

Achieving Political Rights

A First Step in Promoting Human Rights for All

■ Liz Egan

In her response to Barney Pityana's keynote address Liz Egan draws on the experience of the Great Lakes region (GLR) to highlight that an integrated approach to human rights is needed. Otherwise progress on civil and political rights may be undermined due to socio-economic needs not being met. As such the challenge for human rights advocates is to promote progress on all fronts. In a region where poverty and land insecurity are endemic the efforts required to protect human rights and to achieve a lasting peace are immense. At the same time the huge number of refugees and displaced persons, accelerating conflicts and a very fragile economic situation pose major challenges for the region. Liz Egan notes that unless adequate judicial structures are in place to deal with the perpetrators of genocide in Rwanda, thus breaking the cycling of impunity, the human rights situation will remain very fragile. She concludes by highlighting the role and responsibility of the international community as well as national governments in bringing peace and promoting human rights in the region.¹

Political rights versus economic and social rights?

On 10 December 1948 the United Nations adopted the Universal Declaration of Human Rights. The Declaration vowed to uphold the civil, political, economic and social rights of people everywhere. Fifty years on can the international community celebrate any achievements? Rev. Pityana observes that much progress has been made in the development of civil and political rights but the debate still rages on the place of economic and social rights on the international agenda.

As one commentator has observed political passion has been reserved largely for the defence of civil and political rights, overlooking the fact that one-third of the developing world's people are enslaved by a poverty so complete that it denies them fundamental human rights to life, liberty and the pursuit of meaningful lives. Incarceration by poverty can be as cruel and confining as any political gulag, but for almost four decades the human rights debate has been polarised by ideology.²

Dr Pityana also observes that the international community is taking some steps to redress this imbalance and to promote the equal status of economic and social rights. It is argued that civil and political rights are in conflict with social, economic and cultural rights because each category requires different priorities on the part of governments. However, successive UNDP *Human Development Reports* suggest that civil and political rights tend to broadly correlate with equitable economic arrangements. Countries whose citizens enjoy greater civil and political rights generally perform better in terms of life expectancy, infant survival rates and per capita income. By the same token economic and social rights put people in a position to implement civil and political freedoms for themselves.

In 1986 the International Declaration on the Right to Development rejected the notion of any trade-off between rights. The right to development was defined as the right of individuals, groups and peoples to participate in, contribute to and enjoy continuous economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realised. The World Conference on Human Rights in 1993 reaffirmed the right to development as a universal and inalienable right and an integral part of

fundamental human rights. The Conference declared that the existence of widespread extreme poverty inhibits the full and effective enjoyment of human rights and stated that the immediate alleviation and eventual elimination of such poverty must remain a high priority for the international community. While the 1948 Declaration may seem to be from a very different time and context the 1993 Vienna Declaration is of our time.

The appointment of Mary Robinson as High Commissioner for Human Rights and her clear mandate and commitment to promoting not only civil and political rights but also economic and social rights gives additional hope for bridging the gap. During the High Commissioner's visit to Rwanda in December 1997 she stressed the need for a more concentrated strategy for preventing conflict through integrating a human rights approach to issues of development, particularly poverty eradication, education provision and ending gender discrimination. These issues are extremely important to a society, such as Rwanda's, which is recovering from a genocide.

While recognising that the elimination of poverty is as important to the achievement of human rights as the bringing to justice of the perpetrators of genocide this paper concentrates on the state of human rights in general in the Great Lakes Region, with a particular focus on Rwanda and the role of the international community in the protection and improvement of the human rights situation in this region.

The state of human rights in the Great Lakes Region

Unlike South Africa, where a measure of stability and peace has been achieved, Rwanda and its neighbours continue to be plagued by war and conflict. Measures aimed at resolving the conflicts in the region must underpin any efforts to achieve human rights – civil and political, economic and social.

