



The Scotland-UN Committee

The CoE Memorandum – the Decisive Breakthrough

Scotland-UN's widespread network of strategically situated members and correspondents ranged from California through Washington, Scandinavia and Central Europe to the Far East.

Their function was to pass back information that might be of use or significance as well as keeping local media and authorities informed on the Scottish situation.

This intelligence was a considerable aid to the Committee in planning programmes of activities abroad, when advance information enabled the actions to be carried through with meticulous planning and diplomatic preparation of the ground. Above all, without advance information well before October 1993 it would scarcely have been possible to prepare the case for the Council of Europe that resulted in the restoration of the Scottish Parliament and Government in July 1999.

The 1993 Strasbourg action took place against a background of the disintegration of the East European Communist system, which was to be the centre of consideration for the Council of Europe's Summit Meeting of heads of state and government. The S-UN intelligence service functioned perfectly. There were diplomatic contacts with the CoE in advance, but restricted to the broader issue of nationalism in Europe at that stage, without mentioning Scotland, in order not to allow scope for pre-emptive action by the UK delegation, who would certainly never have allowed it to be raised if they had had advance warning.

The Memorandum, in the form of a modern Declaration of Arbroath, was drafted in the light of the known Summit agenda, taking account of the relevant international law as well as the proposals for extension of the law that the Summit was to consider. S-UN Secretary John McGill sent it to the foreign ministries of all 32 CoE member states at the time, in order to bypass any attempts to suppress it, and also to all of the East European candidates for CoE membership. A Scotland-UN representative was present at the Summit as an observer.

The Memorandum, in conjunction with confidential verbal diplomatic negotiations, formed the basis for a far-reaching programme of action by the Council of Europe to monitor the democratic systems of every European state, and to take action including sanctions where any country was failing to adhere to the global norms of pluralist democracy, the rule of law, and respect for human rights and fundamental freedoms. The government of Scotland by a non-elected secretary of state failed to meet the conditions demanded in all three respects.

The result was that the incoming UK Labour Government under Tony Blair was forced to head its legislative programme with bills for devolved government in Scotland and Wales.

Fuller details can be found in:

The Scotland-UN Committee – The Story in Brief

Memorandum

To the Heads of State and Government of the Council of Europe

Vienna, 8/9 October 1993

Presented by

The Scotland-UN Committee

The Scotland-UN Committee, being appraised of the purpose of the Council of Europe's Summit Meeting in Vienna, desire to place on record their total and unqualified support for the Council as an essential component of the new European political architecture which is presently taking shape. We trust that the planned redefinition of the Council's functions within the overall European structure will be successful.

The Committee do, however, wish to acquaint the Council with their views on a matter that we understand is to be a subject of discussion at the Summit Meeting. Furthermore - in pursuance of our Committee's basic function - we wish to place before the Council the relevant facts concerning the present situation in Scotland.

1. Nationalism in Europe

The disintegration of the bipolar world system has had global consequences. Within Europe, one of the results has been an upsurge of national feeling, as previously repressed ethnic, cultural, linguistic and religious minorities have made use of their new freedom to assert their collective right to self determination.

In a number of cases, the assertion of national autonomy has resulted in the formation of new sovereign states. This must be regarded in general as a healthy and positive development, which is a precondition for broader European integration, as multinational states break down into units that are more suitable components of the new European structure.

Regrettably, however, there have been more negative results of these developments, as other groups have descended into chauvinism, intolerance, racism, xenophobia and even imperialism. While these may be regarded as temporary excesses during a transitional period, this does not make them any the less reprehensible.

The Council of Europe would be failing in its duty as the guardian of human rights and fundamental freedoms within Europe if it did not condemn these excesses in the strongest possible terms. The Scotland-UN Committee are nevertheless concerned that this might be done in a manner which itself could have negative consequences.

We cannot warn strongly enough that an unqualified blanket condemnation of "nationalism" backed by the authority of the Council of Europe could put a weapon into the hands of chauvinist and imperialist majorities for use against the very national minorities the Council is endeavouring to protect.

