“A Bill of Rights for Northern Ireland: some international lessons”

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UN Special Rapporteur on Torture and
UK member of the UN Human Rights Committee

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I know that the last thing you want is another outsider coming over and starting to tell you how to handle your affairs here in Northern Ireland, and nothing is further from my mind. In fact, it was far from clear to me when I was invited to come what it was that I would have to say that would be relevant. I have however the sense that some lessons learned from the international dimension may have some pertinence. I am certainly not going to try to draw the connections too closely. I do not consider myself a specialist on the situation here. But, I could not say 'no' to Maggie Beirne of CAJ who I have known for a very long time - she was a colleague over many years at Amnesty International, ending up in a very responsible position in that organisation. She is a true professional in the field of human rights and I am glad that she gave me the chance to come over and have coffee with her!

The human rights construct is fairly novel in human history. Some people try to trace it back to the classics and Antigone - I am not convinced. It really first emerged as part of the Enlightenment in response to a growing awareness, in a more complex society and a more mercantile society, that a heavy autocratic hand was not the best way for societies to be governed. The manifestations we saw of that were the US Bill of Rights, the French Declaration and arguably the revolutions that gave rise to them. But the human rights idea remained one that was not relevant in the international domain, not one that affected international relations. Human rights were perceived as matters essentially within the jurisdiction of states, and therefore not a suitable topic of international relations, much less international law.

While there had been some steps towards an international awareness of human rights issues – for example, in the area of slavery, in the area of minorities' protection after the first World War, and in the area of labour rights protection also after the first World War – the idea did not come into focus as a fully fledged issue on the international scene until the Charter of the United Nations (UN) in 1945. At that time, where human rights clauses did appear, including amongst the purposes of the United Nations in Article One of the UN Charter, this came about not least because of the realisation that people came to have that a bad human rights situation at home could also lead to deep disorder abroad. The shock and revulsion occasioned by the nature, scope and extent of the human rights violations that characterised Nazi Germany was the key impetus to change.

But, the UN had a long way to go. Even at that time, the sense was that *at best* the UN could set standards - it could not look at individual countries' human rights performance, much less individual cases of violation of human rights. So they busied themselves with setting standards, the most notable and resonant of which, and arguably still the most important of which, was the Universal Declaration of Human

[1] As part of a lecture series organised by the Committee on the Administration of Justice (CAJ) to inform the debate on a Bill of Rights for Northern Ireland, Sir Nigel Rodley gave a speech in the Malone Lodge Hotel, Belfast on Thursday 31 May.

Rights adopted by the UN General Assembly on 10th December 1948, the day which we now commemorate as International Human Rights Day.

The UN then did go on to start developing human rights treaties. Declarations were not seen as necessarily legally binding. There was a sense that only with treaties could one impose clear legal obligations, and even more, only with treaties could one establish the machinery that could begin to hold states accountable. If states themselves, by virtue of their sovereign independence, could not be subject to scrutiny of their human rights performance without their own free will to that effect, ratifying a treaty providing for such scrutiny was a manifestation of that free will. The ratification of a treaty dispensed with the obstacle of 'sovereign independence', if you will, that persisted at that time.

So at the international level, work began on an International Covenant on Civil and Political Rights and an International Covenant on Economic, Social and Cultural Rights. These two instruments took a long time to be adopted. The work started around 1950 but the texts were only completed in 1966 - sixteen years later. When eventually adopted by the UN General Assembly, they could not come into force until 35 countries had ratified them. That did not happen for another ten years. So the treaties did not actually come into force until 1976, just a quarter of a century ago – that is pretty recent. Knowing that things were going very slowly at the UN level, Europe decided to move faster, and indeed in 1950 it adopted the European Convention on Human Rights, the document which, with amendments, now gives us most of the norms that we have incorporated at long last into our own law through the Human Rights Act.

Indeed, there have been more treaties and more machinery since then, although most of that machinery is at first brush rather weak. For example, the only automatic right of treaty bodies - such as the Human Rights Committee established under the Covenant on Civil and Political Rights, on which I now sit - is to require of states that they submit a periodic report. We can then scrutinise this with a delegation of the state concerned, and then after a dialogue, we can formulate some conclusions. That is as far as it goes, there is no complaints system – or at least no automatic complaints system. If a state has accepted, as the UK has, a right of inter-state complaint, then it is possible for one state to bring a complaint against another state. It has not happened yet. Also, under an Optional Protocol to the Covenant, if an individual makes a complaint, then the Committee has a right to receive such complaints and hear them and effectively adjudicate, although its findings are not binding. The UK is not one of the approximately 90 countries who have accepted the right to individual petition to the Human Rights Committee.

