The Strasbourg Conference on International Law & Human Rights

“The Role of International Law to Promote Sustainable Development, Youth Empowerment & Women’s Rights”

(Strasbourg; April 14th - 16th, 2014)
The International Symposium on Religion & Cultural Diplomacy focused on “The Promotion of World Peace through Interfaith Dialogue & the Unity of Faiths” and highlighted the importance of religious interchange as a vehicle for World Peace. The potential role religion plays in the promotion of global peace and stability has been outlined, with the aim to exemplify the positive and demonstrative effect it can bear in impacting society.

Religion can be used as a major force of unification between divergent factions; through the analysis and promotion of inter-faith dialogue, the Symposium has illustrated the key role religion plays in facilitating mutual understanding and tolerance of varying spiritual affiliations. The overall objective of the Symposium was to demonstrate how inter-faith dialogue can be used as an effective tool in promoting global peace and reconciliation, and the power of religion to bring varying groups together in order to establish and maintain constructive channels of communication and sustainable collaboration.
The Strasbourg Conference on International Law & Human Rights - Strasbourg, April 14th - 16th

"The Role of International Law to Promote Sustainable Development, Youth Empowerment & Women's Rights"

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### Conference Timetable

**Monday, April 14th, 2014**

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## Conference Timetable

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Member of the European Parliament

MP Anna Wallén
Member of the Parliament of Sweden

Judge Bolžtan Zupančič
Judge, the European Court of Human Rights

Judge Dmitry Dedov
Judge, European Court of Human Rights

Judge Dragoljub Popovic
Judge, European Court of Human Rights

MP Egidijus Vareikis
Member of the Parliament of Lithuania

MP Elfyn Llwyd
Member of the British Parliament

MP Fiona Mactaggart
Member of the British Parliament

Sir Graham Watson
Member of European Parliament for the South West of England and Gibraltar; President, Alliance of Liberals and Democrats for Europe

Mr. Grégory Thuan
Laywer, Cabinet Hincker & Associés

Judge Ineta Ziemele
Judge, Section President, European Court of Human Rights

The Hon. Ján Figel
Vice President, National Council of the Slovak Republic; Former European Commissioner for Education, Training, Culture and Youth

MEP Kristiina Ojuland
Member of the European Parliament

Ms. Lilja Gretarsdottir
Senior Adviser on Migration, Council of Europe

Ms. Liri Kopachi
Head of Equality Division, Council of Europe

Mr. Manuel Lezertua
Director of the Congress of Local and Regional Authorities of the Council of Europe

Prof. Dr. Maurice Blanc
Professor of Sociology, University of Strasbourg

Dr. Mohammad H. Zarei
Assistant Professor of Public Law at Shahid Beheshti University, Faculty of Law, Tehran

MP Ögmundur Jónasson
Member of the Council of Europe; Member of the Parliament of Iceland; Former Minister of the Interior and Justice of Iceland

Ms. Regína Jensdóttir
Head of the Children’s Rights Division of the Council of Europe

Prof. Dr. Romuald Normand
Professor of Sociology, University of Strasbourg

Prof. Scott Johns
Lecturer, Immigration Rights and Individual Rights, University of Denver

Ms. Sandra Vermuyten
Equality and Rights Officer of Public Services International - PSI

MEP Silvana Koch-Mehrin
Member of the European Parliament

Tina Mulcahy
Acting Head of the Youth Department of the Council of Europe

MP Tynkkynen Oras
Member of the Parliament of Finland

MP Wayne David
Member of the British Parliament

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The Institute for Cultural Diplomacy 2013

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MP Ögmundur Jónasson, The Honorable Ján Figel, Mark Donfried
The Strasbourg Conference on International Law & Human Rights
Opening Address of The Strasbourg Conference on International Law & Human Rights

MP Ógmundur Jónasson (Member of the Council of Europe; Member of the Parliament of Iceland; Former Minister of the Interior and Justice of Iceland)

Strasbourg: April 14th, 2014

Well, thank you very much Mark Donfried. I would like to start by welcoming you to this conference of the Institute for Cultural Diplomacy and the parliamentary assembly of the Council of Europe. The ICD, as many as you may know, is engaged in research and education, extensive networking and conferences that are attended by parliamentarians, academics, artists, students, organizations; all those interested in the idea of bringing people together, discussing and promoting the course of peace and constructive cooperation.

It is particularly important to discuss issues related to human rights here. The parliamentary assembly of the Council of Europe is not a congregation of state but a gathering of parliamentarians, a melting pot of ideas and opinions and indeed a platform for tabling resolutions. The focal point always being human rights in one form or another.

I attended the parliamentary session held in this building last week where a hot discussion took place on whether to expel Russia from the Council of Europe due to the Russian involvement in Ukraine. In the end it was decided not to expel Russia but to deprive Russian parliamentarians temporarily of their voting rights, and their rights to attend meetings organized by the parliamentary assembly of the Council of Europe.

Only a few parliamentarians opposed depriving Russians the opportunity to attend the meetings of the Council of Europe. I was amongst them. In fact I was part of a tiny minority. After the vote I was asked by the media why I voted pro Russia. I said I did not vote with Russians or rather, I did not vote in favour of the Russian state. I voted in favour of the Council of Europe and I voted in favour of people, in favour of the 143 million individuals living in that country.

Why am I saying this? Here in Strasbourg we do not only have the parliamentary assembly, we also have an important institutional framework engaged in human rights work and activities. Part of this structure is the court of human rights. Individuals in all the 47 member states of the council of Europe can go to the court. In most cases this has to do with a ledger of wrong doings or even crimes committed by the authorities in their respective states. Individuals are seeking proceedings in Strasbourg against state power in their own homeland.

Here are included the people from Russia who they will be deprived of their rights in this respect if the Russia leaves the Council of Europe, which is now a real possibility. The exit of Russia from the Council of Europe therefore means deprivation or limitation of democratic rights for these citizens of Russia. And after all, this is what the council of Europe is all about; it is about rights and responsibilities, and it is about channels of raising complaints, channels of communications and democratic discourses. In short, the Council of Europe is a channel for furthering human rights.

When states cannot speak together, there must be, as I see, channels kept open for discussion and criticism and, if you like, condemnation. This is why I voted the way I did. This may be a minority view within the ICD framework, we will never know because we are not an institution which is driving for a consensus on certain matters. But judging from the discussions we had in conferences we had organized by the ICD, we had spirit. We should never stop reasoning, and we should never forget that states that temporarily become aggressive or even demonic in behaviour, consist of people; a multitude of individuals who in their hearts claim for justice. Our collective task is giving them a voice.

Since I have become member of the advisory board of the ICD a couple of years ago, and later in charge of developing our work in human rights and parliamentary networking, I have on several occasions paid attention to the initiatives originally taken when the government of Canada in 2001 established an international commission on intervention and state sovereignty to answer questions put forward by Kofi Annan, the then general secretary of the UN on the rights of responsibility of states to interfere when human rights were being violated. The name of the report which the government produced was the "Responsibility to Protect". In this report it was contended that a nation’s right to sovereignty should be respected but, when a state was unable or unwilling to protect its citizens, the responsibility to do so should be transferred to the international community.

Despite the good intentions of the UN, its establishment just before the middle of the 20th century to prevent war crimes with the convention on the prevention and punishment of the crime of genocide, nothing much has happened for half a century and still, partly due to the organization and structure of the UN, the security council reflects the power structure of 19th century colonialism, the cold war of the 20th century and the world of superpowers of our days: nothing happens if the big stakeholders decide to do so. Nevertheless things are happening. The principle of responsibility to protect has gradually been established as a norm but not legally binding; but a norm nevertheless that has been discussed and developed in the UN. Among those who have taken initiative in this respect have the incentive on the ICD was Janez Jansa, former prime minister of Slovenia, who took the question formally up to the UN. After that the voice calling for democratization of the UN has been more frequently heard as I have referred to in my former talks. Myself I think such moves should be taken.

These have been core questions asked at the ICD conferences, and I think that it is important that we do our best to stimulate these discussions and move forward by encouraging individual states to look at their own legal frameworks and by taking initiatives and steps internationally to influence changes in international law for the benefit of human rights.

These days we look powerlessly at Syria, where millions of people are being subjected to terrible human rights violations. Likewise, in many African countries, in Palestine, hundreds of thousands of people are suffering from human rights violations. The ICD as I see is about method; in the first place it is about bringing people together as we have being doing by bringing people together in a melting pot of ideas, getting inspiration and collective strength to proceed with our work. But it is also a question of mind-set and attitude as to how we can achieve human rights through discussion and persuasion, how we can transform prejudice not by force, not by war, but through political and personal persuasion, through the method that lies at the heart of cultural diplomacy.

This conference here has a wide scope as it can be seen from the list of the speakers, but the aim is the role of international law to promote sustainable development, youth empowerment and women’s rights. Many distinguished speakers will take the floor and we expect the range of their perspectives to be varied, but to be heard throughout will be human rights, youth empowerment, women’s rights; all seen from different angles.

We started the conference with a talk of Ineta Ziemele. She is a Latvian jurist and a judge of the European court of human rights since April 2005. Since September 2012 she is the president of one
of the sessions of the court. She graduated from the law faculty of the University of Latvia in 1993 and continued to study in Sweden where she earned a Master’s degree in international law. She continued studying her PhD at the University of Cambridge. She has been an advisor for the committee for foreign affairs of the Saeima parliament, and the former prime minister of Latvia. She has also been a teacher at the University of Latvia and the Riga Graduate School of law. She is now a professor of International Law and human rights at the Riga Graduate School of law, author of books and articles on issues of state and citizenship in International Law. The title

Biography
The Hon. Ögmundur Jónasson
Member of the Council of Europe; Member of the Parliament of Iceland; Former Minister of the Interior and Justice of Iceland

The Hon. Ögmundur Jónasson is a renowned politician from Iceland. He was appointed Minister of Health in 2009, and returned to the Cabinet in 2011 to head the newly created Ministry of Interior. He has been a member of Iceland’s Parliament ‘Althing’ since 1995.

Mr. Jónasson completed his studies at the University of Edinburgh in Scotland. Following graduation, he started his career in Journalism and Broadcasting and worked in Edinburgh for nearly 10 years before moving to Copenhagen to gain more experience in the field. Mr. Jónasson then returned to Iceland to pursue a political career. He served as Chairman of the Non-Aligned Parliamentary group from 1998 to 1999, and subsequently became the Chairman of the Left Green Movement’s Parliamentary group from 1999 to 2009.

In 2010, Mr. Jónasson was appointed Minister of Justice and Human Rights and Minister of Transport, Communications, and Local Government.

...a lot of experiences and mechanisms on human rights protection. There is a reason to discuss the issue: what comes out of Europe? What it is offered by Europe?

My second point is related with the series of information, on the awareness raising, I will indeed introduce briefly which are the functions of the European Court of Human Rights, especially in relation to the right of the child and the protection of women and I hope you will find it interesting. The first legal policy issue, evidently this is more inspired by my previous academic experience during which I was looking at the processes within Europe and in the middle of those through the work at the European Court of Human Rights. I am making this more and more academic if you want. The European Court of Human Rights was established after World War II and when the European Convention of Human Rights was signed in 1950, at that very moment, there was a very specific purpose for which this mechanism was created by Winston Churchill and there was the clear vision of the need of the protection of human rights. These were announced by the European Convention of Human Rights. Now, I am going to submit to you that although today we live indeed in a different world, all together, Europe has changed. I would dare to submit that the challenges that the modern society has are probably more numerous and certainly more challenging. Now, as far as the European Court of Human Rights is concerned the difficulty is the following; The first stems from the fact that the European Court of Human Rights today in the twenty-first century is faced with the cases that stands from situations which normally arose in the nineteenth century. Before this the United Nation...
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Charter outlawed the use of force. We do have cases which also stands for the evident use of force between neighbors and the Court has to deal with those. So that’s the nineteenth century situation. The bulk of the Courts work of course, has to do with situation typical of the twentieth century. This was the purpose by which the Court was founded and to deal with those typical situations of excessive use of force by authorities, inhumane conditions in detention centers, rule of law issues, and lack of independence of the judiciary.

The Court has entered into the type of cases that characterize indeed the twentieth century, related with the advancement of technology, and the incredibly fast development of the medical science and research. The fact is, the European Court of Human Rights is one of the key players on the European stage in the situation of human rights. I don’t think to disclose anything new or anything unknown but the fact of the matter also remains that the States have not done their homework. The Court has the whole specter of three centuries cases in front of it and that is of course, for one institution like that, is quite an impossible task to attend to. In coming back to the European vision of human rights in a least prejudicial way, I think somewhere after the fall of the Berlin Wall, having been in my own country part of the process Latvians went through, that moment, which was the moment of grateful and extreme emotion, suddenly in the East and in the West somehow everything seemed to be very in very good color. What I am missing are those responsibilities for European policies and decisions, coming together and actually agreeing on the Act.

I see the work of the Institute and this conference contributing to create a common human rights vision and agenda. Now, I think that would require a sort of understanding towards domestic problems and lack of domestic remedies for human rights and violations such as problems in implementing laws and decisions in accord with the rule of law and transparency principles. Of course, those must be solved and I think in particular European states, given their experience they can do so and be a guide or at least a player in the transformation process of the world. This is one point that I wanted to share with you to inspire some future reflections. As far as the protection of women and children are concerned with the European Convention of Human Rights, which does not contain specific provisions on the United Nations Convention on the Rights of the Child and the UN Convention on the Elimination of Discrimination Against Women. However, the Court has often to deal with cases where the right of the child and women have been out-staked. The Court has recognized the key principles in its judgments as the principles of the best interest of the child. Hundreds of cases concerned with the right of the child and custody, may have to deal with the implementation of the Convention on the return of children, the places of residence, juvenile offenders, may have to do with expulsion of immigrants that happen to be minors. So, in all those cases, the different articles of the Convention like the best interest of the child has emerged as a guiding principle. Of course we have articulated it on the right to privacy in family life. We have set that a child should be the beneficiary in other situations where the parents simply can’t look after each other and what the domestic authorities can do in those cases where the best interests of the child would be the object against which the decision of domestic authorities will be assessed. All the decisions have to deal with that even in consideration of different circumstances. Recent authorities on this principles like ‘The Grand Chamber Case vs Latvia’ in which the Court found that the domestic court did not properly assess the argument to the Court by the plenary as concerned with the interest of the child.

Moreover, the Turkey case concerned the presence of the lawyer at the police interrogation, we found that obligatory from the very first moment. Above all when the accused is a minor. In the case ‘Masslow vs Austria’ without this issue of exposition from Austria to the country of origin, Bulgaria, was considered a juvenile offender, because he had not benefitted from the required means of rehabilitation. I mean, if you look at the United Nation’s standards and juvenile offenders you will see that one of the key requirements is related to the situation of minors and Austria has not provided for that. In this context

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the only thing you can think is to expel to another country instead of trying to rehabilitate. There are two recent cases which are continuously discussed and analyzed: ‘Soderman vs Sweden’ and ‘O’Kif vs Ireland’. This is concerning the abuse by the church of minors in the 1970’s and the first one concerns the filming in the bathroom by a step father and step daughter, and the absence of legislation which would have enforced the law. All of these cases gives you the impression of some of the many cases we face on a daily basis. Where minors are really the center of the case and the Court has clearly recognized that children are particularly vulnerable. Now, as far as women are concerned I want simply to say to you that in front of the Court we have both men and women, the problem that gender brings forward does not differ in any particular way. They face the same problems in terms of access to the Court, the same problems in terms of justice, and treatment at the police station. There are no evident differences. However, we do have a long line of cases concerned with the domestic violence and so far the most cases have concerned women, but we do not exclude that they may concern men as well but so far the cases show that the violence has been directed toward women. One of the leading cases I wanted to refer to you by the chamber was ‘Opus v Turkey’ and it concerned of course a grave situation on the domestic violence as a result of which the mother of the applicant was shot by the husband. It shows actually the difficulties in dealing with domestic violence and primarily the fact that the law enforcement, the police and the court are not quite prepared or trained to react. At the European level, the police investigate if there is a complaint, and if there is no complain, which actually occurs, there are not sufficient guidelines to survey the situation. There are cases in which the court very quickly establishes its position. Domestic violence is a lot about special training or law enforcement and obligations to protect even in the absence of the formal complaint for the potential victim. So this is primarily the most important aspect of those cases. Secondly, even more importantly, the first case and the only so far, in which the Court have found domestic violence is a form of formal discrimination, it is necessary to follow the expert’s discussion in the context of the United Nations. You may have noticed that domestic violence should be considered as a form of discrimination. Of course, for UN bodies it is easier to arrive at these kind of statements and finding discrimination, the question is to establish the courts of proof. Now, for the Court you might know at the domestic level, for the Court to arrive to this kind of statement there are questions of proof which in a discrimination case can be very complicated. The Court could also conclude Act. 14 which is a non-discrimination article in the EU Convention of Human Rights. In these cases you can imagine there have been violations to the Right to Life (Art.2), and Art.3 in which the daughter resists in terms of fear, humiliation and the prohibition of torture which is determined by Art. 3 as a violation. Now this was very quickly, what the court represented, the feeling of the court and our work on a daily basis.
Biography

Judge Ineta Ziemele
Judge, Section President, European Court of Human Rights

Born on the 12th February, 1970 Dr. Ineta Ziemele has led a distinguished career as a Latvian jurist and as a judge of the European Court of Human Rights.

In 1993, she graduated from the Law Faculty of the University of Latvia and continued her studies in Sweden at the University of Lund where she earned a Master’s degree in International Law. Subsequently, she received a PhD from the University of Cambridge gaining her title as a Doctor of Law.

Moreover, Dr. Ziemele has been an adviser to the Foreign Affairs Committee of the Saeima (Parliament of Latvia) and furthermore, to the Prime Minister of Latvia. Additionally, Dr. Ziemele has lectured in her specialized fields of International Law and Human Rights at the following institutions: the University of Latvia, the Riga Graduate School of Law, the University of Lund, and lastly at the Raoul Wallenberg Institute of Human Rights and Humanitarian Law acting as a visiting Professor.

In addition to these considerable academic and professional achievements Dr. Ziemele released a publication in 2005 titled ‘State Continuity and Nationality: Baltic States and Russia: Past, Present and Future as Defined by International Law’ which explored the relationship between two areas of international law; the first area was the variation of territorial status, and the other being the international regulation of nationality. This relationship is analyzed with specific reference to the advent of independence that occurred in the Baltic states during the 1990’s.
"Will XXI Century be More Human? Universality of Human Rights"

A lecture by The Hon. Ján Figel (Vice President, National Council of the Slovak Republic; Former European Commissioner for Education, Training, Culture and Youth)

Strasbourg: April 14th, 2014

It had a colonial imperial global quest for power, for resources, but it also became a trade of the deregulation current, for studies, theatres, olympic moments, international law, state sovereignty. Robert Schuman called Europe the becoming again leader of humanity trade of democracy, protagonist and universal solidarity.

What we have here, especially in these institutions like the Council of Europe and the European Parliament, is integration, form of shared sovereignty, which is unique and very important for the world because it is inspirational. What happened after the Second World War was political innovation. We need innovations also in politics, functional innovation and positive innovations. So, I want to say that, when wars and totalitarian regimes and ideologies unfortunately became global, why could we not dream about positive European examples and inspirations going global as well? One fruit of inspiration I like to mention, because although is far from being satisfactory it started to exist, is the African Union system of cooperation, dialogue between and among countries of Africa. Hundreds of years ago in the summer of 1914, a century of war started here in Europe, which was called “La Grande Guerre”. Ten millions of people died during “La Grande Guerre”, but what was to come later was really even bigger, the Second World War with more than 15 million people killed. And then the global Cold War started, making again many victims.

In the summer of 2014 we hope to go Sarajevo for the European Youth Summit not only to remind, but also to care and act accordingly to bring more Peace for the Europeans. Peace is based on justice and justice presupposes freedom, a rule of law and respect to Human Rights. European history shows different periods and different lessons depending on the relations between human and a state interests and human values. Conflicts are dominant when state or state’s interests are put above human values. Balance comes with states’ interests respecting common values and unity potential conflicts. However, diversity is understood as a constitutive element and as a constructional principal of the community based on common well use and on the rule of law. This reflects the road from the time of perpetual enemies especially here, consecutives wars, bloody borders, eliminations of the others to the times when as Robert Schuman has put in his messages “The war is materially impossible, actually unimaginable here.” Imagine Strasbourg a hundred years ago and now as a seed of several European Institutions and this is the way from reconciliation to mutual beneficial cooperation up to supranational integration. Integration that in order to represent win-win relations and perspective must include reasonable effective and visible major solidarity, internal and external solidarity. A sustainable integration process does not aim to assimilation or absorption the smaller countries or nations, but it aims to participation as equals on a base of law, rules, on a common project and shared sovereignty. Integration is for active citizens because it enriches their freedom and gives them more opportunities and respect to diversity and culture of Human Rights. I have mentioned it because this unique historical process made union more European because Europe needs to find itself, its spirit, Jacques Delos said “it needs the soul to feel together and also in cultural terms.” To all superficial critics to this process I want to say that there is human construction and human community. At least Europe today does not export wars, rather hope, cooperation; peace, assistance and I think a lot of inspiration. Here I would like to say few remarks on education because the Institute and also my role in the Commission was about the education. I think this is the most influential, socio-political phenomenon for the future of citizens, countries, nations, continents, the world and I quote the second message from the Universal Declaration of Human Rights. This Declaration as a common standard of achievement for all people and all nations. Every individual and every organ
of society keeping this declaration constantly in mind shall strive by teaching and educating to promote respect for these rights and freedom and by progressive measures secure their universal and effective recognition and observance. I would like to underline the importance of this message and the importance of education in Human Rights for culture in Human Right. Ignorance leads to intolerance and intolerance is a pavement to the highway of xenophobia, extremism, nationalism and even fanaticism. Marxism and Stalinism here in Europe have been concrete types of political fanaticism but there are many different forms of fanaticism: religious, ideological, atheistic, ethnic, tribal, political, non-political. With the collapse of Communism we do not face the final victory of democracy all over the world. There are still totalitarian regimes, quasi democratic governments; there are chains of conflicts and terrorism, closure of civilization is not inevitable. Sarajevo is not in the Middle East and I mentioned it previously because European story has still to prove that peace is possible and we can make it. Shall we prove that instead of closure of civilisation we need more civilisations, that 21st century may become more peaceful than the previous one? Shall we prove that the Ukrainian conflict is against the international law, against culture of human rights? Shall Europe face conflict instead of peace, stability and cooperation and again, lack of education because here we are more on educational base, both to lack of access or quality leading to social problems, unemployment, and poverty, immature citizenship? We have recorded high unemployed young people in Europe, but also in many countries outside and there are a lot of other socio-political problems due to lack of education, which creates space for false ideologies, extremism or even fanaticism. Parallel segregated societies create conflicts instead of intercultural dialogues. Dialogue of cultures starts with listening and proceeds with understanding, and helps us discover universality of human persons and Human Rights. Educational dialogue helps us understand that we are all different and we are all equal. We are different because everybody is unique, original, authentic, nobody is a copy of anybody in the past, today, and tomorrow; and we are equal because we share the invaluable human dignity. There was a very strong and educative campaign of the Council of Europe “All different, all equal”. It was a good work of the Council of Europe and I command this work. I want to end by concluding that the world really may become more human, more democratic. As we know, democracy presupposes democrats, democracy inevitable needs active citizens. Tomáš Garrigue Masaryk, the first president of Czechoslovakia and founder of Czechoslovakia said that “better democracy requires better democrats”. It is about people, we may improve the system and we need good systems balanced. This is achieved through education for citizenship and responsibility. Ladies and gentlemen, reason, conscience, routes of our cultures, history and civilization invites us to promote universal human rights and universality of human rights and therefore culture of human rights. This will help to build a better century especially for young people, devoted specially for young people. More peace and stability is possible and it depends on European’s crucially. It requires more humanity and solidarity, both that we have got from our societies, and that we may share with the people in the world. It is our interest and it will pay back. So I wish this conference a lot of inspiration and success. Thank you very much!

Biography

The Hon. Jan Figel 
Vice President of the National Council of Slovakia; European Commissioner for Education, Training, Culture and Youth

Ján Figel’ is a Slovakian politician who has been heavily involved with Slovakian and European Affairs and has also been influential in his contributions to the areas of sport, youth, and relations with civil society. As the former European Commissioner for Education, Training & Culture, Mr. Figel has also held other notable positions including State Secretary of the Ministry of Foreign Affairs and Chief Negotiator for Slovakia’s accession into the EU.

His academic career was launched in 1978 where he read Power Electronics at the Technical University of Kosice for five years. His other alma mater include time spent at Georgetown University and the University of Antwerp, where he studied International Relations and European Economic Integration respectively. In the period of 1995-2000, Mr. Figel also lectured in the field of International Relations at Trnava University.

Mr. Figel began his political career when he joined the Christian Democratic Movement party in 1990 and was elected two years later as an MP to the National Council of the Slovak Republic serving with the Foreign Affairs Committee, and later became a member of Slovakia’s delegation to the Council of Europe.

In 1998 he left his parliamentary seat and was appointed State Secretary of the Ministry of Foreign Affairs. It is this post where he led Slovakia’s accession negotiations with the European Union. As State Secretary, Mr. Figel was also the representative of the Slovak government in the European Convention which drafted the European Constitution. From 2004 to 2009, Mr. Figel served with the European Commission as Commissioner for Education, Training, Culture and Multilingualism, with a brief period also acting as the Commissioner for Enterprise and Information Society. Mr. Figel stepped down from his Commission post in 2009 following his election as the leader of Christian Democratic Movement in Slovakia. Currently he holds the post of Deputy Prime Minister and Minister for Transport, Construction and Regional Development.

A Lecture by Liri Kopaçi-Di Michele (Head of Equality Division, Council of Europe)

Strasbourg; April 14th 2014

I would like to thank the Institute for Cultural Diplomacy for inviting me here today to share with you some of the ongoing work and activities of the Council of Europe in the area of equality and in particular gender equality.

You may be aware of the work of the Council of Europe in this field. For many years the Council of Europe has contributed with a number of standards and policies with regards to advancing the gender equality agenda. Two of the milestone achievements include two conventions, which have made a difference in the life of women throughout Europe and beyond. They include the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence, also known as the Istanbul Convention.

The activities of the Council of Europe and its different structures are guided by and framed into the context of the implementation of the Council of Europe Gender Equality Strategy 2014-2017, which was adopted by the Committee of Ministers with full consensus.

The strategy has 5 principal objectives that will target to achieve in the next 4 years. They include combating gender stereotypes and sexism with particular focus on media and the image of women or stereotyping in education. The second is guarantying equal access of women to justice with particular access to justice for women victim’s of violence as well as combating or trying to resolve problems related to persistent barriers that prevent women from accessing justice or the lack and gaps in the data and research segregated by sex. The third objective is preventing and combating violence against women and the focus is in the efforts to promote the signature, ratification and the entrance to the Istanbul Convention. The fourth objective is built on activities around achieving balance of participation for women and men in political and public decision-making. The fifth one is gender mainstreaming.

I will give you an overview of ongoing work in these 5 objectives and priorities we are dealing with at the moment. In the area of stereotypes, which is combating gender stereotypes and sexism. We organized a conference, last year in the Netherlands with the participation of representatives of the 47 Member States, media, journalist, private sector and so on. They dealt with a number of issues evolving around stereotypes and sexism, lack of leadership of women in the media, gender equality and freedom of speech, the new technologies as a way to advance the gender equality agenda and so on. The advantage of such gatherings are that, not only did the Member States and the representatives bring to the table the problems they face in dealing with these issues, there is also an opportunity to exchange good practices and experiences. After the conference, a compilation of such ideas was made available to the Member States to support them in their work to deal with these issues. The conference also came with a number of recommendations on what should Member States do in order to combat sexism and gender stereotypes, whether it is building alliances between the State and the media, whether it is about putting in place measures to promote leadership of women in the media sector or whether it is about raising awareness and education and how to combat stereotypes from an early age.

In the second, which is guarantying equal access of women to justice, our work, at the moment, is focused in 3 main areas. The first one is collecting and other standard instruments. The transversal program includes a number of structures, which all try to provide the program with the necessary support and financial means for the implementation of its activities. At the center of this program, we have the Gender Equality Commission with representatives from the Member States. Secondly, a very important structure is the gender equality national focal points in order for the 7 Member States of the Council of Europe, which make sure that they bring the problems and issues to the focus of the work and activities of the Council of Europe in this area. Last, but no least, the gender equality rapporteurs. Mainstreaming is one of the key challenges in the work of the area of gender equality. Therefore, the Council of Europe has tried to make sure that the gender equality issues make their way into the agendas and into the working activities of the other committees, including the monetary mechanisms.

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particular area. It also introduces a whole set of new criminal offenses which where not covered by any previous treaty in this area, such as, for example, physical and psychological violence, stalking, sexual violence including rape, sexual harassment, forced marriage, female genital mutilation, forced abortion and forced sterilization.

With regards to the progress of signatures and ratifications, we are advancing relatively well. The convention opened for signature only 3 years ago on the 11th of May in Istanbul, Turkey, which is where the name of the Convention came from and so far we have 24 Member States that have signed the convention and 9 Member States that have rectified, Spain only last week. With the 10th signature, which we hope will be coming soon, there is a period of 3 months to prepare the formal entry into the Convention and after that the setting up of the monitoring body that will insure that the Member States comply with the obligations contained in the Convention. There is interesting information with regards to how the Convention and already become a common policy frame work for the Member States of the Council of Europe despite the fact that it has yet to enter into force. This information comes from the 4th round of the monitoring of the analytical of the Committee of Ministers recommendation of protection of women against violence. Since the monitoring of these recommendations began in 2005, there has been quite some progress with regard to converging policy and legislation in all the countries of the Member States, a trend towards criminalizing more forms of violence, including stalking and forced marriage. The comprehensiveness of national policy to prevent and combat violence against women has increased; more Member States are setting up national coordinating bodies to deal with issues of violence; there is an increase on the effort by the Member States to invest more in education and training professionals and more efforts to include part of the awareness in the education curriculum from a very early age. However, the report also shows that there is still a long road to go and quite a few challenges ahead, particular with regard to the fact that only 1 of the forms of violence against women should have been penalized, which is physical violence, is criminalized by 46 Member States of the Council of Europe. Other forms, including rape and sexual violence are not decriminalized universally. Only 4 Member States have national policies that address all 9 forms of violence against women, for which specific measures have been put in place. However, 5 Member States still haven’t placed this strategies that target violence within the family or domestic violence. The vast majority of the Member States are not able to provide figures regarding the allocation of sufficient financial resources to address violence against women, while financial commitment is crucial to ensure legislation and policies are implemented effectively. About a third of the Member States the provision of shelter beds, specifically for women and children victims of domestic violence is very low compared to the recommend standards. A revision of specialized services for women victims of sexual violence, in particular medical and psychological support, advise that a legal empowerment is still legging behind the provisions for the victims of domestic violence.

As I mentioned, this data and information that we have collected from 46 out of the 47 Member States on the basis of a questioner, which was revised to reflect the key previsions of the Istanbul Convention, while there is this trend of converging policies and building them around the Istanbul Convention, the gaps are still there with regard to the measures to be put in place by the Member States. There are still a lot of challenges ahead and a long way to go before we can talk about fully comprehensive measures to combat violence in all the Member States.

To conclude, I wanted to stress that in our work and efforts to achieve the objectives as our strategy of the Council of Europe, we are working very closely in cooperation and coordination with other regional and international organizations in order to ensure synergies but also building on the added value that each and everyone of those actors in this areas has to offer and to avoid any duplications and unnecessary efforts.

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**Biography**

**Liri Kopaçi-Di Michele**  
Head of Equality Division, Council of Europe

Ms. Liri Kopaçi-Di Michele serves as the Council of Europe Directorate General of ‘Human Rights and Rule of Law.’ She is the Head of the ‘Division of Gender Equality, Violence against Women and Domestic Violence’ at the Council of Europe, and is responsible for developing and implementing standards and activities in the area of gender equality and violence against women.

