



## **HUMAN RIGHTS IN NORTHERN IRELAND**

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Let me introduce you to Northern Ireland, land of myth, legend, lie and propaganda - anything but hard, solid, cold. Much like the UK, the Republic of Ireland, any other democracy or dictatorship you care to mention.

My aim in this short paper is not to sweep away the veil, and reveal the real truth about what is happening in the North - but rather to show how that veil is woven and look at some reasons why.

I could start by saying Northern Ireland was created in 1922, a child of compromise and pragmatism. Irish MPs were calling for Home Rule. Much of the wealth was in the industrialised North, as were many people who favoured Union with Britain. So split the country and everyone is happy. However, the story goes much further back than that to when the English first came over at an ancient Irish king's behest, or when the English Crown began rewarding its loyal servants with acres of land in Ireland, or when penal laws were introduced to prevent Catholics practising their religion, educating their children, speaking the Irish language, owning a horse, or when Good King William of Orange came over to rout the Bad old Catholic James, or when the potato blight happened and an English government allowed a nation to starve even though there was grain sitting at ports.

It's hard to know where to start when you get into all that history stuff, but it is even harder to know where to end, because that history stuff informs your conscience and your identity and your view of yourself, the conflict and the solution to the myriad problems facing our society.

The history of Northern Ireland itself has been a hard one. For 70 years the Stormont Parliament governed the 6 counties from just outside Belfast. During that time, there was much discrimination. Stormont was hailed as a Protestant Parliament for a Protestant people. Many were kept from jobs and housing because of their religion. Ads in the local newspapers came equipped with the standard 'Protestants only need apply'. Catholics were prevented from voting because of the property

qualification. There was gerrymandering of electoral boundaries to ensure the election of Unionists, even in Nationalist areas like Derry. Special Powers led to widespread intimidation and harassment of one section of the community. A Protestant police force developed. And then came Civil Rights demands, which are widely believed to have caused the present troubles.

I could start like that but I won't, because so much gets lost in translation. Each of those points have kept people busy for generations, and I've only got a few minutes.

Maybe it would be better to give some flavour of how things are now - or rather, what people can say and do about Northern Ireland and get away with.

Last Sunday in the Observer, a 25 Year Special on "The Troubles" appeared, prefaced by an impoverished piece of journalism from Simon Hoggart. In this, he stated in his wisdom, though without identifying his sources, that people in Northern Ireland don't want peace, because we know 'instinctively' that our 'province' would be "less colourful and a poorer place" without the troubles. He went so far as to put the vote for peace at 10% , because around this number of people vote for Alliance (in my view - a well-intentioned but staunchly middle-class, middle of the road party). This went out in a widely read national Sunday paper. The backlash and disgust from all sides of the Northern Irish community, at so crass and misleading an article was not reported during this week, despite press statements from peace groups and politicians alike. Perhaps because what is said by an English journalist is obviously more astute and palatable, and translatable into ignorance-friendly slogans, than the experiences and work of thousands of people living in Northern Ireland. This experience testifies to a people disempowered, not only by their own history, but by a systemic lack of understanding, and a governmental structure based on non-accountability and the type of repressive emergency legislation that allows a young Irish man to have no evidence produced against him in a Court of Law, yet still to

be excluded, deported, internally exiled from Britain, for 'reasons' which need never be disclosed, and therefore cannot be appealed.

Or take the remarks of Malcolm Rifkind, UK Defence Secretary, on a visit to an army base in Northern Ireland on Wednesday, that only one per cent of the people in Northern Ireland has been affected by the troubles. In his opinion, and he should know because he's a government minister, Government security policy allows 99% of the people in Northern Ireland to live "in as normal way as they can elsewhere in the UK". Obviously he thinks troops on the street looking at children down the sights of their guns is normal. Obviously he has not heard of the UK's appalling record in international law circles, or read the reports of NGOs like Amnesty International or Helsinki Watch, if he chooses not to believe the Northern Irish people themselves. Obviously he is not subject to constant stops, searches and questioning as he makes his way to and from work or the dole office. That a government minister can describe 20 years of so called emergency legislation normal, speaks volumes about what has been allowed to become normal and acceptable in Northern Ireland through indifference, apathy and a sustained government campaign of misinformation.

