

Instituto Latinoamericano del Ombudsman - Defensorias del Pueblo

XI Virtual Assembly and Seminar

“Mirabal Sisters”

“Human Rights Within the Context of Exceptional Situations. Role of the Human Rights
Institutions”

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Role of the State/Guarantee of Rights in Exceptional Situations

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1. Introduction

Bom dia, Buenos días, Good morning.

It is an absolute privilege to be here today to speak to my colleagues and friends in Latin America, and other esteemed guests from around the world, as we join to discuss the role of human rights institutions in protecting and promoting human rights during exceptional situations. Can I thank the ILO for your very kind invitation to speak today. I particularly wish to recognise President Riche.

I note the important, cooperative and valued relationship between the ILO and the International Ombudsman Institute or IOI, which has included the signing of a memorandum of understanding in 2014. As you know, the IOI established in 1978, is the global organisation for the cooperation of more than 205 independent Ombudsman institutions from more than 100 countries worldwide. The IOI is organised in six regional chapters (Africa, Asia, Australasia & Pacific, Europe, the Caribbean & Latin America and North America).

Before commencing my comments on today’s topic, I want to take the opportunity to express my appreciation to the ILO Board of Directors for naming the eleventh ILO Assembly and Seminar in honour of the memory of the Mirabal sisters. We must, each and every one of us, continue to stand resolutely against gendered violence wherever it exists in the world. To do so honours the Mirabal sisters and ensures their lives continue to resonate for a better world

for women through the ages. I recognise the extraordinary bravery of the Mirabel sisters for their fervent opposition to a dictatorship. It is truly only the greatest among us, like the Mirabal sisters, who stand for what is right and what must be done, when to do so means certain danger and, indeed, death.

I also take this opportunity to express my deepest condolences to the people of Argentina for the loss of the great, great footballer, Diego Maradona.

As I have said, the theme of this seminar is “Human Rights within the context of exceptional situations. Role of the Human Rights Institutions”, and in this context, I have been asked to consider the “Role of the State/Guarantee of rights in exceptional situations”. Today I will discuss this topic in three parts. First, I will consider the role of the Ombudsman institution in protecting human rights in exceptional circumstances. Second, I will examine specific initiatives being pursued by Ombudsmen around the world, as well as initiatives of the IOI, in response to the COVID-19 pandemic. Finally, I will discuss initiatives pursued by my office, the office of the Western Australian Ombudsman in response to COVID-19.

2. The role of the Ombudsman institution in protecting human rights in exceptional situations

As you know, in this seminar we are discussing the role of human rights institutions in protecting and promoting human rights during exceptional situations. Unsurprisingly to you, I will focus my observations on the role of the Ombudsman institution. Of course, while legislation that creates Ombudsmen will not always necessarily speak directly of a human rights role, the institution of the Ombudsman deals with fundamental human rights. Whether it is providing access to justice, major own-initiative investigations focused on the most vulnerable members of society or a range of newer roles, such as National Preventative Mechanisms or as a nation’s designated National Human Rights Institution, Ombudsmen offices, on a daily basis, investigate how the State respects and protects the inalienable rights and basic dignity of its citizens.

In responding to the COVID-19 pandemic, the Ombudsman can assist by considering that health and safety measures are reaching all of its citizens, and particularly its vulnerable citizens, in the most timely, effective and just way. We celebrate, and rightly so, our first responders and front-line services for their selfless commitment to the safety and well-being of citizens, we look to the State to ensure that the rights of citizens remain inalienable, even at times of crisis, and we recognize the role of the Ombudsman to strive for the guarantee of these rights.

3. Specific initiatives being pursued by Ombudsmen around the world, as well as initiatives of the IOI, in response to the COVID-19 pandemic

Having spoken about protection of human rights in exceptional situations generally, I now want to turn to specific work that Ombudsmen and the IOI are doing regarding the role of the State and guaranteeing rights at this exceptional moment in history.

