



Peter Howitt, Director at Ramparts

HUMAN RIGHTS

and Poland's Attitude Towards Immigration

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ABOUT ALEKSANDRA KOWALIK

I. 2000-2005- The Faculty of Law and Administration of Nicolaus Copernicus University in Torun

i. graduated on 7th July 2005- Master of Law;

II. 2005- 2008- Statutory judicial trainee at the District, Regional and Appeal Divisions Court in Torun:

ii. 2005-2007: Criminal Divisions (first and higher instances including Prosecution Service);

iii. final criminal examination;

iv. 2007- 2008: Civil Divisions & Family Divisions (first and higher instances);

v. 2009: final judicial examination certificated by the Ministry of Justice;

III. 2000- 2009- Legal trainee at Andrzej Kowalik's Chambers (Bar Practice);

IV. 2009- called to the Bar- member of the Regional Bar Council in Bydgoszcz;

V. 2009- 2012- Frame cooperation with Andrzej Kowalik's Chambers

VI. since 2012- has been running the individual Bar Practice;

VII. since 2013- Registered European Lawyer in England and Wales;

VIII. since 2014- member of The Honourable Society of The Inner Temple;

IX. Since 2015- the PhD researcher- The Department of the Criminal Procedure- European Arrest Warrant issues between The United Kingdom and Poland (comparative law report).

X. Member of European Criminal Bar Association, International Bar Association and Academy of European Law in Trier.

XI. The areas of the expertise: criminal law, criminal procedure including the international criminal cooperation and mutual assistance, extradition (European Arrest Warrant) between The United Kingdom and Poland, taxation- VAT, VAT frauds, commercial disputes a, international trade agreements, medical negligence claims.

XII. Awarded by ACQ Global Awards 2016- Poland- Cross Border Law Firm of the Year (Poland- UK);

XIII. Awarded by Finance Monthly Global Awards 2016- Firm of the Year: Criminal Defence Law (Poland);

XIV. The life motto: "there are no facts, only interpretation"- Friedrich Nietzsche.

Touching on the course of history for human rights and detailing the way Polish society perceives the migrant crisis currently ongoing in the EU, with a very sincere analysis, here Aleksandra Kowalik, Principal at the Law Firm Kowalik, talks about progress in the realm of human rights and how legal developments fits therein. To start us off, Aleksandra delves into a brief history of the establishment of human rights regulations, which is essential in introducing this topic.

"I am the king (...) when Marduk God ordered me to govern people well, to provide the country with a proper supervision, I put the law and justice to the country's mouth, I guaranteed a prosperity..." (The Hammurabi Code 1792- 1750 BC).

These words are being considered as an initial source of the conception of human rights. This was the moment which the societies as general started their march towards forming the current shape, approach and understanding of human rights as we know it.

The philosophy of those rights has been influenced inter alia by:

a. Seneca who stated "homo res sacra hominis;"

b. Magna Charta Libertatum (1215) in which king John Lackland claimed that "nobody could have been deprived of his rights and properties without a judgement of people equal to him;"

c. The "neminem captivabimus nisi iure victum" principle in noble Poland;

d. A doctrine of a religious tolerance declared during the ecumenical council in Constance (1415);

e. English Habeas Corpus Act (1679) which declared a prohibition of one's arrest without a court judgment;

f. The Age of the Enlightenment (165- 1800) in tracts of John Locke (Two tracts about the government), Charles- Luis de Montesquieu (The spirit of the laws), J. J. Rousseau (The social contract) and Thomas Paine (Human Rights);

g. Declaration of the Rights of Man (1789)- the representatives of the French people, organized as a National Assembly, believing that the ignorance, neglect, or contempt of the rights of man are the sole cause of public

calamities and of the corruption of governments, determined to set forth in a solemn declaration the natural, unalienable, and sacred rights of man;

h. Bill of Rights (1791);

i. Polish Constitution Act (3rd May 1791);

j. Napoleon's Code (1804)- which as the first legal act established the freedom for farmers;

k. First Geneva Convention (1864) which became a basis for a Red Cross Organisation establishment;

l. The Atlantic Charter (issued on 14.08.1941) signed the Declaration by United Nations on the 1st January 1942, which established freedom from fear and want, freedom of the seas, and abandonment of the use of force, as well as disarmament of aggressor nations;

other sources of international law can be maintained, and

iv. to promote social progress and better standards of life in larger freedom.

