

**OSCE Supplementary Human Dimension Meeting on Human Rights Defenders and National Human Rights Institutions: Legislative, State and Non-State Aspects
Hofburg, Vienna, 31 March 2006**

Session II: Synergies and co-operation between state organs, national human rights institutions and human rights defenders

Speech by Mary Lawlor, Director, Front Line - the International Foundation for the Protection of Human Rights Defenders

It is a great honour for me to be here and I would like to thank the ODIHR for inviting me to give an intervention. I will speak from the experience of Front Line –all our activities are focussed on human rights defenders at risk and are guided in everything we do by the spirit, needs and protection of HRDS. It is easy when thinking aloud to get bogged down in the wider picture so ably painted by HRDs here yesterday and it can be overwhelming - but if we strip everything down to each individual case, sometimes it can take very little to protect them. I have been asked to talk a bit about the duties of States, the role of NGOs and how States and NGOs can and should co-operate in defence of human rights defenders with specific reference to our experience with the Irish government.

Let me start with the UN Declaration on Human Rights Defenders which governments adopted by consensus . Article 2 spells out the duty of States and I quote:

“Each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, *inter alia*, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice.

2. Each State shall adopt such legislative, administrative and other steps as may be necessary to ensure that the rights and freedoms referred to in the present Declaration are effectively guaranteed.”

The **OSCE** has also long standing commitments in relation to human rights defenders and many of the provisions of the UN Declaration are similar to the OSCE commitments

The OSCE commitments include:-

- the right of citizens to contribute actively, individually or in association with others to the promotion and protection of human rights and fundamental freedoms,
- the right to know and act on human rights and fundamental freedoms to seek , receive and disseminate information on human rights.,
- the right to freedom of expression and freedom of association,

- the right to an effective remedy which includes both right to seek assistance from others in defending human and fundamental freedoms and to assist others in defending human rights and fundamental freedoms.
- Support for non-governmental organisations
- Recognition and facilitation of the ability of ngos to carry out their work
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I think however, it is safe to say that much remains to be done by the OSCE in its work to strengthen protection for human rights defenders .

Human Rights NGO's

Human Rights NGOs are organized on local, national, regional or international level . The first and most crucial level of human rights protection is at the local and national level and properly functioning national mechanisms offer the best hope of sustainable human rights protection. The role of regional and international non governmental organisations should be to internationalise the work of local and national ngos and support them in their struggle in the ways that they themselves say they need.

FUNCTIONS OF HUMAN RIGHTS NGOS

1. They are essential in the struggle against human rights violations in assisting and seeking justice and compensation for victims;
2. They are major sources of information and *can be* capable of monitoring the situation in a more effective way than governments ever can if governments are ineffective,unwilling or unable to monitor human rights violations
3. They have played a very substantial role in the field of standard setting. e.g. in the Convention against Torture. The spectacular success of the establishment of the International Criminal Court was due in no small part to the ngos who formed part of the coalition for the ICC.
4. They have a special role and expertise in the field of hr. education and awareness;
5. They play a role in expressing solidarity; the contacts and relations worldwide do bind them together;
6. They are in a position to deliver services that other segments of society do not have. They are able to fill the gaps in information, documentation/training courses etc.
7. They can and do have a crowbar-function in the political system that is essential for a good human rights atmosphere
8. They can mobilise public pressure to hold governments accountable for the commitments they have given to upholding human rights

As NGOs take an increasingly important role in political life, some critics are concerned that NGOs speak in many different and conflicting voices, which can fragment and weaken political action. NGOs have been most effective when they work together in coalitions, pooling their resources and coordinating their lobbying efforts

As discussions continue about democracy and accountability in global decision-making, it becomes increasingly clear that NGOs have a vital role to play. Globalization has created both cross-border issues that NGOs address and cross-border communities of interest that NGOs represent. National governments cannot do either task as effectively or as legitimately. In the globalizing world of the twenty-first century, NGOs will have a growing international calling.

A central part of the assessment of any countries' record in the field of human rights should be based on the possibilities of human rights defenders and NGOs to function effectively. NGOs should build up reliability and credibility and should be prepared to be accountable for activities, organization and financial reporting.

The situation for human rights around the world is bleak because human rights are always at the mercy of a governments economic and political interests. There is no such thing as a good government. When I started working 30 years ago, the human rights landscape was much more black and white - governments acted unilaterally without accountability and didn't recognise the legitimacy of the work of human rights defenders.

