

Report of the Online Conversation on “70 Years European Convention on Human Rights - What is the current state of human rights of refugees and marginalised people in Europe?”

Around fifty people took part in the online conversation on 30th October 2020, marking the 70th anniversary of the European Convention on Human Rights, to discuss the Council of Europe and its role in protecting the human rights of marginalised people on our continent, especially asylum-seekers and refugees.

After a welcome from Antje Heider-Rottwilm, the Chair of Church and Peace, we heard presentations from three people intimately involved in this field. We were reminded that each and every one of those present had a direct link to the Council of Europe which covers 47 European countries and protects human rights, democracy and the rule of law across the continent.

Rosá Björk Brynjólfssdóttir is an Iceland Member of Parliament and vice-chair of the Council of Europe’s Migration Committee.

Rosa reminded us that the Council of Europe was founded in the aftermath of the horrors of the Second World War and was established in May 1949 by ten founding Member States. Other countries joined and there are now 47 Member States. The main bodies are the Council of Ministers, the Parliamentary Assembly, and the European Court of Human Rights. The Parliamentary Assembly is the deliberative body and is composed of 318 representatives from the members states’ national parliaments. It is a separate organisation from the 27-member EU but no country has joined the EU without first joining the Council of Europe. A condition for access to the Council of Europe is that the country in question has ratified the European Convention on Human Rights – the Council is thus a benchmark for the nations that are establishing or re-building democracy and the rule of law in their country.

The Council of Europe advocates freedom of expression and of the media, freedom of assembly, equality. And the protection of minorities. It has launched campaigns on issues such as child protection, online hate speech, and the rights of the Roma. It helps member states to fight corruption and terrorism and to undertake necessary judicial reforms. Their group of constitutional experts, the Venice Commission, offers legal advice to countries throughout the world. It promotes human rights through its international conventions such as the European Social Charter, the Convention on preventing Domestic Violence (the Istanbul Convention), the Convention on Cybercrime and many more. It monitors member states’ progress in all these areas.

The European Convention for the Protection of Human Rights and Fundamental Freedoms, signed on 4th November 1950, is at the heart of everything the Council of Europe does.

Human rights are “about respecting the human being, both as an individual and as a member of the human species, and ensuring the dignity of the human being.” The Convention on Human Rights guarantees civil and political rights and the European Social Charter from 1961 guarantees social and economic rights.

Regarding the human rights of asylum-seekers and refugees, the Council of Europe has had a Special Representative on Migration and Refugees since 2016 in response to developments in Syria and the Mediterranean. In the Parliamentary Assembly (PACE), one of the most important committees is the Committee on Migration, Refugees and Displaced Persons. This committee has 85 members from all Member States and all five political groups in the Parliamentary Assembly.

The tasks in hand are many. We became aware of human rights challenges in the field of migration already in 2011 when Turkey witnessed the arrival of the first people fleeing civil war in Syria. The main focus of the Committee in recent years has been the protection of refugee and migrant children and the action plan has been adopted by all 47 Member States. Among other areas of focus are the integration of refugees and migrants, alternatives to immigration detention, and international cooperation.

The Covid-19 pandemic has shown that in times of crisis and catastrophe, migrants, and especially women and children, must urgently benefit from the same protection as nationals. This is not just in the interest of migrants but in the interest of all. The Committee has prepared a report on the humanitarian effects of Covid-19 on migration and refugees (see provisional text at <https://pace.coe.int/en/files/28776/html>).

The Committee also continues to combat the trafficking and smuggling of people and has been working on ensuring the rights of NGOs to assist people in need when fleeing their homes.

The tasks ahead are endless – the numbers of people fleeing their homes are increasing and will continue to do so. The biggest task ahead is to embrace unity and compassion, working towards ensuring that people can live safely in their homes in a peaceful, equal and healthy environment; to eliminate prejudice and bigotry; and to battle against racism and hate-speech wherever we can and by any means.

Jakob Fehr, director of the German Mennonite Peace Committee, has been working with the Christian Peacemaker Teams on the Greek island of Lesbos since 2014. The group is now called Aegean Migrant Solidarity, AMS. Jakob quoted the German NGO Pro Asyl that the Greek government commits one human rights violation after another. Even although the citizens of the island have traditionally shown solidarity with refugees and migrants, the political situation has deteriorated since the election of Nea Dimokratia in July 2019. Extreme-right groups felt empowered to blockade the roads and do battle with the police, blaming the NGOs for what was happening on the island. The large NGOs such as UNHCR and Medecins sans Frontieres brought their bureaucracy with them, stayed in the best hotels, drove expensive vehicles, and had no contact with local culture – unlike AMS and other grass-roots organisations which work with local people.

When the pandemic started, the violence against the refugees and the volunteers stopped – but people were left abandoned, there were protests, fires in the camps and so on. A new camp was set up on military terrain with no tests on the possibly contaminated soil, with thin tents without insulation.

