MORNING SESSION

Leigh Lewis  Ladies and gentlemen good morning and can I welcome everyone here. Almost everyone who is due to be with us has now arrived. There may be, as you can see, one or two empty chairs where I hope colleagues will arrive very soon. My name is Leigh Lewis. I'm the Chair of the Commission appointed by the Government on a Bill of Rights and that's going to be the theme of our seminar today.

I'm delighted to say that of the Commission's nine members, no less than six of us are here today, and to introduce my fellow Commissioners – Sir David Edward sitting immediately on my left. Edward Faulks sitting there. Helena Kennedy sitting across from me. Anthony Lester sitting there. And another Anthony – Anthony Speaight.

The three Commissioners who couldn’t be with us today have all sent their apologies but I think it’s very good that we are so well represented.
I won’t go through every kind of individual who we’ve invited and the odd apology we’ve had. I will ask people to introduce themselves when they speak.

The Commission’s terms of reference are in the pack that I sent out to everyone with a letter from myself; but essentially the Commission was established by the Government in March last year and its’ terms of reference are fundamentally to investigate the creation of a UK Bill of Rights that incorporates and builds on all our obligations under the European Convention on Human Rights, ensures that these rights continue to be enshrined in UK law, and protects and extends our liberties.

The Commission will examine the operation and implementation of these obligations and consider ways to promote a better understanding of the true scope of these obligations and liberties. It should consult, I’m leaving some parts out, it should consult including with the public, judiciary and devolved administrations and legislatures, and aim to report no later than by the end of 2012.

So actually it’s a slightly sobering thought for my fellow Commissioners and myself that we are now well past the half-way point of our work and that we are going to have to write and finalise our report by the end of this year and self evidently decide what to put in it and what to recommend.
We've been pretty busy since we were established in March of last year. We've done one major consultation exercise when we published a Discussion Paper last August. Over 900 individuals and organisations responded to that, and that was we thought a very good and healthy response rate with some really high quality views put to us.

We've also been pretty busy getting out and about because, if there were to be a UK Bill of Rights, it would self evidently affect all of the countries of the UK. We have been to Edinburgh, we have been to Cardiff, we've been to Belfast to talk to the devolved governments and legislatures and other key organisations and people in Scotland and Wales and Northern Ireland. We've held two academic seminars you might call them, one in London and one at All Souls College at Oxford University. Essentially they were for legal and academic experts; people whose world this is and whose business this is, to seek their views and their experience.

By contrast today's seminar I think is rather different in kind. I think all of my fellow Commissioners wanted very much to be able first of all to get out of London, which is a very good thing, and secondly simply to hear from a wide range of organisations and individuals who have experience of and who work with human rights,
the current human rights legislation, the issues that human rights gives rise to in their normal day to day work, who aren’t necessarily great legal academic experts but nevertheless have real experience to offer to us. And that’s the purpose of today and we’ve been very encouraged, very encouraged indeed, that we’ve had such a good response from so many organisations in Birmingham and the West Midlands to our invitation.

The topic of today’s seminar is ‘Human Rights in the Community, Perception, Sentiment and Experience’. And although we can find difficulties at times as Commissioners in restraining ourselves, the trouble with thinking you know about things is that there can be a great temptation to tell people about them and explain things to people.

We absolutely have come to Birmingham today in listening mode. We want to hear from you. Because I think it’s really important that we go away today with a better understanding of your views and your experience. And that’s why we’re going to spend the bulk of our time seeking your views and listening to what you have to say.

A few housekeeping points. We are recording this seminar so we’ll have a full transcript of it to refer back to as we develop our thinking and recommendations. We don’t want to lose the
value of today by later asking ‘what was it that that person said I can't quite remember?’; so we will be able to refer back to that. There are, as you can see, microphones on the table which our technical experts tell us should pick up the sound easily. But if anyone is having difficulty hearing the contributions from any of the colleagues round the table would they just put up their hands and we'll either ask people to speak a little bit more loudly or we'll see if we can alter the settings of the microphones.

I'm told by those who run Maple House, our hosts here, that no fire drill is planned; so if a fire alarm sounds it's the real thing and I'm assured that our hosts here at Maple House will guide us to our nearest exit point and that we will gather at the, and I read out what I've been told, the Tony Hancock Memorial. Now this is an ageist thing, you have to be of a certain age I think now to remember Tony Hancock and to remember some of those great lines and so almost one part of me would like to gather at the Tony Hancock Memorial; but we'll see if we do that.

How are we going to go about our work today? Roughly speaking I'm going to invite people to talk and I did give people some advance notice of this. I'm going to invite people to speak for no more than 5 minutes in the first instance, simply to give us your thoughts, your experience, your knowledge. I'm not going to be so rigid that if the
clock passes 5 minutes and starts to go into five and a half I'm going to cut you off without another thought. But if anyone is still going after 8, 9, 10 minutes you may find me looking very quizzically at you and asking if you could possibly wrap up your comments. And that's simply so that we can hear from everyone.

Roughly speaking in the first session we're going to invite those who, if you will for want of a better word, are practitioners amongst us; those whose organisations experience, have to recognise and work within our human rights framework in this country as part of their day to day work. And then after our lunch break, and there will be lunch provided for us, I'll be similarly inviting those who are speaking from different sections of the community, groups representing those from minorities or other diverse backgrounds, our faith communities and so on to also speak to us for that same 5 minutes each.

And then we will have a final section in which we can completely open it up to people to say more, to ask questions; fellow Commissioners may want to ask questions. I don't want this to be so rigid that if somebody is saying something that you absolutely want to come in at that point and ask a question or say something you feel you can't; but on the other hand I think we're going to have to be a bit disciplined if we're going to give everybody a chance to give us their first thoughts.
So that’s it. I’m going to start off in a moment and just to give him 2 seconds somebody has to start and I’m going to ask Feizel Hajat, Head of Housing and Community Safety Law at Birmingham City Council – to open up and be the first person to speak.

And then we’ll go round from there with the questions we’ve asked you to respond to; but it isn’t rigid at all, nobody’s going to mark you out of ten and say ‘oh you didn’t answer question three’. We just want to hear from you. What effect do you think that Human Rights Laws including the Human Rights Act and the European Convention on Human Rights have had on the communities or organisations you represent? Do you think the impact has been good or bad? Can you give us any concrete examples? And that’s really what we’re here to look to.

Perhaps then I could turn first this morning to the City Council

Feizal Hajat

Peter will speak first.

Peter Hay

Thank you and apologies on behalf of Stephen Hughes who you directly wrote to get a City Council view as (unclear) Director City Council I’m here to give that view. And then as Feizel’s already given way we’re going to split our five
The City Council enormously welcomes the concept of rights. We also absolutely welcome your concept of how they're applied and we'll give you some guidance if you like to some of the issues that face our day to day work in the application of the concept. It would be, I think remiss particularly given that I hold the brief for adult care, to not start with the right to dignity. We think that’s enormously easy to say and, events over the last year and indeed beyond, have shown enormously difficult to deliver. This is about a certainty, about the way in which people are treated and the value that is inherent to them.

We welcome the work of the Equality and the Human Rights Commission on rights in home care and in the home setting which is the first time that rights in your own home have actually been looked at and how that’s done. But obviously we’ve been aware of the enormity of issues about rights out of the home setting and how those are afforded to people. Just to illustrate how difficult it is to actually do it, this is not an issue that responds to resources. The Winterbourne View, so shockingly exposed by Panorama, was a very expensive form of abuse; it was three thousand pounds per week per placement. It’s not an issue of training, the work of the ombudsman on six lives at Birmingham hospital was one of those hospitals was about trained nurses. It’s not an
issue where there’s a magic bullet that sorts it but we think the right to dignity and how people are treated with inherent value is really central to some of these issues.

It’s also not always an issue that fits nicely with the issue and balance between rights and responsibilities. People who have mental illness, who have learning disability and challenged behaviours or indeed have challenges arising from dementia, may not have the control of their responsibilities but absolutely have the full right to dignity.

Our second area of concern, very lively in the city, is the right to equality. Last week Peter Latchford published his review into the disturbances last summer; and that again alludes to perceptions and a sense of unfairness that were linked to the disturbances last summer. That and other examples of this perception issue, held in many communities and indeed in opposing communities if that word works, about the way in which they’re treated is a real issue for us. And we think your work could bring some certainty and some clarity in those.

We've a strong commitment in the City Council to the respect that we adhere to different faiths and backgrounds. And some of how we’re responding to the perception issue is about trying to embrace the agenda around transparency and some of the
connections. And the new administration for the City Council is putting a huge emphasis on tackling deep seated inequalities in education, health and employment which haven’t moved over years, and linking that, to social cohesion.

Finally, as a big employer or a big influence on employment there’s something to us about as an employer we put a huge amount of investment into trying to be a good employer and to make our workforce representative of this incredibly diverse city. We had successes and failures. We’re proud of our ranking in the Stonewall Index for example. We’re proud of what we’ve achieved in the greater representation of our population.

But issues remain as they do across the totality of the public sector – whether it’s in the NHS, whether in the police or in other areas, about the representation of communities at the very highest levels. And despite all the effort we’ve put in over now a generation to equality and employment, we haven’t made across the board that breakthrough at the senior levels that perhaps we should do.

And finally, as the link into Feizel some final reflections too as we move into the legal bit, the equality impact stuff. We were of course at the City heavily challenged under equality impacts and cuts in care. We have learned in response to that challenge. We responded to it with a bit style We actually went on the road and presented
learning lessons on what we’d learnt and applied from that impact analysis and decision making in how we've approached subsequent years in relation to that.

For us we think there’s some way to go about moving away from (unclear) approaches to how this is embedded as a sense of purpose and we think that’s a final reflection. But Feizel’s going to give you some reflections from the front line.

Feizal Hajat

If I may play to my strength and concentrate on the questions you posed and we think that the good examples are where cases address and move on issues around equality. So for example, in housing law in terms of succession, the ability for same sex partners to inherit tenancies was through the application of the HRA on our own principles. We think the bad examples are where Strasbourg fails to grasp the public policy reasoning behind legislation and fails to give er the UK the margin of appreciation it deserves. And we particularly are concerned with its’ application across where we've got to allocate resources like council housing and those elements. There is a real issue around that understanding and that application of the margin of appreciation.

We also believe that the law courts are particularly struggling with the application so our experience is that is you appear before a District Judge or a
Circuit Judge and you apply on HRA defence there is immediately a difficulty, an inexperience and in some cases a white flag where there is evident directions from the court. So just to give you an example of that, proportionality defences in relation to a landlords’ right to possession, now after to some many, many years after (unclear) council’s case of Frisby and others we would of thought that we had some clarity. But District Judges are still thrown and therefore there is something within our control that can be done in terms of training and application.

We also feel Strasbourg itself finds it difficult to deal with issues; the figures of 2010 96% of the cases have been struck out. And it doesn’t deal with its own mechanism in a way which is efficient and which give the UK citizen confidence in the way it applies its procedures.

Peter’s already addressed the perception issues that we are experiencing on the ground particularly where you have opposing, using Peter’s word, communities and the direct accessibility of the UK general public to its rights and its responsibilities. So our experience anecdotal is the HRA application is more evident within minority groups and yes of course the inequality’s greater there but if you were looking at white working class communities we’ve done a lot of research recently there is a real grievance about their access to their rights and how they
access them.

Finally, I think there’s something we need to say about our adversarial nature of our court system. And there are certain principles and issues that are you know Peter’s given examples about the dignity issues and others that require a different response. Not everything is done on the public purse and takes a long time and sometimes the state and Strasbourg need to engage in a dialogue where we may have some directions about some difficult issues and not go through the courts and the costs and the delay that’s involved. So those are the practical things that I wanted to offer.

Leigh Lewis

Peter and Feizel thank you very, very much and thank you for making a brilliant start to our morning by keeping to time so you get the Chair’s gold star award for the start of the morning. Thank you very, very much. Could I now turn to Councillor Alan Rudge who is a Conservative councillor on the Birmingham City Council. I just ought to say as I introduce Councillor Rudge to speak to us, lest anyone thinks we have started off with a political prejudice or bias, we did invite councillors from the other two political parties represented on the City Council but unfortunately they weren’t able to send anyone or no one was able to attend. So Councillor Rudge, over to you please.
Councillor Rudge

Thank you very much I'm delighted to attend. I've always had an interest in this and unfortunately you didn't get my CV because I thought it had been sent and it hadn't but I've now got it in front of me. I'm a solicitor by practice, a lawyer I run my own small practice. And I've been heavily involved in youth work and charity work for years. I've been a councillor since the late 70's and I've led on preventing violent extremism, dealing with the counter terrorism unit, (unclear) policy on reducing guns and violence, domestic violence, cohesion, equalities and loads of other things like that. And I've always been very involved.

Now I've heard one or two comments just now by my officer colleagues on the Council and I take slight umbrage at Peter Hay's comment over equalities. I have eight years been in charge of equalities and its never been in a better shape of fairness and lack of friction between communities in its whole history. And if it hadn't been for that we would have had a lot more trouble when we had the riots in the summer. I actually commissioned the report by Peter Latchford and he did put some poems in his first version of it which caused a little bit of trouble, certainly with one community. They were his own poems by the way I would hasten to point out, based on his research of taking information like you have from people and encapsulating it in poetry. I'm afraid that didn't go down too well so perhaps you won't be doing that Chairman, putting any poems out of
your own.

So what I feel about human rights is, I think, actually we are a mature civilised country with a great history both in its law, in its culture, in its faith and its generosity and tolerance towards different people. And I actually think we should have our own UK Bill of Rights. I always have thought it. I could never understand why we haven’t. Human Rights if you try and say it’s doing good things no one’s going to argue against it because no one wants to argue hopefully against doing good things. But my perception when it first came in was that it became procedural, pedantic and costly.

You go in a magistrate’s court and when it first started they spent most of the time reading out all the human rights things and made no effect to the case at all; it took up a lot of time and was highly irritating. I see they’ve managed to streamline it a little bit now. If you really want to talk about human rights in a criminal case to the average person, the prosecution preparing the case and giving and then the courts saying we want to process you in a certain time factor so the defence has no time; that I think is bad for the defendant having fair play. And that is localised issue of fair play whereas we always hear about the great big spectacular cases very often not even UK citizens which seem to cost vast sums of money. Only recently there were a couple of firms
in London which managed to get four to five million pound earnings out of human rights cases in a year. And if it gives to the average person in the community perception that human rights is not for the average person, it's for some elite group who use it and make money out of it. Now I'm not saying that's true or not, but you're talking about perceptions here Chairman and a lot of people have that perception.

I'm involved in a great deal of charities. I'm the Director of the YMCA, the Birmingham (unclear) Chairman of the youth club and other bodies like that. And from their point of view they just want to see fair play, effectively, cost effectively done and they don't want to get involved in complex legal wrangles that cost a fortune. And to have so many (unclear) systems automating very expensive and an issue of usually funded by an incredibly wealthy resource or usually a tax payer on both sides no one can afford to do it. And I think a UK Bill of Rights would be more effective, be more linked to our own communities, our own society and our beliefs and would be more cost effective and more streamlined. That would I think, give it more credibility amongst the average citizen as opposed the cognoscenti. And people are expert in that area in certain organisations.

So I'm very much in favour of fairness and fair play. It's been my object for eight years as the Cabinet Member, to achieve that across all
communities and one of the things I’ve tried to do is get all the communities to appreciate each other; and to make a successful city you need us all to work together, to make a successful country you need us all to work together and they’ve all got to feel appreciated, wanted and no one left out of the loop. I initiated the report on the white working classes during the previous government and I spoke about this when (unclear) was on the platform and they supported me and I’m pleased to say I don’t the report using the (unclear) university this year. And the point about the white working class is they had felt working classes is a phrase we use for places like (unclear) in our city they had felt somehow they weren’t appreciated, there wasn’t the resources put into their areas as opposed to certain favoured areas in the inner city.

And they also felt that people didn’t realise that you could be on a low income but very responsible, respectable and proud and they were conscious that some people seemed to look down on people in that situation. I’ve heard people say you know who want to stack shelves, well I think there’s nothing wrong in a job in honest work is a job, it’s something everyone can be proud of whatever level we are. We don’t know what might happen to us, we may find ourselves one day doing that and I would say a man worthy (unclear) is worthy of respect. And therefore I think we have a human rights, if it was more
locally to the feel of our country would be of benefit to citizens and we’d get a lot more support from everybody and it wouldn’t feel as if it was in that elite area, aloof from the average person. And I do think people need to feel listened to, appreciated and I mean that not just pressure groups and activists but the average person. Discontent will be because the average person feels ignored, not appreciated and nothing’s there for him.

And so we should try to work out human rights which are understandable and applicable and usable by normal people in a cost effective non prescriptive manner and non over-regulatory manner. It may not be easy to do but I think it would be a great credit to this country if we could do it. And the other problem about Strasbourg is its appointment of Judges and its systems, obviously some judges are brilliant, I’m sure they are in Strasbourg. But I do think sometimes it’s a bit like the Eurovision song contest, it’s a lottery how they’re going to do it and if its our turn they’ll say well you know nil point for the UK for this one. And I don’t think that really is very fair either and I think there is a lack of what I would call the right sort of qualification, experience in some of the appointments there you have a danger of what I think sneaking inherent prejudice against the systems and the style of the Anglo Saxon and our community with our commonwealth members (unclear). So I don’t think that’s appreciated. I’m
not saying that applies all the time; it would be most unfair but again you're talking about perception and obviously people read newspapers and there have been some startling decisions, there have also been some very sensible ones. But it does seem to have that effect occasionally which is a worry. So my view is I would support you exploring a human rights based for the UK and I hope our colleagues in other parts of Scotland, Northern Ireland and Wales would be interested in supporting the same thing but obviously there are a number of issues there concerning devolution and problems but I think it would be nice if we could do it all together as one 'cause we have been a great family and a very successful family for hundreds of years and it would be nice to maintain that. Thank you Chairman

Leigh Lewis Councillor Rudge thank you very much indeed, thank you. Can I now turn to Maqsood Ahmed who is the Director for Inclusion and Inequalities with the NHS Midlands and East. I hope I've got your title right.

Maqsood Ahmad You absolutely did thank you Chair and thank you for inviting us to share our thoughts with regards to the human rights and the articles. I fully endorse what Peter said actually he said sometimes regards to the elderly respect and that. The NHS in my experience, and I've been in the NHS for about three years so forgive me I'm not a
typical 27 years civil servant in the NHS or anything from that side of it, from that angle. But where its made an impact and building on what Peter was saying I think the NHS constitution has an impact on the NHS constitution itself regards to (unclear) respect regards to service provision and I think we mustn’t forget that’s been a very good document and guidance that the coalition government is now adopting and taking forward in regards to that.

