



RAFTO

Rafto Laureates Forum Summit

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YEARS

1986 - 2016

Foreword

SINCE 1986 THE Thorolf Rafto Prize for Human Rights has been awarded to 30 human right defenders from 28 countries. In doing so the Rafto Foundation has sought to shed light on individuals, organizations and causes that deserve the world's attention. The Rafto laureates work in a non-violent manner for the fundamental human rights of ordinary people in general and vulnerable groups in particular. They are strong public advocates of democracy, and their work covers both civil and political, as well as social, cultural and economic rights. The laureates work in countries and regions ridden with conflict. Many have faced serious threats and targeted persecution. They share a number of painful experiences as frontline activists and represent a diverse group of activists from all parts of the world.

The Rafto Foundation is a non-profit and non-partisan organization dedicated to the global promotion of human rights. Our mission is to offer support to grassroots human rights defenders who challenge abuse of power and oppressive authorities, as well as structural conditions of injustice. Our work is carried out through three main activities: awarding the annual Rafto Prize for human rights defenders worldwide; providing direct and indirect support to Rafto laureates and offering educational programs promoting human rights and democracy.

At the occasion of the Rafto Foundation's thirtieth anniversary in November 2016, the Rafto Laureates Forum gathered 18 laureates and representatives of leading human rights organizations, academia and inter-governmental bodies such as the United Nations (UN) and the European Union. The forum was an arena for dialogue with and among those in the frontline of defending human rights. Drawing on the experience of Rafto laureates, the Forum provided an opportunity to identify important trends and key challenges which influence the work of human rights defenders and of those who engage in various activities to protect, support and empower them.



The discussions covered the multiple pressures facing the human rights community today, but also found inspiration in sharing strategies on how to counter these trends. With new challenges also comes new ways for civil society and human rights defenders to organize, communicate and mobilize. The Forum provided a unique platform to discuss these issues. For the Rafto Foundation it was not only an inspiring gathering, it also gave crucial input on our work to support human rights defenders. In particular it gave us valuable feedback on our work to promote free speech to combat hate speech, on corporate responsibility for human rights, and in support of women human rights defenders.

We would like to extend our deep gratitude to our Rafto laureates and all the distinguished participants at the Rafto Laureates Forum for their commitment and dedication. We would like to thank our staff, volunteers, rapporteurs, interpreters, and supporters for enabling us to organize the event. Finally, many thanks to Salil Tripathi who, with his deep understanding of the various issues discussed, has written and compiled this report.

Bergen 16.05.2018

Jostein Hole Kobbeltvedt

Executive Director, Rafto Foundation for Human Rights

Rafto Foundation for Human Rights Summit of Laureates, November 2016

TO CELEBRATE THE 30th anniversary of the Rafto Foundation for Human Rights, Rafto Laureates gathered in Bergen, Norway, in November 2016. It was a unique moment where especially accomplished human rights defenders from all parts of the world gathered to discuss the state of the world of human rights. They debated existing challenges, future threats, and explored opportunities for the Rafto Foundation and for their allies to work together, to strengthen the network of human rights defenders and contribute towards ending human rights abuses.

The report that follows captures the mood and spirit of the discussions. Except during the Plenary Session, which was open to public, nowhere are speakers or the political contexts or geographic locations they are talking about identified. The report is not meant to be a verbatim account of what happened, but to communicate the information and ideas exchanged.

Introduction

If all the governments of the world did what they were expected and supposed to do to meet their international commitments, there might not be any need for a global movement to protect human rights. Individuals and organisations mobilise to protect human rights because governments are failing to meet their obligations. Under international human rights law, the primary obligation to respect, protect, and fulfil human rights rests with the State. It is the State which signs and ratifies treaties, passes laws, administers justice, and is expected to uphold human rights. And it is the State, more often than not, that fails to meet its commitments, or comply with international treaties it has signed, and fails its own people and the international community. That is why

the world needs individuals and organisations committed to advocate for human rights, and that explains the crucial role human rights defenders play, engaged as they are in a long struggle to ensure that these inalienable rights are protected. Human rights defenders speak truth to power.

Thorolf Rafto was a passionate, idealist professor of economics from Bergen, who knew – earlier than others – that economics without ethical underpinning would truly make it a dismal science. He enthused his students to care for human rights. After his untimely death in 1986, his students and friends established the Rafto Foundation to champion, celebrate, and support the work of human rights defenders – the brave women, men, and organisations who speak for the marginalised, the vulnerable, the dispossessed, and those without power. Rafto Foundation not only identifies unrecognised heroes of our time; it continues to support their work after they have been honoured, creating a fellowship, a network, of individuals around the world, who fight for human rights.

A human rights defender is anyone working for the protection and promotion of human rights. The international standard that recognises their role is the *UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms* (1998)¹ and more recently in the *UN General Assembly Resolution on Human rights defenders in the context of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms* (2015)². The Rafto Foundation has honoured human rights defenders each year since its inception.³

1. <http://www.ohchr.org/EN/ProfessionalInterest/Pages/RightAndResponsibility.aspx>

2. <http://www.refworld.org/docid/56dd31954.html>

3. <https://www.rafto.no/>



From top left:

REBIYA KADEER,
Rafto Laureate 2004 and Uyghur activist

NAVANETHEM PILLAY, former UN High
Commissioner for Human Rights

MICHAEL INEICHEN, Programme manager
at International Service for Human Rights

MARY LAWLOR, Executive Director
of Frontline Defenders

JODIE GINSBERG, CEO, Index on Censorship

DANTE PESCE, Member of the UN Working
Group on Business and Human Rights

HANS THOOLEN, Moderator and Secretary
of the Martin Ennals Foundation

JUSTEIN HOLE KOBBELTVEDT, Executive
Director, The Rafto Foundation

The Opening Session

AT THE FOUNDATION'S thirtieth anniversary in November 2016, 18 of the 24 Rafto Laureates still at work were present or represented by successor organizations, while two were obstructed from attending by their governments, and one by Schengen authorities. The participants vigorously discussed and debated the changing global environment, which threatens to lose the gains in freedoms made in the late 1980s, when the Soviet Bloc had begun to disintegrate and many countries around the world held free and fair elections, many for the first time. The mood is much darker today, with the rise in nationalism, the global responses to the war on terror, and the ascent of reactionary forces.

