

Protecting and Developing Human Rights on the island of Ireland, in an International Context

(Dublin Castle, 8th- 9th December 2000)

Mr Chairman, Ministers, ladies and gentlemen.

The conference is an important first. It brings together for the first time, representatives of our two Governments, the four statutory authorities North and South, and a broad range of non-governmental organisations to examine together an important issue affecting everyone in Northern Ireland and the Republic – Human Rights.

Being involved in Northern Ireland politics my mind often turns to a song from that famous musical ‘Les Miserables’ – a musical I have seen both in London and here at The Point. In one scene the star of the musical, Jean Val Jean, asks in song “Who am I?” One telling line is “If I speak I am condemned, if I stay silent I am damned.” Too often the easy road is to say nothing. Indeed I have often been asked, why are you in politics? My answer is simple – I enjoy politics. But as often as I am asked that question I am told what I should do. For example, “don’t give in”, “stand firm” OR “you live in history, think of the future” - to name but a few words of advice.

However, politics is more than enjoyment – there must be hope for a better future for all. We cannot subscribe to that phrase of Oscar Wilde, “Something was dead in all of us and what was dead was hope.”

I stand here today representing the Northern Ireland Administration – not representing Unionism or Nationalism/Republicanism. That alone gives me a sense of hope. I have this hope because of the ‘Belfast Agreement’. This Agreement put Rights at its very centre.

At the very beginning of The Agreement on Page 1 it states the following:

“...We (the parties) firmly dedicate ourselves to the achievement of reconciliation, tolerance and mutual trust and to the protection and vindication of the human rights of all.”

“We are committed to partnership, equality and mutual respect as the basis of relationships within Northern Ireland, between North and South, and between these islands.”

Incidentally, I believe that in fully supporting the ‘Belfast Agreement’ we have at last correctly defined and reflected the concept of “the totality of relationships” as was stated in the various communiqués issued by Mr Haughey and Mrs Thatcher in 1980. There is more in common between the two main islands than there is in division to divide us.

I wish to look at two aspects in the context of this conference: individual rights and group rights.

Under the Belfast Agreement the Northern Ireland Human Rights Commission has been given the task of advising the Secretary of State on a new Bill of Rights for Northern Ireland, to supplement the rights guaranteed by the European Convention on Human Rights.

On 1st March 2000, the Commission launched its public consultation programme. In answering the question as to why a Bill of Rights is needed, now that we have the European Convention on Human Rights - it stated:

“The European Convention is concerned essentially with individual rights. It is not designed to deal with the issues which typically arise in societies which are deeply divided along communal lines or in which there are clearly identifiable majority and minority communities.”

Let me first look at group rights. Entering the 1990's, as we all began rethinking our strategy regarding future relationships within this island, other events - on a grander scale - were impacting upon the thought process. Indeed, the world is ever changing and the world is never without problems to solve – Northern Ireland is not alone in this context. In this ever-changing world there are from time to time new paradigms. One such paradigm, I believe, was the break up in 1989 of the USSR. You may wonder why do I mention this aspect. A major result of this break up was that the threat to peace and stability within Europe became more intra-State than inter-State. The major governments in Europe turned anew to the problem of accommodating diversity within States. The last time this had been addressed had been pre-1939.

Intra-State conflict within the European context is additional to other problems such as the transition from totalitarianism to pluralist democracy and the social and economic move from centrally planned economies to market economies.

The solution of intra-State conflict has often been referred to as ‘group accommodation’ or ‘minority protection’. Indeed, a former senior member of the SDLP, Mr Austin Currie - now a member of Dail Eireann – had described our problem, in this context, as follows:

“Fundamentally the Northern Ireland conundrum is one of conflicting national identities between those who believe themselves Irish and those who believe themselves British. There are religious, social, cultural, political and other dimensions to the problem but they are only dimensions of that central issue.”