Finally, the crowning achievement was The Convention for the Protection of Human Rights and Fundamental Freedoms, known as the European Convention on Human Rights, which was opened for signature in Rome on the 4th November 1950 and came into force in 1953. It was the first instrument to give effect to certain of the rights stated in the Universal Declaration of Human Rights and make them binding.

In conclusion, the current involvement of a legal professional in the human rights area of practice is a result of a difficult and bumpy road taken by humanity all over the world through the ages.

“If humanity is changing, human rights will also consequently change”

m. United Nations (1945) - The Charter of the United Nations was signed on the 26th June 1945, in San Francisco, at the conclusion of the United Nations Conference on International Organization, and came into force on the 24th October 1945. The Statute of the International Court of Justice is an integral part of the Charter. The Charter's preamble established:

i. to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind;

ii. to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small;

iii. to establish conditions under which justice and respect for the obligations arising from treaties and

I am honoured to have the opportunity to act on behalf of clients in matters related to human rights in both jurisdictions - British and Polish. I mainly deal with criminal cases and immigration in principle. In both sorts, one (me in concreto) must look after whether the basic rights (absolutely essential for a sovereign a lawfully state) are being followed by the authorities and judiciary, namely whether one is being treated equally and fair upon the widely interpreted law.

How distressing do the cases become, dealing with human rights issues, and how do you protect yourself from becoming too bogged down with the potential negativity?

I do consider that each of a legal professional whose main goal is to perform his or her duties with the highest diligence and who wishes to provide his clients with the best

advice feels stressed on a daily basis. It also must be agreed that the bigger influence and impact a case's result will have for the client's life, the greater the stress becomes. One must bear in mind that especially in deportation or European Arrest Warrant cases, namely those connected with the prospective of forced leaving, the family also will suffer. I find this issue as the most tough and stressful in my role, as suddenly a crowd of people believe you are the only chance for their future.

In my opinion the only protection from becoming too bogged down is to focus as much as one can on only the case merits, without involving any feelings.

In your immigration and asylum specialism, what human rights considerations arise and what are currently the biggest talking points in this arena, especially in light of the recent EU migrant crisis?

Let me focus on Poland in referring to that particular issue as The United Kingdom appears to me as an example to follow, while lately Poland has taken many steps back in its attitude to human rights. This is sad and personally for me, devastating impact is visible all over the country and touches every single aspect of the reality. Unfortunately, the current authorities, instead of supporting the proper human rights education, are playing a part in eliminating it.

Poland suffers from a lack of tolerance for different religions, and for people who are atheists or agnostics.

Poland also suffers from a lack of tolerance towards different nations, sexual orientation, women, and paradoxically for the lack of tolerance towards the members of society who are tolerant. This mentioned tendency has clearly

come about due to the migrant crisis, and therefore the main issue which currently arises is in the misunderstanding of the freedom of religion. Unfortunately the majority of Polish society has already forgotten the gesture of Iran, Lebanon, New Zealand, India, Mexico, Palestine, The Eastern Africa and RSA, when they opened their borders for Polish asylum seekers during the II WW. Nobody has asked about their religion or sexual orientation, and nobody verified their nationality or race...

How depressing it is that a nation which had to go through the nightmare of the Nazi Camps is not able to share its' experience and give a helping hand to others.

How much have human rights changed/improved since you began your career in law?

Human rights should have never been the subject of any changes, as they are the natural order, and so naturally dependent on humanity, but if humanity is changing, human rights will also consequently change. The further development or improvement should only regard those who are supposed to enforce the law and defend human rights.

As a thought leader in this field, what do you believe to be a business' no.1 priority in terms of human rights law?

Education, education, education; not only in legal terms, but also relating to a history, which will always mean an opportunity to avoid the same specific consequences in future, as "our greatest glory is not in never falling, but in rising every time we fall (vide: Confucius)." Regrettably I have an irresistible impression that lately, humanity has only been falling, and with no probable perspective for rising again at all. **LM**