Human rights defenders fight courageous battles, but they are often lonely. During the opening plenary, Rafto Laureate and Uyghur activist **Rebiya Kadeer**⁴ described human rights defenders as “the hope of millions of people who are not able to speak up for their rights.” They walk alone, but when they receive an award like the Rafto Prize, the path in front of them gets illuminated. Kadeer is a prominent representative of the Uyghur community in China. She mentioned how her own lonely life as a defender was affected by the attention she received after being awarded the prize in 2004. She was in a dark cell in China on her own for two years. Then one day she was led to a better room and the conditions in which she was kept began to improve. This was because she had just received the Rafto Prize. Kadeer said her children are alive – even though they are in jail – because of the international attention her case received. She mentioned the continued detention of Ilham Tohti, another Uyghur activist, who survives in jail, as well as the case of another defender who was beaten to death. “These awards are a warning to these countries that the world is watching what they are doing, they are protected, someone is watching over me. They give hope to the people that they will be

4. <https://www.rafto.no/the-rafto-prize/rebyia-kadeer>

free someday,” she added. Kadeer’s stirring words set the scene for what was to follow.

The world in 2016 is different: many governments now assert that they must choose between security and liberty due to the rise in terrorist incidents. Indeed, spectacular terrorist incidents have emboldened governments to diminish protection of human rights. There is a growing backlash against refugees and asylum seekers. Many argue that some voices – in particular of human rights defenders and of women activists – can be silenced for the greater common good. And as states struggle to cope with rapid economic globalisation, powerful entities, such as corporations, have emerged, challenging the architecture of human rights.

Bearing in mind this changed scenario, Rafto Laureates identified three major trends – increasing threats to *freedom of expression*, the challenges faced by *women human rights defenders*, and the implications of the rising power of *corporations*.

With the advent and spread of the Internet it was believed that free expression would flourish. While it has indeed reached far corners of the earth, so have incitement to violence, bullying, and hate speech. Debates are being polarised, and fewer people are listening to opposite viewpoints. **Jostein Hole Kobbeltvedt**, executive director of the Rafto Foundation pointed out how social media operates on electronic algorithms, which work with such efficiency that people often receive only the perspective of other people with whom they agree. They seek and receive information that they already know or prefer because the algorithm understands their preferences. This creates secure bubbles of conversations and other voices and opinions are ignored. The technology that promotes free speech also disseminates hate speech. The technology that is meant to provide access to those without a voice has also enabled opponents of some voices – women and minorities, for example - to stifle those voices by shouting them down. The companies that control the levers of technology operate in a normative vacuum. The emerging framework to guide corporate conduct – the UN Guiding Principles for Business and Human Rights⁵ – is an essential step, but not sufficient in itself to prevent abuses, and lacks an enforcement mechanism.

And yet, Kobbeltvedt said, access to technology matters. When Rafto Laureate **Frank Mugisha**,⁶ who is an activist for sexual minorities in Uganda, was being dragged away in a police car, he tried to call for help, but the only thing he could do quickly was to tweet: “I am arrested by Ugandan police.” And it was retweeted 2,000 times. Mugisha was subjected to abuse in jail, but the US Ambassador joined the protests calling for his release. Losing hope is not an option for the Rafto laureates. As **Lidia Muhtarov-**

na Yusupova, Rafto Laureate who has spoken out for the victims of Chechnya (she could not come to Bergen), said in a message she sent to the foundation a few years ago: “Our enemies are trying to instil fear in us, to let fear take hold of us, to make it grow. It is better to live one day in dignity than to spend a life in degradation.”

In his opening remarks, **Hans Thoolen**,⁷ who facilitated the conclave, spoke about why human rights defenders matter and why they need help. He focused on the reprisals the defenders face from hostile governments, which harass, jail, and torture human rights defenders. Increasingly, there are more sophisticated punishments, such as the use of procedures to delay or cripple the activists’ operations. This includes actions such as preventing defenders from travelling overseas, which renders them ineffective. There is an unprecedented assault on their ability to function freely, he said. Sometimes they are arrested when they return from a foreign trip. Thoolen said that those experiences have contributed to hardening the resolve of defenders, who are not perceived by authorities as “easy to work with.” Hostility from the powerful strengthens their dedication, which also invites further punishment.

Human rights defenders need support to continue their activities, and often that support comes from abroad, because potential domestic supporters are deterred from being associated with them. But the international community has been failing them. Even though the international human rights system would not be able to function effectively without the experiences and expertise of human rights defenders and advocates, it has few concrete measures to offer for their support. UN member-states, who set the rules at the UN, rarely take action against another member, even if that member-state persecutes or prosecutes human rights defenders. It is time for stricter rules so that governments that violate human rights norms, or harass human rights defenders could forfeit membership rights in the UN’s human rights institutions.

Drawing on her vast experience as a human rights defender in South Africa and as former High Commissioner for Human Rights at the United Nations, **Navy Pillay** emphasised the critical support she received from human rights organisations in her work. She said human rights defenders must be given access to international bodies where human rights are debated. States have an obligation to protect human rights defenders, and their rights include the right to be protected, the right to freedom of assembly, the right to express their ideas freely and share ideas and information, the right to criticise the state and its agencies, and the right to provide and receive legal assistance. Human rights defenders enable governments to operate in ways consistent with the rule of law. Their scrutiny of electoral processes protects against electoral

5. http://www.ohchr.org/Documents/Publications/Guiding-PrinciplesBusinessHR_EN.pdf

6. <https://www.rafto.no/the-rafto-prize/sexual-minorities-uganda>

7. Secretary, Martin Ennals Foundation.

fraud and ensures accountability. They are canaries in the mine; they should be rewarded, not punished. Silencing their criticism is counter-productive.