The point I am trying to make however, is not give a disquisition on international human rights machinery, but to indicate how slow the implementation of human rights has been in coming, and particularly through the treaty procedure. It was partly frustration at such delays that led the UN Commission on Human Rights to set up certain kinds of 'thematic' machinery, which could look at particular kinds of violations of human rights. There is a Working Group on Disappearances, a Working Group on Arbitrary Detentions, a Special Rapporteur on Summary and Arbitrary Executions, a Special Rapporteur on Torture (the mandate for which I am currently responsible) and others – I think some of you may have heard of the Special

Rapporteur on the Independence of Judges and Lawyers. We are able to take up individual cases, ask governments to respond to the information we get, and formulate conclusions. We can also go on a mission to countries where there seems to be a general problem within our mandates, and do a report on what we have found.

The fact that this system is now all in play – both the non-treaty procedures like the ones I have just mentioned, the thematic ones - and the fact that now more and more countries are bound by treaty procedures (including the optional parts of them) is a remarkable step forward. When I first started working in the human rights field at Amnesty International in 1973, none of that existed. Being Legal Adviser there also meant having other tasks, as I did, at the time. By the time I had left however, I left behind an office in New York, an office in Geneva, an office in Brussels and about 10 people working in the headquarters office in London. This was due simply to the fact that the nature of the work had expanded at a quantum rate.

The message I want to convey with all of this is that we are talking about a real sea change. Human rights are now found in the constitutions of most countries. The debate has moved from the national to the international, and from the international back to the national, in a way that I really think permits one to conclude that it is an idea whose time has come. Do I think that that means that human rights - especially with the collapse of the major world ideological face-offs - are now the modern ideology? Some, though not usually human rights activists, even claim it is the next religion. The answer is of course not. Human rights is a framework for discourse in conflict resolution. They are about *how*, not about *what*. The *what* has to be worked out, the substance has to be worked out. But human rights create the rules of the game. Human rights constitute the playing field, not the game itself. I would argue that they are arguably a necessary condition for a good game.

Human rights do not create substantive solutions to problems. They help societies to find the most suitable solutions to those problems. Very obviously, for example, take freedom of information and freedom of association. They are necessary if decision-makers are going to be able to gather the information they need to take decisions and if people who are going to be affected by those decisions are able to communicate the relevant information to those who are going to take the decisions. A marketplace of ideas sharpens awareness of the issues; criticism, rebuttal of criticism - all of that is an essential element to eventually arrive at processes of accommodation and through those processes of accommodation to legitimation of the outcome, not least by spreading ownership in the outcome. If there are losers, as sometimes there have to be with any decision, today's losers may be tomorrow's winners and vice versa. That is the basic idea of those particular rights and others, such as the right to participate in government.

It is no accident that human rights figure large in conflict settlements that have taken place around the world. You can hardly read these days of a settlement of a civil conflict which does not have a substantial human rights component to it, sometimes even of a judicial nature, but certainly of a normative and of an institutional nature. Look at Central and South America, South Africa and the Balkans. Human rights are seen as part of the prescription for creating the possibilities, not only of an end to conflict, but the avoidance of conflict in the future. Very often of course, human rights are addressed because human rights violations have been, or have been

perceived by at least one side to be, at the heart of the conflict in the first place. It may not always be the case but it is often the case. Frequently, human rights issues are central to the solution as well as sometimes central to the conflict.

Evidently, because of that centrality, human rights are often seen as controversial, not least because they tend to be invoked during the conflict predominantly by one side. Obviously, this is not always done in good faith, but perhaps sufficiently seriously to gain support for the cause. Since human rights is about setting limits to the authority of the existing dispensation, whatever that is - remember the English Bill of Rights, remember the French Declaration - those benefiting from the existing dispensation will be inclined to be suspicious of human rights discourse.

Those remarks are not only relevant to conflict situations – the same can be true in ordinary civil situations. I visit countries around the world to look at conditions of detention and treatment of people deprived of their liberty. If I had been doing it twenty years ago, most of the time I would have been visiting political prisoners. Now most of the time I am visiting ordinary common criminal suspects, or even convicted criminals. There is a real prevalence of public insecurity around the world. Rises in crime lead to demands for stronger measures to restore public order and draconian measures are seen as necessary in order to deal with the perceived problem on the streets or in people's homes.