After the fire at the Moria camp, the Greek authorities started illegally expelling migrants and abandoning them at sea. Jakob also told us that when a boat arrives it is not piloted by one of the smugglers, but by one of the refugees - who is then sentenced as a smuggler with a prison sentence of between 50 -120 years, in trials which sometimes last for about fifteen minutes and nearly always less than an hour. with a defence lawyer brought in at the last minute. AMS will bring out a document next week.

Since 2012, AMS has supported an alternative camp, Pikpa, which was welcoming and well-structured, and where people were treated with dignity – but on the morning of our meeting, was raided by riot police and everyone was moved to another camp.

Andrew Lane is director of the Quaker Council for European Affairs in Brussels. QCEA has long-standing links with the Council of Europe and is a regular attendee there at the NGO Forums.

Andrew pointed out the tension at the heart of our conversation comparing the 70 years of the Convention with the many people across the continent whose rights are not being protected. Christian witness should not just be about political advocacy, but about deeper cultural change.

The Convention has had a huge impact in many areas - for example since 1997, no member of the Council of Europe has enacted the death penalty. (This penalty remains in Belarus, the only European country which is not a member.) Conscientious Objectors to military service are not in prison, because of judgements of the Court of Human Rights. Governments have put in place many policies to ensure that they don't end up in front of the Court, whose case law has filtered down into national policy. The Convention has significantly influenced other international agreements such as the European Code on Police Ethics.

Legal decisions can lead to social change – for example 22 years ago a judgement of the Court of Human Rights led to the decriminalisation of homosexuality in Ireland –which in turn opened up space for social change.

National leaders claim to defend their citizens against European judgments they don't like (e.g. when Cameron said that European Court interfered with prisoners voting – “made him physically sick”) also judgements have to be implemented nationally and national leaders take credit for them and people are not told that the European Court was involved.

We shouldn't expect liberal politicians or media to save us – the lesson from Brexit and the migration “crisis” is that they don't know enough; so it is up to us to inform ourselves.

We need to have a practical witness because humanitarian actions are vital. NGOs, however, are filling state gaps – in the recent “crisis”, for example, in many countries politicians and media were blaming the people arriving and not the failure of states to prepare and provide. Europe is a continent which trades on its history of upholding human rights and being civilised and yet they are treating people like this.

In Brussels, those who are most at risk of being victimised are those least able to access minimum protection which they should be entitled to within the area of the Council of Europe. On paper complaining to European Court of Human Rights is very simple but not everybody is considered human in practices. Article 3 (outlawing torture, inhuman and degrading treatment) an absolute right and yet a friend of Andrew's was recently racially profiled in Antwerp, taken to a police station, stripped naked and held naked and asked to do exercises. As an educated young man he said that this was dehumanising. The police however said it was "the law" – which it wasn't. This is only one example of how marginalised people are often seen as less than human. In some European countries (France, Belgium, Serbia, Croatia, Romania) the smashing of mobile phones and the destruction of clothing is routine practice; this is not something that a police officer would naturally find himself doing, but it is the sort of thing you do when you consider somebody else not to have normal value.

A recent survey in Brussels showed that 25% of marginalised young men had suffered violence at the hands of the police, indicating that colonial ideas have not been undone by education. Interesting to be marking 70 years of ECHR – where were we 70 years ago? Not everybody in the world was considered human. Prior to decolonisation. Human Rights on paper haven't protected everyone. If you talk to people affected by racism what has the ECHR done for them? It hasn't made a difference.

Political advocacy and contacting MPs is important, but Church and Peace is called upon to pioneer radical counter-cultural witness. Churches should be adding our voices to these discussions. Life itself in all its diversity is expression of God's creative power. We should be focusing on culture – and on the huge gulf between those who are aware and those who are not. James Baldwin said that if one really wishes to know how justice is administered in a country, one does not question the policeman, lawyers, judges, protected members of the middle class - one goes to the unprotected and listens to their testimony.

Questions and discussion

In response to Andrew Lane's challenge – what has 70 years of ECHR done for minorities and black people? – Rosa said that the Convention is one of the most important tools we have to ensure Human Rights in the 47 member states, with the European Court of Human Rights there to ensure implementation. The Constitutions of member states would not be the same without the ECHR but we need systems to make sure the Convention is there for the people themselves.

Regarding the current situation in the UK (the "hostile environment") Rosa said that the Home Office has to be constantly reminded to respect the Conventions and honour their commitments. Individual citizens can talk to MPs who are members of the Council of Europe about this inhumane behaviour by the UK government. It has to be raised in the Committee and in the Parliamentary Assembly itself.

A participant reminded us of the existence of Equinet – the European Network of Equality Bodies – which is important particularly for the UK because our own Equalities Cttee is bringing a Section 31 action against the Home Office regarding the hostile environment – this will be going on until September 2021. We need to cascade that and look at how things have been done by Equality bodies in other countries (<https://equineteurope.org/>).