Since the fall of the Berlin Wall, many governments have deregulated their economies, granting greater freedom to business to operate legitimately across borders. In the process, some states have abdicated their responsibilities, and others believe that controlling companies can have adverse implications for job generation and investment. This deregulatory trend has strengthened corporations. The UN Guiding Principles for Business and Human Rights were adopted in 2011 by the Human Rights Council to provide clarity about corporate responsibility towards human rights. The UN hosts a business and human rights forum each year, and one such had concluded weeks before the Rafto Foundation anniversary in Bergen. **Michael Ineichen** of the International Service for Human Rights, which works towards creating a safe and enabling environment for human rights defenders, spoke of his experience at the UN Forum. He said he had talked to many activists who participated in the forum. Most activists were disappointed by the forum – some were even angry – as they felt companies were not being truthful in the exchanges. Governments were showing no commitment to implement the resolutions. He cited a study⁸ according to which there are more than a hundred negative laws in place restricting human rights defenders, and the space in which they can operate is getting smaller. Given the UN Resolution on human rights defenders in 2013, and a stronger mandate on protecting human rights defenders, it is time to develop model laws based on the declarations to protect the defenders' rights, obligating states to protect them.

There is a gap between what the human rights defenders expect and what the UN system is able to deliver. While the UN system now has the Universal Periodic Review system in place (which allows for peer review of member-states' conduct), many of its recommendations are broad and general, often couched in legalistic terms. Monitoring of implementation of recommendations by states is slow. Implementation cannot be done from Conference Room 20 in Geneva; it has to be on the ground, as one speaker pointed out later. This calls for country-level action mechanisms where civil society plays an important role in such a mechanism, to enable HRDs to operate freely.

Mary Lawlor, former executive director of Frontline Defenders, pointed out the vulnerability of women human rights defenders – not only because of what they do, but also because of who they are. She cited cases from Mexico, Egypt, Honduras, the Dem-

ocratic Republic of Congo, Guatemala, Chechnya, and Iran. She quoted a Guatemalan defender who said, “The law is like a snake, only biting barefoot people. And we walk barefoot.” Human rights defenders spread life and hope in the darkest corners of the world, Lawlor added. “They give words like justice and peace their human form. They stand on the side of the victim, they work with the unstoppable energy of hope, and hope is always stronger than fear,” she concluded.

Jodie Ginsberg, who heads the free speech magazine *Index on Censorship*, spoke in favour of unbridled free speech. Her magazine was launched during the Cold War years to challenge state repression of free speech. She argued that only by allowing all forms of speech, including hateful speech, could the rights of minorities be really protected. The only desirable and necessary limit to speech should be incitement to violence which represents imminent danger to others. Without free speech, it is impossible to speak up against any government when it takes away any rights. While the Internet often seems like the Wild West, she cautioned: those who advocate for additional hate speech laws should be careful what they wish for. Provisions that outlaw hate speech have been used against minority groups and human rights defenders in many countries. Free speech that includes the ability to say things others find offensive is what will protect us, she said.

Dante Pesce is one of five members of the Working Group for Business and Human Rights at the UN. He described the role of the group. The UN Guiding Principles have been unanimously adopted by the UN Human Rights Council and the world's leading business groups have endorsed them. The Guiding Principles are based on the framework of state duty to *protect*, the corporate responsibility to *respect*, and the need for *remedy* – judicial and non-judicial – where gaps exist. The corporate *responsibility to respect* requires corporate due diligence and assessment of human rights impacts and risk analysis, and avoidance of or mitigation of adverse impacts. Business can do harm, Pesce said, even if it is unintentional. But it can also be a front-runner, a trend-setter, and set standards for other companies to follow.

Summary Opening Session:

The opening session clearly set out the major issues the conference would discuss. Human rights defenders matter because they speak for those who cannot. They challenge authority because those with power are not acting in ways that promote and protect human rights. This makes the defenders vulnerable, more so if they are women. International laws, declarations, frameworks, and mechanisms are helpful,

8. From restriction to protection: Research report on the legal environment for human rights defenders and the need for national laws to protect and promote their work November 2014. Available at <http://www.dlapiper-probono.com/export/sites/pro-bono/downloads/pdfs/Research-report-on-legal-environment-for-HRDs.pdf>

but not sufficient. Human rights defenders need external help – in many cases, simply to stay alive and to continue doing their work. Legislations and regulations aimed at combating hate speech are often intended to stop criticism, including from human rights defenders. Free speech, therefore, is essential and vital. Companies, which have the responsibility to protect human rights, cannot be silent spectators. They should listen to human rights defenders and take proactive steps to change their conduct which causes adverse impacts on human rights.

PARALLEL SESSION I: Women Human Rights Defenders

HUMAN RIGHTS ACTIVISM is based on collecting evidence and documenting cases to mobilise opinion towards action to establish accountability. The documentation rests on gathering facts, pointing out where the law is broken or is inadequate, and then to call for action for the rights to be protected. This process has historically relied on reactive mechanisms – an abuse occurs, it gets documented, and states have to react. Women human rights defenders want proactive, or preventative, tools. Delegates assembled in Bergen discussed the challenge of exploring new ways and techniques to protect women human rights defenders who face unconventional and conventional methods targeted at them, in order to develop preventative strategies.

Participants also felt the need to bridge the gap between global advocacy and local experience. Writing reports is important, but it is not enough. Regional strategies are helpful, but there are lessons to be learned across the board, and lessons from one region can be transferred to other regions. One participant said that listening to women and being able to find solutions that are specific to the location is an important consideration, but then the learning needs to be transferred elsewhere.

Diverse challenges: Women human rights defenders are not homogenous, and nor are the challenges they face in different parts of the world necessarily identical. Campaigns that focus on specific issues in one country do not necessarily travel to other parts of the world. One participant mentioned how the issue of women being forced to wear headscarves to cover their hair or the full hijab is not an issue in many countries. There other formidable challenges, which include early marriage, the placing of women in subordinate positions in social hierarchy, and inequality at work. Still other challenges include impacts of surveillance and restrictions on funding, mobility, and freedom of expression.

