



NORTHERN  
IRELAND  
HUMAN  
RIGHTS  
COMMISSION

International Round Table on the Role of  
National Institutions in conflict and post conflict  
situations

**Belfast, Northern Ireland**

20 – 22 June 2006

**Round Table Proceedings Report**

Organised by

Northern Ireland Human Rights Commission

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The Office of the United Nations High Commissioner for Human Rights

## 1. Introduction

A three-day International Round Table on the role of National Institutions in conflict and post conflict situations was held in Belfast, Northern Ireland from 20 to 22 June 2006. The Round Table was a collaborative venture of the Northern Ireland Human Rights Commission (NIHRC) and the Office of the United Nations High Commissioner for Human Rights (OHCHR) through the support offered by the European Commission. The principal objectives of the Round Table were:

- To strengthen the capacity of National Human Rights Institutions (NHRIs) to play their vital role in situations of conflict and assess what is required to do so;
- To equip NHRIs with the skills and expertise to ensure respect for individual and collective rights and in particular in relation to the most vulnerable and civil society;
- To review mechanisms available to NHRIs to provide affordable, accessible remedies in relation to mediation and reconciliation in situations of conflict;
- To explore state obligations to respect, protect, promote and fulfil human rights in conflict and post conflict situations and the concrete roles for NHRIs in this regard;
- To examine what avenues NHRIs may turn to when faced with situations of severe conflict;
- To develop practical strategies for NHRIs to employ in the protection and promotion of human rights in conflict situations; and
- To strengthen co-operation and mutually reinforcing relationships on the promotion and protection of human rights among NHRIs at the international and regional levels.

The Round Table deliberated on the following sub-themes in nine substantive sessions:

- Specificities of NHRIs in situations of conflict;
- The protection responsibility of NHRIs in situations of conflict;
- The protection challenges of NHRIs in situations of conflict;
- Maintaining the independence and integrity of NHRIs in situations of conflict;
- The role of NHRIs in combating impunity;

- Building a lasting peace – NHRIs in creating a human rights culture;
- Transitional justice – NHRI role;
- Working with others – NHRIs and Parliaments and Civil Society;
- The role of non-state actors.

Each of the above sessions was moderated by either a member of a National Institution or by a representative of OHCHR, who first and foremost introduced the topic and then invited individual speakers from other National Institutions to make their presentations. Each of these presentations was later followed by open discussions of a critical and participative nature among the participants.

The programme schedule is detailed at Annexure I.

The Round Table was attended by 30 representatives of 19 national human rights institutions (NHRIs) from Afghanistan, Bolivia, Colombia, Georgia, Guatemala, India, Ireland, Kenya, Republic of Korea, Macedonia, Morocco, Namibia, Nigeria, Northern Ireland, Palestine, Philippines, South Africa, Timor Leste, and Uganda.

The list of delegates is at Annexure II.

## **2. Official Opening**

The Round Table was inaugurated with the Opening Remarks of Prof. Monica McWilliams, Chief Commissioner, Northern Ireland Human Rights Commission and Mr. Santiago Martinez de Orense, Human Rights Officer, National Institutions Unit, OHCHR.

2.1 Prof. McWilliams welcomed delegates to Northern Ireland and emphasised particularly the wealth of experience and knowledge brought to the table. She introduced the topic of the conference as having resonance at this time for all the institutions represented. Human rights are most threatened during times of conflict and are at the core of transition to a peaceful society, yet this is also the time when the interventions of NHRIs can be least welcome. The workshop would address how institutions can be effective in such an environment. Prof McWilliams illustrated the problems at issue through her own experience as a negotiator in the Belfast (Good Friday) Agreement 1998, highlighting in particular, terror and terrorism, prisoners and re-integration, disarmament and decommissioning of weapons, reform of the police, good governance, reconciliation and the role of victims. Prof. Mc Williams also highlighted the fact that the NIHRC was established by legislation resulting from the Agreement, which includes a mandate to advise the British government on a Bill of Rights for Northern Ireland.

