

Human Rights Must be Brought Back Home

There is a sense of crisis in the air. Two recent conferences, one in Cambridge, England, and the other one in Toronto, Canada, brought together specialists from within and without the system to discuss the performance of UN treaty bodies in the face of a general feeling that they were in trouble. The conferences only confirmed that general feeling: the UN treaty bodies are in trouble, and one conspicuous example of this trouble is the considerable backlog of cases and of States reports awaiting to be examined by the supervisory organs. The situation is perhaps better at the inter-American system, but it is certainly far from ideal. Apart from the usual lack of human resources to deal with the workload the Commission and the Court have, the system is under attack and efforts are being made by several States to diminish the powers of the Inter American Commission on Human Rights with the aim of limiting the Commission's powers to address the human rights problems of apparently democratic States.

It is not strange that the situation is one of crisis. The international human rights supervisory system – when operating as a quasi-judicial instance – was never meant to replace the task of States of respecting and guaranteeing human rights. As any other system of international supervision, this system was supposed to operate when the national mechanisms had eventually failed, but not when they fail as a matter of course, or when there is an absolute vacuum at the national level. And yet this is the situation in many countries in the world: national mechanisms are inexistent or highly inefficient. International supervisory bodies are facing an impossible task: people are resorting to them hoping that they will be what they can simply not be, a replacement for domestic courts or even for national legislators. No international supervisory system will ever be able to redress a human rights problem swiftly and fully, as States are able to.

Furthermore, even when international supervision operates – that is to say, when States reports are examined and concluding observations containing recommendations are made, or when an individual case has been concluded with the views of the respective organ – nothing much happens unless there is a community within the State itself with a high degree of 'civic-ness', a word I have borrowed from Michael Putnam's book *Making Democracy Work*. By this I mean a community which has knowledge of the existence of human rights to a degree that allows it to exercise direct pressure on the authorities with respect to the case itself or with respect to specific concluding observations, or is able to exercise constant pressure by its sheer presence, in such a way that the authorities of the State do not dare not to comply with their international human rights obligations.

The time has certainly come to take stock and tackle a basic task: we have to bring human rights back home. It is there, at the national level, where human rights can be and should be best ensured. We need to educate people about human rights; we need to organize civil society to keep constant watch over the conduct of rulers; we need to develop national mechanisms. The more we progress in this task, the easier it will be to lessen the number of human rights violations. The more this number decreases, the better

* Views expressed in this editorial column are of a strictly personal nature and are not necessarily shared by the other editors.

quasi-judicial international supervision will achieve its real aims: to be the ultimate interpreter of the extent and scope of human rights, to develop them through interpretation, and to make human rights contents truly universal.

The task is a major one, since there are billions of human beings unaware of human rights and therefore unable to even attempt to assert them, but it is essential. In the last Human Rights Interest Group Newsletter published by the American Society of International Law (Vol. 7, Nos. 1-2) Christina Cerna calls the workers of the human rights world to unite. I would like to invite them to unite to achieve this aim. I do not see there being much hope if we do not.

Cecilia Medina

Justice Baghwati and Professor Oloka-Onyango have recently joined the board of editors of NQHR. Their efforts on behalf of the Quarterly will be much appreciated. At the same time we had to accept the departure of Professor An-Na'im. We thank him for his activities as member of the board of editors and wish him success in his further endeavours.