Ombudsman institutions in this region, and indeed globally, are undertaking critically important work in relation to the way governments have responded to COVID-19. I note the reports of the Prison Ombudsman's National Office in Argentina on Deaths in custody during the Pandemic; the Ombudsman of the Province of Santa Fe's work in relation to the effects of the implementation of virtual classes on children with disabilities; the Lithuanian Ombudsman's report assessing whether measures taken during the quarantine complied with the principles of human rights; or the Ontario Ombudsman's investigation into the government's oversight of long-term care homes during the pandemic. These vital pieces of work, properly considering the crucial role of the State in times of crisis, particularly in terms of vulnerable citizens, are to name just a few.

I am aware that Ombudsmen offices in Latin America and all around the world have done so much important work in relation to the role of the State as it both on one hand introduces measures to protect citizens from harm, and at the same time ensures those protections are both available to all and do not marginalize or discriminate against the vulnerable.

The work of individual Ombudsman offices have been supported by both the ILO and the IOI. As I have noted, the IOI now represents over 205 Ombudsman institutions. Ombudsmen are woven into the governance fabric of more than 100 countries around the world. The IOI is undertaking a range of initiatives to support the protection of human rights during the COVID-19 pandemic. This includes monetary grants undertaken as part of a major regional subvention program, formal letters of solidarity and advice provided by the IOI's Secretariat in Vienna.

The IOI is also continuing to strengthen its relationships with the United Nations and other supranational bodies relevant to the protection of human rights.

We are, of course, gathered here today due to the outstanding initiative of the ILO to bring us together to discuss our work during the pandemic.

4. Initiatives pursued by the office of the Western Australian Ombudsman in response to COVID-19

The final issue I will mention briefly is initiatives pursued by my office, the office of the Western Australian Ombudsman, in response to COVID-19.

On 11 March, the World Health Organisation declared COVID-19 a pandemic. The same day, Western Australia declared a Public Health State of Emergency, followed on 15 March by a State of Emergency.

My office has assisted citizens by undertaking initiatives to promote good governance and protect human rights. This has included chairing a meeting of the heads of eleven accountability agencies in Western Australia to ensure the timely sharing of relevant information critical to Western Australia's response to, and recovery from, COVID-19.

We have also considered how we can contribute to minimising any unnecessary regulatory burden at a time of great focus for first responder and front-line services, but at the same time ensure good governance around risks during a time of rapid response.

5. Conclusion

In conclusion, COVID-19 has been, and is, a worldwide crisis unprecedented in this century. More than 1,000,000 lives have tragically been lost globally and the economic effects have also been profound. In these exceptional situations there is, in my view, very clearly a critical role for human rights institutions, including the institution of the Ombudsman. This includes individual Ombudsman offices and representative and cooperative bodies such as the ILO and the IOI.

As just one example, the office of the Western Australian Ombudsman has provided leadership during COVID-19 by contributing to COVID-19 response and recovery projects, which in-turn has contributed to good governance and the protection of human rights.

Likewise, ombudsmen throughout the Latin American region have been working, and continue to work, in a range of ways to strengthen government accountability and ensure the protection of vulnerable citizens during COVID-19.

Further still, a number of our colleagues around the world, Ombudsman and National Human Rights Institutions alike, have undertaken vital monitoring and investigations into government responses to COVID-19.

As we turn to 2021, and the 12th IOI World Conference in May, we do so emboldened in our knowledge that, when citizens need an institution to stand for the promotion and protection of human rights, particularly during exceptional circumstances, they can turn with confidence to

the Ombudsman. I personally have never been more proud, nor felt more privileged, to be part of the ombudsman and human rights institutions community than I do at this time.

As I consider the commencement of my term as President of the IOI, I say to my friends and colleagues throughout Latin America, how much I admire your contribution to the Ombudsman community. Your great and diverse cultures, extraordinary contributions to the world and economic and social success are well known to all Australians and deeply valued by us.

As President-elect of the IOI, I commit to you that during my four-year term, I will give my full energy and enthusiasm to the incredibly important relationship between the ILO and the IOI and I thank you again for your very kind invitation to speak to you today.