

INTRODUCTION TO WORKING SESSION 3, Maria Dahle Human Rights House Foundation

Introduction given on 27th September 2011 at the Human Dimension Implementation Meeting 2011, organised by the Office for Democratic Institutions and Human Rights (ODIHR) of the Organization for Security and Co-operation in Europe ((OSCE), 26th September–7th October 2011, www.osce.org/event/hdim_2011)

The Office for Democratic Institutions and Human Rights (ODIHR) organises an annual meeting in Warsaw, Poland, to review the implementation of a broad range of OSCE human dimension commitments, including in the areas of human rights and fundamental freedoms, elections, the promotion of tolerance, use of the death penalty, and the rights of national minorities. The Human Dimension Implementation Meeting (HDIM) lasts 10 working days and is attended by representatives of OSCE participating States, NGOs, and international organizations and institutions.

Distinguished delegates, ladies and gentlemen,

The important role of civil society and human rights defenders in the promotion and protection of human rights cannot be overestimated in any society. It is a well-known fact that the situation for human rights defenders is an indicator of the general situation for human rights in a country. That is why it is so necessary to closely monitor the framework for human rights defenders and report on trends – in particular trends on the national and regional level. It helps us to alert, advocate and be proactive, provided there is political will for change.

Freedom of peaceful assembly and freedom of association are human rights at the very heart of OSCE commitments, as they are crucial and important rights for development and democracy. They are also preconditions for human rights defenders' free space to act – together with freedom of expression and the right to be a human rights defender. However, over the last several years, we have increasingly seen systematic violations against freedom of assembly and of association within several of the OSCE participating states.

Ladies and gentlemen,

One reason for this development is, undoubtedly, the shift in the international political climate that the terrorist attack in 2001 made. The increased fear of terrorism and hence, international focus and cooperation on security and anti-terrorism measures, introduced new laws and regulations that in many cases were not in line with international human rights standards.

The call for increased security and the presumed need for further protection of citizens have been used by governments in many countries as an excuse to clamp down the exercise of fundamental rights and to limit civil liberties. In a growing number of countries, human rights defenders have even found themselves labelled as terrorists and criminals.

As civil society groups have become more sophisticated and effective in their advocacy efforts, many governments have also become more sophisticated in responding to their critics.

1

Governments are not shy to use the law to restrict NGOs or to use excessive policing methods to silence people. The new legal framework for NGOs as well as the implementation

of the NGO laws limits civil society's activities and scope of work, limits the group of clients they may represent, their access to funding and information.

One example is the recent development of amendments to the NGO law in Azerbaijan, which effectively and immediately closed the Azerbaijan Human Rights House – an open meeting place for human rights defenders, journalists, youth activists and lawyers and a focal point for promotion and protection of human rights in Azerbaijan. We are currently in consultation with the Azerbaijan Ministry of Justice on this issue and hope the Azerbaijan Human Rights House will reopen soon. We also await the upcoming analysis and expert opinion of the Venice commission's on the NGO laws in Azerbaijan – and hope this will provide the legal and political space for all human rights NGOs in Azerbaijan to operate more effectively.

We also have cases where the new NGO-laws criminalise the individual defender. Furthermore we witness frequently how authorities prevent organisations from being registered or close NGOs and thus make it impossible for them to operate legally.

A well-known and recent case on the consequences of such a law and practise is the detention of the prominent human rights defender Ales Bialiatski, head of Viasna in Belarus and Vice-President of FIDH. Viasna was in 2003 closed down by the court and hence, forced to work underground and operate partly from neighbouring countries. Bialiatski now faces financial criminal charges for not reporting on foreign financial support to Viasna's activities as his own personal income. We all know that the real reason behind this is Viasna and Bialiatski's courageous, legitimate and peaceful human rights work and assistance to victims of political repressions over a number of years. If prosecuted according to these charges, Bialiatski will face confiscation of all his properties and will be sent to prison for up to seven years. We all have an obligation to make sure that this does not come true.

Ladies and gentlemen,

New NGO-laws in the OSCE participating states have opened up for an increase in sophisticated administrative and bureaucratic harassment of human rights organisations – with the effect that more and more of the human rights defenders' time has to be spent on detailed reporting.

