

some sort of security and justice system to protect fundamental human rights and establish the rule of law.

In doing so, the UN must anticipate and not be deterred by accusations of bias and unacceptable intrusion into sovereign affairs. In this regard, it is instructive to look at some of the mechanisms created under what is now called the OSCE (Organization for Security and Cooperation in Europe). Under certain instances, the Moscow Mechanism allows for a mission to be sent to a country on the agreement of six of the member states **without** the consent of the state. Even more intrusive into domestic sovereignty has been the creation of the OSCE's High Commissioner on National Minorities (HCNM) with a clear mandate to involve himself in 'internal' disputes, and his evolving practice of publishing his activities and recommendations. His conflict prevention role is enhanced in this way "since one of the problems in relation to minorities is lack of impartial information, which increases fear and uncertainty. By publishing his recommendations, the HCNM may do much to ease tensions both within the minority communities themselves and between the government of the host state [being investigated] and that of the [ethnic] 'mother country'."²¹

Objectively promoting and protecting human rights will inevitably result in vociferous claims of partiality. The more active the UN is in protecting rights, by arresting violators or publicly criticizing violators, the more adamant will be those claims of partiality. The UN must be prepared for such false claims by those who are blinded by hate or fear, or by those with vested interests and attempting to avoid being the object of UN action. The UN, in particular its field staff, should have a strategy on how to respond to such claims when they arise. Inter alia, this could include making sure their facts are well founded, and ensuring that UN actions are consistent vis-à-vis one party or the other.

It is important to advertise what UN impartiality is all about. Individuals and parties to a conflict will be less surprised and less prone to claims of partiality, if they are forewarned about how the UN will respond to human rights violations. The present operation of the Hague tribunals for both ex-Yugoslavia and Rwanda, are putting military and civilian leaders on notice that they can be brought to account for gross violations. At a much lower level, clearly and forcefully notifying parties to a conflict that they will be accountable for violations and that the UN will wherever possible take appropriate action, will reduce subsequent claims of partiality. Hopefully and probably, clear enunciation of a strong UN human rights policy of taking action will reduce human rights violations. As in any legal system, deterrence is directly proportional to the likelihood of being caught and punished.

Recommendation #5

It is recommended that UN member states and senior UN officials clearly set out UN human rights field policy, and state unequivocally that UN action in promoting and protecting human rights will be evenhanded and consistent so as to be impartial and neutral.

²¹ p.47, Rachel Brett, *Is More Better?, An exploration of the CSCE Human Dimension Mechanism and its relationship to other systems for the promotion and protection of human rights*, Human Rights Centre, University of Essex, 1994.