



Human Rights: a Comparison between Northern Ireland and Nigeria

By

Omolara Akinyeye

**Commonwealth Professional Fellow, and lawyer and human rights specialist at the
Centre for Constitutional Governance, Lagos, Nigeria**

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Historical context of two countries

1. A brief history of Nigeria

This paper does not seek to write the history of Nigeria but will focus on the development of human rights in Nigeria, tracing it from colonial rule and military rule to the democracy as it is being practised now. The author of a recent book on the history of Nigeria wrote:

"Nigeria as a modern political entity was created in 1914 by the British, as part of the European partition of Africa that began in the last quarter of the nineteenth century. However, its peoples have a long history, with human habitation in some places dating back to before 500 BC. The country has 36 administrative states, in addition to a federal capital territory at Abuja. Lagos was for many years the federal capital city, until 1991 when the government relocated to the inland city of Abuja."

Lagos remains the main hub of diplomatic, media, commercial and banking activities. The army plays a prominent role in society, not for its ability to fight, but for its capacity to consume resources and prevent the growth of democratic politics. The armed forces stand at around 78,000 members, with 62,000 in the army, 10,000 in the air force, and 6,000 in the navy. The legal system is based on customary law, Islamic law, and English common law.

1.1 Colonial rule

Between 1900 and 1914 the British were preoccupied with consolidating their gains and establishing a new political system. They had to respond to a number of immediate problems. To start with, they had to cope with the people's protest and their resistance to an alien authority, by embarking on so-called pacification measures. There were uprisings among the Yoruba and Igbo during the First World War. The army and the police were used to destroy opposition forces in different parts of the country. In addition, when people were opposed to new policies or changes, they had to be forced to accept them.

The British needed to raise money to finance the administration without having to impose undue burdens on British taxpayers. The number of British personnel was not large enough to administer a country the size of Nigeria, and bringing more would exact a toll on public revenues. Personnel shortage was compounded for the British by poor communications, problems of infrastructure and their language limitations. There was always a language barrier between Nigerians and their overlords. During the early years, the British had to participate in a First World War that further diminished available resources, but helped to affirm their grip on Nigeria. By the time of the First World War, the British had established a dual political system: a central administration to manage the entire country, and a local government format known as indirect rule.

1.2 Independence

After many agitations by the Nationalist movement in Nigeria, the country gained its independence in 1960. Independence sparked a new beginning, with the founding fathers looking for the best way of ruling the country, reflected in the first constitution.

1.3 Military rule in Nigeria

However, civilian democratic government found it difficult to put down roots. From the onset of independent government in Nigeria in 1960 to the end of 1990, the military was in power for 21 years. Altogether there were five coups d'état involving changes of government: those of January 15, 1966; July 29, 1966; July 29, 1975; December 31, 1983; and August 27, 1985. There was also an unsuccessful coup in which the head of state, General Murtala Muhammad, was killed in February 1976, and another was nipped in the bud in December 1985. An attempt to overthrow General Ibrahim Babangida was made in April 1990. Of these coups, only those of January 1966 and December 1983 were against civilian governments.

Several explanations of military intervention have been added to those given by the coup plotters themselves. Whereas the latter have cited economic mismanagement and corruption, other explanations have ranged from the continuation of ethno-regional politics by military means, to the personal ambitions of officers.

2. Brief history of Northern Ireland

Northern Ireland is an administrative region and one of four constituent parts of the United Kingdom. It is located on the island of Ireland, where it shares a land border with the Republic of Ireland, the only part of the United Kingdom with a land border. It covers 14,139 square kilometres (5,459 square miles) in the north-east of the island of Ireland, about a sixth of the total area of the island, and has a population of 1,685,000 (April 2001) — between a quarter and a third of the island's total population.

A majority of the present-day population is Unionist, and wishes to remain part of the United Kingdom. But a significant minority, known as Nationalists, wants to see a united Ireland. These two views are linked to deeper religious, cultural and ethnic divisions. Unionists are predominantly Protestant and often descendants of Scottish and English (but mainly Scottish) settlement in previous centuries. Nationalists are predominantly Catholic, and most descend from the Irish population which predated that settlement.

The conflict between these two sets of identities, and alleged discrimination against Nationalists under the Stormont government (1920–72), gave rise to a long-running conflict known as The Troubles. This went through its most violent phase in recent times between 1968–1994. The main actors have been paramilitaries, representing minorities from both sides of the ideological divide, and an increased police and military presence representing the British authorities and the Unionist state. As a consequence of the worsening security situation, self-government for Northern Ireland was suspended in 1972. Since the mid-1990s, the main paramilitary group, the IRA has observed an uneasy cease-fire; so too have Protestant paramilitary groups.

