



# INTERNATIONAL COMMISSION OF JURISTS

Commission internationale de juristes - Comisión Internacional de Juristas

*"Dedicated since 1952 to the primacy, coherence and implementation of international law and principles that advance human rights"*

## **International Conference on Systematic Work for Human Rights Implementation Stockholm, 6 - 7 November 2008**

### **ICJ Intervention on Systematic Work for Human Rights Implementation**

*7 November 2008*

*Check against delivery*

Distinguished Madam Minister,  
Dear Commissioner,  
Ladies and Gentlemen,

I am honoured by the opportunity to address you on behalf of the International Commission of Jurists. Let me first acknowledge the organisers – the Government of Sweden and the Council of Europe, for their efforts to reinforce the systematic work for implementation of human rights standards.

Over the past two days, the enriching debates have provided us with the new opportunities for partnerships between the Governments, as primary duty bearers when ensuring human rights, civil society actors and international organizations. These are the three pillars – each with different but complementary roles, which are indispensable for effective promotion and protection of human rights. The UN, including through the landmark resolution of the Security Council No. 1325 on women, peace and security, and the subsequent follow-up resolutions to this process, has also affirmed the value of this essential triangular partnership. The civil society has been taken on board both as the assessment and implementation partner.

This conference has been remarkable in several aspects. It reaffirmed the contribution of the civil society to the implementation of human rights standards. However, such acknowledgement has not been obvious in all parts of the world, as incidents of targeting the human rights activists and defenders have increased in recent past.

Civil society actors' rights to freedoms of opinion, association and assembly as well as media freedom have been often suppressed under the pretext of security or the veil of countering extremism.

As Dr. Blix and others stated, the foundations of the Bill of Rights - laid 60 years ago and elaborated through the specific instruments to prevent from human rights violations, including against specific groups, or protect against discrimination, are firm. This can certainly be considered as a major achievement. Nonetheless, the development of international norms has not been accomplished once and forever. For example, the recent food crisis and the involvement of some business entities in its course have demonstrated inadequacy of the current normative framework in terms of protection against abusive practices by business entities.

Changing dynamic in international relations, including the assumption of traditional States' responsibilities in public sphere by private entities, deserve development of norms that would extend the obligations to respect and ensure human rights also to businesses.

Paradoxically, most of the existing human rights norms and standards have not been unanimously perceived as non-erodable foundations. It transpired that the identification of adequate responses to close the gaps in human rights protection is also pressing.

Beyond the challenges due to achieving security at the expense of human rights and freedoms, poverty or food crisis, we are witnessing the mounting incidents of erosion of the rule of law and democracy in many countries. The customary law concept of non-derogable rights, upheld by international treaties, has been repeatedly broken into by practices of torture. Both the judiciary and legal profession have not been spared as these have been increasingly targeted as a threat, instead of making them a pillar of the rule of law and good governance.

Civil society, including NGOs and NHRIs must not be deterred in their early detection and assessment of similar and other grave human rights violations. To the contrary, human rights defenders require assistance of inclined States and international organizations, such as when combating impunity, invoking accountability of public officials or exercising trial observation or counselling.

Other roles of the civil society remain under-developed, especially its direct involvement in human rights implementation initiatives undertaken by States. Such engagement should not be confined to a mere monitoring of the States' compliance with their obligations. The UN Universal Periodic Review, which requires regular involvement of civil society in assessments of domestic performance of human rights duties, may help justify such claims.

Due to first hand experience, the relevant civil society actors have a capacity to exercise also an implementation role, such as when raising awareness and providing technical assistance to improve observance of human rights by public officials.

New avenues may also open when interacting with human rights treaty monitoring bodies. As stated by Mr. Burdekin, the treaty body system has functioned only with limited effectiveness, partly because it relies on heavy and not always regular States' reporting. Finding the means of meaningfully limiting the reporting burden and making the future treaty body system more accessible to individuals through the submission of individual communications may be one of the ways forward.

Improving the authority and quality of the treaty bodies' jurisprudence contained in the views on individual communications is also essential. Committees' views have gradually become powerful instrument when invoking human rights in domestic judicial proceedings. We have also made an experience that judicial authorities find it difficult to challenge the application of international human rights instruments where these are directly applicable under the national law. By doing so, the courts would be faced with eventual violations of the country's Constitution.

Ladies and Gentlemen,

It transpired from yesterday's roundtables that along the national action plans there may be also other, if not more effective instruments to make the human rights work. Such considerations should depend on the context in individual countries.

Whereas national action plans may be instrumental in promoting the general level of rights' enjoyment, the National Human Rights Institutions might better serve rights' protection and access to justice. Those institutions neither require following the formal rules of procedure nor exhausting the remedies with the state organs prior to their proceedings. Instead of judicial evidentiary standards, National Human Rights Institutions operate on principles of equity and natural justice, which makes them suitable and accessible for seeking effective redress for human rights violations.

Finding the right balance between the roles of official authorities and NHRIs, ombudspersons and similar mechanisms are also essential. Although the three branches of government are primarily responsible for rights' implementation, civil society and its mechanisms may exercise complementary roles, including when establishing accountability.

Mr. Commissioner,

These have been some of the examples, how to bring the international human rights norms closer to home and make the work for human rights implementation more systematic.

I thank you for your attention.