***Do Nationalists and Unionists have different conceptions of what are human rights?***

**News Letter 29 December 2017**

**Human Rights Consortium Festival debate at Queen’s University Belfast School of Law on 11 December 2017.**

**Presentation by Councillor Jeffrey Dudgeon**

**(with Declan Kearney MLA of Sinn Fein and Sophie Long of the Green Party formerly of the PUP, introduced by Professor Brice Dickson former Chief Commissioner of the Northern Ireland Human Rights Commission (NIHRC))**

Human rights are a post-war concept, best exemplified by the European Convention on Human Rights (ECHR).Predating that is a line of connection back to the 1689 Bill of Rights and obliquely a century later to the 1789 US Bill of Rights. Civil and religious liberty for all is their watchword, being a central tenet for all Unionists and Protestants, not just for those in the Loyal Orders. And that belief is grounded in individual conscience.

The contemporary approach is best exemplified by the Preamble to the European Convention on Human Rights. Often ignored, it proclaims “that fundamental rights and freedoms are best maintained by an effective political democracy and a common understanding and observance of human rights.”

Certainly maintaining an “effective political democracy” is the core component of our fundamental rights and freedoms. More human rights must not be allowed to replace or erode that. This creates a significant point of distinction between Unionists and nationalists or separatists (and their radical allies). We cannot have politics done through human rights. That is judge-led elitism and the road to autocracy. The line will be fine – but significant social and economic rights are too far over the line.

Our “effective political democracy” is currently Westminster and local councils – the latter which are still shorn of normal local government powers like education, culture and health. In Belfast we got planning powers back in 2015 but so much more should have been returned.

There is a core background reason that marks Unionism and their attitudes out as distinct, something not respected by nationalists nor accepted by those Protestants of a progressive outlook who decry the strong conservatism in that community, dominant since the 1880s. Unionism is about protecting the status quo and has been for a century. It is a movement with a single aim and purpose. It would be better if it did not do other politics but since partition and the imposition of Stormont it was obliged by London to concentrate, only, on the very thing that divided us.

Unionism has to be defensive. It can only lose once and is therefore understandably obdurate and intransigent. It is inevitably conservative except in a small number of cases like Montgomery Hyde, MP for North Belfast from 1950 to 1959, and a rare advocate in the Commons for homosexual law reform and an end to capital punishment.

A huge factor in the apparent difference between Unionists and Republicans on rights is the failure of the human rights community in its broadest sense to address paramilitary violence. That community has eschewed the use of international agreements and consortia to undermine paramilitarism.

There has been and will be no greater denial of human rights than the 3,000 plus dead in this small area, not to mention the countless injuries, and the destruction of property on a vast scale.

The anniversary of the murder of Edgar Graham was in December. He was shot yards from Queen’s. Like myself, he was an elected representative for the UUP in South Belfast, and also a law lecturer at this university. His murderers have never been arraigned, nor will they be. His death has been the subject of no inquiries, resolutions or protests. The same applies to the assassination of the South Belfast MP, Robert Bradford (and the caretaker at the Finaghy community centre). Both killings were contrary to the spirit of the ECHR and of course the letter.

Law is not about truth, justice or fair play. It is rare that any of these can be fully achieved in the elaboration of the legal system. It is essentially about stability, about a system of civilisation that enables people who have nothing in common, or indeed conflicting interests, to accept living together – without resort to violence. That measure is then normally reserved to the state. We went through some forty years of war where peace was not the case. Law and human rights almost died.

The so-called equality agenda poses great problems. I believe in equal opportunity. Also in diversity but when it comes to a conflict between human rights and equality, human rights should trump equality. Not the other way round. The balance is heading in the wrong direction, especially as the concept of equality is now inextricably the agenda of one party.

I turn now to the Bill of Rights which never materialised. I played a role in the Bill of Rights Forum, another talking shop that led nowhere. On that occasion the UUP, DUP, and Alliance Parties were united in their rejection of the attempt of NIHRC and the other parties to bring about ‘An All Singing All Dancing’ Bill.

To set the record straight, there was no commitment to legislating any Bill of Rights in the Belfast Agreement, nor indeed did the ‘particular circumstances’ mentioned mean anything more than adding a few local aspects e.g. on parades – had a Bill come to pass. The agreement did provide for NIHRC to give advice to the Secretary of State on: “The scope for defining in Westminster legislation rights supplementing the ECHR reflecting the particular circumstances of Northern Ireland – and reflecting the principles of mutual respect and parity of esteem.”

But the Commission took a misguided and quite unduly expansionist view of this very specific brief. Finally, it tendered the required advice and the advice was rejected by government. And that ended the matter.

Deceptively twisting the remit or pretending there was a promise to enact a Bill in the Good Friday Agreement is simply deceptive. The European Convention instead remains as a hugely effective safeguard for us all. The Bill of Rights issue exemplifies the overplaying of a hand which brings rights into disrepute.