Following negotiations, the Belfast Agreement of 1998 provides for an elected Northern Ireland Assembly, and a power-sharing Northern Ireland Executive comprising representatives of all the main parties. These institutions have been suspended since 2002 because of allegations of spying by people working for Sinn Fein at the Assembly.

Northern Ireland before the peace agreement suffered the worst human rights violations in the United Kingdom. They were the result of discrimination by the Protestant Unionists, the reaction of both Republican and Unionist paramilitaries, and violently antagonistic stereotyping between the two communities.

Human Rights

3. Conceptualising Human Rights

“Human rights are the banks of the river within which life can flow in freedom and dignity”¹

It is hard to do justice to the true meaning of the concept, but it is as well to start with the preamble to the Universal Declaration of Human Rights (UDHR):

“Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people....

“Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law.....”

These are the second and third paragraphs of the preamble to the UDHR, adopted by the United Nations General Assembly on December 10, 1948 without a dissenting vote. It is the first multinational declaration mentioning human rights by name, and the human rights movement has largely adopted it as its charter. It states as well or better than anything else what human rights are, and why they are important.

The United Nations Charter, the Universal Declaration of Human Rights, and UN Human Rights covenants were written and to some degree implemented in the aftermath of the Holocaust. Revelations had come from the Nuremberg war crimes trials, the Bataan Death March, the two atomic bombings at Hiroshima and Nagasaki, and other horrors, smaller in magnitude but not in impact on the individuals they affected. A lot of people in a number of countries had a crisis of conscience, and found they could no longer look the other way while tyrants jailed, tortured, and killed their neighbours.

3.1 Short history of the human rights movement

The concept of human rights has existed under several names in European thought for many centuries, at least since the time of King John of England. After the king had violated a number of ancient laws and customs by which England had been governed, his most powerful subjects forced him to sign the Magna Carta. This Great Charter enumerates a number of what later came to be thought of as human rights. Among them were the rights of the church to be free from governmental interference, the rights of all free citizens to own and inherit property, and to be free from excessive taxes. It established the right of widows who owned property to choose not to remarry, and established principles of due process and equality before the law. It also contained provisions forbidding bribery and official misconduct.

Political and religious traditions in other parts of the world also proclaimed what have come to be called human rights, calling on rulers to rule justly and compassionately, and delineating limits on their power over the lives, property, and activities of their citizens. In 1789 the people of France overthrew their monarchy and established the first French Republic. Out of their revolution came the "Declaration of the Rights of Man." The concept of universal rights took root.

Philosophers such as Thomas Paine, John Stuart Mill, and Henry David Thoreau expanded the concept. Thoreau was one of the first philosophers to use the term, "human rights", in his treatise, "Civil Disobedience." This work has been extremely influential on individuals as different as Leo Tolstoy, Mahatma Gandhi, and Martin Luther King. Gandhi and King, in particular, developed their ideas on non-violent resistance to unethical government actions from this work.

Other early proponents of human rights were English philosopher John Stuart Mill, in his "Essay on Liberty", and the political theorist Tom Paine in his essay, "The Rights of Man." Slavery, child trafficking and child labour, the trafficking of women for sex, police brutality, starvation, the worst features of the class and caste systems, starvation wages and brutal working conditions: from the middle of the 19th century a lot of issues came up, which 20th century activists considered to be human rights issues.

For the last part of the 19th and first half of the 20th century, though, human rights activism remained largely tied to political and religious groups and beliefs. Revolutionaries pointed at the atrocities of governments as proof that their ideology was necessary to bring about change and end the government's abuses. Politically partisan protests often just encouraged more oppression, and uninvolved citizens who got caught in the crossfire usually cursed both sides and made no effort to listen to the reasons given by either.

Nonetheless many civil and human rights movements effected profound social changes during this time. Labour unions brought about the right to strike, establishing minimum work conditions, forbidding or regulating child labour, and establishing a 40 hour work week in the United States and many European countries, etc. The women's rights movement gained the right to vote. National liberation movements in many countries succeeded in driving out colonial powers. One of the most influential was Mahatma Gandhi's campaign to free his native India from British rule. Movements by long-oppressed racial and religious minorities succeeded in many parts of the world, among them the civil rights movement in the United States.