The basic requirements for order in any democratic society today are found within international Human Rights law. In the context of Northern Ireland – or anywhere - there is no more important issue to be addressed than how we organise society with respect to human rights.

The protection of rights is a central part in the establishment and functioning of democracy. International standards of human rights go to the very heart of democratic

values. Failure to abide by these universally accepted human rights standards within a State brings into question whether or not that State is democratic.

The corpus of rights embraces a number of categories: civil, political, economic, social, religious and cultural. The question has been how can we manage the differences that exist in Northern Ireland in ways consistent with democratic values and human rights?

This commitment to human rights reflects much more than a personal obligation on my part; it should be an obligation on all involved to subscribe to international human rights norms. The Irish Government - in the 1990's - convened a 'Forum for Peace and Reconciliation'. Like similar fora elsewhere, this Forum heard evidence and commissioned studies. One study document stated that:

“The human rights to be protected are defined by established conventions drawn up by international agreement. As such they form part of international law and must not be thought of as subject to bargaining between parties.”

Further, Professors Kevin Boyle, Colm Campbell and Tom Hadden wrote in May 1996 the following:

“Decisions on what should constitute fundamental human rights can no longer be regarded as a matter for people in individual States to decide as best they can. The substance of fundamental human rights is now determined by international consensus.”

These two quotations set a very rigorous standard for all involved in championing human rights.

As seen from the Northern Ireland Human Rights quotation the word 'minority' is often used in this human rights context. I learned to understand more fully, during the talks leading to the 'Belfast Agreement, that the word 'minority' carries with it an implication of being somewhat less in importance.

The Council of Europe has referred to a national minority as a group of persons within a State “who display distinctive ethnic, cultural, religious or linguistic characteristics” and are “motivated by a concern to preserve together that which constitutes their common identity.” Such a national minority is to be “sufficiently representative, although smaller in number than the rest of the population of that State or a region of that State.” This reflects more truly – and sensitively - my concept of a minority; merely smaller in number than other groupings within a State.

Dr. Michael Breisky, the former Austrian Ambassador to the Republic of Ireland, gave a lecture in October 1998 at Queens University Belfast entitled “Dealing with Minorities: A Challenge for Europe”. He was very clear on this point. While it is necessary, as a first element, that minorities are protected by the norms of international rules, a second and equally important element, requires the breaking down of psychological barriers: the sense of superiority/inferiority must be eliminated. The building of confidence and trust is required.

In Northern Ireland Unionists must convince Nationalists/Republicans that there will be a fair deal for all within Northern Ireland - that they have a stake in Northern Ireland and will play an important role at each level of government. Equally Unionists must be convinced that all will work within the institutions of government established by the 'Belfast Agreement' - in the context of a peaceful environment. This is where real confidence building is required.

The assertion sometimes is made that the central problem in Northern Ireland is unique. This is not based on objective judgement: there are perhaps a hundred million people across Europe who consider themselves to be - if I may phrase it this way - on the wrong side of a border. Whether it be: Russians in Estonia; Hungarians in Slovakia; Croats in Bosnia; or for that matter Muslims in the Philippines - to name but some examples - the dynamics of community division are the same and thus subject equally to international human rights standards.

The Council of Europe's Convention, called the 'Framework Convention for the Protection of National Minorities' - that became operable in May 1998 - consolidated previous international instruments dealing with minority protection. The Council of Europe describes this Convention as "the first ever legally binding multilateral instrument devoted to the protection of minorities..". Dr. Abjorn Eide described it for 'Forum for Peace and Reconciliation' as "the first multinational 'hard law' [legally binding on States that ratify] devoted in its entirety to the protection of minorities, and it contains much more detailed provisions on such protection than any other international instrument."