But does this law and order approach apply, does it work, does it solve the problem? Of course not - because only certain kinds of people are likely to be the victims of torture and ill-treatment. They are almost certainly going to be the poor, the marginalized, the minorities, and people of the wrong colour. Just last year I was in Brazil, and it was simply staggering how the worst places of detention and the worst treatment that people had received at the hands of their captors and interrogators was among the black population. It was vivid. Interestingly, nobody had pointed it out to me, it just jumped out at me, and I am not claiming any special sensitivity. It was just there unavoidably to be absorbed. So these are the people most likely to be tortured.

On the other hand, human rights are often going to be seen as something threatening by people with comfortable lifestyles who, understandably, do not care for feeling menaced when they walk the streets. So human rights are unpopular, benefiting those who at bottom seem not to have the same human dignity, or deserve the same respect for that dignity as ourselves. Of course, those who defend human rights then come to be tarred with the same brush – non-governmental organisations working for human rights, even national institutions working for human rights and lawyers defending unpopular clients - are often seen as partisan, defending unpopular people. This leaves them being identified with the actual acts of those people. They may well be perceived as more concerned with the victims of the violations rather than the victims of the original crime.

One must not of course forget the victims of the original crime - they may be many, and the harm and injury they have sustained may be deep and lasting. But that does not mean that those who work to defend rights should be tarred with the guilt of the offences or suspected offences committed by those they are defending. However professional they are, and however committed to exposing the truth, their message will be ignored if they are tarred that way. I have even known some countries where

the tarring of human rights organisations - sometimes called “red-baiting” in right-wing countries, sometimes called “CIA puppets” in other countries - in fact can lead to extra-judicial measures of various nasty sorts, not excluding death, being inflicted on such people.

But human rights are not and cannot be about all the pain and suffering in the world. They are about, in my view, what they have traditionally been about, and what I have already indicated they are about - which is the relationship between governors and governed. They are about the rules that mediate that relationship. That is how it has been historically, that I think is how intuitively most people understand the notion, certainly that is the general approach in international law to the issue. These are issues which we can develop later in the discussion if you like.

I am a so-called ‘mainstream traditionalist’ in my approach to human rights. But just because I take the view that victims of crime, whether the crime be politically motivated or not, are just that - victims of crime - does not mean that they do not merit attention. It is not appropriate, in my view, to describe them as “victims of human rights violations”, but it is certainly appropriate to be concerned for them as victims - victims of crime. Indeed there are organisations that work to protect such victims, and so there should be. In fact I particularly remember a very satisfying experience in the mid-eighties of representing Amnesty International - and there were other human rights organisations - at meetings in which crime victims’ organisations were also present. We worked together to develop what was to become the UN Declaration on Victims of Crime and Abuse of Power. This instrument in fact precisely, far from posing a contradiction between the two, perceived that the two issues could be integrated, or at least complementary. Indeed, you will find some individuals working in both human rights organisations and in victims organisations - just as you find them working in human rights organisations and in development organisations. These tasks are complementary but different. I guess that I am saying that human rights defending organisations have a right to stick to their task!

Another topic that often comes up in discussions with governments came up very directly in the drafting of another UN Declaration which is called briefly the Human Rights Defenders Declaration (the full title is the Declaration on the Right and Responsibility of Every Individual, Group and Organ of Society to Promote and Protect Universally Recognised Rights and Fundamental Freedoms. The UN tends to be a little bit prolix and it is not always by accident. Some governments actually work very hard to prevent resonant language. They may be prepared to go along with an idea, but not if it resonates too strongly!) When they were drafting that Declaration in the late eighties/early nineties, guess what? There were plenty of delegations talking about responsibilities. They wanted to concentrate on human responsibilities. But first of all, one had to cut through a jurisprudential misunderstanding. Those who know a bit of legal theory know that it is often said that there is no right without a corresponding obligation. That means that a person does not have a right unless some other person has an obligation to meet that right. The obligation and the right do not necessarily vest in the same person. But of course, this was not the major concern. There was the more political element to the argument. Countries with notoriously poor human rights records wanted obligations to trump rights.