Two factors have made it necessary to adopt new approaches to governments:

Governments have hijacked the language of human rights. Listening to the rhetoric of their speeches, one could be forgiven for believing that they mean what they say. The line between what they say and do has become increasingly blurred but in the end it is always a case of dump on your enemies and go easy on your friends.

Secondly, more and more international standards have been developed and governments are now signing and ratifying international conventions and covenants to a greater degree. But they don't take their international obligations seriously and adopt an a la carte approach to them – choosing the bits they can live with and ignoring or derogating from the bits that would force them to take real concrete steps to promote and protect human rights.

At the end of the day the power of politics has to be constantly challenged, so you have to find new ways of protecting human rights. In order to try and make human rights a reality for all, we must acknowledge those actions governments take in defence of human rights while at the same time rigorously denounce inaction or bad action ; hold them accountable under the rhetoric and international law they so like to parade and attack their national and international image which is so important to them. We should be investing the same kind of time and energy in the “violaters” as we do in our partners the defenders of human rights in order to try to influence them in a way that will change their

behaviour. Neither can be seen in isolation but in terms of their relationship with the other.

Let me talk now a little bit about Front Line's experience with the Irish government and the co-operation between us for the protection of human rights defenders at risk. When a state is supportive and cooperates with non-state actors, it creates good synergies, state and non-state actors work towards a common goal. This doesn't mean that there shouldn't be a healthy tension between them.

- As we heard yesterday the EU adopted guidelines on HRDs in June 2004 under the Irish Presidency which provide for interventions by the Union for human rights defenders at risk and suggest practical means to support and assist human rights defenders. Front Line lobbied both the Minister and the Political Director of the Department of Foreign Affairs in 2003 in advance of the Presidency in January 2004, to make human rights defenders a priority for their EU Presidency. The Department of Foreign Affairs agreed to this and commissioned Front Line to prepare a discussion/consultation document on possible EU Guidelines for their EU partners, which we produced in consultation with a broad range of human rights defenders and key international organisations working on their behalf. The government also held a seminar to discuss same. The resulting guidelines include most of the issues raised by those consulted and we were particularly delighted when the government pursued the guidelines even when initially it looked like there would be no support for them from their EU partners.
- On the 9th and 10th of December 2004, embassies, NGOs and experts were gathered in the Hague to discuss implementation of the Guidelines at the 6th EU Annual Human Rights Discussion Forum, hosted by the Dutch Ministry of Foreign Affairs. The outcome was a manual for EU Missions containing the concrete steps and instruments identified during the Forum for implementation of the Guidelines.
- The Irish Department of Foreign Affairs have set up a mechanism through which Front Line can raise cases of human rights defenders facing grave danger. This is extremely important to us because the case can then be floated to EU partners with a request for action and we are then notified of the result.
- Another initiative which resulted from co-operation between Front Line and the Irish Minister for Justice was setting up a structure for the provision of temporary humanitarian visas quickly to human rights defenders in extreme danger or for rest and respite. A visa is issued very quickly to a human rights defender for a period of up to three months. So far, since this scheme was introduced we have had 5 hrds who stayed with us for between 1 and 3 months and who have now all returned to their countries to continue their human rights work.

- Front Line receives funding from the Irish Government. This kind of support contributes to our ability to carry out our work for the protection of human rights defenders and in no way takes away our independence and freedom to express our critical views about non-compliance with human rights obligations by the government. Indeed this was clearly stated by a member of the Irish delegation publicly under Item 17 on HRDs at the Human Rights Commission a few years ago. Currently we are monitoring the controversial Shell to Sea campaign in Ireland and should we find any evidence of harassment or intimidation, we will certainly be publicly raising the case. Previously we have raised killings of human rights defenders in Northern Ireland as a matter of course.
- At the Bi-annual Dublin Platform the government shows its commitment to HRDs through providing Dublin Castle as a venue. The Prime Minister, Minister for Justice and Minister for Foreign Affairs have all accepted invitations to speak. At the 3rd Dublin Platform in Oct 2005, the Minister for Foreign Affairs stated that “human rights defenders globally is an important aspect of Irish foreign policy and that Front Line was an important policy partner for the department.”
- Next week we will be doing a training session on human rights defenders with officials and mission staff of the Department of Foreign Affairs

Now in case you think Ireland was always like that, let me assure you it was not. It was a struggle to get the covenants ratified, the death penalty abolished and there are many issues such as discrimination and police accountability that need to be tackled.

WOMEN:

It is also very important to highlight the more precarious situation of women human rights defenders and we are particularly pleased that the Austrian Presidency is prioritising women human rights defenders often face risks that are specific to their gender and additional to those faced by men. This places on states the responsibility of adopting and implementing relevant legislation and administrative procedures, and places on non-state actors the responsibility of raising awareness of gender implications in civil society, ensuring the development and implementation of effective, appropriate and accessible protection of women human rights defenders.