Women human rights defenders from minority groups face additional hurdles. They have limited access to support systems and their ability to mobilise is also limited. It is important that women human rights defenders share experiences with one another to help develop strategies for survival.

Threats of violence: In countries in conflict, women are abducted, subjected to sexual violence, and if they are taken to prison, they are often tortured. In some instances the torture has been so severe that women have been unable to bear children later, or, in one case, even to stand up. In one other country, thousands of women were taken away to other parts of the country, in order to address demographic imbalance.⁹

Subtler forms of abuse: In one country, women face travel ban, which severely affects women human rights defenders, who are not able to meet their allies and partners overseas, nor are they able to represent cases in international forums. A travel ban is not as repressive as torture or being placed in jail, but its effect is serious, one participant noted. The corollary is a visa ban – one participant noted how she has been denied entry into Muslim countries. An emerging danger is the use of these unconventional techniques to hamper women human rights defenders' work. Delay in giving registration certificates – in one case, seven years.

These abuses leave no marks, a participant said, but they make the activist's living life "hell". Other abusive practices include denying citizenship to children, or not allowing them to renew passports. Procedural hurdles are placed to make it difficult for radio stations run by women human rights defenders to operate freely. State broadcast media interview women human rights defenders but those interviews are never aired. Their books of accounts are scrutinised and audited to minute detail, their source of funding questioned, and how they spend their money investigated.

New laws meant to cripple anti-terror finance make it harder for some NGOs to raise money. In one case, it has affected the running of women's survival shelters in a war-torn country. One participant admitted that these moves force organisations to act in ways that may be illegal.

Cyber threats: Women human rights defenders rely on building networks and creating safety networks. Safe communication links are important. Women human rights defenders are sometimes subjected to hacking, threats of blackmail, cyber-stalking, photo-shopped imagery, and other forms of harassment.

Unity among governments: Countries learn from one another how to suppress activists. Often one country acts in a specific way and abuses the rights of women human rights defenders. Other countries watch international reaction. If there is none, they act

9. The women were taken to parts where the sex ratio was adversely skewed towards men.

in a similar way, making an aberration a norm. It is important for governments that advocate for human rights and uphold rights to be on the alert and express outrage each time abuses occur.

The Role of the UN and its Resolution: Participants noted the positive impact of the 2013 Norwegian Resolution¹⁰ at the UN, which notes the role of women human rights defenders. The resolution outlined many concerns that have been raised by participants, but many aspects of it, as well as its spirit, are not being respected. A UN Resolution, even if passed, doesn't necessarily change the world, but it becomes a tool that activists can use to bring about change.

The limitations of UN Resolutions also need to be acknowledged. Evidence from the ground suggests that many women human rights defenders are not even aware of the content of the Resolution that recognises their role. Conversations about the text of such resolutions remain confined to the UN's negotiating halls in Geneva and New York. "It is a bubble we have to break – the first step is (greater) communication (and) information campaigns," one participant suggested.

Getting the resolution passed is hard work, but it is only the beginning. Real work begins after that. Only then can work be developed at the local level and local actors can be engaged. One participant suggested aggregating basic information that activists need, such as which governments have acknowledged publicly the important role of women human rights defenders. It is also important for other powerful interests (such as religious leaders and corporations, besides the state), to condemn attacks against women human rights defenders. Such statements should be documented and national human rights institutions can monitor the situation.

Need for clearer language, sharper messaging: Civil society organisations too should learn to write clearly and concisely so that their message is accessible to all affected parties. Their messages should be available in local languages, and not remain confined to major languages recognised at the UN. With the rise of social media, it is important that the messaging is relevant, timely, attractive, and compatible with the norms of communication on social media. "The UN jargon," one participant said, is "remote and detached" from the real world.

Several participants felt that bringing human rights groups together should be a priority. The Rafto network for women human rights defenders should reach out to other regional networks (such as Forum Asia) as well as networks focused on women's rights (such as AWID). Male human rights defenders who work on women's rights should be included. While the interests of donor

10. Resolution 68/181: Promotion of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms: protecting women human rights defenders. http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/68/181

groups and human rights NGOs sometimes coincide, often they do not, and as such their distinct roles and responsibilities should be recognised.

In an atmosphere of shrinking space for civil society, the participants noted the power of the forces ranged against women human rights defenders, including state and non-state actors. One participant cautioned that some human rights defenders may not want to get too close to companies, in order to maintain their credibility with their own constituencies. Another participant noted that religious groups too present a challenge – some groups had the potential to be allies, but others could hinder realisation of women's rights, such as reproductive rights. In some countries there are laws that permit honour killings and such laws are sanctioned by religion.

Participants agreed that solidarity across regions, language, and class, was important. Equally challenging is the need to link global developments – including path-breaking UN resolutions – with local reality. It was important not only to translate the documents in different languages, but also to make the messages clear and accessible. Finally, donors and governments needed to recognise the new challenges posed by certain countries, or the procedures described earlier - the abuses that don't leave marks – such as procedural hurdles, travel restrictions, denial of access, preventing observer status to certain NGOs to observe or participate at the UN at the Economic and Social Council, and forensic auditing of civil society accounts.

Summary session I:

Women human rights defenders face special challenges which are now widely recognised. The 2013 resolution at the UN which Norway spear-headed has spread greater awareness about the issues. The time has come to move from reactionary strategies to preventative strategies.

One challenge is the disconnect between different areas of the UN system. A more comprehensive, integrated and holistic approach is necessary. Conversations at the global level are often inaccessible or removed from the reality on the ground. Language barriers abound. There is need for greater space for civil society at the UN. It is necessary to train local lawyers to develop local mechanisms to handle local problems. It is important to build coalitions. Religious groups pose a special challenge – it is important to include religious groups in coalitions, but it should be done judiciously, considering some religious groups are hostile to women human rights defenders. Better reporting and communications are necessary. It would require innovative use of social media.

