

**Speech to the Equality and Human Rights Commission
Cardiff meeting, 10-11th March 2014
Democratic Devolution – An Opportunity not a Problem for Human Rights**

Personal opening remarks:

We meet today thirty years on from one of the great human rights struggles which dramatically shaped my own political outlook and that of my generation – the miners’ strike of 1984/85. Its manifestation in Wales, despite the hardship, gave rise, it is my belief, to the National Assembly for Wales which has become a champion of the cause of equality and human rights.

At the outset, I should say that I am someone who has supported the cause of democratic devolution since the 1970s and I continue to do so today. As chair now of the UK Parliament’s Joint Committee on Human Rights I see our current enquiry into devolution and human rights as an opportunity, not only to survey the impact of the Human Rights Act and the Equality Act – and the international human rights treaties to which the UK has signed up - on the devolved parts of the UK but to learn lessons from one another on how devolved administrations and parliaments can learn from each other and indeed teach some lessons to the centre – to Whitehall and the mother of Parliaments at Westminster.

Let me give you two examples from my own Parliamentary experience:

Firstly, in taking through my private member’s bill which became the Carers’ Equal Opportunities Act in 2004, I was very focussed on the unevenness of human rights and equal opportunities across the UK. I referred to it at the time as a Bill **made in Wales** from the lived experiences of my constituents who were carers. It was an England and Wales Bill or as I characterised it a **Wales and England Bill**. It was based in part on advances already in place thanks to the devolved administrations in Northern Ireland and Scotland. Thanks also to the

existence of the devolved Welsh Government and my good working relationship with the then Health Minister Jane Hutt, I was always able to ask the UK Carers Minister Steve Ladyman, when there was a stalling point in the Bill's progress, "what does the Welsh Health Minister think?", knowing of course that Jane agreed with me on all important matters in relation to the Bill!

And then of course there was the creation of the pioneering and indeed powerful **Welsh Children's Commissioner**. When the UK (or rather England) belatedly created a Children's Commissioner the Welsh Affairs Committee which I then chaired was able to challenge the Children's Minister for England Margaret Hodge and ask her why the English Commissioner had much fewer and weak powers than in Wales and to say to her that weaker powers in England might undermine the stronger Welsh position.

I see these contradictions not as **stumbling blocks** but as **building blocks** for equality and human rights. Nevertheless these contradictions should not now persist into the new more strongly devolved quasi-federal era

It is in that spirit that I am here today as an enthusiastic democratic devolutionist wishing to enhance the cause of human rights and equality in the UK in the spirit of Eleanor Roosevelt who, in her speech before the UN General Assembly in December 1948 on the adoption of the Universal Declaration of Human Rights, said,

“We stand today at the threshold of a great event both in the life of the United Nations and in the life of mankind. This declaration may well become the international Magna Carta for all men everywhere. We hope its proclamation by the General Assembly will be an event comparable to the proclamation in 1789 [the French Declaration of the

Rights of Citizens], the adoption of the Bill of Rights by the people of the US, and the adoption of comparable declarations at different times in other countries."

But more significantly for us today are Eleanor Roosevelt's other words a decade later in 1958 which are rooted in the lived experiences of families, communities and workplaces:

"Where, after all, do universal human rights begin? In small places, close to home – so close and so small that they cannot be seen on any maps of the world. Yet they are the world of the individual person; the neighborhood he lives in; the school or college he attends; the factory, farm, or office where he works. Such are the places where every man, woman, and child seeks equal justice, equal opportunity, equal dignity without discrimination. Unless these rights have meaning there, they have little meaning anywhere. Without concerted citizen action to uphold them close to home, we shall look in vain for progress in the larger world."¹

For me it is that clarity of purpose rooted in people's daily lives which inspires us all. In our meeting last week with the chair of the this Commission, Baroness O'Neill, I was greatly encouraged by the outline she and her colleagues gave of where you as a Commission are going with such a strong focus on protecting the most vulnerable and marginalised, realising the rights of people with disabilities and fairer workplaces.