If politicians and journalists alike think little or nothing of being so mealy-mouthed, complacent and downright dishonest about the situation in Northern Ireland, how can the message ever filter through that many are still hopeful there, and working daily for peace and justice. We need people to know that there is much violence and despair, but also that it is not a case of a bunch of half mad "eejits" intent on killing each other, with the British army as a neutral peace-keeping observer whose sole aim is to keep religiously rabid factions apart. We think people know that the IRA is involved in a paramilitary campaign which involves killing, bombing and maiming. We need people to know that the government is not innocent, that human rights are not being respected or even acknowledged to exist in many situations.

Everything that is happening in Northern Ireland is clouded by censorship and half-judgements. Much of the picture is not allowed to be filled in. The government takes it as read that their version is accepted: "The only problem is the 'terrorists'. We are not the terrorists. We are upholders of democracy and decency and will never capitulate to terrorist demands."

Because of this 'official' explanation, to talk of the situation in the North in Human Rights terms is seen as out of step and unacceptable. However, until the situation is looked at in broad terms, with an underlying human rights focus, there can be no understanding of what is happening. Without understanding, no amount of rhetoric, soldiers, legislation or militarisation will ever move us one step closer to peace.

The first thing to be faced is that Northern Ireland is not some freak blip on the face of modern democracy. From former Yugoslavia to South Africa, there are similar strands and webs - and nothing so similar as government responses to ethnic and minority questions. Even yet, governments have not learned to look beyond either redefining the problem out of existence or responding with repression from above.

Containment policies and media management have led to abuse of human dignity the world over. Northern Ireland is not an isolated phenomenon, but a symptom of what is wrong with our New World Disorder, where nation states and governments too often hold sway over the people they purport to represent, and where human beings often feel disempowered by the structures their society has built to contain and 'protect' them.

For education and understanding to be real, the catchphrase must be 'only connect', for it is only in realising global linkages and mutual interdependence, we can become stronger and more capable of dealing with our problems, and truly developing our world.

International law purports to be about solidifying these connections. Minimum standards of behaviour have been agreed among States. The 'international community' appears to be developing to the point where individuals can be subjects rather than objects of international law. International pressure can play a vital part in the embarrassment of repressive governments but only if we take human rights seriously.

Nation States should no longer have the authority to define and dictate how far human rights exist, and how far they should be respected. Human rights can be a revolution - they are more than technical rules tied up in legal documents. They are the basis of communal life and the foundation of the legitimacy of any government or society. Human rights do not belong to citizens as citizens, but as human beings, and as such, we all have a

responsibility to ensure, not only that minimalist state duties are fulfilled, but that all people grow to understand the legitimacy of their aspirations and achieve a sense of their own power and worth in society.

This is very far from the present situation in Northern Ireland (and everywhere else) where wrangles over who is the greatest abuser of Human Rights often lead to dissipation of energy, and boundless frustration. We, too, need to look beyond.

Awareness and understanding is vital in perceptions of who are the 'terrorists'. This is not something that can be neatly packaged. Is the IRA a gang of unthinking hoods, thugs and charlatans? What drives anyone to take up arms against a government in a 'democracy'? Does State Terrorism exist?

The minute you try to understand you are accused of justifying violence. We must keep these evil beings starved of the oxygen of publicity. However, there is a subtle distinction, overlooked by many, our government included, between justification and understanding. Without understanding there can be no reconciliation. Without reaching out to the hardened, bitter and hurt person in others, and in ourselves, there can be no peace.

It is no myth that while a government is perceived by many as an abuser of human rights, the bitterness and hurt will question its legitimacy. When the questioning is met by denial and repression, democratic means of expressing grievance will become, not only less attractive, but irrelevant and obsolete. Unless a State can respond to opposition with openness, candour and respect, violence will often be used against it. No amount of 'containment policies', 'low intensity operations' or 'special powers' will ever foster legitimacy in the hearts of those trampled on by these same powers and policies.

