

SPEECH BY CLLR RICHARD HUMPHREYS

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SEVERE BLEMISHES REMAIN ON IRELAND'S EQUALITY RECORD - HUMPHREYS

I would like to congratulate Labour Equality on organising this important and timely conference and it is a pleasure to be invited to contribute. Having spent 5 years during the 1990s working in the Department of Equality and Law Reform, the issue of equality is one close to my heart, and I want to address a few remarks to three aspects of that issue – philosophical aspects, institutional aspects, and specific challenges in the years ahead.

The Philosophy of Equality

Article 1 of the Universal Declaration of Human Rights states that:

All human beings are born free and equal in dignity and rights.

Not only is equality a core human rights issue, but for social democrats, equality is a core aspect of our political philosophy.

Social democrats believe that everyone is born with an equal inherent value and an inherent potential to realise values. That's why we want to see the children of the nation cherished equally; that's why we oppose discrimination; that's why we want a fair tax system and a fair distribution of the resources of the State; that's why we oppose golden circles and cosy cartels of whatever kind; that's why we believe in investing in education as a driver of social mobility and a key to unlocking the potential of each human being; that's why we want to enhance the democratic accountability of our institutions; that's why we believe in solidarity between the generations, between the developed and developing worlds, and between today's generation and future generations to whom we pass on the environment around us.

While equality is absolutely central to our philosophy, we must also bear in mind that like so many other goals, equality operates under certain constraints. These constraints are real and unavoidable, and make the task of implementing equality a key challenge.

I want briefly to mention just three of those constraints because they are relevant to the practical implementation of equality. They are resources, personal freedom and voluntary conduct.

- Resources are a constraint because they are always limited in any society, particularly so at a time when Government expenditure exceeds income. Labour must be vigilant to ensure that the burden of adjustments does not fall disproportionately on the equality infrastructure of the State or on groups that are themselves vulnerable.
- Personal freedom is a constraint on equality because equality is not the only human right that exists. An absolutist interpretation of equality would quickly undermine many other rights. To take one clear example, there is a big difference between a landlord who discriminates in hiring out a self contained apartment, on the one hand, and for example a woman who is looking to share a house with another woman. The landlord is not entitled to discriminate on gender grounds, whereas the person seeking a house share is entitled to do so, because her right to autonomy in her private life and dwelling takes priority over equality. The Equal Status legislation recognises that constraint, and rightly so. There are some people who believe that human rights and equality are like piped water, they can't get enough of them. That is a mistaken view. Rights carry duties and they cannot be expanded indefinitely. We need to strike the right balance because an expansion of some rights requires a devaluation of others, particularly personal autonomy.
- The final constraint I want to mention is voluntary conduct. Let me remind you again of the words of the Universal Declaration of Human Rights – “*All human beings are born free and equal in dignity and rights.*” The key word for me in that formulation is “born”. The language of the Universal Declaration recognises that while equal rights are every person's birthright, the subsequent voluntary conduct of the person may result in the person choosing not to exercise rights, or indeed losing rights by conduct. As far as choosing not to exercise rights are concerned, we should bear in mind that balance between work and home life is a crucial element of mental well-being, and an individual's choice, whatever their gender may be, to strike the balance that is right for them between the two should not be written off by anyone as the product of societal programming or discrimination but should be viewed as an exercise in personal autonomy. It is the job of politics to ensure that such a choice can indeed be freely exercised without discrimination and in a society that values both work and home life. Terrible planning decisions and poor transport and infrastructure have made the job of balancing the two much more difficult for so many people.
- Voluntary conduct may also result in a diminishment of rights, in particular where the person contravenes laws that have been democratically adopted. As far as offending conduct is concerned,

nowadays of course we rightly reject the concept that a person can be “outlawed”, or that criminal behaviour results in an absolute extinguishment of the rights of the convict. The European Court of Human Rights has been particularly vigilant in protecting the rights of convicted persons, indeed the June 2009 local elections saw the first use of the prisoners voting rights legislation which resulted from a European Court decision. But while prisoners retain many rights, their voluntary offending conduct does legitimately result in a significant loss of other rights, and any approach to equality legislation must recognise this also.

Equality Infrastructure

I now want to turn to the question of the equality infrastructure of the State which Labour was involved in building up during the 1990s, and which now has been slowly dismantled by the Government. In this regard the Government has, as you know:

- Slashed the budget of the Equality Authority
- Chosen the Equality Authority for a very questionable decentralisation
- Overseen the loss of experienced staff from the Authority
- Slashed the budget of the Human Rights Commission
- Abolished the Combat Poverty Agency
- Scrapped the NCCRI
- Scrapped the National Action Plan Against Racism Steering Group

There is little point in having equality legislation if it is not enforced, but the machinery to assist claimants who wish to enforce it is being rapidly dismantled such that there is now a serious question as to the capacity of the Authority to deal with the potential caseload of claimants.

The challenge for Labour is to make the case for an alternative approach in a way that is realistic given the state of the public finances. In my view this must involve

- Arguing for an increase in the budget of the Equality Authority to the level that will enable it to provide an adequate level of service into the future.
- Ensuring that the Human Rights Commission is also adequately funded.
- Reviewing legislation which has been introduced in recent years that impacts negatively on rights, for example the hollowing out of the Freedom of Information Act.
- Making both the Equality Authority and the Irish Human Rights Commission answerable to the Oireachtas rather than to the Department of Justice, Equality and Law Reform, so as to emphasise their independence;

We also need to focus on the very weak provisions of the 1937 Constitution on equality, which have been weakened further by a series of restrictive court decisions. There is a strong case for a much more robust statement of the principle of equality than that contained in the existing text.

We also need to work to promote the ratification of international law on equality, looking at instruments such as the UN Disability Convention, the Convention on the Rights of Migrant Workers and their Families, Protocol 12 to the European Convention on Human Rights, which strengthens the prohibition on discrimination, and the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, which was opened for signature two months ago and which would allow people to take cases against the State on economic and social rights to the UN Committee on Economic, Social and Cultural Rights, much as they can do so now under corresponding provisions relating to civil and political rights.

Key issues

Finally I want to mention a number of key issues which Labour needs to pursue in order to promote a more equal society. This is by no means a comprehensive list but contains some items that for me must feature on any list of legislation that we would seek to implement.

- The discrimination against unmarried fathers in the Guardianship of Infants Act 1964 is in my view the single most outrageous and unjust piece of discrimination on the Irish statute book. This needs to be tacked urgently in a spirit of equality, in the interests of children and their parents.
- We need legislation to recognise the partnership and marriage rights of gay and lesbian citizens on a fully equal basis.
- We need to legislate to acknowledge the rights of transgender citizens in accordance with the European Convention on Human Rights.
- We need a real and honest policy of religious equality and church-State separation. The absurd and outrageous blasphemy law must be purged from our Constitution and statute book.
- We must protect those economically disadvantaged by ensuring that routes out of poverty remain open.
- We must live up to our responsibilities to those living in conditions of severe poverty in the developing world.

There is much work to be done and I wish the members of Labour Equality well in our collective work towards a more equal society.

Ends

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