3.2 Modern human rights

The modern human rights movement didn't invent any new principles. It was different from what preceded it primarily in its explicit rejection of political ideology and partisanship, and its demand that governments everywhere, regardless of ideology, adhere to basic principles of human rights in the treatment of citizens.

This approach has appealed to a large group of people, many of whom were politically inactive. They were simply outraged that any government dared abuse, imprison, torture, and often kill human beings whose only crime was in believing differently from their government and saying so in public. They (naively, according to many detractors) took to writing letters to governments and publicizing the plight of these people in hopes of persuading or embarrassing abusive governments into better behaviour. Like the early years of other movements, the early years of the modern human rights movement were rocky.

After this brief history, this paper will look at human rights issues in Northern Ireland and Nigeria in terms of international conventions, and also the actual difficulties encountered by rights activists in their campaigns for a better society. The rights issues in Northern Ireland cut across the board and are similar to those in Nigeria and in other countries that have had to go through conflicts.

4. Economic rights, political rights, social rights and religious rights

4.1 Discrimination and segregation

Segregation in Northern Ireland affects the rights of persons in education, employment and housing. It is the right of every individual in any country to be educated. While the citizens of the two countries under review are not being denied this right, the methods by which education is administered can deprive many of the means of enjoying this right.

In Northern Ireland: (i) Leavers from Protestant schools have better qualifications than leavers from Catholic schools, although this difference was greater in the past. (ii) Catholic schools have a different curricular pattern with less emphasis on science and technology.

In Nigeria the segregation and discrimination is not via religion, but by virtue of the differing schools that exist, the fees that are levied, and the criteria for entering schools. The rich and the middle class have greater numbers of their children in well-organised schools, while there is a 70% chance that lower class or poorer Nigerians have no access to such an education. Poor children, supposed to be in school, can be seen running errands for the rich, because their parents cannot afford to send them to school.

Given that there are schools in Nigeria for people to go to, how does discrimination come into play, amounting to a violation of children's rights? The answer is straightforward -- inequality. If the schools meant for children from low-income families were properly equipped, and the curriculum was taught by properly remunerated and committed teachers, then there would be no discrimination. It would erase a culture of inferiority, which can be seen also in Northern Ireland, where Catholic schools have a different school curriculum with less emphasis on science and technology.

Where students are not taught the same subjects and are deficient in any area, they are at a disadvantage when they apply for jobs. This in turn decreases the economic power of the group at the disadvantaged level, in Northern Ireland the Catholics.

4.2 Employment

While in Northern Ireland people may be discriminated against as a result of religious affiliation or identity, the discrimination in Nigeria is different. People in Nigeria get discriminated against as a result of their age, community, and school qualifications -- especially by a "godfather" syndrome, where the children of the rich or their relatives are given priority regardless of qualification. It matters little what your qualification is, once you are from a rich family or from your employer's community.

The heads of some sensitive parastatals in Nigeria come from a different section of the country from the location of the resources where their parastatals rule. This leaves the people from the communities close to these resources competing for menial jobs. The Ogoni crisis in south-south Nigeria and the Niger Delta crisis take on new dimensions every day as a result of this economic inequality.

In Northern Ireland the law made adequate provisions to stem acts of discrimination in employment, but they were better on paper than in practice. Some of the provisions are:

- 1920 The Government of Ireland Act, Section 5 (i) provided that the Parliament of Northern Ireland could not give a preference, privilege or advantages, or impose any disability or disadvantage, on account of religious belief. In addition, preferences and disabilities were prohibited on account of religious belief, when executive power was exercised.
- 1969 The Report of the Cameron Commission concluded (para. 129) that the civil disturbances in 1968 and 1969 were associated with a sense of injustice related to complaints of discrimination in housing and employment, and to the unwillingness of the government to accept and investigate these complaints.
- 1969 The Downing Street Declaration recognised that "every citizen of Northern Ireland is entitled to the same equality of treatment and freedom from discrimination as obtains in the rest of the United Kingdom". Public employment was included as an area for attention.
- 1969 The Parliamentary Commissioner Act (NI) established the offices of Northern Ireland Commissioner for Administration and Commissioner for Complaints. Both are presently occupied by one person, known as the Ombudsman. The Ombudsman examines complaints of maladministration, including religious or political maladministration by government departments, councils and public authorities.
- 1971 All government contractors were required to adhere to the principles of fair employment. The Commissioner is given a statutory duty to oversee the requirement.
- 1972 The Local Government Staff Commission was established to help with senior appointments in local authorities.