Since joining the Council of Europe in 1997, Liri Kopaçi-Di Michele has worked in a variety of positions including the Congress of Local and Regional Authorities, the Committee on Economic Affairs of the Assembly, Deputy-Head of the Private Office of the President of the Parliamentary Assembly and Adviser in the Private Office of the Secretary General. She graduated with an MSc in Management from the University of Surrey in England and a BA in English Language and Literature from the University of Tirana in Albania.
The Rise and Fall of Gender Equality: From Empowerment to Precarity

A Lecture by Ms. Sandra Vermuyten, (Equality and Rights Officer of Public Services International – PSI)
Strasbourg, April 14th, 2014

Think it is important to mention in this context, that two-thirds of our members are women that work in social services, healthcare, municipal and community services, central government and public utilities such as water and electricity. We develop worldwide campaigns for social economic justice and quality public services. We work closely with the affiliated unions to promote free collective bargaining, workers rights and plan is based on the concern that women continue to face various forms of discrimination and that austerity policies deepen historic disadvantages and inclusion, and basically are moving backwards from women empowerment and the feminist movement of the post-war period.

There is a general analysis that in spite of increasing participation of women in all sectors of economic activity, discrimination remains widespread and that even in the public sector, which is the largest employer of women in the formal economy worldwide, women are concentrated in lower paid positions. Another important concern is the existence of widespread gender-based violence, not just domestic violence but also violence at work and violence against women trade union leaders which unfortunately is also very much a reality around the world and it is especially prevalent in South America: femicide against trade unions leaders, women, is a serious problem today.

Much the current gender debate within PSI is linked to the global financial economic and social crisis, and of course we link to that issues such as funding of public services, outsourcing of services to private sector providers, and precarious work. We see that working conditions in public services which had become acquired rights in certain countries are under attack in Europe and are often hit when reforms are implemented. These reforms hit women hardest. Equal pay remains an issue even when before we are talking about the European Union and more older retired women. This is a process taking place in an environment in which public services are being cut, privatized or universal access is being limited, which leads to a situation in which women have to take up and compensate for the services that are either not being provided or that they simply cannot afford. In this context, it leads to unpaid care work, on the one hand mainly being a female task was also growing, the level of unpaid care work is also rising.

I am often reminded by our Secretary General that when we talk about precarious work and about the wage gap that actually in the first place you have to have a job before you can start talking about wages, so we have to recognize that it is women who are being pushed out of the labor market in the first place, when jobs are being cut and that a lot of female jobs are often precarious, outsourced or part-time, and these are the jobs that have been created in the last twenty years. When we look at the situation in Europe, we see coordinated austerity policies across much of Europe and increases in youth unemployment and social inclusion on the one hand, and on the other, recognition of a growing demand for public services and care services. However these are then seen as an individual or market task, not a collective responsibility. One of the early speakers referred to the solidarity, the need for solidarity and that solidarity is a means to achieve universal respective human rights, and I think that is indeed very much a theme that is very close to the analysis that we are making.

Instead of progress in terms of strengthening social dialogue, we see an undermining of social dialogue systems, primarily in the new European countries or Eastern European countries but also in those countries that have been hit hard by the crisis where collective bargaining systems are simply moved outside, not taken into consideration especially by the European Central Bank. When you look at the public sector adjustments that have been taking place in the last few years there is a very interesting study that was just published at the end of last year, and that tells us that a lot of these public sectors adjustments have been made either without assessing the long or short term impact of these reforms, that they were very much focused on cutting public expenditure rather than increasing revenue, privatizing outsourcing services without evidence that these will deliver great efficiency or protect equality or quality.

At the introduction we were talking about the Cold War and cultural diplomacy and things like that, what we are seeing now is also a war the ideological war of the neo-liberal model that is pushing for cuts and smaller states, whether or not that will
The study clearly showed, and I think coming back to the theme of our meeting, the negative impact on gender equality and on public sector standards of these public service adjustments. If we look a little bit more in detail, what austerity really meant in the public sector in terms of employment is cuts for many women, those ranging between ten, twenty, and in some countries twenty-five percent, but also of course in the services that are provided to the population. Here we have to mention services provided to victims of domestic violence, of social care, child care etc., those services which are essential to achieve gender equality.

The impact of austerity in the long term can be quite serious, on the one hand there is a loss of support for women in public services where women are actually the majority of the employed in the public service. So women might lose their quality of employment in public services but at the same time the loss of women’s jobs in public services may increase the overall gender pay gap because jobs in public services are generally better paid than retail or catering. I think everybody in the room here is quite aware of the gender pay gap and the importance of it even today. Overall in Europe it is around 25 and 30 percent which is simply incredible. On the one hand I think this is an understanding that in most countries people have integrated this as a political or policy issue but in other areas of the world, for example the United States, this is being presented by the Obama administration as a new political strategic objective that needs to be handled within his administration. I was quite surprised by the way that it was being discussed in American press as compared to European reports on the wage gap, looking at the difference in the maturity in terms of dealing with the issues.

The factors between the gender pay gap are of course probably very much also known to all of you and I think I would like to look at what can be done to move towards solutions. I think in the first place we know that one of the reasons for the pay gap is the fact that women are simply working in sectors that have lower wages. Some of the ways to address this issue is to stimulate women to move into non-traditional jobs through training, but also through targets for recruitment, getting more women into management, using negotiations at local levels to ensure all those who have the same skills get the same pay, and develop new pay systems. Very often we find that even though there is a general rule that stimulates equal pay, the actual pay systems in themselves are gender biased as well as social security systems that are in themselves through the way they operate, also gender biased.

Biography
Ms. Sandra Vermuyten
Equality and Rights Officer of Public Services International – PSI

Sandra Vermuyten has been working with Public Services International since November 2012 and currently is the Equality and Rights Officer. She speaks fluent English, French, Spanish, Italian, Russian and Dutch. She has experience with Trade Union Rights, International Labour Law, Social Dialogue and Labour Migration.

Delivering the results that will contribute to more equality, which we know it does not. We are very much in a similar situation to some extent, only it is a much more widespread phenomenon rather than some states against others, and makes it more complicated, which is why platforms such as this and the evolvement of parliamentarians is so important in order to be able to raise these issues.

Thank you very much. The theme that I’m focusing on is why legislation isn’t enough to protect human rights. I believe we need to create a culture of rights, if you’re going to have an effective protection of human rights. It’s no accident that the key human rights documents: Universal Declaration, European Convention, Refugee Convention, where all drafted in the aftermath of the Second World War. It was a time when the world had a guilty conscience and wanted to make sure these things never happened again. And it was a time when, more than any other time than history, people were acutely aware that rights had to apply universally. Including to groups of people who were unpopular, who were excluded, who were on the fringes of society. Because it was by making Jews and the other groups that he targeted, that Hitler was able to deliver murder on an industrial scale. Laws which are based on these interests have been in place since then. But, my thesis is that because politicians have failed to stress that the most crucial aspect of human rights is that they are universal, it’s been possible to retreat from this understanding. That is why it is not enough to just have lawyers, you have to have a culture of rights, too.

I hope you’ll forgive me if I use examples in this vision drawn exclusively from Britain, because that’s the place I know and understand. And I was really proud to be a newly elected member of parliament in the Labor government of 1997 when we brought the Human Rights Act, based on the European Convention, into UK law. This means that cases could be heard in Britain and didn’t have to face the long delays of the court here in Strasbourg. Thirty years previously, or thirty years before that, I had been the director of the joint council for the World Fair of Immigrants. We had successfully taken the cases of three women, British citizens not born in Britain, who were not allowed to be joined in Britain by their foreign husbands. We won those cases after a long delay so that those women had a right to family life, and we won them on the basis of gender discrimination. We didn’t actually win all the points we wanted to make at that point, but the world has changed since then.

When the Human Rights Act was introduced in Britain, ministers believed and said that it would bring about a gradual but fundamental transformation at the relationships between individuals of the state, a shift between or towards a culture of rights. But, in practice it hasn’t done that. The Parliamentary Committee on Human Rights described a human rights culture, I think quite well, as one where there’s a widely shared sense of entitlement to human rights, and a respect for the rights of others, and in which all institutional policies and practices are influenced by these ideas. So, mitigation is a tool to protect the rights of an individual or groups. But it contributes, I suggest, little to a culture of human rights. That depends not just on the courts awarding remedies, but decision makers in every public service internalizing the requirements of human rights.

Integrating the human rights standards into their policy and decision making processes, and insuring
the delivery of public services in all fields is fully informed by human rights considerations. To make this cultural change, politicians, the press, and other public leaders must champion a human rights approach. I think, actually, as one of our first speakers, Justice Mitra’s description for the need for a vision of the kind of leadership, is the kind of leadership I believe is needed to create a culture of rights. It hasn’t happened in Britain despite the 15 years or so since that legislation. If we look at the groups that I think are necessary to lead us towards such a culture, I think it’s quite easy to see why, let’s start by looking at the press and media.

I’m going to cite just two of honestly hundreds of typical stories which you find in mass circulation, national newspapers, and I have deliberately not chosen the red-top sun newspapers, but rather more respectable ones. The first appeared in the Daily Telegraph and was headlined ‘Police gave Kentucky Friend Chicken to a Burglar because of his Human Rights.’ This was a case where a suspected car thief fleeing the police was besieged on the roof for 20 hours. During the course of the standoff, the police negotiating team gave the man Kentucky Fried Chicken and cigarettes, and it was widely reported that the police did this in order to protect the man’s well-being and human rights. There is no human right engaged, there is no human right to Kentucky Fried Chicken, nor did he need to be provided food in these circumstances. Rather the police were using general negotiating tactics to encourage him to come down from the roof, quite sensibly. The next headline in the Daily Mail: ‘Prisoners have the right to access hard-core pornography because of human rights.’ In 2001 there were numerous media reports in almost every newspaper that the serial killer, Dennis Nelson, was using human rights law to demand access to hard-core porn in prison. Since then, it’s been widely reported on numerous occasions that human rights law gives prisoners access to hard-core pornography. And, indeed, Denis did try to bring a case, but when he tried to claim he was entitled to pornography under human rights law, the court denied him permission even to bring the claim on the bases that there’s no arguable case that his human rights had been breached. And he wasn’t subtle, he provided access to such porn. Despite that ruling, the myths continue. I could use up all my time describing similar examples, but it’s actually worth noticing that when newspapers win cases themselves, for example on protection of unrecognised submiters or whatever, under human rights law, there’s very rarely mention that it’s human rights legislation which has enabled them to win. They will report their triumph, they don’t report it as one on the basis of human rights or free speech or whatever.

The next group that we can look at are politicians who are necessary leaders of any community, they are elected to do that. And we’re in a situation in my country where the governing party have committed themselves to the repeal of the Human Rights Act. The rational was expressed by one member of the Parliament Human Rights Committee, obviously influenced by the media coverage I’ve just been quoting. He said there’s a widespread perception that the Human Rights Act protects only the undeserving: criminals, and terrorists, at the expense of the law-abiding. And, thanks to our Human Rights laws, the role of parliament as our chief lawmaking institution is being usurped by the judiciary.” So, when the Home Secretary announced at the Conservative Party conference last year that her party will go into the next election committed to the repeal of the Human Rights Act, I’m going to cite a quote of hers. She said, “if leaving the European Convention is what it takes to fix our human rights laws, that is what we should do.” Two year previously, the same very senior minister in the British government had claimed that the deportation of one migrant in the UK had been stopped on human rights grounds because of his pet cat. It wasn’t true, but it’s again become part of the human rights mythology which had been allowed to flourish along with the Kentucky Fried Chicken and hard-core porn.

So, with the press and leading politicians misrepresenting human rights, what hope is there for creating a culture of human rights? And why is that important? The first reason why it’s important is because illegal action can usually only take place when rights have actually been breached, or people feel that they have. And surely our ambition ought to be to create a society where respect for human rights is the norm. Is that easy? Not very, is it possible? Absolutely.

If, for example, you look at legislation against sex discrimination introduced in the 1970s, as we’ve just seen it didn’t immediately succeed. As Sandra has shown, unequal pay is still wide-spread in Britain and elsewhere, and yet, in Britain no one would now publicly seek to justify the kind of legal discrimination which was entrenched in public and private realms at the time that the law was passed. When husbands had to sign credit agreements girl had to achieve a higher exam result than boys to pass the 11 plus. And indeed, actually my clients some thirty years ago where denied the right to be joined by their husbands when men in the same situation would not have been treated differently. The law did play an important role in these changes. But, it was important that it was unacceptable to mask public opinion, to discriminate in this way. While I could imagine the present government in the UK seeking to interfere with family life in the way the cases that I described earlier, they wouldn’t bar only woman from being joined by their husbands, they’ll be likely to try to do it to men too. And that’s the change which has been achieved by creating a culture of gender equality.

Alternatives to legal action can be some of the most powerful remedies to human rights abuses. I’ve been serving on the pre-legislative scrutiny on the Human Trafficking, or Modern Slavery Bill in the United Kingdom. One issue we’ve considered, which has huge international relevance, is the risk of abuse of domestic servants. These victims, mostly women, do not necessarily need a right to sue their employer for the abuses they face. What they do need is a right to chose to work for someone else. Giving them that right offers a remedy for the abuse which makes all of them much less vulnerable in future. There’s evidence for this because the right to change employers was changed just over a year ago. And since it was drawn, Kalyan, the human rights organization, has reported that comparative groups of workers that were on the original visa, and workers who were on the tied visa (and tied workers are twice as likely to report having been physically abused as those who were not tied were less likely to have their own room to sleep in, often sleeping in the kitchen) were more likely to have sources of support kept from them and twice as likely to have been trafficked.

Actions brought under the Human Rights Act have protected vulnerable people from abuse in care homes, but no one should be tied to a chair to prevent them wandering. Ensuring that the people who work in these places think about their work not just from the view point of their convenience, but from the point of view of the human rights of the residents would be a more effective protection of their rights day-to-day, in my view, than legislation. I think one of the biggest barriers to building a culture of rights is that people don’t understand the way in which rights conflict with each other and what to do in those circumstances. For example, the right to free assembly and speech is guaranteed to the Orange Marchers in Northern Ireland. They’re unionists. But that right can conflict with the right to private and family life of the republican residents in the areas that they want to march through. And courts can be the wrong place to deal with this kind of clash. In the Convention there’s a margin of appreciation, but the adversarial justice system in Britain is much better ad deciding between guilt and innocence, right and wrong, then mediating between two legitimate concerns like this. We set up a parliamem to do that, but I think there’s great scope for similar kinds of mediation in other fields.

The focus on this conference is on the rights of youth and women and the point is that youth and women are less likely to start with an equality of arms: to have the money, or the knowledge to bring legal cases. For example, years after the Council of Europe called for the Mosquito Device which can only be heard by younger people, to be banned as it emits a noise only those under 25 can hear and is very distressful to them. There are still thousands of these devices used to disperse young people from shopping centers and other places where they
gather in. We tolerate this indiscriminate device because we’ve demonized young people. We’ve advantaged the rights of older people to enjoy their environment over younger people’s rights to play. If there were to be a formal process where there was explicit mediation between these rights, where young and old could both be heard, we might blame young people less. Britain’s, for example, believe that half of our crime is committed by children and young people, when in practice the figure is 12%. So, rather than just litigation, let’s spend some time building a culture of rights which requires us to reflect on the consequences of where rights clash and how we handle it, about making everybody have rights. And that means giving them to people who you don’t particularly like. That’s a responsibility which comes to each of us, for the rights we enjoy have protected those same rights for others. Unless you do, you increase the risk of excluding whole groups from human rights protections, and these are the groups who are least likely to be able to take action to protect their rights.

It’s interesting that the focus of this meeting is on women and young people. All of us have been young at some point in our lives, half of us are women, and most of the other half have loved women at some point. Actually, this is the soft end of the excluded. And it’s probably quite a good place to start. It’s much easier to hate migrants, people with mental-health challenges, and so on. Those are much easier to be excluded than women and young people. It seems to me that one of the things we ought to do is to draw people through understanding how women and young people are excluded to make them realize that that exclusion, that denial of rights to groups like burglars or prisoners, is actually part of the same continuum, if you like. And if we can do that, we might begin to create a culture of human rights which can do more than legislation alone. Thank you.

Biography

MP Fiona Mactaggart
Member of the British Parliament

In reference to her academic career, Fiona studied for a BA in English at King’s College London, an MA at the Institute of Education and also a PGCE at Goldsmith’s, University of London.

Currently, Fiona Mactaggart is the Labour MP for Slough; a role she has held since 1997. During the 1997-2010 Labour Government, Fiona served as Parliamentary Private Secretary to Chris Smith from 1997 to 2001 and as a Home Office Minister between June 2003 and May 2006. Fiona is currently a member of the Public Accounts Committee, and founded and is also now secretary of the All-Party Parliamentary Group on Prostitution and the Global Sex Trade, and is the Co-Chair, with Baroness Butler-Sloss, of the All-Party Parliamentary Group on Human Trafficking/Modern Day Slavery.

Before becoming an MP, Fiona worked for the National Council for Voluntary Organisations and the Joint Council for the Welfare of Immigrants and a private company. Fiona has served as a member of the House of Commons Health Committee, the Children, Schools and Families Committee and Public Administration Committee. She was also Shadow Minister for Women and Equalities from 2010 to 2011.
“Children’s rights are human rights: the integrated action of the Council of Europe”

A Lecture by Ms. Regina Jensdóttir, (Head of the Children’s Rights Division of the Council of Europe)
Strasbourg, April 14th, 2014

My name is Regina Jensdóttir, my role in the Council of Europe is to make sure that everyone in this organization works on children’s rights. It is a very challenging task, because this is a very big organization which works in many different areas. As you have probably heard today the Council of Europe is an organization which has been put in place following the Second World War. We have 47 member states today, and our values and our objectives are to build on human rights, on democracy and on the rule of law. And believe it or not, children’s rights are relevant to every single one of these three pillars.

So the Council of Europe has for a number of years created a more strategic focus on how we can as an organization, promote children’s rights as a real human right. Our former deputy secretary general was at the forefront of creating a children’s rights agenda in the Council of Europe. She often referred to our work and often spoke about children having real rights. That they are not mini human beings, with mini human rights. And that is absolutely true. And participation. That’s an area where we have made progress in changing cultures and changing mentalities – that is something that we have worked for, and that is something that we were always trying to do to get politicians, to get decision makers to understand, that children are human beings with real human rights. And this requires us to change our mentality and to change our way of thinking.

In the Council of Europe since 2005 we have stably built a very solid agenda through the strategies that organizations have adopted, where we have to put forward the key tools that we have in the Council of Europe. That is of course legal standards. All of our work that is based on derives from the UN Convention on the rights of the child. The UN Convention is obviously a global convention, so what we have done through the past years is we have adopted conventions which are binding - which states need sign and ratify. But we have also adopted recommendations where all of the 47 member states have adopted a recommendation on different areas; where we have worked on the child friendly justice, child friendly health services, a recommendation for positive parenting, to be able to support states and also introducing a legal ban on corporal punishment for example. It is not enough to ban something; you need to be able to accompany the countries, to be able to help the parents and the families to bring children up in a positive and empowering way. But our key legal standards are based on the UN CRC and clearly also on the European Convention on Human Rights - which is our key legal instrument.

The second tool which we use is the Council of Europe monitoring bodies, because many of our standards are accompanied by this body. So we have worked hand in hand with countries and assisting them really and developing the policies. So, 150 million children that live in Europe member states are really benefiting from the rights that are in the European Convention of Human Rights or in the other legal instruments that the Council of Europe has adopted in the favor of children’s rights. We also provide assistance to states, so we are now in the states in the Council of Europe, where we are working on specific countries, that have requested support from us and changing their legislation. We are doing it in Ukraine and in Moldova and many different countries. The children’s rights agenda has done a lot of awareness raising and capacity building together with the countries.

In order to do that, we have developed material, pamphlets and leaflets which help the professionals that have to work with children: helping them to better understand the rights of children. I have laid out a number of publications for you to take, if it is of interest to you from different sectors.

Today we are working on the Council of Europe strategy on the rights of the child, which is 2012-2015. So now we have a way though the implementation of the existing strategy that we have. There are four key pillars: promoting child friendly services and child friendly systems. We have guidelines for health professionals, social services professionals and we say that children’s rights can be better protected. Under this particular strategic objective we are always looking at the voice of the child; so that professionals know exactly how to listen to the voice of the child, understand and be able to count the child’s views. Decisions have to be taken for that child.

Another important pillar in our strategy is fighting violence against children. Here we are looking at sexual violence in particular, which is one of our priority actions and which I’ll be come back to in a little later on. And violence on schools, violence in the home. I think this is the area where we have really been the hub. For example, Marta Santas special representative of UN sector general violence against children. We have developed legal standards, which support our country in working on multidisciplinary ways. So we have integrated strategies, which explain and support: they are really practical. So it means that we encourage our states to put in play commissions where the Ministry of State is working with the Ministry of Social Affairs, justice, the ombudsman on children’s rights and also civil society organizations. That is really the message in the work that we are doing on violence against children that you can’t look at children’s rights just through one lens. You have to be sure that the public services and ministries are working together in order to have an action plan and integrative strategies against the violence against children.

Through our work we exchange ‘own practice;’ this means that we bring together the states and trying to see what is working well. And also trying to see, what is not working well, because we don’t want to spend our time and our efforts.

We also focused on promoting the rights of children in vulnerable situations: children, that are not accompanied, migrant children, Roma children, children, that have disabilities, those that are in detention. And I will come back to this a little bit later.

And the fourth strategic objective is child’s participation. That’s an area where we have developed a specific recommendation to member states and we have just published two weeks ago an assessment tool, where states can really look at themselves. Also it is like a tool for evaluation where they come together with civil society between the ministries where they can look at and see how child participation is integrated into decision making. And this is very tricky, because we have seen in Europe Council member states an enormous amount of projects being developed where children’s voices are heard, but these are all very staccato. They are projects which have a beginning and have an end and this is good - it is a start. But the next phase is that decision makers understand the value of children’s views. Their experience counts; and sometimes they are really more experts that we are, as adults. And this is important for us to understand. And this is where strong politicians can come in and show and illustrate how important it is to listen to children’s views, when decisions concern them.

I mentioned earlier the integrative strategies. I think this is really where the Council of Europe work has been built on in the past years. We are changing mentalities to create a culture of children’s rights. We have previous spoken about the culture of human rights; I speak of the culture of children’s rights, the culture of cooperation, where we are exchanging our practices and where the ministries and state holders at national level work together
hand in hand. One example, where there is serious need work needed on this cooperation is internet, and how children are using the internet. You can not do it only from the ministry of education perspective, or it also from the ministry of health and ministry of social affairs, and information technology and communication perspective. All of these ministries have to work on strategies together. It is not possible to work in isolation on this particular issue.

Through those strategies we promote a framework, where we have legislation and policies that are going in the same direction. This also encourages member states to conduct research and to collect data because there is always a need for more data to understand the problem and the challenge that we have. Of course, the main aim is to promote child friendly services and mechanisms.

These guidelines were adopted in 2008. Following these recommendations, we have three specialised committees on the Council of Europe that works on children’s rights, on health, on justice and on social services. This integrated strategy was the cradle of the work which we did in 2010, 2011 and 2012. Our approach regarding child justice - which is a very challenging area - where a lot of work has been done in the past, but all has been brought together in the package in the Council of Europe strategy for the rights of the child. The key legal instrument is of course the European convention on human rights. Here we have put a lot of efforts into looking at the situation of children and young people in detention. For the Council of Europe children should not be detained. They should not be behind bars, not in prison. It is not a place for children. This is easier said than done, because we have different member states, where education systems are different, the criminal law systems are different, and views of people are different. In some cases of course children under 18 commit very serious crimes, but we still believe that children should not be behind bars. They should be helped and supported.

You have the list with many recommendations that have been adopted by the Council of Europe in this area and you have to understand, that behind each of these cooperation activities, there are committees which try to further develop the standards and the rules and to exchange good practice.

There are guidelines which encourage our countries to look at the administrative justice system because children that are in migration or unaccompanied are put into administrative detention. It looks at the procedure and the language and at the situation where parents of children are divorcing, their names are changed and their nationality is changed; a child’s view should in all circumstances be taken into account. When they feel like children’s rights are not being respected, we have always call the ombudspersons on children’s rights. We also work with the Consultative Council of Magistrates and Prosecutors. These are bodies where we have one representative per country, where we explain and we try to train through these networks, that professionals who work in the member states understand the guidelines and different legal instruments that are applicable in the member states as well.

And then of course, we work very closely with the ombudspersons and to the child friendly justice network for ombudspersons, we work very closely to guide persons in the member states and we try to take the temperature, to see really what is going on in the member states as well. That information is brought up to us not just through the member states but also through the ombudspersons. Two weeks ago there was a conference which was organized in Dubrovnik where we brought together a large part of the children’s rights community in Europe and one of the issues that was brought forward to the conference was the contemporary risk in the area of technology and information and where we have an increasing hyper-sexualization of our societies and we want to look to see what impact is that having on children and their rights.

This is something where I would like to work with the Council of Europe to focus on, to see really what is going on. We are seeing children that are displayed in the media and advertisements. We are using children in television shows, where they have temperature issues, and now the issue is, when they are crying and when they are sitting on a toilet and I think we need to look at this with a critical eye. This is something that we should concern for the right of the child; even if it is not a criminal right, we think that children should have access to pornography very easily through the internet and through their telephones. What is this impact? How can we accompany children to grow up as responsible adults? How are we managing to help a country put in place helpful policies to avoid children being traumatized by the images that they see on television or on the internet? This is something that we need to look at. I don’t have the solution, I don’t know what we can do. Maybe one of our member states do, but I think that this is a concern where we really need to look at it very carefully.

We are also working really closely with the Council of Europe Committee for the Prevention of Torture which is one of the most prestigious bodies in the Council of Europe as a monitoring body. This committee looks also at how Council of Europe guidance for children is in justice, or recommendations on children that have been detained, they look at it and they try to see how the countries are implementing this legislation. The CPT - that is the abbreviation for this committee, they go into member states and they go into detention centers and they look at where prisoners are being detained. But they have now thanks to the efforts of the Council of Europe, a monitoring body - and my constant harassment on everyone else in that organization to work on children’s rights, they now go into these areas, into detention centers where children are being detained. If we see a problem, we need to focus on those centers because you cannot interview a child in the same way as you interview an adult. You need to listen differently.

We have also been making an effort to provide training to the members of the CPT. People are different, and they are more talented in communicating and speaking to children so it is important we started training the members of the Committee for the Prevention of Torture.

We also work with the European Commission for the Efficiency of Justice which is one of the institutions of the Council which really looks at how the justice system is functioning in our member states. Moreover, we work with the Directors of Prisons Administration etc. So what we have really tried to do as an organization is to create synergies and to communicate our visions to our contemporaries on children’s rights. This is consolidating the progress that we have achieved and we are trying to better assist to the attempting, the questioning of values and principles which are going to help us to keep making progress and to tackle the new challenges that we have to face, or that children actually have to face.
I have covered a lot of ground, I don’t want to speak for too long, I don’t know for how much more time I have but I really cannot leave without speaking about the action of the Council of Europe in fighting sexual violence against children. I briefly mentioned the children houses but I think this is important. I know you are all coming from different countries, different continents and I want to share with you the possibility that we can try to have in joining the action of the Council of Europe to stop sexual violence against children.

We have a Council of Europe convention, the Lanzarote convention, which is a unique convention because it focuses not only on sexual exploitation but also focuses on sexual abuse. It is the first legal instrument in Europe that tackles sexual abuse and I think that it is very challenging for everyone to understand that about 20% of children are victims of some form of sexual violence during their childhood from the day they are born until they are 18. With the internet and easily accessible pornography into children’s hands I think that this is having an impact also on young perpetrators, which is a very serious concern. But this convention is about prevention. It establishes the person that is working in contact with children. They should be screened and they should be trained. It stipulates also that children should be made aware of the risks of sexual exploitation and abuse and how to protect themselves. This may sound very easy but it is very, very challenging for us to explain to parents and to explain to those who take care of children that we have to break the taboos to understand, to speak to a parent or to explain to a parent that we have to speak about sexual abuse risks. It is not as easy as it seems because we have different religious and cultural backgrounds but this is really the essence of the Council of Europe work in this area.

The convention also provides and establishes interventions against offenders or potential offenders which are aimed at preventing sexual -offences by regularly monitoring any irregularities. We have noted that the systems in our member states where a man or a woman can call a helpline if they think that they might offend a child or there might have tendencies to offend a child. So they can see help. This is very new in our member states where a man or a woman can be prosecuted for that crime in Iceland and this is really important in this convention and this is also important also, because the convention is open to non-member states of the Council of Europe. This means that countries in other continents can really be part of this convention.

Now the added value of this convention is also, what we called the extraterritoriality principle 2720 rule; it means that a citizen of a country that has let’s take Iceland as an example, because Iceland is a state part of this convention. If an Icelandic national commits a crime which is criminalized in this convention in a country outside of Europe, this citizen can be prosecuted for that crime in Iceland and this is really important in this convention and this is also important also, because the convention is open to non-member states of the Council of Europe. This means that countries in other continents can really be part of this convention which is very important for us in order to put in place real cooperation in order to tackle sexual violence against children.

We have a campaign, the Council of Europe ‘ONE in five’ which is a campaign which has been running now since 2010. This campaign promotes the signature and ratification of the convention, and I am very happy that now we have the 30th country which is party to it: Switzerland, so it is getting bigger and bigger and this is very important because three times a year we have state representatives that travel to Strasbourg and we are looking at how the convention is being implemented, what are the challenges and what are the difficulties. We met last week here and the committee is looking at its first monitoring round, it is looking at sexual abuse in this circle of trust: we are going to look at what kind of legislations the countries have put in place, what kind of support mechanisms have been put in place and I think this is a very innovative and a very new approach to tackling sexual violence against children and I hope that we will be able to deliver our first results in the next year.

The campaign is also helping us to raise awareness in the Council of Europe member states. Fiona mentioned earlier that legislation is not enough and we realized that in the ‘ONE in FIVE’ campaign that was not enough to just have a convention. The parliamentary assembly of the Council of Europe has a network of parliamentarians; I think there are 51 representatives or parliamentarians that are taking part in this network. They work here in Strasbourg and look at all the different issues that are covered by the convention to generate dialogue and understanding. They speak about the Lanzarote convention in their national parliament. They are taking action at home to make sure that the Lanzarote convention is ratified and this is very, very important. We also work with the congress of local and regional authorities of the Council of Europe: we have a pact and there are citizens all over Europe that are agreeing to the pact which is going to allow them to exchange practices and to see how authorities are preventing and protecting children from sexual violence which is very important, and of course we have campaigns that are running in about more than 20 countries now. I think this is an area where the Council of Europe started working over 10 years ago and I feel that if you open any newspaper or internet newspaper or you are speaking in a much easier way about sexual violence against children.

We are reporting and understanding that this is not something that is possible to quieten down. Adults today that were victims of sexual violence did not feel at ease to report it when they were children, but I am convinced that today children are much more at ease to speak up when they have been subject to sexual violence. I hope I was not too long, I have tried to give you as much information as possible, I am sorry if it was a little bit longer and of course I will answer any questions after. Thank you very much for your time and attention.
My speech will be concentrated on observations and not numbers but if you have questions I could in that case, answering very specifically. We have to agree with Cultural Diplomacy as an important available resource. Many things are in place now, the unsolved conflict in Caucasus and the generally crash course of civilizations and cultures. In Cultural Diplomacy, we have different political and economic diplomacies, but also we are in a very strict regulation which I would define limited and neglected respect the main meaning of Cultural Diplomacy which is informal and extended.

Furthermore, there are much more possibilities when we refer to professional diplomats. I am a professional diplomat within the political diplomacy but through cultures we can be much more effective. The Chairman did not mentioned this but I am also a political writer.

Few years ago, I wrote a book about football. Football can unite everybody, in it you can be black or white, Chinese, Muslim or Catholic. Unfortunately, we do not have such a cultural instrument in political areas. Why we look different, why we behave different and why we do live in different contexts are some of the main questions related with politics. On the other hand, Cultural Diplomacy is informal and unlimited, in my opinion it should be improved in the next years.

