

European Inter-University Centre for Human Rights and Democratisation European  
Master's Degree in Human Rights and Democratisation

## “From setting standards to enforcing rights”

Keynote speech by Thomas Hammarberg  
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The Universal Declaration of Human Rights was inspired by the ethical principles embodied in the major religions and by socialist, liberal and other secular philosophies. The aim was to formulate moral standards that were common to cultures and traditions all over the world.

Obviously, it was not the intention of the commission that drafted the Declaration to establish a new philosophy or ideology; the rules they formulated were not supposed to replace religions or political programmes. The articles were intended to be instruments with a specific, action-oriented purpose.

The Universal Declaration has rarely been questioned since it was adopted by the General Assembly. The new members that have joined the UN have accepted them.

Still, the main legitimacy of human rights standards stems from the *popular response* to them. The Universal Declaration – and the treaties developed on its foundation – obviously addressed needs felt as fundamental by many.

The idea that there are *universal* rights, regardless of country and culture, has taken root in people's minds all over the world, even in dictatorships. The fact that people have trust and hope in the human rights treaties and mechanisms has created a powerful dynamics.

The rulers know this and that, in turn, has made the norms even more important. It has also meant that some governments seek at all costs to avoid criticism of their human rights record, since they find any mention of shortcomings to be embarrassing.

As Vaclav Havel once very simply put it: “*The life of all those who scorn human rights is much more difficult with the Declaration in place, than it was before*”.

This moral dimension of human rights and their popular legitimacy give them a particular energy. This strength should be fostered and put to effective use. Because in the longer run the credibility will depend, not on the formulation of the articles, but on whether the norms are made into reality.

The focus now must be on *implementation*.

In my assessment the time has now come for *a more systematic and comprehensive strategy to ensure the full realization of the human rights treaties* – not least the European Convention and the Revised Social Charter.

What would that mean in concrete terms?

What should a well-intentioned government actually do in order to demonstrate that they really want to secure human rights in the country?

Let me suggest ten points as a starter for a systematic and comprehensive approach which would go further than the nice rhetoric:

### 1. Ratify the European and international standards!

It has been a great achievement that all European governments have ratified the European Convention which also opens the door for the jurisdiction of the Court in Strasbourg. However, there are gaps – for instance, some countries have still not ratified the Protocol No 12 on the prohibition of discrimination or the Revised Social Charter. All European governments should review the possibility of further ratifications and start processes to this end.

### 2. Protect the independence of the judiciary!

There are today clear tendencies of political pressure on the judiciary in some countries, also in Europe. Another threat is the attempts by rich and powerful people to corrupt judges through bribery. There is obviously a need of legal and other measures to protect the independence of the judiciary. In this, parliaments could be particularly important.

### 3. Appoint Ombudsmen and respect their independence!

The basic idea of an independent extra-judicial institution which can receive and act upon complaints from people at large has turned out to be very useful. Most European countries now have some institution for such ombudswork, though these have different names and somewhat different mandates.

Important is to secure that vulnerable groups, including children and persons with disabilities, have such protection. The *independence* and functioning of such institutions should be protected by law. The possibility of similar institutions on provincial and local level should be explored.

### 4. Open the door to the non-governmental groups!

Civil society groups are central for the respect for human rights. Many of them work hands-on with and for deprived groups and also report on real problems. Those in power should listen to their advocacy.

Structures should be created for regular a dialogue between authorities and human rights organizations. Laws should promote and protect these groups, not strangle them through unnecessary bureaucracy, or worse.

#### 5. Respect the freedom of media!

Media could be effective monitors of human rights problems, if they have the freedom to operate without interference. Each government which wants to be serious about human rights needs a clear media policy which would protect journalists and guarantee that different voices be heard, including those of dissidents.

Abuses by the media against individuals – they do happen! – could often best be addressed through media ombudsmen and voluntary codes of ethics, instead of political or judicial action against the media.

#### 6. Encourage human rights learning and awareness!

All people have the right to know their rights. Such knowledge is indeed one of the main conditions for the realization of human rights. However, school education about human rights is still wanting in most countries, at all levels.

Also, there is a need to secure that professional groups like policemen, judges, teachers, social workers and journalists get a solid education on human rights and that those already in service have a chance to update their knowledge.

Programs are also needed to reach people at large about how one could claim one's rights.

#### 7. Clarify the provincial and local responsibility!

Local authorities have an important role for the implementation of human rights - as they often are in charge of, for instance, policing, the schools and social security. One weakness in the national implementation efforts has been the lack of vertical coordination between authorities. Sometimes it is not even clarified that local and provincial authorities are legally bound by the European and international norms.

Action Plans on municipality level for children's rights, gender equity, rights of persons with disabilities and multicultural understanding have, where they have been tried, given positive results.

#### 8. Cooperate actively with other countries!

What goes on within, for instance, the Council of Europe is a mutual learning process – we learn from one another in the Parliamentary Assembly, the Congress of Local and Regional Authorities and in the intergovernmental bodies.

The bodies set up there and within the UN to monitor human rights implementation should be taken seriously: competent, independent experts should be nominated to the committees and government reports should be submitted promptly. The principle that no country is above scrutiny should be accepted by all.

As human rights are an international concern, we also have an obligation to respond to grave violations also outside our own borders. Human rights treaties should be seen as binding contracts between States parties; one's violation is a breach of contract with the others. Today, I argue that European governments should react much stronger on the genocide in Darfur and the torture of foreigners by the American CIA. Silence on such transgressions undermine the credibility of the international standards.

#### 9. Introduce human rights concerns into the political process!

That the basic human rights standards should be respected by all – and in that sense stand above party politics - does not mean that human rights issues should be kept outside the political debate. Indeed, human rights are crucial political concerns.

Parliaments and local assemblies should raise such issues with those responsible and the executives should report to them on how they have dealt with human rights questions. When budgets are discussed there should be an evaluation on how proposals affect the rights of, for instance, children and persons with disabilities.

#### 10. Work out a national action plan for human rights!

At the World Conference on Human Rights in Vienna 1993 all governments were recommended “*to consider the desirability of drawing up a National Action Plan identifying steps whereby that State would improve the protection and promotion of human rights*”.

The idea was for governments to produce a comprehensive plan covering all substantial human rights issues and defining clear objectives and a coherent framework of benchmarks.

To produce such a plan is hard work, but those who have tried have found it a useful tool, for instance, to improve the protection of the most vulnerable groups who otherwise often tend to be forgotten or marginalized.

The process of drawing up of the plans could bring more clarity between the local and central level about who is responsible for what. Another lesson is that it is absolutely central that all partners, including the non-governmental organizations, are fully consulted when the plan is developed.

We must ask for more than words. It is not sufficient that the conventions are ratified and politicians talk about human rights. Now, the noble principles have to be turned into reality for all.

Let us close by quoting Mary Robinson from her Dag Hammarskjöld lecture some years ago:

*“Our generation, and I say particularly to the students present, your generation, have the hardest task: the laws are there, the international mechanisms have been established, and can be improved and that process is in train, but the essential challenge is to implement where it really matters, to make reality of human rights for all. That requires each of us to be the custodian of human rights, that each of us play our part.”*