2.2 Mr. Santiago Martinez de Orense, Human Rights Officer, National Institutions Unit, OHCHR, in his opening remarks highlighted the fundamental role NHRIs can play in all phases of conflict, from its prevention and development to the post conflict situation. In the prevention phase, Mr. Martinez de Orense underlined the need for NHRIs to have their fingers on the pulse of the country to assess the situation and curtail any possible outbreak of violence. Through the activities of an NHRI, as described in its mandate, there is a need to keep in close contact with civil, political and military powers in the country therefore having close contact with all elements of societies. He also pointed to the early warning mechanisms that some NHRIs have developed. In the case where a conflict erupts, NHRIs need to continue to perform their activities while reaffirming their independence, neutrality and integrity and not take a stance in the conflict. During conflict additional challenges arise for NHRIs as human rights violations occur. Activities such as monitoring the exceptional measures state authorities may impose and monitoring and documenting in detail all human rights violations, will be of utmost importance when combating impunity. During conflict, NHRIs can also be the subject of intimidation by belligerent parties. This intimidation should not deter NHRIs from continuing to fulfil their mandate and to ensure a visible presence. In a post conflict situation, NHRIs may assist truth commissions and should participate in the peace agreements. Santiago Martinez de Orense indicated that reporting and documenting human rights violations during the conflict will be key elements to combat impunity and restore a human rights culture, restore justice and re-establish the rule of law. All these are fundamental elements to secure a just and stable society.

The text of his speech is enclosed at Annexure III

### **3. Proceedings**

Throughout the various sessions, the discussions focussed on a few important cross-cutting themes. These reflected the various ways of working in the different and often difficult local contexts of the participants. The twin imperatives of integrity and independence underpinned the recommendations made relating to effective strategies for national institutions during conflict and in a post-conflict situation.

Participants agreed on the importance of maintaining the mandate of NHRIs in monitoring human rights situations and reporting human rights violations that will be crucial to the restoration of peace and combating impunity post conflict. Additional issues were raised and discussed by participants. These included:

### **3.1 *Political will: essential, NHRIs have a responsibility to engage effectively with political representatives***

All participants agreed that political will is a pre-requisite to serious engagement in a peace process. Participants considered the role of NHRIs in engaging with all parties to set the framework that might encourage political participation in seeking a solution to the conflict and restoring the rule of law. It is the responsibility of the NHRI itself to foster that political will, without which progress is not possible. It was acknowledged that this is not usually an easy task but is essential to any sustainable resolution.

Examples were considered of how institutions have managed to develop relationships with political parties. Sometimes it may be necessary to start such connections through relationships at a personal rather than institutional level. While clearly a short-term approach and not sustainable in the longer term, this can often be the only route to initiating contact so that more formal connections can develop at a later stage. The engagement of politicians in the field, meeting with local communities and providing a forum for direct communication between politicians and affected communities on human rights issues were also agreed as valuable and empowering measures.

State institutions, including the judiciary, are important partners of institutions and effective relationships need to be established in order to ensure good governance and credibility. Particular difficulties were discussed where former combatants have made the transition to positions of power in the new Executive but have retained a previous approach, transferring corruption to their new powers of government. In some instances this has resulted in an increase in post conflict violence and problems of pervasive criminality. The NHRI has a vital role in challenging such situations, and credibility and partnerships with local communities will be of particular importance in doing so. Having consulted widely, the Afghanistan IHRC discovered that what people wanted in a transitional process was clear: an apology; admission of guilt; the removal of perpetrators from official positions; improvement of legislation; judicial proceedings' recognition of suffering; and for the government to establish an action plan for truth and justice.

Similarly, cooperation with international agencies and NGOs will help to reinforce the credibility of the NHRI and establish an infrastructure of support for those who are active in building peace within and between communities. Many of these networks were in place long before NHRIs were established and strategic partnerships with these groups and agencies can greatly enhance the impact of our work. Delegates noted the importance of international NGOs leaving space for local NGOs to participate in negotiations and to play an active role. This is vital if stability achieved is to be sustainable.