In the specificity of the Communist rule of countries, you can recognize the former Soviet Union, the former GDA, the former Yugoslavia, which were also communist countries but of a different shape. Anyway, all the people who lived in those countries had specific political cultures. The former communist countries are full of differences, full of cultural and religious divisions. However, as you see in the Soviet manifest, Communist ideology try to say that everybody is equal and very similar. There are no differences between Catholic, Muslims and Orthodox. All of them are going as one.

The communist teaching set a common understanding of art and culture. I was attending a Soviet school and Soviet university and we were allowed to see just one concept. The Soviet Concept of ethic, esthetic, religion and philosophy while everything else was indicated as wrong teaching. I was obliged to study Leninism as ideology. The Soviet Union did not need any other support from Lithuanian, Estonian, Ukraine or Georgian cultures. History was minor. We did not need history because it is hiding beyond different social classes, proletarians and burgeois and therefore, sooner or later it will be forgotten. Affiliation is disappearing but there is no need to understand individual religion because it will disappear according to the Marxist teaching. People in former communist countries does not have to be interested in these themes. The only conflict of social societies it is simply unrealizable. By the way, people is free in mind, even under the official soviet concept. The general language was the “Lingua Franca", everybody who lives in...
Poland, Lithuania, Estonia and Eastern Germany still understand Russian jokes and Russian idea of behaving. Hollywood is not understandable but Moscow. Common feature of the Soviet Culture is valid for cultural Imperialism. For example, when I was a student in Lithuanian University in 1978, I had the very rare opportunity to go abroad.

Surprisingly, when we went to East-Germany, the Germans were greetings us with the “Matrioska” because that was the symbol of the Russian Ideology, this was very unpleasant because we were not Russian. We were Lithuanian, we did not have anything in common with the Russian culture.

People do not understand, they thought Soviet Union as another sort of Russia and today we still do not understand. Since, we are a resistant nation with an alternative history, one history was in the scholhar book and our history was at home. My father was a freedom fighter after the World War II and my understanding of history was very different form his one.

We have heard the voice of the American generation, the Western societies, BBC, Radio Free Europe even if it was difficult to get information from the west. Everything in the West was very nice, like the jeans culture and otherwise, Moscow culture was considered bad because against us. Since we did not want to be in the Soviet Union, we created double standards of understanding because there were general disagreements. We did not make the real revolution because revolution is the oppression of the State, we press on folklore and music because they were not forbidden. It would have been difficult to forbid folklore-culture. Folklores songs were symbols of our resistance and music festivals in the Baltic States were very popular. Not because of good singers but because there was a manifestation of a different behavior. Probably, you know Czechoslovakian “Velvet Revolution” which was more intellectual and later “The Color Revolution” which was something very specific, related with colors and symbols used as valid alternative form of expression to verbal words. Also, we had the religious movement. Catholic Church was criticized but not completely forbidden and we used it as an instrument of culture. Things important years ago are still very important. We destroyed the Berlin Wall, we became free. That was the day I have been completely happy. There are also things as the religious extremism in many of the former communist countries. Political parties are developing dangerous nationalism in Middle-East Europe to controls cultural freedom. We have intolerance.

In my country, in my society we still do not have any racial minority or groups as people are not migrating from other countries. But people are intolerant with that and it will be a problem in the future, also considering the field of human rights. For example, people who are opposing to the European integration they are saying that all the problems and bad things happening nowadays in the whole continent and in Lithuania are due to the EU’s fault towards the European Union and towards the EU’s direction.

The EU institutions, according to these people, are destroying our families and our traditions with their point of view since they are bringing benefits only to minorities and not to the local population. This is creating several misunderstandings.

I would like to speak about the Yugoslav war and the genocide. I have been an observer for the Council of Europe in Bosnia and Herzegovina and I can tell you it was a proper cultural war. You can kill somebody else not for money, gold or oil but because you have different cultures. In these region people had been killed because they were Muslims, instead only one catholic was accidentally killed. People were killed only by the fact they were from different social backgrounds. We can see how these counties were former communist societies. There is always a problem of cultural agreement. As a result, if we want to use cultural diplomacy we have to work with cultural disagreements.

We have to understand that countries have different priorities that do not always correspond with our general priorities. Sometimes for some countries like Croatia, Armenia, Azerbaijani prosperity is not always the first interest, instead national identity is perceived to be more important. If we are proposing them a healthy and prosperous life it will not help as it is not their first objective and it will not solve the crisis. We need to help them to feel proud of their history and culture. We also need to understand their daily life and activities. This is not easy as you need to spend a lot of time in those countries to understand their culture and the way those people are behaving like that.

Council of Europe can give us several many good opportunities. When we joined the Council of Europe we were really happy to fit to the western standards. Countries from the former Soviet Union really wanted to link more with the Western world and to agree to their law and treaties. Lithuania still want as much as possible to be and live like Western European countries. Everybody will say we are ready for the EU. Council of Europe in the eyes of many people is considered to be as a “gentlemen club” as it is recognized at the real expression of the whole range of European cultures. If you are in the European council you can get many excuses not to follow certain things or at least exceptions to the normal standards.

Some countries will join the Council of Europe in the future as they are being observed for so many years as they still not satisfy all the standards, like Moldova, Bosnia Herzegovina. Almost 1/4 of the countries inside the Council of Europe have experienced a communist regime. What can cultural diplomacy can do here? When I became the reporter for Moldova for the Council of Europe, people were really happy there as they knew they had somebody that could understand the meaning of being under the former Soviet Union domination. However, after a few years they became unhappy as I could understand too much and I knew their limitations.

I am simply sympathetic without trying to convince other people to join us. Poland, Hungary and the Baltic states can thus be the real diplomats to reach the Eastern former Soviet countries and to be a link between the East and the West.

However, we still think that Europe is the centre of the World, but many people even in Iceland think that the future does not belong to us. May be future will be Chinese. As a result, we need a lot of cultural diplomacy.

Thank you!
Biography

MP Egidijus Vareikis
Member of the Parliament of Lithuania

Mr. Egidijus Vareikis was born on 26th of March 1958 in Kaunus, Lithuania. He graduated from Vilnius University in Bioorganic Chemistry in 1981. In 1989 he received a PhD in Natural Science and Biochemistry. He was the head of the review unit of the journal Naujasis židinys from 1989-1991. He worked as an advisor on Defense and International Security at the State Reconstitution Commission of the Supreme Council and as an advisor Minister of Foreign Affairs. Since 1996 he was active as a lecturer on International and National security and policy challenges in post-communist countries at Vytautas Magnus University. From 1997 to 2000 he was the head of the department of Political Science of Vytautas Magnus University. In 1998 Egidijus Vareikis became “Envoys Extraordinary and Minister Plenipotentiary of the Republic of Lithuania”. During his political career, Egidijus Vareikis was a member of several committees such as “Committee on European Affairs”, “Committee on Foreign Affairs”, and “Committee on Human Rights”. He is a member of the political group Homeland Union – Lithuanian Christian Democrat Political Group in the Seimas from 2000 to 2012. He has been awarded several formal awards such as the NATO Commemorative Medal and the Cross of Officer of the Order for Merits to Lithuania. He has published various books such as “Europe Becoming a Dinosaur: Emotional and Political Contemplations” (original title: Dinozaurėjanti Europa: emociniai politiniai pasvarstyma) and “International and National Security” (original title: Tarptautinis ir nacionalinis saugumas). He also has published articles for various news websites.

Sustainable Lifelong Learning and the Sense of Justice

A Lecture by Prof. Dr. Romuald Normand (Professor of Sociology, University of Strasbourg)

Thank you for your invitation, I am very honored to be here with you.

I think education and human rights are strictly related.

A lot of organizations worldwide are trying to extend the right of education to human kind. So, in Europe the right of education was affirmed by a promise of access to education for everyone starting from the project on Enlightenment and from philosophies like Diderot, Voltaire, and Kant. This Humanistic project was linked to an ideology of universalistic education that would have allowed emancipation and access for all social and ethnic positions and backgrounds. This ideal of justice was institutionalized through the creation and extension of comprehensive schools; an education provision equal for all, combined with a guidance according to merit, independent from social background. This promise was extended to higher education where conditions of access were enlarged to working class and minority students. However, this equalization of access did not fully fulfill its promises. Inequality remained. The gap between middle class and minority students and upper middle class students increased. Moreover, inequality between boys and girls is also very important. Education systems are characterized today by early school leavers and dropouts without qualifications. Some students admit difficulties to master basic skills in numeracy and literacy. Even if comprehensive schools implement important reforms on behalf of equity and effectiveness and diversification of provisions; inclusive education and inequalities are not disappearing.

A lot of researchers and experts today agree that the first ages of schooling are extremely important to develop adult skills and to get better opportunities on the labour market. This is why a lot of countries are currently developing childhood education. However, all these efforts remain limited. Education policies do not really take into account the fact that the world has changed. Globalization enhanced mobility for people and the development of the internet has increased the possibility of knowledge discrimination. Societies are becoming more liberal and multicultural while the states are being criticized for the lack of effectiveness and efficiency. Also, people have changed; they want more autonomy but at the same time they want more security. They accept less and less unfairness, they do not recognize any traditional institution like the family, schools, churches, political parties and religions. They express a strong demand of recognition of ethnic and cultural differences.

The sense of justice is today different compared to a few decades ago. Not everything is expected from the state, except perhaps in France which remains the cultural exception. Citizens claim new rights for gender, ethnicity, culture and sustainable development. They want to be heard and respected and to better be represented in the political arena. They want a better quality in education for them and for their children. They want to communicate without limitations on internet. However, this sense of justice is not completely recognized by the educative states which remain traditional in their models of governing and representing people. As a result, civil society is not very active in education. The separation between
the public and the private is strong. Education policy is governed according to some principles of redistribution and efficiency but it is not much concerned with innovation: by creativity, by cultural skills, by dissimilation of knowledge, by the networking of schools and by the wellbeing of children. So there is still tension between the principle of justice claimed by the society and the principle of justice claimed by the state on behalf of a conception of equality and citizenship.

Indeed, promises of equality and citizenship have not been fulfilled, and social and cultural inequalities are huge in society. This society does not trust schools which are becoming more and more fragile every day. As a result, lifelong learning represents a great hope. It is well known indeed that everyone has a right of a second chance for training once he/she has become an adult. This sense of justice has at least three themes. Lifelong learning allows him to vary knowledge and skills in regard to his social and professional experience. It allows him access to better social positions and to participate in the circulation of elite. Lifelong learning affirms the possibility of choice and autonomy for people according to a principle of learning: the one who makes errors can correct them during their entire life. As a result, instead of reinforcing social determinism in schools, this conception of justice promotes the intelligence of human beings from birth to the grave. Lifelong learning allows the individual to update their knowledge and skills and to adapt this knowledge and skills regularly to the evolution of the labour market and technologies. It gives a chance to keep good conditions of employability and to get security in working situations requiring more flexibility and mobility.

The European Commission has been very active since the launch of the Lisbon Strategy in the development of the Open Method of Coordination; in the implementation of the European framework of competences, and in the creation of the European Framework of Qualifications. These transformations imply a conception of justice focused in particular on youth and women without qualifications. Of course, the European policy of lifelong learning has implied a lot of challenges for the education systems.

Adult education is well developed in Scandinavian countries but less so in south European countries. Vocational training and higher education systems are very difficult to be implemented. Resistances, conservatism, cooperatives are also very important. As a result, the implementation of lifelong learning policies need long terms of sustainable restructuration of educational and training institutions to adjust their provisions.

The policy of the lifelong program is full of promises of autonomy and emancipation but there are still uncertainties on the future developments of the lifelong learning projects.

How to ensure that the lifelong learning will not be too heavy a workload for the learner? By transferring the responsibilities of the state towards people who should invest in their own education. The risk would be to strengthen inequalities instead of fighting against them. A new unfair mechanism of solidarity and redistribution has to be invented to allow these people access to the training programs. As we can observe today, training is more suitable for executives than for workers.

How to balance work time with private time during training to avoid additional stress? How to balance sit-based trainings in learning organizations which should be better adjusted to work time and outside trainings in more formal institutions? How to articulate the management of human resources and the management of further trainings? How to provide a coherence of a lifelong learning program when providers are not working together?

The challenge is to revive the cooperation between educational and training institutions and particularly at the university level, which should become the place to offer new facilities in order to promote professional training and adult education. It is important to switch from traditional training focused on the transmission of contents to continuous professional development focused on support and care after the learner.

I am ending with the case of the university. In my opinion, the promises of lifelong learning projects offer some opportunities to revisit the conditions of the academic work to go beyond the traditional functions of teaching and research. The challenge is to explore the ways of serving the community but also to explore other missions which enhance a sense of innovation, creativity and entrepreneurship which should be at the core of the academic work.

Thank you very much.
Good morning to everyone, and thank you for this kind introduction.

What I would like to ask you to do, from my presentation, I'm not going to give you any figures or I am not trying to stuff your heads with information but I am going to show you some pictures while I speak and I think of it more as a piece of reflection rather than us being informed about great many things. The title of my talk is crossing borders, migrants and human rights in today's Europe. Just as we were talking yesterday, it is very interesting the way in which your rights can be political universal and woman's rights even, at least in some countries, but when it comes to migrants rights, human rights of migrants, suddenly it's a political issue. Fiercely political, very sensitive, as if people who migrate across borders do not have the same human rights and the same need and rights for respect as the rest of us. One of our tasks for this morning is to forget about the politics and just focus on the individual, try to put ourselves in the shoes of the individual. That is where human rights is about. It is about individual consideration and about every single individual having the right and the human dignity as a follow being in this planet. So, I would like to start with the conditions of the tension in some places of Europe. I am going to read you a quote from one of the reports of the CPT, an organisation above the Council of Europe, which periodically goes to visit places with tension across Europe, writes reports and recommendations on what the authority should do. This is from the report from Greece. “Police and border guard stations continue to hold an even greater number of irregular migrants in even worse conditions. For example, in one case men of the delegation had to walk on people lying on the floor to access to the tension facilities. There were 146 irregular migrants in a room of 110m2 with no access to outdoor exercise or any other possibilities to move around and with only one functioning toilet and shower at the time the delegation was there. The situation is in terrible health conditions for longer than 4 weeks and also for months. They were not even permitted to change their clothes. Women and men were staying all together. In certain centers for irregular migrants in Greece, juveniles and families with young children have been kept for weeks and months in overcrowded rooms and in unhygienic conditions and without any access to any form of outdoor exercises. Obviously, not all the acceptance centers in Europe are this horrific, but some are still like that, being overcrowded. This represents a sign of a more general trend that is taking place across Europe, which is the criminalization of migration. The Council of Europe, the Human Rights Committee, the Parliamentary Assembly and the Chamber of Europe have repeatedly emphasized the fact that crossing borders even without legal documents and without the permission to stay is not a crime and there is no victim. But even giving that, the fact is that in this tension the borders are less protected, they have worse access to resources and to information than those protected under human rights’ law. However, even in those bad conditions, where people have to sleep and eat on the floor, where the toilet is always overflowing, what comes out repeatedly from all over across Europe is the torture of not knowing, of having feelings like you do not have any information; you do not understand why you are there, what you did wrong, what it is going to happen to you, where you are going to end up. If you are a criminal you know there is a process, you will have a lawyer. Often if you are a migrant you do not even speak the language, you do not understand what has been told to you. If the authorities do not take the care that there is an interpreter, it becomes difficult for the migrants to understand what is going to happen to them. Before you enter the “waiting rooms” of Europe, the country longer, they came in the country legally, they don't even have the right to contact their social services; why aren't we told more about this? What about pregnant women? That is another category that we pretend and tell ourselves that we are going to take extra care of. According to Doctors without Borders, 66% of these women had no access to pre natal care. Let us not kid ourselves, this has nothing to do with a country being rich or a country being poor. One of the most difficult places for a migrant to be in terms to access social services or basic healthcare for your child is Sweden. Some of us grew up thinking about the “Promised Land” of equity and of human dignity. Obviously Sweden does other things when it comes to asylum and so on. But, the point is that it is not about being rich or poor, it is about the way we design our society around those who have papers and those who actually don’t. Despite all the failing and the weaknesses that we have in our protection systems when it comes to children, they are still much more protected even when they are not those that turn 18. This particular girl is from Syria and she had to endure a lot of terrible things like millions of other children are enduring as we speak because they are fleeing Syria. Her school was bombed when she was just about to take her final exam, her dream of getting a diploma. The reason I talk about this is because we need to think and ask ourselves that when unaccompanied minors come to our countries, maybe fleeing Afghanistan because their parents have been murdered and there are totally alone in a different country until the age of 18. They do get some support, because even get to learn the language, they start to work towards getting a diploma but the day they turn 18, even if they are just about to finish their diploma and the rebuilding of their lives, they cut off the support and say that now they are grownups and they cannot finish their studies anymore and all the protection they have are gone. One interesting thing, there was a recent study produced by the Council of Europe Youth Department, and one of the themes that comes out from these young people is lack of information; why aren’t we told more about this? Overnight they have nothing and in certain places they don’t even have the right to contact their social services contact, which is the only person they rely on. The question here is: what are we doing in our countries? We might be bombing the schools but kind of report do we have on the lives of these young people who are trying to rebuild their lives, on their own? This is perhaps the heart of my talk here, because we speak about crossing borders in today’s Europe, the most crucial question we need to ask ourselves is what moral borders that we, citizens of Europe are actually prepared to cross? Is it acceptable to us as citizens of Europe, where we often pride ourselves of the human rights...
mechanisms that have been put in place? Are we prepared to cross these borders of ethics and human dignity that we are crossing now everyday in the base in which our societies exclude certain people from the basic human rights that should be entitled to? Even regular migrants are in the most vulnerable place and in the darkest place because they are in the shadows and are very easily opened for exploitations of all kinds of source. Research also shows that even people who have better statues than asylum seekers are legally entitled to more services. Even refugees have that legal status and should be to access to healthcare. There are also other kinds of barriers even if they have a legal entitlement. There are administrative barriers that people just don’t understand; there are language barriers, cultural barriers, and financial barriers, all kinds of barriers that we build and that people have a bad time making good on whatever rights they may have in a legal sense.

We still to focus on everything that has been done well. There are good practices across Europe where people are trying to help migrants with accessing healthcare and build knowledge, information and empowerment for migrants that also entail a change of self, even if it takes something such as a health service. If you want to be accessible to migrants, you also need to understand their needs. It needs to be obvious that they need interpretation and that they need to be accessible to healthcare. There are also other kinds of barriers even if they have a legal entitlement. There are administrative barriers that people just don’t understand; there are language barriers, cultural barriers, and financial barriers, all kinds of barriers that we build and that people have a bad time making good on whatever rights they may have in a legal sense.

We all know that institutions often failed and that recommendations and solutions are great on paper but often fail. When you speak to migrants, migrant youth, migrant pregnant women, it is actually one person that makes all the difference, that understood them and showed their kindness, who might not have changed anything but showed empathy.

We have examples of good practice such as Austria, their families are starting to adopt underage migrants not in the legal sense but to be a family of support, which has made a huge difference to them just knowing someone in the community making a big difference psychologically.

Thank you very much.

Biography
Ms. Lilja Gretarsdottir
Senior Adviser on Migration, Council of Europe

Ms. Lilja Gretarsdottir, is an Icelandic politician representing the Left-Green Movement. She studied History and Philosophy at Harvard University and the University of Cambridge. From 2009 to 2013, she was a member of the Icelandic parliament, ‘Althingi’ for the Southwestern Constituency, and a member of the Foreign Affairs Committee, the Health Committee, the Environmental Committee, the Social Affairs Committee, and the EU-Iceland joint Parliamentary Committee. She is currently a member of the Judicial Affairs and Education Committee, the Environment and Communications Committee, and the Icelandic Delegation to the Conference of Parliamentarians of the Arctic Region.

I’d like to stay close to this, but from a teaching point of view. I loved the last talk about learning by doing so we are going to do some doing and some learning and I’m going to be learning from you I hope today.

So to begin with; the limits of rationality. I have been thinking about this word; we heard a lot of things today about the clashes of cultures and ideological war, ‘rock n roll’ persuasion, the best interests of children, universal rights, unity and diversity, diversity and human rights mythologies.

It’s a moral dilemma, we heard about the singing freedoms and the Singing Revolution in Lithuania. So it got me thinking about this word ‘rational’, we heard about the proportionality principle in EU governance of human rights; that proportional actions of the government are said to be pro-favourable in the right portion or the right size and this gets me thinking about this word rational or rationality. When I first looked at it and I’m not very good at spelling and I saw the word ‘RAT’ maybe the idea that the government is violating human rights and their policy looks like a rat. But then I go a little further ‘RATIO’ - ratio. Some of you, who have perhaps studied chemistry, may have studied rational numbers, now what are rational numbers? They are the opposite of irrational numbers.

So what has this got to do with human rights? Rational numbers are only those that can be written in integers but there’s a problem with this and it took a great leap of incredible creativity getting out of the box of thinking about numbers to develop calculus. Do you see that wall back there? Watch this; this is going to be magical. So I’m going to take a step towards that wall. One; now my next step you’ve probably seen this, take half that distance and half the next distance and half the next distance. How long will it take me to reach that wall? Now this is a bit of a controversy, this is what we have with human rights! One person says 5 minutes and another says forever.

The point of this talk is that you can’t have a conversation and we are going to talk about some tools to have this cultural discourse, dialogue about where the rights come from - are they really universal?

So you said forever, why forever? Here’s the interesting thing, I will be constantly moving but I will never make it to that wall and it took some creative thinking to figure this out, it doesn’t seem to fit the idea of rationality. There is another number that some of you would have learned about and I always get hungry when I think about this; I think about this ‘pi’, it’s very useful but it’s not rational, it’s irrational - you can’t put it into integers; it’s 3.1415 and it goes on forever. Here’s the point: we heard about domestic violence, and the creative way to think about it is discrimination in asylum law and migration issues and one of the issues is with the Refugee Convention. It defines a refugee as one who has suffered past persecution or fear. Fear by well-
founded standards - the 5 minute standard or the forever standards? You have to be part of a group to have this individual claim of being a refugee; you have to be persecuted on account of political opinion, sex, race, national origin or all other people: membership in a particular social group. This means that women have had to force their claims into a word choice that was made years ago, but when created they didn’t let the language of the law stop them. So here’s the point of this speech, we heard a lot about these great concepts about international law but we’ve also had contestations over whether the international law can solve the issues. It comes down to us.

Let’s do another hypothetical scenario, you may have heard this before but I heard it from political philosopher Michael Sandel; so there’s this tram going down the track and at the end the tram driver sees 5 workers on the track, then they see one worker over there and the driver realises they can steer the wheel and save 5, but take one life. What do you do? That’s what human rights is, what’s the right thing to do with human beings? Take a moment and talk it over with a colleague. What’s the right thing to do? Who’s going to turn the wheel? Here’s the pickle in this situation, we talked about the class of rights: someone’s right is another one’s obligation and to the government and democracy that is an obligation towards another human being. Most people will say don’t turn, it’s an awful decision but this shows that it takes hard work to protect human rights. They’ll say that the principle is that it’s better to save one 5 for 1. Now if we change the hypothetical quickly but the same principle, the point is that when someone says that I have a human right or they are defending rights, you have to think about migration. Why are these issues and these moral problems you talked about dealing with the revolution?

So another hypothetical; the tram is going out of control but this time there are five workers on the trolley but you know this, you know that the breaks don’t work; but then you see a very large man standing on the bridge and you realise that if you give it a nudge the person will fall over and block the tracks. One person will die and 5 will live. That seems a little bit wrong, so the principle for 5 for one doesn’t seem to work for the second case and this is the thing with human rights; every case is different: we heard about the 200,000 cases at the European Court of Human Rights and they all require deep thinking.

So, third case, there is a transplant surgeon and he or she has 5 transplant people, one needs a liver, heart, kidney, lung, they each need 5 different organs and the doctor knows that they are all going to die if they don’t get this transplant. And then the doctor remembers that over there happens to be a very young person for a check up. That person has 5 good organs that means I can take their organs and put them in these people, that way we only lose one instead of 5. That seems to violate human rights. Why? Because it’s murder; here’s the idea, you might think of infinity and trying to reach the wall that is constantly moving when we do human rights discourse. The case about not pushing the person over the side or taking the patient. One of the usual sources of arguments over human rights and democracy is the principle of consequentialism and alternatively, utilitarianism; the right thing to do is what brings the most utility to democracy. You see that in some of the EU articles on the constitution that as an EU citizen you have a right of expression, except in cases or circumstances where it’s necessary for democratic order, and some other exceptions and this means that you need to be involved in articulating the importance of the individual right where the value that the government is asserting and taking that right. One possibility is what would bring the most utility happiness to the greatest group, that’s consequentialism. The other type is not pushing the guy off the bridge - it might be the idea, its Immanuel Kant these words: according to Kant there are certain fundamental rights that you can never ever take away from a person. They are called categorical ways and imperatives, and this means that a human being doesn’t have to shout for them it means that they shout themselves. The argument is that these are the rights of if we are behind a bale of ignorance, not being ignorant of human rights but being ignorant of whether we would be European or African or from Thailand or Yemen.

These are the fundamental things that we would choose to never violate. Sometimes in human rights with discourse we have got to put ourselves into the heart and soul and mind of other people. So you’ve got consequentialism, you’ve got categorical imperatives and the third one is a principle called communitarianism which I don’t really understand; it’s built upon the community, so it’s the first case with the train going after 5 or 1. Both are part of a community and accepted the risk of railroad work and the idea with our rights associated with the community, and the community has to step up and defend your rights. Sometimes you have to step up and defend the rights of others; these are obligations. I’m not saying that consequentialism or categorical imperatives or communitarianism are right but you ought to be having that discourse, that challenge and that’s the creative work of defending and valuing human rights.

Thank you for your attention and thank you for letting me speak today.

Biography

Prof. Scott Johns

Lecturer, Immigration Rights and Individual Rights, University of Denver

Professor Scott Johns serves currently as Director of the DU Bar Success Program at the University of Denver and holds a J.D. from the University of Colorado School of Law (Order of the Coif), and a B.A. from Miami University in Mathematics.

Before embarking on an academic career, Professor Johns worked as Assistant Chief Counsel and as a Special Assistant U.S. Attorneys for the Department of Homeland Security, as well as a law clerk for a federal judge in Denver, Colorado. He also served as a pilot and flight safety officer in the U.S. Air Force.

Prior to joining the University of Denver, Johns helped to develop a legal analysis curriculum for first year law students, instructed legal analysis classes, and gave workshops for bar examination students. During his time as Assistant Professor of Academic Support at Whittier Law School, he gave advanced seminars on privacy law and international human rights laws. Prior to this, he was Director of Academic Achievement and Assistant Professor of Academic Achievement at Chapman University School of Law in Southern California.

Professor Johns also received two faculty awards in 2011: Outstanding Professor and Most Engaging Professor of the Year.
Good morning everyone. Thank you very much for the introduction and the presentation.

I have decided to give this very broad overview actually, of this very complex issue of women’s rights and gender mainstreaming. Because it is not until the middle 90’s of the 20th Century that the question of women’s rights has become an integral part of the universal human rights discussion. The experiences of women have slowly influenced the process of general self-guarding of human rights. The integration of women and gender in the activities of the UN followed deistic milestones. In 1945 the gender discrimination prohibition was postulated in the UN charter, that happened for the first time on the international level. In 1946 the UN Women’s Commission was created. This was followed by the Declaration on the Elimination of Discrimination Against Women. In 1975 it was the first conference on women which was held in Mexico City. Three years later the committee on the elimination of discrimination against women was founded and only until 1993 women’s rights were recognized as human rights. You have to imagine for how long we had to wait until women’s rights were recognized as human rights. Its a long time I must say.

So, what happened in the middle 20th Century until today. Just across the border from where I live, I am from Salzburg, and just across the border there is Bavaria. There in Bavaria by 1958 a husband could actually terminate the employment of his wife without any notice. But I don’t say that Austria was any better, don’t get me wrong. I can’t say that. I can give you examples.

In Bavaria teachers had to leave their jobs once they got married because as a teacher you actually were expected to be not married, to not live in a relationship. It was the mood, it was the attitude at that time. It took quite a while until the law on the equality of men and women was adopted in 1957 entered into force in July 1958. And the right of the final decision in all marriage issues was revoked, meaning that men no longer had power over their wives.

I am born in 1963, I come from traditional family, let me share those personal or family moments with you. I still remember the time when my mother had to say “We have to ask dad”. I was a very small child at that time but still that was in the late 60’s. Even though my family was quite progressive I have to say. But that was the attitude, that was the way of living that we had. From the 1980s onwards the weakness of the implementation of the universal declaration of human rights has repeatedly been criticized by feminists worldwide and the fact that human rights violations against women would not be taken seriously for various reasons also caused great concern.

So what do we have here if we criticize the implementation of the universal declaration of human rights? Critics point out that Article 12 has been implemented by many countries and governments which have been using it as an explanation for treating human rights violations against women as a private matter. In my country it is still the cause for a lot of families when there is a
family issue of violence against women or children. “This is not the matter, don’t talk about it, just don’t mention it. Don’t mention it at school, don’t mention it anywhere”. And more and more in the past 20 years I must say that in Austria women dare to step out, women dare to say: “I have a problem.” You hear it. Not that all Austrian men are very brutal but it happens. It happens everywhere. We must notice, we must be aware of this I think. So the right of men to privacy, family and personal honor in the jurisprudence had higher priority actually than the rights of women. For example regarding their physical integrity. Human rights violations against women were taking place largely in private and not in public space. And this is another very big problem because once it took place in a public space they already now had the attention. Even though, I can also give you the Austrian example, many people tend to say: “It is not my business” and they look the other way, in the other direction. So society still needs to change actually we can say that women’s rights are human rights. Furthermore, numerous critics have criticized the declaration of human rights on the grounds of protection of the individual against encroachment by the state. The UN declaration of human rights of 1948 did not intend to protect victims against abuse from private individuals since these violations were committed by individuals and they were not prosecuted. They are now. There is a law now, there are commissions now for several issues. They are in all countries but it always depends on the cooperation. If I think of the Danish issue, I am a member of the petitions committee and there they have decided committees. It is the question of whether they really act according to the guidelines and not, or this of course goes back then to the persons who are in the committees, who are the people to speak to the big teams.

Another point of criticism is the fact that the situation of women was not mentioned in the declaration of human rights and was therefore more or less ignored by human rights organizations and women. Women are exposed to the same human rights violations as men, for example if you think of the prosecution based on religion or race, you also have that everywhere, but on top of that they are also subject to women specific human rights violations such as sexual torture or forced prostitution, or for example also female genital mutilation. If you think of that I was in London for a conference on that issue and even that happens, I think we talk of all European countries also. And this was their situation.

So it was still common use to tolerate systematic and structurally related human rights violations against women in the 1990s and onwards in countries such as Afghanistan or Iran for example, in the name of cultural diversity. We also must understand the difference in the cultures. Yes, there were parts in Europe, and there are still probably parts in Europe where men see their wife as something that belongs to them. But there are cultures and there are countries where we have cultures where this is actually still a tradition. We must be aware of this and I think to change a problem we must understand the culture and we must explain to the people that if they want to protect the women then they must change in their culture. The change must come from the bottom so to say.

So do we speak about human rights or women's rights? The closely interwoven problems as stated already led according to critics to structurally related human rights violations against women. These violations were on and off perceived as the violations of human rights but international organizations and NGOs considered them special cases. They were treated as women’s rights instead of human rights.

There is the question for you: Why would we split the women’s rights from the human rights? Are women not human? It might be a good discussion question for you later I think.

In the 1970s there was a slogan created where we talk about women’s rights or human rights and women's rights organizations pointed out that they are also gender specific human rights violations of which women are affected in many places. Also, some international declarations were created. Think of when a woman comes to work in a dress instead of a suit she might be harassed in certain ways, that is very common. And women, when it comes to violations of women’s rights in countries such as Afghanistan or Iran for example, I have heard of many cases where women do not dare to speak out. So also this might be a point of consideration.