- 1973 The Northern Ireland Constitution Act made void any legislation created by the Northern Ireland Assembly which discriminated against any person or class of person on the grounds of religious belief or political opinion. The Statutory Advisory Commission on Human Rights was created to advise the government on the effectiveness of anti-discriminatory legislation.
- 1976 The Fair Employment (NI) Act resulted from a working party which was set up to examine employment practices in the private sector (the Van Straubenzee Report 1973). The Act makes it unlawful, in relation to employment or occupations, to discriminate on grounds of religion or political belief; to engage in any victimisation of persons, or publish discriminatory advertisements; and to incite anyone to commit an act of unlawful discrimination. It provided for the creation of a Fair Employment Agency (FEA).
- 1989 The Fair Employment (NI) Act provides for the outlawing of indirect discrimination and the compulsory monitoring of the religious composition of workforces. It also abolished the FEA and replaced it with the Fair Employment Commission (FEC), which has wider powers. All firms with 10 or more employees (from 1992) are required to register with the FEC, which has the power to implement monitoring procedures, set goals and timetables, and examine work practices. A Fair Employment Tribunal will adjudicate complaints and enforce the commission's directions. Guidelines, issued in the Act, set out affirmative action policies which employers are permitted to try.

The Standing Advisory Commission on Human Rights has concluded that a person's religion is an important determinant of his or her chance of being unemployed. What then of equal opportunity within the workplace, if a job has been secured? Direct discrimination is difficult to prove although the first annual report of the Fair Employment Commission (1989-90) recorded five findings of unlawful discrimination among the 23 cases cited. Indirect discrimination may operate at different, levels from recruitment to promotion, and is difficult to prove or stop.

4.3 Political rights

The Universal Declaration of Human Rights (UDHR) of 1948 is the first international statement to use the term "human rights". It has been adopted by the human rights movement as its charter, and was followed up in 1966 by the Covenant on Civil and Political Rights. In what follows I shall look at some of these rights in the Nigerian and Northern Ireland situations.

- **The right to self-determination:**

This is the right for which the Ogoni people of south -south Nigeria have taken up arms. It is a right that has caused a lot of bloodshed in parts of the world still being governed against the will of the people. There is hardly any sovereign state that does not have this provision in its constitution, after attaining independence from colonial rule.

In present day Nigeria most of the skirmishes that have claimed so many lives have their root in a demand by some communities for self-rule. They are aggrieved by the way their government is distributing the common wealth of the country.

The Northern Ireland conflict has its root in politics and the method of governance. Much of the problem there stems from the conflict between those agitating to come under the sovereignty of the Irish republic, against those who want to remain under the UK government.

- **The right to legal recourse:**

Among the rights of individuals are:

“The right to legal recourse by an individual who alleges that rights have been violated, even if the violator was acting in an official capacity.”

This right applies now to some extent in Nigeria although, prior to the return of democracy, the military ruled by decrees, which rendered the constitution of Nigeria null and void wherever it was inconsistent with their decrees and edicts.

In Northern Ireland however, it is not the inadequacy of laws that prevents the recourse to court. It is more a lack of trust in the judiciary and the state. Some Protestants are unwilling to appear in a law court where a Catholic is a judge, and vice versa. It has proved difficult to get an equal number of Protestant and Catholic judges in Northern Ireland, and to create cross-community confidence.

This differs from the Nigerian situation. There are high courts and courts of appeal in all the six geopolitical zones of the country. The Nigerian supreme court aims at ethnic and religious balance, with members picked from all the geopolitical zones of the country.

4.4 Civil rights

A large number of significant rights are supposedly assured by Chapter 4 of the Nigerian constitution and in the Northern Ireland Acts of 1920. They include: the right to life; the right to liberty and freedom of movement; the right to equality before the law; the right to a presumption of innocence till proof of guilt; the right to appeal against a conviction; the right to be recognized as a person before the law; the right to privacy and protection of that privacy by law; the right to freedom of thought, conscience, and religion; the right to freedom of opinion and expression; and the right to freedom of assembly and association.

It is however sad that these rights have been abused by governments and their agents both in Nigeria (especially during the military era and partly still in a democracy) and Northern Ireland. In Nigeria you need a police permit when embarking on a peaceful protest which, more often than not, is not given. The same situation has prevailed in Northern Ireland, where preferential treatment used to be given to the Orange marches of the Protestant Unionists.