But I think, given why we are all here today, I must say something about my Committee's **inquiry** into devolution and human rights. The idea of this inquiry was circulating in and around our work for a while, but we formally agreed before Christmas to dedicate some of our time in 2014 and early 2015 to assess to what extent the current devolutionary settlements (insofar as they are static, and events in Scotland later in the year may prove how dynamic they are!) have assisted or have held back the protection and promotion of human rights. My Committee will

be calling for written evidence later in the year, taking some oral evidence, and then reporting in 2015 before the General Election. We hope that the Report we issue will be of use to the new Parliament and the new Government – and to other key institutions such as yourself.

My Committee is also clear from its work how the whole issue of **local government** could be wrapped up under this title of devolution. We understand how the problem of transmitting responsibility for human rights from central government to local government is a great challenge – something, Baroness O’Neill, you stressed to the Committee when we spoke about devolution at your pre-appointment hearing eighteen months ago. However, such an inquiry is perhaps for another Parliament, and another JCHR!

Now, I was in Belfast with members of my Committee on Thursday of last week. It was the first in a series of three visits we will be making in connection with this inquiry – we intend to visit Edinburgh in May or June and then we will come here to Cardiff, we hope, in October.

It was a useful visit. We managed to cover a number of significant issues – women’s rights, children’s rights, and of course the issue of transitional justice and dealing with the past – and we tried to look at all of these things from the perspective of devolution, to see how such a wide range of matters was being dealt with in Northern Ireland *by the people* of Northern Ireland.

We also of course explored how the Executive there – principally the Office of First Minister/deputy First Minister – and the Assembly dealt with human rights issues in policy development, in reporting to international bodies, in scrutinising policy and legislation. I won’t go into detail here – not least because Northern Ireland of course falls outside your own remit – but clearly the unusual political context there still dominates so much of what goes on that some important human rights activity is frustrated and thwarted, although some other areas clearly flourish.

But two general themes arose during our discussions time and time again, whether it was with regard to justice and policing, violence against women and girls, children's wider participation in civil society – or even some things as potentially dry as the scrutiny of Bills and the assumption of obligations under international human rights treaties. Those two things were **communication** and **accountability**.

Devolution ought to enhance both communication and accountability. The distance from central Government in Whitehall, or from the Westminster Parliament, to a retired couple on benefits in Swansea, or to a migrant family in Glasgow, or to a group of unemployed teenagers in Belfast can for all practical purposes be immense. Remote government can be inaccessible, effectively silent and invisible – and thus unaccountable and irrelevant. Bringing governments and parliaments – and other institutions – closer to the people should only enhance communication. And with easier communication comes greater accountability – after all, unless a message is intelligible, no-one can properly be held to account for its content.

And what can we say of the accountability of the devolved government of London? What are the complex questions there particularly on the continually vexed accountability of policing? ⁱⁱ

I had the privilege to attend the launch of the Welsh government's strategy for Independent Living in September 2012, which showed how devolution can lead to strides forward in human rights provision in at least one area of the United Kingdom. This I believe was the fruit of good communication with disabled people in Wales, - who gave evidence to us - and full accountability to them – this was the fruit of full participation by the disabled community in Wales in political discourse.

But there is a flip-side to this. Unless there is clarity in communication about responsibility for human rights, unless every link in the chain of devolution communicates clearly and cooperatively in both directions, the chance of unaccountability (and of confusion) remains – and with confusion can come misunderstanding, and with misunderstanding distrust. I can recall the words of Professor O’Flaherty, then Chair of the Northern Ireland Human Rights Commission, in an evidence session before my Committee at the end of 2011, saying:

“On the one hand, devolution can bring human rights much closer to the rights holders... On the other hand, ..[there can be].. great difficulty in translating the ... human rights obligation from London to the devolved capital... to encourage the political leaders at that level that they carry with them the responsibility of the state to deliver not just on the European Convention but also on the array of other treaties.”