It is important that human rights are also available for the persecution of gender specific violations. It was pointed out by education and lobbying that for example false prostitution should be treated as slavery, domestic violence and systematic rape as torture. Just to take all of these, where we have said this problem everywhere. We had it in Europe in the 90s if you think of the former Yugoslavia, so there is a lot to change.

In 1976 the United Nations development fund for women was founded amongst others and has ever since then contributed to strengthened the social and economic situation of women worldwide. The main focus of the actions of modern women's rights organizations are forced prostitution, forced marriage, honor killings, targeted abortions of female foetuses, infanticide of female infants, female genital mutilation and the limited access to education for girls. If you think of the South Asian countries, Nepal for example. Governmental organizations tend to deny this problem that girls in these countries, in this case, don’t have the same access as boys do. But I was very shocked once. A representative of an NGO came to my office and said: “Mrs Werthmann, you must understand one thing, once the girl's body starts to change the girl for some days cannot go to school because there is no proper toilet”. I didn’t know it, I didn’t believe it. But so I think that the whole prospect, the whole discussion has to change in the way that we have to give girls exactly the same conditions to go to school, to participate in daily life, in active life, in public life as do boys. I think it starts there. It starts already, one step so to say, primarily from the family. We must change, we must talk to the families, we really should go and talk to the husbands, to the fathers to make them aware that a girl with an education is an education for him. He should be proud of this girl, his daughter. And there is a lot to do I must say.

So the Vienna declaration at the declaration on the elimination of violence against women came in 1993 and that is also very important step. Because it is the first international declaration ever, and the final issue of this meeting was condemned because human rights of women and girls are in integral and indivisible part of human universal rights. So it takes all steps to go this step by step. If you think of the third world countries, they are a part of human rights. You cannot discuss women’s rights because they are so normal. Imagine this long period of time that we all had to go through actually.

Let me say, on the UN convention on the elimination of all forms of discrimination against women before, we talk a little bit about gender mainstreaming. The convention of the elimination of all forms of have to take action against women and is accepted as C. under this I believe many of you know it. It is defined as a quote, every limitation based on gender differences with the result or goal to eliminate the equality of men and women acknowledgment or exercise of human rights and basic rights for women regardless of marital status in the political, economic, social, cultural, civil or other areas. And it actually helps women. I can give you a few examples of the petition’s committee where I know of women who have turned to the C. Committee and there are, so to say, a dream measures which are not very highly accepted and respected by the member states but the final decisions I was told and I was ensured would be respected and would be actually carried through. So I think concerning all the different topics that women have and that women of Europe or within the European Union, even within the European Union turns to the C. Committee actually get the attention and the member states of the European Union actually then carry out the decision of the C. Committee, so it is very important to understand all these issues that we have here, that a lot has been done, but a lot still must be done.

Concerning the mainstreaming of gender perspective in all types of activities, it is a globally accepted strategy for promoting gender equality. Mainstreaming is not an end in itself but it means to goal of gender equality. It involves ensuring that gender perspectives and attention to the goal of gender equality are all central to all activities. So it is very important to be aware of this.

The equality between men and women. What does that actually mean? It refers to the equal rights, responsibilities and opportunities of women and men, girls and boys.

I can also give you a very current example. I was at the friends house two weeks ago and she said “Can you help me switch the bulb?” And I said “Why don’t you switch it yourself?” and he said: “Well she goes and does the groceries and I do the work when it comes to hammer a nail into the wall, do the bulb etc.” and I was like “You are quite a traditional family, so you allow her go to work?” “Yes that’s her right”.
I said: “Well in the same situation it is her right, it is her obligation to hammer the nail into the wall as it is actually your right and your obligation to go and do the groceries.”

And as long as we have these discussions wherever we go, I don’t think we have equal rights and we don’t have equal obligations because I think we women must be aware of the fact that we cannot expect to have equal rights if we ask our husband or our partner to help to hammer the nail or to do actually this work for us. That’s another point I think that we all must be very much aware of.

So, equality does not actually mean that women and men will become the same but that women’s and men’s rights, responsibilities, and opportunities will not depend on whether there are born male or female. We have the same rights, we have the same obligations, we have the same rights as our husbands have, our partners have. As a mother you have the same mind as the father but vice versa, maybe women tend to forget that also the father has the right to participate in the education and in my very personal view, he has the obligation to participate in the education of their child, not only the right. So there is still a long way to go I believe.

Gender equality is not a women’s issue but should concern and fully engage men as well as women. I have met in the course of the last 2 and a half years so many men who said: “This is women’s business”. I said: “No, you must understand that you actually should participate to understand what it actually means to have equal rights. That you know what women actually want, that you know what actually women need in their way, in their development to become equal. So equality between men and women is seen as both, as a human rights issue and as a precondition for, and an indicator of sustainable people centered development. I would like to stop here, I must say the topic is one of my topics that really sticks to my heart. I could talk for days about this topic but I see already my colleague here and I believe it is time to close.

Thank you very much for your attention.

Biography

MEP Angelika Werthmann
Member of the European Parliament

Angelika Werthmann was born in Schwarzach, Austria 1963. She initially studied Philology at the Paris-Lodron University of Salzburg during which she also spent time in Italy and the United Kingdom; following this she further advanced her education in the fields of Economics, Psychology, Management, Medicine, Sport and Tourism.

In her professional career she has worked as a teacher and as an Interpreter in the areas of Education/Business/Medicine and Tourism; time spent in these occupations and fields has undoubtedly enhanced and strengthened her practical experience and knowledge. In 2006 she was one of the candidates for the Election to the Austrian National Parliament and in 2009 she was elected as a Member of the European Parliament; she is now an independent MEP.

In the European Parliament, Ms. Werthmann is a member of the Committee on Budgets, the Committee on Petitions and the Delegation for relations with the countries of South Asia. Her membership of these committees allows her to contribute to issues that exist in the areas of reducing unemployment, education and mobility, health, environmental issues, human rights and gender equality. Her most recent parliamentary activity was to raise the question of whether enough is being done for those with mental health issues in the educational sector.
The Institute for Cultural Diplomacy 2013

The Strasbourg Conference on International Law & Human Rights - Strasbourg, April 14th - 16th

"The Role of International Law to Promote Sustainable Development, Youth Empowerment & Women's Rights"

The message is the same. Climate change is here and the Maghreb. They suffer from East Africa, all that relentless desertification of once fairy tale land in impact of climate change and calling for change. Increasingly our consistence everywhere. I feel the increasing of fuel fossil has affected the human development which the wealthiest countries in the world have allowed and privilege upset of human kind to have hundred years ago, the burning of gas and oil has the severity by which climate challenge has in any way. We know that since the industrial revolution, two and should be given priority in cases of conflicts others meeting that have taken place heather to. If we fail to do that, I think the political instability that would be generated by ran away climate change will threaten all three, will surety economic growth, surety social freedoms and I believe to, it will threaten the environment and ecological balance in a world where even food and water are in short supply would human needs like free of conscious came to be seen as extravagant luxuries. I think any definition of sustainable development legal or otherwise, has to take a cant of all of these objectives. We are, I would say, a conclusion, a long way from the development of international law in the field of environmental sustainability compared to the development of international law in other areas, whether it is in the area of trade whether in the area of protection of human rights, whether it is in areas where increasingly countries are founded essential to work together to deal with challenges that are supra national and require supra national solution. But I have no doubts that unless where are written now almost 30 years ago on the Brundtland Report in 1982 by which this development needs to be active for present generation without compromising the ability of future generations to meet their needs. That formulation contains an important truth which is to be a really sustainable development recognizing the competing claim of present and future generations. In other words, it must provide inter-generational equity. Can we do this kind of international cooperation in a binding and legal framework that seems so distant even recently in Copenhagen, Cancoon, and Warsaw? The choice is dark, we are trying to sustain the environment on the international system or we can condemn future generations to a world by diseases and epidemics. So, you can reduce climate change and it is not just a matter of water. Too much, too little, wrong time, wrong place. It does not matter if you are in California or whether you are in the rages of the Sahara Desert. Many of the members of parliament whom I worked with represent constituencies which are extremely poor, we have over a billion people in the world without access to the modern energies and services, and we could provide them with reliable fuel and energy for development. Almost 1.3 billion are living with less than one U.S Dollars per day, women are still tracking for miles to get traditional fuels like wood, to run dirty and dangerous cookies stoves which are emanating poisoning smoking, children still too often have no light in the dark for reading or studying, mobile phones can not be played for entrepreneurs who want to start their own business. Potentially, lifesaving medicine cannot be properly refrigerated. So, sustainable development is called for and we have to define it and to link it to law. By my own personal definition on my experience in the European Parliament and on the conversation that I had with fellow members of parliament with climate experts of policies analysis in my own personal definition of environmental protection and social justice. It is not easy to reconcile those three, you know, you might decide the economic growth jumps the other two and should be given priority in cases of conflicts that is how the world currently operates. I'm not sure if it is the way to a healthier or happier future. I think the competition between economic growth, environmental protection and social justice is in areas where increasingly countries are founded essential to work together to deal with challenges that are supra national and require supra national solution. 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Biography

Sir Graham Watson
Member of European Parliament for the South West of England and Gibraltar; President, Alliance of Liberals and Democrats for Europe

Sir Graham Robert Watson is a British Politician. Since 1994, he has served as a Member of the European Parliament for South West England, the leader of the Group of the European Liberal Democrat and Reform Party and also the first leader of the Group of the Alliance of Liberals and Democrats for Europe. Since 2011, he has been the President of the European Liberal Democrat and Reform Party. Sir Watson served on two committees; the Committee on Economic and Monetary Affairs and Industrial Policy and the Committee on Budgets, and acted as whip for the ELDR group until 1996. Currently, Sir Watson is a full member of the European Parliament’s Foreign Affairs Committee (AFET), Chair of the European Parliament’s delegation for relations with India and a member of the Parliament’s delegation for relations with China.

In addition, he is a highly regarded human rights campaigner and has campaigned against authoritarian regimes, the human rights record of Russia and Azerbaijan as well as taking up the cause for Northern Cyprus to be granted additional freedoms from the Greek government. Watson was knighted in the 2011 Birthday Honours for political and public service.
“International Law, Human Rights and the Rights of Women”

A Lecture by Grégory Thuan (Lawyer, Cabinet Hincker & Associés)

Strasbourg, April 15th 2014

First of all, I would like to thank you for your kind invitation and for giving me the opportunity to speak before you and before this distinguished audience. I will try to be as short as possible.

The topic of my presentation is the role of international human rights law in advancing women’s rights. I will try to access the progress in respect of women’s rights up to today, while emphasizing, at the same time, the need for more synergy, cooperation and legislation, specially in relation to 2 areas: the elimination of all forms of violence against women and the right to education and women’s empowerment in all fields of life.

What is the state of women’s rights today? For the last 3 decades women’s rights have been promoted by numerous commitments undertaken by States at national, regional and global level to promote gender equality and advance women’s rights improving the rights of women worldwide. Today, women’s rights in international law emerge as an exciting and rapidly developing subfield of international human rights protection. There exists some international legal framework for the defense of women’s rights. However, political action must be shift towards achieving the effective implementation of the existing legal instruments and standards. Treaties are the international equivalent of a legislation body stated as the basic norm creating texts. The major multilateral international treaties may occupy any of a number of places of a hierarchy of legal authorities depending on the domestic law of the member states. A treaty may have a section on domestic law or somewhere in between domestic constitutional law and domestic statutory law or it can lack validity enabling or implementing law of a jurisdiction and must declare the treaty to be a law of that country. These variations are true for the member states of the United Nations and of the Council of Europe, parent bodies of the most widely known human rights treaties. We should reflect and we should go further in our reflection about it to avoid any legal vacuum in respect of treaties placed in the higher hierarchy of the legal norms.

Since 1975, the United Nations has held several world conferences on women’s issues starting with the world conference in International Women’s Year in Mexico City, Mexico. These conferences created an international forum for women’s rights but it also illustrated divisions between women of different cultures and the difficulties of attempting to apply principles universally. A major step forward in the promotion and protection of international women’s rights was the drafting and ratification of the United Nations Convention on the elimination of all forms of discrimination against women, the CEDAW signed on December 1979 and that entered into force on the 3rd of September 1981. It opened for signatures on December of the same year and entered into force on December 2002, creating an enforcement mechanism similar to that already in place for the international covenants for civil and political rights. The CEDAW Convention is the most comprehensive international human rights instrument addressing discrimination against women to this date. Since its adoption it has been a reference text in the area of women’s rights and it is the first legally bidding instrument, which defines discrimination against women and asks states to make a commitment to eliminate it. Approximately 100 states have signed it and over 190 member states of the United Nations have rectified the Convention.

Despite these international commitments, some contradictions persist between national legislation and the provisions of the Convention as well other relevant human rights instruments. For example, contrary to the letter and the spirit of the CEDAW Convention and the Convention on the Rights of the Child, several European countries allow marriage under the age of 18, where as the statutory age of marriage should be, at least 18. As to comply with CEDAW and the Convention on the Rights of the Child, an additional matter of concern is that too many UN member states have made reservations to one or more substantive articles of the Convention on the elimination all form of discrimination against women. As part of the possible solutions, I would say that, further impulsion in re-launching political will and action is needed today also in relation to the CEDAW Convention. The main objectives should be limiting or withdrawing existing reservations, which contravene the letter and the spirit of the Convention; repeal or revise national legislation which is contrary to the Convention; ratify the Convention’s optional protocol and reinforce the Convention control mechanism to ensure an effective control on national implementation. Other treaties that concern other aspects of women’s rights have been sponsored by the United Nations organization. These include the Convention on the Political Rights of Women in 1953; the Convention on the Nationality of Married Women; the Convention of Consent to Marriage; etc. There are also other institutions on special report on violence on women established in March 1994. Other international intra-governmental organizations, particularly the specialized agencies of the United Nations, are concerned on the protection of women. ILO, International Labor Organization standards for employment of women are important and are embodied in recommendations and instruments to which many countries, included member states of the Council of Europe are parties. Specific conventions and recommendations relating to women’s rights do exist. For example: the Equal Remuneration Convention, the Maternity Protection Convention and so on.

At the international humanitarian law the Geneva Conventions of 1949 and its protocols, applicable in times of internal or international wars are evocable by men and also by women. It is interesting to note that in the case law MS against Bulgaria in December 2003, the applicant was age 14, the age of consent in Bulgarian law for sexual intercourse. She was raped by 2 men, she cried during and after being raped and later on was taken to the hospital by her mother, where they found her inam had been torn. Because it could not be established that she had resisted or called for help, the perpetrators were not even prosecuted. The courts found a clear violation of Article 3, the prohibition of ill treatment and Article 8, the respect of private life. The universal trend recognizes the lack of consent as being the essential element determining rape and sexual abuse with no reference of coercion and any kind of force or threats to use force. In this aspect, the court of Strasbourg referred to another case law given by another international court, the International Criminal Tribunal for the former Yugoslavia, prosecutor versus Kunaratch dated 22 January 2001. The court was nurtured by other international standards, there is a mutual influence to reinforce and protect women’s rights.

At a regional level several organizations and instruments also guarantee these rights. The OAS has adopted the Inter-American Convention on the granting civil rights to women or on the granting of political rights to women. 20 years ago they adopted the Inter-American Convention on the prevention punishment and eradication violence against women, also know as the Convention of Belem do Para, adopted in 1994 and it entered into force in 1995. Until the adoption of the Istanbul convention, the Council of Europe Convention in 2011, on the same subject, the protection human rights against violence against women and domestic violence. The “Belem do Para Convention” was the only international treaty in the world specifically to reinforce and protect women’s rights.
setting up a group of experts on actions against violence against women, which is in charge of monitoring the implementation of the convention.

The European Court of Human Rights has developed a case law on the issue and it has adopted many judgments on the issue of women’s rights, in particular on domestic violence, police violence, rape and sexual abuse.

Education is a human right and it is an essential tool to achieve the goals of equality, development and peace. Not discriminatory education, benefits for girls and boys are important to create a better relationship between women and men. The education of women, especially girls, can create greater opportunities for women to live out of poverty and to increase their social position. Despite the fact that most developed agencies identify women as the single most important factor in development, one out of every three women in the world cannot read and write. Education is to be seen as having an impact on young women’s health and can also change women’s life by reducing poverty, improving their health situation, delaying marriage, reducing female genital mutilation and increasing self-confidence and decision making powers.

Finally, although women in Europe represent an increasingly high portion of the labor market, they still remain significantly underrepresented in top management structures including social and economic decision making bodies, but also in the political sphere. In my opinion, equal presence of women in politics is of course essential and can only be achieved through the way of legislation by introducing quotas.

Thank you.

Biography

Mr. Grégory Thuan
Lawyer, Cabinet Hincker & Associés

Mr Thuan holds a LLM Degree in International Human Rights & Humanitarian Law at the Raoul Wallenberg Institute and a LLM Degree in European Human Rights Law, which he earned in Strasbourg. Mr Thuan worked for the European Court of Human Rights from 2002 to 2010 as a case-processing lawyer. He dealt with the applications brought before the ECHR against France and Monaco. He also worked as Legal Secretary of the Parliamentary Assembly of the Council of Europe at the Human Rights and Legal questions Committee. He is an international qualified legal expert for the Capacity Building & Awareness Division of the Council of Europe and a lecturer at the Law University of Strasbourg. Currently, Mr. Grégory Thuan is a partner of the law firm “Hincker et Associés” based in Strasbourg, Paris and Marseille. He is the head of the firm’s International and European Human Rights Law Department.

He has published several legal articles on the case-law of the Court of Strasbourg.
Over the past, let’s say twenty years; there has been quite a considerable development in the way we see climate change. It obviously started mostly as an environmental issue. We have learned that it is much more; it is an economic issue to a large extent, it is a security issue, it is a health issue. And today I am going to focus on climate change as a human rights issue.

Why exactly it is a human rights issue? I think the easiest starting point would be to take the Universal Declaration of Human Rights and its various articles, but you could just as well do this with the European Convention of Human Rights or the International Government of Economics also on Cultural Rights. Because climate change really affects many of the basic features of human rights under various treaties. Now if we use the Universal Declaration as a starting point for instance, in article number twenty-five, we talk about the right to a standard of living, adequate for the health and wellbeing of himself and of his family.

The intergovernmental panel on climate change issued its fifth assessment report, just a couple of days ago. In the second installment of that report, the panel, the number one scientific body on climate change, says that climate change impacts are projected to slow down economic growth, make poverty reduction more difficult and prolong existing and create new poverty traps. In essence, it is saying that basically if climate change continues unabated it is going to deprive many people of the basic right of a decent standard of living. And the same applies to many other articles under the declaration as well. For instance, article thirteen talks about the freedom of movement and the freedom for people to choose where they live. And again the IPCC says that climate change is projected to increase the displacement of people. So it is basically forcing people to flee their homes because of the various impacts of climate change.

Another example might be article fifteen, which gives people the right to nationality. Another reason, that people may not have in the future, because of climate change. The fifth assessment report talks of land inundation to sea-level rise, posing risks to the territorial integrity of small islands states. I think that is a fancy way of saying that in the future there are many small island developing states that will simply disappear from the face of the earth because of rising sea-levels under the most dramatic scenarios of climate change.

And perhaps the most fundamental human right of all, the right to life, may also be at risk because of climate change. That is because of many reasons, but just to give you one example, is that climate change can increase risks of violent conflicts in the form of civil wars and intergroup violence. So basically we may have more wars and more severe wars because of climate change in the future.

Now these are just a couple of examples taken from the Universal Declaration. Another way of looking at it would be to - just to sum up - what kind of changes climate change is likely to bring upon us in the future. And I think Christine Lagarde, the head of the International Monetary Fund, has perhaps been the clearest about the potential impact of climate change. She said that without concerted action, the next generation will be roasted, toasted, fried and grilled. So basically if we fail to address climate change, we are likely to have dramatic, even catastrophic impacts that are likely to undermine pretty much all of the human rights as we know them under various treaties.

It is not only about climate change affecting human rights, also the policies to address climate change have a human rights connection. And I think one easy example would be the biofuels we are using in our cars to reduce emissions. There are various reports and studies suggesting that increasing the use of biofuels in transport is actually leading to higher food prices. And higher food prices means less chances for the poor to buy their food, aggravating hunger. So even climate policies have a strong human rights linkage. Now this connection between human rights and climate change is becoming increasingly recognized in different international forums. The Human Rights Council already stated in 2008 that climate changes pose an immediate and far reaching threat to people and communities around the world and has also implications for the full enjoyment of human rights.

This basic message has been repeated several times by various organizations and institutions. I am not a lawyer, I am a politician. A politician, a policy maker, so I would try to give perhaps a couple of reasons why exactly it might makes sense to talk of climate change as a human rights issue. The first one would be that intriguingly, despite all the human rights abuses taking place across the planet, there seems to be a varying widespread consensus on the importance of human rights. At least at the level of discourse. Even if you talk to the most brutal dictators, they are arguing that they are actually observing human rights. So I think the human rights consensus is something we can use to our advantage when we try to convince other leaders of the world to take action on climate change.

A second reason might be that human rights are a way for reaching out to new constituencies. The organizations, the leaders, the institutions working on human rights, we need all of them on board to address the threat of climate change. I think also climate policies as such, have a lot to gain from the integration of human rights with all concerns and considerations. I think climate change policies can benefit from looking at what kind of impacts they might have on human rights - starting from what kind of target we need to set on reducing emissions, ranging to the different actual policies on the ground to reduce emissions.

And my fourth point would be that potentially, just potentially, seeing climate change as a human rights issue, might give us some new tools through legal action to address climate change. And I know this is a fairly contentious statement, but there have been many attempts at trying to do just that. There have been individuals and organizations, representing vulnerable indigenous people, taking their governments to court stating that inaction on climate change is endangering people’s livelihoods and lives.

There have been small island states using international legal means to get action on climate changes. At the national level there are also various examples. Especially in the United States, but also in the Netherlands. A foundation has taken the Dutch state to the court arguing that the Dutch state is neglecting its responsibility to tackle climate change which obviously leaves a detrimental impact on the people.

However, despite all these attempts there is not really much to report back on. This is also stated in the UN High Commission as a report. While climate change has obvious implications for the enjoyment of human rights, it is less obvious whether and to what extent such effects can be qualified as human rights violations in a strict legal sense. This is the point made by earlier speakers and they asked the question, a very relevant question, whether everything should be dealt with in the court. Whether there might be some other means of action to address climate change outside the court. So basically it seems that we do not have the
institutions and tools to address climate change as it stands. And Mary Robinson has come to a similar conclusion, when she argued that climate change shows up countless weaknesses in our current institutional architecture, including its human rights mechanisms.

So we have these gigantic, enormous threats on the wellbeing and the future of our society and its individuals that is clearly going to undermine human rights at every step of the way. And yet we lack the institutional tools and measures to actually tackle that gigantic threat through the human rights mechanisms we have attained.

So this brings me to me three conclusions. First of all, I think it is fairly established that climate change is also at its core a human rights issue. Secondly, I would argue that framing climate as a human rights issue can benefit climate action and it can be useful. And thirdly - I think this is probably more contentious - I think we do need some type of institutional reform to be able to adequately address the threat climate change has on human rights. And we clearly do not have the institutional framework ready for that at this stage.

Thank you.

Biography

Oras Tynkkynen
Member of the Parliament of Finland

Oras Tynkkynen is Green member of parliament, city councilor, activist and MSSc (major in journalism) living in Tampere, Finland.

Currently, he represents the Greens in the Parliament’s Committee for the Future, for which he is vice chair, the Committee for the Environment, and the Transport and Communications Committee. He is the vice chairperson for the Green parliamentary group, and in charge of climate and energy policy within the group, as well as chair for the party’s transport policy group. From 2007 until April 2011, he was appointed climate policy specialist in the Prime Minister’s Office, and was in charge of writing the government foresight report on climate and energy policy.

In 2003 he became a deputy member of parliament. When his predecessor, Satu Hassi, was elected to the European Parliament in summer 2004, he became the youngest and first openly gay member of the Finnish parliament.

He has been involved in non-governmental organizations for many years. In 1996 he was one of the founding members of Friends of the Earth Finland and served as a vice-chairperson for two years. He was also one of the activists who first applied the Reclaim the Streets party concept in Finland.
Gender Equality in the EU – A Question of Fairness and Economic Growth

A Lecture by Anna Wallén (Member of the Parliament of Sweden)

Strasbourg: April 15th 2014

The right to not be subjected to violence is a question of fairness and economic equality but also in economical and social terms. Europe is failing behind and there is no other area with a higher potential. Equality between women and men is not only a question of fairness, it is also very important for the economy. Women’s participation in the labor market must increase. In all EU member states, employment’s rates are lower for women then those for men with big variations across the EU. In the EU the employment rate for men was 75% in 2011 and was only 62.3% for women in the same year. In the EU, 1 man out of 10 worked part-time and the average for women was 3 out of 10. The reduced access to care service, in particular, childcare, creates difficulties combining work and family life, limiting the possibilities for women to work. Those women that do work earn less and are concentrated in jobs that pay less. These gaps in terms of women participation and progress in the labor market are problematic, not only in terms of gender equality but also in economical and social terms. Women face a higher risk of poverty especially at retirement. Women are increasingly highly qualified, even surpassing men in educational achievements, but the low labor market participation represents a waste of human capital.

The need for gender equality is more urgent than ever. Europe has achieved a lot during the past century. During this time, access to employment and education has been a privilege to men. What if women, the other half of the population, had had the same access to knowledge, education and employment? Where would we be today? The increase in female employment in the rich world has been the main driving force of growth in the past decades. It has been a mistake not to connect gender equality with economic growth and development. Figures show that women increase participation on the labour market has accounted for a quarter of the economic growth in Europe since 1995. In the long run, viewing equality also as an investment in our economic future is fatal; it requires constant awareness and policy actions. Development can only come through determined worked together with a shift of social norms. We need to work on changing mind-sets. Young women face problems getting in to the labour market. When they wait until after they had their children, their carrier chances are reduced. The share of care and household duties are key to this. In previous times, men contributed with money to the household and women with their time. And it is still pretty much like that today but more women also work, so women have two jobs. Sweden, my home country, ranks as one of the world’s most gender equal countries based on the firm believe that women and men should share power and influence equally. An extensive welfare of the system makes it easier for both sexes to combine work and family life. However, there is still space for improvement in many areas. In Sweden, parents are entitled to 480 days of parental leave when a child is born or adopted. Women still take most of these days. In 2012 men took about 24% of the parental insurance. The high female employment rate in Sweden is 82% as an explanation and access to affordable child car and a generous parental insurance.

As I see it, we have many challenges ahead, to make the EU and the world a better place. There are few things that I want to point out here today. We need economical independence for women; we need equal pay; we need equality in decision-making; we need to stop gender-based violence; we need access to affordable childcare of high quality; we need reforms of the social security system, such as parental insurance; we need to promote gender equality beyond the EU and we need to integrate gender mainstreaming and in all EU policies.

It is impossible to talk about gender equality without mentioning this: it is one of the most common violations of human rights in the world. One in the least prosecuted crimes and one of the biggest threats to lasting peace and development. I am talking about violence against women and children. It is time for action, up to 17% of women in some countries face physical and/or sexual violence in their lifetime. When 1 in 3 girls, in developing countries, is likely to be married as a child bride; when millions of women and girls are trafficked in modern days slavery; when women’s bodies are battleground and rape is used as a tactic of war; it is time for action. Violence against women and girls is an extreme manifestation of gender inequality and gender based discrimination. The right of children born and women to live free of violence depends on the protection of the human rights and a strong chain of justice.

When it comes to preventing violence, we must address the route courses of gender inequalities and discrimination. Evidence shows that, when the gender gap is greater, women are more likely to be subjected to violence. We need to focus on erasing the gender gap. Part of the solutions is participation economy, education and representation in politics. Last year in Sweden, over 26 thousand cases of abuse against women were reported. Every year, an average of 17 women are murdered by a man with whom they have or had had a close relationship. The cases of violence reported to the police account to just 20% or 25% of all the violence that is committed. The right to no be subjected to violence is a question of democracy and human rights. Despite the fact that Sweden has shown a way in terms of gender equality developments, violence against women remains a widespread social problem and a serious type of crime. Almost half of all women in Sweden have, after the age of 16, been subjected to violence by men.

If men didn’t see it as a right to buy women’s bodies there would be no need for laws against purchasing sex. This is a problem about norms and about demand. Through criminalizing the purchase of sex we move the guilt and the blame from the women who sell to the man that buy. We send a clear signal from society saying that buying bodies is not ok. A law can be the first step towards changing society, making sex purchasing unmoral, strange and non-acceptable behaviour. The Swedish law of criminalizing the purchase of sex was introduced in 1999. Many people claimed it would change nothing, the prostitution would simply move and victimizing the women would help no one. More than 10 years after the law was passed, they started with males that show that the street prostitution in Sweden has been huffed and it also shows that prostitution hasn’t moved underground. Another effect of the law is the traffic of women for sexual purposes. Sweden is seen as a country where it is very difficult to establish a market.

The claim that the law would change nothing is simply wrong. We still have a lot of work to do. Money has to be allocated to help the women but also to educate policies and social services in how to tackle the criminals and how to meet the women. Many countries in Europe are very interested of the law is the law against purchasing sex and I welcome this. I think it is time to EU countries to make this step and to say that it is not ok to buy bodies.

The most important thing towards reaching gender equality is that we need to fight for economical independence for women, equal pay, equality in decision making, we need to stop the gender based violence, we need access to affordable childcare of high quality, we need reforms in the social security system such as parental insurance and we need to promote gender equality beyond the EU. I think it is time for us to say that it should be criminalized to buy sex, to buy sexual services.

Thank you very much for your attention.
The Strasbourg Conference on International Law & Human Rights - Strasbourg, April 14th - 16th

“The Role of International Law to Promote Sustainable Development, Youth Empowerment & Women’s Rights”

The Institute for Cultural Diplomacy 2013

www.academy-for-cultural-diplomacy.org

Biography

MP Anna Wallén
Member of the Parliament of Sweden

Anna Wallén was born in 1980 in Fagersta. She studied political science at the University Luleå and History of Balkan at the University of Uppsala.

She joined the SDU when she was 15 years old. She is a Swedish social democratic politician and Member of Parliament since 2010. In 2006 she was responsible for the project Political Empowerment of Women in Bosnia-Herzegovina. She is elected for Västmanland county constituency in place 307 and she is member of the board of the Social Democrats in Västerås. Since 2010 she is a member of the Justice Committee and alternate member of the Environment and Agriculture Committee.

“The Role of the Council of Europe in Empowering Young People”

A Lecture by Tina Mulcahy (Acting Head of the Youth Department of the Council of Europe)

Strasbourg: April 15th, 2014

The joint counsel on youth is the overall committee which is going to decide on everything we do, whether it’s the priorities of our organisation, what projects we run and how the money we’re given is divided up. The young people on our committees who are elected every two years are on an equal footing with the governments; and it’s a real equal footing because once we’re allocated a budget to our department then it’s this committee who decides on the rest, so that is one of the specificities of our area; there’s also a technical sub-committee which looks after our program.

Now another idea which is very important for us in the youth department is the fact that we are working with young people from all over Europe, but we’re particularly working with what we call ‘multipliers’, I guess this is jargon to the youth sector. What we mean by multipliers is that our partners are generally the youth organisations through Europe, or the local or regional governments or the national governments; but we are going to be training or working with the young people who are members of these organisations and we’re working with them to create a multiplying effect.

So, no matter who we work with the idea is that the person comes and is trained by us, or works with us, for not only their own personal benefit but also for the benefit of the youth organisation or the young people that they are working with in the field. So the youth department is made up of a number of instruments; we’ve got the two European Youth centres, Strasbourg and Budapest. Strasbourg was created following a decision by the Parliamentary Assembly which was called ‘The Conference’ at that time in the sixties, a time when there was a lot of unrest in Europe amongst young people and there was a decision to ask the Council of Europe to create a safe place as such, so that young Europeans could work together on the European values that we were promoting in the organisation, and to also allow them to work together on these and to participate fully: participation is one of our biggest objectives obviously in the youth sector. So the Strasbourg centre was built in 1972 after an experimental period of some years in Obernai out in the country, and at the same time the European Youth Foundation was created and this is a fund which in monetary terms, is worth about three million euros a year: but it’s a fund, it’s not at all like the type of funding one might find in the European Commission – it’s a small fund but it particularly serves for small, local, regional and national youth projects which are going to allow young people in youth organisations build projects which go down the lines of our priorities, which I will mention afterwards.