Education is needed. People in Britain know that the IRA carry out a 'campaign of terror'. Fewer could begin to explain why, because long arduous detail doesn't make for snappy news items, or 'acceptable' documentaries. Everyone knows that the government is involved in a long and bitter 'fight against terrorism' which may justify certain extraordinary measures. Few know what those measures are, or how deeply they eat into the core of Northern Irish (and indeed British) society, or how few safeguards there are against abuse, or how

frequently abuse is covered up. This gap in knowledge is a gap in empowerment. It is here that much valuable educating needs to be done.

Northern Ireland is governed through Orders in Council, and covered by the Emergency Provisions Act (EPA) and the Prevention of Terrorism Act (PTA), the latter of which applies to the policing and administration of the Northern Ireland situation throughout the UK. In elections, Northern Irish people vote for representatives to send to Westminster. The choice however, is not whether to vote Labour, Liberal or Conservative - but to choose from a range of largely nationalist and unionist parties, with people usually voting along traditional lines, more to keep 'the other side' out than because they respect the person voted for (e.g. Protestants and Unionists in West Belfast voted tactically in the last election, to ensure, that although a nationalist politician was voted in, he was not a member of Sinn Fein).

Under so-called Emergency legislation, the police and army are accorded wide-ranging powers covering, stop, search, questioning, seizure, detention of suspects for up to seven days without charges, denial of access to a solicitor for 48 hours, etc. Several offences are treated as 'Scheduled', meaning that they are liable to be tried in a Diplock, non-jury court, with one judge presiding. Rules of evidence in these courts mean that a confession, if not obtained by 'oppression', is admissible as evidence of guilt, even though uncorroborated, and even given the fact that the accused may well have been unfairly treated in detention leading to the production of the admission.

The Criminal Evidence Order, 1988, effectively removed the Right to Silence in Northern Ireland, by providing that an adverse inference could be drawn at the trial for failure to respond to questioning in the pre-trial period, or during the proceedings themselves. Though not in itself capable of attributing guilt, silence can be assumed to corroborate other evidence.

This is even more interesting given the recommendations of the Commission set up in the wake of miscarriages of justice like the Guildford Four, to review the criminal justice system in England and Wales. Despite representations that Northern Ireland's system should be included in such a review, government pragmatism dictated otherwise. Obviously, it would be in no-one's interests to expose the 'appalling vista' of the two

tiered criminal 'justice' system operating there.

As regards the Right to Silence, the Commission recommended that it be kept in the rest of the UK, recognising that it is a fundamental principle of our law that a person is innocent until proven guilty and that the burden should be on the prosecution to prove that person guilty beyond reasonable doubt. However, such high flown principles did not distract the members of our Parliament who managed to spirit the right to silence away in a matter of hours, in a part of the country where such a safeguard is most needed.

On the question of seven day detention, the UK has already been taken to the European Court of Human Rights in the Brogan case, where it was berated for unnecessary abuse of a person's right to liberty. Unfortunately, a specific time limit was laid down, though it was generally agreed that 4-5 days was excessive to hold a person without charge. Undeterred, the government merely entered an effective derogation to the European Convention on Human Rights, and continued as before. More recently, in the Branigan and McBride cases, political backtracking in Europe has allowed for this derogation given the 'Emergency' in progress. The fact this 'emergency' has continued for over 20 years in flagrant breach of the European Convention did not seem to hamper the powers that be in coming to their decision.

Interrogation techniques have also been a subject of concern in Europe, with the government found guilty of allowing inhuman and degrading treatment to be inflicted on suspects in the hope of producing confessions. At the session of the UN Committee Against Torture in November 1991, interrogation of suspects in police holding centres like Castlereagh was seriously questioned. Amnesty International issued its first urgent action appeal on Northern Ireland, on behalf of Damien Austin, a victim of ill-treatment in Castlereagh.

Interestingly enough, since this public berating, reports of ill-treatment in Castlereagh have been less frequent, showing that international pressure can play a part in reducing human rights abuses by agents of the State.