Its also had an impact on our staff in regards to individuals. I’m a great believer in equality and fairness and if it wasn’t for the equality and Human Rights Act and Equality legislation in the past I, as a visible minority sitting in front of you, would have been worse off than what I have in one sense today. And I’m proud to live in a country that actually does respect (unclear) has got equality legislation. I think that is a very important part of a civilised society because some of the things highlighted with regards to the issues around disorder and disturbances I’m agreeable. I think we’d have more disorder and disturbances if we didn’t have the fairness and equality human rights articles that we subscribe to.

Now whether its been working effectively with regards to the mechanism is probably a matter for the Commission in one sense. But I can give you my experience of the impact it has had on the NHS. First of all, our policies the impact analysis
to our polls we do on a regular basis are no longer called equality impact assessments but they are human rights assessments and there are also equality analysis assessments that take place. And I think that’s contributed towards everything that we do, that we make sure that human rights element is actually brought on board and taken into consideration whether they are internal policies or the external policies regards to that.

In our new policies anything that we do is based on the feeder, the issues of the fairness and respect and equality and autonomy and dignity and in particular we've seen lots of cases in the papers with regards to how we treat our elderly and that's and issue for us in regards to the dignity and respect and moving away from torture in a sense of whether in care homes or within hospitals or other areas.

So the impact of human rights has been very important for us and secondly the impact we've been under-staffed and we have our own people 'cause we mustn’t forget if we can treat our people fairly with dignity and respect internally in turn we will have respect and dignity for the people that we care in our society that are vulnerable; young people, elderly people in regards to that.

Where there has been some good examples Heart of Birmingham PCT for example, Merseyside Care, Southall Healthcare Trust and
so forth. There are endless examples I can give you where the NHS has really implemented the rationale and the ethos and the principles of the equality of human rights and I'm happy to do that and give you some guidance on that. In addition to that we have produced over the years when the principles came in first guidance for our Board members, guidance for other staff and guidance for the Director and strategists in one sense. So there has been a rolling programme of actually supporting the staff within the NHS to make sure that we abide by the principles of equality and the Human Rights Act from that side.

So for us then in my experience the NHS has benefitted from the Rights Act in a sense, the Human Rights Act and we welcome that in a sense and if we can strengthen it more as colleagues have already said and that will also be welcome from that side. I won’t take anymore time but I'm happy to answer questions later on in a sense Chair I think I've taken up my 5 minutes.

Leigh Lewis  
Thank you very much indeed that’s really helpful of you. I think the next person I'm going to ask to contribute is Valerie Birch who is a magistrate here in the City I believe – Valerie.

Valerie Birch  
(unclear) rest assured you won’t have to give me the legal eye…very short…

I've been a magistrate for 36 years but can I just
say I was a baby when I was appointed I want to make that perfectly clear. The present Human Rights Act was hailed with great fanfare, all the magistrates had compulsory training on it. Our legal advisors spent more time being trained on it and speculating on all the intriguing arguments that were to be put forward. We awaited the tsunami of difficult and complex human rights cases with trepidation. Then – nothing. After a few hearted and muddled attempts by defence solicitors – I do beg your pardon – who raised human rights points in the first few months, it’s fizzled away.

For the most part they seemed ill-equipped to argue the points and having been taken to task somewhat enthusiastically by our legal advisors found they had little enthusiasm for pursuing human right points.

We are unsure whether this is due to the lack of training of the defence or more likely that there really wasn’t many worthwhile points to take. Perhaps the fact that the original Human Rights Convention was largely written by the British would explain why the United Kingdom practice deviates little from what the convention expects.

Having said that there were some changes that the Act has brought about; magistrates do have to give reasons for their decisions much more frequently than they used to.
Family colleagues, who have always given reasons for their decisions, now have to make the point that they have considered various Human Rights Articles. Whether those rights have had any real impact on the ultimate decision again a matter for debate.

So our experience so far is the introduction of the Human Rights Act has been of limited impact in the day to day practice in the magistrates courts. It may have been of great academic interest, but on the ground it did very little despite all the money time and effort thrown at it. If there is to be a new Bill of Rights it's important that it's not just something of academic interest but a meaningful change in the practice. We've not got much resources left in the courts; we need to be careful how we use it. Thank you Sir Leigh Lewis.

Leigh Lewis Thank you very, very much indeed; it was very clear and very succinct. Let me now turn to another key organisation which has a lot of experience and use I'm sure, the police and I'm delighted that we've got two colleagues from the police. We've got Assistant Chief Constable Sharon Rowe who's the head of policing in the West Midland Police. And we've got John Kilby who's Director of the Joint Legal Services Unit which as I understand it covers both the Staffordshire and West Midlands forces. Sharon
John Kilbey

Just to set a bit of background that I've been the Police Solicitor for some 25 years with West Midlands Police. The Staffordshire element is a relatively recent addition. I think that the Human Rights Act has had an impact on the way the policing is conducted. I do go back to years before it and some of the events that occurred in those years which are part of our history. Like the magistrates, the Police Service took it all very seriously and invested heavily in training and understanding the jurisprudence and the principles behind it.

And I think it's fair to say that like the magistrates it wasn't quite the impact that we expected. I think it did have an impact the oath that is taken by police officers has been changed to acknowledge the human rights element to it. And I think it has had an impact on the processes and therefore the thinking that police officers put into making the various decision that they have to make. Sharon will talk more about that but I think it has had an impact, particularly in those areas of policing operations where there is the time to do that – that is not always the case, as you'll appreciate.

I think as has already been said, I think one of the reasons why it perhaps didn't have the impact that was anticipated was partly because of a lack of understanding generally about the impact of
human rights on it. And I would say as a long practising lawyer that of course we do have a fairly developed system especially in the police service around the rights and obligations through PACE, the Police and Criminal Evidence Act and all the codes that apply; and the opportunities to make complaints about the way in which the police conduct themselves and the Independent Police Complaints Commission who compute all that; so all that has an impact that perhaps takes away from the immediate impact that the Bill of Rights would have.

Last observation – or last two quick observations from me. I've noticed in the discussions that there's been a blurring of the human rights and the Human Rights Act with the Equalities Act. What I would say is that I think, and I hasten to add that I'm speaking from a personal perspective here with no mandate from the Association of Police Officers or anything like that' but what I would say is that I think the equalities legislation has been more impactive and of greater importance to the police service than perhaps the human rights aspect. That's not to say we've not been engaged with a range of human rights issues across the board from freedom of expression to invasion of privacy to rights of a fair trial and so on.

So I think that is an observation I would make. And I think the only other point for me is that we
do wrestle regularly with the balancing act of preserving the rights of communities, preserving the rights of individuals, their freedom from crime and disorder and antisocial behaviour and so on against the rights of individuals who are interacting with the state and the police do wrestle with that and its not helpful if there is a protracted legal system that arbitrates on that balance.

Sharon Rowe

Thank you John. I support everything John has said; again these are my personal views. Just a little bit about me. I have the lead for equalities and human rights for West Midlands Police. I was the daytime Gold Commander during the riots. And I have lots of experience of policing and by consent with multi-cultural communities in Birmingham and Lambeth in London.

Bedded into our training, policies and practices as John has made that point so I won’t cover that. I think if I can just go through a couple of case studies and they’re in no particular order. I guess the first one for us was ‘Project Champion’ which was the cameras that were installed across the eastern half of Birmingham a couple of years ago. We were challenged there on how we were considering the equality impact on our communities and rightly so we were challenged by our community.

We were implementing a project of rolling out some cameras and we haven’t consulted with our
communities and our communities held us to account and rightly so. And we’ve learnt a lot from that. And I think that is very powerful that it showed that we have a relationship with our communities that actually are willing to challenge us and point out where we’re not getting it right.

If I kind of lead onto the August riots we at a very early stage because of some of the lessons we’d learnt in the previous couple of years made sure we involved our communities in advising us on our policing style and our policing operation and the tactics we were going to use on that Monday morning. And I'm so pleased that we asked the community to come in and advise us on our policing operations because if we hadn’t built that trust and confidence on what would be fair and impactive across Birmingham, again like Councillor Rudge, I'm not sure how that may have played out sadly when we had our murders that took place on the Dudley Road.

So the bedrock of policing in the West Midlands Police is how much we value our communities and our neighbourhood policing. So day to day we are very conscious of our tactics and our style of how we police. And when we say policing by consent I think policing says that quite frequently but to truly understand what policing with communities actually means it is so important that neighbourhood policing understand the differences that face the cultures, the politics that
are taking place in our communities. And if you have got a really in-depth understanding of how you can build social cohesion amongst communities then I think there is a greater deal of understanding that's required by the beat bobby today to understand difference. And we have human rights and we have the Equalities Act and we have criminal law and we have civil law.

But in fairness, inequality it is a new skill area for the beat bobby today in police and diverse communities. The other point I would make, internally at the moment in light of austerity we're having to make staff redundant and we're having to implement significant change as to how we operate as a force and we take that into account on implementing any new change processes.

The last point I'd like to make is what I see of a challenge moving forward but I don't actually think we've nailed yet, the impact of social media and the right to hold private information, the right to when that should be shared with law enforcement and I know obviously there’s debates going on in relation to that. The amount of crime that is now taking place over the internet which is not – is an untapped area - it's not well policed at all. We have disproportionally, we have inequality as Peter has highlighted, we too have that in our stop and search, we have that in our misconduct investigations. And that's conversations we want to have with the community on how we balance
And lastly I think the other challenge is as cultures societies sit side by side especially in inner cities on a crime and the challenges of that going forward I think isn’t finished with yet. So I sign up to the human rights, I see the benefits of the human rights. As a police officer gives me clarity on law, tell me the rules and I will implement them. Please can we make it timely and please don’t make it bureaucratic. Thank you.

Leigh Lewis  I sense a heartfelt plea at the end of there. And thank you very much to you both for that. Can we move to another very important organisation, the Prison Service, and we’ve got Luke Sergeant and I believe Luke is Deputy Director for Custody for the West Midlands.

Luke Serjeant  Thank you Chair. Yes I joined the Prison Service in 1983 and in my time in the prison service I governed three prisons and I now manage nine public sector operated prisons in the West Midlands. When I joined the Prison Service in 1983 I worked initially as a prison officer at Wormwood Scrubs and not long before I started there the governor, a guy called John McCarthy, resigned and he wrote a letter to the Times where he describes Wormwood Scrubs as a human dustbin.

And I have to say when I got to Wormwood
Scrubs that's very much how I found it. It was a place where the condition of the prisoners and staff had to work in were disgraceful, disgusting and prisoners were not treated in any way with any sense of individuality it was a question of coming in every day and dealing with the process rather than dealing with the individuals.

Twenty years later I went back to Wormwood Scrubs as governor and I'm pleased to say that it was, although not a perfect prison by any stretch of the imagination, a much improved prison.

What I'm not going to do at this session is I'm not going to say that's as a direct result of human rights legislation. What I am going to argue I think is that actually there really needs to be a framework in place which enables prisoners to have some form of addressing grievances.

To go back again to Wormwood Scrubs when I was an officer there the way prisoners had to, if they had any requests or anything they wanted to deal with, they had to submit what is called an application. And we dealt with applications in the morning as a group of officers and was normally the most senior officer on the landing who took the applications. And on my particular landing the senior officer put a sign up in the window of the office and it said, 'prison rule number one the prison officer is always right. Prison rule number two, in the unlikely event that the prison officer is
wrong rule number one applies’.

Actually although he meant it as a joke, prison officers had huge power. You know you’re locking up people; you're in total control of their lives in that situation. And that’s an awesome responsibility and it needs to have a serious framework put around it to say what your obligations are within that position. So I think it’s vital that prisoners know how to make a grievance and how that grievance can then be managed through.

I also think that because we didn’t get that right back in the 1980’s one of the results of that was the riot at Strangeways Prison, seems the only reason, was one of the reasons that contributed to the riot at Strangeways Prison and then riots that were triggered across the rest of the country. And I was working at Cardiff Prison at the time where there was a riot and I know the full impact of that on the prison community and on the staff and for those who are linked with prisons. So it has very significant I think consequences if we get it wrong.

Now there is an established system of dealing with complaints and a colleague, Barbara Bradbury, will no doubt talk a bit about one of those which is the Independent Monitoring Board in prisons. Prisoners also have an internal avenue of complaint; they can make a complaint up through an internal complaints system to the
Governor and indeed can raise a complaint confidentially to myself.

They also have the Prison Ombudsman with whom they can raise complaints and I wouldn’t say huge volumes but of course prisoners can address their complaints through through legal mechanisms including up to the European Court of Human Rights.

Where I think it’s really important is, I don’t think prisoners are too clear, I don’t think staff are clear, I don’t think I’m clear about what the appropriate time and point at which those fundamental issues of principle should be taken up and go to a set of external arbitrator if you like to pick up. And there are some very serious points of principle which you know I shouldn’t be in a position to make a determination on and neither should Barbara or any others. I’ll give you some examples. I mean there’s been a long debate about rights to family life for example. Prisoners who are locked up in prison clearly are not able to have children in that circumstance. So should there be a mechanism for allowing artificial insemination in order for their partners who have not been necessarily convicted of any crime to have children? Really controversial issue, one the media love to get hold of. It’s a difficult issue for politicians of course but one which you know we can’t determine that internally, there really needs to be a mechanism for dealing with that and establishing that.
Another difficult example that I had perhaps when I was Governor of Woodhill Prison where we held a number of prisoners charged with serious terrorist offences, the right to practice their religion. Was it appropriate for me to put prisoners who had extremist views into the same religious service with prisoners who didn’t under that situation? How do you deal with those kind of difficulties and where do the parameters lie? What’s an appropriate decision for me to make as a governor in a prison? What needs to be determined by an external body independently and for them to arbitrate on those sorts of decisions?

I suppose some other concerns for me are we have an awful lot of foreign national prisoners. Where do we stand in terms of their rights and obligations? And of course there’s a whole issue and it was mentioned I think by Peter, in terms of the link between rights and responsibilities. Now prisoners have of course in some ways broken their responsibilities to society and therefore almost by default they lose some of their rights; they certainly lose their liberty and the questions is how much of those rights do they lose? Where are the boundaries around that and what does it depend on? Does it depend on severity of sentence? Does it depend on public perception about the seriousness of the crime? Does it depend on impact of victims? It’s a whole range of
issues I think impact on prisoners which need to be thought of alongside, just in terms of what we’re talking about for the general public because of the nature of their incarceration.

Leigh Lewis

Luke that’s really helpful, thank you very much indeed. And that neatly takes us on to Barbara Bradbury who’s the Chair of the Independent Monitoring Board in respect of Birmingham Prison. Barbara please.

Barbara Bradbury

Thank you. Birmingham prison is a local category B prison. Their responsibility is to receive prisoners from the various courts in the West Midlands where they were remanded by magistrates or sentenced by magistrates or Judges in Crown Courts. When prisoners arrive at the prisons, prison staff invariably has no idea of what type of person they’re dealing with. Have they got mental health problems, disabilities, drug problems, alcohol problems? Are they self-harmers or have they got suicidal thoughts etcetera?

Sometimes the appropriate information is forthcoming from the courts, but not always. Information has to be obtained from the prisoner and they do not always declare their problems. We’re talking about human rights in the community. Prisons are communities in their own right albeit they’re closed communities. The punishment meted out by the courts is lack of
liberty for X months or years. The prison then has a duty of care as far as prisoners are concerned, whether remanded or sentenced. Prisoners can do little for themselves as far as their rights are concerned. They're reliant on prison staff or healthcare staff to deal with any of those rights. Once their cell is locked they're reliant on an officer to unlock it, to get a meal, to exercise, go to worship, work etcetera.

If they're seriously not well they're reliant on an officer calling a nurse; they cannot do that for themselves. If they have a hospital appointment, and there are times when there are insufficient staff to escort them to hospital, the appointment is cancelled and they're reliant on someone making another appointment in the future. The family cannot do it. Healthcare staff have to do it for security reasons. That prisoner cannot phone a friend for a lift to get an appointment, to get the other appointment or to get to hospital; they're totally reliant on other people.

They may have specific dietary requirements, these cannot be met unless the doctor gives an appropriate note to the kitchen staff; the prescription. The prisoner cannot deal with it himself unless perhaps he is vegetarian, vegan, needs Halal food etcetera. Some prisoners with IPP sentences - Indeterminate Sentences for Public Protection - a sentence with the minimum tariff which is then dependent on having met the
criteria of certain programmes set by the court or the Parole Board.

The Ministry of Justice has announced that these sentences will cease but no mention has been given about how existing IPP prisoners will be dealt with. As there are insufficient places for these prisoners to access the appropriate programmes or courses they’re being held in custody for longer than their tariff. It could well be that having done the appropriate course the Parole Board may well feel they're not ready to go back to the community. However stuck in a local prison without those facilities they’ve lost the right to be considered for release. Prisoners can be recalled on licence for the most minor infringement of their licence condition, perhaps failing to attend a meeting with their probation officer. They may have had a valid reason but may have been unable to contact their probation officer to explain. They’re hauled back to prison and until they have received their licence recall pack from the Home Office explaining why they’ve been recalled and giving them (unclear) to allow them to appeal if they wish, they can do nothing despite the fact that they should have these packs within 24/48 hours of recall.

Invariably it’s a matter of weeks before they receive these packs; again they are totally reliant on others to facilitate their needs or you might say their rights. Foreign national prisoners who have
reached the end of their sentence sometimes have a problem with delays in repatriation or deportation. Sometimes of their own making 'cause they're appealing, they don't want to go back. But sometimes because of delays in UKBA processing them. They can wait some months before being released; in the meantime they’re treated as remand prisoners but they're still locked up in a prison.

Luke talked about applications and how they're dealt with. It's a very bureaucratic system they can put in it's a comp 1, a comp 1A confidential access, if they've not put in the right form it's returned to them because they haven’t put in the right form.

If it’s acknowledged then its passed to somebody else who then passes it to somebody else. If the prisoner's moved to another prison all of this takes time and they've got to go through the process which at some point may be sending it to somebody like Luke but they've got to have gone through the process. At the end of the day they can go to the Ombudsman but sometimes the Ombudsman won't deal with it because it's out of time. There is a certain amount of time that has to be dealt with; it's not the prisoner's fault that its out of time, it's the system.

Segregated prisoners with behavioural problems give cause for concern, particularly when that
behaviour is unduly bizarre but healthcare staff state they have no healthcare issues. There doesn’t appear to be a system in the Prison Service where these particular prisoners are acknowledged and appropriate facilities found for them. On the plus side the Prison Service, or contractor representing the Prison Service as in the case of Birmingham Prison, does make great efforts in recognising the rights for people with disabilities, travellers, gay and lesbian prisoners and transgender prisoners. These are fairly new initiatives but they're recognised as groups with protested characteristics and treated appropriately.

Prisoners do sometimes put in complaints that their human rights are not being met when they can't get exercise or make a phone call, those sort of things. They're version of human rights is not necessarily everybody else’s. The overriding message that I would give is for prisoners to be able to exercise their rights whether it is by the ECHR or a UK Bill of Rights, they are totally dependent on others to see that those rights are met.