The main principles in the Convention are these: full economic, social cultural and political equality; freedom of religion, peaceful assembly association and expression; access to the media for national minorities in order to promote tolerance and to permit cultural pluralism; freedom to use personal names in the minority language; the right to display minority language signs of a private nature visible to the public; and the right to use freely and without interference his or her minority language, in private and in public (where there is a need), orally and in writing; right to street names in the minority language; equal opportunities for access to education at all levels; and where there are sufficient numbers, adequate opportunities to be taught the minority language or receive instruction in the minority language.

Implementation of this convention, together with the inclusive Executive - unionist, nationalist and republican, demonstrate in a maximalist, if not unique way, the extent of human rights protection in Northern Ireland. This Convention makes it clear that in implementing human rights protection it is to be done "within the rule of law, respecting the territorial integrity and national sovereignty of states." It also states that in protecting minorities "they shall respect the rights of others, in particular those of persons belonging to the majority or to other national minorities."

The 'Belfast Agreement' offers Northern Ireland the best chance in 30 years of achieving stability. It offers partnership, equality and mutual respect. But the Agreement also imposes on everyone who signed up to it certain obligations. Recent events have shown that we have not yet reached the level of stability we aspire to. The reason is clear - there remains the destabilising threat of force from paramilitaries on both sides of the community.

All parties to the Agreement affirmed their opposition to the threat of force for any political purpose and their commitment to the total disarmament of all paramilitary organisations. In this context, it is imperative that re-engagement takes place between paramilitarism and the Independent International Commission on Decommissioning.

Regarding individual rights, commitments were enshrined in statutory duties under the Northern Ireland Act to promote equality of opportunity and community relations; and by the Human Rights Act, which places the European Convention on Human Rights at the heart of our legal system, and our system of Government. Together these two pieces of legislation represent a solid foundation on which to build a system of governance, which enjoys the respect and confidence of every citizen.

Action has also been taken on foot of these statutory duties. Government Departments and other public authorities are finalising statutory equality schemes setting out their proposals for complying with the duties, and there is a rolling programme of equality impact analyses of new and existing policies.

No one should underestimate the significance of these steps – together, the action taken as a result of the Human Rights Act and the Northern Ireland Act represents the most comprehensive, rigorous and systematic review of Government policy that has ever been undertaken in NI, all of which is driven by our clear commitment to human rights and equality.

Also, the NI Assembly's draft Programme for Government that was published for consultation last month sets out the Executive Committee's proposals regarding rights. Our commitment to the promotion of human rights and equality is reflected in our goal of creating a cohesive, inclusive and just society, and resonates in five key actions throughout the document:

- firstly we will ensure that all legislation, policy and administrative practice complies with the Human Rights Act, and that the highest human rights standards are adopted throughout the administration;
- secondly, we will introduce a Single Equality Bill, to consolidate existing anti-discrimination law, and to ensure that NI legislation reflects European law on discrimination in relation to race, religion or belief, disability age, and sexual orientation;
- thirdly, all Departments will take forward new Targeting Social Need Action Plans, to reduce inequalities by ensuring that spending is redirected and targeted on those whose objectively measured needs are greatest in key areas such as employability, health, education and housing;
- fourthly, through the Promoting Social Inclusion Initiative, we will ensure that Government Departments and statutory and voluntary agencies work together to identify and tackle the factors which can lead to the exclusion of vulnerable people; and

- Fifthly, we will introduce a new cross-Department policy framework to tackle racial and gender inequality.

Finally, I would like to offer a word of encouragement to all the organisations represented here today. Much has been achieved in the areas of human rights and equality, but there is more to be done. The two Governments and the four statutory authorities each have an important job to do, working collaboratively with our social partners.

We face the common challenge of protecting and developing human rights and equality. Much can be achieved through ongoing dialogue and cross-fertilisation of ideas between Governments, statutory authorities and social partners. Through this we can help to build a cohesive, inclusive society which is enriched by its diversity, and bonded by common values.

This conference is an important step in that process. I hope that it marks the beginning of an ongoing process of exchange, which will place NI and the Republic at the forefront of human rights and equality practice.

Thank you very much.

Dermot Nesbitt