We run a partnership with the European Commission which is quite unique in the Council of Europe, because first of all we’ve been doing this for fifteen years already so it was quite innovative at the time. But it’s a fifty-fifty partnership as well which is unlike many of our partnerships in the Council of Europe, which are usually financed mainly by the Commission and run by the Council, so in terms if
financing it might be 90/10 or 95/5. We have an equal footing there with the Commission and we’re running research and youth policy programs and activities in the member states of the Council of Europe but also in the neighbouring regions – we’re reaching out to them. We have a department which looks after inter-governmental cooperation so we’re going to be able to advise governments about their youth policy at their request, so we don’t go looking for giving advice; it’s when they come to us. We absolutely have a small, small partial agreement on youth mobility. So there’s a short definition of how the Committee of Ministers have defined youth policy in the Council of Europe. I would like to draw your attention to all young people; equality of opportunities is very important for us and this is seen in our work because we are working very often with disadvantaged groups or minority groups throughout Europe and social inclusion is quite an important part of our program.

So how do we do all of this? I’ve mentioned the fact that we are working with multipliers, so this is very important for us that the people we’re working with because we, as a small department can’t reach out to all the young Europeans, so what we do is we train the multipliers so they go back and carry on the good work. We’re using a multicultural approach in most of our activities so we very rarely would have an activity with thirty French people or thirty Belgian people – it’s across the board: most of our activities include more than 25 or 30 different nationalities. We’re serving countries who ask for us to carry out youth policy reviews and we have a number of different partnerships through different activities and projects that we’re running and I’ll mention one project specifically later on: it’s a campaign we’re running at the moment on hate speech online which is reaching out to most of our countries and indeed beyond the borders of Europe. And of course, the last thing which is important that we’re working on is non-formal education; so we’re not handing out certificates or diplomas, we’re working in what some of my colleagues call ‘Noisy Education’ you know; we get people to jump up and down before they start an activity so they’re full of energy and things like that, and really a lot of it is learning by doing, as well and working with each other.

The type of activities we’re running, and we use mainly our youth centres for most of our activities although we do run activities in member states and particularly in countries where we have specific bilateral programs. I’m thinking of the Russian Federation, Ukraine and Turkey, where we have three specific youth bilateral programs where we’re trying to introduce, whether it be human rights education or conflict transformation, peace building or training of youth workers depending on the country. We’re running hot or cold study sessions in our centres; this is where we invite a youth organisation, an international youth organisation to come and work on one of our themes. We cover all the expenses and they come with their international youth members and they work for eight days in our centre with the guidance of one of our educational team on the theme that they are dealing with, whether it be social inclusion or a question about refugees, or we have across the board themes that we’re dealing with. We’re running training courses and these training courses are adapted for youth leaders, but also sometimes for people from governments; we run a special 50/50 type training where we might have 50% of the participants are from the governmental side of a country and the other 50% from youth organisations in order to bring them closer together in their country on a specific issue like human rights education. And then we have seminars and consultative meetings to involve players whether they be involved in youth work, or youth research or youth policy – so this is the ‘magic triangle’ that we talk about. Of course, one of the things we do quite a lot is we create educational manuals on the themes that we’re dealing with, and these manuals are aimed at governments, or youth authorities or youth organisations themselves.

So very quickly, a short look at our priorities for 2014 and 2015, and in retrospect I think we’re probably dealing with too many priorities. But we are in this new program and budget system in the Council of Europe where we’re running now in a biennium system and one of the advantages and disadvantages of working directly with the youth organisations is that they want you to deal with everything. Which is completely and utterly understandable because we’re dealing with youth organisations from right across the board, we’re not just dealing with political or religious or Scouts groups; we’re dealing with all types of youth organisations so this is why we have a quite a varied number of priorities and the percentage you see there is how our Joint Committee split up how we should spend the money for this biennium, so you’ll see that human rights education obviously is a big project for us, but we have a big Roma youth action plan and we’re working for the first time on the question of transition from the autonomy, and transition to working life for young people – this is a new dossier for us and of course access to social rights and peace building I’ve mentioned.

The European Youth Foundation is a fund and the types of funding they’ll be able to give are international. However the funding’s aren’t very big, a funding could be between 7 and 15 thousand euros but very often it’s a possibility for a local youth organisation to set up a project which they never would have been able to do otherwise. So, it’s a different ballgame than the type of funding we can get from other institutions but it’s something which works very, very well on the ground for youth organisations. This is to get through the essence of the empowerment; we are very much convinced that the best way to empower young people and make them participate in their own everyday life and democracy is by showcasing this co-management principle we have, because what’s interesting to see is that when you put a group of thirty young people form completely different backgrounds and completely different youth organisations together with 47 member states it creates very lively debates, not always consensus; and we are like the Committee of Ministers, our committee works on the basis of consensus but it certainly creates an awful lot of discussion on important issues which young people are living through day to day, and its one the reasons why we have so many priorities but again, we have to always try to focus better.

I just wanted to take one example of a project we’re running; I mentioned the Roma Youth Action Plan which is a big project for us and which we also seek governmental funding for because we don’t have a huge budget and this is funded by a couple of member states namely, Belgium. We have another social inclusion project which we call ‘Enter’ which is also being funded by a number of member states and this is working on projects for socially disadvantaged young people and the aim is to give them better knowledge of social rights, and this is a project we’ve been running for a few years. The ongoing project is an online youth campaign; this project is fascinating for us because I think we’ve come at the right time to discuss the issue of hate-speech online for young people. We run the campaign at the European level by giving institutional support by giving educational resources; we’ve just published a manual which is called ‘Bookmarks’ for educational people/organisations to help young people when they’re confronted with the problem of hate speech. So, we do the general coordination at the European level and we ask each member state of the Council of Europe to set up their own national campaign committees. This is usually done through the ministries of youth and sport, sometimes through justice, we’ve also got some educational ministries executing this. We launched this campaign in March 2013 and we have 38 member states who are involved in one way or another: many very actively in this campaign which will run until next March.

When we run a campaign it is sometimes frustrating for the people who are involved from the administrative side (i.e. the people from the member states) they’ll say “well, what’s the impact?” and I will respond that we have had 10,000 Facebook followers on our campaign site and we’ve had 200,000 Tweets on a certain conference; this doesn’t make much sense for most of the people who are governing us. It’s interesting to see how these campaigns take on a life of their own; our interest is whether each member state is dealing with the question of hate speech online in a way which is appropriate for their state. In Serbia, which is hugely active in the campaign they are going to be
running activities online and offline in a completely different way to Finland or Belgium who are both very active for example. This is the joy of working with youth organisations as well because they are all on the ground and they see what the issues are for the people.

I mentioned the question of participation; it is of fundamental importance for us to work on the question of participation and we do this by working with the congress of local and regional authorities; we’ve developed manuals and charters and participation for young people. Through campaigns such as the ‘no hate speech’ movement we realise the interest shown by our colleagues from the other departments and we also develop an interest ourselves in the work of the other departments and we see that we’re doing valuable work on questions like hate speech and the Roma initiative; all of these are priorities of the Secretary General.

I’ll stop there and of course, I’ll be delighted to answer any questions. Thank you.

Biography
Tina Mulcahy
Acting Head of the Youth Department of the Council of Europe

Tina Mulcahy was born on the 13th December 1960 and was later educated at Loreto College, Dublin. Following this, Ms. Mulcahy went on to hold a variety of positions during her time at the Council of Europe, including: Chairperson to the Staff Representation Committee, Advisor to the Secretary General, Executive Director and her current role, the Acting Head of the Youth Department.

“Human rights and devolution: the British experience”
A Lecture by MP Wayne David (Member of the British Parliament)

Strasbourg: April 15th, 2014

Well thanks very much for that long and boring introduction! But you didn’t mention the most important thing! And that’s that I used to work for the youth service before I was elected to the parliament. I say that, not in a trivial way as it had a huge influence on how I approached politics. I think it’s a real problem in politics that people say you have a ‘political class’ – a group of individuals who are almost self-perpetuating. Well, I think we have to dispense of that quite honestly. I mean, politics is all about representing people, right? Real democracy, I think, is not about people, men usually, in grey or blue suits, who are middle aged telling people what they want. That’s old hat! I think the way forward for politics is for people themselves to have the confidence and the wherewithal to be able to articulate their needs in the way they want them. I think that kind of direct democracy is the way our societies need to evolve in the future.

Now, my brief talk is about human rights in Britain. Basically, what I want to say this is: when people think of Britain, they think of the government’s pronouncements on human rights and David Cameron’s very critical comments of the one or two judgements that have been made against the United Kingdom and the view that he has that human rights is all about nasty foreigners telling British people what to do, it’s all about Strasbourg enforcing decisions on the United Kingdom, it’s all about undermining British sovereignty so that the British people can no longer do what they want to do: that’s one attitude.

But in the United Kingdom there’s a different attitude, and that’s because Britain is no longer the country it once was. What I mean by that is: Britain has traditionally been one of the most centralised states – not just in Europe but in the whole of the western world. Power has rested in one capital city, London. But this is no longer the case, because there are different centres of power in the countries and territories which make up the United Kingdom. For example, what I mean by that is, there is Scotland, there’s Wales, there’s Northern Ireland as well as England; together they make the United Kingdom. Yes, we still have a parliament in London but also we have a Scottish parliament now, we have a Welsh assembly, we have a Northern Ireland assembly and increasingly what we are seeing is the power going out from the centre to the periphery.

So power is becoming more diverse in the United Kingdom, the result is, quite frankly, you no longer have one single voice from the United Kingdom, you have a number of voices. So what I want to look at very briefly is how those different voices are reflected in the debate about human rights.

We all know what the conservative labour governments views is of human right; we all know what Mr. Cameron thinks about decisions made in the European Court of Human Rights; to use his words “[they] make him physically sick” – that is what he said. But I’d suggest to you there’s a very, very different attitude in Scotland, Wales and in Northern Ireland, and I’ll give you a few examples of what I mean. If you look at Northern Ireland for example, you have one of the most troubled parts of
The whole of Europe. People in Ireland – in the north especially – have been literally killing each other for hundreds of years. There’s been a huge historic divide between the protestant community and the catholic community, for the first time in nearly 600 years we have got peace in Northern Ireland. How is that come about? Well, it’s come about because people have been prepared to make compromises; because there’s been a dialogue between different communities. People have come to realise that the way to achieve peace is not for one side having victory and for the other side losing: the way to achieve peace is for people to work together and to make compromises. So nobody is defeated, but at the same time nobody has victory. And one of the reasons why that has been able to happen is because of the European dimension.

I used to be a member of the European parliament, when it was actually based in this building before it moved across the road. One of the interesting things that used to happen was that every month when parliament used to move down here from Brussels, sitting in a corner of the member’s dining room there used to be two individuals. One was Ian Paisley, (Ian Paisley senior) and the other was John Hume, who had led the Social Democratic and Labour Party. One was a protestant, the other was a catholic; in Northern Ireland you would see them on the television and they used to be arguing and shouting and calling each other everything! And they couldn’t meet together in Northern Ireland or even in London, but they could meet physically in the European Parliament and have a meal together and find out many things which united them, not just things that divided them; and human rights is one issue in particular.

We have seen in Northern Ireland that Britain has a new voice within its ranks; but of course devolution does not just relate to Northern Ireland, we also see devolution occurring in Wales as well. I am very pleased my colleague Elfyn Llwyd is here, who is the parliamentary leader of Plaid Cymru (the Welsh National Party) and I hope very much he agrees with me when I say this. I think one of the great developments in the British state has been the success of devolution – in terms of initial referendums there a very, very small majority in favour of devolution – but it’s established and it has grown and become more and more popular. We saw in 2011, the National Assembly for Wales having law making powers for the first time; again the people voted for it, this time by a huge majority. Interestingly too, the Welsh Assembly is firmly committed to human rights. It is even more interesting that the British government - Conservative led - has had a review into whether or not Britain should continue with the European convention on human rights. There was a lot of talk a few years ago about whether they should have a ‘Bill of Rights’ instead, so at great expense the British government set up an enquiry, and the commission went around different parts of the United Kingdom and it came to Wales, and they interviewed member of the Welsh Assembly. In their report they actually say that they were speaking to a Conservative member of the Welsh Assembly and he said “well, you would expect me as a Conservative to say, I am against the European Convention on Human Rights and it should be done away with. Well, I suppose I’ve got to say that because I am a Conservative, but I don’t really believe in it.” Most of my colleagues in Wales, we actually think it is a good thing, it underpins our democracy in Wales and what we want really is for it to be extended, not diminished.

One of the clearest examples of how universal rights have been very effective in Wales is with regards to the policies that have been developed for older people and the policies that have been developed for young people as well. They’ve embraced for example the United Nations Charter on the rights of the child and we’ve seen a whole range of policies right across the board effecting young people in a very, very positive way. There’s even a forum established called ‘Funky Dragon’ which is made up of young people from all different parts of Wales in which they give their views not just on youth policies but on a whole range of different policies as they impact upon young people. This has helped to change the culture of politics, which I mentioned earlier, so that it’s not just the politicians in the assembly who make the decisions on behalf of others and tell them what to do – it can be the young people. I was in a community where they can be involved in the decision making process as well, and therefore there’s a grassroots kind of ownership which has given a new impetus to democracy.

The final thing I will mention is Scotland: Scotland has got its parliament once again. It did have a historic parliament until 1707 when the country then became united with England. Now there’s a Scottish parliament and the debate is whether devolution should be stopped; the debate in Scotland today is whether devolution should be taken forward or whether or not it should be taken further still and Scotland should have independence from the British state. And one of the reasons why the debate about Scottish assertiveness has developed as it has done is because the people of Scotland have different opinions to the London based government: particularly it has to be said on the issue of human rights. There’s no question at all of human rights being undermined in Scotland, in Wales or in Northern Ireland, it’s only in London under the Conservative government that we have that debate. In fact, the Scottish parliament has led the way really in bringing together civil society, trade unions, local authorities, and business people and others to actually have a declaration strongly supporting human rights and that pervades their policies as well.

Now, what I want to conclude with you is this: politics is all about making choices, it’s a bit of a cliché I know but in many ways Britain, I think, is at a cross roads. We’ve got a referendum taking place in Scotland on whether they should be part of the union, my guess is – Elfyn might disagree with me – I think they’ll probably remain as part of the United Kingdom. But the big question is what sort of government there will be in the United Kingdom after (in) next year’s general election. If there is a Conservative government, the differences and the tensions which I’ve talked about will become more and more acute. I think that people in Scotland, Wales and Northern Ireland will increasingly see themselves removed from the politics which are anti-human rights, which they no longer relate to in London. But to be honest with you, I don’t think that will happen because I think in next year’s general election the people of Britain will vote for a more progressive government, a Labour government; and that government will follow the good example of the peripheral countries of Scotland, Wales and Northern Ireland. So that we’ll have a different kind of unity in the United Kingdom, this time based on human rights.
The Strasbourg Conference on International Law & Human Rights - Strasbourg, April 14th - 16th

Biography
MP Wayne David
Member of the British Parliament

Wayne David has been the Member of Parliament for the Caerphilly constituency in Wales since June 2001. He is currently Parliamentary Private Secretary to Ed Miliband. Previously he was the Shadow Minister for Political and Constitutional Reform for two years and Shadow Minister for Europe between October 2010 and October 2011. Prior to this he was the Shadow Minister for Wales, having been the Parliamentary Under Secretary of State in the Wales Office, serving between October 2008 and May 2010. Between June 2007 and his appointment to the Wales Office he was a Government Whip for the Department for Work and Pensions and the Wales Office.

Before entering Government, he was a Member of the European Scrutiny Select Committee and the Standards and Privileges Committee. Wayne has a long-standing interest in developing links with Poland and Bulgaria, joining the All Party Parliamentary Group on Poland and serving as its Chair. In 2006, he established an All Party Parliamentary European Union Group, which he chaired until June 2007. In addition, he was also an office-holder in the All Party Parliamentary Groups on Iraq and Madagascar, as well as being the Secretary of the Welsh Group of the Parliamentary Labour Party (PLP) and Secretary of the PLP’s Committee for the Department for Work and Pensions.

Previously, Wayne was a Parliamentary Private Secretary to the Ministry of Defence Team and then to the Minister for the Armed Forces, Adam Ingram.

Before being elected to Westminster, Wayne worked for the Youth Service in Caerphilly. For 10 years he was a Member of the European Parliament for South Wales and was Leader of the Labour Group. Before being elected to the European Parliament, Wayne worked in the Rhymney Valley as a lecturer and organiser for the Workers’ Educational Association.

“Tackling Violence against Women at Home and Abroad”

MP Elfyn Llwyd (Member of the British Parliament)

Strasbourg: April 15th, 2014

Thanks for the generous introduction.

It is a great pleasure and an honour to be here today to take part in this very important conference. It is also a pleasure to follow my colleague and friend Wayne David MP, who is of a different political persuasion to me. In terms of background, I’m a member of the House of Commons Justice Committee and also a barrister with several years’ experience dealing with vulnerable women who are victims of domestic violence and other forms of abuse.

In the year 2011 to 2012 I led an inquiry in the UK parliament which succeeded in changing the law on stalking. I am currently fighting for a review of the law, covering domestic violence in the UK. My principle experience in this field then is evidently rooted in my UK experience, but as delegates all will be all too aware, violence against woman is a global pandemic, indeed I think that phrase was used earlier today.

On average at least one of three women globally is beaten, coerced into sex or abused in some other way by an intimate partner during the course of her lifetime. One of five women will become a victim of rape, or attempted rape at some point in her life and horrifically, woman aged between 15 and 45 are more at risk from domestic violence and rape than cancer, war, traffic accidents or malaria. It is estimated that upwards of 125 million woman and girls who are alive today have been subjected to the brutal practice of female genital mutilation and most victims of FGM are young girls between infancy and the age of 15. In half of the countries where this abominable practice occurs, the majority of girls were cut before they reached even the age of 5. Unicef estimates that over 90% of women and girls between the ages of 15 and 49 in Somalia, Guinea, Djibouti and Egypt have undergone this treatment.

Moreover, the International Center for Research on Women, estimates that there are around 70 million child brides worldwide; astonishingly the UN Office of the High Commissioner for Human Rights estimates that in the developing world, 1 in 7 girls are married before their 15th birthday. Violence against woman is an issue which should galvanize every country; it is a fight which is sadly far from being over.

In 1792, Mary Wollstonecraft published her manifesto entitled a ‘Vindication of the Rights of Woman’ in which she argued and I quote, “I do not wish women to have power over men, but over themselves.” Well, that was in 1792: 220 years later plus, how many countries across the world can truly boast that woman in their societies have proper rights or power over their own future and well-being? The fact that sexual violence, FGM and forced marriage are still common place in so many parts of the world surely is a testament to the fact that the fight for women’s rights continues. That is not to say, that work is not being done to tackle these practices. In June of this year, the UK will host the global summit to end sexual violence in conflicts.
which will be chaired by the Foreign Secretary, and I believe by Angelina Jolie in her capacity as special envoy for the UN High Commission for Refugees. This Summit will be, it is hoped, the most extensive of its kind ever. And delegates will meet to find concord in four areas. In principle:

1.) How to improve investigations of sexual violence in conflict.
2.) How to provide greater support and assistance and reparation for survivors including child survivors of sexual violence.
3.) How to ensure that responses to sexual and gender based violence are fully integrated in all peace and security efforts.
4.) How to improve international strategic coordination.

It should be a blight on the conscious of the world that sexual violence is still being used as a weapon in conflict. Already two thirds of all members of the United Nations have endorsed the declaration of commitment to end sexual violence in conflict.

The international community has an obligation to lobby other members to ratify it. I’ve already mentioned the shocking number of victims of FGM who are concentrated in African countries and the Middle East. Yet, this problem exists closer to home too: although it has been against the law in England and Wales since 1985, there has yet to be a single conviction for this horrendous practice and it is estimated that more than 66,000 woman and girls in England or Wales have already undergone this practice and that 24,000 girls under 15 are currently at risk. But I am pleased to say that from April of this year, there will be an obligation on National Health Service (NHS) hospitals to record information on whether FGM related procedures have been carried out on their patients. This information will be reported centrally to the UK Department of Health on a monthly basis. On the 6th of February this year, the UK Home Office launched a new initiative on this issue having been given funding from the European Commission. So work is been done, at grassroots level.

In March of this year, the UK government passed a law which will finally criminalize forced marriages in the UK, and forced marriages are endemic of violence that exists against women and of course, men. Delegates will not need me to tell them that the pressure put on young people to marry against their will can be psychological and emotional and even financial, as well as being physical. These many forms of violence is a point to which I will return shortly.

Forced marriages are especially a problem in the UK, especially since they’re often hidden from view. In 2005, the Foreign Commonwealth Office and the Home Office jointly established a Forced Marriage Unit which operates within the UK as well as overseas via UK Consulates abroad; between January and December 2013 this unit provided advice and support in 1302 cases involving 74 different countries of origin; including Pakistan representing 42.7%, India 10.9%, Bangladesh 9.8% and Afghanistan, 2.8 percent and so on. 97 of these cases centered on victims with disabilities where the age was known; 15 percent of these cases involved victims who were younger than sixteen years of age - the victims who were over 30, there are only 3% of these. This clearly shows that children are at a hugely greater risk.

Considering the great number of countries of origin involved in these cases, an international approach is necessary and countries must work together and find a court to tackle this issue: forced marriage should not be acceptable in any culture or country. I’ve spoken a little now about the need for countries to work together to protect and uphold the human rights of all citizens. This may of course seem ironic as I stand here as a member of the UK Parliament where debates are raging about whether to leave the European Union and dissociate ourselves from the European Court of Human Rights. As Wayne David said, the UK after all has no codified Constitution, the rights of the citizens of the UK are not officially recorded in this way, so it may come as something of a shock to you to hear that I am fiercely opposed to the UK withdrawing from the EU and from the ECHR.

Given that a minority of Europhobes in the UK Parliament seems to drown out more reasonable views, I am an internationalist and I believe very firmly that these rights must be codified in order to be protected, and I also believe that rights must have a basis at home. As I set out earlier, being a member of the House of Commons Justice Committee in the UK Parliament, this is tasked with holding the Justice Department and the Secretary of State himself to account; we scrutinize legislation before it is debated in Parliament and we hold inquiries into how well the government’s policies are being put into practice. We are consultants on sentencing policy and guidelines, and we also interview candidates for various high-profile justice jobs. One of our recent inquiries was into women in the penal system topic, which some delegates may wish to return to during questions possibly.

I also chair a parliamentary group which meets with representatives of justice trade unions every two months or so, as well as an off-shoot group which specifically meets to discuss issues relating to family and children courts. So I do have a deep interest in the rights of victims of crime and in finding better ways to deal with reparation for the violence perpetrated against them.

In 2011 and 2012 as I said, I had the privilege of chairing an independent parliamentary inquiry into reforming the law on stalking. After I became aware of the limitations of the legislation which was then in place to protect victims of stalking - it was the Protection from Harassment Act 1997, and I also became aware that on average between 6 and 8 women are killed by stalkers every year in the United Kingdom and thousands of lives are ruined by it. I should add at this point that although roughly 80% of reported stalking cases reported in the UK involve a female victim, it is not an exclusively female problem of course. The experience of chairing this enquiry really brought it home to me that women’s rights to safety and protection are being thwarted in the UK every day. Although the original legislation had been drafted with stalking in mind, our enquiry found that the conviction rates were very low. Actually, only 2% of those convicted of stalking were in any event jailed; one of the principal flaws in the legislation was that stalking was not named in legislation. So we looked at other legislation covering stalking across the world, and found that legislation criminalizing this behaviour could be found in English speaking countries including the US, Australia and New Zealand, as well as in 13 EU Member states. Most of these countries introduced legislation in the 1990s, although Denmark was an anomaly in this instance, since it had included the crime of stalking in its penal code since 1933, astonishingly - that’s not too rude to Denmark of course, that’s just to say that they were way ahead of the game!

It was however perplexing that stalking as such was not named as a specific offense in any of these countries apart from Scotland which introduced its own offence in 2010. In a report published by the Modena Group on stalking for the EU commission in 2007, academic experts made the case that choosing not to define stalking in legislation often resulted in legal confusion and that as a result, the concept of stalking is not well integrated among the various professions within the criminal justice system in those countries. So our inquiry decided that naming stalking was essential if criminal justice professionals were to understand the nuances of the crime, and so criminalizing stalking specifically was one of our four principle recommendations. In February 2012, we published a report with recommendations on how legislation and practices should be improved. Within a month of our reports publication, the Prime Minister David Cameron announced that the government would be acting imminently to implement our main recommendations, and new clauses were passed by both Houses of the UK Parliament in 11 days. I don’t know how it is in other countries, but changing the law in the UK is very rarely that fast. A student from the University of Toronto is even writing it up in her PhD thesis, on all party groups in Commonwealth legislatures. She even flew over to London for an interview- my goodness.
I made the point earlier when discussing forced marriages, that violence is not always physical. Similarly, in this context it was of the utmost importance to us as a panel for the new law to take note of the fact that threats to safety, to those suffering from stalking, are not always exclusively physical. So the new law is split into two sections; namely a section 2A offence punishable by up to 51 weeks in prison or a fine, but also a harser 4A offence, which involves stalking which prompts fear of violence or serious alarm or distress. This latter offence is punishable by up to five years imprisonment or a fine, or both.

The Oxford English dictionary after all defines violence as “including forcibly interfering with personal freedom” and it is this last point, ‘forcibly interfering with personal freedom’ where stalking can be considered an example of violence. During one of our early evidence sessions, the horrific reality of the crime was brought home quite starkly to us by someone using the phrase ‘stalking is mental rape’. And I’m pleased to say that 18 months after the law became active, there are now around 600 cases or so before the UK courts - about 150 of them are the more serious 4A offences and the others making up the rest are the 2A offences. So I hope that by doing so, we have saved many lives and we have prevented many other lives from being absolutely ruined by this absolutely awful and heinous offence.

But stalking is not the only type of violence that women in the UK face. Indeed, again involvement in this campaign led in due course to my introducing the 10 minute rule bill in the UK parliament which would criminalise all aspects of domestic violence, since relative unbelievably, not all types of domestic violence are currently criminal offences in the UK. I should also point out that the UK government’s cross-governmental definition of domestic violence is and has been since 2013, and I quote, “any incident or pattern of incidence of controlling, coercive or threatening behaviour, violence or abuse, between those aged 16 or over who are or have been intimate partners or family members regardless of gender or sexuality. The abuse can encompass, but is not limited to psychological, physical, sexual, financial and emotional abuse.” This definition is of course not legal, and not all of these behaviours are criminal offences. This means that there are gaps in the law whereby perpetrators can abuse their partners without being able to be arrested for that behaviour. The main gap is probably that coercive control is not an offense. This can include financial and psychological control and can be a pattern of, quote, “acts or assaults, threats or humiliation and intimidation.” My bill would give this definition statutory footing. It passed its first reading with cross-party support at the end of February, and the second reading is scheduled to take place in June. I do hope the government will take its’ recommendations on board and will act accordingly as I believe the victims of this crime deserve nothing less.

But with the advent of social media and the fact that now so much of our lives are conducted online, the rise of online abuse is a worrying phenomenon which is unlikely to go away with time. Tackling online abuse is made especially difficult due to the relatively easy means of registering servers abroad, which means that prosecuting any individual can be extremely difficult. The prevalence of anonymity on the internet also facilitates illegal activity in this regard. If we are to counter the problem of the territorial extent of our laws, the international community must sooner or later unite in tackling online abuse. It is no longer permissible to simply say that a victim should simply quote: “keep off the internet.”

In summary then, the rights of women to safety, and to a life free from fear, distress and physical danger, are not being given due priority in countries around the world, including the UK. If we are to tackle violence against women we must appreciate that it can take many forms. In many instances, tackling attitudes is almost as important as fighting practices. It is an issue which transcends borders, race and also culture. We should show no tolerance in tackling and erasing it from our societies. But tackling violence against women begins at home, which is why I’m proud to have played my part in securing this robust stalking legislation in the UK and why I’m now keen to gain regreess for all victims of domestic violence. And in some areas such as cyber abuse and forced marriages, cross-border cooperation between different countries is essential; be it on a European, pan-European or a further international basis. It’s essential to secure proper investigations and convictions. Violence against women and girls is regrettably a deep-rooted problem which too many people are still viewing as a reality of everyday life. Across the world, women are abused and manipulated. We must lend a voice to these women and girls, to ensure that our justice systems are there to protect them, and to engender their confidence. They deserve no less than that, and in Mary Wollstonecraft’s words, they should have “power over themselves.”

Thank you very much.

Biography

Rt. Hon. Mr. Elfyn Llwyd
Member of the British Parliament

Elfyn Llwyd MP is Plaid Cymru’s Westminster Group Leader and represents the Dwyfor Meirionydd constituency, winning it at the 2010 elections. Previously, he represented the old Meirionydd Nant Conwy constituency, winning the seat at four successive elections between 1992 and 2005.

He was born in Betws y Coed in 1951 and was educated Llanrwst and the University of Aberystwyth. Before being elected, Elfyn worked as a solicitor and was called to the bar as a barrister in 1997. He has also served as President of the Gwynedd Law Society. At Westminster, Elfyn has been instrumental in campaigning for prison reform and for the rights of veterans, as well as contributing to the ongoing efforts to get more powers devolved to Wales. He has held various positions in Westminster, including many shadow positions as spokesperson, and has held many posts in select committees.

Elfyn Llwyd was involved in the high-profile attempts from 2004 onwards to impeach Tony Blair for misleading the UK Parliament over the war in Iraq. He later led Plaid’s contribution to the push for an Inquiry into the Iraq War, which eventually was granted.

His main political interests are home affairs, transport and agriculture.
The Strasbourg Conference on International Law & Human Rights - Strasbourg, April 14th - 16th

"The Role of International Law to Promote Sustainable Development, Youth Empowerment & Women’s Rights"

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MP Ögmundur Jónasson, MP Wayne David, Rt. Hon. Mr. Elfyn Llwyd and Mark Donfried

The Strasbourg Conference on International Law & Human Rights
“Citizenship, Empowerment and Grass-roots Democracy in Disadvantaged Neighbourhoods within Europe”

A Lecture by Prof. Dr. Maurice Blanc (Professor of Sociology, University of Strasbourg)

Strasbourg: April 16th 2014

Thank you very much for your invitation and thank you for your presentation so it can be very quickly.

What I want first to present is the context to help you to follow the presentation.

First I will raise the issue. I am not a lawyer, I’m not speaking about international law and, is it appropriate, is it relevant here? Speakers before me have told me: when you get to the main city, authorities give information and they may react and express themselves. This is what I want to make four sections.

The first one: what are called disadvantaged neighbourhoods and what is the urban renewal? Second: what is residents’ participation about? And what for?

Third: what is and what means active citizenship at the grassroots level and what is called disadvantaged neighbourhood defined according to countries. The first character is geographical: some of them are in old and dilapidated neighbourhoods, but less and less are also in the inner city because with the gentrification processes these neighbourhoods are no longer for poor people as they became for upper middle classes and the other part of disadvantaged neighbourhoods is at the periphery. Of course you have very rich peripheries but you also have poor communities, poor neighbourhoods in the periphery and most of them are in former, industrial and working class areas in which traditional industries are closed and unemployment is higher. There are also neighbourhoods in which poor migrants find affordable houses. A disadvantaged neighbourhood is a mixture, a mixture with a common feature: the poverty. The population is a mixture of unskilled workers, long-term unemployment, foreigners and ethnic minorities, and when I speak about ethnic minorities is what sometimes is called “second generation migrants” and even, what is most frequent in France, when they get French nationality and citizenship, they remain second class citizens and of course also Asian people, for example in ex eastern Germany where young people moved towards west Germany or toward United States or EU. So, this population, whether black or white belong to what is called by the American sociologist William Wilson “the underclass”.