Leigh Lewis Thank you very much indeed.

Female Voice Can I just ask a question?

Leigh Lewis Of course.
Female Voice  How do the prisoners know about their rights because the penny has just dropped, they are wholly reliant on the prison officers? So do you give them a statement or an information booklet?

Barbara Bradbury  They can go to the library.

Female Voice  So the library would have this information there for them to know?

Barbara Bradbury  Oh yes. Some prisoners are quite clued up as Luke will tell you. They've got a lot of time. Some are quite bright and they are, yes, they are clued up.

(unclear)

Leigh Lewis  Thank you and that is a neat bridge to Paula Wheeler who is the Head of Diversity at Staffordshire and West Midland Probation Trust – Paula please.

Paula Whelan  Thank you very much. I'm not going to repeat a lot of what's been said. I echo some of what's been said by the Police and the Prison Service. I've worked for the Probation Service for 21 years and I think whilst there have been many changes over those years in the service the concepts of fairness, dignity and equality have always underpinned everything that we do. Our main task, or our main role, is to manage risk and protect the public. Staffordshire and West
Midlands probationary merged in 2010 to become one trust. So we employ over 200 staff and we work with over twenty thousand offenders and we also work with victims.

I think I would agree with what John said. I think the equality legislation tends to have more impact on the work when we do. I’m not saying that we aren’t aware of Human Rights Act and don’t understand. I think it’s kind of a bit removed from it; it’s out there somewhere. People understand what it is but it doesn’t have a huge impact. I think there is a balancing act. I think the perception from many, and I think particularly with the victims that we work with, the perception is that the Human Rights Act is applied unfairly; that it’s applied unfairly in favour of the offenders and the victim’s views aren’t taken account of. And I think how its portrayed in the press is very similar. The main stories you see are offenders; whether it’s a sex offender who has complained about their human rights being breached or whatever it might be, but it’s very much portrayed as something that’s in favour of offenders at the cost of others. And I think it is very misunderstood by most people.

And I would agree with what was said earlier that if there is a more localised Bill of Rights that it needs to have some teeth. It shouldn’t just be an academic exercise. It needs to have some meaning for people and it needs everybody’s
human rights and it needs to apply to everybody. But there is a balance between rights and responsibilities and it needs to reflect that.

Leigh Lewis

Thank you very much indeed. Another area which has been a very controversial one and continues to be a very controversial one in relation to human rights is the whole area of immigration and I'm very pleased to say that we've got two colleagues from the UK Border Agency with us. We've got Joanne Donnelly who's a Senior Case Worker for the Asylum and Appeals team in the Agency. And we've got James Howlin who's Head of Asylum Support and Appeals in the Agency. And again in whichever order you would like to give us your experience.

James Howlin

Again, another double act and I'll go first and then hand over to Jo. The agency itself is quite a complex agency as an executive agency of the Home Office. We're there really to implement and apply government policy of the Government of the day within the legislative framework that we have. We are a diverse agency and have a number of facets to that; whether that is assessing applications for individuals and managing migration for the benefit of the UK. And we're also a law enforcement agency and conduct criminal investigations and prosecutions. Our enforcement arm is involved in the arrest and detention of offenders and as we've heard from colleagues Luke, Peter and Barbara who have all mentioned
foreign national offenders that are imprisoned in prisons but also in some of our immigration detention centres around the country.

Across the organisation, whether it is case workers considering applications for leave to remain or to enter; whether it is considering applications from asylum seekers and those who express a desire for international protection; the Human Rights Act and the Convention stems and is applied daily by us case workers having that daily assessment of individual rights and those that are absolute as well as those that are qualified.

Our appeals practitioners present on behalf of the Secretary of State in courts across the country and Jo can certainly can give more information and practical experience that we've had there. But inevitably we're balancing the rights of individuals, whether they may be migrants, the rights to their family members who also can be British citizens, the rights of their children, the right to the wider public and protecting the interest of the public on a daily basis. Our staff do receive training and have since the introduction of the Act but that training is ongoing especially given the emerging case law and the ever changing case law particularly around issues of privacy and family life.

There is little really in our assessments that is
prescriptive and a lot of human rights are not black and white. It is a balancing act and there is a lot of grey areas and that balance is something that our staff undertake on a daily basis.

This week the Home Secretary has announced in the House, changes intended on family immigration and in particular reference to Article 8. There's been no shortage of media coverage in individual cases but also on wider debates around the effects of the criminality, risk to the public, individuals' behaviour and the application of that in reference to their individual rights but also the rights of the public in general.

There are a few specific cases which I'm sure you’ve all seen whether that’s the likes of Abu Qatada and his deportation back to Jordan. Or whether it's other specific cases like the failed asylum seeker who in 2003 fled the scene of a road traffic accident in which a young girl Amy Houston 12 years old was killed in Blackburn. There are a whole raft of other examples which we could give; that case in particular did cause a lot of frustration amongst the wider public, amongst parliamentarians and pressure groups. The father of Amy Houston, Mr Paul Houston, was again heavily involved in the case and the Agency has kept in regular contact with Mr Houston throughout what is a difficult period.

The Home Secretary this week in her statement to
the House has also said you know Parliament has not set out how Article 8 should be qualified in practice and is taking steps to set out the view of parliament to help that develop the interpretation of the court which she says for too long have been left to the side cases without the view of parliament. So changes in the immigration rules, Article 8 in particular, are due to be laid shortly.

I'll pass on to Jo now for any comments but again I'm happy to take questions in this session or later today.

Joanne Donnelly

I'll just give you a more practical view of how the appeal system works really on the immigration and asylum side. We operate within the immigration and asylum chamber of the first tier tribunal and the upper tribunal. Those are specific to asylum and immigration cases. The rights of appeal then carry on up the court system to the Court of Appeal and the Supreme Court and then onto the European Court of Human Rights. So it’s a lengthy chain shall we say, and the appeal process can take an extremely long period of time to be completed. Some would say in some instances it’s never complete because you can start again at the bottom.

Our focus in general in asylum and immigration is on Articles 2 and 3 which are absolute rights. Article 2 is protection of the right to life, and Article 3 the prevention of inhuman and degrading
treatments and torture. Those tend to be applied where someone doesn’t meet the requirements of the Refugee Convention and Article 8, the right to family life, and that’s the other article that we generally deal with on a day to day basis.

Article 8 is a qualified right, it’s not an absolute right and I think that’s where the for me in particular the controversial nature of Article 8 arises. It seems in some of the court cases that the judges may have perhaps not forgotten that Article 8 is a qualified right but in my opinion failed to give sufficient weight to the public interest. So the way I look at Article 8 and explain it to people, it’s a set of scales and on one side you have the rights of the individual and on the other side, you have the rights of the public. And often those scales balance in our favour as the UK Border Agency and often they balance against us.

I won’t give any specific examples of cases. James has referred to a couple of high profile ones and it’s not really appropriate for me to discuss cases that I deal with locally. But yes it’s a very interesting area of our work, it’s a demanding, time consuming and costly area for the UK Border Agency, something I'm personally very interested in and I'm interested in how the Commission on a Bill of Rights is going to report and see how – if there’s anything you can do to make the application of these rights easier for all of us to deal with in a practical sense.
Anthony Lester: Could I be permitted at this point to ask a couple of very brief questions?

Leigh Lewis: Yes, before you do, can I just say and then I'll bring Anthony straight in that actually people have been really disciplined and I'm really grateful to the point where we have a full half an hour before our lunch break. Those colleagues who I've not yet asked to do a contribution absolutely I will be doing that after lunch so please don't anyone think that their contribution is going to be missed.

This is now a great opportunity for Commissioners or simply colleagues to ask questions of each other or to say that they would like to say in response to what others have said, so Anthony, the floor is yours.

Anthony Lester: The only reason that I'm intervening is because my wife is an Asylum and Immigration Judge and therefore my pillow talk involved these issues. And I just wondered how you would react to two things that she would say if she were here. The first is that so much of the problem arises because they're any presentation officers in most of the cases that she deals with, so she doesn't have the view of the state properly presented. And the case has to be decided by her as a kind of inquisitor and often the appellant is also not represented or properly represented. And the result of that is that she in effect becomes the decider of facts at first
instance rather than being a proper appellant body.

I asked that because I think James said, or you said, that there were appeal practitioners across the country. But that seems to me to be, we’re trying to make this work that seems to me to be quite a serious problem. The second thing is I think that – you mentioned this yourself – my wife who is not an illiberal person I think will agree with something you said, which is the Article 8 case law had become unbalanced by not sufficiently weighing the public interest against the right to respect for family life. Are you saying that that is your experience and not that of the Home Secretary.

Joanne Donnelly Very much so yes, as a practitioner, yes the case law changed significantly when the Supreme Court judgement particularly of the Supreme Court in 2008 and that essentially did a 180 degree turnaround on how Article 8 should be dealt with by the courts so at that point it became a very different world and since then we've seen significant changes in the way Article 8 is interpreted in the court.

Anthony Lester What about my point about not enough presentation.

Joanne Donnelly Yes I'll just mention in – I work in the North East Yorkshire and Humber region and we have an
excellent representation rate there. We've maintained 100% representation for 12 months now in our local courts in Bradford and Newcastle. But I understand this is an issue in other UK regions of the UK Border Agency. It's something which I know the Immigration Minister takes very seriously and we are working on ways to increase representation but it is an issue of resources as I'm sure you'll understand. But we do, we do take it very seriously and we appreciate the difficulty judges are in when they have either no presenting officer or in some cases no legal representative either and it's something we do take seriously and are trying desperately to improve on in certain regions.

Anthony Lester

Am I allowed one more question? Unusually the way our system works, I say unusually compared with other countries, is that the Immigration and Asylum Judge deals not only with the Refugee Convention but the Human Rights Act and the European Human Rights Convention on the theory that it's better to have all the points in the single case dealt with there and then rather than segmenting them so you have a multiplicity of proceedings. That seems to me a good idea but I wonder whether you on the receiving end of that system think it’s a good idea or not?

Joanne Donnelly

I think it's a good idea to have one appeal where you deal with all the relevant issues and where those issues are made aware, where we're made
aware of them at an earliest point that’s where its best. So where the decision maker in the UK Border Agency is aware of all of the issues then we know we’ve got the good decision to go forward with at court and all the relevant issues are considered there as well. James may want to add something.

James Howlin

Yeah on the latter point I mean the decision making is wrapped up and is not just a decision on the refugee convention and whether someone is a refugee, also looking at subsidiary protection, looking in particular at Article 3 but also considering Article 8. Also I think it’s right that the court consider it on the round also.

On the representation rate, our representation rate is improving, it’s not where we’d want it to be. We have just restructured now to create a…rather than having the single man within the regions of individual presenting officers unit and the application at court is to (unclear) that into a central appeals and litigation directorate anyway. Certainly as Jo I think both Leeds and Bradford the courts in the North East have a 100% representation rate. My unit in Manchester has around 98% but I do appreciate that is not replicated particularly in the courts in London and the South East where representation could be as low as 50% in some cases.

That said there are difficulties in the way cases
are listed in the courts so we could have really, really straightforward cases that could be dealt with on papers and combined with a list that could have a serious criminal or terrorist or not necessarily terrorist or a serious criminal who poses a danger to the public who we would need to represent and can't really desegregate those lists. So if there was anything that we can do to help the court service so that we can list cases together that we would like to represent that would make it easier for us to list those cases that we really need to given the limited resources available within the agency anyway.

That said we should also and those cases that we can't represent and be preparing detailed submissions to help the immigration judge to make a decision round key points to extract from that and having seen some of our determinations and if you have a you know thirty page decision letter for instance on an asylum case that covers everything it can be difficult sometimes to extract the key points from that wade of documentation and the bundles from both the representatives of the home secretary and the appellant themselves.

Leigh Lewis Thank you very much indeed. Others questions, comments that anyone would like to put or just further points they would like to make.

Yvonne Davis I'm Yvonne Davis (unclear) Citizens Advice Bureau – I just wanted to be clear really because
I was a bit confused as to whether the law had actually changed as a result of the Supreme Court interpretation or whether actually people's interpretation of the law had changed – if that makes sense.

Joanne Donnelly: Well from my point of view obviously the law is set down in the Human Rights Act itself – it's the way it's interpreted that changes with the judgments of the courts. Essentially the position has always been pre-er the case in particular is Te Kwamba the name of the case I'm thinking of had always been an expectation that if somebody had built up a private and family life here whilst here unlawfully then they would leave the United Kingdom to apply for entry clearance from abroad so they would follow the same process that most people who were bringing in say a spouse or another family member from abroad could follow. They would pay a fee and they would meet the immigration rules. And that was settled case law for the ten years or the eight years the Human Rights Act had been in force.

But Te Kwamba, the case of Te Kwamba, essentially turned that on its head and said, what's the point in having someone go home, meet the immigration rules when we can say whether or not we might meet them here in the UK. And essentially that was the change that there was no longer – it was no longer expected that people would leave the UK and apply to re-
enter the United Kingdom legally. And that made a big difference to how Article 8 is applied.

Female Voice You can see the point of that can’t you, that if somebody has a family in this country they’ve built up for many years having come here as a young man say and not do it lawfully but marries, have children, they go to schools, all of that and to be expected then to leave in order to apply to come in and disrupt the family life, you can see why that would be a seriously disruptive thing to more than (unclear).

Joanne Donnelly Absolutely and that’s why the courts made the decision they made. However that fails to take into account the fact that a lot of people that migrate to the UK do so lawfully and therefore go through the correct process.

Yvonne Davies I mean I can tell you to be confused because what I thought we were talking about was the balance between the public and the personal have completely shifted. But what you’re saying is what’s shifted is the need to leave the country to come back in that hasn’t, doesn’t seem to me to really have shifted the balance between is it the public good or is it the individual good. Am I…

Anthony Lester I’ve got to be careful because this isn’t my real field, my impression is because of the understandable shift in the interpretation one consequence of that has been the people were
then able to stay here and then marry or have children or acquire a family life who would not otherwise have been the case. And some of them did so in circumstances to say the least a bit suspicious and that then led to further case law in which some of the judges gave them the benefit of the doubt and some didn’t and the result is the present situation is arbitrary in the sense that you have to sit under a palm tree in order to see which way the case will be decided.

Joanne Donnelly That’s a fair way of putting it yeah.

Leigh Lewis Any other thoughts, questions comments on that or any other issues – David.

David Edward Could I ask Councillor Rudge please. You said, I think, that we need a UK Bill of Rights. What would you put in it that isn’t in the Human Rights Act?

Councillor Rudge (unclear).. I think basically there’s a point at the back of your leaflet that says responsibility, well the responsibility should be there’s right. I think there is some consideration there I think it might have more respect amongst the average person if it was the balance in the act of responsibilities and rights. I think the whole of civilisation is based on the balance of achieving responsibilities and rights and sometimes people lose that you have to give as well as take. So that might be helpful. One of the things I’d like to see something that people
see helps everybody and not just a small specialised group. And I think it needs to be more in tune with the culture and the layout of our own country. So yes I think we should obviously adopt a number of things. We may adopt a number of things (unclear) existing one. I'm not saying its all wrong but I've said a lot about procedures and applications going all the way to Strasbourg etc. I think there must be a great deal of commonality in our aims to be fair to our communities and give people protective rights in that field. So I think there will be a lot of ink licking but I think it will be done more for the emphasis more for the way we have developed ourselves and our own systems. So I wouldn’t rule it out. If I was involved in that I would be considering it with a fair and open mind.

Male Voice

I totally, as one person who basically, probably (unclear) in '65 was involved in looking at race relations because the Act didn’t come until '65 so basically I go back a long, long, long way.

In terms of the Human Rights Act it is governed by the Europeans, by Strasbourg and if we look at the history of Britain in terms of inequality our equality system has been more prudent and better than anything in Europe because the Treaty of Rome was a bit of paper which meant nothing. The Government here, or we here, tend to look at the situation in terms of equality, in terms of human rights which manifests the British way of doing things to protect the British way of life to
protect what is law in Britain. Acceptable, but only
to say that from Europe it’s no longer acceptable
and we’ve got to change. Far too often in Europe
we abide by the European rules but Europe don’t
abide by the rules. When anything comes into pay
for misdemeanours in Europe, we are the first
people to pay. When we look at the human rights
here vis-a-vis across the pond, it’s completely
different. Our human rights here do not protect
us but it protects the Americans. We send our
people over to them and they look after the rights
of their people first and it’s only after their rights
have been looked after, they then they will
repatriate you to, we’ll send you to Britain.

So in terms of the Human Rights Act, our Human
Rights Act should be geared to the laws of the
land so that they’re interchangeable. And once
you have to go to court to see if a person’s human
rights have been breached it means that basically
you are not following the Human Rights Act
because it should be part and parcel of our daily
life.

Male Voice Might I just say I’ve been in inequality since 1964
myself and you’re perfectly right in saying that we
have a strongest equality legislation anywhere,
not just in Europe. Of course much of it comes
from Europe through the equality directives but
you’re perfectly right in what you’ve said, but what
I think listening to the whole conversation the
reason why the equality legislation has such
immediate impact is because it is a huge and very detailed piece of legislation and rules and principles and enforcement mechanisms for example the police and stop and search and everything immediately (unclear) in promotion and recruitment.

When one's talking about a Human Rights Act, one is not talking about that kind of detailed rule making and in every other country it would be a constitutional instrument and we wouldn’t be having this kind of a discussion in Germany or in France or in Italy or in the United States saying, what has been the impact of the German constitution or the French constitution in a general way. Our difficulty is our Human Rights Act is both very general and mirrors a European treaty so that it's a completely different level of generality which it’s meant to be but its’ parentage is outside this country. So when people say rather have our own Bill of Rights, and there are strong arguments in that direction, the reality is that document will be as general as the Human Rights Act in stating very general rights and there will still be the problem of detailed implementation through ordinary legislation, the common law, administrative practice, common sense.

And therefore although I am very sympathetic to the argument about having a Bill of Rights – all I'm saying is its not a panacea and many of the things said round this table now I think would still be said
if one had a Bill of Rights expressed in a general language because that's the name of the game, It's not meant to be like the equality legislation. I hope explained my own personal view.

Male Voice I respect that but at the end of the day let's look at it later on when I'm given the opportunity to speak in terms of the (unclear). I can take you with the Human Rights Act on one side and I can take you with separate legislation in this country which actually says the same thing.