The Committee on the Administration of Justice had this to say in their campaign to enthrone the rule of law, and to apply it to the contentious marching issue, which the

Orange order regarded as an aspect of freedom of assembly, while Catholics and Republicans saw it as intimidating:

“From our study of international law relevant to the debate about marching, CAJ has concluded that while it offers no easy answers, it offers some useful guidance. Firstly international law clarifies that there is a genuine conflict of rights here and that no party to the dispute has an absolute right which overrides the rights of others. Accordingly, there is a need to find mechanisms and principles which will allow adjudication of the conflicts of rights in a fair and impartial way.” The marching issue has indeed diminished in importance as a result of an arbitration mechanism.

The Covenant on Civil and Political Rights (CCPR) further forbids torture and inhuman or degrading treatment, slavery or involuntary servitude, arbitrary arrest and detention, and prison for debt. However, the use of batons and teargas to control crowds during protests in Nigeria, and the use of plastic bullets in Northern Ireland all towards torture, inhuman and degrading treatment. Plastic bullets are regarded internationally as lethal weapons because some people actually get killed -- though the police think otherwise in Northern Ireland.

The CCPR forbids propaganda advocating either war or hatred based on race, religion, national origin, or language. The civil war in Nigeria, starting in 1966 which lasted 30 months, and the conflict in Northern Ireland which incidentally spans over three decades, resulted from propaganda, hatred, racial discrimination, and conflicts over national identity and religion. Both conflicts ran against all international principles of respect for individual human rights.

The CCPR also provides for the right of people to choose freely with whom they will marry and found a family; it requires that the obligations of marriage and family be shared equally between the partners. It guarantees the rights of children and prohibits discrimination based on race, sex, colour, national origin, or language.

These rights have been violated in both countries, though more so in Northern Ireland than in Nigeria. In Nigeria it is not the case that people do not intermarry based on religion: there are marriages between Muslims and Christians alike, and between northerners, westerners and easterners of different ethnicity. There can sometimes be objections to such marriages, from a family or community. But in Northern Ireland, where they are all Christians of different creeds, such inter-religious marriages are much riskier, and this has widened hostility between the two communities.

The CCPR permits governments to suspend some of its rights temporarily in cases of civil emergency only, and lists those rights which cannot be suspended for any reason. It also established the UN Human Rights Commission. However in Northern Ireland, despite the ceasefire and the Good Friday agreement, emergency laws still apply. There has been an outcry from civil society groups that these emergency laws should be repealed. The CAJ has embarked on a campaign with the slogan “no emergency -- no emergency laws”.

The new Nigerian constitution, in effect after the return to democracy, has repealed all military decrees. But the constitution still permits the declaration of a state of emergency in states where there is a serious breakdown of law and order, which threatens the peace of the nation as a whole. This exception became a subject of controversy recently when the government of Chief Olusegun Obasanjo declared a state of emergency in Plateau state, and shut down all democratic structures for six months. The state governor has since been restored after a public outcry from civil society organisations, and indeed all progressive people in Nigeria.

5. Some international conventions on human rights

- **The Geneva Convention:**

The first Geneva Convention focuses on the rights of individuals, combatants and non-combatants, during war. It is lengthy and detailed, perhaps because human rights are rarely at such risk as during war and, in particular, it covers the status and rights of prisoners of war and enemy captives.

The Geneva laws also ban any acts of genocide committed within countries accepting their jurisdiction, and the killing of members of any racial, ethnic, national or religious group because of membership of that group. They aim to prevent serious bodily or mental harm to members of such groups, acts of oppression that would destroy them, and the taking away of their children, and giving them to members of another group.

The 1999 Nigerian constitution has similar provisions. But some people in the northern part of the country still get discriminated against because of their religion. This has caused untold hardship to people who are displaced when trouble starts between two communities or religions. Abuse is rampant in the northern part of Nigeria.

The convention declares genocide itself, conspiracy or incitement to commit genocide, attempts to commit or complicity in the commission of genocide, all to be illegal. Individuals are to be held responsible for these acts, whether acting in their official capacities or as private individuals.

This is not the case in Northern Ireland or Nigeria. In Nigeria, some individuals and groups have been held accountable for some crimes, but few have been convicted, and they are mostly the small fry. The Oputa panel report, which examined human rights abuses under the dictatorship and made recommendations, yet to be implemented. Those who were to be investigated, after that report, have not been.