If the rights of national groups are to be shielded from abuse, then a clear distinction must be drawn between the various senses in which the expressions "nationalism" and "nationalist" are currently used.

In the positive sense, there is nothing reprehensible about a sense of national identity. No man or woman is an island. We all need the emotional security of belonging to a coherent social group with a recognisable identity, to the extent that, when necessary, we will be prepared to put the interests of the

community above our own individual interests. The disastrous social disintegration resulting from more than a decade of exaggerated emphasis on the individual can be seen all too clearly in the United Kingdom.

It is emphatically the concern of the Council of Europe to foster that social and political stability which arises from such a sense of community. This can thrive only in units of "human" dimensions that share a multitude of geographical, ethnic, social, historical and cultural bonds. There can be no internationalism without nationalism.

It is extremely important that whatever attitude the Council adopts towards the present problems should do nothing to undermine the formation of cohesive and stable national communities. We therefore strongly recommend that any statement issued by the Council should avoid the use of the words "nationalism" and "nationalist" completely.

The current problems in Europe are not a result of this vital sense of national identity, but of the above-mentioned pathologically exaggerated forms - chauvinism, intolerance, racism, xenophobia, imperialism, etc. - the intolerance of national groups other than one's own, and the imposition of one's own values, identity and institutions on others.

These excesses should be named for what they are, and condemned as they deserve, without at the same time lending support to imperialist majorities which might misuse the authority of the Council's statement as an excuse to repress national minorities within their states.

2. Democratic standards in Europe

The disintegration of the Soviet Union has to some extent confused the definition of what exactly is "Europe" or "European". The Scotland-UN Committee feels that any nations that consider themselves to be European, and which share European cultural, social, economic and political values, should be accepted as such.

We are in full agreement with the attitude adopted by the Council of Europe that such nations must be prepared to demonstrate their adherence to the European norms of statehood before they can be considered component parts of this community of values. These nations must be left in no doubt as to the criteria by which they will be judged, and the means by which they will be assessed.

If there are to be criteria for admission to membership, it follows that there ought to be a system for monitoring the maintenance of these standards after entry. Logic demands that, if states failing to meet the criteria are not to be admitted, then existing member states that fail to maintain the same standards after entry must have their membership reviewed.

There must be sanctions available for use in the event of any regression to undemocratic and oppressive practices. This might involve, in the first instance, relegation to observer status until such time as the Council's standards are restored. In the event that this does not take place within a stipulated period of time, then the extreme sanction of expulsion should be used. It is unlikely that any government would allow matters to go that far, and public opinion within the country concerned would no doubt ensure that it did not.

We therefore strongly recommend that the Council of Europe should establish a mechanism for monitoring the maintenance of democratic standards within member states, analogous to the procedures which have been set up for monitoring penal institutions, etc. These democratic standards must include the freedom of identifiable peoples to exercise their right of self-determination as guaranteed under international law.

3. The Scottish situation

Following upon the above observations, the Scotland-UN Committee wish to apprise the Council of Europe of the political situation presently prevailing in Scotland. This situation is one of the most barefaced violations of collective human rights in the world, and is certainly the worst surviving example in Europe of the political repression of an entire people.

Scotland is presently ruled by a government consisting of a Secretary of State and four ministers. The Scots do not elect this government. It is appointed over their heads by the British Prime Minister without reference to the outcome of the elections in Scotland. The present Secretary of State and his colleagues have the support of only 6 Scottish Conservative members of the Westminster Parliament, who are opposed by 61 members from the other three parties.

In any normal democratic system it would be impossible for such a tiny minority to govern a country without the consent of the people, or at least the people's elected representatives. Yet these five individuals are enabled to carry through the most extreme ideological measures without reference to anyone.