PARALLEL SESSION II: Business and Human Rights Defenders

IN THE LAST quarter century, following the end of the cold war, the power of corporations has grown significantly. Global markets have integrated at a pace faster than the ability of governments or international organisations to understand them or regulate them. Deregulation has led to increased prosperity in many parts of the world, but it has also accentuated inequality, both between states and within countries. Companies are often operating in countries where laws to regulate certain practices do not exist or are not applied properly. Human rights abuses occur and victims have no real remedies. Some companies are responsible for having committed direct abuses, while others are exposed to the risk of being complicit in abuses. Many human rights defenders do not trust companies and many companies do not understand how to work with the civil society. More companies now say that they are operating under the framework of the UN Guiding Principles for Business and Human Rights. They say the Guiding Principles clarify their responsibilities.

Human rights groups have cautiously welcomed the framework, but many would like more binding instruments to regulate corporate action. Human rights defenders face the choice between attacking companies or cooperating with them, even as companies are beginning to explore new ways to act responsibly.

The growth imperative: Another dilemma is posed by the growth imperative. Growth is essential to remove poverty, but increased production can lead to human rights abuses. To prevent that, companies should act responsibly. One participant said that growth is important, but the challenge is to turn the 'race' into a race to the top, and not to the bottom.

Need for global standards: One participant said that multinationals operating in his country did not follow their own policies from home countries, nor did they operate under international rules. The perception among communities in many countries is

that multinational companies can do what they want when they operate in other countries. Another participant agreed. It was important for companies to implement their global policies locally. Companies must act consistent with their corporate culture wherever they operate, and that culture should comply with international standards. Many companies listen to affected parties in their home countries – they should have similar policies abroad. People from vulnerable minority groups, including sexual minorities, find themselves exposed to the risk of being fired if they are discovered, one participant noted.

Dealing with Discrimination: One participant highlighted the discrimination faced by the constituency he represents in a large country, which is a democracy but does not have an anti-discrimination policy that applies to the private sector. As a result, prospective candidates and employees have to struggle constantly for equality. The government sector in that country has quotas of affirmative action, but the situation is no better, he said. Many of the people he represents are marginalised with limited or no access to land or natural resources. He revealed the slavery-like conditions in which women work at textile factories, where other abuses, including sexual abuses, are rampant. He called for a 2% tax on companies to set aside to compensate victims for adverse human rights impacts.

Impact on children: Booming economies reliant on tourism pose another risk – to children who are susceptible to sexual abuse. One participant mentioned their code of conduct to protect children from sexual abuse. While the code has been widely praised, her organisation has had to struggle to get more companies to sign up to the code. She also pointed out the conflict between freedom of expression and privacy rights with regard to the freedom being abused to exploit children. She called for new regulations to enable easier reporting of such images to companies and other appropriate authorities.

To engage or not: To engage or not with a company is a major question human rights defenders face. One participant noted that the three pillars of the UN Guiding Principles – the state duty to protect, the corporate responsibility to respect, and the need for remedies where gaps exist – reflect what the civil society wants. One participant observed how companies are predisposed towards stability. In his country, a large company said that dictatorship provided stability and that the company liked stable dictatorships. That company became complicit in human rights abuses, and the landscape in his country is devastated environmentally. Cleaning up pollution is a major priority. Another participant emphasised the importance for human rights de-

fenders and businesses to talk to each other more frequently, and not only in courts. “We must make local managers understand the language of human rights,” he said. Litigation should be the last resort; there has to be engagement before taking that step. Another participant added: “Punish the real bad ones (companies), convince the reluctant, help the interested, and champion the good.”

Which language: The issue of communication between companies and the civil society was brought up. One participant who has worked in the field of business and human rights for several decades, said: “I have not met anyone in the business world who would not respect human rights.” It is possible for most corporations to incorporate respect for human rights. To do so, it is important to recreate the language of human rights so that business understands the discourse and learns how to implement policies consistent with human rights standards. We need to move beyond the legal discourse, he said.

Human rights defenders should also become better at story-telling, so that they can communicate effectively to the media, which can highlight abuses where they occur. Media is more interested when laws are broken, or when there is financial crime involved. NGOs should therefore focus on breaches of legal norms.

Dispute settlement: The third pillar of the Guiding Principles stresses the need for remedy. One participant said that victims of human rights abuses often have no mechanism to seek redress in the country that she specialises in. The lack of free media and the lack of rights for the civil society have muted criticism of the state. But the economy is booming and income gap between the rich and the poor is widening. Foreign companies operate under local laws that are not consistent with human rights, and adverse impacts occur. In April 2016, there was toxic pollution from a steel plant and vast amounts of fish died, which was a catastrophe for the local fishing communities. The government did nothing, even after local groups investigated and blamed the steel company. The participant singled out the European Union for not undertaking a human rights impact assessment before signing a free trade agreement with that country.

Companies should build effective grievance mechanisms to deal with disputes. One participant referred to the OECD National Contact Points mechanism as a possible remedy. While there is some scrutiny of how big corporations operate, the conduct of smaller companies often goes unnoticed. “Often they are the biggest abusers,” he said. Multinationals have power. The government will listen to them, not to activists, he added.

Meaningful consultations: Meaningful and effective consultations with affected parties is the cornerstone of assessing human rights impacts. Affected parties include indigenous communities. Due diligence processes, which the UNGPs require, should be based on respect and dignity. Companies should reach out to human rights defenders to understand the human rights impacts of their activities. Due diligence is a legal term and corporate lawyers understand that in a financial context – they need to internalise the process for human rights impact assessment. The recent work¹¹ of the American Bar Association was mentioned in this regard.

Need for human rights defenders to understand companies: It is important for human rights defenders to understand how companies operate. Dialogue between companies and human rights defenders is essential. Such dialogues can have beneficial impacts on human rights and transform relationships. It is also important to distinguish between the impacts businesses have on human rights and how businesses can be mobilised to promote human rights.