Female Voice The problem with that, can I just explain something to you. You said this thing comes from Europe. I don't know whether you know exactly drafted by British lawyers in 1950. It was drafted by British lawyers and that's why when you hear our magistrate and when you hear the police talking about the fact that we all wondered if it was going to bring a huge impact to the daily workings on how we do business. It didn't on the areas of criminal justice because it was relying upon many of the presets that had been operating under the common law for ever and a day about a fair trial, about having the opportunity of hearing the evidence against you and all of that. So when it came to the business of criminal justice, it wasn't going to make a big difference because it actually drew upon the common law. Now where it has - what it does is and where it's rather clever is the European Convention was set up so that different legal systems had their own way, came
out of their own history and tradition. But there was a template that would run alongside every legal system of principles which said you have to measure your system up to this. And in fact the truth is that Britain measures up pretty well against the European Convention on Human Rights - it’s why we very rarely are called to book on anything that happens here because we do measure up actually rather well.

But the idea is to have a template that travels alongside as you were saying – all those other bits of legislation which might be to do with race, which might be to do with discrimination against women. All those other bits of legislation that we have are there and then one of the things that we do is we measure to make sure we’re abiding by the set of principles that actually were drafted by British lawyers and which all the other countries abide by or expected to abide by too.

Now sometimes other countries don’t abide by them but isn’t it a good idea to have a template that travels down alongside all these different systems.

Male Voice It seems probably that I’m very naïve but tell me in terms of Britain because I’m not interested in what’s happened. I’m interested in the Human Rights Act in Britain. It’s like the only people who understand it fully well are the lawyers who are making a case against the Human Rights, using
the Human Rights to get rights for people who shouldn’t have had the rights in the first place.

For instance, for instance a driver because I’m a retired magistrate. For instance a driver who has been here illegally, who is going through the process of the human rights as to whether they should be deported or not, drives a car and kills someone and then the person who they’ve killed the family have no rights whatsoever but the person has all the human rights which is afforded to them. I must be naïve to say basically look at the probation services representation, a lot of people don’t understand what it means, we’re talking about the perception of people and if the country has people who cannot understand what the human rights is about then I feel basically there’s something drastically wrong and in terms of the lawyers drafting it.

I can remember when it was coming into being the NHS could not understand it and they had to pay solicitors to explain the human rights to the people in the NHS. So basically I must be either naïve or basically I come from somewhere else.

Female Voice  Do you think that may happen if there’s a UK Bill of Rights brought in? Do you think there will have to training of the National Health Service and everybody to understand?

Male Voice  Yes there will be difference, they will look at the
race relation and the reason why the Race Relations Act is so effective, it was drafted and campaigned for by the people who did it. The minorities who fought for it. That’s the reason it was drafted with people’s input, just like we’re here today, hopefully the input of the community, the input of the professionals will make it have bite. That’s the difference, the trainers should be trained how to look at it, you know this kind of thing of handing down your expertise because you went to Oxford and you were told in a book that you’d researched people’s views and you know everything. No it’s not.

Male Voice

I don’t think as I listen what impresses me is not perception but practice. What impresses me is I’ve listened to the Police Service and the Prison Service and those who monitor the Prison Service and Probation and what impresses me is the practical insights of everyone who has spoken about what they do in practice. Of course these big words Human Rights Act, human rights, European Conventions are very remote but it’s quite clear to me that what happens on the ground, the sense of fairness and equal treatment is very well understood and I have to say as an old activist who organised the campaign against race discrimination in 1964 to 1967, this city in those days and the whole of the West Midlands, were not great if you were a black man to say the least and what impresses me is the coming back all these years later I see a transformed society.
And this is partly in my view, sensible people have given practical effect to some of the standards that we’re talking about.

And of course I understand that there is misperception but among the people that are really making and implementing policy I’m impressed that there isn’t misperception but a very good understanding of how the system operates. This doesn’t have much to do whether we should have a Bill of Rights or a Human Rights Act but it does indicate that we’re doing pretty well on the ground I think.

Leigh Lewis

Now I’m going to hold this debate, we’re going to have opportunities later in the day to come back to it. But there are two colleagues on this side of the table who have been trying to catch my eye to come in. So first of all Maqsood Ahmad would like to come in and then Paula Whelan would like to come in.

Maqsood Ahmad

Thank you Chair, it’s getting more interesting now we’ve got the boring bits over and this is the real life and debate of it. Len, I understand where you’re coming from but I also depart from your thinking. The reason why I depart from your thinking regards to Europe is that the world is getting very, very closer together. You can’t think this is England, this is a legislation for us. As a human being who’s visibly different to the majority of the people in this room in a sense. I want to be
treated with dignity and respect, I don’t want to be discriminated against if I go to France to watch football, if I go to Poland to watch football. I want to have some sort of a legislation that actually wherever I travel I’m not checked I’m not stopped and searched, I’m not disrespected as a young black, I'm not young anymore I'm getting to a stage where I think I'm getting more a sense of it.

We fought very hard for the Human Rights, people like yourself and Lord Lester and others and Baroness Kennedy we don’t want to give up now. We are the best in Europe and we should be proud to say we are the best, we are leading in this. But I do want to enter and watch football in Poland, in Ukraine the reason why my son and I didn’t go into watch that because the racism they have behind thirty bloody years and where we are ahead.

So for me it’s not just about England, it’s not just about Ireland and protection. For me it’s about freedom to move without being stopped, without being spat at, without a Muslim woman’s hijab being removed, without a country telling me what I should and shouldn’t wear. And I think that’s the aspirations that we should have – not only for ourselves but we should the European and lead the world in seeing this works for us and you may learn from this if you're from France or from Poland or from Germany and I know what you're trying to say the hard work that we’ve put into it be
able for me to be very disappointed and sad. Chair, if you only focussed on a Bill of Rights for us but the rest of the world actually continues to discriminate against people like myself and I can't even go and watch England play in Poland, in Ukraine in twenty years time or something like that.

Background talk

Female Voice I was just going to say, I mean I understand what you're saying but just wonder if the issue is a lack of understanding of the Human Rights Act. Is the answer really to introduce another Bill of Rights. Surely it's about putting resources into a better understanding of the workings of the Human Rights Act unless a Bill of Rights for the UK offers something different and additional are we just wasting money.

Male Voice To answer to that, I'm not saying I'm going by what's not happening in practice it seems to me the Bill of Human Rights is okay for the rest and Britain has to be suffering for the Human Rights. I've been fighting for years as a matter of fact. When you look at it I was one of the people who coined the phrase, 'the only way we can fight the discrimination is on the field of sports'. And in 1970 I was the first person in Britain to build the purpose built sports and social club because I thought that's the only way we could actually unite. (unclear) I have nothing against Europe it
seems to me the Bill of Human Rights when the British courts say something it is questioned in the European courts and the verdict is changed. If they treat everybody the same I haven’t got a problem with that. The Bill of Human Rights should be for every individual and not for a chosen few.

Male Voice If we can put people on the moon I’m sure we can overcome this issue at all.

Male Voice Trying since 1960’s and we still haven’t done it.

Male Voice Eleanor Linsey who’s from the Council of Disabled People wanted to contribute.

Eleanor Linsey I thought I would leave what I had to say until this afternoon but just on a tiny point is I’ve lived in Strasbourg for over ten years and I can tell you a lot of human rights lawyers there are British. So it’s not us against Europe because we’re there. And the other point is I, less than two weeks ago, I was in Dublin on a seminar on disability hate crime which was hosted by the OSCE, don’t ask me what it stands for, something to do with security, but one of the points came very positively to me, is that England is leading on a lot of issues and it would be a shame as we say, as a disabled person, who has campaigned on the streets of Birmingham for disability rights to say let’s just keep it to England then I would say that would be a shame, it would be a shame for the
rest of my disabled friends in Europe and also because I'll go back to it later. But the human rights have become so much of an issue for disabled people more and more so. That it-t's become it's just like we've gone back thirty years when we used to fight for disability rights.

Now we're fighting on human rights which for me is a really backward step and I'm not going to go on because I know we're all waiting for lunch. But I will come to it later because I could go on and on.

Leigh Lewis  
I absolutely, Eleanor, will give you the floor later so you'll have another chance. We are at lunch time, I'm going to usurp the privilege of the chair knowing that Sharon Rowe is not going to be able to stay this afternoon I just wanted to ask Sharon one question about what you said. You said at the end and I just felt it was a bit heartfelt. As a police officer, give me clarity and certainty and timeliness would you say a little more about that before you leave us.

Sharon Rowe  
I understand law is complex and it's built over a period of time but what we’re talking about today the officer has to work human rights, equality, health and safety. And I think some of the key principles that (unclear) legislation is about individuals and it’s about fairness and it’s about individuals rights. And how an officer has to weave that into day-to-day policing and that's not
easy that’s what I would say and we are a profession and we need to train and understand the law but just some clarity around all these of pieces of legislation can sometimes collide into each other.

As a gold commander policing some of the English defence league protests in Birmingham and I know that they do this a lot in Northern Ireland, I now have a lawyer on my shoulder to deal with live time scenarios. The pre-planned is easy but the live time life and death scenarios that I’m being presented with on how I’m to make decisions. I need now that lawyer on my shoulder to say balance this, balance that, balance that and you may say, well you’re a police officer you should know. I just think the complexity sometimes of law it would be nicer if we could just get a bit more clarity. (unclear)

Anyway the timing issue my-my example there would be IPCC investigations. It is right we have a Commission there then when things have gone potentially wrong. Police contacts (unclear) and it’s right and independent group look at what’s happened there and draw recommendations and learning. They just go on and on and on and some cases that are being challenged in the appeal courts and it just goes on and on and on and I just don’t think it’s right for the victim. It’s just not right for the victim. And when you add it all up together the amount of paperwork and thought and
bureaucracy and thought and time that has to go into it is very, very expensive.

So that's all but as I said I do what you write and what you want us to do and we'll go out and enforce the law for the greater good of the community.

Leigh Lewis  And thank you very much indeed and I think we've had an incredibly rich morning and some real contributions and as Maqsood said towards that last half hour some of the real debate around the room started coming out and we'll have more opportunities for that later in the day. We've now arrived at lunch, lunch will be served in the restaurant please turn left out of the seminar room, I'm told we've got an area for our seminar. Could I ask people to be back at 1:30 promptly please. I'm going to invite all the colleagues who haven't given their initial views please to do so and then we will have an opportunity really to engage in a general debate. Thank you very much can we be back at 1:30 please.

End of morning session

AFTERNOON SESSION 1

Leigh Lewis  I hope you had an enjoyable lunch. As is in the nature of proceedings such as today we've lost
one or two colleagues who were only going to be able to be with us for the morning. But we've also gained one or two colleagues. Can I welcome the Reverend Andrew Watson who's the Bishop of Aston to our proceedings.

This is the second session of our meeting we are going similarly I'm going to invite all those who have come on behalf of or with experience from particular groups in the voluntary sector, in the faith communities representing people from minority communities or with particular interests again to give us their first thoughts on the subjects we've been discussing and that is their experience of the Human Rights Act, good bad etc, etc.

Then we will I think at the point where we've gone round the table, we'll break for tea and coffee and then we'll have a final session that will be absolutely open, throw open to debate, discussion, dialogue we had some of that before lunch and it started to get views and opinions flowing round the room which I thought was a very good thing.

I'm going to start with our colleagues who have come here from various faith groups in the city and essentially the Midlands. And I'm particularly grateful and pleased that they've been able to do that. I think in the end I'm looking at my colleagues in the secretariat I think Maurice Coles who was going to speak for the – from the Muslim
community has not been able to join us. But I do think and I do apologise if I get any of my pronunciations wrong I think we've got Herpreet Kundi from the Sikh community and I think we've got Elspeth Mendes DaCosta from the Jewish community, Andrew Watson from the Anglican community, Father Stephen Wright from the Catholic community. And I wonder if I might invite Herpreet Kundi to kick off our session please.

Herpreet Kaur Kundi  For those of our colleagues who don’t know me I’m volunteer at the Guru Nanuk (unclear) which is a charity a Sikh place of worship in essence that’s where we originated from. And since then we’ve grown, we’ve got a civic association now again based here in Handsworth but our work, our charitable work reaches global, the United States, the Far East Africa and also in Austria – Australia I beg your pardon.

As a faith based organisation obviously what’s most important to us is forgiveness, tolerance and acceptance. And respect for each other. Human rights are important and we accept that and what we find in our community is that there is an element of confusion between the equalities legislation and then the human rights. For us it’s perhaps a lack of understanding at community level and not having enough information. What is important to us is more information and understanding as to how to use this information correctly and not necessarily to add more burden
and add more legislation to is. From a practical point of view almost something like Sharon was saying earlier its at ground level we need to know how to use it in practice and how to implement it and not necessarily to have more red tape.

With human rights for us and again this is in the context for a religious organisation, what is important is values as well because if you've got human rights and me as an individual you've given me human rights or my state has given me human rights. What's important to us is that individual, whatever background you're from, should also have a sense of responsibility. And that's where it comes hand in hand with values. And whether there’s a need for the state to provide some emphasis on responsibilities as well. Fair enough saying I've got this white flag, I've got a human right but have you got a responsibility as a human being as well.

And I don't know, society's moved on, communities have developed as my colleagues Maqsood was saying earlier, it's not local anymore it's global. We've got the internet, we've got other forms of media, we can fly, we can get across the world in less time than we could before. So for us those type of issues are important investing in young individuals from birth reinforcing these values and qualities and not just focussing merely on human rights there has to be a balance and that's important for us – respect for
each other.

As a community the human rights have impacted on us with regard to issues of identity immigration, marriages and those have been the key impacts with regards to how its had an impact to us. Thank you.

Leigh Lewis Can I now turn to Elspeth Mendes DaCosta who’s the representative of the Council of Birmingham and Midlands jury. Elspeth.

Elspeth Mendes DaCosta The first thing I want to say is the Jewish community I represent had a diversity of opinion that I’ll do my best to represent it.

The Universal Declaration of Human Rights 1948 and the European Convention on Human Rights 1953 were the response to the Holocaust. And the gravest human rights violations which shook the world. Jewish people come to this debate with a historical experience of human rights and we feel strongly about protection. (name) former director of the Jewish human rights organisation (unclear), has said as Jewish people during the Holocaust we wanted other people to speak out for us so we feel responsible to do this for others now. Human rights are universal. Human rights are not just for the most popular people, so it’s not surprising that they provoke debate. But the Human Rights Act is there for the protection of the most vulnerable who might be vilified or
stereotyped and at the whim of popular opinion.

We do feel it important that human rights themselves do get a fair hearing and that there’s enough and good enough education about the Human Rights Act.

The Jewish community has a history of immigration often as refugees and we’re grateful for the protection the Human Rights Act gives to people who come to this country and refugees and asylum seekers. In Birmingham we have supported and are supporting Jewish asylum seekers and it is important that they’ve had to put significant evidence about their religious and ethnic lives to courts in Birmingham without having to take that evidence to Strasbourg.

There’s a balance of rights and obligations in society as a whole and Jewish experience finds it fundamental that the protections we all think are important to us as human beings have a secure place in that balance. The human rights set out in the Human Rights Act accord very closely to Jewish values and we hope that the consultation exercise will maintain the protections that we value without decrease. Thank you.

Leigh Lewis  Thank you very much indeed. Can I now turn to the Reverend Andrew Watson who is here with the representation of the Anglican community – Bishop?
Rt Reverend Watson  Thank you very much. I think the first thing
to say is that the Human Rights Act itself hasn’t
had a major impact in the sort of decisions that
we’ve been making and all the rest. I think that
again the equalities agenda has been much
stronger as an agenda in that sense. I think that
Anglicans all around the world and I think it is
again a worldwide movement so we’re very
conscious of brothers and sisters in other parts of
the world who suffer from abuse of human rights
and I've been involved in a number of particular
issues there which have very much made me
sense that this agenda is obviously incredibly
important.

I think though I just have one or two questions
about a UK Bill of Rights, this kind of future
development. One of them has to do with whose
right I had in my last congregation before
becoming Bishop a lady called Nadia Eweida who
some of us will remember as the British Airways
cross-wearing lady from Egypt. And that was quite
a big issue because if someone took offence at
someone wearing a small cross at work, I know it
was slightly more complicated things around that
as well. But you know whose rights should be
honoured, in that it’s very easy I think to create
an offence culture where I take offence terribly
easily and therefore I have a right over someone
else who may be you know living out their
religious life in a perfectly reasonable way.
I think a second question I have not over the big overriding issues that we’ve been reminded of in the context of the Holocaust and everything else. But if human rights legislation gets too detailed what ethic are we actually working towards and I think we’re conscious that we’re probably not working towards now a specifically religious ethic. Are we working towards a secularist ethic. I think the religious communities would often criticise the secular ethic in terms of shifting too quickly and similarly the secular would probably say well the religious communities are stuck in the past and don’t shift at all as they should and all the rest.

So again where do we actually get our ethic from when we get beyond the question of obviously life and death the sort of ghastly things going on in Sudan at the moment? The very obvious things are obvious but perhaps when it gets down to other levels it becomes more tricky.

I think a third question I would have coming from a legal background as I did originally is, just whether it seems to me that the legal system as it has developed in this country over centuries and centuries, had developed a subtle nuanced approach recognising the different distinctions between different situations sometimes. And I think this can be a danger that the human rights agenda can be a bit of a blunderbuss where actually you know quite a lot of (unclear) our case
law is far from perfect and quite archaic and all the rest but that’s sort of tended to be the way we’ve gone as a society and I think there’s something quite nuanced about that which there’s just the danger might be compromised.

And my fourth point is just picking up on my Sikh colleagues, is responsibilities. I think the problem about rights without responsibilities is actually who’s going to see that they’re, that they’re fulfilled and I suppose that my own religious tradition in a way puts more emphasis on responsibility than it does on right. It actually it isn’t so much that a poor person has a right to a better standard of living it’s more that the wealthier members of the community have a responsibility to ensure that the poor person is properly looked after.

And I think the danger of going the other way is it becomes a bit infantilising, it becomes nanny state-ish if I’d got a right but actually no one feels a responsibility to see that right fulfilled. So I think there’s something about and I suppose it ties in a little bit with the suing culture as well er which just isn’t, it can be a bit infantile rather than saying, we’re adults we have responsibilities and we need to look out for the needs of others. So I'm fully in favour of the sort of concepts but I think there are some issues that need to be worked through and whether a bill of rights is the best way forward I'm not quite sure, I'm not quite convinced. But having
said that I was not here this morning so maybe I would have been convinced if I had been.

Leigh Lewis

Thank you very much indeed. And last but in no sense least can I look to Father Stephen Wright from the St Mary and St Modwen Parish in Burton-on-Trent the Archdiocese of Birmingham

Father Wright

Firstly thank you very much for your kind invitation which I accept on behalf of Archbishop Bernard Longley, the Archbishop of Birmingham, who asked me to come along and at this point in time and with this amount of adrenaline pumping through me I thank him from the bottom of my heart.

Laughter

I’m asked what effects do the human rights laws have on your organisation, do you think the impact has been good or bad, can you give concrete examples. In answer to the question I will make reference to the Bishops, their teachings, my own reflections but also when I knew I was landed with this joy I felt it was appropriate to have conversations with my own parishioners about how their impact so some of what I’m sharing comes from them.

