

OSCE SHDM Meeting on Human Rights Defenders and National Human Rights Institutions: legislative, state and non-state aspects

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Session 3: Human Rights Defenders: pertinent legislation and implementation of OSCE commitments

Introductory speech by ILGA-Europe, represented by Maxim Anmeghichean, Programmes Director

This is the first time that ILGA is invited to speak at such a high level OSCE event, we are very grateful for this opportunity and hope that it reflects a trend within the OSCE. To defend human rights is an honour, a responsibility and hard work, which unfortunately is often accompanied with danger for the life and security of those who undertake this role. The importance of human rights defenders cannot and should not be underestimated: they represent and fight for the rights of people who often cannot represent or fight for themselves; they speak on behalf of those who often cannot or dare not speak, in particular vulnerable social groups and what one could call ‘unpopular’ minorities.

Not all cultures and societies fully understand human rights concepts, especially that of universality. This is particularly true for the rights of minorities that are stigmatized, such as gay, lesbian, bisexual and transgender people, Roma, Sinti and Travellers, legal and illegal migrants, religious minorities, HIV+ people and people who do not fit traditional roles of men and women. The stigma suffered by these minorities is also reflected upon those who defend their rights, and is often used to discredit them. This stigma also stops some human rights organizations from tackling a particular subject they find too sensitive for the country they work in.

It is fairly easy to give an example. ILGA-Europe has recently been on a fact-finding mission to the South Caucasus. During meetings representatives of the Armenian civil society said they are reluctant to work on gay and lesbian rights alongside other issues, because the government can use this fact to turn the public opinion and media against them. And the only organization, which among many other issues also tackles the issue of equal rights for gays, lesbian, bisexual and transgender people suffers a lot as the result.

The subject is often discussed in the press, as well as different theories about the sexual orientation of its founder and chair. Every time a new human rights report is issued by the organization, the fact it also works for the rights of LGBT is used to discredit the work. Some parliamentarians and other human rights defenders refuse to sit with the chair of the above-mentioned organization at the same table during public events.

The stigmatisation of minorities is often reinforced by public authorities, the government and religious organisations. When Russian LGBT activists announced they will hold a pride parade in Moscow in May of 2006, it caused a wave of outrage from Russian religious leaders. I have to explain here that parades for equality are organized to increase visibility of the LGBT communities in society and call for tolerance and human rights. The senior Muslim Cleric Talgat Tadjuddin made a public statement saying that “This should in no case be allowed, but if they still take it to the streets, then one will have nothing to do but thrash them”. The following day Principal Russian Rabbi Berl Lazar and the Russian Orthodox Church made similar statements, coming out strong against the parades. While freedom of speech is at the heart of the global human rights concept, it has to be used responsibly, and not in a way that damages human rights. Such statements can only put the safety of LGBT human rights defenders at risk. This was illustrated all too graphically in Poland last year. Against a background of increasing levels of homophobic speech by leading public figures, and increasing violence against the community, two LGBT human rights activists, one a board member of Poland’s national LGBT organisation, were shot and wounded. At the same time, equality parades in Croatia, despite counter demonstrations and risk of homophobic violence, were authorised and professionally protected by the police, which shows that where authorities have the political will, they can ensure enjoyment of the right to assembly for LGBT people.

Freedom of assembly and association is a very important issue for human rights defenders. The UN Declaration on human rights defenders provides specific protections to human rights defenders, including the right to form associations and non-governmental organizations, to meet or assemble peacefully, develop and discuss NEW human rights

ideas and principles and advocate for their acceptance. However, in many OSCE participating states this is far from the reality. In the year 2005 alone peaceful equality parades have been banned or obstructed in Latvia, Poland, Lithuania, Moldova, Romania, Russia. In Poland and Moldova the parades were banned, in Romania and Latvia initially banned, but the decision of public authorities was reversed either by courts, or through the intervention of a higher-ranked official. Inadequate police protection has also sometimes been a problem – for example, in Belgrade in 2001 and in Krakow and Poznan in 2004.

Where the parades went ahead, the participants were subjected to humiliation and violence. IN Riga some protestors tried to block the march, while others used teargas and threw eggs at the marchers. In Poznan participants in a counter demonstration, organized by the All Polish Youth shouted chants such as “Let’s gas the fags” or “We’ll do to you what Hitler did to the Jews” and threw eggs and horse excrement. 68 people were arrested, mostly the peaceful demonstrators of the Equality Parade as opposed to the violent counter demonstration. The charges were later dropped.

You do not need much imagination to understand the effect of this degree of hatred and especially what it means for a human rights defender promoting the rights of marginalized groups. And you can imagine how so much harder it is for human rights defenders in other OSCE participating states, like Turkmenistan and Uzbekistan, where homosexuality is illegal. We need to ask ourselves an important question: What can be done to prevent these situations? What can my government, or my ministry, or my unit do to ensure, that human rights defenders can exercise their freedom of speech, assembly and association without prejudice and abuse of power by public authorities or violence from fellow citizens.

What can be done?

- Public authorities should not hinder or subvert the right to freedom of assembly and expression as recognized in the European Convention for Human Rights and

- the OSCE commitments, using illegitimate grounds, such as the ‘morality’ of demonstrations or parades;
- public authorities should provide adequate protection for rallies and marches to ensure the safety of participants;
 - actual or threatened counter demonstrations should not be used as an excuse to ban events
 - the governments of participating OSCE states, public authorities and public institutions at the national, regional and local levels, as well as officials, have a special responsibility to refrain from statements which are likely to have the effect of legitimizing, spreading or promoting forms of discrimination, hatred or intolerance, so preventing the enjoyment of human rights;
 - legislation needs to be put in place to protect minorities, including LGBT persons, from speech which is likely to incite hatred, violence and intolerance, as well as from discrimination;
 - ODIHR and other international human rights bodies need to have a mandate to monitor peaceful rallies of human rights defenders, produce reports and recommendations to national governments and intergovernmental organizations;
 - OSCE should encourage its member states to continue to educate their citizens about the basic principle of the universality of human rights.

I would like to end with the words of the Special Representative of the UN Secretary – General, Hina Jilani: “Human rights defenders must accept the universality of human rights as defined in the Universal Declaration of Human Rights. A person cannot deny some human rights and yet claim to be a human rights defender because he or she is an advocate for others. For example, it would not be acceptable to defend the human rights of men but to deny that women have equal rights”. Or, I would add,

it is also unacceptable to defend the right to free speech and expression for representatives of religious communities, while denying that right to lesbians, gays or other minorities; to defend the right to religious association and assembly while denying those rights to LGBT people. Universality of human rights means that we all have equal access to them, and it shouldn't be in anyone's power to say, that one group of people should have more rights than the other. Thank you.