Available tools: Some tools are developed to assist businesses, whereas others are developed to assist human rights groups. Summarising the available tools, one participant noted that besides the Guiding Principles, there are the OECD Guidelines, guidance on constructive campaigning, a report on business and human rights defenders,¹² ISHR's toolkit for business and HRDs,¹³ and other sector-specific tools.

Neutral space for dialogue: There is also need for neutral space where companies and their critics could meet. Several participants pointed out the lack of trust between business and civil society organisations. One participant suggested that Rafto Foundation could play the role of bringing together both sides.

Need for education and capacity building: Both businesses and human rights defenders need to be educated about each other's roles and responsibilities. The role of human rights defenders as representatives of people at risk should be better understood and appreciated by businesses. The general understanding of human rights within businesses is often at surface-level and shallow, although a few companies have developed credible expertise. Experts within companies are few and far between. Businesses' capacity to integrate the responsibility to respect human rights, still remains far too weak. Human rights defenders need a better understanding of the differences in the roles of the state and businesses, and many need to develop skills to engage with and challenge companies in effective ways on behalf of vulnerable groups.

Role for Rafto Foundation: Several participants saw a role for Rafto Foundation. Its activities could include:

- Working with the Norwegian government to address business and human rights issues
- Bringing Norwegian companies and civil society groups together
- Offering capacity building activities to companies and human rights defenders
- Enabling Rafto Laureates to contribute to and participate in global and regional forums for business and human rights
- Assisting the work of the Office of the High Commissioner for Human Rights and the UN Working Group on Business and Human Rights
- Working with the Norwegian government so that its public procurement policies and pension fund act in ways that are consistent with international human rights standards.

Summary Session II:

Wherever there is oppression, human rights defenders are found. In the decades since the end of the Cold War, the power and reach of the modern corporation have increased. It is important for human rights defenders to interact with business. This is because corporations have impact on human rights. Business interacts with governments, and in many human rights contexts the relationship between companies and governments poses problems for human rights. Recent years have shown several tools for companies to conduct due diligence and it is important for human rights defenders to familiarise themselves with the tools and other emerging mechanisms.

Rafto Foundation can play a major role in convening conversations between companies and human rights defenders. If it takes up such a role it should be aware that it could face reputational risks because many in the human rights community remain sceptical of corporations. Rafto Foundation can begin by advising or working with the Norwegian Government in developing policies regarding Norwegian businesses operating abroad.

11. International Bar Association: Business and Human Rights Guidance for Bar Associations (2014). <http://www.ibanet.org/Document/Default.aspx?DocumentUid=70D3F1B6-33F8-41AD-866E-4928DAD6E696>

12. <https://www.ihrb.org/uploads/reports/2015-12-Human-Rights-Defenders-and-Business.pdf>

13. http://www.ishr.ch/sites/default/files/article/files/isshr_hrd_toolkit_english_web.pdf

PARALLEL SESSION III:

Free Speech, Hate Speech, and Human Rights Defenders

THE THIRD MAJOR challenge of our times poses a conundrum: it is important to protect free speech; it is also important to prevent harm from hate speech. The right of free expression for human rights defenders is crucial for the survival and development of a culture where human rights thrive. At the same time, many human rights defenders are targets of abuse, including hate speech. Their opponents seek to silence them, or bully them into submission. Extreme forms of hate speech may also make them vulnerable to physical attacks. Striking a balance between these two ideas is not simple.

Shrinking space, shifting landscape: The challenge is to expand free speech to overcome hate speech at a time when the space for civil society is shrinking. Governments are making strategic changes to laws that apply to charities and lobbying. Media has become big business, driven by commercial imperatives and monopolistic tendencies. The spread of the Internet has enabled a systematic rise in hate speech, the targeting of activists, and increase in hate crimes towards migrants as well as other minorities. The increasing importance of the Internet as medium of public discourse also allows governments new opportunities of surveillance and sabotage.

Local realities: Rafto Laureates provided an overview of the environment in which they live. While the use of Internet has spread in many countries, it does not necessarily translate into a vehicle for freedom of expression. Governments increasingly prosecute or jail individuals for expressing their views online. One participant spoke of censorship that, citing the pretext of combating extremism, prevents access to websites which challenge anti-extremist legislation, and which would stop people from learning about experiences and opinions differing from those espoused by supporters of the current government. Gov-

ernments are able to implement some of these policies because they have better access to new technologies for surveillance and restriction of speech. Often, the suppliers of these technologies are companies from countries which have a better human rights record. Such companies may become complicit in abuses that occur when they sell surveillance equipment to states where the equipment is abused or when they invest in, or partner with state-run enterprises in countries with more lax laws.

Denial of resources: Another threat is government cutting off human rights defenders' access to financial resources. Laws passed in some countries have made it difficult for civil society organisations that are critical of the government to receive donations from abroad. Such civil society organisations are commonly accused of disloyalty to the institutions of state, or even of espionage. They are sometimes asked to register themselves as foreign agents, even if their relationship with foreign entities is restricted to receiving donations. Such allegations attach a stigma to the targeted human rights organisations, and induce negative prejudice in their audience. Organizations may also be required to undergo very extensive and expensive reporting proceedings, which make it harder for them to carry on even routine activities, such as inviting contributors to speak at their events who risk suffering reprisals in other contexts for participating in the discussion of politically sensitive topics.

Restricting and dividing human rights defenders: One Laureate talked of his country, which has freedom to demonstrate peacefully, while the media reaching the majority of the populations are controlled by the government and suppress news about such manifestations. A large newspaper critical of the government found that its access to the Internet had suddenly been disconnected. An increasingly used form of control is to shift the ownership of critical media outlets to individuals or corporations close to the government. So, while remaining formally independent, in reality they are not. While freedom of speech remains, dissenting voices are marginalized and disconnected from the broader public. The government in a country with a non-Muslim majority, targets Muslims and refugees by claiming to be protecting the Jewish community. Likewise, in another country, Muslims are described by government as hostile to LGBTI communities, thereby dividing minorities that suffer from similar forms of rights violations.