The UK's human rights record was again discussed unfavourably at the most recent meeting of the UN Subcommission on the Prevention of Discrimination and the Protection of Minorities. Even the independent expert nominated by the UK (Claire Palley) raised concerns as to the intimidation of

defence lawyers, police questioning procedures, the lack of a truly independent system to investigate police complaints, and the allegations of official collusion in the murder of Belfast solicitor, Pat Finucane.

Bodies such as Helsinki Watch, Amnesty International, and the Committee on the Administration of Justice, have oft repeated these and other litanies of abuse that must be addressed if there is ever to be just peace in Northern Ireland.

It might be helpful at this stage to underline some issues of particular concern.

Regarding detention under the PTA for example, of 4744 people detained at ports and airports, up to the end of 1991, over 4000 were neither charged with any offence or excluded. If each of these people was held for an average of 2 days, this group as a whole spent a total of 22 years in custody.

It is therefore reasonable to suppose that detention serves as a fishing/information gathering expedition, rather than a means of questioning specific people about specific offences with a view to prosecution. This is not acceptable behaviour, nor is it productive in the 'fight against terrorism', for the way is laid open for harassment and intimidation of individuals on wholly unreasonable grounds. Exclusion Orders bring their own sinister catalogue of horrors and unaccountability. Such behaviour can and does lead to further alienation between the security forces and a sizeable proportion of the population who grow to see them as the enemy, and inspires little confidence in a law and order system which treats a person as criminal simply because of their name, their accent or the area they live in.

The dangers of a juryless court are patently obvious, especially given the lack of safeguards up to this point. There were, of course, reasons why such a system was initially introduced but it is long past time for thorough analysis by Parliament. Diplock Courts have proved, not surprisingly, to have a very high conviction rate in comparison with jury courts, especially given the rules of admissibility which allow admissions which would be excluded as unfair at Common Law. Juries might not be flavour of the month right now, but they provide the only part of the legal system where individuals still have a role to play as independent monitors and arbiters of state machinery and individual action. For law to be accessible, it must involve members of the community it purports to serve. If not, the whole realm of law and order

becomes ever more cloaked in secrecy, mystification, obfuscation and 'legalese' with the resulting implications for society as a whole.

The most recent EPA (1991) has added to the already extensive security powers by creating new offences such as having in your possession items likely to be of use to terrorists, or directing activities designed to incite support for terrorist acts.

As with most 'emergency' provisions, these, on first glance, might seem innocuous enough. However, if a police officer suspects that that boiler suit or fishing wire or alarm clock on the back seat of your car is likely to be of use to terrorists, that is all that is needed for you to be arrested for the offence. Similarly, the accepted definition of terrorism being 'political violence which puts the public or a section of the public in fear', it could apply equally to a UFF gunman or a direct action animal liberationist. Technically, therefore, anyone attempting to raise funds for a particular anti-vivisection group falls into the same category as an IRA director of operations and could, conceivably, under the wording of the section, receive the same prison term.

This mincing of words and theory might seem academic, but peoples' lives and attitudes are being moulded by the existence of such powers on our statute books. Such all embracing language is not used accidentally. In a polarised society, with a police force consisting of 98% Protestants, and an army seen by many as an alien force, extension of powers and a lack of safeguards will ultimately lead to abuses being perpetrated, both by state agents, and those who consequentially feel justified in proclaiming them 'legitimate targets'.

Rather than containing or countering the 'terrorist threat', emergency legislation exacerbates it. Even though, under accepted Human Rights Treaties, derogations from 'normal' state practice is permitted in times of 'emergency', each and every measure curtailing basic human rights is required to be 'strictly necessitated' by the exigencies of the situation.

Not only have we been given no evidence that these wide-ranging measures are justified in their effect on levels of violence or sectarianism, but, the very essence of an 'emergency' - its temporary nature - has been flouted, with the result that our 'normality', the 'normality' of people living, working and being unemployed in Northern Ireland

and the rest of the UK, is that Human Rights and Civil Liberties come a long way down the list of government and paramilitary priorities.