It is similar in Northern Ireland. The IRA has been linked to several killings which remain unsolved. The recent murder of Robert Macartney, whose sisters have led a campaign for justice, is a good example of alleged IRA collusion in a murder cover-up. The state too has been accused of involvement in killings.

- **The convention against torture:**

This convention bans torture under all circumstances, and requires states to cooperate with any civil proceedings against those accused of torture. Each state is obliged to provide training to law enforcement and military on torture prevention, to keep its interrogation methods under review, and to investigate promptly any allegations that its officials have committed torture in the course of their official duties. Questions have been raised about some practices in Northern Ireland during the Troubles, and in Nigeria under the military dictatorship, which lawyers and human rights advocates have argued were outlawed by the convention.

- **Charter of the United Nations:**

Paragraph 4 states: All members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the purposes of the United Nations.

This is not the case in either Nigeria or Northern Ireland. The Nigerian nation suffered the worst of human degradation during a civil war that lasted 30 months, claiming thousands of lives. The Federal government at that period took up arms against the struggle by easterners in Nigeria who wanted to break away and create their own state of Biafra. Government intervention had worsened the situation, and created more anger and animosity between different groups of Nigerians.

In Northern Ireland, despite the peace agreement, feelings of hatred have not diminished. These are strongly felt by the families of those killed by the other group or their paramilitaries. There was a great level of historic suspicion because, until recently, the police force had an overwhelming majority of officers from the Protestant community. Catholics still fear that, if trouble breaks out, they will be targeted by the police.

This is the same in Nigeria where you have majority of the high ranking police or military officers coming from one section of the country. This is viewed in various quarters as discrimination which has helped in fuelling coup de tats in Nigeria before democratic rule in 1999. In Northern Ireland though the police force and the military has been re-organised but the human rights community still believe that there should be proper re-orientation given to the people.

One of the earliest responses to the paramilitary violence in Northern Ireland was internment without trial. Between 1971 and 1975, when the policy was reversed, no fewer than 2,158 internment orders were issued.

Another strategic response to the violence was the use of "supergrasses", the phenomenon whereby paramilitary informers were granted immunity, or at least special treatment, if they testified against former colleagues. Something similar was true of Nigeria during the military era. Military personnel were brought before tribunals, with privileges, to testify against their colleagues. This was evident during the dictatorship of General Abacha, when General Diya and high-ranking officials were being framed for coup plotting.

Bryce Dickson had argued that what made this tactic so unacceptable was not the use of informer evidence per se --without it criminal courts could not function -- but the use of it on such a grand scale. Many defendants were being charged on the word of one informer, in the absence of other strong evidence. In Nigeria the law of evidence encourages corroboration. To their credit the judges in the Northern Ireland Court of Appeal eventually brought the supergrass system to an end. They held that nearly all of the initial convictions, based on supergrass evidence, were unsafe and unsatisfactory.

- **Emergency laws:**

What happened in Northern Ireland in the 1970s and 1980s was that the police began to resort to emergency powers, in situations where the criminal law's ordinary powers would have sufficed. Suspects arrested under the PTA were not taken to ordinary police stations -- even after the fundamental reform of police custody arrangements brought about by the PACE legislation (introduced in 1986 in England and Wales and in 1990 in Northern Ireland) -- but to holding centres or police offices. There was never any, and there is still no statutory basis for these special holding centres. The RUC Chief Constable announced the closure of the Castlereagh Centre in December 1999.

There is also, substantial evidence of police brutality in the holding centres. Only gradually, and grudgingly, did the government allow detainees the right to have someone informed of their detention, or the right of access to a solicitor prior to or after an interview with the police, or audio-recording of interviews, or the assistance of an Independent Commissioner to deal with complaints (Sir Louis Blom-Cooper). Only in the last few months has video-recording been permitted of such interviews.

Bryce Dickson argued further that it has to be admitted that the system for dealing with complaints against the police was not efficient. The police investigated themselves and the standard of proof required for all disciplinary offences was that of beyond reasonable doubt. The experience of two respected Catholic priests in this regard (Fathers Denis Faul and Raymond Murray) [14 is worth remembering; each lodged hundreds of complaints and had none of them substantiated.

There were 929 complaints made by people arrested under the emergency laws, including 384 allegations of assault during interview and 65 of assault prior to arrival at the holding center in the year 1993 to 1996. The ICPC was not able to substantiate even one of these complaints: in 1995 a detective sergeant was "admonished" for his interviewing technique and in two other cases "constructive discussions" took place with four officers. That is not the kind of accountability system which we are entitled to expect in a modern democracy committed to the rule of law.