In the end, we worked it out that they got a lot of language about obligations and responsibility, and indeed not least the obligation and responsibility to conform with national law, but this had to be consistent with the human rights obligations under international law. That was the important point. It should be self-evident that people indeed have a whole range of obligations they must conform to. The whole legal system and the whole political system of society impose responsibilities on them and ignorance of the law is no excuse. But that law itself must be consistent with international human rights standards for it to be worthy of that respect. So each society is absolutely free to control itself the way it sees fit, but within the limits of this rather big ring that they are given to play in by the human rights paradigm.

One of the key problems we have tended to face at the international level is the problem of implementation at the national level. Very often the law is beautiful but the practice is not. Again, let me take an example from the area of torture. Very often, in fact almost uniformly, torture is a crime under a state's law. But it is a crime that tends to get committed with impunity. There are a number of reasons for that. One is commonly that, even though the law may prohibit torture, it creates the preconditions for torture to thrive. For example, prolonged incommunicado detention is permitted creating exactly the conditions that are necessary for the captors and the interrogators to work their will. In other cases the law is good with very strong rules: a maximum of 24 hours detention before having to be brought to a judge - which is best international practice - or access to a lawyer immediately, or at least the latest within 24 hours.

But still torture takes place, and one of the reasons that it still takes place is this continuing problem of impunity. Essentially what we are dealing with - and this is true in respect of most human rights violations - are criminal actions carried out by those who are supposed to be upholding the law. Sometimes those charged with upholding the law may feel that it is necessary to "cut corners", or "bend the rules", or whatever euphemism law enforcement officials around the world give, to justify torture and torture-like practices. So, what societies are also beginning to discover is that they need new institutions, they need new bodies to help spur the standard institutions into some kind of self-awareness and more, some kind of self-control, and indeed external control with sufficient powers. But relying, as a number of Commonwealth countries do, and our own is no exception, on the system itself automatically to police itself has not always proved to be terribly effective. It is often necessary to create new machinery with powers that can really ensure that the information that those responsible for law enforcement do not want to get out does come out, especially when they are breaking the law.

One might ask if there is value-added to a national Bill of Rights? That is a very difficult one. I tend normally to start from a more defensive posture. Whether one is talking about a regional human rights treaty or a national human rights bill of some sort, I tend to start by saying 'well fine, but make sure it does not go below the international standards that are out there'. Obviously in the UK context, we have already solved that arguably with the European Convention on Human Rights. But what is also clear is that there are rights contained in the two international covenants on human rights - the Covenant on Civil and Political Rights and the Covenant on Economic, Social and Cultural Rights - to which the UK is a party and yet which have most certainly not been incorporated into national law. So it seems to me there is

already fertile ground for potential development in a Bill of Rights. So too in other areas where maybe the law is a bit general, or arcane, or historically resonant, but perhaps not terribly clear - especially as interpreted by national and international courts over the years. It might well be better to be more specific about those norms, more specific about those rules, and use language for them that resonates with the society in question. I suppose also when societies have their own problems, and certain rights speak more to those problems than certain other rights, it might be necessary to give special attention to the articulation of those rights.

So, by way of conclusion, I would argue that human rights deserve respect because every human being deserves respect for their human dignity. Deny human dignity and rights to some and you potentially deny them to all. In the long run, human rights are in everybody's interest too, because a stable society is in everybody's interest, and respect for human rights is a major contribution to a stable society. Human rights is a necessary, albeit not a sufficient, condition of political stability. If anything that I have said does read across to Northern Ireland, that would be very gratifying. In turn, I am confident that what happens here will read across to other societies seeking to improve their conditions of life, dignity and respect.

Thank you for your attention.

The lecture was followed by a discussion in which members of the audience asked questions of the speaker. Below are some excerpts from this discussion.

- *Some have talked about a Bill of Rights and Responsibilities. Given your comments on this topic, what do you think would be the effect internationally if Northern Ireland introduced a Bill of Rights and Responsibilities?*

All I can say is that it could be problematic. I can understand the pressures to use such language, and I can understand the desire to defuse criticism by using language of that sort. I can also imagine that it might even be possible to define responsibilities in such a way as to read back into rights. But the problem is the dangerousness of the term at this stage in the international debate. The small print is not going to be read so easily by other countries. We must remember that this is not just any country. The UK is a permanent member of the UN Security Council, and the problems you have faced - certainly over the last thirty odd years - are problems that people around the world have heard about in some way or another. So the solutions that are found here will be just as influential elsewhere as the solutions that were found in South Africa. So what one does in one country does affect what happens in other countries.

