The Importance of A National Human Rights Institution For Palestine

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BY Chris Sidoti: Chris Sidoti is a human rights activist and teacher. He was the director of the International Service for Human Rights, based in Geneva, Switzerland. He was appointed Adjunct Professor at ACU National in 2005. Chris has been Australian Human Rights Commissioner (1995-2000), Australian Law Reform Commissioner (1992-1995) and Foundation Director of the Australian Human Rights and Equal Opportunity Commission (1987-1992). He has also worked in non-government organisations, including for the Human Rights Council of Australia and the Australian Catholic Commission for Justice and Peace. He worked closely with Arab and Palestinain Human Rights organisations, and is a close friend and ally to ICHR.

Sixty years ago, on 10 December 1948, the United Nations General Assembly adopted the Universal Declaration of Human Rights. This document is the foundation stone of international human rights law. It proclaimed the universality of all human rights as the entitlements of all human beings. It proclaimed that human rights were the inherent birthright of everyone. It affirmed the dignity and worth of all human beings and their equality. It described human rights as "a common standard of achievement for all peoples and all nations".

The proclamation of the Universal Declaration was a great achievement in itself. Even at the time, however, there was general recognition that simply adopting the Declaration was not enough. Even then, there was concern that the Universal Declaration would be meaningless, mere words on pages, if it was not implemented and enforced. The limitations on the international system made it impossible to look to it for protection of human rights except, perhaps, in the most extreme circumstances, such as genocide and crimes against humanity. So while welcoming the Universal Declaration, international bodies identified the need for mechanisms at the national level to ensure its implementation and the effective protection and promotion of human rights for all.

National human rights institutions have emerged as the most important mechanisms for domestic protection and promotion of international human rights standards. They are official but independent institutions, enjoying a status somewhat like that of an independent court system. They are established by law, either through the constitution or through an act of parliament, that guarantees their independence and defines their structure, functions and powers. They are resourced by the State out of the ordinary annual budget. They have complete operational freedom, in relation to policy, program, priorities and activities, subject only to the law. These requirements for national human rights institutions have been set in international standards, the Paris Principles, drafted in 1991 and adopted in 1992.

Before 1993 there were only a handful of national human rights institutions. Then the Second World Conference on Human Rights, held in Vienna in June 1993, adopted the Vienna Declaration and Program of Action that recognised the importance of national institutions and called on all States to establish institutions that complied with the Paris Principles. The Vienna Conference provided the necessary encouragement for the international system, especially through the Office of the High Commissioner for Human Rights, and national governments to give priority to the establishment and strengthening of national institutions throughout the world. As a result, their numbers grew swiftly. In 2008, over 60 institutions have been accredited by the International Coordinating Committee as fully compliant with the Paris Principles and another 25 have been recognised as in partial compliance. That means that almost half the world's nations have a human rights body of one kind or another.

The Palestine Independent Commission for Human Rights is one of the institutions recognised as partially complying. It was established in 1993 as the Palestine Independent Commission for Citizens' Rights by a decree of then President Yasser Arafat. Although the Basic Law of Palestine requires the establishment of a national human rights institution by law, the Palestinian Legislative Council has not yet passed the necessary law and so the Palestine Commission does not yet satisfy in full all the requirements of the Paris Principles. In addition, as Palestine is not yet recognised as a State, the Palestine Commission cannot yet be considered a "national" institution.

In spite of these technical deficiencies, through its 15 years the Palestine Commission has done excellent work for the promotion and protection of human rights in the Occupied Palestinian Territories. It was founded and has grown in one of the most difficult contexts in the world, marked by persistent violence and grave human rights violations. The area in which it works is under foreign military occupation and Israel, the occupying power, does not recognise the application of international human rights law in the territories. The Palestinian authorities, working in this situation, have themselves had little regard for complying with human rights standards.

The Palestinian Commission has been fearless in its defence of human rights. It has shown its independence by investigating and reporting publicly on human rights violations by Palestinian officials and agencies. It has courageously denounced violations by the occupying Israeli forces. It has established an international reputation for integrity and credibility in its work, providing a welcome, reliable voice in a situation in which charges and allegations are hurled back and forth between the warring parties.

Other national human rights institutions have much to learn from the experience of the Palestinian Commission. Many others also work in situations of violence and armed conflict, having to confront armed forces and militias that operate outside international human rights law. Many also have to deal with situations in which governmental institutions generally are ineffective or dysfunctional. They can learn from the Palestinian Commission's strategies and methodologies. The Palestinian Commission itself has learned much from the work of other national institutions, both through the Asia Pacific Forum of National Human Rights Institutions and through international cooperation among these institutions. It is an active and successful participant in this still growing international network of collaboration.

Now, as in 1948 when the Universal Declaration of Human Rights was proclaimed, the question of implementation is been the most difficult one confronting human rights advocates and defenders. Human rights law is essential. Its development has been rapid and extensive but its implementation remains problematic. The Palestinian Independent Commission for Human Rights has been a very effective mechanism for monitoring implementation and promoting and protecting human rights. Let's hope that in the future its legal status is better established, its role strengthened and its work further advanced