Another controversial matter was - and remains - the juryless Diplock Courts. These courts mean that the common law right in all detainees, to have a lawyer present during interviews with the police, may be overlooked. In their use of the European Convention of Human Rights as an aid to development of the common law I think that Northern Ireland judges did not match the (albeit occasional) ingenuity of their English brethren. But again, the context in which Northern Irish judges had to work should not be

forgotten: the constant threat to their lives and to those of their family, the seclusion in which they had to live because of the security threat, must be difficult for anyone to comprehend who has not lived in Northern Ireland. I have confidence that the judges in Northern Ireland will embrace the new Human Rights Act every bit as enthusiastically as judges in England. Already one High Court judge has quashed a vesting order, largely because the relevant government department had not consulted properly with the persons affected by the order, as required by Article 6 of the European Convention.

In the face of all these criticisms of the legal system in Northern Ireland during the Troubles, was there any attempt to introduce reforms? Yes there was, but in a rather half-hearted way. The changes that were made were often too little and too late. In this respect the Stormont government of the late 1960s and early 1970s, the Labour government of the mid-1970s and the Conservative government throughout the 1980s were all just as bad.

The Stormont government created the posts of Parliamentary Commissioner for Administration and Commissioner for Complaints; they also set up a Police Authority for Northern Ireland. 1973 saw the formation of the Standing Advisory Commission on Human Rights, one of the first such bodies of its kind in the world, a body that was able to do much valuable work in the following 25 years only to find itself largely ignored by the governments of the day. In 1976 the Fair Employment Agency was formed, to help deal with religious and political discrimination in the workplace, and in 1989 this body was transformed into a more powerful Fair Employment Commission. NGOs began to take more of an interest in Northern Ireland, especially Amnesty International, Liberty (the National Council of Civil Liberties) and Human Rights Watch.[21] Legal academics began to take more of an interest too, [22] and a few campaigning practitioners emerged.

6. Recent human rights developments in Northern Ireland

Bryce Dickson in his assessment of the situation after the peace agreement said there has been a sea-change in the legal system of Northern Ireland in the last few years, largely driven by the Good Friday Agreement (GFA) of 1998. It has been driven as well by the paramilitary ceasefires -- the Loyalist one in place since the autumn of 1994, the IRA one in place from July 1997 (following the end of the first 1994 ceasefire with the bomb at Canary Wharf in February 1996). I quite agree with this assertion as other human rights workers I met agreed to the fact that there has been a considerable change since the Good Friday Agreement. The same change occurred in Nigeria after military rule ceased.

The context has therefore changed in Northern Ireland and this has given room to the authorities to make changes to the legal system. It is implicit in what was said earlier that the authorities did not have to wait for the ceasefires to do many of the things they are now doing. They are things worth doing in their own right, not because they are being traded for ceasefires. Indeed one of the most disappointing features of the years of the Troubles has been the tying of legal reform to the political agenda of the day. When the NIHRC is told that it would not be appropriate for the emergency laws to be relaxed, not because of security risks but because of political fall-out, then the rule of law clearly is in jeopardy.

The fact that the reforms could have been forthcoming anyway is borne out by the fact that violence has not ceased in Northern Ireland. Between the GFA and today over 50 people have been killed as a result of paramilitary activity, including 29 at Omagh in August 1998. So-called paramilitary punishment attacks also continue .

6.1 Reviews in the legal system

Two major reviews were in the area of policing and the criminal justice system. Two other initiatives worthy of note are the Location of Victims' Remains Commission, which is searching for the bodies of the dozen or so individuals who were kidnapped and murdered by the IRA, and the second Bloody Sunday inquiry. Both are positive developments. However, from a purist human rights point of view (according to Bryce Dickson) there may be dubious aspects; for instance, information supplied during the search for victims' remains cannot be used against the supplier in subsequent criminal proceedings, and certain soldiers at the second Bloody Sunday inquiry are able to testify anonymously.

The second Bloody Sunday inquiry, on-going at present, perhaps epitomises what was wrong with the approach of the legal system -- the British as well as the Northern Irish -- in the 1970s and 1980s. There was reluctance even to countenance wrongdoing by the state, and an unwillingness to put in place effective mechanisms to get at the truth. A recent book by Professor Dermot Walsh, "Bloody Sunday and the Rule of Law in Northern Ireland," argues strongly that the rule of law was sacrificed in Northern Ireland in order to achieve results desired by the political and security establishments.