The reality of democratisation

In his statement Rev. Pityana observed that the link between economic and social rights and political freedom is that in undemocratic states the individual has no rights and the poor have no voice. This is certainly true of the Great Lakes region,

where the regimes in Rwanda, Burundi and the Democratic Republic of the Congo have all attained power through the use of force and do not make any pretence of being democratic regimes. Of course, the holding of elections does not necessarily guarantee civil or political rights. In Burundi in 1993, we saw a democratically elected government overthrown in a coup by a minority Tutsi regime which lost politically but kept an upper hand militarily. The international community saw elections as a signal of the transition to democracy but was proved seriously wrong when military force prevailed.

Some commentators might even argue that democratisation efforts in themselves were a contributing factor to the 1994 genocide in Rwanda when international donors attempted to force the previous regime into "a narrowly conceived western style democratic system".³ It is argued by some that imposing formulas of democracy can in fact increase ethnic divisions when majority governments try to entrench their hold on power and exclude minorities.⁴ The reality of the Rwandan situation today is that there is no legitimate alternative to the present regime and that elections are unlikely to be held for some time to come. The same can be said of Burundi where the present conflict does not allow the possibility of elections. President Laurent Kabila has promised elections in the Democratic Republic of the Congo in April 1999 but he will need to stabilise the security situation before any elections can be meaningful.⁵

Democratisation efforts prior to the genocide in Rwanda did have a dynamic effect on civil society. Strong and well organised human rights organisations were developed which produced damning reports of human rights abuses by the governing regime at the time. However, the national human rights movement is weaker now than it has ever been in its history and must be strengthened and supported by the international community, in particular the UN Human Rights Mission in Rwanda if the local human rights NGOs are to contribute to a strong and participative civil society.⁶

Effects of conflict and war

Warring parties in the region continue to violate customary international law and the protection that it offers to civilians. In northwestern Rwanda rebel groups continue to launch bloody attacks on the local population, administrative authorities and military posts. In response, the military has carried out counterinsurgency operations, often killing indiscriminately. The

victims of these operations are civilians who are caught in the middle, forced to give assistance to the armed elements yet branded as collaborators by government agents. In a continuous cycle, the government uses the threat of attack by armed groups to justify its own violent repression, and the armed groups use the actions of government agents to justify their atrocities. In this manner, the cycle of violence continues while people's most fundamental right, the right to life, continues to be denied. By October 1998 650,000 people had been displaced and were living in camps in the north west region alone.

War and conflict have also caused intense poverty in the region. The recent conflicts in Rwanda, Burundi and the Democratic Republic of the Congo have caused massive displacements of populations and destroyed the livelihoods of many thousands of these countries' inhabitants.

The persistent refugee problem

Despite the return of over 1.2 million refugees to Rwanda in December 1996, UNHCR estimated in 1997 that there are still over 200,000 refugees unaccounted for in the Democratic Republic of the Congo and in its neighbours. Many of these people are believed to be either dead, deprived of assistance from the international community or killed by government troops. In Burundi, it is estimated that one in every nine persons is displaced. There are still daily flows of refugees from Burundi and the Democratic Republic of the Congo into Tanzania. At present the number of people entering Tanzania each day is estimated at 600.

For the government of Rwanda, the re-integration of the 1.2 million refugees who returned to Rwanda in 1996 from the Democratic Republic of the Congo and Tanzania is an additional challenge. Housing is a top priority for the government, which also has to deliver on Arusha Accord promises to settle old-caseload refugees (that is, refugees who fled Rwanda in 1959 and returned after the 1994 genocide). It is estimated that over one quarter of housing in the country was destroyed during the genocide. Problems relating to property, employment and access to education have been complicated by the return of the new caseload refugees, many of whom find it extremely difficult to receive treatment comparable to that given to Rwandans who did not go into exile.⁷

Food insecurity

The Human Development Index ranks Burundi and Rwanda as amongst the seven countries in the world with the lowest levels of human development.⁸ Conflict has shattered the lives of people dependent on the land, disrupting their livelihoods and affecting their food security. Humanitarian assistance is still needed by all countries in the region. The lateness of the rains needed for the growing season in Rwanda combined with the insecurity in the northwest of the country, which usually has the highest agricultural productivity of any region in the country, have led to structural food deficits. Despite a good harvest in 1998 the World Food Programme still needs vast quantities of food to distribute in the camps for the displaced in the northwest of the country. Such scarcity, the main cause of drastically increased food prices, is likely to exacerbate existing tensions within communities.