Back in 1996 the Bishops of England and Wales wrote a document called ‘The Common Good in the Catholic Church and Social Teaching’ and in
that document they welcomed plans to strengthen human rights legislation in the United Kingdom. That happened. Any legislation that upholds the dignity of the human person, the dignity of the family that promotes human flourishing and promotes human good will always be welcomed by the Catholic church. The human rights legislation does have these effects and it is welcomed.

Indeed, the Church proclaims human rights as god given. Made in the image and likeness of god every human person has basic rights which are, in the churches understanding, recognised rather than created by legislators.

Also in that 1996 document and I refer the Commission members to it, the Bishops gave a critique, they actually used the word a warning which I will quote and if I may use that as a structure for the rest of my comments. He wrote this, we repeat the warning that the church has given in the past that the human rights are sometimes advanced to support claims of individual autonomy which are morally inappropriate. Not everything said to be a right really is one. There is no right to harm another for instance. The proliferation of alleged rights can devalue the very concept, so can the amplification without equivalent stress on duties. And without some concept of the common good to which all have an obligation to contribution.
The Bishops continue that these reservations must not be allowed to destroy what is good in the principles of human rights.

So if I may summarise their critique, human rights must be moral, they must be equal emphasis on responsibilities and human rights and responsibilities must be ordered towards the common good. That critique would suggest is still there and in fact offers a way of reflecting on the impact of human rights legislation on the Catholic Church over the last 12 years. When I first refer to the human rights must be moral, what do I mean by moral, what do the bishops mean by moral. Well you wont be surprised to say moral in accordance with church teaching and this is what they're talking about and here comes tensions which are well publicised.

The first thing really reflections on Article 9, the freedom of belief. I actually went round my parish and asked them very simply does Article 9, the freedom of belief, make it easier for you to publicly express and live out your religious belief today than it did twelve years ago and the answer came back pretty much unanimously its not made a blind bit of difference.

One could take that as a compliment to the civilised society in which we live. But in terms of the impact very little, very little. However when
you started scratching the surface there is some who would say that perhaps in a way the human rights legislation taken as a whole may have made things a little more difficult particularly in the public sphere. There is a perception and I will go no stronger than I recognise that once experience rather than perception I'm reporting a perception that the articles of the human rights legislation had in a sense at times particularly equality legislation put some of the freedom of expression of religious beliefs more into the private sphere than the public sphere.

It’s pushing the expression of religious beliefs, that’s okay in your church, please keep it there we’re not so interested in it elsewhere. That’s a perception. There’s another perception that at times and I emphasise at times that religious rights are sometimes disproportionately trumped by other rights. I just want to give one concrete example which was quite a difficult time for the Catholic community regards to the Catholic charities of the adoptive agencies which I think was well publicised on that one. Where there were competing rights there were competing rights of same sex couples to be treated in an equal way and they were entitled to that.

There was also the rights of Catholic charities to run their charities in accordance with Catholic teaching. I won’t go into the ins and outs of it but the end of it was that there are no longer Catholic
charitable adoption agencies. That seemed a disproportionate result and what was sad, certainly from a Catholic perspective was many proportionate solutions were offered so the rights of same sex couples and the rights of the Catholic church could be maintained and it was very sad that that came about.

There’s also a concern in the Catholic community, well if it’s been done once where else could this be done, and that’s the concern.

Moving on you’ve heard this from us all I think human rights must have a equal stress to a human responsibility. If I could take you back to a document in 1963 written by Pope John the 23rd about the same time as Tony Hancock if people actually remember. Known as (unclear) it is the most the document of the Catholic church most like a Bill of Rights and Responsibilities and if bishop members want to have a look at that they will see some of the wider perspectives of human rights that the church speaks about broader than our legislation. But the Pope writes this, to claim one’s rights and ignore ones duties and half fulfil them he says is like building a house with one hand and tearing it down with the other, and he goes on to give some corresponding responsibilities.

Regard to the right to life, it carries with it the duty to preserve and care for one’s life. The right to a
good standard of living carries with it a duty to live in a becoming fashion as he writes. The right to seek out the truth carries with it the duty to devote oneself to an ever deeper search for the truth. The right to work carried with it a duty to work. And so he continues and for every human right that is mentioned there is an equal stress on responsibility.

The church would take this opportunity to invite legislators to incorporate human responsibilities into the human rights legislation. They are there under the surface we recognise that, bring them out, let there be a debate. That debate would be an opportunity for us as society as a whole to reflect on our social responsibilities to one another and indeed to creation itself. It would be a worthwhile debate to have.

The most common response I have from my parishioners was this point, rights carry with them responsibilities.

Finally, the third critique and very briefly human rights and responsibilities must be ordered toward the common good, one aspect of the churches teaching of the common good is what’s known as the preferential option for the poor. Society and legislators should always look at its success criteria by looking at how does this affect the most vulnerable members of our society. And may I suggest we do that with our human rights
legislation. Does it work for the most vulnerable members of our society and we've been reflecting upon that in our morning sessions. As a parish priest I would say, well I'm not sure that it does in the immediate impact really. And I'm dealing with the elderly, with the sick, when I have legal and illegal immigrants at my door. What use is this piece of legislation to them when they need a bed for the night. It's not a criticism of a legislation – far from it the wording is fine, It's actually this is for the common good legislators need to put the resources into local authorities, public authorities so that people have access to these rights that I feel is where perhaps the most vulnerable are perhaps being let down by our legislators.

And thank you very much for your kind invitation.

Leigh Lewis And thank you very much for your very kind contribution Father Wright.

I think it was really fascinating to hear from our faith communities and later on in the afternoon we may want to pick up some of those issues I think, that theme particularly of rights and responsibilities I think everyone who spoke from the faith communities in different words used that concept. So we might want to pick up some of those issues later on.

Can I move on please, the next person on my list and, if at the end, I have omitted anyone not only
will I be deeply apologetic but I will put matters right instantly. But can I look to Yvonne Davies who’s the Chief Executive Officer of the CAB to give us your perspective from that organisation’s role in helping hundreds of thousands of people with their daily lives.

Yvonne Davies

I obviously as Chief Executive I don’t really get involved in the day to day so I asked our four bureau managers what their views were of your questions and they’ve given me some responses. I think from listening round the table I think we need to differentiate whether we’re in favour of a European Human Rights Act or actually we’re against Europe because I got some mixed messages going round as to whether it is anti-Europe or actually its anti-human rights. And I think that’s interesting for the Commission to be able to iron out. If we were to have a UK Bill of Rights how would that improve from the individuals perspective on what this European Bill of Rights gives them, as it were. So I think there’s for me there is some discussion to be had about where actually the agenda’s really coming from.

From individuals within Birmingham very heavily were aware that people were not able to access their rights I'm afraid. And as the-the faith groups made clear, people may have rights but unless there’s resources behind them they're actually just a piece of paper and they have no meaning. And we have great difficulty sometimes in ensuring
that people are able to access their right in the most basic of ways, not talking about the European legislation.

In terms of the Human Rights Act we would say we have a very small number of cases each year which we feed through to solicitors locally and nationally to take those cases forward. And what I would ask people to consider, my view is that power is corrupting and absolute power absolutely corrupts those involved in it. You may not feel that you've been corrupted but if you exercise absolute power you cannot help but be corrupted. And having an outside pair of eyes is looking at what you're doing makes you healthier and in terms of the systems that we have in this country I think the ability to challenge keeps people clean, so they don't get involved in poor practices and ignoring people's rights and discriminating.

So from a Citizen's Advice Bureau perspective people having on paper rights which they may be able to exercise helps us influence the procedure that are put in place which enable people to access them, if that makes sense. I would have some comments on some of the contributions that have been made this morning which I have found absolutely fascinating I have to say but I'll leave that to later when we have a free-for-all.

Leigh Lewis

Thank you very much indeed but please don’t lose those points because we are absolutely going to
open this discussion up after our tea break to all of those wider points. I want now to turn to organisations in the room, individuals in the room, who come from, speak for whichever words you think appropriate, some of those groups within society which have sometimes been seen as disadvantaged or needing special protection or simply in a different place. And I'm going to start and I hope I'm pronouncing it correctly with Daisy Khera who's from the women’s help centre in Handsworth here in Birmingham.

Daisy Khera

Thank you. Yes, so I'm the Support Manager at the Women’s Help Centre. It's a very small charity in comparison to the other voluntary organisations that are here today. Its based in Handsworth which some of you might know from the Handsworth riots if you're not from Birmingham but those of you living in Birmingham I'd hope you understand the absolute diversity of the area – we’re very close to Aston as well.

I'm here to represent the women that use our organisation. It's a women only organisation. Only women are to enter into the building. The directors, the staff, the volunteers are all women. And it started in 1988. It serves the local community but because of the internet our details are up there and we get calls from all over the country and sometimes we get emails from all over the world. We’re an advice counselling, training charity and we as you can probably
imagine the cases that Human Rights Act brings up and the cases that go to court are very small in number representing such a small section of the community, we don’t get to see those. We don’t have legal advisors at our organisation, we don’t deal specifically with immigration, we don’t have the requisite registrations to deal with immigration therefore we don’t specialise in that we refer.

However, in terms of perception and community perception many of our users are victims of domestic violence, many of our users are immigrants, many of them are from eastern European countries, many of them are from the Indian sub-continent where they are in the UK on a marriage visa. Many are asylum seekers or refugees awaiting decisions. From Africa and also from Bosnia and Yugoslavia and those regions that have been war-torn.

And so from our perspective, the women that we see very often have come from countries or situations where their human rights have been infringed and they certainly know what their human rights are because they understand where they’ve come from those situations where they’ve been on the receiving end of inhumane treatment.

However, as a country as you know we’ve come to hear from other people’s perspectives today as well. I think we are in a better situation than the rest of Europe and we’re a leader in
human rights and that most of the people living in this country expect a certain standard – and receive that standard without any concern. But for those vulnerable people who are at risk the women who come into the country and are enslaved into prostitution. The women who are married to British citizens, the first two years they don’t have any recourse to public funds, they are sent back in effect they have family problems they are victims of domestic violence. In those circumstances they have very few actual rights and recourse to redress in terms of being able to afford solicitors, to being able to have access to information that’s in their language. I mean you have local schools and local health authorities saying to us, you’ve got over 70 different languages being spoken in the service that we provide, how on earth do we help people that are from all over the world that are existing in circumstances where they are the most vulnerable.

I would say my experience of the human rights is minimal if you think in terms of the amount of cases that I’ve been involved in or the organisation’s been involved in. However we shouldn’t go towards thinking that there is a solution that will get rid of all the solutions that the organisation such as the police has said in terms of the time it takes for cases to come to court et cetera. As Lord Lester was saying earlier if you have the bill of rights to a UK based only
legislation that's not going to get rid of all of that. Whereas with the Human Rights Act, it is linked with the rest of Europe, it is linked with a framework that is, is a beacon really in terms of the human rights abuses that take place all over the country, sorry all over the world.

And the people that we represent have experienced many difficulties in their life and I don't think that having any further legislation that you know scraps what is already there is beneficial to us. I think the – in terms of if you're asking about community perception people go on the basis of their own personal experience and people also are affected by what the tabloid and media stir up.

And Councillor Rudge was mentioning earlier that the area of Birmingham that are, you know, white working class and how they feel that perhaps you know all this legislation doesn't really speak to them. I think if you put them in a room with somebody who has experienced the loss of their human rights, I think you'll find that they would have the grace and integrity to say, well this legislation might not affect my situation but it certainly does affect that person and therefore that person is deserving of that that as a country we ought to be linked in with the Human Rights Act and it’s you know the tabloid media that stir it up. I think, as a Commission, you should be having representations from the media. I mean as
a lay person that’s been quite enamoured by the Leveson, so you know I'm not suggesting that you go that far but in terms of their effect of people’s public perception of the Human Rights Act and the fact that its always scare stories and it’s not really right in that we allow that right wing anti-immigration (unclear) sort of clamping down on terrorism as a way of taking ordinary people’s rights away, I don’t think that’s fair. Thank you

Leigh Lewis

Thank you very much that’s really clear and helpful to us. Thank you.

Let me move only a small distance from you in a physical sense to Lisa Payne who if I've got this right is the domestic policy and Parliamentary Manager for UNICEF in the UK – Lisa.

Lisa Payne

That's right, difficult to follow that impassioned speech which you know brought up a lot of issues which I'd been thinking about as well. I'm actually going to introduce a whole other slew of rights which is probably going to confuse people mightily but I am here to represent the children’s rights and issues specifically. I should explain of course UNICEF is a global organisation as you will all know I work for the national committee in the UK which is UNICEF UK and I am going to therefore focus on this country. So leaving aside the global issues, do we think there should be a Human Rights Act, well yes we do and I absolutely agree with, why are we recreating something. However
I'm going to contradict myself by saying, the Human Rights Act has been an important mechanism. It covers all ages remember people have been focussing on adults but it actually covers everyone from the age of nought or before in some nations and there was been important case law in the past which has improved domestic legislation. I note that some speakers have said, well we've got laws in place what's the problem. In fact the laws are never perfect and they can be improved as a society progress, things change, things can be improved and human rights legislation is an important framework in which that can happen.

I don't, we don't have time to go into all of these but if I just mention a couple of specific types of cases that have come up. Sometimes in Strasbourg because they predate the Human Rights Act actually coming into the UK. But sometimes in the British courts as well. For example the issue of detaining children of failed asylum seekers which was a human rights issue. Case law, under the Human Rights Act, ruled quite recently about the policy had not been applied properly. I'm sorry to mention this but since we've got such a contribution from immigration there are issues where the existing legislation policy, these guidelines may be problematic, the interpretation and the practice may be problematic in terms of children’s rights, not the asylum seeking family, not the asylum
seeking parents, the children of those families, they get lost.

So that was an important case. We hope it improved practice. It certainly tried to clarify what should happen in relation to the tension.

Other issues like juvenile justice cases – issue of a right to a fair trial. People remember the James Bulger case and they will remember Thompson and Venables that led to a Human Rights Act application to Strasbourg, not because the decision had been wrong but the way in which the trial had been held excluded the defendants. They didn’t know what was going on, that’s what the case was about. And it was simply saying when there are children involved in a trial of this sort which took place in an adult court they need to be able to understand the process. It’s part of the rehabilitation connected to a criminal justice system not just for children.

And those are just a couple there are a lot actually. LSE...you may have spoken to some of the human rights academics from LSE, but they have collected case law specifically to under eighteens under the Human Rights Act and there are pages and pages on it and I will go on human rights. The Human Rights Act is a partial success and a partial solution as far as we’re concerned and I’m surprised that nobody else has mentioned that. It is, you know, it’s a post-war treaty; it was a
post-war agreement reflecting what had happened in the Holocaust but also displaced persons all over the continents. So it is of its time, in fact since then we are discovering other areas of rights that are not covered sufficiently. Social, economic civil rights, cultural rights, there are complete gaps in it. And from a children’s rights perspective, we would say the United Nations convention on the rights of the child is what we would hold up as the benchmarks for children.

If there is to be a revisiting of human rights legislation in the UK, we believe children’s human rights belong in a Human Rights Act but there should be a discreet section which is pulling out special protections that children need and covers areas like health which isn’t in Human Rights Act. Expands on areas like the right to education and what that means for every child in the country which is touched by the Human Rights Act but relay doesn’t go into detail and it’s about parental right anyway. And other areas where we think actually human rights legislation could be strengthened by focussing on some specifically disadvantaged groups. I think I will stop there can I, actually one more thing to say rights and responsibilities. This is a huge issue as you can imagine for under 18s because there is quite a debate about whether they understand their responsibilities sometimes in relation to society.

I am quite concerned about the thought that
human rights could be conditional depending on how somebody behaves. And that is why I completely understand what people are saying about balance but I think that's implicit if people understand what human rights are. Rights go hand in hand with responsibility but they are not conditional so I'll finish there.

Leigh Lewis I sense that we might want to come back. But what I'd rather do and kind of set that off now, I think this is an issue that has arisen this afternoon and I think it would be really good if we had some conversation after tea about that whole issue about rights and responsibilities. It's come up in what a number of people have said. Moving from children to those who are older – the elderly. We temporarily lost Len Chillingford but hopefully he will be back with us fairly soon. We do have still at our table Alison Fenney who is the Equality and Human Rights Policy Advisor from Age UK – Alison.

Alison Fenney Well, first of all, I'd just like to say the reason why Age UK believes the Human Rights Act is of fundamental importance to older people because it protects their dignity and well being when they may be at their most vulnerable. I was very pleased to hear from the NHS how important it is to the NHS because it is unfortunately where we have seen the failure of human rights is often in a social care setting. So just looking at the questions, what effect do you think the Act has
had? I will just very briefly say the most important articles are clearly Article 2, the right to life. We have had cases there where we have seen older people suffering from malnutrition which is still happening today, Article 2 protects this life.

The abuse of anti-psychotic drugs another area of abuse and I think that the case study I will briefly talk about which covers more than just Article Two, the right to life, it's Articles 2, 3 and 8. If you look at what happened in the mid Staffs case, a hospital where between 400 and 1200 people had died unnecessarily between 2005 and 2008 due to appalling standards of care. What the lawyers actually – what the lawyer for the families found was that they actually won a conversation for 121 families through very clear human rights arguments and they're arguing on Articles 2, 3 and 8. Now without those Articles, without the Human Rights Act, it would have been very difficult for those families to actually get any recompense at all. And I think a thought that had struck me and I'm slightly loathe to say it because I haven't quite thought it through but I'm going to say it anyway – is most people have said that equalities legislation has been much more important than the human rights legislation, actually I think and as I say this is off the top of my head but thinking about it taking older people as a large number of people I suppose to specific sectors of older people with the equalities legislation, I think Human Rights legislation has
had much more impact for older people particularly around standards of care.

I think again people, and I don’t want to keep going over things people know but looking at Article 8, the Human Rights Commission recently in December undertook a survey of home care for older people and again found huge instances of abuse.

So we, as a collective, Articles, 2, 3 and 8 essentially, they provide really important protection for older people that wouldn’t, isn’t there without it. In talking about perception one of the things that we’ve done at Age UK we’ve clearly worked with groups of older people and where it is interesting the journey that people go on, because when we meet together, their first perceptions are often some of the things we’re hearing today, I mean people read the newspapers so they do say, well actually human rights are nothing to do with me, they’re to do with other people, it’s never to do with them. When you sit and say ‘okay what does it mean to you’ and talk people through it and it’s not complicated.

One of things again I find really edifying is when people say it’s a really complex piece of legislation, actually it isn’t. I don’t think it is and people understand the concepts of it very quickly. And what we’re just doing is small groups of people is actually telling them about the Act and
telling them how they can use it. And I think the things that shows to me is what I think the fundamental problems is as Age UK would say there’s a huge lack of leadership in actually how people are able to understand and what the Act means and more importantly what it doesn’t mean.