They command an army of civil servants whose actions are subject to completely inadequate democratic scrutiny. Furthermore, they exercise a monstrous patronage over thousands of appointments, with all the scope which this provides for packing their own supporters into a multitude of non-governmental organisations which exercise national functions but are in practice answerable to nobody. We will not require to emphasise the scope for corruption and discrimination that such a system provides for those who attain power within it.

The degree of absolute rule that the Secretary of State for Scotland and his colleagues exercise would hardly be believed in other European countries. Not even their own political party conferences are permitted to have a say in the formulation of Scottish governmental policy.

The votes of the Scottish members of Parliament on purely Scottish measures have no influence on policy, and the total opposition of the Scottish people to particular items of legislation is simply ignored. Legislation affecting Scotland alone is forced "democratically" through the Union Parliament at Westminster by the huge English majority there, even if every Scottish member votes against it. There are innumerable examples that can be quoted in support of the above statements.

It is by means of such a travesty of democracy that Scotland - a nation with one of the oldest parliamentary traditions in the world - is governed as a colonial province. The system does not even possess the trappings of democracy that existed in Eastern Europe under communist dictatorship.

Furthermore, Scotland possesses an ancient and distinct legal system that has evolved over the centuries in harmony with continental European systems. Yet Scotland is the one and only country in the entire world with such an indigenous system of law and no national legislature to sustain it.

4. The development of the Scottish situation

This situation has its roots in a dynastic marriage between the Scottish and English royal houses. In the course of time the Scottish king inherited the throne of England - the Scots took over England, not the reverse - although both countries remained otherwise independent. A century later the two monarchies were united to form a single United Kingdom of Great Britain.

A new parliament was set up to administer the affairs of the new political union - the present United Kingdom legislature at Westminster. The national parliaments of Scotland and England were never formally abolished; in fact, the final action of the Scottish Parliament was to fix a date and time for its next meeting, but neither that adjourned session nor any succeeding one has ever been held. The union agreement, however, contains no provisions of any kind for winding up the Scottish legislature.

That means that it can be recalled at any time to deal with national matters, as distinct from those of the Union.

Since then, England has grown to have ten times the population of Scotland, and the affairs of the smaller partner in the Union are constantly subordinated to the interests of the larger one.

Furthermore, the affairs of state have reached a degree of complexity never before seen in history, and the functions of government have expanded to cover almost every aspect of people's lives. The necessity of decentralised regional government is now accepted the length and breadth of Europe, with the single exception of the United Kingdom.

5. Scottish demands for democracy

For more than a hundred years the Scottish people have been attempting to have their ancient national Parliament recalled to deal with Scottish affairs. To date, no fewer than 34 bills and motions to this effect have been introduced in the Westminster Parliament. These measures were supported by the overwhelming majority of the Scottish members. Despite this fact, and in flagrant contempt of the international law governing the self-determination of peoples, every one of these measures was either killed by procedural chicanery, or simply voted down "democratically" by the huge English majority.

The demand for the restoration of democracy in Scotland is overwhelming and longstanding. Since long before the Second World War opinion polls have with monotonous regularity reported majorities of the Scottish people, bordering on unanimity, to be in favour of having their own legislature again.

In 1950 almost two and a half million out of three and a half million Scottish voters signed a National Covenant requesting the recall of the Scottish Parliament. Yet when the delegation arrived in London to present the petition all the government doors were contemptuously shut in their faces.

In March 1979 a national referendum was held in Scotland to decide whether a certain scheme to set up a Scottish legislature was to be implemented. Despite the obvious weaknesses of the plan in question, this Scotland Act was adopted for implementation by the Scottish electorate, with virtually the same support that was given to membership of the European Economic Communities in the 1975 referendum, and in the recent French and Danish polls on the Maastricht proposals. It was a clear and constitutionally valid decision by the country's highest constitutional authority that legislative facilities are to be restored to Scotland, and one that stands for all time.

