

CommHR(2024)50

Exchange of view with the Steering Committee on Democracy (CDDEM)

**Transcript of remarks by Michael O'Flaherty
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Strasbourg, 31 October 2024

Chairperson, dear colleagues, it's a great pleasure to be with you today. I think that the work of CDDEM is of enormous significance, and I want you to count on my support as you navigate your way through the very challenging tasks that you have been set.

I see the interplay of rule of law, democracy and human rights as a Venn diagram, with a tremendous degree of overlapping space and with significant human rights dimensions embedded inexorably in the circle of democracy and the circle of rule of law.

But the question one might ask regarding these human rights dimensions is, which are these human rights? I feel it necessary to raise that issue because there is such a heavy emphasis on civil and political rights in the context of standing up for democracy. Certainly, it is about freedom of assembly, association, expression, it is about independent courts, it is about electoral rights. But it is about so much more than that.

Every one of these is essential to democracy but what is often overlooked in the discussion is the indivisibility of human rights and the co-equal importance for democracy of social rights.

It's not difficult to demonstrate the essential quality of social rights for democracy. Social justice is a fundamental dimension of a functioning, thriving democracy and the road map to social justice is our states' commitments in the areas of social rights in the Council of Europe context, economic and social rights in the United Nations, and so forth. And there's also a utilitarian importance of promoting social rights for democracy – this has to do with the fact that our democracies have got to engage the most marginalised. The further you are from the centre, the more effort we must make to draw you to that centre.

But how can you draw in the most marginalised? Take for example the member of a Roma community who is living in inadequate accommodation without access to healthcare or education. We can only engage with these people when we honour their social rights.

Now, going back more generally to the interplay of human rights and democracy, there's one really important consequence of human rights that is essential to any efforts for democracy, and that has to do with the fact that we're not talking about values here. Human rights are not a set of values. Values are subjective, disputable contestations, they're essentially ethical. Human rights, of course, are normative. They are law, they are duty, and this means that, notwithstanding the vast diversity of democratic models represented in this room, every one of them, to be a true democracy, has to have within it deep respect for the golden thread of human rights.

And let me just add one other general point before going on to some specifics. I used the word utilitarian earlier and I could even use it at this point in terms of the relationship of human rights and strong democracies, and that is the role of human rights in building trust. Quite rightly it has been recognised that a lack of trust in a society between citizens, between the citizens and the institutions, is undermining of democracy and we know that investment in standing up for human rights is an investment in building trust. So there is even this consideration for adopting a strong human rights based approach.

I recognise that there has been acknowledgement of the interplay of human rights and democracy at Reykjavik in the outcome documents, in the declaration, and also in your terms of reference. I welcome this. I think it's very positive and a good base on which to build. I also noticed some hidden human rights commitments in your terms of reference that, I think, it is useful for you to explore.

There is, for instance, a reference to your role in supporting the delivery of the sustainable development goals. A few of them are named, one is 16. 16 as you all know is the famous rule of law SDG, but look at the indicators for 16.

One of the most important indicators identified in the UN setting for the delivery of SDG 16 is establishing national human rights institutions. So there is an explicit human rights task for you, supporting the putting in place and the strengthening of national human rights bodies in our member states.

Beyond all of these issues of laws and norms and tasks and mandates, there is another consideration, that is the dimension of the extent to which the human rights community has already walked the walk and can help you. There's a tremendous amount of good practise to exchange and discuss and reflect on, a tremendous amount of experience that I think can be of great help. I picked out just three areas where the human rights community is doing a rather good job, areas relevant for you.

One is in promoting civil society space, the space within our societies for civil society to thrive, a preoccupation of human rights actors for generations. A second is the very rapidly expanding skill set of human rights actors in going local. I really welcome the fact that there's a heavy emphasis in your tasks to engage with local government. I know you had a discussion this morning or yesterday on exactly these issues, and again a huge amount of progress has been made by human rights actors in this regard through, for example, the human rights cities initiatives.

The third area of experience from the human rights community is the amount of learning that's been done in encouraging citizen participation. You can't stand up for human rights without involving the rights holder. We've had to figure out what that looks like in practice and so, again, that's yet another area that would be the basis for a valuable exchange. In this regard I offer you my strong cooperation.

Allow me briefly to describe my mandate. The Human Rights Commissioner is an office, an institution established 25 years ago.

I'm the fifth commissioner, I've just begun my term of office a few months ago and I have a mandate from the Committee of Ministers across all human rights. It's very widely framed, all human rights within the geography of the Council of Europe member states. The mandate has been strengthened repeatedly following its initial establishment, including an explicit reference to a requirement for me to support and stand up for human rights defenders. The institution is independent, supported by the Secretariat of the Council of Europe but independent in its operation.

How do I do my job? I have a diplomatic toolbox. I have the full range of the diplomatic tools that we're all very familiar with. They're the tools of voice, word, and persuasion.

I engage in exchange with member states. I sometimes do that publicly and I sometimes do that privately. I do it whatever way will help support human rights in that particular setting.

I also, of course, work very closely with civil society and all other actors. Beyond these engagements and exchanges, I issue reports, I do analysis, I unpack challenging issues in the field of standing up for human rights. I spend a considerable amount of time on the ground, in the field, accompanying, listening, understanding, bringing that perception back to the centre to seek to make a difference.

Within my limited resources, I also have the role of convening those people who need to engage with each other, those communities that need to speak with each other to make for a better respect for human rights. And finally in terms of my toolbox, I have explicit functions regarding the European Court of Human Rights. I can at my own initiative do third-party submissions and I have ways of supporting the implementation of judgments.

I will wrap up this introductory set of remarks with four issues of crossover human rights/democracy concerns that are preoccupying me right now.

The first has to do with artificial intelligence. The issue of getting control over, AI in the interest of democracy is not just the issue of how it's used in democratic machinery. It's not just about voting and counting. It's about the role of AI right across the public services and the extent to which that triggers either trust or mistrust in the state on the part of the citizen. I'm concerned here because we're still a far way from taming AI in this as in many other contexts.

The second of my four regards the extraordinary pressure that civil society is under right now in far too many places. There's a contagion of laws, the effect of which is to excessively limit the capacity of civil society to play its role in the affected societies, and there's a very worrying process of the criminalisation of legitimate civil society work in some places.

The third of my four concerns has to do with the erosion of the rule of law at some of our borders. At some of our frontiers, there is a willingness by states for various reasons to put aside applicable law. The relevance for a rule of law/democratic state is self-evident.

Fourth and finally, a completely different issue, but one I hope you'll pay attention to in your work, and that is the disappearance of education about democracy, education about human rights from our schools. Very few of our countries still have civic education, as we called it in my country when I was a child. If we don't teach our children about democracy and human rights, how can we expect them to be the type of adult citizens who will play their role in championing these essential elements of our societies?

I wish you well in your deliberations.

Thank you