The final thing I would just say is one thing that really worried Age UK is that we are almost dividing people into deserving of human rights and undeserving of human rights. For a major case perspective I think we’re in the fortunate position of where older people are seen as deserving of human rights, which of course we will agree. I think there was a real danger starting to pit groups against people saying this group of people deserves them and that group doesn’t. Human rights are integral because we're human - that’s Age UK’s position.

Leigh Lewis Alison I'm very grateful to you. Let me now, Len spoke earlier on but this is, Len, your opportunity to talk as the chair of the Age UK - if I'm right, - black minority ethnic reference group please.

Len Shillingford Yes referring to the question whether human rights is effective or it hasn't been effective in terms of Age UK minority the elderly minorities in Britain. It has been effective or more effective in the sense that there’s already legislation which basically should have addressed most of the
issues which the human rights are supposed to be addressing. For instance if we look at dignity in hospitals, we'll look at treating everyone equally, you'll find that the lateral service framework for all the people which was something which came in actually addresses all of that. But in spite of that we still have older people being marginalised and older people, because they're not in a position to speak for themselves, are left in the corridors on a trolley for 24 hours only to find that when they realise that that person needed health and care, two days later that person will have died because of lack of attention.

So whilst yes the human rights are addressed in a lot of these things what the Human Rights Act does not have is how it's been policed. It is pretty good if your human rights have been - as an older person - have been put aside but then the only way you can actually do this for your family is actually take it to the courts, you know but there should be some form of the person questioning their rights have been breached without going through the process of going to court. Which puts it again that the people who have solicitors, the people who have families with knowledge, the people who have families with funds behind them. Their human rights are addressed because obviously they can question it. But the person who is vulnerable. we look at some people when we talk about people who come to this country for many years, who have contributed to this country
and cannot speak the language and, as you know, a number of people the language which they use as youngsters when they become old they revert back to their national language.

The human rights whist I said this morning and that’s the reason why and I think some people misunderstood my meaning, I am not in favour of Britain having human rights and the rest of the world not having human rights. I’m in favour of human rights where the rights of our citizens are paramount.

And if, for instance, like it was reported in the press, someone came here illegally; drove and killed a young person; was jailed and then released on human rights pending the courts as to whether the person was deported or not; actually committed another crime whilst on bail but no one has actually looked at the human rights of the parents of that young person who was killed. That person, this is what I’m saying, that’s person’s human rights is just as important as someone from, you know, an asylum seeker coming here illegally, they have the rights. All the people especially when you look at minorities, I don’t know if you have actually looked at what is going in society at this present time we have a load of cuts. But I can tell you most of the cuts in London for older people are from the minorities ’cause that is the easiest way to cut without a big (unclear) in this world.
It was also mentioned in terms of and I know that from experience, equality is more effective, the reason why equality is more effective, equality was a campaign from the people who were being discriminated against in terms of you notice in London we had the riots, we had the Swan Report, we had the MacPherson report, this is why its effective because it included people who were being affected by – they call it lack of equality. Older people believe or not the burden is and even though I believe they're now going on whether or not you're too old should the hospitals treat you because it's a waste of money – or should you get the drugs because it's a waste of money. Well what people have forgotten in order for us to sit down here today to discuss human rights, older people were the people who made society what it is today. We have given everything so that you can have tomorrow.

At the end of the day please let us look at the human rights of older people because we’re just as deserving. And those of you look at me some people say I'm not older. I am 70-70 years old and three months. So basically…and not only that I was at the Derby Royal hospital and I was a campaigner against what was happening…this modernisation of the hospital because at the time I felt in Derby we had a lot of older people, we had Rolls Royce manufacturing nuclear bits on our doorstep and we were closing one hospital so I
totally opposed it. But I was fortunate in the sense that eighteen months ago I was diagnosed with cancer and had the human rights not been there probably, I’d have been dead and I can say, yes there’s positives for it but at the end of the day the human rights should be for the citizens of the United Kingdom as well as elsewhere. Thank you.

Leigh Lewis

Thank you very much. At the risk of lowering the tone of our proceedings considerably, it wasn't actually this morning but actually earlier this week on a train when I was asked to show my ticket, I was asked 'can I see your senior rail card'. So I – I got out my senior rail card and showed it to the ticket inspector who said it’s just that you don’t look old enough and I said – oh bless you I said – oh bless you. So there we are.

Background talking and laughter

Let’s move on. Here representing as a trustee of the Council of Disabled People and she spoke earlier on a different topic but we have Eleanor Linsey and Eleanor we’d be delighted to hear your contribution please.

Eleanor Linsey

First of all I should apologise but I didn’t really prepare anything because I was told at the last minute that I was coming to this. So in the middle of the night, I was reading my Ipad (unclear) find out what it was about. I shall give a little bit of introduction about myself. I’m a trustee of the
Council for Disabled People in Coventry and Warwickshire, but we also have projects in the West Midlands. I'm also wearing other hats because I'm not just going to speak from CDP but also as from disabled people because I don't think there's anybody else here speaking for disabled people. I'm also the co-founder of something called DIPAC which is Disabled People Against the Tuts and a founder of the sister's of FREDA which is a cooperative of disabled women.

And I'm very sorry that the regional secretary is not here because I just spoke last week at the TUC disabled workers conference and we had a huge discussion there about the crisis facing disabled people at the moment if I can say that. I have written something so I will...because or else I will forget everything.

I did go round and ask some of my disabled colleagues that I'm coming to over Twitter very quickly. And the thing thrown back at me is why are we discussing this because the legislation that we have is not being enforced and actually the moot point is we should try and maybe legislation or execute as the police woman earlier on say exactly the legislation that we already have with is the Equality Act. But I know for more and more disabled people thinking that it’s the Human Rights Act effect that is more important now. And we had (unclear) older people that actually in this country under the legislation...disabled people, it
also includes older people. And I should say to people when I introduce myself, they sometimes say, well you carry a lot of Brownie points don’t you because you know being me, being me, being a woman and being disabled. The only thing I don’t have on my forehead…they don’t know my sexual orientation.

So the point is when you talk about disabled people you’re not talking about just one in the way one protected (unclear) because you know we cover a lot of people. People in all shapes and colours, race sexual inter…orientation, part disabled people. So I am a bit humble in the sense that I’m speaking, trying to speak for all of them.

But one thing its quite clear from all disabled people is the fact because with these austerity drives more and more of them are coming to this kind of crisis in which their lives, their actual lives are being threatened. And it’s not a simple case of, you know your rights, it’s a case of whether you can get out of bed, you know a case of you know are you going to be lying in shit all day. You know it’s very much similar to, for older people that’s why I say actually when it’s disabled people, older people are also included, although a lot of older people would not consider themselves disabled, they didn’t want to come into that category.
So…I'm not going to go on about people’s benefits and supports that they’ve been taken out and the fact that a lot of people…are going to…are in that position where they have to go to something called ATOS and I don’t know whether you have heard of ATOS which is a French IT company which the DWP give a hundred million pounds to try and get rid of 20% of people out of benefits – irrelevant of who they are and what actual circumstance is. When the DWP’s own statistics tell you that less than 0.5% are actually forwarding any benefits. But that you wouldn’t get through the media which is actually set by the DWP.

So when we talk about the British human rights , I think it’s all (unclear)...let’s have it in-house and all that but when it comes to disabled people well first of all you can't go to Strasbourg until you've exhausted all the legal system in your own country anyway. And…and…and I think quite a few disabled people I've spoken to feel that at the moment they don’t trust the government and so they think that if you have it just the British human rights does it may they can not then go to Europe so that is one of the questions.

I'm glad I think it's Elspeth spoke about the holocaust and so many disabled people have compared the (unclear) to what’s happened you know to before the holocaust when disabled people were the first people to be put into the gas
ovens. You know and they said at that time its work is good for you I think I don't know the German for it but this is exactly the mantra that the Government is saying now you know why should you is again the deserving and are non-deserving why should you be given the same benefits as your next door neighbour where he is a hard working person. I have never known disabled people living in such fear, you can't even go out without your neighbour might say, you're not really disabled are you, I saw you going for a walk. You don't know the circumstances.

So I'm actually going to read you very quickly something that at DIPAC we get almost everyday and it's a short comment and I think that sort of gives you the idea of some, a few disabled people are going through.

I have been receiving incapacity benefit for some years due to chronic back pain. I also suffer depression and anxiety attacks. I got a letter just two days ago stating that my benefit has been stopped and that I'm fit for work. The person who has assessed me has lied about me and not mentioned any of the important relevant things I mentioned and because I can talk and I got to the assessment I can work. She belittled my condition and situation, also saying that I'm a lone parent therefore I can work. I have been through hell this past 6 years, my husband tried to get violent and tried to strangle me and again disabled women
are more liable to get domestic violence and they are less reported because they are so dependent on whoever it is the family member that they do not report it…

My husband tried to get violent, tried to strangle me. Just two years ago, I moved back to Kent to get away from London. I had a breakdown with the divorce and hit rock bottom. I met a new partner. We bought a house together with all my divorce money. And the sale of my London hose went to my new house, it was a fresh start. I was near friends and family, I had support, my parents are nearby, as I was isolated in London and would have taken my own life. The new partner turned out to be a conman and I nearly lost my home and all last year I struggled with my depression worsened.

Just two days ago I opened this letter saying they're stopping my money so I've lost X pounds per month. I will lose my home, I have not eaten properly since the assessment in April. My weight is down to 9 stone and I'm now seriously underweight. The same day I received that my sister has slit her wrists. I have no choice now but to end my own life as basically this is what they have done. This is not an assessment but an interrogation and now they have given me the death sentence (unclear) in the gas chamber as I'm obviously a worthless human being. No wonder my husband beat me up, my kids will be
so much better off without me anyway. I have no choice.

I mean okay I know this is very emotive but this is regularly what we get so I-I think rather than say statistics and all that I say this is the sort of thing we get every day and that is why you know the human rights is important. It's not whether they're deserving or undeserving, this is people’s lives.

And I'm going to finish with talking about equality. This is something happening in Birmingham the (unclear) versus Birmingham Council manage to under Article 14 of the ECHR to overturn a case in Birmingham and they wouldn't have been able to do that without the ECHR. And that's why I'm saying yes to Human Rights Act. It's extremely important and it impacts on a lot of disabled people. Thanks.

Leigh Lewis  Eleanor thank you very much. That clearly came from the heart.

Female Voice  I just wanted to say to Eleanor that in a sense the Human Rights Act is a last resort as a safety valve for when people are doing things which are illegal. I think in terms of the benefit changes, you might disagree with them but they're legal. And I think it’s important to differentiate between what are human rights that are defined and there's things you can do. And changes to the benefit system for instance, you know, you're not allowed to retire
until you're 67 if you're of a certain age, it's not illegal. You might think it is unfair but actually it’s perfectly legal. And things like that have been challenged. So I think you know it is important to differentiate between benefit stuff which is appalling for some people and is creating a crisis in their lives and I accept that but the Human Rights Act is, I think, an overarching umbrella that when all else fails inside if something is illegal you’ve still got somewhere you can go with it.

Eleanor Linsey Yes, that’s why I’m saying that’s why disabled people are suspicious of having something that’s UK-based because Hitler was voted illegally.

Female Voice Yes.

Leigh Lewis Gosh what an interesting subject – those of you of course who will have chanced to look at my own CV will know that your chair for today is the former Permanent Secretary at the DWP, so we could have a long discussion about some of those issues but probably not at this exact moment.

I'm just going to step out of the order of proceedings at the moment because Councillor Rudge has just got to go in a few minutes and Councillor is there anything that you’d like to say by way of just sort of general points or any responses to anything that others have said before you have to leave us.
Councillor Rudge

Thank you very much Chairman. I have stayed longer than I intended to. I was going to leave at lunch time but I just wanted to hear everyone’s evidence and I found it quite fascinating. So thank you indulging me, there are a few things I’ll try and keep it to 3 or 4 minutes.

I’d like to quickly comment I did agree with everything Sharon Rowe said, we’ve worked together over a lot of projects, a lot of things like the marches and riots and things and I think we have some concordat over those views so I’d like to express that and put that on the record.

I think Daisy misinterpreted what I was saying utterly and totally. I don’t know if she’s read the report but I hope she asks me for a copy or I’ll send her a copy, you’ll find it very different to what you were talking about and it certainly there’s no such things there’s anything in the report being under the category she said. What they were saying which I think everyone is entitled in the city and in the country to have their chance of being appreciated and their problems being looked at. And they felt they’d been left out of the loop – right or wrongly that’s what they came out in their things. And without a doubt the big out of city estates, both in London and in Birmingham and other places, a lot of them have become little deserts. And work has started on them its something that areas particularly like Shard End, King’s Standing et cetera. They were built just
before, just after the war and a lot of nothing which was done and this is an area which you need to pay attention to.

If you want the whole of the city to work, the whole of the city has to be looked at all the time. Not just one area all of it, so that it works together otherwise one area we (unclear) another one and we get problems. So what I'm trying to talk about was encompass the whole and make everyone feel they're all being appreciated equally. So that was my comment there. So I hope that clarifies that point.

On the issue of the elderly, the children and the disabled I'd like a quick comment. I agree with the comments on the children, on the disabled once again, though I accept the comments we never really mention very often mental illness. And I honestly feel mental illness is the neglected Cinderella of the medical profession.

Because it's not so apparent as other disabilities. For some unknown reason we don’t realise how acute they are. You can look absolutely perfect but that can be a tormented hell inside there which makes life almost impossible and unbearable and that’s why you have the tragic incident of so many suicides, particularly in young people. So I think that’s an area you should always bear in mind more and more and put more promotion how we deal with it.
And then with the elderly I had two points there, one about care homes which I get very worried about. You made a point about how you get treated in a wheelchair, but I think that how you get treated in the elderly, bedridden et cetera, is something which concerns me, having had experience with relatives and people in my ward, I never cease to amaze, how some of the homes are run. And you know they haven’t even got proper hygiene, Pretty well they were treating them as if they were five year olds again. You know lights out, you can't watch the TV, can't do that – anything to make an easy life for them running the home but you’d lose your right as an individual to have a purpose for your existence. You're no longer an adult. Even though you’re bedridden, your brain may be working perfectly well it's like a form of imprisonment. So that's something I get very concerned about.

I'm afraid I can't quite agree with all the NHS stuff I actually find the (unclear) very bureaucratic in my dealings with them. I find their HR very bureaucratic. I must have a chat with that young man some time about it. I deal with both the one in the East Midlands which we call East Midland Hospital and Good Hope which of course affects Sutton area. Both those go there and my people in the wards go there. And I feel there’s room for improvement in their relations with their staff and particularly for some of the patients when I've
been there and the way some of the elderly are treated. So I think there’s some big scope for improving. It may tick the boxes, may have the right literature and promotional stuff, but what really matters is what’s on the ground in that ward and the way that person is treated. That’s what really counts to the patient and relatives and if relatives sometimes aren’t there to support and point out things if you’re on your own, you’ve got no chance. So I actually think that’s a concern as well.

There was a mention about human rights and (unclear) the UK Bill of Rights, something about the government. If we had our own Bill of Rights the highest appeal wouldn’t be the Supreme Court…it would be the judges, wouldn’t be the politicians, and so that point doesn’t come into it. I have one personal thing which was mentioned very briefly I think by you Len. I still can't quite work out how we have extradition laws which are so anti-UK citizens and particularly the relations with the US and I don’t know how that can be fitted into what you're doing but I just find it unbelievable the way some have been uprooted and went across.

Background talking

Well the second thing is we say about Europe but don’t forget look carefully at the European arrest warrant and be careful how that works in practice. Who seems to have slipped off the radar and
there are thousands of people that are (unclear) each year and no one seems to know what’s going on about it. How does that fit in to the rights of the individual. So there’s a few queries for you to take into account and may I thank you for the respect you’ve given me in giving me the chance to come back before I go and I wish you luck and I look forward to receiving all the outcome. Thank you very much.

Male Voice ....points being addressed by the Joint Select Committee on Human Rights that has reported both on the problem of the unequal treaties with the United States and European (unclear) so they're on the way.

Councillor Rudge I'm delighted to hear it thank you.

Male Voice The government have not taken any notice...

Laughter

Leigh Lewis Thank you very much for your comments and your presence. Now, colleagues, before we break for a well earned cup of tea there are three more colleagues that I'm aware of that I haven't given the floor to and I'm going to. Asif Afridi who's from the BRAP which was formerly the Birmingham Race Action Partnership. Jason Millard from the Birmingham Lesbian, Gay, Bisexual, Transgender Community Trust. And Chris Johnson who is the
Solicitor and Director of the Community Law Partnership. Just so that I don’t embarrass myself completely when I’ve asked those three colleagues to come in is there anyone else who I completely failed to give the floor to at least once during the day?

Great. Well in that case I think I’ve achieved one small objective. Asif over to you please.

Asif Afridi

Hi I work for BRAP which is an equality charity based in Birmingham but we do quite a lot of national work as well and we’ve been around for about 14 years or so. Just before I talk about your question, you know the impact of the Bill of Rights At, just to get in a few points about the Bill of Rights generally from BRAP’s point of view And the bottom line for us is that it’s important to maintain at least the current level of legal protections afford by the Human Rights Act in domestic law. We’ve got a lot to lose by opening up negotiations on this particularly given the current political climate. I mean our particular expertise is in the area of equality and when we look at the way that is going in terms of government policy at the moment we’re concerned I suppose.

One particular area that we’re particularly concerned about is as other people have mentioned this issue about undeserving recipients
of human rights. That for us is part of – it’s become part of the rights and responsibilities agenda – unfortunately it’s become part of that. And this for us links very closely, fits very neatly with the government’s approach around equality which we feel is based largely on the idea of meritocracy. You know if you read their equality strategy it’s very much about focus on equality of opportunity; if we all have the same opportunities we will get on you know. If you don’t succeed in society it’s your fault, you’ve had the same chance as everybody else so we see that going in that direction and we’d really hope that you know the Commission’s work obviously you’ll be responding to that political climate - but it’s one thing that concerns us.

In terms of impacts of the Human Rights Act rather than talk about the legal impacts of it I just wanted to talk a bit about how a pretty small equality and human rights charity like ours has been able to use the Human Rights Act and associated principles to influence public sector practices as a lever if you like. I mean lots of charities have done lots of useful work. Alison, from Age UK, talked about the work around advocacy which I think has been with Mid Staffs a really useful way for individuals to hold public bodies to account.

For us at BRAP the power of human rights principles (unclear) is in helping public bodies to
reconfigure their services, to help public sector staff to adapt their behaviour to improve outcomes. And the quality of their services. This is something that’s often missed we feel so that’s one thing we’ve really been pushing.

I was reflecting on this point about the impact of equality law but I do think you know we’ve had 50 years experience of equality law and we know that compliance with the law hasn’t resulted in equality in our society – yet. What I wanted to stress was the importance of going beyond the law, following the spirit of the law and focussing on implementation. That’s for us one thing we’re really concerned about.

