

RENEWING RIGHTS IN TIMES OF TRANSITION: WHAT ROLE FOR ACADEMIA?

Comments by Michael O'Flaherty, Director of the European Union Agency for Fundamental Rights

Edinburgh, 7 September 2018

[CHECK AGAINST DELIVERY]

Fellow panelists,

Dear colleagues,

I would like to thank the Edinburgh Global Justice Academy, and particularly Dr McCall-Smith, for inviting me to speak with you this morning.

I would also like to thank the Association of Human Rights Institutes for accepting the EU Fundamental Rights Agency's application to become your first observer member. We at the Agency are delighted to join the Association, and we hope our participation will be of equal value to you as it will be to us.

A long time back I organized an AHRI annual conference, at the University of Nottingham. With that exception, I have mostly been on the Association's sidelines. But I have been deeply impressed by its growth, development, and maturation. And I think you will all agree that the richness of this year's conference programme and the array of fascinating conference papers speak to an association in its prime.

They also speak to a discipline – that of human rights studies – that is in good shape: alive, probing, challenging, visionary and – very importantly – firmly inter-disciplinary.

I find it important to make these points at the outset since they are a basis of some hope in challenging times and I will comment on that in a moment.

But first, it is important to acknowledge the extent of the challenges. Already this morning my fellow panelists have spoken to the extremely worrying contemporary environment for human rights protection. Within a specific European Union context I can only agree with their assessments. Our Agency's own work persistently show unacceptable levels of human rights violations. Just to mention three:

- As our surveys and field work persistently demonstrate, the situation of Europe's Roma community is appalling. Unremittingly unacceptable socio-economic conditions are matched by targeted hatred and discrimination. Anti-gypsism is almost never challenged and, indeed, it seems that hatred of Roma is a socially acceptable form of racism.
- The situation of migrants remains deeply disturbing. I refer not just to people stranded on boats in the Mediterranean but also to occupants of the badly overcrowded reception facilities that we visit frequently. I think especially of children, including the unknown thousands who are either wandering the streets of our cities or are trapped into slave-like work conditions.
- The very fabric of our rule-of-law States is under threat in a number of EU States. Indeed, nowhere is exempt as we demonstrated earlier this year with our report on the challenges confronted by civil society across the EU. We also see persistent attempts to unravel the system of human rights protection – the legal frameworks as well as the oversight mechanisms. Again this is a phenomenon in no way limited to just a few States and one which is gaining a form of mainstream respectability.

So much for the problems, how can we respond?

We all in our diverse functions have important parts to play. Today I would like to focus on the role of human rights academics. Here I return to that reference to "hope". In face of the global pushback against human rights it is extremely encouraging that the academic discourse is so varied and relevant to the great challenges. Already, through publications and teaching our universities are delivering a necessary and important contribution. They are constructing the intellectual backbone for the culture of human rights.

However, I hope you will not be offended if I suggest that this is not enough. These hard times call for a further particularly academic form of activism. By this I mean that we need to hear your voices far more loudly in the public sphere. That means bringing your data, your analyses, your ideas and your arguments out into the marketplace. These times call for public intellectuals.

The populists and others who would tear down rights protections are neither shy nor bashful, and have used traditional and modern media tools to introduce a number of anti-human rights ideas into mainstream political discourse. We need you fight back, to respond to the increased invocations of openly racist and violent language we see in our politics. Debunk the nonsense by challenging it with your own hard evidence. To counter those who present exaggerated ideas of the importance of human freedom, speak of human rights deeply rooted in the concept of dignity. To counter those who would pick and choose

between human rights as if ordering from a menu, show that these rights are indivisible. And to counter those who would pick and choose who is deserving of human rights, defend their universal application.

There are three specific areas that I would stress today – where I consider that we particularly need your analyses and your voice.

The first of these concerns the relationship of human rights, ethics and values. This is a subject area ripe for abuse. Populists are hijacking the discourse and populating it with mischievous meanings that relativize values and make them geographically specific. We hear much for instance of European values, often for the purpose of devaluing outsiders and disrespecting their human dignity. In response to these tendencies it would be very timely to intensify research into the extent that we can identify a universal set of values that derive from the corpus of human rights law. In that way we could stop talking of “European Values” but rather of universal values that Europe holds dear.

A second area in need of further attention today – at least in the European context - is the undertaking of research regarding strategies to deliver good human rights outcomes, and more particularly an assessment of the relative merits of legal and social strategies. When, for instance, is litigation the appropriate tool, as opposed to, say education and awareness-raising? Here I have in mind the current role being played by the Court of Justice of the European Union, as exemplified in the case of *Coman v. Romania*. Is jurisprudence by a supranational court alone the best way to trigger social change? Or should judgments ideally be accompanied by human rights-based public discourse in order to create domestic ownership and legitimacy and thereby more sustainable change? I am not expressing a view on the *Coman* case but rather suggesting that it is a good context in which to examine such important questions.

Third, allow me to be very specific to the EU. I am taken aback by the relative dearth of scholarship regarding the Union’s fundamental rights law and practice. Undoubtedly good work is being done but by no means enough. For instance, why is there so little research into the pivotally important matter of ensuring human rights-compliant expenditure of European Social Investment Funds? We would all benefit from an intensification of academic attention to such issues.

And, finally, if I may make one overarching request to each and every one of you: please, in whatever you do, gender your research. I say this not to diminish what attention is already given to gender, but rather to highlight that it is never enough — in research or in practice. I am saddened by the extent to which we

overlook the specific human rights experience of women and what that requires of duty bearers and others.

Dear colleagues,

As you carry out your work—whether in the areas I mentioned or otherwise—please do count on the support of the Fundamental Rights Agency. As the EU’s independent centre of fundamental rights expertise we are a repository of a vast amount of data and analysis, both country-specific and comparative. Our work is undertaken through such means as the world’s largest-scale human rights-related surveys and other forms of quantitative and qualitative methodologies. This data is freely available for your use, including via the UK Data Service at the University of Essex and of course on our own website in various formats.

We are also in the field, across the EU, undertaking capacity building and technical cooperation – experiences that we write up and make available. Our expert knowledge ranges across all the great human rights issues currently confronting the EU – from the migration situation to security, from inequalities to emerging questions related to Big Data and artificial intelligence. I encourage you to incorporate our findings in your own work, to interview and collaborate with our experts, and to make use of the many tools we provide.

I very much look forward to our intensified collaboration. There is much to be done and time is not on our side.

Thank you.