

Current Challenges to the Protection and Promotion of Human Rights

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The Office of the High Commissioner for Human Rights recognizes the important contribution that ombudsman institutions in the national human rights protection system – even without an explicit mandate of human rights protection. Today’s great human rights challenges include racial discrimination, times and circumstances of strife that put civilians at risk, and gender inequality. Weak or dysfunctional institutions of governance often hinder efforts to alleviate human rights conditions. This is why the scrutiny and recommendations of ombudsman institutions are of paramount importance for the protection of human rights everywhere. I encourage all ombudsman institutions, to actively draw on the standards enumerated in international instruments and consolidate their mandates in order to accommodate human rights responsibilities.

I am pleased to join you in the celebration of the 200th year anniversary of the Swedish Parliamentary Ombudsman. I wish to thank Mr. Mats Melin, the Chief Parliamentary Ombudsman for Sweden, for inviting me here today.

The establishment of this institution in 1809 gave birth to the concept of the ombudsman: a public body entrusted with the task of supervising the conduct of public administration in order to ensure its fairness and accountability. Nowadays, we count many such institutions worldwide and have seen a variety of institutional models develop out of a specific national context.

While the traditional ombudsman model was not concerned directly with human rights, more recent institutional models have included a specific human rights protection mandate, often in relation to rights set forth in national constitutions or other legislation. It is these latter bodies, as well as national human rights commissions, which are among the pre-eminent interlocutors for my office. Collectively they are known as “national human rights institutions” or NHRIs.

NHRIs are central elements of a strong national human rights protection framework; a framework that also requires an independent judiciary, effective parliamentary oversight mechanisms, fair administration of justice, dynamic civil society and free and responsible media. They are the best relay mechanisms to ensure the implementation of international human rights norms.

The Office of the High Commissioner for Human Rights (OHCHR) also recognizes the important contribution that ombudsman institutions can make as another element in the national human rights protection system – even

without an explicit mandate of human rights protection – given their role in ensuring government accountability and strengthening the rule of law. Many human rights abuses are indeed connected with maladministration, administrative malfeasance, or a lack of government accountability. The essential notion of procedural fairness, which underpins the administrative law that ombudsman institutions are mandated to uphold, is thus key to protecting the rights of individuals in their interactions with public authorities.

Allow me to offer some preliminary thoughts of what I believe are today's human rights challenges. In the short time available to me, I can only mention a few of what I consider to be the most significant, namely discrimination, times and circumstances of strife that put civilians at risk, and gender inequality. I will also briefly discuss how to enhance synergies in our respective work to better address these challenges. But first, let me underscore that weak or dysfunctional institutions of governance often hinder efforts to alleviate human rights conditions. This is why the scrutiny and recommendations of NHRIs and ombudsman institutions are of paramount importance for the protection of human rights everywhere.

This protection and scrutiny are particularly crucial when the welfare and fair treatment of vulnerable individuals are at stake in our increasingly multi-ethnic and multicultural societies. Such concerns found renewed expression in the course of the debate of the Durban Review Conference on Racism, Racial Discrimination, Xenophobia, and Related Intolerance that took place in April this year in Geneva.

The Review Conference was a chance for all nations to give impetus to the implementation of the commitments made eight years ago in Durban in the course of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance. In Geneva, 182 states reiterated that racism is a denial of human rights, pure and simple. It may be institutionalized or it may express itself less formally as hatred against a particular people, religion or a class. It affects all countries, rich and poor.

We see such intolerance in the national narratives that obliterate the identity of others, or that reject rightful grievances of minorities who might not share a so-called "official history." Migrant workers and asylum-seekers are increasingly stigmatized. Discrimination often engenders human trafficking, whose victims tend to be women and children of low socio-economic status. A new politics of xenophobia and intolerance against minorities is on the rise. I will briefly discuss these concerns, but first let me underscore that discrimination does not go away by itself. It must be challenged at every turn.

It is critical to ensure that migration is a choice and an opportunity, as well as an empowering experience for all those involved, rather than merely a survival strategy.

Many migrants and their families are well integrated into host societies across the world and actively contribute to their economic and social development. However, significant numbers of migrants, especially those in irregular situations, continue to experience discrimination in countries of origin, transit and destination.

They are often excluded from decision-making and have scant access to legal recourse for violations of their rights. In the case of irregular migrants, this situation is compounded by fear of being denounced, detained and eventually deported.

Access to education or health services for irregular migrants is guaranteed on the same footing with residents only in a handful of host countries. Policies against irregular migration that focus on border control, return, and at times criminalization, have not only been ineffective, but in some cases have also posed further threats to the rights of those affected.

