



The World Today

Caribbean Human Rights: Are We Below Average?

Stephen Vasciannie

Professor of International Law, Department of Government, UWI, Mona;

Associate Fellow, The UWI Graduate Institute of International Relations, The University of the West Indies, St Augustine Campus

Caribbean countries that emerged from colonialism with Westminster-style constitutions have long maintained that we have strong, and even exemplary, records in the area of human rights. To support this, we point to the safeguards to protect fundamental rights and freedoms in each of our constitutions, and we note the continued existence of democratic structures in our governmental arrangements.

Commonwealth Caribbean countries have also argued that the constitutional protection of human rights is not merely a matter of theory. Even the most venomous political regimes may have paper constitutions that proclaim the most wonderful list of human rights. We maintain in the Commonwealth Caribbean, however, that the proof of the pudding is in the eating: thus, we note that the independence of the judiciary and adherence to the rule of law in practice help to ensure the rights of the citizen in each Caribbean country.

Qualifications

Naturally, this portrait of the human rights situation in the Commonwealth Caribbean must allow for certain qualifications. So, for example, even with rose-tinted spectacles, we must admit that various aspects of the Grenadian experience from 1979 onwards did not fully accord with the basic approach to human rights recognized in the region. Today, too, some countries have special, much-publicized, problems; and here the issue of police killings in Jamaica comes readily to mind.

So then, there are human rights problems in parts of the Commonwealth Caribbean, even though we may argue that the Region has a fairly good record. At the very least, Governments in the region know that when they fail to secure appropriate human rights protection for citizens, this has political consequences.

Against this background, it may be somewhat surprising to learn that the Commonwealth Caribbean countries have a weak record when it comes to ratifying some of the main international human rights treaties sponsored by the United Nations and the Organization of American States.

The Main Treaties

Regarding the United Nations, the three treaties that apply most generally to human rights matters are:

- The International Covenant on Civil and Political Rights (the ICCPR);
- The International Covenant on Economic, Social and Cultural Rights (the ICESCR); and
- The First Optional Protocol to the International Covenant on Civil and Political Rights.

And, as far as the Organization of American States is concerned, the main treaty is the American Convention on Human Rights.

The relatively weak record of the Commonwealth Caribbean is reflected in the following statistics. For the international community as a whole, 152 countries out of possibly 200 countries (roughly speaking) have ratified the ICCPR, giving an overall rate of ratification of approximately 75%. For the Commonwealth Caribbean countries, however, 8 of the 12 independent States have ratified this treaty, so our record of 66 2/3% is below that of the rest of the world. A similar set of figures applies to the ICESCR.

The ICCPR and the ICESCR set out the most basic rights, so it is fair to argue that if Caribbean countries are serious about human rights, we should at least bring ourselves to ratify these treaties.

The First Optional Protocol to the ICCPR is a treaty that allows individuals to bring petitions against their governments in human rights cases; it usually applies when an individual believes (s)he has not, or cannot, receive justice in the local courts. Some 104 of approximately 200 countries have ratified this treaty, giving an overall ratification rate of approximately 50%. In the Caribbean, however, only two countries, Barbados and Guyana, are parties. This gives the Commonwealth Caribbean a rate of ratification of 16 2/3%, well below the average for the international community.

Likewise, the Caribbean is significantly below average with respect to ratification of the American Convention on Human Rights. Here, our rate of ratification is approximately 50% lower than the rate of ratification for Latin American and the Caribbean as a whole.

Bell the Cat

If we are serious about human rights, why have we refrained from ratifying the main treaties in this area of international law? Various answers may be offered, including the fact that reporting on human rights enforcement costs money. Some countries believe that the bureaucratic effort needed to keep up with these reporting requirements under the various treaties is simply too great for small, developing countries. This may help to

explain why Antigua and Barbuda, the Bahamas, St. Kitts-Nevis and St. Lucia are parties to neither the ICCPR nor the ICESCR.

But it must also be said that in some instances the international human rights agencies have made it difficult for the Caribbean to support the main treaties. The United Nations Human Rights Committee has, for example, interpreted the international rules on the death penalty in a manner that is largely inconsistent with majority perspectives in the Caribbean. This has prompted countries to refrain from the First Optional Protocol to the ICCPR: our Governments wish to determine death penalty issues without strong outside interference. They also feel that some human rights agencies are just not sufficiently sensitive to the cultural and social contexts in which Caribbean people live.

The net result is rather unsatisfactory. The Caribbean's fairly good human rights record is tarnished by the fact that we have been slow to ratify the main human rights treaties on the subject. We are actually above average in practice, but our record on paper places us below average. It is time for us to bell this cat.