Putting human rights at the centre of the recovery plans should not be seen as an additional strain on budgets, but rather as a reinforcement of our society and its resilience.

A single solution to reverse this does not exist. Addressing all these issues and other human rights challenges will require wisdom, courage and a renewed political commitment to human rights. Each country has its peculiarities and has to find the best means to overcome its system's weaknesses. However, this does not mean that countries are alone in facing this challenge. National and international actors should team up to enhance the strength of local responses.

The means at our disposal include a large array of human rights standards, monitoring mechanisms, judicial cooperation, as well as important international treaties which set a clear framework for political action.

More efforts should be undertaken to make these tools function properly. It concerns us all: governments, parliaments, independent state bodies, media professionals, civil society groups, international organisations.

Political leaders have a particularly important responsibility in this endeavour. Their own behaviour towards human rights has a great influence in shaping the attitude of the population. If they make a responsible use of the power delegated to them, their example can greatly help to streamline human rights into political and social activities.

They should also be louder in condemning acts which infringe human rights or harm human dignity. They should make it clear that any human rights violation is a crime against the public interest.

On a positive note, let me also mention the significant impact of the various national human rights structures such as parliamentary ombudsmen, equality bodies, data protection commissioners, children's ombudsmen, police complaints commissions and other similar mechanisms. When they are allowed to act truly independently, they have the potential to improve the human rights situation considerably, they can work effectively against undue influence and other corrupt practices. Their contribution is particularly important in the field of protection of poor and vulnerable people.

Media professionals and civil society groups are also key actors. They are instrumental in promoting understanding and acceptance of human rights values and vetting public and private activities. In particular, media are crucial in the protection of human rights: they expose systemic and individual cases of violations and offer an arena for different voices to be heard in public discourse. Not without reason, media have been called the Fourth Estate – an essential addition to the powers of the executive, the legislature and the judiciary.

Another fundamental actor are human rights defenders. Defenders have an essential role in the concrete implementation of human rights standards on the ground and to integrate it in the national sphere. Their work is crucial to shape critical mind of the society and defend the interests, rights and freedoms of its members. Defenders also conduct major actions to enhance compliance of policies, laws and practices with human rights standards. Their work on major human rights challenges such as the "War on terror" and the effects of the economic crisis is major. Defenders have contributed to bring about progress in the fight against impunity, post-war justice, fight against discrimination, freedom of expression and of the media in national, regional and international settings.

It is of utmost importance to provide firm support to human rights organisations and defenders. Further, their work, views and suggestions should be taken seriously into account. State authorities should enable the defenders to play their role and recognise them as full-fledged actors even if disagreements arise. In the course of my work, I have also stressed that human rights defenders need solidarity from all parts of Europe when repressed by their governments.

Finally, international organisations, and the Council of Europe as a leader in this field, have the duty to secure the effective functioning of their human rights mechanisms to continue helping their member States in identifying shortcomings, sharing effective practices and inspiring concrete policies to make human rights real, for all

Since the end of the Second World War, Europe has achieved a lot in terms of human rights. However, these achievements are not irreversible, as recent trends show. We must not be complacent: the respect of human rights is far too serious a question to be approached with half-measures. It must be tackled with a wide, all-encompassing vision.

To get there, Europe needs a renewed commitment to the protection and promotion of human rights. We need a principled approach stressing that human rights standards are treaty based and universal; that they are relevant regardless of culture, religion or political system; that they apply to everyone without discrimination. A full and durable implementation of these principles must be our constant road map for the years to come.