And what I'm going to give you is a concrete example of how this has worked well for us. Where we've used the Human Rights Act and associated principles to help public sector staff to rethink their practice. We've done this in a range of areas like health and housing but one particular example I want to talk about. We were Commissioned by McMillan Cancer Care to develop for them a human rights standard for cancer care. What this involved was basically going out, consulting over 400 professionals, patients, carers, asking them about where they felt human rights were being infringed in the cancer service pathway. And we asked them about how that should be addressed. And what that resulted in it took us three years and after that
three years it resulted in a very simple behavioural-based standard for healthcare professionals which could be used in their work to protect freedoms and that’s been championed by the Department of Health it’s going quite well.

But what we picked up from that which is what I wanted to talk about was the challenge around interpretation of human rights and there’s a feeling that human rights are for lawyers, they can be impenetrable. Some of the legal language and understanding around case law is a challenge. What the standard did was to interpret the human rights principles and some of the rights in the acts in a day to day working environment in a way that made sense to staff.

And one good example is Article 8. There’s been a lot of, historically, lots of misrepresentation on that so one what we did with that was actually we talked to all these people, agreed a behavioural standard which focussed on. Well if the health professional is having a sensitive conversation with a patient or a carer they will make sure that they will find a private space that, to have that conversation. And if they can't find one, they'll adapt the environment to make sure that private conversation can take place. It also related to the information used so one example is a mother that we spoke to didn’t want her daughter to find out about a particular diagnosis but the professional told the daughter without talking to the mother
about it. And there’s something about how professionals can interpret human rights principles in their behaviours and a simple behavioural standard like that would be helpful. It would have helped to avoid a lot of the emotional fallout from that particular case.

To sum up I've got five main points. The first one is having at least the protections afforded by the Human Rights Act in domestic law. This is very important for us as a lever to allow us to influence practice and behaviour, And its not just about the law, its about leverage of the courts. So that’s quite important for us. So the impact of the Human Rights Act has been good in that sense -- you know we’re going to develop a Bill of Rights, we’d like it to be at least better than that.

Public sector staff, second point, public sector staff rarely gets the opportunity to reflect on issues of human rights. How human rights principles could be implemented in their work and how human rights actually relate really closely to customer service and good quality. Case law is helping to set the direction in some fields and practice but this can be difficult to interpret. If we decide to develop a Bill of Rights it needs to be accompanied by a very different awareness-raising campaign than what we did in 1998 you know with the Act. We need to be thinking about whole different things.
For example, one thing we’re particularly interested in is what you might call the privatisation of the public sector. With that competition for people delivering public services we think reputation is going to be a lot more important in this marketplace. What we’d really like to see are public sector providers selling themselves, selling their reputation around protecting human rights issues. And we need to use a number of different levers to push things like that.

Third point; traditionally the judiciary has had fairly little sway in Parliament on economic, social, rights issues you know so… it’s a big ask. We know it’s often a difficult decision; it’s a big ask but if we’re developing a Bill of Rights, we want to see a much stronger commitment to a progressive realisation of economic social and cultural rights. That would really help us in our leverage and influence work. But it would also help in the areas where people fall through the gaps; and equalities legislation still has only got nine protected characteristics. Still people that fall through those gaps, in education, social and culturalised, education, health – it’s places like that where homeless people and lone parents fall through the gaps so we need some strengthening around that so that will be great.

Going back to Lord Lester’s point about whether a Bill of Rights would provide us with more detailed
rules around how to implement human rights. What we’d really like to see focus on is implementation you know and for us that works best when users of services and public sector officials work together to develop guidance – you know the type of example I was describing around McMilllan. It’s a really good useful model we think to develop standards of behaviour of that type.

Finally, I know I’ve gone over this a bit, as an equality charity one of the best things about the Human Rights Act for us in associated principles that have helped to reinvigorate equalities practice. The Human Rights Act has helped to introduce concepts like proportionality and reasonableness into discussions about things like competing equality claims. There was a discussion before about for example conflict between religion, belief, sexual orientation – what we think is really helpful about increased knowledge of human rights is that principles like proportionality aren’t as alien to people now so we’d really like to see that pushed in the future. Equality and human rights the coexist quite well and we’d like that progress not to be undermined.

Leigh Lewis            Asif thank you very much indeed. Jason Millard from the Birmingham Lesbian, Gay, Bisexual Transgender Community Trust. It’s a long name.

Jason Millard         I came into this (unclear) I'm very new in post and I am actually representing my director who is far
more knowledgeable about these things than I am. I came into it not really being sure what I thought; now having listened to everybody I really haven’t the faintest idea…

Laughter

Jason Millard… and I think to make a serious point I work with a community or communities of people who still in 70 odd countries in this world can still be imprisoned, tortured, beheaded and executed for who they choose to fall in love with or have relationships with. That in my head and my heart is not an acceptable place to be – so do I think human rights legislation is important without swearing – you betcha I do.

Do I think that legislation is particularly meaningful for what I do on a daily basis and for the communities that I work with on a day to day basis, not so convinced. I think as has been mentioned the human rights, that’s the high level, with respect to all the QCs, I am so in the wrong room full of QCs and religious people. But you know with the greatest respect to what the legal system does and I’ve got a PhD or I’m working on a PhD in law so I’ve read some of the stuff that’s kind of over there that’s what those very well trained expert people do for a living, great.

And I have, I have dealt with this, I have a 16 year old lad in to see me who is suicidal, has
opened his wrist up because his dad’s thrown him out because he’s told his dad he’s gay. The best thing really I could do with the Human Rights Act is probably roll it up, take it round to his dad and hit him on the head with it you know.

In terms of the Commission on a Bill of Rights for the UK, I do have a massive confession to make. I'm in a very tiny minority today in that I am pro European and proud of it.

Background talking

Jason Millard  The quiet majority.

Female Voice  How many people would like us to pull out of the European Convention on Human Rights in creating a British Bill of Rights to get rid of the, how many people will put their hand up to that. Is that something you would like to do Len?

Len Shillingford  I'd like us to pull out completely.

Female Voice  And I think probably it was true of Alan Rudge, is it true of anybody sitting round the table? I don't think you're in a minority.

Jason Millard  I can relax then. I think as has been mentioned by (unclear) and myself included having studied the damn thing for near enough three years. I'm not a lawyer and you know I think you need to be a lawyer, including with the bill of rights I would
guess, to work out of what practical use this is. You know I find lever documents quite interesting but my view is that they have to relate and be applied to real people. I don’t deal with lawyers, I deal with real people, with real shit going on in their lives. They don’t give a toss and I don’t give a toss whether its covered by European Human Rights, a document, a book, a bill, couldn’t give a monkeys. What I need to do is to have something or to have someone who can do that for me in order to improve the lives of the people that I work with.

So I guess I wrote down here hearts and minds. And I think in my head the mind bit are the legal guys, its Strasbourg, its Brussels, it’s the QCs; and the hearts bit of it is for people like me to sort out and help everybody to understand that they do have recourse, they can hopefully get justice and fairness and equality and not just in Strasbourg but walking down the street here in Birmingham is I guess where I'm coming from.

Leigh Lewis

Jason thank you very much indeed. Last in no sense least and thank you Chris for waiting patiently to make your contribution. Chris Johnson Solicitor and Director from the Community Law Partnership where he’s the Leader of the Travellers Advice Team.

Chris Johnson

Thank you very much. I'm intensely aware that everyone’s dying for a cup of tea so I'll try and get
a shift on.

As you mentioned, the community partnership -- we're a small legal aid firm in Birmingham. I don't know whether Alan Rudge left because he thought that he might have to listen to me.

Laughter

We occasionally have cases against Birmingham City Council and we have a specialist team that advises gypsies and travellers throughout England and Wales. I hasten to add that none of my clients bear any resemblance to the people depicted in Big Fat Gypsy Wedding. Gypsy travellers in the United Kingdom are one of the most disadvantaged communities. But as Eleanor said, I'm not pretending, they would tell me off if I pretended that I'm representing all gypsies and travellers here, I'm doing my best to put across some issues that arise and to pick up also on what's been said earlier by Elspeth and Eleanor about the holocaust. Gypsies and travellers have a great affinity with the European Convention and the Human Rights Act. Half a million gypsies were killed in the concentration camps and generally speaking the main rights which we're dealing with on a daily basis for gypsies and travellers are Article 8 home and family life and Article 14 discrimination.

And to speak very generally on the issue I would
say my clients are very much in favour of the Human Rights Act they’ve found it to be of benefit. It’s been a struggle. The courts haven’t been an easy task on the issue but I’ll just bring out two quick examples. The first is local gypsies and traveller sites have been in existence since the 1960s but the government in their wisdom at that time and then for a long time thereafter decided they didn’t need security of tenure. In other words the local authority could decide to evict someone from the site and they didn’t have to actually prove anything in court unlike with the council tenant for example where they’d have to go to court and prove that there were grounds and it was reasonable for this person to be evicted if the judge decided that was the case. Due to a pincer movement of domestic cases culminating in a case called Doherty v Birmingham City Council and a European case called Connors v the United Kingdom, the government eventually and reluctantly agreed they would have to introduce security of tenure on local authority gypsy sites and that was introduced by a government that included conservatives in April 2011.

And the second quick example is article 8 being used as a defence in eviction actions. Now again its been a long hard struggle since the act was brought into force in 2000 but eventually in two cases not involving travellers but if very great importance to gypsies and travellers Manchester City Council v Pinnock and Hounslow v Powell in
2011 this was after years of the European Court er pounding away on the issue of Article 8 of a potential defence.

Eventually the supreme court said yes even where ion the face of it there’s an absolute right to possession for example gypsies and travellers on unauthorised encampments in the context where there are gypsies and travellers on unauthorised encampments are roughly a quarter of the population that don’t have any authorised pitches as of now the reason why there are unauthorised encampments is because pitches haven’t been provided gypsies and travellers have been doing willing to do a compromise of their nomadic lifestyle, say well okay if you provide us with permanent or temporary stopping places then we’ll have that instead of travelling all over the place and stopping there.

Unfortunately both central and local government have failed to provide sufficient pitches for gypsies and travellers but at least when they are faced with eviction now they can out these issues on the table in front of the judge.

We had a in the London Borough, I'm going to name the-the London Borough of Hackney at the moment they’re trying to get an injunction against my client largely because apparently it would be very horrific if there was to be a roadside encampment during the Olympics. I'm sure the
visitors would be horrified get straight back on the plane and go home if they saw some travellers on the encampment.

Article 8 will play very – that case is ongoing – article 8 will play a very important part in that case and I hope you know will be an important element in us arguing the case. In many ways if we didn’t have article 8 we wouldn’t have a great deal to use in a case like that where we’re dealing with trespassers. A big vote in favour of the human rights act from the clients who I represent. Thank you very much.

Leigh Lewis

Chris, thank you very much. Ladies and gentlemen, those have been fascinating and useful contributions from everyone who’s spoken.

Can I suggest we break now for tea, we’re running a little bit late, supposing we come back very shortly after half past three and then I really am going to throw this conversation open both to my fellow Commissioners who may want to ask questions, hopefully rather than (unclear), but I think we will want to ask you some questions. But equally I think some themes have come out that are worthy of further discussion amongst us. So I’ll try and make sure we have some space for an hour, an hour and a quarter after tea for that. So if we could be back a little after half past three I’d be very grateful. Thank you.
Colleagues, thank you yet again. What a splendid group to chair, everyone has sort of gone out and come back on time and we've not had to round up stragglers et cetera. So it's very good and thank you very much for staying through the day. We're into our final session now which is due to finish at the latest at 5:00 and I do promise that we will not go beyond 5:00 because people have given up the whole of their day and no doubt have other things that they still need or want to do with their day. If we meet a natural conclusion, natural pause, before then, I'm not going to string it out endlessly so we'll call to a conclusion before then.

I want to make this as open and unstructured a session that I can. It's certainly an opportunity for my Commission colleagues to put questions that they think have arisen naturally in their minds from what we've heard. I've sort of got three big picture items that seem to me that have come out of the day that we might spend a little bit of time talking about.

The first is this area of rights and responsibility. A number of people have spoken about responsibilities being, if you will, the other side of the coin of rights. But similarly the others have spoken of the risks that can arise if rights are
seen, particularly fundamentally human rights, are seen to be made contingent on some discharge of responsibilities. So I'd like to open that subject out a bit and give people the chance to talk about that.

Rights of minorities and then the rights of majorities or rights of victims. A lot of people round the table have spoken very eloquently indeed actually and I think members of the Commission will really have been struck by that. About the importance of the Human Rights Act and the human rights structures to the groups that they speak for, represent, come from, et cetera.

But others during the day have talked, our colleagues from the border agency, some of the comments from the police and others, about the fact that as well as individuals having rights that the majority society as a whole has rights et cetera, et cetera.

And then because it’s at the very heart of our mandate I'd like just to open up the subject a little bit, of a UK Bill of Rights which is the concept which this Commission has asked to investigate. A number of people have said that they would be very concerned if a UK Bill of Rights was somehow to be substituted for a European Convention on Human Rights. But actually that’s not really, whatever we might want, it’s not really in our terms of reference. And I'd like just to sort
of seek views on whether people would see advantage or not in something called a UK Bill of Rights as an addition to the absolute continued adherence of the UK to the Convention on Human Rights and the jurisdiction of the European Court in Strasbourg. But those are only thoughts and it's absolutely your session. Rights and responsibilities: who would like to kick off and put that debate further? Anthony.

Anthony Lester  
I would, do you mind very much if I ask a question, I could make it relevant to what you've just said but…

Laughter…

Leigh Lewis  
Anthony I'm getting to know you quite well after a year. Before you come in, I promise to bring you in later, but let me try just for a bit to stick to my agenda about…

Anthony Lester  
It is about that…the question I want to address is the intersection between Parliament, Strasbourg, religion and other rights and interests as raised by Father Wright. It's a specific question with a rather important general one.

Leigh Lewis  
Go on. I'm not going to try and constrain you, off you go.

Anthony Lester  
Okay I, I had the responsibility in Parliament in the upper house for trying to juggle with conflict
between religion and sexuality, between Islam and Christianity in the context of criminal law, like hate speech in the context of blasphemy, and in the context of the Equality Act, adoption and all the rest. And Parliament after many debates struck the balance, struck the balance in the way that I'm sure the Catholic Church and other churches were unhappy about in some respects. And as you know there are now cases pending in Strasbourg challenging both the balances struck by Parliament and the case law. The crucifix case is one; the Liddell case about not registering a civil partnership is another. And having heard Father Wright, and I fully understand where the churches are coming from, my question is really this – is there anything wrong in your view in the structure we now have which is that Parliament makes the laws, the courts interpret the laws that Parliament makes, and if for example the churches don't like the outcome, individuals or the churches themselves go to Strasbourg which is not noted for being anti-religious or anti-Catholic on the contrary, to get an outcome that they would like to have. Is that system something that you find unsatisfactory or do you recognise that that's a way of reconciling democracy and remedies?

And maybe the question's too long.

Father Wright I'm slightly out of my depth, the point that I made about the adoption agency case is this. I didn't
actually say it because if as a member of the general public if you read up the guide to the Human Rights Act and I believe it’s Paragraph 3.2 refers to when public authorities can interfere with the right to freedom. Freedom of worship, freedom of belief, it actually specifies that they may do so only when it is necessary and not reasonable.

All I was trying to say in that case and the perception, dare we say the experience, of the Catholic community, that was a situation that went way beyond what was necessary to maintain the legitimate rights of same sex couples to be treated equally alongside the legitimate rights of a Catholic charity to act in accordance with Catholic teaching.

Now as it’s a Catholic charity with a trust deed, it has to operate in accordance with Catholic teaching. And that’s the dilemma and it was put into a situation where it couldn’t. Now was that necessary? Now there have been offers all the way through, it was an offer that they would be treated. Any same sex couples who came to the adoption agency would be handed on to another with full support, they wouldn’t be abandoned in any way shape or form.

That was on…the Catholic Church and also those representing same sex couples felt was a perfectly sensible solution to that. It was a sledgehammer to crack a nut dare one say and it
was just regrettable.

And the other point that I made is it’s happened once, where else is this going to happen. And that’s the uncertainty so it’s not so much the mechanism -- do we like the end decision, no we didn’t like the end decision and that was all I was trying to say and just bring (unclear) with the perception out at time, Article 9 freedom is disproportionately trumped by other rights at times and that was an example.

Anthony Lester But my question was if Parliament has disagreed with you…

Father Wright Parliament has disagreed.

Anthony Lester Parliament has disagreed with you after lots of debate and then you’ve got the right to go to Strasbourg, what else would you like given that you are not a dictator?

Father Wright (unclear). I can’t say -- I can’t answer what other, it’s just a concern.

Herpreet Kaur Kundi I think it’s important as people of religion because we have strong beliefs because our accountability, certainly I speak for myself is to God. So that’s why I say responsibilities is important to me because there is a higher accountability, over and above the legislator of the state that I live in which I know I must respect. If
the legislator has a forum, say such as this where we’re all able to view, put forward our views, then at least we feel we’ve had a voice. What the legislator decides reaching the balance is the legislator’s decision which we would then have to respect. Certainly I would as a person of religion. It might not be the right decision because what I believe in my religious context might not be the same as the legislator decides but that’s where I would then have to respect that.

Leigh Lewis

To try and bring it to something which this Commission might or might not be able to say or do, it is presumably the case that if there were to be a UK Bill of Rights it could, for example, express some of those rights in slightly different terms. If it so chose to reflect history and circumstances it’s also conceivably the case that in passing such a Bill of Rights, Parliament could give a certain sort of guidance if you will to the courts on interpretation. Perhaps in a kind of way that balance should lie between religious belief on the one hand and rights of individuals on the other.

So I suppose I’m just trying to open up, does anyone believe that those might be fruitful avenues. Helena?

Helena Kennedy

Let’s bring in someone who’s not on the Commission, but I have a question.
Female Voice

...I'm trying very hard today on this particular issue and I'm glad that it wasn't me who raised it because I have, as many people do, I have very strong personal beliefs and I've got very strong ideas in my head about what I think is right and other people don't share and that's what makes it interesting. My concern/question if we go back to the Europeans and the human rights and the UK opted out of some of the bits and pieces of it and didn't sign up to it. And I guess my question is, if we had a UK Bill of Rights is that not just a European one with the bits that we don't like so much kind of tippexed out? And one example for instance is exemption on grounds of religious faith beliefs -- you know for example that sort of thing so I guess that's where I feel quite uncomfortable. My view is that we either have human rights as a principle or we don't. I think you're going to have a similar debate about say prisoners whether they can vote or not. Either you have that right or you don't and I didn't realise until today that I feel quite sort of black and white and quite strong about that so I guess I'd welcome sort of critical gentle disagreement from other people on that issue. But I do think it's related whatever form it takes. I'm concerned it doesn't just become a kind of watered down version of what we've got already which will, I think, lead to just yet more confusion over, yes I have the right except when I don't, except on a Tuesday if it's raining, that's my worry really.
Leigh Lewis: At the risk of myself, I'm the only non lawyer on our entire Commission, it's quite a lonely place at night. To try and answer a question which is essentially …

Female Voice: It wasn't directed at you personally.