### **3.2 *Mandate: a broad interpretation is important***

It is incumbent on NHRIs to interpret their statutory remit broadly and progressively and even creatively. A broad mandate as set out in the Paris

Principles is a key tool in conflict and post-conflict situations. In addition to a broad mandate, participants highlighted the need for NHRIs to create a space to develop tools to limit human rights violations during such times. The role of institutions in securing a just and sustainable peace was discussed at length. The dilemma of temporary compromises on human rights as a means of securing an initial peace, or more accurately, a cessation of violence, and as a prelude to creating democratic structures to protect human rights, is a challenge. It was agreed however, that each individual conflict demands a response designed to meet the particular context. NHRIs need to secure the confidence of all parties and will work differently with different groups. They may be viewed as part of the state apparatus by armed groups or local activists, and may equally have to challenge the state and lobby to ensure that courts' decisions are implemented.

As in all our work, the benefit of internationally agreed common standards can provide critical guidance on how to proceed. While securing peace is a necessary prelude to establishing justice, similarly it was agreed that such peace will not be sustainable without priority being given to establishing a system of administration of justice which is compliant with international human rights standards, including work on economic, social and cultural rights; not only focusing on civil and political.

NHRIs are often created as part of a peace process or as a measure to instigate such a process, and should interpret their mandate to provide guidance on the centrality of human rights to the process. If necessary, institutions should widen the interpretation of their mandate to give a fair hearing, to incorporate cooperative centres or public hearings and to recommend remedies. This approach has been successfully adopted by the Ugandan Commission (see below).

### ***3.3 Judiciary: NHRIs must cooperate and monitor decisions but cannot become a substitute for the courts***

NHRIs stressed the importance of monitoring the judiciary and when necessary, identifying weaknesses and recommendations for change. Such recommendations need to be processed through the appropriate channels in order to be implemented. Participants underlined the important role of NHRIs in complementing the work of the judiciary who can be under exceptional pressure in situations of conflict and post conflict. An example presented by the representative of the NHRI of Macedonia was considered, where a judge who had a significant backlog of cases, was under scrutiny by the NHRI. The NHRI of Macedonia worked with the Judicial Council of the Republic to alert it to the situation, which led eventually to the dismissal of the judge. This engagement by the NHRI was described in the press as one of the most effective measures taken against corruption. Participants debated their role when the judicial system is deficient or has collapsed and agreed that NHRIs should not substitute the courts but rather complement them while continuing to monitor their operation.

In addition, participants took note of an example presented by the participant from Uganda who described the creation of civil-military cooperation centres in Uganda. These centres are managed by the Ugandan Human Rights Commission to bring to the discussion table both parties (civil and military) to try to resolve human rights issues quickly and discuss the main problems in a cooperative way. The centres reflect a deliberately broad interpretation of the mandate of the NHRI of Uganda to provide a remedy, seen as equivalent to giving a fair hearing and extrapolated to establishing independent tribunals. If the centres can not find a solution, the case is referred to the Ugandan Human Rights Commission itself to proceed through its formal channels. These cooperation centres had a difficult start but were soon acknowledged as a valuable tool that significantly reduced the human rights violations in Uganda.

There was a general consensus among delegates that the statutory mandate of institutions should be interpreted generously and progressively to ensure best effect in conflict situations.

### ***3.4 Impunity - if not addressed now, it will surface later***

Major themes of discussion by participants were impunity and accountability. Many described the situations in their countries which led in some cases to peace agreements and reconciliation laws. There was a general consensus that not addressing human rights violations from the past gave the impression of impunity and lack of accountability. There is pressure on NHRIs to address the issue. It is clear from the experience of several countries that if human rights issues are not identified and dealt with at an early stage, concerns relating to accountability and impunity will surface later in the peace process and can result in a return to conflict. Offering amnesty for example, can allow instant relief and the reduction in tension necessary to facilitate dialogue but it will not solve human rights issues in the long term. NHRIs have got to consider their role in respect of both individual and community accountability, and be aware of the informal justice systems which exist. For example, restorative justice programmes can be very positive in helping communities to come to terms with minor offences that have been disproportionately disruptive.

Some NHRIs have asked for a legal opinion on reconciliation laws from regional human rights mechanisms such as the Inter-American Court of Justice. This possibility could be explored by other NHRIs. It is essential to explore the 'truth' of the conflict which NHRIs can help do through careful research and impartial investigations. Through this method of addressing accountability, NHRIs can make an important and necessary contribution to the pursuit of peace. Critical to doing so is the local credibility of the institution.