The rights of migrants may also be undermined through measures such as the imposition of fines on private individuals renting their houses to irregular migrants; the imposition of a duty to report on health professionals; the criminalization of the provision of aid and assistance to irregular migrants; and the collective interception and return of migrants at sea. Increased recourse to administrative detention of migrants is often undertaken without adequate guarantees, resulting in migrants being exposed to arbitrary and prolonged detention and to punitive regimes.

In light of these considerations, I have urged states to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. By the same token, states should give full effect to other key international treaties, including the UN Convention on Transnational Organized Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.

As we focus on intolerance and inequality, we must highlight that gender discrimination and violence against women remain of pressing concern. Such conditions make human rights pledges and norms empty promises for millions of women and girls. No effort should be spared to persuade countries to repeal laws and practices that continue to reduce women and girls to second-class citizens and effectively expose them to the risk of becoming targets of attack. This occurs despite international standards and despite the specific commitments that have been made to throw out these laws and customs and bring perpetrators of violence to justice.

On all these accounts, governments must uphold their legal obligations to protect and promote the full enjoyment of rights of all individuals under their jurisdiction.

Such protection is particularly crucial during an economic crisis, or at times of commodities shortages, particularly food, or when competition over natural resources or employment opportunities is at stake, or during environmental hardship. These conditions have the potential of exacerbating or igniting discrimination and xenophobia and lead to violent strife. And when conflict erupts, it is often civilians, particularly women and children, who are bound to suffer the most. Indeed, their suffering has been a tragic feature of confrontations in many countries and regions of the world. A neglect of basic human rights and policies of exclusion, are almost invariably to be found at the root of such conflicts. Thus, we have to break the cycles of violence, the mobilization of fear, the political exploitation of difference. We need to re-

move the obstacles that hamper the development of good governance practices and stifle justice.

I look forward to enhancing the interaction and synergy of our organizations and all concerned individuals on these vital issues.

Many NHRIs are veritable champions of the rights of the most vulnerable within the communities they serve, irrespective of the nationality and status of these individuals. Although the roles of the ombudsmen and national human rights institutions differ, such distinction is becoming less pronounced. The complaints received by ombudsman institutions may frequently raise human rights concerns. Public authorities take action in areas extremely relevant for individuals' enjoyment of human rights, such as education, housing, health care, social services and policing.

In addition, ombudsman institutions are increasingly engaged in promoting human rights, particularly through educational activities and developing information programs. Experiences from around the world show, however, that both NHRIs and ombudsman institutions continue to face challenges in ensuring the independence on which their authority and effectiveness depend.

I would like to use this opportunity to pay tribute to the important work done by the International Ombudsman Institute (IOI) to support the independence and autonomy of its members.

I also encourage all ombudsman institutions, even those without an explicit human rights mandate, to actively draw on the standards enumerated in international instruments and consolidate their mandates in order to accommodate human rights responsibilities. In this regard, I congratulate the Swedish government for its recent reforms that create the Equality Ombudsman, to take over from the four specialist ombudsmen institutions that previously existed.

In the same vein, I support and welcome increased cooperation amongst regional and international associations of ombudsmen and NHRIs, and between these organizations and the UN human rights system, in order to promote cooperation and share best practices.

In December 2008, the United Nations General Assembly adopted two important resolutions for the promotion and protection of human rights, namely Resolution 63/169 on the role of the ombudsman institutions, and Resolution 63/172 on national human rights institutions.

Resolution 63/169, *inter alia*, underlines the importance of the autonomy and independence of the ombudsman, mediator and other national human rights institutions. It underscores their role in the effective realization of the rule of law and respect for the principles of justice and equality. It stresses that these institutions can advise governments on bringing national legislation and practice in line with their international human rights obligations. The resolution also encourages member states to consider creating or strengthening independent and autonomous ombudsmen, mediators and other institutions, and to develop, where appropriate, mechanisms of cooperation between them to coordinate action and strengthen their achievements.

For its part, Resolution 63/172 reaffirms the importance of the development of effective, independent and pluralistic national human rights institu-

tions in line with the Paris Principles, encourages NHRIs to seek accreditation status through the International Coordinating Committee, and notes the strengthening of the accreditation procedure and the continued assistance of my office in this regard. It also acknowledges the important work performed by regional human rights networks across continents.

These two recent resolutions are testimony to the growing importance that United Nations member states attach to the role and potential of national human rights commissions and ombudsman institutions in the promotion and protection of human rights at the national, regional and international level.

In conclusion, the current challenges to the protection of human rights can only be effectively addressed if the international and regional human rights mechanisms, as well as all states, work hand-in-hand with the growing number of independent and effective national human rights institutions.

My office stands ready to facilitate such cooperation. Our shared goal is to ensure that ever stronger national human rights protection systems in each country are firmly in place to carry out their vital functions and thus to translate international norms into consistent national law and practices.