The more links there are in the chain, the easier it can be for some to believe or assume that others will take the strain, that responsibility for areas of human rights strategy, or policy, or promotion and protection, lie elsewhere. Even when there is good will on all sides, new arrangements and the new relationship they establish require time to explore, to navigate and properly to understand. I note that the Silk Commission only last week recommended changes to the devolutionary settlement here which will – if accepted – usher in further changes which will need bedding down until accountability and communication become clear.

Some of these difficulties in **accountability and communication** are inevitable, especially when devolution is still new, and devolved institutions are coming to terms with their relationship to central government and to other bodies. The confusion that abounded in some policy areas in Westminster following devolution as to what sort of questions could be tabled by MPs to the NIO, the Scotland Office or even to the Wales Office was considerable. The devolution Acts set down in writing areas of the ‘new constitution’ of the UK for the first time,

but with the rest still famously unwritten it was like having a jigsaw puzzle where half of the pieces were still largely blank. The complete picture was still difficult to grasp.

Some difficulties are also a function of complexity – and the devolution settlement in Northern Ireland is the most complex of the three in the UK. Complexity can still bedevil human rights policy today, whether it is areas where children’s rights overlap areas of immigration policy – as we found out in our inquiry into migrant children – or where matters relating to housing and benefits have enormous potential implications for issues connected with justice and community relations, which may in turn have consequences for policing – as the discussions in Northern Ireland in 2012 over the Welfare Reform Bill made clear. You yourselves will be aware of the importance of good relationships, good communication and – where necessary – memoranda of understanding between you and central institutions and with other devolved bodies so you can know exactly where the buck stops, where responsibilities lie, who will do what and how you will take your work forward cooperatively with greatest effect.

But some challenges are down to what I might politely call idleness and mischief. Insofar as devolution breeds bureaucracies, idleness can be a greater menace than before. And political failure in just one area of the chain will break it, no matter how many links there are. The failure of the Northern Ireland Executive to input important reports to UN bodies with regard to two – possibly three – international human rights treaties wasn’t a matter of confusion or of idleness (the officials did all that they could and seem to have done it well) but of failure of political will to do what ought to have been done. When this failure – or neutralisation – of political will, clear in Northern Ireland, can hold up the proper protection and promotion of human rights, and when the will (or means) of the Government in Whitehall to remedy that failure is lacking, then it comes down (as always it must) to the people. As Bob Collins of the Equality Commission for Northern Ireland pointed out to us in oral evidence in December 2011, this is

one conundrum of devolution: what should happen when “a local administration can operate at a slower pace than the nation as a whole”?

I haven’t made much reference to political will – this is because this has to be **a given** for there to be real progress in human rights. Devolution ought to allow for that political will to develop and be strengthened to reflect what people want their representatives, their government, to do. Of course, the issue of political will is one area of the human rights arena in Northern Ireland where the principal difficulties lie, especially with regard to transitional justice. But some areas of what was once a complete impasse have broken down – in the area of policing much has been done (although much remains to be done). So where there’s a will there *is* a way. And the more accountable a parliament and a government is to its people, and the more those people can communicate what they want to those who lead in their society, then the greater ought be the political will of those leaders to act.

And so we come back to the quotation from Eleanor Roosevelt that I used earlier in this speech – with human rights beginning in “small places, close to home”. The great hope for progressive realisation of all our rights rests with the people – that is, with us. And that is surely one of the greatest lessons that devolution can teach us.

ⁱ “The Great Question,” remarks delivered by Eleanor Roosevelt at the United Nations in New York on March 27, 1958

ⁱⁱ See the challenging article by Owen Jones, ‘The Met’s problem isn’t bad apples: it’s the whole barrel.’ **Guardian**, March 10, 2014. P.26