2

Meanwhile, officials search the NGO offices, confiscate material, put organisations and the defenders under surveillance – and often intimidate and threaten the defenders and their family members.

In addition, tighter restrictions on holding peaceful demonstrations and gatherings have been introduced, often with reference to the need for increased security. Our partners in the Human Rights House Network report also here on increased sophisticated administrative and bureaucratic harassment of NGOs and activists planning peaceful demonstrations in OSCE participating states. The new laws and regulations legitimize the police' excessive use of violence against the demonstrators and massive arrest of participants. Journalists on duty covering the events are often beaten, detained, harassed and interrogated by national security forces.

Ladies and gentlemen,

I have elaborated on some trends in several of the OSCE participating states and pointed at some effective tools used to silence NGOs. These trends are clearly some of the great challenges for OSCE in the future.

UN Human Rights Council's resolution on the Rights to Freedom of Peaceful Assembly and of Association of March 2011 was a significant statement by the international community responding to the worrying trend of increasingly restrictive environment for civil society around the world. The UN appointed Mr Maina Kiai as Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association – a prominent human rights defender and advocate from Kenya.

The new Special Rapporteur has asked us to share with you that he would like feedback from you on the following questions:

1. What you think are best practices on Freedom of Association and Assembly (as two distinct rights)?
2. What do you think are the worst practices?
3. What tools should we use at international levels to increase the respect for these freedoms?

➔ We would like to recommend the OSCE participating States to invite the newly appointed UN Special Rapporteur for an official visit to your country for conducting consultations with the State, civil society, national human rights institutions and other stakeholders to discuss the country-based situation and how to nationally improve and strengthen the freedom of association and peaceful assembly.

➔ We recommend the States to use these consultations as a tool for your follow up of recommendations set by the Universal Periodic Review as well as preparing for your new UPR report, where States are expected to have consultations with the civil society and other stakeholders on human rights issues.

➔ When doing so, also invite OSCE ODIHR to introduce their practical and important handbooks on the monitoring of freedom of peaceful assembly and now also on freedom of association. The States should further include the OSCE recommendations into the national legislation and practices.

➔ You create an intellectual debate between leading thinkers in your country on the issues related to the protection and promotion of freedom of assembly and association. This may also lead to an inclusive, transparent and participatory decision-making process of the different stakeholders – as called upon by both OSCE and the UN.

The Human Rights House Foundation with many of our partners invite OSCE and ODIHR:

➔ to follow up the UN Special Rapporteur's invitation to look at both best and worst practices with regards to freedom of assembly and association. We need to look at both best and worst practices, since one relates to the other. We recommend OSCE to come up with a list of minimum standards of practices OSCE can accept for these two fundamental rights;

➔ to create both international and national expert and monitoring groups on the situation on freedom of association in the OSCE area;

➔ to actively promote the Guideline on freedom of peaceful assembly, and actively promote its integration into national legislation and practice;

➔ to make a Guideline on freedom of association;

➔ to expand the activities of the OSCE ODIHR expert panel on freedom of assembly and ensure the involvement of civil society groups within OSCE in both the monitoring and promotion work of the Guideline(s);

➔ National Human Rights Institutions should monitor and report on the two freedoms, and actively promote and defend the protection of these fundamental freedoms at the national level. They should also be asked to provide information and analysis to the UN Special Rapporteur and regional mechanisms;

➔ National Human Rights Institutions should safeguard their independence, and professionalize and consolidate their role as a bridge between government and civil society. They should collaborate, engage and consult with a broad and diverse range of civil society actors and ensure that inputs and comments are brought to the authorities.

Thank you so much for your attention.

Working session 3 has four very important issues to elaborate on, and hence, limited time for each. Human rights education is a key component to ensure that human rights are understood, supported and demanded by the people. Targeted human rights education for different professional groups, human rights defenders, youth and civil servants are important – but to ensure a long lasting and systemic support for the protection and promotion of human rights, States need to on the one hand clean their school books so they are in line with international human rights values and on the other, implement human rights as an integrated part of the curriculum within the compulsory school system. We need to educate, enlighten, empower and inspire the new generations in human rights to make sure the rights and freedoms become integral parts of society and creating a positive long-term change.