Editorial

For a long time there was a tendency within Maltese legal circles to regard the ratification by Malta of the European Convention of Human Rights, subsequently followed up by the granting of access to the Strasbourg Court to ordinary individuals in Malta, as representing the ultimate panacea for human rights protection. It was thought that human rights had been placed on extremely solid foundations, given the comprehensive coverage afforded by the Convention, particularly when read together with the Maltese Constitution and also when keeping in mind the eagle eyed scrutiny with which cases of potential human rights breaches would be scrutinised by a range of legal professionals with a view to opening and winning a case in Strasbourg.

In human rights, as in other fields of law, time does not stand still. The conference, the proceedings of which constitute the bulk of this first issue of the Mediterranean Human Rights Review, was based upon the insight that reliance upon supra-national protective systems is not *per se* sufficient to ensure an adequate and comprehensive protection of Human Rights. This is particularly the case in Malta, where a dualist understanding of the impact of International treaties upon domestic legislation, coupled with a Mixed legal system which combines linguistic/legal hybridity, an eclectic understanding of the sources of law and a rather compartmentalised understanding of the relationship between different legal sectors tends to complicate the process of accessing a human rights remedy. The complication can be readily understood if one keeps in mind that as a rule access to the (exceptional) human rights remedy – which in turn is understood mainly through a Common law lens given the British colonial origins of Maltese Public law- is only granted internally once proof is brought that no ordinary Private law remedy (under a Civil Code based on the Code Napoleon system) was available to the victim. When one throws into the mix the rule by which the Strasbourg Court proceeds, that it will not grant access to the Court if it is shown that an effective remedy exists under the domestic law of the State in question, it becomes evident that it remains important to examine the institutional structures which exist at sub-National and National levels and which aim to protect Human Rights within the Nation-State system itself.

Exploring the national systems for protecting human rights means keeping in mind not only the ever expanding international system for protecting and defining human rights, but also the increasingly diverse, globalised and multifaceted societies which we inhabit nowadays. For all the variety, for all the needs and requirements, we possess one common factor from cradle to grave: our Humanity.

Humanity brings with it an obligation which we all share, this being that we recognise that all of us are ultimately striving not only to exist, but to actually live and achieve, not least, personal

fulfilment. This is where respect for Fundamental Human Rights for one and all come in. We are not talking mere tolerance, concessions to the 'underprivileged', creating the odd job for the disabled for example, but empowerment of such groups as co-authors Amy Camilleri Zahra and Ann Marie Callus advocate in their contribution to this Review. It could be disability, or poverty, or sexual orientation, or age, or religion, to name but a few, the vast array of vulnernable groups are endless; more sobering is the fact that sooner or later practically all of us join one or more of these groups, not least because if we are blessed enough to wake up every morning without fail and earn a comfortable living in a stable peaceful country, we find ourselves through the unstoppable passage of time among the senior citizens, themselves a fragile group who may feel left behind by society, unable to keep up with the fast pace, overwhelmed by technological advances and at risk of poverty as their pensions are challenged by inflation.

The solution is to create and sustain a human rights culture, among other things through awareness raising. At the forefront of awareness raising, one finds National Human Rights Institutions. In this Review, we learn from Dr Kathleen Vella and Aida Kisunaite that it is not enough to merely have an NHRI in one's country, but that these must be properly set up in accordance with the now firmly established Paris Principles, and given the tools with which to operate, if they are to function effectively and contribute towards the creation and sustaining of a human rights culture. Sofia Oliveria Pais gives the Ombudsmen in Spain and Portugal a vote of confidence, convinced that they are in a good position to raise awareness about human rights issues and respect for the rule of law, while co-authors Tamar Zurabishvili and Tinatin Zurabishvili analyze what is wrong in South Caucascus and Isolde Quadrante queries what is going on in Italy and why the long promised NHRIs remained unfulfilled promises. Italy is not alone in this regard: Dr Evelyn Borg Costanzi draws our attention not only to the absence of an NHRI locally, but also to a number of other shortcomings.

Judge Vincent De Gaetano explores the limits to freedom of conscience and religion in the Court of which he forms part, while Drs Joseph and Carl Grech very aptly point out that the NHRIs do not enjoy a monopoly in the raising of human rights awareness and inn the fostering of a human rights culture. Apt observations indeed, making this first issue of the Mediterranean Human Rights Review a valid contribution in its own right, to the process of awarenes raising, which a human rights culture requires.

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