And in this disadvantaged neighbourhoods within most of the EU countries they enter into an urban renewal process with various denominations, as an example in the UK you have city challenges and city policy as well in Germany, France…This urban renewal combines a special dimension dealing with improving housing, improving transportation, infrastructures and but also social a dimension dealing with social problems, with education, with employment, with racism, crime, drug problems and informal economy.

For residents urban renewal is emphasized on both opportunity and risk. Opportunity because housing and infrastructures are improved, some form of professional training is available, some form of funding is available for social initiatives, but these opportunities go together with risks.

The first and main risk is: the housing improves, but for whom? For former residents or for more affluent new residents? And in many cases improve housing is unaffordable for former residents. I mentioned before gentrification and I don’t know whether if it is a familiar word for everyone of you, it’s the process of invasion, of the popular neighbourhood by middle class being attracted by the low price with the idea that they can buy their house, it will be available for them, it will be well located in the inner city and it has a popular architecture, it has a popular culture, and it is an interesting neighbourhood for this reason but when you have just a few gentrifiers, the neighbourhood remains popular; when gentrifiers arrive massively it becomes to much expensive for poor people and they have to move out. You may find new economic activities but most of them require skilled professionals and the local unemployed do not get these new jobs. Social initiatives may sometimes have positive effects but most of the time they have very little impact on the life of the neighbourhood.

So, what is the urban renewal of disadvantaged neighbourhoods? I do believe it’s relevant in the American context but it might be not very relevant in other contexts and I prefer a more simple ladder of participation: people must get information, they must learn what is planned in their neighbourhoods. The culture of secret has been long routed in local authorities. It has, of course, economic reasons: when residents do the work themselves is cheaper for the local authorities but it’s not the main one; the main one is if the residents work together to improve their housing, it creates solidarities, it creates a good type of social relations among neighbors and this is the priority.

In France participation is restricted to discussions and not necessary to decision. But to discussions preparing the decision on what should be done and what residents expect from the renewal, what are the improvements which the population expects. Some of you, if you are working in urban planning, probably know the ladder of participation from the American planner Arnstein, which includes eight or nine ladders. I do believe it’s relevant in the American context but it might be not very relevant in other contexts and I prefer a more simple ladder with four levels. The first one is a preliminary to participation: people must get information, they must learn what is planned in their neighbourhoods. The culture of secret has been long routed in planning professions and sometimes with good reasons because if you are announced an important urban project, what happens? Speculation begins and sometimes the prices rise so high that the project must be given up. So this is maybe a good reason for keeping your secret but surely it’s an alibi for not informing residents. I do believe information has more positive aspects than negative effects. But once people know about, what possibly is not yet decided, but what are the ideas going on or what should be or will be changed in the neighbourhood, they may react and express themselves. This is consultation. Authorities give information and
The paradox of residents’ participation is when it’s your choice. You may have the reverse, the positive self-fulfilling prophecy. It requires a form of social capital. But it’s not simple for people who are not professionals or experts. It’s an ability to speak convincingly in front of an audience and also the ability to write an argument. It requires a form of social capital. But there is a limitation and you can tell me because it is individualistic. Citizenship is the contrary. Of course express yourself and defend your rights you may do it for good courses or for an individualistic selfish course. And it’s the well-known named effect “not in my backyard”. In planning if there is a new rule, I don’t mind where this new rule will be, but not in front of my house, not in my backyard, after is not my problem. It’s reality, but it’s not the unique aspect and if you don’t defend yourself when you are poor, nobody will do it for you.

But this is reason why I said that abilities must be associated two by two. It must be associated with a second ability which is listening to others. What is good for me is not necessarily good for the others. This is a weakness of Kant philosophy. If I do to the others what I consider good for me, I may be wrong. There is a problem when you maybe make a gift to somebody. Ironically gift In English means “something you offer” and in German has the same origin but means “poison”. You have there this ambiguity. So what I mean here, that in fact you may have local authorities with good will which imagine solutions for helping neighbourhoods, but it’s not what the neighbourhood wants. Listen to others is: I’m not sure the others expect the same expectations that I have. But for listening to the others you have a big problem: you need a common language. In a disadvantaged neighbourhood with a strong concentration of foreigners, and necessarily from one nationality because they are from different groups, where is spoken in many languages, it’s extremely difficult to find solutions to translate projects so everyone may understand it. So when you reach an agreement of what must be done, this agreement must be implemented and you can’t stop it. It’s exceptional in most situations you need an arbitrator. Arbitration is difficult. Arbitration is avoiding what Tocqueville in America called the “tyranny of the majority”. Because we have a majority, we don’t decide alone, we do not decide according exclusively to our interests. Arbitration must take into account minority rights and tries not to please everyone, but to take into account some aspects of different interests. It’s a condition for the legitimacy of the decision. A second problem which is most familiar to you is not enough to make a decision. I mentioned earlier laws which are adopted but remain unapplied. So you may enable a program but it is not implemented, it is useless. So when you reach an agreement of what must be changed, this agreement must be implemented and it requires strong commitment. Arbitration and commitment are linked together.

Citizens’ participation requires planners with new abilities and these new abilities are: be good translators and become mediators. Planners, urban planners, cannot decide alone, they need interdisciplinary experts, economists, sociologists etc... The first issue hier is translating between different formal aspects to create a common language, but also, as I already said, be to form of journalists explaining simple complex issues. This is much more difficult. It may also have to become mediators and facilitators of public debates, mediators between residents and local authorities and sometimes they are translators. If you take a group of young teenagers who want room for meeting without adults, discussing with local authorities may be is extremely difficult.
because they don’t speak the same language. So there is a need for mediators but maybe a new type of mediators. Within a family, a family mediator tries to be neutral, to help everyone to express itself but leaving the family make the decision. The problem here when you have social inequalities, when you have people with difficulties in expressing themselves in public, when adults aren’t perfectly suited to speak in front of an audience, the mediator, which is neutral, doesn’t change inequalities and changing inequalities give more what is sometimes called “positive actions”, give more to the one who has less, is a form of committed mediation. I use the image of a “smuggler” for explaining it.

A very short conclusion. For the German philosopher Habermas it’s right when it’s associated effects of discussions with communicative actions. Discussion is performative, discussion as social effects of discussions with communicative actions.

If you want to get in touch with me, I put my e-mail address. Thank you for your attention.

**Biography**

**Prof. Dr. Maurice Blanc**

**Professor of Sociology, University of Strasbourg**

Professor Maurice Blanc has been an honorable professor of Sociology at the University of Strasbourg since 2008. Since 2000 he has been the Editor in Chief of ‘Espaces et Sociétés’, an interdisciplinary journal focusing on human and social sciences. He is also a member of the journal Housing Studies, and the Journal of Social Sciences.

In addition to his editorial and professorial activities, he is the honorary president and board member of the research committee “Transactions Sociales,” of the AISLF, since 2008. He is also the administrator of the Observatoire regional de l’Intégration et de la Ville, Administrator of the Popular European University in Strasbourg, President of the Council on technique and pedagogy in Strasbourg. Additionally, his is a member of the Scientific Council of the National Secondary School of Architecture in Strasbourg since 2011.

However he presumes a consensed rule and for me it’s unnecessarily for two reasons. I do not believe you can reach a consensus when you have people who are not on equal field and this must be taken into account and the redaction of social, economic or cultural inequalities is a challenge for democratic societies. I do also believe that dealing with conflicting interests and moral values sounds compromised and is more realistic and more appropriate than a consensus. In French “compromise” is very negatively perceived than compromission. A compromise is an agreement where you don’t get all what you expected but either the other, and you committed yourself to respect it. This is relevant in disadvantaged neighbourhoods but also for the society as a whole.

**“Human Rights in Russia - the EU Must Take a Stand”**

A Lecture by MEP Kristiina Ojuland (Member of the European Parliament)

Strasbourg: April 15th 2014

I am very pleased to get this invitation, and immediately I should apologize because in twenty minutes I should run back to the other house, next door, because we shall be voting in the European Parliament. But I must say I was very positively surprised to be invited to this room, because I used to work here for seven years in this room. This was our group meeting room, a group of European liberals and democrats in the Council of Europe Parliamentary Assembly, that Mark also mentioned, and I used to be the leader of that political group for three years, and this was our meeting room here. Normally if I was just a simple member then I was sitting just behind the first row.

But anyway, back to the topic: human rights in Russia. In the European Parliament for the past five years I was working as the spokesperson of my current political group, which is also the European liberal and democrat group, as a spokesperson on EU-Russia relations. After this five year job, I must say that on one hand, I am very sad because all the bilateral relations between the EU and Russia have become worse and worse, and we unfortunately do not have any good positive results to put on the table. There is no bilateral comprehensive cooperation treaty signed between the EU and Russia, there is no comprehensive results on the energy-security policy, and of course the most sad thing is that in the last five years, the development (or misdevelopment) in the field of democracy, in democratic principles, were thrown down.

There are no free and fair elections in Russia, both the parliamentary and presidential elections failed to carry them free and fair. The violation of human rights has grown during the last five years enormously, the rule of law is not existing in this country anymore. Of course the political opposition is also, we can already say today, almost non-existent. The small political parties that they still have, they do not have any chance to go through the elections and to be elected. Some political leaders, like Boris Nemtsov, have even escaped from Russia, and he has lived in Israel for a while because of the threat of being arrested and jailed.

Those of you who have been following the developments in the field of human rights in the Russian Federation, over the last year you know very well that this country does not have a perspective to get back to the right direction, not only because of Mr Putin but because of the regime. But Putin has the friends who he has created and established, and even if that person called Putin leaves there will be exactly the same similar person continuing, I am pretty sure. What should we do then? What should the democratic world do, how should we react and what can be done? It is not only about the European Union, it is about the United States of America and about Japan and the whole democratic world, what is happening now before our eyes. Not by days, but by hours in Ukraine.

I heard that you already talked about it a lot today. Europe at least is quite helpless to react because we do not have enough tools to react, or I must say there is not enough political will to react. There are economic interests, there are bigger German, French, Dutch interests in the Russian Federation, and until Putin is in Berlin nothing can happen, I am sure. I come from Estonia, and I can say this is not only about Ukraine anymore, it is not about Moldova, it is not about Georgia.
In Tallinn, the capital of Estonia, last week we had another pro-Kremlin demonstration organized in Tallinn by Russian-speaking people who live in Estonia. They were demonstrating and supporting the separatists and terrorists in eastern Ukraine and Crimea. They were demanding a referendum to be carried in Estonia, to split Estonia, because we also have in the east and north-eastern part of Estonia, which is bordering with the Russian Federation, we have a majority of Russian-speaking people and these demonstrators were demanding a referendum to be carried in that territory to also join the Russian Federation. The next gathering will take place on the 20th of April, quite soon, next week. So you see, this is not just a sort of coincidence what happened in Crimea, what is taking place in eastern Ukraine. Russia has moved their troops closer to Estonian and Lithuanian ports, near to the Kaliningrad region, and also to Leningrad Oblast which is the region around St. Petersburg city which is close to the Estonian border. St. Petersburg by the way is only 160 kilometers away from the Estonian border. So that means also that the military power balance is now changing in this Ukrainian context. Of course what NATO can do, and is doing now, as long as Estonian fortunately is a member of NATO, and Latvia and Lithuania too, and Poland and other Eastern and Central European nations, are members of NATO. So now NATO, which did not plan to move their bases to the Baltic states when we joined NATO in 2004, we are now doing this, we are now receiving NATO troops closer to Estonian and Lithuanian borders. That is definitely not enough to keep this crisis away from Estonia, which is now showing they are a strong military power, and that the big power Russia through the Kremlin controlled mass media is very much encouraging Russian people, it is not only the ordinary, simple people but also a lot of intellectuals as well; people in science and people in culture feel they are strong, and that the big power of Russia will be restored thanks to Putin.

This situation with this propaganda is a little bit questionable in connection with the strong economic sanctions against Russia, because as soon as the big sanctions, like the cut of gas, will be implemented, immediately Putin can deliver another big propaganda. This is to hype up the Russian people even more against the West and then say you see what Europe and America are doing to our economy, they are destroying our economy, they are our enemies. The situation and the question is what can we do, what should be the response is a very difficult question. I’m also chairing the last five years in my political group the so-called ‘working group on Russia’. Today we had another meeting and one of my Dutch colleagues said suddenly, “Listen I know what we should do, we should take Leningrad to react”. Of course it was an interesting idea but yes, there is no good answer to this question of what is the best stand which will make sense.

These are very good sanctions, but they are not really strong enough. In my view what should be done further, at least the minimum that President Obama should say, is that he is ready to give troops to Ukraine, which would be a political message. Secondly I still believe that the economic sanctions on Russia will make sense. And why I say so, and this is my last point before I take some questions, is that the economic situation in Russia is actually that they are now showing they are a strong military power, but at the same time their economic situation is very weak. It is that they lost their prognosis which was done by Russian national banks themselves, was that their economic growth was around 1 percent only. That is definitely not enough to keep this country growing stronger economically, and some analysts that say that Putin simply needs this crisis to take the Russian people behind his shoulders to remain as the president in office, and to get the support from people using this massive propaganda, creating an enemy in the West and the Ukrainian government, which is described in Russian media as a fascist government supported by the European Union and the West. This daily brainwashing in Russia through the Kremlin controlled mass media is very much encouraging Russian people, it is not only the ordinary, simple people but also a lot of intellectuals as well; people in science and people in culture feel they are strong, and that the big power of Russia will be restored thanks to Putin.

Kristiina Ojuland is currently a member of the European Parliament, affiliated with the Group of the Alliance of Liberals and Democrats for Europe (ALDE), sitting as a full member on the Committee on Foreign Affairs (AFET). She is also part of the Delegation of the EU-Russia Parliamentary Cooperation Committee. As a substitute, she sits on the Subcommittee on Human Rights (DROI) and is part of the Delegation to the EU-Armenia, EU-Azerbaijan and EU-Georgia Parliamentary Cooperation Committees.

Over her political career she has served as Director of the Institute for Europe Integration at Concordia International University in Estonia (1997 to 2001), Minister of Foreign Affairs of Estonia (2002 to 2005), and has been a member of the Estonian Parliament in various capacities (2005 to 2009). Kristiina Ojuland speaks fluent Estonian, English, Russian, and French.
“Sources of human rights, Universal Declaration on Human Rights and European Court of Human Rights’

A Lecture by Bozidar Jovanovic (Consul of Serbia in Strasbourg)

Strasbourg; April 56th 2014

Ladies and Gentleman, I am very honoured to be with you today to discuss such an important subject in this conference that is dedicated to the development of human rights. I will present remarks on the development of human rights and after that you will be able to propose questions.

First of all, I have to mention that the most important source and basis of contemporary international law is the Charter of the United Nations. By the Charter of the United Nations, some of the basic human rights have been codified and become the ground basis for the further development and improvement of human beings and humanity. Also, other principles of the United Nations are the maintenance and development of friendly relations among peoples and nations. The development of human rights is also the most important objective scheduled by the Charter of the United Nations. In 1948, the Universal Declaration of Human Rights was adopted. This declaration was attempting to codify human rights on the international level, but the legal nature of this document was not a source on the international level in the typical sense of interpretation. The legal nature of that document is an obligatory force for all countries which adopted it. It is a declaration of the aims and values that humanity want to achieve in the future. After the adoption of the Universal Declaration of Human Rights was initiated, a process toward the creation of a more important international treaty was universally adopted by the great majority of States.

After World War II the pack of Civil, Political Rights on one side and on the other, Economic, Social and Cultural Rights had been adopted as a legal resource for human rights. The development of international human rights has some notable contradictions and it is obvious that this process had not one general and universal direction, and it was accepted just at the regional level. The European Declaration of Human Rights, the African and American human rights statutes contributed to the national legal systems of many countries of the world and it is very important to present this situation of the fragmentary development of human rights. The most important achievement in this field is obviously the creation of the European Court of Human Rights in Strasbourg. Ordinary citizens obtained the right to protest against a state and at the same time, realized the same rights which have been denied them to protest against their own state; they could now accuse their own state of wrongdoing. The proceedings in this court are very well developed with less formality; this produced the increasing number of such cases to the court of human rights in Strasbourg. There are nowadays many cases against certain countries all over the world and Europe. Everyone within the Council of Europe has to accept the decision of the European Court of Human Rights. During the last 70 years after WWII, we can see how in the internal level of different states, we have better protection of human rights in certain states than others, especially in the most developed states. On the other hand, in the less developed states we have less protection of human rights.

Also, on the international level we have problems because there are several different bodies with the aim of protecting human rights. Moreover, some countries have accepted some conventions, while others did not or they accepted them with some reservations in order to exclude some responsibilities in their own countries. For the development of human rights, and in particular of the younger generations, it is also very important that there is an equal redistribution of economic benefits and education. In some countries you can find very poor young generations with no scope for progression and on the other hand, the richest part of the population has opportunities in the field of education and for their own personal development.

On the international level, we can see different approaches to this policy; sometimes international communities demand and impose the respect of human rights for individuals by condemning certain behaviours as a violation of human rights. However, some other times the international communities do not recognise a violation in similar cases.

The Kosovo intervention against Serbia and Yugoslavia was in contrast to the chapter of the UN because it was defined as a humanitarian intervention to protect human rights and to stop the ethnic genocide in Serbia and Kosovo. The intervention of NATO was realized without the formal authorization of the UN. After that when the NATO forces arrived in Serbia, the Albanians and Kosovars started even more cruel atrocities against the Serbian population and non-Albanians. International communities refused to start special investigations against these atrocities against Serbians under the supervision of the UN. France, GB, Germany, USA rejected the request of the Serbian government to investigate and punish the authors of such crimes against humanity. This is the problem of international communities where sometimes we have double standards of approaches for similar cases. The international communities should adhere to the same rules in order to reach the final effort of improving the protection of human rights all over the world. It is also important to accept increased human redistribution of common natural resources in order to create a more harmonious and better world.
The Strasbourg Conference on International Law & Human Rights - Strasbourg, April 14th - 16th

"The Role of International Law to Promote Sustainable Development, Youth Empowerment & Women's Rights"

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Introduction

In this chapter we examine the position of non-state actors (NSAs) as new players in international law. NSAs possess significant de facto economic, financial and institutional power yet the lack any corresponding legal responsibility. This disproportionateness between power and responsibility needs to be recognized and remedied. Traditional international law norms, mechanisms and arrangements, however, are insufficient to deal with the problems posed by this imbalance. In what follows we explore some possible measures to address it.

Speaking generally, we propose that non-state actors should be brought into the framework of the international rule of law (IROL). It should be recognized, however, that the idea of the international rule of law has yet to be conclusively defined. The divide between formal and substantive conceptions of the rule of law is as active internationally as it is at the national level. Here, we argue that internationally the formal conception should be preferred to the substantive which can be read as embracing larger aims such as the achievement of global justice. Within the formal conception, NSAs should be accorded legal personality. They can and should be drawn adequately and effectively to legal account. Despite the existence of the divide between formal and substantive conceptions of the rule of law, however, we argue that both must embrace respect for fundamental human rights enshrined in the major international human rights conventions. Consequently, NSAs should properly be drawn to account for any violations of human rights they might commit.

In the first part of this chapter, we examine the legal standing of NSAs. In the second part we tie their legal standing to the wider idea of the international rule of law.

1- Concept, Personality, and Status of Non-State Actors (NSAs)

It has been some decades since the idea of NSAs made its entrance into the sphere of international law. The idea has been the subject of controversy. According to one definition suggested by Andrew Clapham:

The concept of non-state actors is generally understood as including any entity that is not actually a state, often used to refer to armed groups, terrorists, civil society, religious groups or corporations.

More broadly, Article 6 of the Cotonou Agreement states:

The actors of cooperation will include: a: State (local, national and regional), b: Non-State - Private Sector: - Economic and social partners, including trade union organizations; - Civil society in all its forms according to national characteristics.

Refraining to the dangers that NSAs may pose in the context of war, the UN Security Council has resolved that the states are required to refrain from providing any goods, services to or supporting NSAs which develop, obtain, construct or transfer or use chemical weapons.

NSAs do not possess official or government authorities and powers and do not have institutional and financial relationships with states. As such they have not generally been recognized as traditional objects of international law but, instead, as potentially new subjects of it:

NSAs are subject or persons of international law. The conception of NSAs as an object of international law does, however, not sufficiently explain its present day position in the international law... In other words, power and influence of NSAs in many cases goes far beyond that of entities to which international law has traditionally accorded to object-states.

Nowadays international law reaches beyond nations, many acts such as certain criminal acts, trade, finance, commercial relationships, environmental issues, human rights and more. Now international law directly touches many individuals.

In parallel the primary focus of international law has also been changing. As the 2010 report of the Brandeis Institute for International Judges noted:

The increasingly prominent place of Human Rights in international legal order has brought with it a shift of focus from states to the individual as a subject of international law.

In order to have legal personality, an entity must possess rights as well as obligations within a legal system. If therefore we are to regard NSAs as having legal personality, it should come to be recognized that international law confers rights and imposes obligations upon them. There are international instruments which have enumerated various rights and obligations for NSAs, depending on the content and intent of the instrument.

International law seems, therefore, to be in the process of recognizing the significance of NSAs. That paves the path for recognizing their formal, legal personality. However, there are debates and worries about the consequences of such recognition of legal personality:

There is a fear that one “legitimizes” actors by giving them human rights obligations and implies a power which they may themselves erode, rather than enhancing, human freedom and autonomy.

One of the significant reasons for not endowing NSAs with legal personality in traditional state-centered international law is that the states would be reluctant to share their powers and authorities with NSAs. Furthermore, there is a fear of legitimizing the NSAs’ unlawful actions by recognizing their legal status and personality. This may in turn lead to the legitimization of their use of violence.

The strength of this argument depends on the nature of the NSA with which one is concerned. For example, one important increasing role of civil society NSAs is their monitoring of human rights treatment by states and government authorities around the world. For instance, in the case of a complaint against the president of Congo, some human rights NSAs applied to the French courts against the president of Congo for committing crimes against humanity. When the case was finally referred to International Criminal Court (ICC), it was decided by the ICC that the alleged crimes against humanity were not substantiated and thus the request was denied. However, the interesting point was that neither the French courts nor the ICC rejected the request of NSAs based on their standing rules of procedure.

The primary objective of international human rights instruments is the protection of individuals and communities against states. Today, there are a vast number of Multi National Corporations (MNCs), NGOs, and other NSAs 6 with economic, financial, and institutional powers which can influence political powers, domestically and globally, to alter their institutional behaviour. Such unlimited and unrestricted powers are susceptible to misuse against individuals and groups and thus, must be
NSAs also have a significant role in peace building awareness and transparency.

2- The International Rule of Law as an Analytical Framework

As explained in previous section the status of NSAs in traditional international law is problematic. Their roles, functions and impacts have not yet found their place in a state-centered model of international law. In this section the idea of International Rule of Law (IROL) as a framework for analysis of the NSAs’ rights and obligations will be examined.

2-1- Conceptions of the Rule of Law (ROL)

There are several reasons which justify the need for IROL. First, there are the actions of NSAs which have social, economic, political and legal impacts on individuals, groups and communities nationally and internationally, such as violations of various human rights. These are not directly subject to international law because, in part, there are no legal mechanisms through which to make NSAs accountable. One of the fundamental pillars of the idea of the international rule of law, however, must be that influential actors should in accordance with the law and, as a consequence, there must be legal responsibility for any breach of the law. Second, as Laurence R. Helfer explained, the international legal system suffers from decentralization and disaggregation:

In the absence of a centralized, hierarchical authority with the power to coerce behavior, nation states are free to pursue their own interests, with states that possess more material or financial resources often enjoying a decided advantage in their relations with weaker or poorer countries. 25 acknowledges that a degree of an order can be found in a set of treaties, organizations and dispute settlement mechanisms which regulate each subject matter like environment, human rights and trade. As far as possible the law’s differential treatment of rich and poor states should be minimized. Similarly, the IROL should aim to establish international law and order and thereby overcome the problem of the unequal treatment of influential public and private actors. Third, the idea of the ROL is not just a political or legal ideal. It has also been adopted in international instruments such as the Universal Declaration of Human Rights (UDHR). Mary Ann Glendon, for instance, has argued that the ROL has been enmeshed to the body of the UDHR from the very beginning.26 She cites the third clause of its preamble which reads as:

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the ROL.

The ROL has been evolving into a positive condition for the effective application of international law. It constitutes a significant standard of behavior and decision making in the field of international relations. As such it should apply to states and NSAs equally.

However, the concept of the ROL is a vague and contested idea in domestic public law, international
law and political theory. Its definition and demarcation ranges from formal to substantive conceptions. These conceptions cannot be elaborated in detail here. It is, however, sufficient to summarize some of its most important features and then a suggested amalgamated conception of ROL and its externalization in international law will be analyzed.

A- Formal Conceptions of the ROL:

According to the categorization suggested by Brian Z. Tamanaha and Paul P. Craig,27 theories of the ROL can be divided into two basic categories of formal and substantive conceptions and each version reflects distinct but contrasting perceptions.28 One concept of the ROL is known as “Rule by Law”. This notion of the ROL is considered as a means by which the government is authorized to achieve its objectives. In other words, it has an instrumental function to fulfill any kind of political end such as that which occurred in Third Reich period in Germany or in other authoritarian states. This precept is purely definition and excludes any substance.29

Another variation of the formal conception is known as “Formal Legality”. It consists of two sets of two sets of specifications: first, the legal characteristics of a legal system and second, institutional/procedural checks on the exercise of powers. It is claimed that these criteria are value free and neutral and are independent of moral and political values. As a common ground of formal theories they do not however seek to pass judgment upon the actual content of the law itself.30

The prominent legal philosopher, Joseph Raz in response to substantive theorists like Ronald Dworkin has argued that:

If the rule of law is the Rule of the good law then to explain its nature is to propound a complete social philosophy. But if so the term lacks any useful function... The rule of law is a political ideal which a legal system may lack or possess to a greater or lesser degree. That much is common ground. It is also to be insisted that the rule of law is just one of the virtues by which a legal system may be judged and by which it is to be judged.31

With respect to the neutrality of the ROL, Raz acknowledged that:

A non-democratic legal system, based on the denial of human rights, on extensive poverty, on racial segregation, sexual inequalities, and racial persecution may, in principle, conform to the requirements of the rule of law better than any of the more enlightened Western democracies.32 The law may... institute slavery without violating the rule of law.33

Raz also argues that this account of the ROL aims at establishing law and order and regulating citizens’ lives and behaviors. The virtue of the ROL is to enable citizens to guide their own lives in relation to each other and also in relation to state authorities. Since this conception is claimed as value free, its objective is not necessarily to curtail abuse of powers by public officials through institutional arrangements like separation of powers or checks and balances. The virtue of a formal conception of the ROL consists among other things of legal certainty and predictability. Raz categorized its virtues into two sets of principles: inherent and subordinate.34 The first set of principles is:

- Generality
- Prospective openness, and clarity
- Relative stability

The second set of principles is necessary for the effective implementation of the first set of principles. The foregoing inherent principles cannot be maintained unless some procedural and institutional guarantees are established. The subordinate principles are:

- Independence of the Judiciary
- Principles of procedural justice
- Judicial review power of the courts
- The accessibility to the courts
- Crime preventing agencies should not be corrupted in their functions.35

These virtues of the ROL have been more or less agreed to by other legal and political philosophers like Dicey, Leon Fuller and Hayek, with a slightly different formulation of the requirements of the ROL. Fuller and Hayek’s theories, however, do not necessarily incorporate the element of judicial review and judicial organization into the conception of the ROL. Individuals and citizens’ autonomy and dignity are protected through the above virtues of the legal system, as pursuant to them, they may make their own decisions as to their individual goals and destination. Another advantage is that the political neutrality of the ROL can not only gain support from different right, left, and center in politics, but also can incorporate diverging substantive values. As far as the externalization of the ROL into international law is concerned, Tamanaha points out that:

This substantively empty quality has been identified by theorists, and by the World Bank and other development agencies, is what renders it amenable to universal application.37

However, Tamanaha criticizes this conception on two grounds: first, although it requires equal application of legal norms to all and prohibits arbitrary differentiation among individuals and organizations, it requires substantive standards to determine what constitutes arbitrariness. Second, the requirement of the ROL, i.e. equality of all before the law, needs to be supplemented by equality in substantive theories like distributive justice.38 This critique, however, opens the door to the contrary argument made by Raz that substantive standards may open the way to the introduction of an entire social philosophy.39

Another aspect of the ROL which cannot be ignored is its preventive function in regulating the exercise of arbitrary powers or the abuse of discretionary powers. This version was well set out in the 19th century by A.V. Dicey in his book An Introduction to the Study of the Law of the Constitution.40 He formulated the ROL in three significant facets: first, society should be ruled by law not by discretionary (arbitrary) powers; second, there should be equality before the law, for private individuals as well as government officials; and third, all persons should be subject to the general jurisdiction of ordinary courts which constitute the best source of legal protection.41

B. Substantive Conceptions of the Rule of Law

The proponents of the substantive conception of the ROL agree on the formal requirements of law, but they go further to incorporate qualitative criteria such as fundamental rights into the conception of the ROL. Ronald Dworkin justifies his arguments for this version of the ROL as:

I shall call the second conception of the rule of law the “rights” conception... It assumes that citizens have moral rights and duties with respect to one another, and political rights against the state as a whole. It insists that these moral and political rights be recognized in positive law, so that they may be enforced upon the demand of individual citizens through courts or other judicial institutions of the familiar type, so far as this is practicable. The rule of law on this conception is the ideal of rule by an accurate public conception of individual rights. It does not distinguish, as the rule book conception does, between the rule of law and substantive justice; on the contrary it requires, as a part of the ideal of law, that the rules in the rule book capture and enforce moral rights.42

The Dworkin’s rights-based conception of the ROL relies on the existence of underlying community values which underpin the background to positive law. It is the duty of judges in complex and contested cases to deliver their decisions based on moral and political principles which best fit the moral rights of the parties. In hard cases, the duty of the judges is to find the right answer by applying presumptive principles of a moral and political nature. However, Dworkin’s theory is criticized on different grounds: first, communities may be divided on different legal and political principles, in particular with regard to sensitive issues such as abortion, positive discrimination, employments, education, tax, homosexuality, the death penalty etc. Second, it is too simplistic to believe that law makers and decision makers are always motivated to create...
laws which reflect communities’ values and morality. Third, this theory shifts decision making from elected politicians and gives it to appointed judges which in turn results in greater judicialization of politics and democratic process.43 Another substantive theory of the ROL not only adheres to legal formality and individual rights but also incorporates substantive criteria such as welfare and social rights. The International Commission of Jurists conference held in 1959 declared for instance that:

The dynamic concept which the Rule of Law became in the formulation of the Declaration of Delhi does indeed safeguard and advance the civil and political rights of the individual in a free society; but it is also concerned with the establishment by the state of social, economic, educational and cultural conditions under which man’s legitimate aspirations and dignity may be realized.44

Under this rich version of the ROL, states are required, among other things, to take positive actions in order to create a better life for people and ensure a proper standard of distributive justice. However, incorporating social rights into the notion of the ROL complicates the basic concept and invites more controversy to the debate.45

Now the question is what conception of the ROL is amenable to be applied to international law and on what grounds? This chapter argues for a conception which is less contentious among legal and political scholars, lawyers and practitioners, on the one hand, and to base IROL on the most authoritative international instruments and jurisprudence on the other.

2-2- International Rule of Law Considered

In so far as the functions and actions of the NSAs are concerned, and due to the necessity of the establishment of the IROL, as discussed above, it is important to examine how the IROL should be constituted and on what normative basis it should be constituted.

The normative aspect is the most significant aspect of the rule of law but also its weakest form. It seems that most international lawyers and scholars have propounded the idea of IROL in its formal conception, in particular, as formal legality and equality.46 However, this view does not discount the complexities and problematic nature of the IROL. IROL should still find the means to deal with contemporary issues such as the status of NSAs and societal imperfections such as the problems of inequality, discrimination, poverty, environment, and human rights violations which traditional international law cannot easily cope with effectively, at least, on a general scale.

