

In Larger Freedom

Background

The Committee on the Administration of Justice (CAJ) is an independent cross community human rights non-governmental organisation working to uphold the highest standards in the administration of justice in Northern Ireland. As an affiliate member of the International Federation of Human Rights, we have made a large number of submissions to various UN mechanisms over the last fifteen years.

Our work with the United Nations treaty bodies began in 1991 with submissions to the UN Human Rights Committee and the UN Committee Against Torture. In subsequent years, we have intervened with CERD, CEDAW, CRC, and with the Economic, Social and Cultural Rights Committee; with most of these treaty bodies we have had occasion to intervene now in several examination cycles.

Northern Ireland has also benefited most directly from the scrutiny afforded by other UN agencies – for example, the UN Secretary General spoke at Magee this year, the former UN High Commissioner for Human Rights visited Northern Ireland on several occasions, and several UN Rapporteurs (Rapporteur on Arbitrary and Summary Executions, Rapporteur on the Independence of Judges and Lawyers, Rapporteur on the Right to Education and Rapporteur on Freedom of Expression) have all sought to assist government comply fully with its international human rights commitments.

CAJ has no doubt that the UN human rights monitoring bodies have played a direct and positive role in exposing and addressing important human rights concerns in Northern Ireland over the years. This involvement has also assisted government and civil society more generally to understand how central human rights and equality considerations were to any peace building initiative, and the Belfast/Good Friday Agreement bears testimony to this fact.

Lessons learnt

1. Domestic human rights efforts – particularly in societies in political conflict and/or in transition – can often be seen, or be portrayed as, highly contentious and problematic. The establishment by the UN of clear and universal human rights standards creates an important legitimacy for domestic struggles to uphold human rights.
2. A state must be primarily accountable to its own citizens for its human rights record; however, the fact that Member States have to report on a regular basis to a scrutiny body creates a powerful external support mechanism for such domestic efforts. The experience in Northern Ireland, where all agree that due to the many years of intense violent political conflict there was an obvious “democratic deficit” at the local level, highlights how crucial international scrutiny can be when local accountability mechanisms are weakened or non-existent. CAJ believes

that a decrease in allegations of psychological ill-treatment in the early 90s and the introduction of anti-race discrimination legislation (albeit very belatedly) were directly influenced by UN commentaries (by CAT and CERD respectively).

3. Equally, it should be noted that the UN cannot hold Member States effectively to account without the active and informed engagement of domestic actors, such as human rights NGOs. Human rights protection is greatly increased by effective communication between relevant UN treaty mechanisms and domestic human rights NGOs. Any move to increase the significance of the United Nations in promoting human rights throughout all Member States must rely upon close collaboration with NGOs, as well as other civil society actors, and – of course – governments themselves.

Commentary on In Larger Freedom

CAJ as a human rights group warmly welcomes the importance accorded to human rights throughout the proposals for UN change. We urge that every effort be made to further mainstream human rights and make the following comments accordingly:

- a. Freedom from want: The issues discussed in this chapter – poverty, access to food, healthcare, education, housing etc. all relate to fundamental human rights (or lack thereof). The impact of the Cold War in creating an unhelpful and impractical dichotomy between “civil and political” rights on the one hand and “economic, social and cultural” rights on the other has still not been fully shaken off. Accordingly, this chapter says little about economic, social and cultural rights, though perhaps this issue was intended to be addressed by emphasising the right to development *per se*. It has certainly been our experience in Northern Ireland that the use of the language and concepts and tools of rights in people asserting their demands for adequate educational provision, good healthcare, sufficient income etc. has been very empowering for those who currently are most marginalized and excluded.
- b. Freedom from fear: The experience of Northern Ireland is that human rights abuses feed and fuel conflict. CAJ would therefore warmly welcome the exhortation (para 94) to ensure that all supposed counter-terrorism measures be compatible with human rights norms. Moreover, peace-building must be built upon principles and practices of human rights, and there is much to be gained by societies in transition learning from the good practices of others about effective human rights institution building. The concept of the UN assisting in creating resources for societies engaged in peace-building is therefore a very positive one (paras 114 on).
- c. Freedom to live in dignity: As a domestic NGO actively engaged in the process of operationalising important human rights and equality gains from the Northern Ireland peace process, but learning of the power of institutional resistance to change, we warmly welcome the importance

accorded to the process of implementation (para 130). We would welcome a strengthening of the Office of the UN High Commissioner for Human Rights, the mechanisms of Rapporteurs, and all relevant treaty mechanisms. We welcome the commitment to improving the work of the treaty bodies via good practice guidelines, but we urge that all such work be carried out closely with human rights NGOs and national human rights institutions, to ensure that any harmonisation of approach is a harmonisation ‘upwards’ rather than a lowest common denominator approach.

- d. Strengthening the UN: CAJ has little to offer to much of the discussion regarding internal UN structures. Any initiative to strengthen the UN’s human rights oversight is to be welcomed and to the extent that the creation of a Human Rights Council would strengthen UN capacity in this arena, it is to be welcomed. Some concern might arise, however, as to the distinction being drawn between an Economic and Social Council and a Human Rights Council (see earlier concern around the Cold War two-track legacy of rights discussions). At the very least, there must be some cross-cutting mechanisms established between the two bodies, just as it is (rightly) envisaged to create institutional links between the Economic and Social Council and the Peace-building Commission.

Maggie Beirne
June 2005