

**Keynote speech by the Council of Europe Commissioner for Human Rights, Mr.  
Thomas Hammarberg**

**Opening Plenary, Human Dimension Implementation Meeting of the OSCE  
Warsaw, 2 October 2006**

Ladies and gentlemen, distinguished participants,

It is a great pleasure to be here today in the Opening of this important meeting, the purpose of which is to look at the implementation of a broad range of OSCE human dimension commitments by the participating States.

As you know, the Commissioner for Human Rights is an independent body of the Council of Europe, and is mandated to promote effective protection of human rights, among other tasks.

In addition to the Commissioner for Human Rights, there is in the Council of Europe a number of important bodies conducting thematic human rights monitoring, usually based on a treaty. I should mention here the activities carried out by CPT, ECRI, ESC, FCNM and of course the Court of Human Rights. The Commissioner for Human Rights closely co-operates with all of these bodies.

The co-operation between the Council of Europe and the OSCE is also very important and is already well established. We – and here I speak for the whole Council of Europe - work together on a number of areas, including terrorism, racism and protection of minorities. The main partners within the OSCE family are the ODIHR, HCNM and the OSCE Representative on the Freedom of Media. We share information with each other and co-operate and co-ordinate activities. Sometimes our activities do overlap, which may even be necessary, but it should not be unintentional.

The two organisations share a common goal, which is to promote democracy, rule of law and the protection of human rights in Europe.

Standard setting has tended to dominate international meetings on human rights. While there still exist some gaps in the human rights standards, most of the areas are by now covered. The gaps, such as the protection of persons with disabilities, need to be filled, but generally, the standard setting has gone a long way. Also, the agreed standards are increasingly being ratified. For example ECHR is now law in all the member states of the Council of Europe, which also opens the door for jurisdiction of the Court in Strasbourg. But there are also some gaps in the ratification of agreed standards. Some member states of the Council of Europe have still not ratified Protocol No 12 to the ECHR on the prohibition of discrimination or the Revised Social Charter. Outside the Council of Europe (but within the broader OSCE region), the USA has yet to ratify the Convention on the Rights of the Child.

The major problem is, however, the lack of implementation of agreed standards. Governments are not living up to their obligations. There can be many reasons behind this, including the lack of ability – in conflict situations, in weak or failed states for example. But the real reason in many cases is the lack of political determination to genuinely implement human rights standards. If there is political will, there is a way forward, although sometimes it can take some time.

What concrete measures can be taken at the national level to make reality of human rights?

- Review legislation for compliance with international human rights standards
- Secure independence of judiciary
- Educate and train personnel (judiciary, police, doctors, teachers, social workers etc)
- Provide human rights education to the public at large
- Establish proper co-ordination between governmental agencies, ministries, different levels of administration.
- Budget for the implementation of human rights – human rights cost money.

It is important that governments should set clear objectives and benchmarks for the protection of human rights. This can best be achieved by developing National Action Plans. This was one of the recommendations of the 1993 Vienna World Conference on Human Rights, 13 years ago. Few have done so. But where National Action Plans for human rights have been elaborated seriously and in co-operation with all the stakeholders, it has paid off. Experience has shown that it is hard work, even a difficult process, but worth undertaking as it gives an overview of where problems lie.

How can we ensure that human rights are implemented in reality?

What is needed is monitoring of human rights – at national level, by Ombudsmen, by NGOs and by media.

The ability of NGOs to work free from harassment, legislative restrictions and administrative obstacles is extremely important. They work close to the ground, with victims of human rights violations. Laws should not restrict their work on behalf of human rights. Open and critical media are also needed as watchdogs. All voices must be heard freely. Self-regulation is better than state intervention. There should not be atmosphere of censorship. Media policy should be human rights based.

Supporting and protecting the rights of human rights defenders to carry out their activities is crucially important. This is one of my priorities and I also welcome the efforts of the ODIHR to establish the focal point for human rights defenders and the increasing attention paid to their protection.

There is also an important role for international monitoring (treaty bodies, special procedures, rapporteurs) by the CoE, UN and the OSCE. An interesting development is

taking place parallel to this OSCE implementation review meeting. The new UN Human Rights Council is meeting in Geneva and the modalities for the Universal Periodic Review are being discussed.

What should be the principles for monitoring human rights?

First of all, it must be recognised and accepted that human rights are an international concern. The purpose of monitoring is not to hurt, but to protect human rights. The culture of dialogue is important. Treaties are not only between the State party and the monitoring committee, it is between the States.

Secondly, the performance of all the countries should be monitored. This is very important and one of the principles behind the new Universal Periodic Review. Nobody should be above scrutiny.

Thirdly, monitoring should be conducted by experts on human rights and it should be separated from political discussions. There has to be a clear distinction between setting the facts and the political discussions and consequences that follow. Monitoring has to be objective and no double standards should be allowed. Politization should be avoided. This does not mean that human rights should not be subject to political discussions, on the contrary.

What are the lessons for the Governments? Co-operation is necessary, monitoring systems have to be supported. The quality of monitoring can improve by nominating independent experts to monitoring bodies.

The human rights treaties should be seen as contracts between the State Parties. The governments that have ratified the conventions have pledged to respect its norms. If one government violate the treaty, the others have an obligation to react. If they do not, this might be seen as a signal that the standards are less important.

There are several current examples of inadequate reactions by the international community. In some cases the reason seems to be economic interests. I should mention here Darfur and Xinjian in Western China.

There has also been relative passivity in relation to the US methods in its war on terrorism. Other governments ought to react against the decisions in Washington that undo important principles of “presumption of innocence”, habeas corpus and the total prohibition of torture.

The legal provisions adopted recently by the US Congress allow for

- indefinite detention with judicial process of the vaguely defined category of “unlawful enemy combatants”,
- continued secret detention in secret places,
- for proceedings in military commissions that do not meet international standards of fair trial,

- less restrictions on CIA agents undertaking interrogation than prescribed by new Pentagon instructions,
- immunity of such interrogators from future prosecution, and
- the President to make his own interpretation of what is meant by torture in Common Article 3 of the Geneva Conventions.

These decisions are NOT in line with the recent recommendations of the UN Committee against Torture (CAT). Would we accept such methods by other governments? If not, how do we justify the use of double standards?

We need to combat terrorism effectively – terrorist acts are heinous crimes. But we must protect the very values that build our societies. There are some principles that must always be upheld. Presumption of innocence. Habeas Corpus. Total prohibition of torture in all situations and for all people.

If there are misunderstandings on these issues, these must be discussed openly. We must use the same standards for all.

Thank you.