- *Do you have any comments on international experiences of the right of self-determination?*

Help! I once wrote an article with a colleague and mentor, and in that article was the following phrase – I wish it had been mine but it was his and it was "nothing secedes like secession" and in a way that says it all. The fundamental issue is what is the unit of self-determination? International law frankly is silent on this question. International law does not say anything other than that colonies can have it, not states or parts of states that are already fully independent. One might think that that is a very narrow view of the notion, or a very political view of the notion, and it was certainly a very potent view that contributed in fact to the eventual effective demise of colonialism. But because the major opinion formers at the time were in fact the former colonies countries, they were not arguing for a more integral coherent interpretation of the right to self-determination - they were just denying that it applied to sovereign independent statehood. So the international law position has been not so much one of principle as one of fact: self-determination for former colonies in the sense of sovereign statehood, and that is as far as it goes.

International law does not say, by the same token, that new states cannot emerge and certainly if a part of a state is granted independence by the 'parent state', then there is no problem. Similarly, even if the state succeeds in breaking away, once it is done effectively, then it will probably eventually get recognised - though there are some exceptions to that rule. But ultimately it is a question of fact rather than a question of law.

- *As regards the integration of civil and political rights with economic and social rights - to what extent in a domestic Bill of Rights can these two streams be integrated and what significance do you attach to the integration of economic and social rights with their civil and political counterparts? How far should economic and social rights be incorporated in a domestic Bill of Rights?*

This is a question I think I was hoping I would not be asked because I am not known as a great protagonist of economic and social rights as such. Probably the main reason I feel that, is because, at the moment, the relevant international instruments tend to suggest, especially the Covenant on Economic, Social and Cultural Rights, that the obligations are of a progressive nature, to be implemented as and when resources permit. I find rights in that kind of language so vague as to be fairly meaningless. I may not know what the whole scope of the prohibition of torture, cruel, inhuman or degrading treatment or punishment is, to use the language of Article 7 of the Covenant on Civil and Political Rights, but I know what its central elements are. I do not begin to know what the central elements of a right to housing are or a right to food. What I think it means, and it may mean, is something like - everybody should have an opportunity to obtain food and housing. Even that, in some societies, may require the establishment of policies - but I do not have a clue as to what they are. Some would say that at the moment the resources may not be there for it - I do not know if it is true, I do not know if it is not - I am not an economic theorist, even less a political economist.

In a way the question that is being asked is what powers you give to the judiciary? Meeting economic and social needs has essentially been one for politicians and for political discourse, not least because there are debates on how you divide the pie, really important sectors of the pie - not just the relatively small sectors relating to public administration, or law and order. The question then is whether people are prepared to allow an international committee or, at the national level, a court, the power to make decisions that will determine the allocation of the pie – in fact take power away inevitably from the traditional legislature and administration. I do not have an objection in principle to that, and given the esteem with which we as a nation seem to hold our politicians according to recent opinion polls, I am not even sure that the judiciary would necessarily be such a bad bunch of people to solve the problem. Except of course, that the problem then is that they have to deal with individual cases and of course, the rest of government is trying to deal with the macro rather than the micro level. So I see problems with that kind of integration, I have to confess. However, I am not sure that they are problems which are insoluble given, one - the right kind of formulation, and two - maybe envisaging more than one way of enforcing the rights. It might well be that not every right in such a declaration would automatically be amenable to judicial decision, if society did not feel that it wanted to leave the decision to judges.

What you have touched on is one of the biggest problems in human rights discourse – the question of which are more important, which are more real, civil and political/economic and social. It also has great resonance of Cold War times when of course economic and social rights were asserted – more tongue and cheek than in reality - by the so-called socialist camp as a way of flagellating the so-called capitalist camp, despite the fact that the capitalist camp often did rather better at meeting

economic and social needs than the socialist camp. Because it was a weapon of war, the capitalist camp used civil and political rights as a way to flagellate the socialist camp. So all of that baggage as well has to be overcome. One of the reasons I find myself here being much more open to the idea of economic and social rights than I sometimes am is something implicit in what I said before. That is that I actually suspect that the people who potentially may be the very people who are most involved in the conflict recognise more easily the economic and social rights discourse than the civil and political rights discourse. But whether one can translate that into something workable I do not know.