There are other new bodies in Northern Ireland, like the Parades Commission, the International Commission on Decommissioning and the Sentence Review Commission. There are proposals in the latest Criminal Justice Review Group Report for the creation of a Law Commission and a Judicial Appointments Commission. Some too believe that there is room for a Truth and Reconciliation Commission. In my view this is essential if politicians want to purge the hatred already embedded in the people and restore confidence, as was done in Nigeria in 1999.

6.2 After conflict

After the conflicts in Northern Ireland the human rights situation took on a new dimension, as it did in Nigeria after the military were chased out of office. While in Nigeria democracy was embraced through general elections -- whether free and fair is a matter for argument -- this was not the case in Northern Ireland. In Northern Ireland there was a ceasefire, but no immediate election.

In Nigeria, after military rule ceased and the elections were over, there was an outcry for justice. Families and individuals had suffered various degrees of human degradation, or had actually lost their loved ones. As a result of the outcry, from various quarters and especially the human rights community, the President of Nigeria, Chief Olusegun Obasanjo, set up the Human Rights Violation Investigation Commission in 1999. It was

popularly called the Oputa panel, from the name of its chairman, a retired Supreme Court judge.

The setting up of the panel was well described in the book published by Journalists for Democratic Rights, (JODER) 16 thus:

"For a country which was just emerging from a 16 year rule by the gun which had left in its trail a divided nation, a looted treasury and gross violation of human rights an unprecedented in its history, it was inevitable, therefore, that the succeeding administration would strive to heal the wounds of the past and restore hope and confidence"

Recommendations and Conclusion

7. Recommendations from this study visit

1. The Committee against Justice (CAJ) has argued that there should be no emergency laws now, since there is no longer an emergency in Northern Ireland. A situation where an individual can be stopped up to ten times on the road and asked the same questions, and searched under section 19 of the Emergency Provisions Act 1991(EPA), violates the human right to freedom and free movement. This situation needs changing.

A similar situation was prevalent during the military era in Nigeria. Some individuals, who were opposed to the military, were barred from leaving the country and were harassed by the State Security Service. Some even had their passports seized and got arrested at the airport. Human rights advocates were among the worst hit at that time.

2. A truth and reconciliation commission, modelled on the South African commission, should be set up in Northern Ireland too. This was done in Nigeria in 1999, after the general elections.
3. The police need more orientation or reorientation, both in Northern Ireland and in Nigeria. This is especially needed in the area of crowd control. It is not enough that the policing structures are changed. The police need to be properly trained to be impartial protectors of life in both countries.
4. Governments in both Northern Ireland and Nigeria should recognise that people will always want to demonstrate their fundamental human rights of expression. One method of exercising this right, in Nigeria and all over the world, has been through marches and parades. The use of plastic bullets for crowd control at parades should be done away with in Northern Ireland. The use of teargas in Nigeria, for the control of parades, should stop.
5. The British government should devise new means of putting an end to the divisions between the Unionist and Nationalist communities; they are still tending to widen.
6. The government must work harder to build up the confidence of the people in the judiciary. The judiciary, in turn, should build more popular trust in its impartiality.
7. The police, both in Nigeria and Northern Ireland, should do more in all communities to be seen as protectors of the people.
8. The government of Ireland as well as the United Kingdom must work with sincerity of purpose to ensure that the Good Friday Agreement brings long-lasting peace to all people on the island of Ireland.

9. Civil society, in both Nigeria and Northern Ireland, must continue to engage the governments in improving public confidence in human rights, policing and the judiciary.

8. Conclusion

I would conclude this paper with a quotation from Chief Oren Lyons of the Onandaga nations in the United States who said that “Although we are in different boats, you in your boat and we in our canoe, we share the same river of life” and one from Rigoberta Menchu, the Guatemala Nobel Peace Prizewinner in 1992, who said, “We are not myths of the past, ruins in the jungle, or zoos. We are people and we want to be respected, not to be victims of intolerance and racism.”

Respect for human rights is based on adherence to the rule of law. Any government that embraces the rule of law with a holistic approach is bound to bring peace. Government in Northern Ireland must be committed to the peace agreement and to a policy that embraces the rights of the people regardless of their political or religious inclinations. It must maintain balance and fairness between the two communities in Northern Ireland, and create confidence among the people.

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