In order to undertake such work effectively, NHRIs must have an honest relationship with all parties to the conflict, in particular with local communities, who need to trust the institution and its representatives if an agreed truth is to

emerge. Justice and accountability are the key demands in a society in transition, without which peace is not sustainable.

### **3.5 *Training: a vital tool - NHRIs need to be very active***

Participants discussed the importance of providing, or continuing to provide, human rights training to all parties involved in a conflict and in particular to the security forces and police, and to the public sector. Such training should be sensitive to the target group and relevant to their professional contribution. For example, it is not always politic to describe work with the judiciary as 'training', but hosting a 'colloquium' can more easily elicit their interest. It has proven in some situations, to be an effective measure to lower the number of human rights violations while also maintaining a visible presence for the NHRI.

Often it is necessary to overcome the common perception that such training is disruptive to the 'normal' functioning of society (in particular with respect to women and children), is overly westernised or is simply too 'criminal friendly'. It has been a positive strategy to incorporate human rights training into general awareness programmes in schools and through the media, as a means of challenging such misconceptions.

NHRIs should engage at a level which does not compromise their independence or integrity, that is it should not be used to provide cover to legitimise human rights violations. They should promote ambitious programmes of human rights awareness raising among all parties to the conflict and to the wider public sector. Monitoring and reporting the nature and quality of human rights training provided can be an equally effective strategy. It is for example, necessary to monitor the human rights training and performance of the police and military both during and after conflict, and make recommendations for reform where appropriate. There is also merit in developing a system of monitoring the role of the NHRI in these situations, both as a means of developing new learning and of adapting practice to be more effective. Techniques for securing accurate and useful feedback would merit further examination.

Training should also be directed at representatives of the media in order to make them better informed about human rights issues and the work of NHRIs. Working with limited resources to manage a very broad remit, NHRIs should target the training to working strategically with existing trainers rather than seeking to deliver courses to random groups from each target category.

### **3.6 *ESCR: central, indivisible and essential - often the spark for conflict***

Participants agreed on the general importance of ESCR to the cause of conflict and their essential centrality to any peace process. ESCR are often contributory to the start of a conflict. The indivisibility and interdependence of human rights were reinforced by the experiences around the table. NHRIs have an important role to play in empowering local communities, especially



those most affected by the conflict, to challenge their situation and the outworking of government legislation and policy as experienced by them in their everyday lives. The need to clarify the role of NHRIs was discussed, not as donors but as defenders of social and economic rights. There may be instances where the provision of temporary relief, such as in refugee camps, is also appropriate but the institution needs to be clear of its particular role as distinct from the aid agencies.

Delivering ESCR is not easy. It requires political will and a sympathetic legal framework. International support combined with strategic alliances with civil society is necessary if the NHRI is to make progress. Engaging with local communities effectively may provide an opportunity for NHRIs to challenge poverty by supporting the voice of those most affected. Developing a programme of social justice and encouraging democratic participation through training and capacity building are essential in a post conflict situation. In this way NHRIs can help to rebuild the social fabric and facilitate social re-integration.

### ***3.7 Media: potentially a useful ally, needs to be managed***

Participants acknowledged the important influence of media and underlined the need to provide human rights training and to work with the media to challenge misrepresentation of human rights issues. Examples were given of the effectiveness of a positive and cooperative relationship with the media as a means of promoting human rights and building the credibility of institutions. Where local capacity building and community development approaches are required, the impact of a proactive media campaign can be very positive. Equally, the relationship needs careful management as the potential for negative presentation of human rights issues also exists.

Examples were given of positive experiences with the media, in particular using television, radio and newspapers to monitor electoral campaigns for hate speech or incitement to violence. This 'name and shame' technique is valuable in monitoring pronouncements by all public representatives and has been effective in reducing the incidence of hate speech and in promoting an equality message.

### ***3.8 Funding: assistance but not compensation***

The provision of financial relief was explored across the spectrum from a method of acknowledgment of violations to potential compensation, and as a means of restoring dignity to victims. The Commission of Human Rights of the Philippines is legally mandated to extend a small amount of financial assistance to victims of human rights violations, as determined by the commission under specific guidelines. With a maximum disbursement of less than \$200 US, the amount is not intended as restitution/reparation, nor as a substitute for the state obligation, nor as compensation. The fund is a discrete item on the Commission of Human Rights of Philippines budget, approved by

Congress annually and serves only to acknowledge and assist victims. Providing such relief can dissipate tension and contribute to establishing the goodwill necessary to move forward.

