

FORUM FOR PEACE AND RECONCILIATION

Sub-Committee on Fundamental Rights and Freedoms, 29 September, 1995.

Work Programme

1. The Chairman outlined the programme of work for the Sub-Committee in processing draft Forum conclusions on the studies by Eide and by Hadden/Boyle/Campbell. It was noted that the latter should be available for distribution by the end of the following week and that the consultants had indicated a readiness to discuss its with parties on a bilateral basis if that was considered desirable. Dr. Eide himself would attend the Sub-Committee on 13 September but was ready to consider any further views before finalising his text.
2. The Chairman referred to the importance of maintaining a regular stream of publications if the Forum were to maintain its public profile and impact and raised the possibility of publishing the studies first and the Forum conclusions at a later stage. He asked members to reflect on this aspect. One delegation expressed a reservation on separate publication fearing that people might not read a disclaimer clause and might mistake the consultant's views for those of the Forum.
3. It was noted that there might be some over-lap between the two studies and that the Sub-Committee could return to this matter when the full text of the Hadden/Boyle/Campbell study was available.

Eide study

4. The Chairman thought that large parts of the study should be non-problematic but referred to two areas where difficulties might be seen as arising. The first of these concerned sections where Dr. Eide stated certain assumptions as to the likely political scenario in Northern Ireland in the future. The Secretariat's feeling was that the material was valid without the inclusion of such assumptions and that there was accordingly scope for suggesting some drafting changes that Dr. Eide might well accept. The second area was that dealing with self-determination. Eide's study set out the position in international law with regard to self-determination as he saw it and there were narrow limits as to the extent to which he could be asked to say that the position was other than he considered it to be. Nevertheless there had been some broadening of scope since the first draft to cover the extent to which it was open to relevant governments to reach bilateral agreements on recognition of a right to self-determination and delegations might wish to consider the matter further.

5. Most delegations indicated that they had insufficient time to fully examine the text and that they would wish to have the opportunity to offer comment at a later stage. Some delegations thought the document was useful, stimulating and of a very high quality. In particular, the survey of international law and the review of other European practice, notably Spain and the South Tyrol, were thought helpful.
6. One delegation agreed with the Chairman that the areas of self-determination and assumptions on future political scenarios were difficult. This delegation felt the document was overly-formalistic and overly-rigid. It felt that the treatment of colonial enclaves was not sufficiently developed and said that it had hoped for a more innovative document. This delegation said it would reserve its more detailed comments until a later meeting.
7. One delegation queried whether the reference to the end of paramilitary violence (p17, para 91) should be qualified in view of continuing punishment beatings.
8. One delegation noted the statement (p8, para 37) that the UK and the Republic of Ireland were practically the only member States of the Council of Europe which had not incorporated international human right law into their own constitutions and legal orders. This delegation attached importance to the suggestion in the subsequent paragraph that as a minimum the European Convention on Human Rights and Fundamental Freedoms should be incorporated.
9. Another delegation also stressed the importance of the international dimension and was concerned that the description of bilateral arrangements between the British and Irish Governments as exemplary models (p3, para9) might give the impression that human rights should be enforceable by bilateral treaties alone, thus diminishing the concept of international obligations or guarantees.
10. One delegation said that the study looked at existing approaches to group accommodation and minority protection but there were also models used in the academic world, in particular dealing with PR electoral systems.
11. A delegation noted that new language was being developed at the UN as regards the implementation of self-determination and that Eide might be invited to provide further details on this.
12. One delegation noted the reference to preventing discrimination in the role and performance of security forces and said that there were some UN Conventions on policing in democratic societies. This delegation saw merit in including such documents in the study, perhaps by way of appendices. The Chairman recalled that there was a question of the Forum returning to and dealing separately with the policing issue. This placed limits on how far the Eide study should or could be developed in this area but the possibility of appending certain international conventions was certainly open.

13. The Chairman concluded that it might be necessary to schedule another meeting of the Sub-Committee if there was to be any chance of keeping to the work programme and publishing Forum conclusions by early December. As regards the comments made he said that the Secretariat would speak to Eide. He urged delegations to let the Secretariat have any additional comments as soon as possible. He repeated however that as regards self-determination there would be limits as to what was possible to change.

Adrian McDaid .

Adrian McDaid
Secretary to the Sub-Committee
3 October 1995