The implementation of the Scotland Act was subsequently supported by an overwhelming majority of more than two thirds of the Scottish elected representatives in a vote in the House of Commons, the usual standard for the adoption of a constitutional law. Despite this, the incoming Conservative government, who by then had no mandate to govern in Scotland at all, pushed through a constitutionally meaningless "repeal" of the Scotland Act, with the use of their overwhelming English majority in the Westminster Parliament and against the bitter opposition of the Scottish Members of Parliament.

In spite of their own solemn promises to set up a Scottish legislature with even stronger powers than those contained in the Scotland Act, they flatly refuse to do anything at all to rectify the situation, which is now blatantly unconstitutional.

Those members of the Council of Europe Summit Meeting who attended the European Community Summit Meeting in Edinburgh in December 1992 will recall the demonstration in front of Holyrood Palace by 25,000 Scots demanding the recall of their national Parliament - a demonstration that was totally ignored by the British government, and also by the London media. We assume that those hundreds of prominent eyewitnesses will have taken note of what they saw then.

6. Scotland's status as a nation

We must point out that these are not mere regional demands. The Scots have occupied their national territory for at least 1,400 years. The first record of the consecration of a Scottish king dates from the year 574 AD. There has never been another occupant of the country since prehistoric times.

Few Europeans will be unaware of Scotland's unique and distinctive national dress, culture and traditions, many of them shared with our Irish cousins. Indeed, Scotland and Ireland are among the few custodians of Europe's ancient Celtic culture, the preservation of which is surely a matter of prime interest to the Council of Europe.

The Scottish legal, school and university systems, among others, are also distinctive and more akin to continental institutions than to English ones.

Scotland is also one of the world's oldest monarchies, and reputedly the first nation state in Europe. The ancient Scottish Crown, Sceptre and Sword of State in Edinburgh Castle testify to this, while the Parliament House of Scotland, built in 1632, testifies to this day to the antiquity of Scotland's tradition of democracy in a national Assembly for which a chronicler used the Latin designation "parlamentum" as early as the year 1174.

Quite apart from the centuries of democratic tradition, under no circumstances can a dynastic marriage in the late Middle Ages between the Scottish and English royal families be considered a basis for determining the country's legislative structure in the late 20th century.

Scotland is a distinct and distinctive geographical, ethnic, social, cultural, economic, legal and constitutional entity whose needs are vastly different from those of the larger partner England, and which require independent powers of decision-making within the wider European framework.

7. Additional comments

We must make it clear to the Council of Europe what we are attempting to combat. We are campaigning against centralisation, foreign rule and colonisation, foreign control of the media, political brainwashing, cold-bloodedly deliberate cultural genocide (e.g. the virtual abolition of the teaching of Scottish history in Scottish schools), autocracy, arbitrary rule, and above all contempt for the democratic processes and the rule of law. This includes systematic discrimination against "dissidents" - in this case known advocates of restoring a democratic governmental system in Scotland.

We are not attempting to overthrow the democratic order. That is being done by those United Kingdom politicians who, in the face of overwhelming demand, flagrantly and illegally refuse to obey a clear decision by the country's supreme constitutional authority that democratic government in Scotland is to be restored with the recall of the Scottish national legislature.

No doubt the Secretary of State and the other people concerned do not regard themselves as subversive elements, but that is indeed what they are - because they are not only destroying democracy in Scotland, but also undermining the whole scale of Western democratic values that have been established over the centuries at horrendous cost in human blood.

It goes without saying that the present method of governing Scotland is found advantageous by vested interests - mostly external - who have good reason to fear the light of day that would be shed on it by the restoration of democratic scrutiny. That is why everything that is done is subordinated to the unreasoning ideology of preserving the existing political structure at all costs, irrespective of its suitability for contemporary purposes.

In the final analysis, this is not even a question of nationalism or any other "ism". It is a question of good government, and of the structures that are necessary to achieve that end under conditions that are vastly different from those prevailing at the time the present set-up was devised.

8. Action by the Council of Europe

It would be sheer hypocrisy, and diplomatically untenable, for the Council of Europe to insist on basic standards of democracy from applicants for membership, while at the same time turning a blind eye to flagrant violations of some of the basic canons of democracy by an existing member country.