Uganda is exploring the possibility of establishing a fund for victims of human rights violations through the Uganda Human Rights Commission, though participants noted that it would be preferable if the fund will be located in the Ministry of Justice. The importance of having such relief funds located at a governmental level was stressed, not only for the material value of the awards but also as a means of acknowledging what happened, and to place the responsibility for compensation clearly with government and not with the NHRI. For example, in Northern Ireland there is a Victims Commissioner and a government sponsored Victims Fund.

### **3.9 *Non-state actors: increasingly recognised in conflict and post conflict situations, and important contacts for NHRIs***

Participants in the round table identified NGOs (discussed above), armed groups, corporations, and religious groups as the main non-state actors for NHRIs during conflict and in post conflict situations. It was highlighted that NHRIs should seek accountability on human rights violations from non-state actors in the same way they do with state actors.

Although recognizing the difficulties associated with doing so, NHRIs acknowledge the need to establish the confidence of armed groups to maintain a line of dialogue and open avenues to restore peace. Creating synergies with other agencies (UN system, ICRC, NGOs) and community based organizations working on the same issue was considered by participants as a positive approach. NHRIs also have to ensure that both state and non state actors are aware of and respect international humanitarian law during conflict and in post conflict situations. NHRIs agreed that they should not engage in the same way with the State as with armed groups, and discussed the problems associated with holding paramilitary groups to account.

Participants also considered the role of NHRIs with regard to other non state actors such as corporations (in particular security contractors) and religious groups and concluded that NHRIs should engage with these actors as mediators to find a solution to restore peace and reconstruction. The importance of NHRIs engaging with religious groups was considered as fundamental to attain peace. Some NHRIs, such as the Office of the Public Defender of Georgia, have established a working group with religious groups. Awareness programmes undertaken by NHRIs have proven to be an effective tool.

During the discussions on peace, the role of NHRIs is crucial. Many participants regretted the low-key role played by the NHRI in their countries while negotiating peace resulting in the re-surfacing of human rights violations that had happened during conflict. The involvement of NHRIs during peace

agreements was emphasized at the round table, otherwise it is difficult to become influential. Delegates acknowledged also the substantive difference between managing internal conflict and dealing with the impact of conflict from an external source.

#### **4.0 Conclusion**

Promoting and protecting human rights during a period of conflict or in its immediate aftermath, is very challenging. It is particularly difficult if the NHRI has been created as a result of the conflict or associated peace agreement, and has, from a standing start, to establish working and cooperative relationships with all parties to the conflict, without having been party to the negotiations. Usually this entails a challenging role to the state Executive and the judiciary, as well as monitoring and providing critical advice to the military and police. Relationships need to be built with long-standing NGOs and with influential international partners.

Open conflict may have been replaced by pervasive criminality and corruption transferred from the periphery to the centre of government. People are disempowered, often displaced, impoverished and very vulnerable. Human rights standards may have been compromised or ignored during the conflict and legislation and policies established that are difficult to bring back or to introduce, to the required standards. It may be the case that good laws exist, but poor practice prevails. Constitutions or Bills of Rights can often describe rights that simply don't exist.

Human rights institutions must have credible and knowledgeable leadership; they must embody good governance and a culture of justice, and be strongly connected to local networks. They must have the independence, information and strength to challenge the state and its institutions as well as non-state actors, and the credibility to engage international support. Truth must come out of conflict, and the NHRI can investigate, document, file and share information from a critical perspective, based on a human rights framework. Their crucial role is to promote and protect the rights of the vulnerable, and to give them a voice.

The shared experience of the participating institutions in this workshop identified various methods and principles for this area of work. It is also recognised that whatever can be achieved by others – either other Commissions, NGOs or organs of the state, should be encouraged. The agenda for NHRIs is so broad that if we take on unnecessary work, we may lose sight of the core responsibilities. As dealing with conflict at its various stages is such an important focus for many NHRIs, it is proposed by the workshop that this be included as an item on the agenda of the UN Human Rights Council, for wider consideration.