- *What does international experience say about the problems which exist around the world with some Bills of Rights?*

You have stumped me, not least because I do not consider myself a comparative expert on Bills of Rights. But I have hinted at one of the major concerns and that is when a national Bill of Rights does not in fact adequately reflect the International Bill of Rights. Maybe I could even challenge my host, the Committee on the Administration of Justice, on one issue. They have done a draft Bill of Rights in which they allow that a suspect can wait up to 36 hours before being brought to a judge. That is actually not consistent with best international standards which would be probably 24 hours - maybe with a possibility of extension under certain circumstances - but that is it. So it is also a question of getting the Bill of Rights right in the first place and meeting all the international standards, and indeed going beyond them.

- *How do you make international standards into national standards? What is the best method of making them effective?*

There is not an international answer to that – there can only be a national answer. If, in my capacity as Special Rapporteur on Torture, all I had to do was figure that out from a formula, it would hardly be necessary for me ever to go on a mission to a country, because one of the main functions of such a mission is not only to report on the incidence of the phenomenon, but to prescribe a solution to the problem - to prevent it from continuing and to prevent it in the future. Of all my experiences, recommendations differ from country to country, and the reason they are different from country to country is that each country's legal system has its own specificities, and one has to try to come up with recommendations that are adapted to those specificities. A common law country really has very different specificities from the typical civil law country across the Channel. Go into the Hispanic, mainly written, system and it gets even more complicated. The Latin American system is based on the Iberian model and I probably visited at least eight countries in that region - not one of them either has exactly the same institutional or normative content. So what one has to do is precisely look at the specifics.

I can give you in broad terms what is necessary in the area of torture, and they relate to various kinds of proposals to create transparency and avoid impunity, but to translate that into something relevant on the ground requires a very close look at the specificities of the country in question. And that is how it should be – it would not be

appropriate for international human rights law in fact to be a tailor-made menu from which everyone has to eat the same food. It is not meant to be that – again it has to be a framework against which the national reality needs to be measured.

- *Is there a problem that national remedies need to be exhausted before one can access international or regional human rights mechanisms?*

My guess is that most societies would find it politically necessary to have a first crack – the only question is whether one has the first crack invoking the international standards – this is the incorporation argument – or just leave it to the national level, and when the national level is exhausted, one goes to the international level. It will be impossible to get any agreement on going straight to the international level in the present political dispensation. It is not a problem of principle – it happens all the time with the law of the European Communities – but I think most countries around the world would find it pretty impossible for human rights cases.

For a long time, I used to be against incorporation, against something like the Human Rights Act, precisely because it would make it that much harder to exhaust domestic remedies. Everything is going to have to go as far as the House of Lords now before one can get a proper remedy in Strasbourg. I have to say I softened in recent years because at least some of the judiciary has become more adept and more willing to take on board human rights ideas. There is also now more scrutiny of the present judicial appointments process and that in itself is good too.

- *Will a Bill of Rights help us with difficult conflictual issues like marching and abortion?*

There is not necessarily a rights answer to every problem. There may be a rights approach to the problem, in terms of how one tries to arrive at the solution. But clearly there is potential for conflict between the right to be free from discrimination and the right to freedom of expression. People have to make decisions in terms of what is the proper scope of each right when they conflict with others, and the answer will not always be obvious. At the same time, one has to be careful about not overselling rights, and that in a way was what I was trying to do when I was talking about creating a framework rather than providing easy solutions as such. I am not overselling rights as the answer to everything – it is not going to provide answers to everything – it just may facilitate getting there.

- *What do you think about the appointment or election of judges?*

Obviously the more power the judges have, the more they are seen to be decision-makers and policy-makers even, rather than simply law-appliers, the more they are going to become controversial, and the more questions will arise as to how they are trained, where they come from, how they are appointed and so on. Many of us who were on the Left in the sixties were asking exactly these questions about the judiciary at that time. I have to say that I do believe in security of tenure and therefore the idea of electing judges strikes me as pretty incompatible with an independent judiciary.

I suspect it is possible to come up with transparent systems which do not necessarily go as far as public elections. Will they necessarily be better than what we have now? I leave to others to judge. Certainly, the best way I can duck out of the question is to say that I am a member of the Council of Justice, the British branch of the International Commission of Jurists and it has certainly argued for more open procedures for the selection of the judiciary.

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