Hate speech, prejudice, and deception: One Laureate described the changing map of hate speech. "It is dangerous to use the label 'hate speech' loosely because it can be abused easily to target those voicing complaints about such speech," he warned. Another Laureate added: "It is bad when governments fail to

condemn hate speech, but worse when the government itself is engaging in prejudiced speech.” Human rights defenders are called ‘traitors’ and genuine refugees are called ‘migrants’ to incite hate against them. Conspiracy theories are promoted on entirely spurious grounds not merely by irresponsible citizens, but also by governmental authorities. One laureate, who broadcasts programmes on human rights, and adheres to a strict and consistent norm of non-violence, is still described by the authorities as a defender of ‘thugs’. This laureate also described how the seemingly laudable inclusion of human rights norms in the national statutes, and governmental participation in international fora discussing human rights, served to mask and distract the increasing disrespect for rule of law and human rights at home. While it is seldom possible to produce incontrovertible proof of government complicity, both human rights defenders and independent journalists are regularly murdered, and an environment created which he describes as ruled by a ‘law of death’.

One laureate representing a large community, dispersed across many countries, agreed. He spoke about how the combination of physical displacement and social vilification excludes various groups from representation and participation in public discourse. “When you have nowhere to go, you are always a stranger. You become invisible, you are excluded from text-books, there is no documentation”, he said. And simultaneously, this involuntary status of homelessness and estrangement is cultivated by the majority culture as an inherent quality of the group. “The culture of poverty is assumed to be our real culture, but it is not”, he added. “The way the press portrays us spreads rhetoric that makes it easier for others to get away with hate speech against us. “Countering hate speech is a basic priority for people suffering this kind of marginalization”, he said.

It is important to unpack the idea of hate speech. While all hate speech may not be criminal, some hate speech that incites violence should be prosecuted, one participant noted. Laws do exist to prosecute hate speech that may incite physical violence, but incidents are not being reported and there have been few instances of prosecution. One participant said that international conventions are developed based on our collective experience with violence. To argue against hate speech legislation because it can be misused is wrong – that argument can apply against any legislation. But hate speech may cause great damage also even if it does not entail immediate physical danger. “Racism is not an opinion, it is a crime”, in so far as human rights are concerned, he said. It is the use of words to deprive those described as inferior of their rights, not a legitimate proposal of what rights ought to be

respected for anyone. There should be proper safeguards in place to prevent such crimes.

The Dark and the Manipulated Web: Governments and officials are beginning to pay attention to the ‘dark web,’ or the corners of the Internet where illegal activities flourish beyond the reach of the average user. And yet, there is considerable ignorance about the issues that need to be addressed. Algorithms are multiplying both to influence reading by producing a context to the thematically explicit communications that prejudice their evaluation of the explicit content, and by automated mass production of certain opinions or prejudices, in order to crowd out the genuine individual expressions that oppose them. Incidents of explicit hate speech on the Internet are also increasing. A Laureate said that a large number of messages in the social media targeted refugees in his country, even though it hardly receives refugees at all. In many similar instances, a handful of accounts were recycling and rebroadcasting similar messages, creating a multiplier effect and thus the illusion that there was much greater opposition to refugees than was really the case. All this dissemination was occurring online.

The Role of Companies: Much of the Internet is privately-owned or managed. Should the private sector be determining what acceptable speech is? Russia, for example, has asked the Norwegian Opera browser to block websites, and put certain Russian websites on black lists, so Russian web users will not be able to open them. Telenor still holds a large share of a Russian mobile phone company that is blocking web sites. Telesonera of Sweden was selling equipment to post-Soviet countries that carried out surveillance of their citizens. It is important for lawmakers to have access to the ‘ingredients of algorithms’ which bias and multiply the dissemination of hate speech. “To what extent are they fanning the flames of hate speech?” one participant asked. “When you buy a cake, the manufacturers don’t give you the recipe, but they do have to provide the list of ingredients. We heed the list of ingredients for algorithms; we need transparency”, he said.

Limiting Free Speech: This raises the challenge of defining the limits of free speech. How is the line to be drawn? The Rwandan example, where a radio station continuously broadcast programmes targeting the Tutsi people, leading to the violence against them that led to the genocide in 1994, is now widely recognised as a clear example of the limit. When does a government or the international community know that the line is reached? In many, or perhaps even most, cases described by the laureates, violence is not immediately connected with speech, as in the Rwandan case, or the textbook example of shouting “Fire!” in a

crowded theatre. The damage produced by hate speech is often more circumspect, and consist in its contribution to a culture of violence which is normally also influenced by other factors, such as deficient rule of law and rampant crime and disrespectful relations between social groups or between powerful elites and powerless.

One way to draw the line is to let the state determine what content should be banned. Another way is to ban speech which, in specific contexts, raises imminent danger of violence. A context-specific approach is more nuanced and likely to be more effective to protect rights.

Dealing with hate speech: Combating hate speech will require that the human rights community change its thinking, its tactics, and its forms of collaboration. Human rights NGOs will have to look for new partners, which include the corporate sector, the academia, municipalities, and other bodies. “We will have to work to make our cities more inclusive”, one participant said. How to make, widen, and enlarge the inclusive net, is an important challenge. It means moving beyond the traditional media. It means bridging the silos which keep information apart.

Education and establishment of safe places offline, to discuss topics that citizens don't have the chance to discuss safely online, is also increasingly important as the Internet dominates public discourse ever more, and exposes users to manipulations that undermine trust and open exchanges of views. The locally based communal efforts to create environments where human rights defenders can support one another professionally, and create communities of mutual respect and dignity, are decisive to overcome the degradation and stress created by hate speech and other forms of persecution. It is also of crucial importance that international fora addressing human rights issues expand the space for civil society actors to voice complaints about circumstances in states where governments carry out, or allow, systematic human rights violations to take place. Finally, the human rights discourse must expand to encompass how economic relations between states, and between corporations and local communities, enable and create incentives for human rights crimes.

One encouraging project mentioned was the successful efforts to train lawyers from different regions in several countries through network organizations in order to try human rights cases in national courts. These networks bridge the gaps between professional groups, and they apply international standards in home jurisdictions. Among the professionals brought into the network are doctors, lawyers, and teachers.