We have no doubt whatever that those countries that are presently on the waiting list for membership, and which are meanwhile being exhorted to bring their democratic systems up to the standards required by the Council of Europe, will take particular note of the Scottish situation in this context. That situation falls well short of the Council's conditions for membership in all respects: The failure to maintain *pluralist democracy* in Scotland is self-evident from the facts mentioned above. It is the worst remaining example in Europe of a pseudo-democratic autocracy.

It violates all the relevant international instruments of *human rights and fundamental freedoms* such as Article 1 of the Covenant on Civil and Political Rights and of the Covenant on Economic, Social and Cultural Rights, as well as the Helsinki Final Act and a number of other codified guarantees of the right to self-determination. Furthermore, the disadvantages and discrimination that have been suffered by known advocates of recalling the Scottish Parliament - a perfectly normal democratic institution - are a clear breach of internationally guaranteed individual rights.

The London-inspired resistance against the campaign to restore democracy in Scotland, and the stubborn retention of the present autocratic governmental system in defiance of public and political opinion as well as a clear and valid decision by the country's highest constitutional authority is an obvious breach of the Council's requirement to *maintain the rule of law*.

There is therefore no way that the Council of Europe can overlook or ignore the political situation presently prevailing in Scotland. According to the Council's own rules, action will require to be taken. The Scotland-UN Committee propose two alternative or concurrent courses of action:

- a. That the Council should appoint a special commission to investigate the Scottish political structure in the light of the democratic standards which the Council has set for new members, and to report back with its findings and recommendations for structural improvements.
- b. That the United Kingdom of Great Britain and Northern Ireland be relegated to observer status within the Council, that is to the same level as the present applicants for membership, until such time as its

democratic system is improved sufficiently to meet the Council's requirements for membership.

9. The Scotland-UN Committee

The Committee was formed in June 1979, with influential support, when the incoming Thatcher government in London forced through the above-mentioned so-called "repeal" of the law which had been enacted to restore legislative facilities to Scotland, after that had been adopted by the constitutionally supreme Scottish people in a national referendum in full accordance with all the relevant principles and precedents in Scottish, British, European and international law.

It was obvious that this unconstitutional (and hence to this day invalid) move called for action at international level in order to have constitutional law and order restored in Scotland. The Committee have therefore presented the Scottish case to the UN Commission on Human Rights, the European Community, the Conference on Security and Cooperation in Europe, and every national government in the world, among others. The Committee's mandate is contained in a petition signed by one third of a million Scots requesting the Committee to take diplomatic action at international level on their behalf.

The Scotland-UN Committee, while exclusively active at international level, cooperates closely with the Campaign for a Scottish Parliament and a number of similar organisations working at national level for the restoration of democratic institutions in Scotland. We are therefore in a position to arrange for a representative delegation of prominent people from the major national institutions to meet with the Council's representatives to discuss the matter further, and to coordinate any action the Council might propose. We request that such contacts be established as soon as possible.

10. Conclusion

Finally, we must point out that the world would have taken notice of Scotland long ago if we had resorted to violence to advance our cause. We must make it clear, though, that the fact that the Scots are too civilised to resort to such methods does not indicate any weakness in the case or in the level of demand.

This in itself places an obligation on the Council of Europe. In view of what has been happening in other parts of the continent in recent years, it is unthinkable that the Council can in effect place a premium on violence by indicating through inaction that only violent methods produce concrete results.

Peoples who refrain from such action must be visibly rewarded for their restraint. In the interests of the democratic security of Europe as a whole it must be clearly demonstrated that political and constitutional ends can be attained through rational and non-violent methods.

We put it to the Council of Europe that visible action towards that end, beginning with the example of Scotland, will have a greater and more positive international effect than any verbal strictures on the alleged evils of nationalism.

For and on behalf of the Scotland-UN Committee

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September 1993