Many government structures and NGOs are not effective in gender proofing their work. Attitudes, practices and structures need to be transformed. For example

Eren Keskin, the Turkish human rights defender and lawyer has just been sentenced to 10 months in prison on grounds of article 301 of the Turkish Penal Code (TCK). Eren Keskin, the founder of the "Legal Aid For Victims of Sexual Harassment and Rape Under

Detention Project" has been repeatedly been harassed over the years as a result of her human rights work. Her organisation works on documenting and assisting women who have been raped or sexually abused in custody.

. Finally I would like to offer some recommendation to the meeting to consider.

- 1) I believe that the EU Guidelines on HRDs is a good tool to push EU governments into more effective and sustained protection of human rights defenders. I realize the Guidelines are not properly known yet by either governments or defenders but Front Line for example plans awareness raising campaigns. I think there would definitely be added value to the protection of hrds if the OSCE were to develop similar guidelines with concrete provisions for implementation by their missions. This would also help to ensure that OSCE action was consistent and not patchy.
- 2) The OSCE should develop a structure to speed up its action on individual cases which involves not only a fast, flexible response but sustained follow up.
- 3) The OSCE should pay particular attention to giving visibility and legitimacy to women human rights defenders and the specific risks they face.
- 4) The OSCE should examine how to combat lack of freedom of assembly and association in participating states and should vigorously work on country action plans to challenge this issue.
- 5) It would be good to see a study on how effective the Vienna Mechanism and Moscow Mechanism has been and what needs to be done to use these mechanisms in a more effective way.

Finally friends, today I am thinking particularly of Ahmadjan Madmarov and his family in Uzbekistan. Ahmadjan Madmarov continues to face daily threats and surveillance because of his activities but the most terrible part of the persecution he is facing is that three of his sons and two nephews have been imprisoned and tortured because of his human rights work. Ahmadjan Madmarov is a long-standing human rights defender who has worked for over thirty years defending the rights of people in Uzbekistan. Ahmadjanov was targeted as early as 1994, when he was arrested and fired from his job as chief engineer of a car manufacturing plant after being accused of organising a public meeting. The meeting was organised in order to protest against state corruption and demand the resignation of President Karimov.

In 1999 the arrests of his family members started and in 2000 he was informed by the Deputy Head of the Margilan Militia, Adyl Ahmadjanov, that the militia had decided not to arrest him as he was too old and he would be freed under an amnesty, but that instead they would “[...] use different means to make him silent” and “ [...] stop your human rights activity, and we will let your sons alone. We will stop torturing them. Maybe we

will help them to be freed". All five of his family members are still in prison. It is feared that all 5 of them are at risk of being ill-treated or tortured while in state custody.

I cannot imagine the horror of having your children taken away, imprisoned and tortured because of your work and I wonder about how he can reconcile himself to this without going mad with guilt, wild imaginings and sorrow. I cannot imagine the relentless pressure and stress that Admajan Madmarov has to live under because it seems too awful to comprehend. But if there is to be a test out of today's meeting on whether the OSCE is serious about protecting human rights defenders, then I ask that you do whatever you can to have Admajan's sons released and make it clear to the Uzbek authorities that you cannot and will not tolerate the destruction of a human being whose sole crime is to work for a civil and just society where the human rights and fundamental freedoms of the people are respected..

Mary Lawlor

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Defenders.

The OSCE has established a number of tools to monitor the implementation of commitments that participating States have undertaken in the field of human rights and democracy (the human dimension).

One of these tools, the so-called Human Dimension Mechanism, can be invoked on an *ad hoc* basis by any individual participating State or group of states.

It is composed of two instruments: the Vienna Mechanism (established in the Vienna Concluding Document of 1989) and the Moscow Mechanism (established at the last meeting of the Conference on the Human Dimension in Moscow in 1991), the latter partly constituting a further elaboration of the Vienna Mechanism.

The Vienna Mechanism allows participating States, through an established set of procedures, to raise questions relating to the human dimension situation in other OSCE States.

The Moscow Mechanism builds on this and provides for the additional possibility for participating States to establish *ad hoc* missions of independent experts to assist in the resolution of a specific human dimension problem either on their own territory or in other OSCE participating States.

The ODIHR is designated to provide support for the implementation of the Moscow Mechanism, and it maintains a list of experts appointed by some of the participating States who are available to carry out such investigations.