Summary Session III:

Freedom of speech is fundamental for enabling other rights. The rise of hate speech poses special challenges to the right of free speech. Hate speech intimidates marginalised communities, demonises them, and contributes to an atmosphere in which more discriminatory policies thrive and violence becomes possible. Technological changes require new approaches because the wider reach of the Internet does not mean greater freedom of speech. Conversations on the Internet are now controlled – and in some ways manipulated – by algorithms. Unless steps are taken, the Internet's gate-keepers – private sector companies – will become the arbiters. Transparency is important. In order to have consistency, the use of international law in domestic jurisdictions is an encouraging sign.

It is difficult to define the limits of speech. Everyone agrees that there are certain lines that cannot be crossed, but where are those lines? How can those be defined? Are governments to be trusted in drawing those lines? Two possibilities emerge: one, where governments define what constitutes hate speech, and where definitions are context-specific. The latter can be abused, but has the advantage of being more objective.

Final Plenary Session

THE HUMAN RIGHTS community is at a crossroads. It faces major challenges. Human rights defenders are under threat in many parts of the world. Women human rights defenders face outright hostility in some countries. Freedom of expression – a right so crucial to human rights defenders – is sometimes denied, and at other times, forces opposed to human rights defenders are using this very right to vilify the defenders. Companies have become a major force in the debate: some companies are becoming complicit in abuses, whereas others can become useful allies.

The world is in the middle of a historical churn and it is important for the human rights community to recognise the shifts and adjust. It needs to explore new avenues, learn from the past, and alter strategies. It means identifying new partners and identify new roles for old agencies. The academia can contribute towards building a new paradigm with the civil society. Businesses have a lot in common with the human rights community – belief in the rule of law, fair trials, and clear standards. Neither business nor the civil society likes corruption. Another area where new ways of thinking are needed is work with local communities. Engaging them is important to improve accountability. National human rights institutions have an important role in this regard. They should play a leading role in giving voice to vulnerable independent organisations which face threats. Also, they should bring together opposing, contrasting views and foster a culture of dialogue. They can and should create space.

The challenges are formidable. Governments which are hostile to the human rights agenda are regrouping. They learn from one another, exchange experiences, and imitate one another's behaviour – particularly if the international community does not criticise abuses in time when they occur. Eternal vigilance is the price of liberty. The ease with which some governments have made it

illegal even to transfer money to human rights organisations in those countries shows how difficult it is for human rights organisations to survive. At such times, donors need to think of fresh and creative ways to support human rights organisations. International organisations need to make greater efforts to listen to the defenders. They should keep their doors open and think of solutions, ideas, and allies outside 'the box'.

The shrinking space for civil society should be protected and then efforts must be made to expand the space. Donors should redesign or reframe conventional management tools, such as "key performance indicators" and "log-frames", to reflect the more fluid reality. Older qualities like trust between the donor and the activist should be valued more.

It is important to strengthen civil society. Fostering networks and supporting them by providing space for dialogue are critical steps. Enabling local civil society actors to participate in and observe global human rights institutions, including the European Court at Strasbourg or the Human Rights Council in Geneva, are crucial. Training in the use of international mechanisms should also be considered. Related is the threat the human rights defenders might face when they return home. In one recent instance, lawyers from one African country had made an eloquent presentation about the crisis in their country at a forum in Geneva. When they returned home they were arrested and tried for attempting *coup d'état*. Another activist lost her life after having provided information to her country's Universal Periodic Review. Such reprisals must stop.

Reprisal by the state and by those in power is a new and different form of human rights violation. It has a chilling effect. The UN human rights system is based on the idea that civil society will be able to participate in the UN processes. The system loses credibility without their participation. Threatening NGOs with reprisal should not be tolerated.

Human rights defenders are witnesses of the international system. While it is extremely difficult to suspend a member state from the UN (the bar, at two-thirds vote, is high), the possibility should be explored, because only the potential threat of such suspension may deter governments from taking adverse actions against critical NGOs. Civil society organisations should issue soccer-like "red" and "yellow" cards to states that persistently misbehave. It is not as if governments are not expelled or suspended: those that do not pay their financial dues do lose their right to vote: that is laid down in the UN Charter. Likewise, states should lose their moral right to sit in a UN human rights body if they undertake reprisals against human rights defenders and NGOs.

Human rights organisations also have to become better at telling their stories. They need to identify the drama of a narrative and humanise their messages. They should identify cases and tell the story by focusing on the individual, her family, and the struggle for justice. The new generation responds to different stimuli. Imagery is important. Messages should be targeted to that generation and be accessible on hand-held, mobile devices. For them, stories will resonate, not long texts of UPRs, nor the prose of UN Resolutions.

That is the way forward. Human rights organisations have to re-orient budgets and priorities to learn how to tell stories differently, imaginatively, and in ways that affect the emotions of the viewers and readers.

Nearly seven decades after the Universal Declaration of Human rights was adopted, abuses have continued. Many governments remain unresponsive. But the world is in a new era. The challenges today require different approaches, new allies, fresh ways of telling stories, to reinforce the primacy of human rights, to reaffirm ideas that all people are equal and they deserve respect and dignity, and everyone has human rights. That was Thorolf Rafto's vision, and it is the vision the Rafto laureates have embodied, and whom the Rafto Foundation will continue to support.



THE RAFTO FOUNDATION'S 30th anniversary brought together previous Prize Laureates in Bergen last November. From front left: José Raúl Vera López, Trimivi Velliste, Ramesh Nathan, José Ramos- Horta, Nnimmo Bassey, Junita Upadhyay, Pavel Chikov, Ian Hancock, Padre Melo, Julie Gromellon, Tatyana Fernandes. From back right: Sidi Mohammed Daddach, Maryam al-Khawaja, Rebiya Kadeer, Yanar Mohammed, Asha Kowtal, Malahat Nasibova and Frank Mugisha. Photo: Hans Jørgen Brun



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