The reality of the human rights situation in the Great Lakes region and particularly in Rwanda could be summed up as follows: the region is plagued by war and conflict which undermine any attempts at reconstruction or sustainable development; the majority of inhabitants struggle for daily survival; access to healthcare, education and livelihoods is denied to a large proportion of the population in the region; in addition, Rwanda must deal with the aftermath of a genocide.

Breaking the cycle of impunity – a case study of Rwanda

The prosecution of the perpetrators of the genocide must be the overriding concern of the international and national community if the credibility of human rights is to be re-established in Rwanda. It is estimated that the genocide in Rwanda in 1994 resulted in the deaths of between 500,000 and 800,000 Rwandan Tutsis and moderate Hutus. The Hutu-based governing regime planned the genocide and, with the assistance of both a highly organised local administrative structure and the local population, decimated the Tutsi population. Practically every segment of society, local mayors and burgomestres, doctors, nurses, priests, nuns, and even children, carried out the killings. Four years on, the majority of perpetrators have still not been brought to justice.

Since the genocide in 1994, both the Rwandan government and the international community have stressed the need to fight impunity and restore justice in order to effect the rehabilitation of Rwandan society. Justice is seen as not only an end in itself but also a tool to promote reconciliation and peace and to create an environment that is conducive to sustainable human development.⁹ The Rwandan government, with assistance from the international community, has made progress in rehabilitating the judicial system destroyed after the war. New laws were adopted which allowed the genocide trials to begin in December 1996.

Intensive training programmes were established in 1995 for all levels of personnel working within the judicial system, from judges and investigative police to court clerks and secretaries. The courts are now functioning, as are the prosecutors' offices. To date, over 400 people have been tried by the national courts in Rwanda. Both the UN Human Rights Mission in Rwanda and the NGO *Advocats Sans Frontiers* (Lawyers Without Borders) say that the basic minimum requirements of fair trial are being observed by the national courts. Legal representation, however, is not available to defendants or civil parties in some of the outlying districts, where there is continued insecurity. Further training for judicial personnel is urgently required.

The major challenge ahead lies in bringing to justice the 125,000 detainees in Rwanda's prisons and communal detention centres. In 1997 it was estimated that approximately 2,800 people were arrested each month; this figure has not decreased significantly so far. It is also estimated that, if the number of trials continues at its current rate, it will take over 350 years to try all those now held in prison. In addition, it is widely acknowledged, even among government officials, that some of the detainee population are being held wrongfully. The government has made efforts to increase the number of detainees with casefiles, but many still lack legal dossiers.¹⁰

Greater efforts must be made to speed up the current trials process while at the same time considering alternatives to the traditional system. As one commentator notes: trials are one way of rendering justice and are, as such, an instrument to promote reconciliation and peace. However, trials can only do so under certain conditions; a realistic and acceptable time-frame is one of these. One alternative proposal put forward by some of the Rwandese judiciary and a recent study carried out by UNICEF is to hold joint trials, on a district by district basis.¹¹ The crime of genocide, unlike other crimes, demands special investigative

procedures, since genocide is a collective crime prepared in advance and carried out by a number of people rather than a single individual. The UNICEF study suggests that the investigations be carried out district by district and that evidence be gathered from as many witnesses and victims as possible. Investigators could be assisted by the local authorities and by NGOs, many of whom have already collected a great deal of relevant information. Such proposals need to be given careful consideration by both the Rwandan government and the international community.¹²

It was envisaged from the outset that the International Tribunal for Rwanda established in November 1994 would try the leaders of the genocide who had fled Rwanda. While the national courts in Rwanda have tried over 400 defendants, the International Tribunal has only got convictions in three cases. Since its establishment, the Tribunal has lacked the support of the international community in terms of co-operation and funding. It has also been plagued by allegations of corruption and mismanagement. In order to put pressure on the Rwandan government to look at judicial and non-judicial alternatives to the current justice system, the international community must bring to trial those under its jurisdiction and do so soon.