We propose a formal conception of IROL and therefore need to set out the requirements of this version of the idea. The requirements of formal legality for an IROL can be summarized in the following formulation: first, the existence of a principled legal normativity, second, a norm making mechanism to create laws which are applicable equally to all subjects, similar to domestic law-making, and third, a judicial enforcement mechanism in cases of the breach of international norms or for settlement of disputes with an authoritative and binding character.47

Regarding the first requirement, some have argued that international law embraces a body of rules and norms which are capable of application to issues, directly or indirectly through the rules and principles of international law.48 According to Article 38 (1) of the Statute of International Court of Justice (ICJ) these rules are contained in treaties, customs or non-written sources of international law, and general principles of law which are mostly extracted from domestic legal systems. Furthermore, there are other sources of international normativity such as the Vienna Convention on the Law of Treaties which is ratified by more than 100 states. There are also other treaties and international instruments such as Universal Declaration of Human Rights and the two Covenants on Civil and Political Rights, and Social, Economic and Cultural Rights, and also the European Convention on Human Rights, European and WTO treaties which can control behavior of states, individuals and NSAs with respect to various trade issues.49 It is also said that there is a set of rules recognized as jus cogens or preventive measures which function as a set of higher laws from which no deviation is allowed like unauthorized uses of force, the most serious violations of human rights like slavery, genocide, torture etc.50

However, this normative aspect of the contemporary IROL may justifiably be criticized in particular with regard to NSAs. This is because, first, as compared to domestic constitutional law, there is no hierarchical order of norms whereby higher norms legitimize lower norms, whereby constitutional law lays the foundation for domestic legislation. Second, existing international norms have not yet attained universal applicability. Even if there are some effective international instruments such as the Universal Declaration of Human Rights, complete coverage of the conduct and behavior of states and NSAs has not yet been achieved. In addition, there is often significant controversy as to their interpretation. Third, with respect to NSAs, there are no general rules which address directly their legal status and behaviors. Fourth, the lack of consistency among international needs to be addressed. Every international instrument deals with its particular subject and with its special set of institutions and enforcement mechanisms. As yet there is no legal or procedural solution to the need for the harmonization of the overlapping and contradictory provisions of relevant international norms and rules.

Regarding the second requirement of the IROL, i.e. law making institutions similar to domestic legislative bodies, it would be beneficial if eventually there were some centralized authority on the international plane to function as a global parliament. Some authors have tried to suggest that the UN Security Council, General Assembly and International Court of Justice act as executive, legislative and judiciary in this way. But their powers and influence are very strictly limited.

It is worth mentioning that according to formal theorists of the ROL, such as Raz, Dickey, Fuller and Hayek the existence of a centralized law making institution and the existence of a rigid model of separation of powers is not a necessary element of the IROL.51 They have tended to focus on the independence of the judiciary and the presence of judicial review.

Nevertheless, the above analogy seems inaccurate, because the General Assembly is limited to recommendatory powers only. Further, by comparison, there are several international rule making organizations such as WTO which have more effective rule making powers with more authority and more powerful enforcement mechanisms.

Regarding normative and institutional hierarchies, Helfer puts the current status of international law in this way:

The international legal system too contains normative and institutional hierarchies that seem to offer a tool for resolving the difficulties that decentralization and disaggregation may engender. However, these hierarchies do not provide a blueprint for resolving questions of governance in a manner analogous to the hierarchies enshrined in domestic constitution.52 With the emergence of global governance and the emerging power of NSAs in standard setting in fields as diverse as human rights protection, trade, environment, socio-cultural matters, the need for a broader conception and application of an IROL has become ever more pressing.

The third requirement of an IROL is that there should be a judicial enforcement mechanism to ensure that states and NSAs act in accordance with the principles and rules of international law. Without judicial review to rule on the legality of public and private actions and activities, there is always the possibility that agencies and authorities may abuse their powers. An international judiciary should ensure that the law is implemented in accordance to the legislator’s will and that peoples are assured that there will be no arbitrary use of power and no distortion of legislative enactments whether in the public or private spheres.

Some have argued that the ICJ performs as the judicial enforcement apparatus of international law and also may exercise the judicial review power over the other organs of the UN. To provide the
ICI with jurisdiction over disputes arising from UN instruments and over disputes between states is plausible. However, its jurisdiction is limited does not yet have a general jurisdiction to review the actions, decisions, or regulations made organs of the UN such as its Security Council or to hear and determine complaints from individuals, groups, and NSAs against states or other NSAs.

Although there are no centralized and coordinated international courts or tribunals analogous to domestic courts, there are various international tribunals which possess important and individual jurisdictions. These include the ICI, the International Criminal Court, the WTO panel for the settlement of disputes, the International Tribunals for the former Yugoslavia and Rwanda, the European Court of Human Rights (ECHR), the European Court of Justice (ECJ) etc. Some of these courts and tribunals decide cases with respect to the substantive version of the ROL. With one exception it is frequently referred to by both states and NSAs alike as ECHR, but most of them would receive complaints only from states parties to the relevant treaties like the WTO panel of dispute settlement.53

The present system of international courts and tribunals does not yet satisfy the third requirement of the IROL because: first, there is no centralized and hierarchical international judiciary; second, these judicial bodies have very limited scope of jurisdiction; third, individuals and NSAs have no access to most of these courts and tribunals; fourth, those courts and tribunals which do satisfy this requirement lack authoritative enforcement mechanisms. In case of non compliance by the defendant party, there is no legal guarantee for the implementation of the relevant decrees and judgments within domestic law and jurisdictions. This latter obstacle is due to the fact that the enabling international treaties are voluntary and consent-based.

Although this third element of IROL is problematic, in contrast to early decades after the Second World War and also the cold war period, the current status of international courts and tribunals and their roles in resolving disputes, prosecuting crimes and atrocities, convicting human rights violations represent a very significant improvement. Generally speaking, these facts show that we are closer to an IROL than at any time before. According to the BIU 2010 report on the IROL:

Participants also concurred in a general way that there already exists a rule of law at the international level, at least in an emergent form.54

It was also reaffirmed that:

The impacts of international courts and tribunals may include successful preventing armed conflict, securing a peaceful settlement of boundaries, deterring serious violations of the law, achieving the overall objectives of an international treaty, and obtaining compliance with specific judgments.55

Concluding Remarks

Thus far, the IROL has been used in an umbrella sense to encompass certain fundamental values and principles while, at the same time its usage has remained contested. In parallel, however, domestic public law and the traditional model of the ROL has been simultaneously assimilating into the practice of global governance. So, for example, the domestic legal treatment of NSAs, through the medium of good governance and non-state regulatory regimes is progressively being replicated at international level in the economic, trade, legal and political spheres.

The emergence of participatory regulation and new regulatory regimes show that national states, in particular market centered economies, are more and more attuned to and influenced by the participation of NSAs. In a constructive way, the concept of sovereignty is not only diminishing externally through global governance, trade relaxation, and international human rights and humanitarian laws, etc., but also weakening internally, through good governance, privatization of economy, participatory democracy, decentralization of government authority, and outsourcing government functions to NSAs.

With respect to the substantive version of the ROL, there have been many attempts to include social justice and welfare rights in the notion of the IROL. However, we believe that this conception is more problematic than the formal version of the ROL.

This is because it is contentious not simply from the normative perspective, but also because of the realities of international law and relations. States and international organizations remain very divided as to such matters as global resource allocation, positive governmental obligations to citizens and the nature of social justice. A formal conception of the rule of law, therefore, is preferable, as its focus is primarily upon the formal and therefore neutral aspects of the law rather than on its substantive and therefore contested bases.

Notwithstanding this, however, there is one element of a substantive conception that we believe should complement the formal one. In the international sphere, the existence of fundamental human rights is sufficiently widely recognized and its content sufficiently certain and defined that human rights standards may now properly be regarded as a crucial constituent of an international rule of law. The reasons are: first, international human rights

Notes

1. Assistant professor of public law at Shahid Beheshti University. Faculty of Law. Tehran.
2. M.A. graduate of International Human Rights Law
6. There are documents which define these actors directly or draw out their personality implicitly by establishing their responsibilities. This issue will be discussed in next pages.
7. Nijman, J. E. 2010. Non-State Actors and the International Rule of Law: Revisiting the “Realist measures have already been absorbed to the body of positive international laws through international norms such as the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Social, Economic and Cultural Rights, the European Convention on Human Rights and the other International human rights conventions. Formal theorists do not now tend to reject the centrality of human rights to the content and operation of the rule of law and nor should they. Human rights laws and standards are now more than any time before, addressed, interpreted, judged and enforced at a global level.

As explained in this article, NSAs have both negative and positive functions. To benefit from the emergence of NSAs and to avoid their negative impacts, IROL principles should regulate NSA actions, just as traditional intergovernmental laws have governed the operation of states.

Theory” of International Legal Personality, Non-State Actors in International Law, Politics and Governance Series. 5.

8. Nichols. P. M. ‘Reconceptualizing the Rule of Law as an International Norm’. An early draft article, as a working paper titled ‘Reconceptualizing the Rule of Law’.
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“The Role of International Law to Promote Sustainable Development, Youth Empowerment & Women’s Rights”

31.Ibid. 211.
32.Ibid. 221.
33.Ibid. 210-223.
34.For an analogy of IROL based on this kind of approach see: Nicholas, P. M. n. 4 above.
35.See Tamanaha, B. Z. n. 22 above. 93-94.
36.Ibid. 94.
37.Ibid.
38.See Nicholas, P. M. n. 4 above.
42.Tamanaha, B. Z. n. 22 above. 102-104.
44.Tamanaha, B. Z. 112-113.
47.See Beaulac, S. n. 35 above.
48.Ibid. 205.
49.Nicholas, P. M. n. 4 above.
52.Helfer, L. R. n. 19 above. 213.
53.Regarding the enforcement mechanism, Helfer argues that within WTO trade dispute settlement system, the crucial compliance force is reciprocity. He says that: “This enforcement mechanism is properly used in trade context. But in cases of Human Rights violations by a state is not thinkable and morally unjustified.” Helfer, L. R. n. 19 above. 222.
54.Ibid. 27. 24

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MP Ögmundur Jónasson, MEP Silvana Koch-Mehrin and Mark Donfried

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“The Protection of Women’s Rights – Which Role Can and Should Female Parliamentarians Play?”

A lecture by MEP Silvana Koch-Mehrin (Member of the European Parliament)

Strasbourg; April 16th, 2014

Thank you so very much for this kind introduction ladies and gentleman. I am very happy to be here and it is an honor for me to speak here. Actually, it is not too far from what we heard from the other members of the European parliament who have already addressed you I guess in the last two days. We’re just a few hundred meters away and don’t even need to leave the building between the old premises of the European parliament and the current ones. I chose this topic because I would like to provoke some thoughts and controversy also in this distinguished audience.

Why would female parliamentarians be crucial for women’s rights? Why can’t men and women when in parliament take care of that important issue? Why would female parliamentarians focus specifically on women’s rights and not on human rights? Why do we need these gender distinctions? Aren’t we just one society where we should care about each equally no matter which gender, race, religion or which part of the world we come from? Looking at that fact, female parliamentarians are quite a new phenomenon. A hundred and twenty years ago it was the first time ever that women got the right to vote. It was much, much later than men.

And it was even less than hundred and twenty years ago that the first female parliamentarians begin entering into the parliament; always in very, very small minorities and still today, according the Inter-Parliamentary Union, only twenty percent of the global community of parliamentarians are women. It is about nine thousand women in the various parliaments. Obviously there are very big regional differences. Some countries are very close to a more gender-balanced leadership, others are very far away from it and have just a few; let me call them, ‘token’ women in the parliament. Sometimes not even elected, but just appointed to sit there just to be able to say we do also take women’s views into consideration. So for arguments, why do I think women in parliament - even today 2014 - is an issue that needs to be addressed? Well, first of all consider parliaments as a representation of the people, then its a numbers game. More than half of the population of the world are women; twenty percent of representatives are women, so there is an obvious mismatch. This is just numbers.

Second argument is leadership. We have seen certain styles of leadership being very established and being in a way, the prototype of how leaders behave, decide and act. We have seen in many different practical observations and also theoretical studies that leadership styles differ and if you combine different styles of leadership than you get better results. So gender plays a role in how to lead and how leadership is perceived. Third argument, and this might cause some controversy I think; women in parliaments guarantee better legislation. The shift on agenda, of what is important and what is less important, where is public money attributed to, what kind of society do we want to live in; this changes significantly with the number of women being represented in a parliament. Fourth argument is that women rights are obviously human rights.

Now let me talk about three different points: 1.) what’s the specific significance of women in parliament? While parliamentarians are visible society leaders, they have to present themselves to the voters in the elections, they have to be in permanent contact with the stakeholders and they are quite visible. Obviously, politics is about having role models and we need to have different kinds of role models. We have a whole variety of men in the parliament - younger, older, with or without children and from different educational backgrounds. This is truly a representation of a part of our society. Female representation is still missing. If you close your eyes and think about a leader, it is quite unlikely that lets say, a woman beginning her thirties will come to your mind. You would more likely see a more senior gentleman in front of your inner eye. If you see Europe today, there is a big change: we have obviously have Angela Merkel who is one kind of female leader. We have the Danish prime minister who is a very different kind of political leader, and we see governments like the French government and the Italian government who have all kinds of different personalities which gives an opportunity for girls and boys to see different leadership roles and personalities and not just one prototype to which you unconsciously or consciously compare yourself and ask yourself: could I be there or not when I grow up? And in the case of my oldest daughter who is ten years old, she once asked me: “In Germany can a man also be chancellor?” Because in her ten years she has always seen Merkel. I thought that was quite a cute question.

Women as society leaders are important because as a parliamentarian you’re commissioned; you have a mandate to take decisions on behalf of your voters. You have to take decisions for the whole of society and that means that you have to accept that women are in charge. This is important because in many countries you can still find the reluctance to accept female judges, female leaders, and in other parts of the social environment, like chief editors or economic leaders. Those visible leaders of society in parliament can result in having a different perception of women as leaders in general, which then advances society to a different form of decision making. In the words of Michelle Bachelet, the now second time president of Chile and former head of UN Women said: “When one woman is a leader it changes her, but when many women are leaders it changes society.”

And this brings me to the second point, which is legislation. Hillary Clinton said: “Never waste a crisis” and you can see that in many countries who are emerging from crisis, that just for the mere fact of having no alternatives they give women more opportunities; men are dead or men are found guilty of crimes so are not suitable for leadership positions as many would be before. You have got some very obvious examples: Germany after the Second World War there was that famous ‘trauma fraud’, those women you can see in pictures putting in absence of men building up houses, running businesses; politically it took a little bit longer. But also in countries like Rwanda, when this year was the twenty years commemoration of the Tutsi genocide when after the genocide seventy percent of the population where women, only thirty percent of men where left because of what happened during the genocide. Lots of those were not suitable to be sitting together in one meeting room and finding solutions for the whole of society. One of the main factors in rebuilding society there was empowering women. But even today here in Europe, yesterday’s vote in the European parliament for the new banking union rules in Europe were brought forward by women. It was five female parliamentarians and one male from the Green Group - which usually is the more women focused group – who were the authors of the legislation. And some argue that if it was the Lehman sisters instead of the Lehman brothers, we wouldn’t have been in this mess anyway.

Just a very few highlights in regards to economic empowerment: the IMF argues twenty seven percent of GDP growth globally if women get full economic empowerment. Meaning that they can inherit, they have the right to ownership and many basic factors...
which would allow women to be participating in the market. Usually those kinds of legislations are sponsored mainly by female parliamentarians, not because men would try to avoid that, but just very often it is just not part of their priority agenda.

Secondly, the general economic environment improves if we have more women in parliament. Corruption goes down and we have more transparency and social legislation is improved. Again, this has to do with more gender-balanced decision making. Education ranks much higher on the agenda because traditionally, education for women means the possibility to decide for herself on her life and to have freedom for choosing what she would like to do and also when she would like to have children. So education usually gets a much higher priority in a national political agenda.

Health, again traditionally for women is an important issue as they tend to be responsible for family health and prevention and this becomes a more important factor; if you as a mother know how much it blocks you if you have a sick child at home then the importance's are there. Finally, the mother of all issues is the integrity of the person. Women data shows clearly that due to more female parliamentarians or due to more female political leaders, issues of domestic violence or issues of sexual violence but also conflicts and post conflict management and the role of women in it gets much higher recognition and also becomes an issue on the agenda, and again this is mainly due to a growing caucus of female parliamentarians.

Now how do we get more women in parliament? Women set up a very fantastic thought, which is a constitutional database where they compare all the constitutions of all countries worldwide and give recommendations of how to change or improve constitutions in order to have more gender equality. In Tunisia, where they just voted on its new constitution, they took these recommendations very much into account and is very much proud of this. Looking at the facts and figures of how the situation of countries improves with more women; successful countries like Iceland for example, where they are coming out of a severe crisis, now you have 4 percent of unemployment only - which is like full employment. You can see impressive economic growth again and you have the highest standard of gender equality worldwide, similar to other Scandinavian countries.

And just finally, what I do believe and what do you believe; are female parliamentarians the better parliamentarians? Well, certainly not. I mean women have to get the chance to become corrupt, to do bad legislation, to be involved in all kinds of scandals. It is not that they are on the morally better side of life; not at all. You’ve got all kinds of women and all kinds of men, and Rebecca Grynspan who used to be number two in the United Nations Development Program (UNDP) and was also the deputy prime minister in Costa Rica, she said, for her, gender equality has been achieved when there are as many incompetent women in parliament as there are men now. Now, I would like to see the opposite, that we have got through increased competition more competence on both gender sides!

But let me just finish by saying all those factors that I listed. Obviously, you can argue is it because of women or it is it because of a modern society that women have better possibilities to advance? And I think that it is a give and take in the end. If you have a society where you have equal opportunities for everybody than you tend to have an independent judiciary, you tend to have more modern institutions, and you tend to have independent and free media. You tend to have all of these factors that you need to have a modern society and then women obviously have better opportunities to thrive and to become leaders - and this again I think, makes it beneficial for all of us and for society as a whole. So, with this, I think I’ll close my short intervention and I look forward to your questions and/or discussion.

Thank you.
“The Role of International Law to Promote Sustainable Development, Youth Empowerment & Women’s Rights”

The Strasbourg Conference on International Law & Human Rights - Strasbourg, April 14th - 16th

MP Ögmundur Jónasson, Judge Dmitry Dedov, Judge Boštjan Zupančič, Judge Dragoljub Popovic and Mark Donfried
“International Human Rights Protection – A Hope for the Weak”

A Lecture by Judge Dragoljub Popovic (Judge of the European Court of Human Rights)

Strasbourg; April 16th 2014

Ladies and Gentlemen,

May I invite you to a journey in a time-machine, kindly asking you to imagine the year of 1949. It is the beginning of September and the Consultative Assembly of the Council of Europe is in session, discussing the draft of an international treaty, namely the future Convention for the Protection of Human Rights and Fundamental Freedoms. A French MP takes the floor, to point out the essence of the whole system of protection of human rights, envisaged by the draft, which is the subject of the deliberations. His name is André Paine; he wants to describe the functioning of the European Court of Human Rights, as shaped by the Convention draft, and in doing so he tackles what in his opinion is the core element of the entire system of the human rights protection and says as follows:

“It is that when a fundamental freedom has been violated, an individual, even the most humble, even the weakest, may be able to come before the Court as an equal of the greatest State or the most powerful Government.”

Philip’s words clearly disclose the most important point of the long lasting story of human rights. It has always been about the weak and the mighty and the idea of human rights appears in it as a means of providing arms to the former against the latter. As the dominant issue of the story has remained the same, the idea has preserved its main feature ever since the time of its birth.

If we are to consider the birth of human rights it suffices to say that it cannot be properly traced back to a certain period of time or region of the world. The idea emerged in different civilisations created on our planet, in various times and circumstances, however constantly maintaining some of its core and most specific features. We may nevertheless assume that the idea of human rights stems from two sources; one being the philosophy and the other the law.

It is not our task here to research with a fair amount of accuracy what were the philosophical systems that once upon a time embraced some sort of pattern of human rights, no matter how those were named and/or defined within a particular school of thought. We know that pre-earth schools were many; we know they came from both east and west, following different ways of reasoning, but they converged and eventually flew into rather similar conclusions.

On the contrary, if we were to investigate the issue of the origin of human rights in law, i.e. at least in the Western legal history, our conclusion on their date of birth leaves little room to doubts. In their modern form the fundamental rights were brought to daylight in the time of revolutions. It is noteworthy that the Great French Revolution of 1789 put forward the ideal of a universal approach to the rights, as not only belonging to citizens but first and foremost to men as such, i.e. as human beings. The French were to some extent influenced by Thomas Paine, who also consecrated his famous volume to the Rights of Man, being himself under the impact of the American Declaration of Independence, which had proclaimed all men to be “created equal” and “endowed by their Creator with certain, inalienable rights”.

Despite their universal character by which the fundamental rights were marked when entering the political scene in modern time they were further on shaped exclusively at the national levels, being solemnly promoted in the era of traditional constitutionalism in the form of bill of rights, enshrined in the texts of the constitutions of nation states.

It was only at an advanced stage of developments that the fundamental rights i.e. human rights were transferred to the level of international law. That process had already been in course when Malcolm X pronounced his words in a speech of 1964, less than a year before he was assassinated. He said:

“Civil rights means you’re asking Uncle Sam to treat you right. Human rights are something you were born with.”

Although undoubtedly true this definition of human rights, which by the way corresponds with the idea laid down by the Declaration of Independence, needed a whole set of instruments, as well as adequate bodies, in order to be carried out in everyday life. Bodies and instruments would not have sufficed, had there not been profound convictions to back them and provide them solid grounds. Sincere beliefs of men and women created foundations to those rights, once they managed to achieve a thorough transformation themselves. People have become convinced that if the human rights are the rights we are born with, they inevitably overcome nation-states’ borders and require a more suitable environment to achieve efficient protection. Back in the 1960s such international instruments were already in place transferring the protection of human rights from the level of nation-states to the area of international law. A tremendous step had thus been taken and we should put it together with Samuel Moiny, a Columbia scholar, that it was “the move from the politics of the state to the morality of the globe”.

It was indeed in the ruins and remnants of morality that have been left at the aftermath of the World War II, while people were desperately seeking the way to restore the sense of ethics that the human rights were given proper attention. They were then placed at the international level, an idea which fundamentally transformed some of the classical patterns reigning in the area of international law. In the first place it meant providing direct entitlement to an individual under international law, but the phenomenon of what may be labelled as a structural alteration of human mind went far beyond the somewhat technical legal issue that has just been mentioned.

The phenomenon of transformation in the human conscience may be considered to have properly found its formulation in the second half of the 1970s in the words of Jan Patočka, a Czech dissident, who perceived the human rights as “nothing but the conviction that states and the society as a whole also consider themselves to be subject to the sovereignty of moral sentiment”. Our belief today profoundly relies on such considerations, which had shown up and eventually prevailed throughout the slow and painful social developments that we had to witness in previous decades. A command of ethics to which we unequivocally agree lays down the foundations of our world and society, as we know them today.

Now if we return to the everlasting story of human rights in their form of an element playing a significant, if not even decisive, role in the confrontation between the weak and the mighty, much to our regret it seems inevitable to state that the history never ends. Although we have made our world sophisticated and managed to improve its institutions to a considerable degree, there still are among us the weak that need protection, understanding and help.

Who are the weak of today? Unfortunately they are still numerous. Groups of men and women suffer nowadays their unfavourable life conditions and have to turn for the intervention of law in their favour, to be able to cope with the hurdles they
are confronted with. Two of those groups have been mentioned in the title of this symposium. The women and the youth still have to strive for equality and justice. That is why the international law should provide for adequate procedures in order to reach out to those in need and accommodate their just expectations. It should be noted at the outset that the international law has made considerable efforts to comply with its task. New areas of protection of the weak have emerged. Conventions have been adopted within the Council of Europe, and several of them in the recent years, to introduce protection of children and women, such as, for instance, the Convention on Action against trafficking in Human Beings [2005], the Convention on the Protection of Children against Sexual Abuse [2007] or the Convention on Preventing and combating violence against women and domestic violence [2013]. This trend of adopting conventions as a specific sort of "legislative" acts at the level of the European continent corresponds with those existing at the global level. The United Nations was the birthplace of the Convention on the Rights of the Child in 1989, which entered into force the following year. Pursuing the path traced by the Convention and acting in the same direction the UNICEF has declared the year 2014 as the Year of Innovation for Equity – to focus the world’s attention on children and developing innovative solutions for children’s well-being.

The protection of women goes hand in hand with the protection of children. The UN has made clear that violence against women is a violation of basic human rights. The UN Security Council confirmed this approach on several occasions, such as, for instance in its Resolution 1820/2008 that condemns sexual violence in conflict areas against civilians, with particular emphasis on women and girls. The references made here by no means conclude the list of relevant documents providing on human rights of women and children. The weak of today enjoy protection of the international law, especially if the treaties and resolutions of "legislative" character are considered. However the proliferation of documents alone, no matter how noble in character and how eagerly aimed at protecting human rights, will not prove to be sufficient to carry out the task that the international law has to assume in our time. The international law in its current shape primarily needs to develop and render sophisticated the mechanisms of protection that would sustain its norms, make those effective, stand up for the weak, and provide the protection of human rights in the proper sense of the term. The mechanisms of protection of human rights are international bodies and procedures applying to the practices of those, which efficiently enable the entitled to enjoy the rights provided for by the relevant international documents. Our continent can proudly claim to be in the lead, as far as the creation of such mechanisms is concerned. The European Court of Human Rights, seated in Strasbourg, was established in 1959 and it has become, to use the words of one of its foremost presidents Willy Wildhaber, "the most effective international system of human rights protection ever developed". The Inter-American Court with a seat in San José (Costa Rica) was established in 1975, and was followed later on by the African Court of Human and Peoples' Rights, seated in Arusha (Tanzania) in 2004. The trend of creating regional bodies for protection of human rights in the form of setting up courts at continental levels has nevertheless failed to spread all over the globe, for the greatest achievements still remain without such a body. The world is waiting for Asia to take its own, bold step and join the club. If the trend to create courts for human rights at continental levels remains deficient nowadays we should not miss the opportunity to underline the fact that a tendency to universalism in protection of human rights has shown up within the family of the United Nations. The First Optional Protocol to the UN Covenant on Civil and Political Rights, currently ratified by more than one hundred countries, entered into force in 1976. It enabled individuals to file complaints with the UN Human Rights Committee about the alleged violations of the Covenant’s provisions. The Committee has developed a considerable and well established jurisprudence in the field of human rights, and its decisions are on many occasions cited as authorities. Although usually perceived as the most efficient in protecting human rights the courts and court-like instances are not the only actors in the field of the human rights protection. A considerable amount of contribution comes in that field from other institutions and bodies. Two among those deserve to be mentioned in the first line, namely the Office of the High Commissioner for Human Rights, established in 1993, as well as the UN Human Rights Council, set up in 2006, which by its Universal Periodic Review assesses the situation of human rights in UN Member States.

What can we conclude after this survey of the network of institutions operating in the area of human rights, in respect of those who need help today, i.e. from the standpoint of those that remain weak and have to confront the mighty by invoking the rules of international law? Has the international law fulfilled its task, or does it have to perform more? What should be our estimation of the current state of affairs in general? Have we, the citizens of our respective countries, but at the same time members of the global community of human beings responsible for the planet and its sustainable developments, done enough to set up and preserve institutions guaranteeing the fundamental rights to everyone?

Let us be frank and modest at the same time in answering the questions that have just been posed. The international law has provided on human rights in many aspects and indeed introduced new and important fields of human rights protection. It has shown success in setting up regional courts competent for the protection of human rights, although those have not spread to all continents so far. It also developed mechanisms of such protection at the global level. Apart from judicial bodies other intergovernmental institutions have emerged, enhancing the human rights protection and giving a significant contribution to the developments of modern legal and political culture.
Biography

Judge Dragoljub Popovic
Judge of the European Court of Human Rights

Judge Dragoljub Popovic was born on 25 July 1951 in Belgrade. Initially, he graduated in Law at the University of Belgrade and from 1976 to 1980 he was a Lawyer in two commercial enterprises. In 1985, he completed his Third cycle degree in Comparative Law at the International Faculty of Comparative Law, Brussels. He was Attorney at Law in a legal office, Belgrade, from 1998 to 2000.

Furthermore, in 1995 he was a Lecturer (Professor) of Legal and Constitutional History and Comparative Law.

In 2001, he was a Visiting Professor at the Institute of Federalism of the University of Fribourg, Switzerland. Notably, he acted as Ambassador of Serbia and Montenegro to Switzerland from 2001 to 2004.

From 2004 to 2005, Judge Popovic became Professor of Constitutional Law and Comparative Law at the Business Law School of Belgrade.

Since 26 January 2005, he is Judge of the European Court of Human Rights.
“The Binding Nature of the Judgments of the ECHR and the Universality of Human Rights”

A Lecture by Judge Boštjan Zupančič (Judge, the European Court of Human Rights)

Strasbourg: April 16th 2014

Good morning to everybody. I must say I am quite happy to appear in this context to say a few words, more technically, I should say about the functioning of the European Court of Human Rights. Legally speaking, the judgments of the European Courts of Human Rights are bestowed on the states which are party to a particular dispute. The convention is explicit in saying that the judgments are directly binding on the state and the party concerned. But it does not say that the judgments are binding erga omnes. In constitutional law we distinguish between the erga omnes effect which is against everybody, where the judgments become a source of law (Rechtsquelle in German) on the one hand; and on the other hand, the inter partes effect of the judgments which is what the convention actually says. In other words, when we are talking about the universality of human rights; in principle in the beginning of the functioning of the European Courts of Human Rights, the judgments were not a source of law. They did however become a source of law as time went on because it was obvious that the de facto binding measures of the judgments is part of the story that is happening in Strasbourg.

In other words, if a similar case arose in a different context with different parties involved and with a different state involved in the dispute, the judgment in the previous case would be binding. In other words, we’re talking about something which is very familiar to us who are used to a continental interpretation of the law, and the idea that alike cases should be decided alike. Again, I am emphasizing that the convention doesn’t foresee that the judgments of the European Court would be a source of law, but de facto this is happening because everybody knows that a new case is coming from whatever country, from Spain to Russia, from Norway to Cyprus, will be adjudicated, it will be perceived, it will be decided according to the old precedent. In other words, if you open any case rendered by the section of 7 judges or the Grand Chamber of 17 judges you will find today, citations of many cases previously decided by this court. That is part of the general story which is at least the context of 800 million people from Vladivostok to Reykjavik, to Limassol in Cyprus. We are making human rights universal. This is based on the individual petition of member states, and it is parallel to what we call in constitutional law amparo (Recurso de amparo) or Verfassungsbeschwerde, which is the right of the individual to raise the issue in front of the constitutional court of his country, and likewise in front of the European Court of Human Rights. In fact, the European Court of Human Rights is in many cases today already the only instance which is above the constitutional court of the particular country, whether that be Russia, Slovenia - but of course, I must say that many countries do not have a constitutional court. Some of those who have a constitutional court like France, Conseil Constitutionnel; they don’t have an individual petition and so the court has to decide the case in the court competent to give it jurisdiction over a particular case. So we have a body of precedents growing in many areas. All the constitutional courts that have individual petitions have their own precedents - the and the other question is to what extent are these judgments in accordance with the judgments of the European Court of Human Rights? Therefore you have a complex mechanism which provides for an ongoing process, due process of law or law in action in all the countries. Again I emphasize that some countries do not have a constitutional court or if they have a constitutional court, they do not have an individual application to the constitutional court: as I said amparo or Verfassungsbeschwerde. But those that do are better protected so to say, vis-à-vis, the Strasbourg Court because if you have a constitutional court like Turkey, which introduced one about 10 years ago, then the issues might be decided at home so they need not be decided in Strasbourg. They belong to the particular country, and of course the state is not then stigmatized by the condemnation it might receive in one of the sections or in the Grand Chamber in Strasbourg.