Andrew felt that in the UK, the broadly underlying intent of government is to try to keep people separate from the general population more than in the past. We therefore need to build stronger links with people and do as much education work as we can. He gave the example of a request from a Quaker group to talk about "illegal migrants" and he had to point out to them that applying for asylum is not illegal. We are all swimming in water which is the narrative of the dominant media and we are all affected by that.

Regarding specific countries, the Council of Europe has had a rather bumpy relationship with Turkey and the Russian Federation and in fact those two countries have the highest number of cases in the European Court of Human Rights. With the Russian Federation, the Council of Europe has been having a debate for the last five years over their activities in the Ukraine, as a result of which Russia has not paid their financial contribution for the last five years. However it was decided that Russia needs to remain a member in order to protect the people of Russia and enable them to seek the rights enshrined in the Convention. The situation in Russia is very difficult regarding human rights and it is better to have them in so that they can be monitored and reminded of their duties. The same applies to Turkey which is being constantly monitored.

Regarding work on corruption, the Murder of Daphne Caruana in Malta was related to corruption at the highest level and the Council of Europe led the investigation into this murder. There are also ongoing cases

in Azerbaijan. But there is also corruption within the Council itself – the speaker of House took bribes and this was an enormous shock, but shows that we all need to be constantly vigilant.

Regarding the situation on Lesbos – Jakob pointed out that it is important to understand the role of political organisations; they can operate at a different level but the Council of Europe itself cannot guarantee Human Rights – it can monitor, admonish, provide guidelines, put pressure, but only the people can do ensure that it happens – that is our job. It requires activity at all levels. The Council of Europe could do more to support local activism. The initiative of PIKPA was a beacon of hope – thousands of people over last 8 years have been helped there through the actions of a few Greek women and their supporters. Many activists have been organising over the years. Work is needed at **all** levels to ensure that Human Rights will be respected.

Rosa told us that there is a very good relationship between the Council of Europe and NGOs – there is, for example, an NGO Forum in Strasbourg four times a year. This has been very important concerning safeguarding at sea and the situation on Greek islands and has ensured the rights of NGOs to save lives without being punished. The situation on Lesbos and in Moria has been overwhelming with the horror of what has been happening – at same time the Council has tried to put pressure on governments and demanded that other countries also to show their support and not leave it all with Greek government. A few governments agreed to support – Portugal, Finland – but others didn't. In other areas, the Council of Europe supports women's NGOs in Poland, where there is a very difficult situation. Rosa encouraged us to use the Council of Europe as much as we can, especially in the UK post-Brexit.

One participant mentioned the problem that the EU wants to enforce all countries to participate, which prevents people from coming to places where they would be welcome; the insistence on a joint common effort undermines individual initiatives. Rosa pointed out that we have to be aware of what our governments have signed up to and hold them to account. The example was given of the Convention for the Prevention of Torture and other Inhuman and Degrading Treatment, which allows committee members to make unannounced visits to Member States to inspect places of detention.

Finally, Andrew addressed some remain questions and pointed out that in Russia prison conditions improved and the death penalty was not carried out, because of Council of Europe membership. After the coup attempt in Turkey led to many political prisoners, the Secretary General of the Council flew to Ankara and told Erdogan that unless there was a mechanism for reviewing those cases there would be years and years of court cases – and so a mechanism was established.

One of the participants had asked about Kosovo and visas – the EU has said that Kosovo has met all criteria and the lack of any progress is a political decision. The US is engaging Serbia as part of a huge effort to encourage certain European countries to become their advocate in Europe in exchange for military support (e.g. Poland, Hungary).

Jakob picked up the reference to the Committee for the Prevention of Torture and their ability to make ad hoc visits. In 2017, when the Austrian Chancellor visited Moria, everything was cleaned up before he arrived. We could ask the CPT to make an unannounced visit.

Rosa agreed that on her visits to refugee camps, they have always shown the façade – it is important to have monitoring which is unannounced. On the protection of Human Rights, Europe is not doing as well as it should – politics in Europe has been inhumane and has become more so in recent years. The European Convention is a very good tool – it is not perfect, not all countries abide by it – but it has to be respected and Court must also be respected. It is politicians who are undermining Human Rights, women's rights, marginalised people's rights – these need to be safeguarded and we as citizens have to make sure that this happens. We need to think of people rather than numbers. We all need to be defenders of Human Rights.

Report by: Barbara Forbes

See also:

- Council of Europe website: <https://www.coe.int/en/web/portal>
- Parliamentary Assembly of the Council of Europe: <https://pace.coe.int/en/>
- PACE Migration Committee: <https://pace.coe.int/en/pages/committee-27/AS-MIG>
- Convention for the Prevention of Torture/Committee: <https://www.coe.int/en/web/cpt>