When the PTA was introduced in 1974, it was entitled a 'Temporary Provisions' Act, and supported in view that it would not be on the statute books "one moment longer than is necessary". Now, however, it would be an abnormal situation were the act removed, and each year it is renewed with minimal discussion, often late at night with a handful of MPs bothering to attend. This is no way for people's liberties to be disposed of, and yet, where Northern Ireland is concerned, the phenomenon is all too common. Not only are our rights not respected, but 'acceptable levels of violence' and loose talk of state necessity, ensure that we come to feel we deserve no better.

I could spend all day talking about questions of Extradition, the right to march, cultural identity and political vetting issues, cases of security force intimidation, collusion and harassment, miscarriages of justice, the use of plastic bullets, the broadcasting ban, the need for a Bill of Rights, provision of a lay inspectorate for holding centres such as Castlereagh, video-recording of interviews with suspects and so on.

There is much that could be said about the rights of prisoners and their families (such as issues of remand, remission, transfer of prisoners, segregation, suicide and prison conditions). I could even concentrate solely on the whole plethora of economic and social rights being denied to various sections of Northern Irish society, such as the fact that we have no race relations legislation, and issues of fair employment and equal opportunities are still viewed with suspicion.

However, the vast expanse of human rights problems in Northern Ireland defy inclusion in a nutshell presentation, so I will mention just one further issue which brings all the talk about which rights can be derogated from and which of the laws of war apply to the conflict of Northern Ireland to so much nothing - that is, the involvement of the security forces in the killing of civilians.

The 1992 Amnesty International report has raised questions over extra-judicial killings by State and paramilitaries alike. Last year an 18 year old, with no paramilitary connection, was gunned down as he ran away from soldiers with a packet of crisps in one hand and a bag in the other. This is not an isolated incident. The families of Kevin McGovern,

Fergal Caraher, and parents of children even younger, can testify to similar stories.

In this case two members of the Scots Guards have been charged with murder. However, in most cases, this charge rarely follows, and a conviction has only been achieved in 2 out of over 350 such incidents. The first of these, Thane, received a life sentence, but walked free after 2 years and was taken back into the army. The second, Private Clegg, has just been convicted of the murder of an 18 year old joyrider.

The low rate of prosecution is partly to do with the fact that the police are involved in investigating themselves, partly with the fact that the only options are murder or acquittal, and the judicial system is loathe to impose life sentences on soldiers and police personnel, often acting in high risk, unreadable situations, and doing what they have been trained to do.

Further, the inquest procedures in Northern Ireland are far short of acceptable. Often they do not take place for years, if at all. The family of the victim receives little or no information regarding the event. Witnesses may be called anonymously or not at all at the discretion of the coroner. Legal Aid is not available to families to have their interests represented. Inquests cannot bring in verdicts, as they can elsewhere, and no written report is necessary.

In some cases that have proceeded to Court or inquest hearing, police and soldiers have been proved to be lying when they claimed that rioting was taking place at the time of the shooting, or that the victims have been armed, or that security force members were injured by the dead persons.

In light of the above, coupled with cover-ups such as the obstruction of John Stalker in his investigation into allegations of an RUC Shoot-to-Kill policy operating in the 1980s, the Security Forces are too often seen to be above the law and civilians too frequently killed and injured by subjectively 'reasonable force'.

There is much that needs to change for the ground to be even part-prepared for peace in Northern Ireland. Mistrust, bitterness and hatred is fuelled by a government acting neither impartially or legitimately in too many areas of everyday life and death. How can we issue challenges to paramilitaries to respect human rights when these are obviously not considered important by government? Where is our moral high ground to talk of 'senseless killings' or protection rackets, when these same scams are being perpetrated by agents of the State? How can we speak of 'defeating terrorism', when our government is financing paramilitary activity, by providing repression, ripe for propaganda fundraising.

Peace is a painful process. We can begin at many levels, but individual violence will never disappear if structural violence is left unchallenged. If we want to change hearts and minds, we must also change systems and the backward political thinking of successive governments, shows that this too, is up to us. Much work has been done, but there is a long way to go. Education is vital for mutual understanding. That education must be grounded in the fact that we can all abuse human rights. Only if we can get in touch with the violence we cause to others, and tap into the whole non-violent philosophy of living, is there hope that real community can be built. Only then will peace with justice become more than a slogan.