The most interesting question which has developed since I came to the court in 1998, and I am now the most senior judge in the court, except for one colleague. The interesting thing that happened in the meanwhile is as follows. When I came to the court in 1998 there was the violation of procedural rights especially in criminal law were decided according to an incantation formula, if I can say so: which said that the court would not speculate about of the outcome of a case. In other words, you had a case in Italy for example; somebody sitting in a prison of Brindisi and I am referring to a particular case, and he was denied his right to cross examine his witnesses in a trial against him in Italy. At that time the court would say, ‘oh well there has been a violation of your procedural rights; the due process has been violated’. This is not compatible with Article 6 of the convention but there is nothing that we can do so we’ll give you 1000 euro of damages; this is exactly what happened because ‘you must suffered a little because you were not able to cross examine the witnesses against you’ and that is the end of the story because we will not speculate about the outcome of the case. In other words, the court here in Strasbourg was saying, ‘we don’t know what would have happened if you had had the right to cross-examine the witnesses against you in that trial in Brindisi, Italy’. Then came a case called Scorzari Giunta in Italy which was the first case in which the court said that restitution ad integrum was its own power to pronounce. I will explain immediately what that means. According to Article 41 the court can sanction a violation of a particular state by giving money. But from that time on, from the case of Scorzari and Giunta versus Italy on, the court had suddenly the right to require the state to re-instate the previously unlawful situation in terms of human rights. In Scorzari and Giunta a mother and grandmother were deprived of their children who were put in an ‘Il Forteto’ next to Florence in Italy. But the court has decided that they are not only entitled to damages according to Article 41, but they are entitled to have the children back from that ‘Il Forteto’. Italy decided to obey that judgment of the court which was probably the most revolutionary new precedent of that time. To give them the children back and some very important other cases, Borowski for example have followed from that. Therefore from that time on, in many cases the court requires a state to simply reinstall the lawful situation which has been breached according to the judgments of the court.

Now this is a part of the story. The other part of the story is as follows; many states have since 1998, which is the starting date of the so called ‘New Court’, installed mechanisms at home. We are by a procedural violation mostly in criminal law but also in civil law matters. It’s required to be reprocessed by the States. Switzerland was the first to engage in this kind of obligation. UN Letter’s obligation, vis-à-vis the court and the Swiss case ‘Tierfabriken Schweiz versus Switzerland’ is the most important case in this respect. What does that mean? It means that the states have unilaterally, spontaneously obliged themselves to reprocess and reopen the proceedings in a particular situation because the court has found a violation of human rights. Switzerland has the model for this, it has the requirements in criminal law, in civil law and in amnesty law, and some other states like Slovenia for example, have limited themselves to the reprocessing of the criminal cases.

But the interesting thing is what happens once this law in a particular country, whichever, is put into action. In other words, the court in Strasbourg will find the violations in the internal law of the country, let’s say Poland, and then gives the right to the applicant to request a reopening of the trials against them. And the states must then take that into account; that’s why I’ve talked about the binding nature of the judgments of the ECHR in judgments of the court. Not only in its operative part, but also in the spirit. We, the Europeans, are used to a continental interpretation of the judgment, in which the operative part, the so called
dispositive, is binding and the rest of the judgment is merely an explanation, a motivation of the judgment. However, here when the ping pong starts between the state and the court like in the case of the ‘Tierfabriken Schweiz versus, Switzerland’ or in a case called ‘Steck-Risch versus Liechtenstein’ in 2010: in those two cases, the states concerned - Switzerland and Liechtenstein - had in fact reopened the proceedings, but the applicants were not happy with this kind of reprocessing of the situation and came back to Strasbourg. In other words, the applicant said that there had been another violation on the part of his country, because they have reopened the proceedings but they didn’t follow the spirit of the judgment.

What does this have to do with the universality of human rights? Obviously there are many inspiring writings about the universality of human rights. Here we are talking about something very specific, and if the judgments of the court are binding de facto mainly on every state in the European continent, then the violation of that right, insofar as it comes to Strasbourg to be decided, is something that is bound by precedent. Again, we in Europe did not have one inking about the part of precedents, except perhaps in the French administration of Hollande before it has happened. The Constitution of courts in particular countries are now bound by their own precedents and people are bound by their own precedents. But there are maybe three or four different levels; you can have a de facto binding effect, because everybody knows that the new case is going to be decided in the way of the old case, therefore a like case should be decided alike. It can be formally binding, like in German constitution, court judgments may be formally binding on everybody. And then on top of that, you can have a situation where the judgment is binding as a source of law which is exactly what you have in the United States. In the United States the Supreme Court judgments are binding to everybody. An then of course you have a pyramid on the top; you have the superior court, then you have certain courts, nine courts or more, and then on the bottom of the pyramid you have all of the extra courts. So, if somebody in the system noticed that a particular decision by a decent court in Brooklyn or New York is not in accordance to the Supreme Court precedents, he or she can raise the issue and win on appeal before that. But the situation here is one of a pyramid; as I say you have the Superior Court and then the message of the Superior Court going down to the bottom of the pyramid where the system is becoming sort of universal because it follows the path dictated by the Superior Court.

Now the European Court of Human Rights is in a different position. This is a type of pyramid but underneath the type of pyramid you have 47 different countries. In other words, when the European Court of Human Rights which renders adjustments, says for example, as I said before, that in a situation where somebody is deprived of his/her right to cross and examine the witnesses, if that judgment is pronounced vis-à-vis to Italy it is de facto binding to everybody. But the way this is going to be interpreted in Russia or in Azerbaijan or in Iceland will be maybe very, very different. In other words, there is one type of pyramid and immediately then you have 47 different pyramids. And the universality of human rights, I’ll conclude with that, the universality of human rights, in that sense, depends on the concordance of reactions in different countries. Of course there is no way to control that; Azerbaijan’s reaction will be maybe totally different from the reaction of the United Kingdom. In other words, the universality of Human Rights in this space of 800 million people depends entirely on the way that lawyers keep domestic jurisdictions well communicated to the different types of pyramid around them.

Thank you very much.
more and more complex; it is more and more difficult to achieve common views and to establish common goals to achieve this aim of sustainable development. Even “sustainable development” has many vague definitions, many vague statements. For example, what I noticed whilst preparing for this presentation was that there is a problem of current and future needs; so what does it mean when we need something today, but we also need something for future generations to satisfy their needs as well, whether it is a sustainable development or sustainability of national systems? I would agree, but how do I choose this sustainability if we need to satisfy our needs today and yet there is also a constant claim for economic growth? Also, there are some warnings about the limitations of our needs, or a limitation of our possibilities for resources. There is a proposal for the world as a system, but there is no explanation for what it means to see the world as a system. We should live as independent persons yet interdependently, I agree with the concept of harmony but the explanation which is made for harmony is very simple, for example: a person could be healthy but he is poor with no access to education, a person could have an income but he can’t live within a certain polluted area of the world due to the environment; the person could have freedom of religion but he has no possibility to feed his family. There are so many different dimensions and how do we organize them into one, single and simple common vision? The culture of the world is really important here, the common views are very, very important in resolving this problem.

When I approached the United Nation Millennium Declaration on sustainable development I noticed there were other issues which were very important for sustainable development which are environmental, economic, social well-being and political issues: I must say that the issues became

For me, before I became a judge, I was really interested in sustainable development concepts; now I have the opportunity to compare this sustainable development with the rule of the European court for Human rights. I must say that this concept of sustainable development has a very long history and it started from environmental issues, and I must say that now we have a very successful story of developing a common view on environmental issues. I think it was over fifty years ago that the world community paid attention to these environmental issues and I must stress that historically this has proved to be very successful because environmental matters are, more or less, clear and simple. Everybody can achieve a common view on this issue because everybody wants to live without pollution, with clean air and to have pure and clean water to have a high quality of life and environmental issues are very, very important in resolving this problem.

I can see in my general remarks the necessity to develop a common view on other issues, and not just environmental matters and to furthermore, understand what the system is and what development is. What is the progress and what are the advantages and disadvantages that we have? So the system consists of elements, interest, actions and also includes social cohesion. I like social cohesion and I hope that this is a very important common view of what the aim of sustainable development could be.

I also see some advantages and disadvantages that were not resolved during the last fifty years; for example, we still have disadvantages like territorial disputes, abuse of power, war, different disparities, discrimination, no access to technology and intellectual property and monopolies. We also have advantages to achieve sustainable development and the most important as far as I am concerned is not just national resources but the human being which is the main important advantage. Individuals with attentive brains, spirit, effort, dreams and the willingness of self-realization are really important. It is not just because I am talking about the role of the European Court of Human rights because it deals first of all with the rights of human beings, but really if we want to achieve something we need to concentrate on individuals. I must say that if the protection of the environment is the priority of many countries then the protection of human rights is not a priority in many countries. They are other priorities, but not perhaps the protection of human rights. Also, I think that the other advantages are for example, cooperation and dialogue between people between countries which is really important. Also peace, instead of war, which is a really important advantage. It is maybe routine, but unfortunately it appears that there is no common view on these advantages: there is no priority to pursue these advantages in a practical way. You would be surprised, but just recently we decided on a case where we found a violation of Article 8 on an issue of where a woman was refused maternity leave as a mother of an adopted child. Also I can say that the problem of illegitimate children and the rights of such a child which is born out of a marriage, there are the rights of heritage and other rights which are equal to other children.

The first case of an illegitimate child was considered by the court in the 80’s; it was the famous case of Markx against Belgium and it was highly criticized. It was the first case where the court used the so called, ’interpretation of the convention’. The convention is a living instrument that we should adopt to serve the current situation, and that was in the 80’s. Last year, the last case was Fabrice Gardel versus France. Also the same issue. Nothing changed in this period of time. Also, there are problems with understanding the role of women. I participated in a lot of conferences and once, one member of the British parliament raised the issue “Why should women participate in the parliament because their role is at home to take care of children and so on?” It was not a joke but a serious matter, because of the vision. What is the vision and the understanding of the role of the family and members of the family? So, there could be a different view on this role; so the role of man and woman could be quite different. Maybe there should be other priorities to allocate resources so we can live in harmony. It is this style of life which is important for a modern society and it completely changed the situation with the role of the woman in the family, in the state and in authorities and so on. I see that there are still many problems which should be decided on, and because of the many disparities in approaches and confrontations between different visions on some very basics issues, we must achieve sustainable development in the role of individual. You can see that the role of the European Court as an international system is very important, and the court aims to protect basic values. We know the convention, we know that there are some basic rights but I am talking about the values and the values which we also can notice in the courts where there are judgments - which by the way, the courts adopt one and half thousand judgments per year. Whether it is a big number or not, for a European community of nearly eight hundred million people, it is difficult to say but you can find any type of violation even if we have much progress in environmental issues but there are a number of very important cases and judgments found in violations of human rights in environmental issues where people are suffering from pollution, from noise – where we have a number of cases. I must say that this situation is not difficult, it is simple but you may not believe that there are a lot
of criticisms of the court, which even apply to the Convention on environmental issues. I must say that the priority to protect human rights should be the agenda of every state, but many states...I would say the majority of states, are not satisfied with some sensible judgments of the court, political judgments, but there are tensions between the court and national supreme courts. I need to pursue dialogue between our various authorities.

I talked about the developing 'interpretation of convention' which is also really important and we have in our agenda these difficult cases regarding implementation of codices, which a judge mentioned about this problem of reopening cases. Furthermore, just on the 6th of May, we had public hearings and a Ukrainian case versus Bochum, which is exactly the same issue to discuss between judges. We have also had some sensitive cases which are related to the development of technologies. I believe that development of technology is also important to pursue sustainable development, to use our resources more efficiently; however there is no common view on some issues. For example on bioethics issues and euthanasia issues there is no common view and no clear position of the court on this issue. How should we deal with human dignity? How should we protect human dignity in such cases? As I know, nobody raised the issue about human dignity and I believe that human dignity is also very important pursuing this sustainable development. Recently we had a case about a slap on the face made by police officers to the person who was being detained. The individual was questioned by the police, and the chamber judgment was not a violation in this case. Stating that Article 3 - which is about degrading treatment to humans - is not applicable because it was just a slap and was therefore not so serious. Also the chamber said that this applicant had provoked the officer to do that. I am really happy that this case recently was referred to the Grand Chamber and I hope the Grand Chamber will find this common vision on the dignity of the person. So it is not always to find a solution; a common vision is what we should try to achieve.

Thank you very much.

Biography

Judge Dmitry Dedov
Judge, European Court of Human Rights

Judge Dmitry Dedov was born on 22 February 1967, in the city of Novograd-Volynsky, Zhitomir oblast, USSR. He studied law at Moscow State University from 1984-1991 where he graduated with honors. He obtained his PhD from the Moscow State University in 1994. He wrote his thesis on "Resolution of collective labor disputes in Russia and the United States: A Comparative Analysis". He was Expert at the Russian Constitutional Court and the Russian Government from 2000 to 2005. From 2004 to 2010 he was Docent and Professor at Moscow State University in business law. He received the title Doctor of Law in 2006 after defending his thesis "The implementation of the principle of proportionality in the legal regulation of business". He was also Head of the Legislation Department, Russian Supreme Commercial Court, from 2005 to 2008. Furthermore he was Judge of Russian Supreme Commercial Court, from 2008 to 2012 and a Professor at the Center for Transnational Legal Studies in London, in 2010. Since the 2nd of January 2013 he is Judge of the European Court of Human Rights.

I am very happy to be able to address you on the issue of "Human Rights Protection in the Council of Europe". I would like to point out that when one sees the general title of a conference, which here is "The role of international law to Promote Sustainable Development, Youth Empowerment and Women's Rights", there are other instruments I am for. For a long time, I have been in charge - among other things - of the European Treaty Office; so the Council of Europe in addition to the human rights treaties has a wide range of international or European treaties which deal with multiple aspects that might go beyond a purely human rights' issues. My intention is to give you a general overview of what the Council of Europe is doing about human rights and how we, maybe a little bit pretentiously, consider this the 'house of human rights'. As you know, the international community has many different instances, governmental, intergovernmental and non-governmental, which deal with the issue of human rights. Human rights are the new religion of the 20th century. As I said, maybe pretentiously, we consider this the house of human rights. This idea comes from the fact that the origins of the Council of Europe are very much linked to the issue of human rights. This institution, which is a forum, an intergovernmental forum, for debating and identifying the common interest of Europeans and to cooperate to achieve such an interest, was born in the aftermath of the Second World War in the Rhine Valley, an area where in the last 100 years there have been three major wars with tremendous destruction and suffering of the populations from both sides of the Rhine. Then Strasbourg was chosen. The idea of creating a European forum where the European democracies after the war would cooperate instead of fighting each other was an idea of Prime Minister Churchill, actually. The war was coming to an end and he thought "we cannot allow ourselves to continue like this. We have to find a way of living together". The idea was never the same again; never one-step backwards again; "we should create some structure that will enable us to put together our common heritage, legal civilization heritage, and work together to achieve our common goals, targets and objectives".

Therefore, the Council of Europe was conceived as the institution of general cooperation, but on three basic pillars, to be the basis for any further developments of European cooperation. And those were the defence, the protection and the promotion of human rights; the defence and promotion of democracy and democratic institutions; and the defense and promotion of the rule of law. So, we could cooperate on everything: we could cooperate on the hard conventions, on the traffic offences or the equivalence of diplomacy; all of this is European cooperation. It should be built on these three pillars, none of the acts, decisions, treaties, deliberations of the Council of Europe should undermine those basic pillars. What it is more, the purpose of creating the Council of Europe was precisely to establish the mechanisms that would protect those values which are nowadays considered our general values, common values and common heritage.
The role of international law to promote sustainable development, youth empowerment & women’s rights

The Council of Europe has, in the past fifty years, tried to develop European cooperation in multiple aspects: private law, criminal law, human rights, commercial law, education and culture. Then at the end of the day, after fifty years of existence we realized that we had the competition of all the institutions, which were doing the same things, maybe better than we could and we should concentrate on the essentials, or not in so many cases, of our organization, which are the protection and promotion of human rights, the rule of law and democracy. Progressively, a very wide and extended organization has focused more and more on its core values. There are many reasons for that, but basically there is a very simple one that you will easily understand. It is that our budgets are shrinking. There is less and less money for international organizations, so if you want to be effective you should concentrate your resources on those issues which are exclusively or primarily of a European nature. It pushes us in that direction, because the Council of Europe was established in 1949 for cooperation on the basis of those core values, of course. The first thing the Council of Europe did was something that nobody had ever done before. It was the adoption of a treaty which contained for the first time in history binding obligations related to the respect of human dignity and fundamental freedoms. Some of you may have heard of the declaration in 1948 by the United Nations, but still it is only a declaration. What the Council of Europe did, was to go beyond the principle that it didn’t want to have another declaration. We wanted to have a system by which individuals, states can complain before an international court if they consider that the rights and freedom of any individual in this continent are being violated. This is the greatness of our system that we were able to establish in a context influenced by the Nuremberg trials and a federalist movement towards the creation of a judicial system where individuals could come and complain; even complain against their own states. You must imagine that up to then, and even now, states are the main actors of the international community and international law. When we talk about international, the word national means government and government, the government of member states, recognized by the international community. Here, for the first time, it was acknowledged that the victim, as we might say, should be able to complain, and this is what has made the difference.

The original treaty, the European Convention on Human Rights, which dates back to 1950, includes a clause which allows a person, a group of people or individuals, who believe that they have been victims of a violation of the rights recognized in the convention, should be able to bring their cases to the European Court of Human Rights. Originally, this was done in a very restrictive manner. There were strict conditions of admissibility, not any complaint could be admitted, as not many rights were recognized. If you go to the preamble of the convention, you will see that it says “contracting parties of this treaty intended to protect some of the rights recognized by the UN declaration of human rights.” So the number of rights protected was necessarily limited, because we wanted to protect effectively those rights. Therefore, in the convention you have forty articles which deal with rights, and fifty other articles which deal with the machinery, how to protect them, how to have access to the European jurisdiction and complain to your state or any state which adhered to this convention.

At the end of the day, in addition to the original treaty there have been sixteen additional protocols, which complement the rights originally recognized and increase the number of rights. They have also improved the mechanism, making it more direct and easily accessible. Therefore, the system has improved over the years, but there has been an element of major importance, that is that Europeans, or those who were under the jurisdiction of the European states, felt that they had a European remedy in their country, but also in others. The Court of Human Rights is not an institution which would be called to decide on any case. There is the principle of subsidiarity; it comes from the Second World War, the feeling that if someone was defeated, it is good to allow that state to do its own job; if you are an adult and you are deprived of your liberty, every person who thought that the trial he was subject to did not follow the requirements of a trial, every person whose article was not published because there was a restriction on that, every person who thought that there was a clause which could take you to jail because you were a homosexual. And the court started to say “Wait a minute, wait a minute: the sexual life is part of one’s identity, one’s private life: why should the state interfere in that?” Everyone has the right to a private life, and we consider sexual behaviour to be one’s private life. If you are an adult and you are consensual in a relationship, it is an interference which is not recognized as transgressive by the law, and therefore is against the convention and the laws were changed in many countries because of that. Not only those which were party to the lottery changed, but many others followed because they said “Well, if I don’t do something, well it will be ‘ergo omnes’ which European judgment happens quite often - this is an adjustment which is directed against the state, then all of the countries which were not part of that litigation say “I have a similar situation in my country, we may experience this soon because it will be in the newspaper.” NGOs do a perfect and really important role today. They are the ones who complain about these cases and therefore states feel they will have to pay indemnities and prejudice and that they will also have to change legislation so I they change legislation that was before and in this judgement, we may have a very large effect not only in the country, but also in others.

Some very intelligent NGO’s have made use of the system to bring forward ideas and proposals for social change. For example, a UK NGO acting and mitigating against corporal punishment made use of the system and really got a judgement here, and said that punishing a boy or a girl in a school in front and even behind the others, was recognized as transgression of the right of family life, private life etc. Of course, they had to select cases where individuals had suffered this kind of corporal punishment; but behind all of these was a very powerful and organized dynamic NGO when the national systems are being captured or being unnecessarily restrictive to create that legal bases all over Europe where the same basic right would be guaranteed, it does not prevent states to establish other rights but it guaranteed that member states should go below a certain level of protection. But my point is that the citizens; let me first explain something, the original idea of the treaty was to establish a system, as I said, of vigilance and an overview of what was happening in each state. There were cases in the Society of Nations where the national community felt deprived of any instruments to interfere in what was going on in certain parts of our continent which you will easily think of. So the idea was that any state could bring a claim, complain to the European Court of Human Rights, to complain about the way any other state was treating any of his own citizens; so that there would be a sort of general overview. But additionally, a sort of small door or backdoor where the citizen himself could be protected. And in the reality, it is totally different. In 60 years of existence, the court has had 22 interstate applications and on 22 applications one state has brought a complaint against another state and we have had more than 200,000, 300,000 individual applications. Psychologically it is easy to understand, who is going to defend your rights better than yourself? If you feel you’re being a victim, you will do whatever you have to do to obtain redress to that violation of your right. Therefore Europeans have come here by the millions: every NGO, every individual, every person deprived of his liberty, every person who thought that the trial he was subject to did not follow the requirements of a trial, every person whose article was not published because there was a restriction on that, every person who thought that there was a clause which could take you to jail because you were a homosexual. And the court started to say “Wait a minute, wait a minute: the sexual life is part of one’s identity, one’s private life: why should the state interfere in that?” Everyone has the right to a private life, and we consider sexual behaviour to be one’s private life. If you are an adult and you are consensual in a relationship, it is an interference which is not recognized as transgressive by the law, and therefore is against the convention and the laws were changed in many countries because of that. Not only those which were party to the lottery changed, but many others followed because they said “Well, if I don’t do something, well it will be ‘ergo omnes’ which European judgment happens quite often - this is an adjustment which is directed against the state, then all of the countries which were not part of that litigation say “I have a similar situation in my country, we may experience this soon because it will be in the newspaper.” NGOs do a perfect and really important role today. They are the ones who complain about these cases and therefore states feel they will have to pay indemnities and prejudice and that they will also have to change legislation so I they change legislation that was before and in this judgement, we may have a very large effect not only in the country, but also in others.
movement mitigating against corporal punishment which was as a consequence was reduced to a minimum and subsequently disappeared. They are many examples of that. As I said, individuals are the best protection and serve their own rights and if they feel their rights have been neglected then they come here and at the beginning, it was felt that someone bringing complaint against his own country for a reason. Nowadays they come here by the thousands and the problem of this court is that we now have challenges ahead; it is so difficult to deal with so many complaints. This is an international court, and there are how many millions of individuals in Europe; you may even know the figures better than myself, but several hundred millions of people are complaining. Many of them may not have suffered a true violation, but every single case is examined and a report is composed by judges who are elected by the Parliamentary Assembly for that purpose.

In many cases they say that there has been a breach of the convention in this state; it has to repair the damage caused and the number of cases in which the victim receives a redress from the state - a financial redress from the state is very frequent, and in many other cases the decision leads to individual measures of redress which are not financial in nature or even a change of legislation, but there have been law changes and even constitutions that have been changed as a result of a judgements of the court.

There was a case against Bosnia recently where the court found that the Bosnian constitution which resulted from the Dayton agreement which stopped the war many years ago in Bosnia was discriminatory; in breach of the convention, because certain minorities were not entitled to participate in political life in Bosnia. They remarked, “Well, now you have to execute the judgement,” and the execution of the judgement is creating tremendous trouble. It involved changes of the constitution, and the three basic ethnic groups in Bosnia were unable to agree on the changes which were needed. This is again a question of leverage, as I said, NGO’s were saying; “You want to have a constitution in line with the European standards so it is part of the negotiation to provide access for Bosnia and Herzegovina to have a partnership or an association agreement with the EU to say that the first need to have a constitution in line with the requirements established by the court.

Let me briefly, extend myself and I would like to give you some time for asking questions. Let me just mention some other problems. I mentioned the first one, the huge amount of cases which are pending and the need to speed up and simplify the system so that cases out there will be treated in a faster manner; the need to involve different authorities at a national level is not only a problem for governments or even for courts. The basic protection of human rights needs to be carried out at local level; if you think about housing, education, discrimination - they are many aspects; the tension in some cases, local police committing excesses, therefore we need to involve the protection of human rights authorities at all levels internally in order to reduce the flow of cases that come up to Strasbourg. Strasbourg after all is far from – let’s take any city in southern Spain - Ecija for example. It is placed near Seville, but Ecija is far from Strasbourg, may they have many problems that can be solved in Ecija, and not have to come all the way to Strasbourg and have forty-seven premier lawyers in Europe dealing with the case. We need to establish filters, some kind of filter at a national level to reduce this increasing flow. We know this year, there have been seventy thousand cases, and we are dealing with from 2003 and even if the productivity of the court has increased by 10 in the last year, we had simplifications like introducing a single judge formation. They are many cases that are examined just by one judge. That was impossible when I was a lawyer there, every case had to be examined almost in plenary. Then, there were the Chambers and then the Committees and now there is a single judge deciding on cases. All these improvements have not been sufficient to reduce the amount of cases and the court may take a long time to make a decision. I sometimes exaggerate a little bit; you say the longer the case stays in the court, there is a better chance of winning because if they could get rid of it quickly they would: so don’t get too disappointed if you bring a case and it could take two, three, four or even five years. Although, the length is decreasing. This is one of the main challenges, the other challenges of course are adapting to these changes. The Court has always tried to adapt itself and, in this respect, I insist that private individuals and civil society are an important asset.

Another challenge is to disseminate the adjustments better. As I said they may sometimes have enormous effects. In cases which are decided they may provoke changes in the legislation and avoid discriminating the human rights in other states which are not even part of the legislation. And the Council of Europe also tries to introduce all the changes which are complemented to the Court. And I wouldn’t stop that.

The Court is the cornerstone of the whole building; the Human Rights Protection Building. There are 800 lawyers working there every day with cases in all possible languages. It’s important to add new basics to this system, a trend to consider everything as basic human rights. I think if you want to be serious you should be a bit restricted and acknowledge the limitations of the judicial system. We cannot put everything as a fundamental right and send them to court to be judged. There is now a trend of talking about 4 or 5 generations of human rights. I’ll let you know one example: the right to peace. It is a really real peace - I don’t say peace is not really, really important - as a kind of right can be decided by the Court of Law? Rather, its diplomacy and more related with powers. We should ask the system to monitor what can be produced and what can’t be; because that has been successful in dealing with basic human rights and protecting human dignity, sometimes at very basic levels. But we have to adapt to new circumstances, rights which are not even thought of at the time of launching. They are becoming to be essential in our societies. Rights - I’m thinking for example the right for the protection of the environment. There may not be a general right for the protection of the environment, but the court has set a set of adjustments stating that everyone should live in an environment which is respectful of his family life and his private life; that you are not forced to live in a dump and there have been cases where the court has ruled “well the possibility of the authorities in face of a terrible environmental situation amounts to a breach of the victims’ rights for the protection of their private lives”.

So, there is a trend; our societies are more sensitive to human rights and there is a need to adapt and maybe sometimes to legislate, to make new protocols for adding new rights. This is becoming increasingly a difficult task; precisely because the machinery is becoming very powerful, states are more and more cautious about adding new rights to the mechanism. Sometimes the creation of these rights is made over a case law. Certain adjustments are made in the system. The Court has said several times: “Sure, the economic rights are protected by a simple mechanism” which is the Economic Social Charter, an instrument which recognises fundamental rights in the area of social protection and economic rights. Now these rights are generally protected through different systems, but again, there is the protocol of collecting complaints which enables NGO’s to bring social rights cases to the knowledge of the European Committee of Social Rights. Also sometimes even the adjustments of the court may have an important social impact, and sometimes the financial consequences of the adjustments of the court may be higher due to the complaints made on the basis of the European Social Charter.

Think about requirements of faith justice. Well, faith justice involves a lot of requirements; this means expenditures, you need to have judges who are trained and who are independent, but you also have objections. The proceedings may not be too long because there is a basic human right to have justice delivered in a reasonable time etc....the division between social rights and individual and political rights. So, there is a trend of doing that.

But there is an additional system which protects social rights. There are also other mechanisms; the Council of Europe has been trying to establish new mechanisms. Treaties work where the monitoring system frequently become ‘paper’, just written paper with no consequences. Some courts are traditionally being respectful of international validities and some others are not. So we must have a system which can be criticised, controlled and inspected and furthermore where we are able to recommend improvements. We have systems and this is the case for the European Convention for the protection of minority languages; for the protection of discrimination; for the protection against corruption; for the protection of children and for the protection of people from being
trafficked. The basic structure of the European Court of Human Rights has been complemented by a whole set of these guidelines. The Convention for the Prevention of Torture has created a mechanism which allows our experts to go to any person, to any place to check that any person is being treated correctly. This is happening every day and this is a very effective mechanism. It is prevention, but it’s involved with human rights and complements the work of the Court which only acts ex post facto.

Finally I would like to finish with at least making a reference to the mechanism of the Commission on Human Rights where I worked for several years. The Commission on Human Rights is a kind of European mediator. It is a preventive mechanism because it has no formal requirements, it can go everywhere, i.e. acts everywhere - they give attention to centres and to mental hospitals. I have participated in visits of the Commission, I’ve visited places that I have never knew existed; places where children have been educated, police stations, transports stations. All aspects of human life may have a component of human dignity and a requirement to dignify the dignity of people. So the commissioner has the power to visit and to make recommendations to any government at any stage without any procedure to improve situations and also - something that is really important - to go to the press.

And let me tell you just one example and then I will finish with this, I promise. I remember the Commission on Human Rights was visiting France and President Sarkozy, who was at the time the Interior Minister; I think it was 2006 or 2007. So the visit to France was organised, as well as all the places to be visited. But let’s talk about the intelligent use of the media by the commissioner. Therefore, he visited some places which were considered to be substandard. He said: “this is not acceptable that a developed country like France has people staying in dirty dumps like these without doing anything about it. You need to invest money in having proper, clean, decent places for these people whilst they are awaiting a trial or waiting to be expelled, or because they are refugees.” As usual, the media were informed of the visit of the commissioner, and the commissioner got to be questioned during his visit; precisely on the day that he had visited those unacceptable places. And the media asked him: “Are you going to see the Interior Minister to talk about these things?” By that time, every French individual and almost every European knew that Mr. Sarkozy intended to become President, which he did some years later. He said: “well, it was my intention to meet with Mr. Sarkozy and I have just been informed that Mr. Sarkozy has cancelled the meeting, he said that he is a very busy person and certainly his obligations make it impossible for him to meet with the European Commission of Human Rights”. It was like a bomb in all French newspapers. So the following day they were contacting my office saying: “Of course it was a mistake, of course Minister Sarkozy intended to meet as long as was necessary the Commissioner of Human Rights.” And the intelligent use of the media, without abusing it, may also be one of the instruments which the Commission uses more efficiently.

Now I will let you speak, because I’m tiring of speaking. I’ve bored you for long enough. So thank you for your attention and for your patience. It’s been a pleasure talking to you and I am at your disposal if you have any queries, comments or any criticisms.

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**Biography**

Mr. Manuel Lezertua
Director of the Congress of Local and Regional Authorities of the Council of Europe

Mr. Manuel Lezertua was born in Bilbao, Spain in 1957. He graduated with honors in Law at Deusto University in 1980. He received his LL.M from King's College in London.

He worked for the Basque Government in the Department of Presidence and Justice from 1983 to 1985. He held a position as Lawyer for the Constitutional Court of Spain from 1992 to 1994.

He works for the Council of Europe since 1986, holding several different positions in the European Social Charter, European Commission of Human Rights, Committee of Minister and Executive Secretary of the Group against Corruption. From 1996 till now he is in the Directorate of Legal Affairs as the Head of the Economic Crime Division.

He also works as a lecturer in European Human Rights Law at the International Institute of Human rights, Deusto University and the University of Navarra.

Mr. Manual Lezertua has published many articles on Human Rights Law, European Integration and International Criminal Law.
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