

## **THE 2018 HUMAN DIMENSION IMPLEMENTATION MEETING**

### **Working session 4: Rule of law I, including independence of the judiciary, right to a fair trial, democratic law-making (12/09/2018)**

**Tars Van Litsenborgh**

The democratic principle that human communities should have the ability to freely choose how they are governed and by whom and have mechanisms to hold to account, recall, and change their governments is grounded upon valuing the full development and equality of each individual, and their need for freedom and security.

As the concept note accompanying this session observes, OSCE commitments on democracy reaffirm this, stating that citizens should have a meaningful opportunity to participate in the legislative process - with special attention to be paid to ensuring the effective participation of minorities and marginalised groups.

Whilst the human rights to self-determination, freedom and security give rise to the need for democracy, paradoxically we also see the democratic system itself and the will of the people being used to undermine the participative rights of marginalised individuals.

The denial of equality and rights for all citizens, regardless of their sexual orientation or gender identity, is often defended on the grounds that such denial represents the democratic will of the people; that equality for all is not supported by consensus at home.

Indeed, even in this forum the need for consensus takes precedence over recognising equality for all.

This sort of reasoning was highlighted by Pope Francis and quoted by the Holy See representative during the opening remarks of this year's meeting: where "debatable notions of human rights have been advanced that are at odds with the culture of many countries; and such countries feel that they are not respected in their social and cultural traditions."

However, we put it to you that when it comes to protecting all individuals seeking to participate as equal democratic citizens in any OSCE participating states, consensus and democracy cannot trump the human right to equality under the law.

Last year in its Minsk Declaration, the OSCE Parliamentary Assembly stressed the vital role of tolerance, understanding, and cooperation, specifically for LGBT persons, in achieving and preserving stable democratic societies.<sup>1</sup> We urge the OSCE participating states to do the same here in Warsaw. Democratically made decisions never justify freedom and security being for some citizens only; for democracy relies on every individual being equal under the law, take that away, and you erode the values that underpin any meaningful democratic system.

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<sup>1</sup> <http://www.oscepa.org/documents/all-documents/annual-sessions/2017-minsk/declaration-25/3555-declaration-minsk-eng/file> para 120