The role of the international community in the promotion of human rights

The promotion of economic and social rights is as important to the achievement of peace and stability in the region as support for democratisation efforts or re-establishment of the rule of law. Securing a long-term viable economic future for the region is essential to give people a stake in a durable peace. Such a future will not be achieved without greater investment in education, health and long-term development. Addressing poverty will enhance the government's legitimacy. But in order for people to have a say in the future, they must be included in devising national and regional strategies to tackle poverty and build sustainable development. This means strengthening the structures of participation at every level, including most importantly, at the level of civil society.

The international community must also show its commitment to the fight against impunity through continued support to the physical reconstruction of the judicial systems and the restoration of impartial and independent judiciaries in the region. This also includes, in the case of Rwanda, continued and improved support to the International Tribunal for Rwanda. Technical assistance in the form of continuous training for judges, prosecutors and other actors in the national justice systems is of course essential if the operation of the justice system is to be improved and the rule of law re-established. The international community must incorporate a stronger engagement with the governments of the region on all human rights issues. This approach needs to be based on partnership, positive engagement and dialogue with the governments of the region, and with constructive conditionality. Only an African vision and a African strategy can create building blocks for the future. The challenge of the new millennium is for respect for human rights to become truly global in its reach. Achieving this common global goal will require local ownership and a local culture of human rights.

Footnotes

- 1 The situation in the GLR is in a state of flux as the conflict in Burundi continues, more and more people are displaced and the political context is constantly changing. While some footnotes and edits have been made to update the text, as the text is a response to the Keynote address, these have had to be limited.
- 2 James Gustav Speth, "50 Years of human rights, but what about poverty?", *The East African*, 19-25 January, 1998
- 3 Gerard Prunier, *History of a Genocide in Rwanda*, 1995
- 4 "The importance of engagement: a strategy for reconstruction in the Great Lakes region", Oxfam, 1997
- 5 Since this paper was presented a lot has changed in the region. Since the war broke out on 2 August last, the forces of DRC's self-proclaimed leader Laurence Kabila have lost control of the country. In this new conflict situation ethnic Tutsis of Rwandan origin and Banyamulengi soldiers launched a rebellion in the east of the country with the backing of the governments of Uganda and Rwanda.
- 6 Also in August 1998 the UN Human Rights Office failed to reach an agreement with the government of Rwanda on its mission and the Office has been shut down.
- 7 Moreover, within the refugee population there are differences. There is a strong view among the old case-load refugees that they should receive special treatment, given that they have been forced to spend over 30 years in exile and thus face particular problems in reintegrating into Rwandan society.
- 8 UNDP, Human Development Report, UNDP/Oxford University Press, 1997. In the 1998 Human Development Report statistics are not available to rank Rwanda according to its Human Development Index (HDI). However, Burundi ranks fifth from the bottom (ie 170) in the 174 countries whose HDI was measured.

- 9 "Justice for Rwanda and international co-operation", Stef Vandegenste, Antwerp, September 1997
- 10 Group trials have recently speeded up the judicial process. 10,000 detainees without case files have been released by the government. Some have since been killed by genocide survivors. As of late 1988 the prisoner population has stabilised at 125,000 with a limited number of new arrests being made.
- 11 "Etude portant sur les moyens d'accélérer les procès des mineurs acuseés de crimes de génocide", Etude réalisée pour l'UNICEF -RWANDA par Sophie Racine, avocate au Barreau du Quebec, Kigali, Jauvier 1998.
- 12 Again since this paper was originally presented this has been done and has been seen to work effectively.