Leigh Lewis: No, no I do absolutely, I don’t feel put on the spot, but nevertheless I'm trying to help. If you go back to our terms of reference which is probably a good place to start I think. Our terms of reference are to investigate the creation of a UK Bill of Rights that incorporates and builds on all our obligations under the European convention on human rights. So I think it’s the case, I don’t want to constrain what our Commission may finally conclude. But I think it’s the case that our starting point is that a UK Bill of Rights would act at minimum not detract from the rights that already exist under the Convention and wouldn't act as an inhibitor in any way and people being able to seek to satisfy those rights through recourse to the courts.

Helena Kennedy: Well, Chair, why have we got the question on session three, why does it have the question should any such bill, a new bill of rights, contain either more or fewer rights than there are now, why is that question asked if we’re not in contemplation of a possibility of less rights than we currently have.

Leigh Lewis: Well I think it's a good question we all thought it
was a good question to ask.

Female Voice I mean the answer you’ve just given is that question shouldn’t be on the (unclear) at all.

Male Voice I think it is a good question to ask because it…it poses whether it’s, whatever it says to the Commission, the question I mean if we take the discussion we were having about the churches it would be possible to create a wider exemption for the churches. There is one already in there, there’s a special protection for religions in sections (unclear) churches wanted absolute exemption. So did the press. They both failed and instead as a compromise in I think it’s section 11 and section 12 but in strict theory one could have given a blanket exemption to the churches to do whatever they liked and the newspapers in strict theory. But it would of course have violated the European Convention.

I think it’s important to see whether people are saying, I don’t think they are saying we would like a complete exemption. So I think it’s a good question to put on the table.

Female Voice By putting the question there is a suggestion that possibly could be watered down.

Male Voice ...(unclear) it comes across to me I'm very (unclear) in a sense in discussions and your terms of reference. What seems to me (unclear) we’re
saying we've got the European human rights act --
the European, but then we're going to have our
own one, another layer and I'm a bit surprised
with that actually, because on one had we're
going through this culture of saying reducing
bureaucracy, less, less legislation, less policies,
less strategies but yet your terms of references
from what I'm, forgive me if I'm wrong but it to me
it appears like we're adding another layer. So
we've got our own within Britain or the UK or
England or whatever and then we've got the
European one as well. That to me is not, doesn't
make sense unless it clarifies the European
human rights act at local level.

Male Voice  And that was powerfully argued by many.

Leigh Lewis  It is worth saying actually that we're very unusual
amongst signatories to the European Convention
in not having our own national bill of rights or
constitution. Many, many, most countries do have
their national and an international…

Male Voice  Bearing in mind if I may expand a little bit more
we've already heard, some of the communities
are already confused with the (unclear). They
haven't had the knowledge and then we adding
another element toward sit – how would that then
work out. Then we've got two legislations one
local and one European in a sense. And I'm not
saying I'm not favouring one or the other. Really
I'm trying to throw in something else with regards
Male Voice

I think one of the main problems is -- and I'm grateful to Baroness Kennedy for pointing out that we have been asked that question this afternoon is that we are aware on the ground that the Government, a lot of the Government are not very keen on the European Convention and are not very keen on the Human Rights Act. So we are very suspicious on the ground of what all this Bill of Rights exactly is.

And additionally I don’t think we’re very clear what it might add to what we already have on the table. We have if you combine the Human Rights Act with the Equality Act then we already have a very good system that we can seek to use maybe the courts will not, will throw us back on occasions but we can seek to use.

There are individual issues for the communities that I represent, gypsies and travellers, that we would like to see addressed but I'm not too sure for example a very strange concept of gypsy status in planning cases which is not based on an ethnic definition of Romany gypsy or Irish traveller, and which gypsy and travellers would like to see changed. But they would really like to see that changed on an individual basis. Either the Supreme Court should change it or the Court of Appeal or the Government should bring in guidance or it should bring in legislation to make
sure that that is changed. I'm not sure that they feel that any individual Bill of Rights will add very much to what they already have.

David Edward Could I just explain a way in which our UK Bill of Rights on the model of others might add to the (unclear). Let me take two examples. The German constitution -- one of the very first sections of it is basic rights and basic responsibilities so that...that primary responsibility is we're called upon to assist society. So that's, I mean that's one example of something that you might have.

Another example: Article 6 of the Convention and of the Human Rights Act deals with the rules of a fair trial – the right to a fair trial. Many of the European constitutions where they have a bill of rights spell out in much greater detail what are the essentials of due process. So that's an example of how you're not (unclear), you're not adding as it were a different layer you're spelling out more specifically.

Leigh Lewis That's helpful. Thank you.

Lisa Payne Can I mention two things -- something that came up earlier, a couple of speakers mentioned which I would find alarming if a UK Bill of Rights actually led to this concept is that it only applies to UK citizens. Excuse me, no. Human rights no it was mentioned by a couple of speakers that a UK Bill of Rights implicitly would apply to citizens. I would
find that problematic.

Background talking

Male Voice Again looking at continental constitutions and indeed the EU Charter of Fundamental Rights there are seven political rights, the right to vote, which are conditional on being a citizen or a national, or a resident. So it's not unusual to have a limited class of people who have particular rights.

Lisa Payne Yes, and arguing for children I would argue for incorporating the UN Convention on the Rights of the Child which is in itself limiting but I did find that concept slightly alarming, what you don’t know, what would be in this UK Bill of Rights.

Male Voice But the European Convention does not permit other than in certain very narrow areas the protection to extend only to citizens, unlike the United States constitution.

Lisa Payne No what I'm saying is if there were two different bills and one applies regardless of citizenship and one whatever it may contain applies only to certain categories, that has to be done extremely carefully and we would have to consider it extremely carefully.

What you mentioned in regard to the right to a fair trial I found very interesting as well because that
to me is again I’ll be banging on about this, it’s not just the ECHR. There are a number of human rights instruments to which the UK has signed up including the Beijing rules and the Riyadh rules much of which deals with juvenile justice which is one of my areas of interest. I would love it if some of that were articulated more carefully in the legislation in the UK. Admittedly however the court systems work differently in the different part of the UK so that would have to be considered and perhaps that isn’t an overarching piece of human rights legislation that fits more appropriately in criminal justice legislation in the different jurisdictions.

I mean Helena will know this much better than me so again I think we have to consider all of this extremely carefully, how it works here.

Helena Kennedy Even within the United Kingdom there’s a problem on that because of course in Scotland you know they have a different kind of jury requirements and who gets to have jury trials decided in different ways. And so even within the United Kingdom there are differentials so its very hard to… One of the clever things about the European Convention was that it had that language which was about due process which allowed different systems to do it in their own way but meeting certain standards.

I have a question that I want to ask, you see on this business of rights and responsibilities. I just
wanted to tease that out because...which was your first question and I think it's really important and I'd like us to ask people for their ideas, what do you mean by that because it's almost like mother with an apple pie. I mean the business that David's just mentioned of saying we're called upon to assist society, does that mean that when there’s a war you're going to be called up. We're called upon to assist society, does that mean you're obliged to volunteer four hours a week, what is it that you.. because otherwise it's just nice words.

Does it mean that you have an obligation if you see somebody drowning and you have to go in and save their lives? You know what does it mean, does it mean you have to pay your taxes, that sounds good. Does it mean that you have to vote – some people say that they don't want to be forced to vote. What about that you're not allowed to park on yellow lines, you know how far does it go. Your responsibilities not to commit crime. Well we know there are laws that say the things you're not allowed to do and you're punished if you do it and that's where I would say Len gets it wrong because he confuses it with human rights. Human beings do bad things and when they do bad things they should be punished but that's not to do with taking their human rights away from them.

What does it mean, does it mean that for example you shouldn't be allowed to take excessive
bonuses that could be a responsibility.

Cheering

Helena Kennedy  So you know when we talk about rights and responsibilities you know it becomes a rather you know we could live forever inventing good responsibilities that we’d like to see in the good society. So I really think that the reason why we have rights is because we know that although we accept that there are certain things that people need in order to be human the problem is that societies often don’t give them to them and that’s why we have to give them to people as rights.

And so I mean, I just want to know, what would you have Len, what would you have in this your list of responsibilities? Tell me what they’re going to be?

Len Shillingford  Isn’t it ironic, isn’t this sad that we’re talking about whether this should be a British human rights, a British (unclear), yet Europe has it, they all have theirs and it operates quite adequately and you know in Britain we tend to have chairs of government, we have magistrates courts who can deal with certain things and if it’s beyond them it goes to the Crown Court. No, what is wrong in adopting the same rights as Europe, we have rights, British rights to protect British citizens. It would be difficult to have British rights that protect Germans because the German civil rights don’t
protect British people. And if that fails you have a higher court like say Strasbourg and that is how, that is how it works. So we have our rights which is the first stage cutting away all the bureaucracy. Because if you have a friend who is a good solicitor or a QC the chances of going to Europe are nil because by the time you get there you get so despondent and you probably spend so much money that is better.

And one example of that we have a lot of rights in Britain and we have a lot of guidelines. What we haven’t got is how we implement them. We talk about old people’s homes, abuse of older people at homes. We have a (unclear) that the majority of people working in old people’s homes are probably people who are here on a short term or asylum seekers allowed to work for a short term seeing people being abused but frightened to report it because if they report it they’re going to lose their job and consequently they’re going to be thrown out of the country. So we have all these rights but what we don’t have is the ability to monitor it and the ability to report it so they can be effective. We have all the rights I can take you now to so many legislations which covers every aspect of human rights but what we don’t do is to say who are the people are going to take this task on.

You work, if you report it first thing, they throw you out and then you have to go to tribunal to say you
were unfairly dismissed. All you're doing is looking after your rights which is in the legislation. So we need something here where we can say this is our rights and no matter what happens that is there. If at the end of the day you don't like it you then can go to Strasbourg just like the Germans, just like the French do and if you notice when we decided to veto in Europe they wanted to exclude us from all meetings – why? Because we were right and they were wrong.

Laughing
Background talking

Leigh Lewis I just want to see if I can tempt people to try and answer Helena’s question because it seems to me it’s absolutely fundamental.

Rt Reverend Watson I think, well two things. I think to say on rights and responsibilities I think one is I think I'm speaking for the faith leaders although do disagree if I'm not. I don't think any of us were suggesting that the two should be married up in the sense of if you're not paying your proper responsibilities within society you shouldn’t.. you should be denied human rights. I think that’s a kind of the flip reaction often when these two are mentioned in the same sentence but it wasn’t I think what any of us were saying.

I think and I was helped with a conversation with Anthony earlier on this, I think the human rights legislation in some senses works on two levels.
On the one hand it’s a working document, on the other hand it’s a kind of symbolic document in the sense that we are signed up to this, we believe in these principles. I can’t see, I can quite see the problem with having specific responsibilities in a sort of human responsibilities act. Its not (unclear) I absolutely take that point. But I think something, even if it’s in the preamble, if it’s in the, there’s something there that says actually we are aware of this wider context in which this conversation is taking place would be extremely helpful because I think otherwise we do end up with a kind of you know the danger of too much of a sort of victim culture or too much of an irresponsibility culture that people feel, well, people have these rights but I’m not going to do anything in seeing them, in seeing them through.

Helena Kennedy So just list your responsibilities you want to see in there, give it to us, go on.

All talking

Rt Reverend Watson No, hold on. I mean I think there are issues about citizenship, I think we do need a proper discussion in this country about what it means to people to be a citizen of this country and I think…I think that maybe I would love to have a discussion some time about voting. I think people should vote. I think that the kind of issue about how far…

Helena Kennedy Should they be obliged to vote?
Rt Reverend Watson    Well I think that’s a good discussion point, I personally think yes, you might disagree.

Male Voice    Should we imprison them?

Rt Reverend Watson    No I don’t think no. The question is on the symbolic level. You see immediately you’ve taken us back…

Helena Kennedy    You’re not answering the question.

Rt Reverend Watson    No, no, no, I'm not, I'm not. I'm saying there are two aspects of this, I entirely agree that you can't have a list of responsibilities that are (unclear) to your list of the rights. But I'm saying on a symbolic level within the context of the preamble say you can certainly say an aspect of this is that actually we do, we do have responsibilities here. And I think on that symbolic level there is a, there’s an issue there, I'm not talking about fining people for not voting or sending them to prison or whatever but there are issues there that we can look at.

Helena Kennedy    So an aspirational list rather than an enforced list?

Leigh Lewis    I think we're in danger of being a bit too forensic in response to what Reverend Watson is saying because again please shoot me down if I'm just wrong in this. My understanding is that in Australia it is you are required to vote, my understanding is
as well that almost nobody is ever taken to court for not voting because it is just plain impractical and not possible. But nevertheless there’s a sort of symbol isn’t there it matters.

Helena Kennedy People are fined $20.

Male Voice I think that…I really think that I really think that I’m misunderstanding because responsibilities are embedded in the Human Rights Act and the European Convention and the courts have said time and time again that the individual rights have go to be balanced against the rights of others and the general community. They said it in case or in case or in Strasbourg they said it (unclear) and all the qualified rights, is this ordering me to vote in…

Laughter

Leigh Lewis You’d better say in Birmingham. £20 fine.

Male Voice It may well be a preamble. A preamble could make it even clearer but the idea that the Human Rights Act is a selfish act for absolute individual rights is completely wrong. And therefore because you’ve got to balance one person’s right against another person’s right because you have obligations that are built in because article 17 of the Convention says you’re not allowed to use the Convention abusively. It seems to me perfectly clear it is a balance, it requires a fair balance between rights in conflict. The reason I think
imposing responsibilities in the charter of rights would be completely wrong. It’s because those are imposed by criminal law and civil law with legal certainty. But you can’t use it as a way of imposing new kinds of civil or criminal liability on individuals.

Indirectly of course the Commission does work in that way. If a judge decides to change libel law between two citizens, that will affect the balance between them. But it’s a balanced system and the public needs help in understanding that this is not some kind of charter for terrorists. It’s a balance system for everybody.

Leigh Lewis I sense Stephen Wright wants to come back in. Then John Kilbey I think, and then Asif. So why don’t we take those three contributions, Stephen.

Father Wright I feel slightly more confident (unclear - laughter). The first thing that was in response when I put my hand up earlier with regards to Lisa’s comment about whether rights would become conditional upon the practice of responsibility, which is not what I’m saying. It’s not what the church is saying at all. The rights are first and foremost, in our sense they come from God himself, from legislators, from legislation. That’s not what we’re talking about. The other point is to make that Lord Lester said the responsibilities are actually there, they’re already there. To talk about human rights presupposes other people owe responsibilities, it’s
there. All that the church is saying, and in fact they've been saying this since 1789, there was a group of clergy, they were in Paris and they were all ignored because they wanted a bill of responsibilities as well which was rejected.

Anthony Lester It was introduced by Napoleon and then was immediately rejected.

Father Wright I'll shut up then. I bow to superior knowledge. All the Church is saying is there needs to be a balance, there just needs to be that balance. Now whether they're actually legal obligations or not but some of them are and particularly with qualified rights that people have they are held against responsibilities really. If you think it through so this is not alien language.

The other bit and I don't want to sound like I'm a tree hugging hippy all of a sudden or what. But there is actually one responsibility, that's actually just a responsibility of us human beings to the creation that we have and to leave it intact for the next generation. Now one of the Church’s rights is that you have the right to a good environment but you have the duty to care for that environment. Now that's not found in the legislation that we have and yet that responsibility is one of the most pressing that we face whether you're European or not. What are we leaving for the next generation and that is a fundamental responsibility that we have and I think it’s a responsibility upon
companies, upon public authorities and all the rest of it.

So I think there are things if you start reflecting on what are responsibilities there are certain things that will come through and that's what the Catholic Church is offering in its documentation which I've now submitted.

Leigh Lewis Thank you. John, please.

John Kilbey One of the things I, listening to all the very genuine and important pleas coming especially from the faith groups and those representing various groups -- but I think the response that to me slightly got missed is what the European Convention and our Human Rights Act do is set out rights of individuals as against the state. And so that's a much narrower focus than talking about the rights of individuals in the community and in the (unclear). And I think that we've slightly lost that in the debate we've had. We're here talking about to what extent does the individual have a right against the state. And to what extent the state and its various agencies like immigration, the police and so on have regard to the rights of other individuals but it's the state that has regard to the rights of communities and the general citizenship. That's what the, I understand the European Convention on Human Rights does and so whilst I have a great deal of sympathy for the views of the groups that say
there are other rights that need to be protected, but against the focus of rights against the state and its agencies.

The other point I wanted to make at the risk of reviving my UKIP friend here Len…(laughter) I actually…I actually can understand a little bit of where he’s coming from and I think it’s the point that’s been brought out by Professor I can't read his name forgive me sir. But yes but actually we are quite used to a hierarchy and we have this hierarchy in the law of national legislation and the common law and that works. What and we have then the fact that it is subject to a higher legal system Europe and its so on.

And I think it is possible and where your Commission may fit in is in between those two so I could see a situation and I don’t say I necessarily have a (unclear) but help the debate is that we have our domestic rights and I agree with Lord Lester, Anthony Lester that I think our individual rights and our individual responsibilities are probably well articulated or sufficiently well articulated with exceptions but…but sufficiently well articulated in our common law and our statutory law and if there are gaps that’s the way to remedy it.

But the Commission on a bill of human rights slots in at the national level and this is where I agree with my UKIP friend here, slot in, only pulling your
leg, slot in at that national level and give rights to UK citizens in no way taking away the higher rights that exist in the Human Rights Act and human rights directives from Europe. So there'll always be the right to go to Europe and deal with that there. And as we have and this is where UNICEF come in, there are international rights which have their issues about enforcement but are up in those very higher levels.

So I think there is an opportunity for the bill of rights, a local bill of rights for UK citizens in the same way as the Germans have got it.

I have to say I have a slight reservation about that because I think I have to wrestle with another law without laying yet another layer into it and I think – I suspect some of my public service colleagues would agree with that. But I can see that that conceptually could happen and could plug potentially some of the gaps. I hope that's helpful.

Male Voice That last point, say I believe in legal certainty, if you can get it and what worries me is was talking about four different bits of national legislation. The Equality Act has two hundred clauses, a huge thing in itself. The Human Rights Act if we left it as it was, a British bill of rights as well and then the European stuff. Now you've either got to tear up the human rights acts and the equality acts and merge them all into some great thing or have a big equality act and tear up the human rights act or
have the human rights act as the Labour Government suggested which I thought was ridiculous where you had the Human Rights Act and then some non-enforceable bill of rights floating next to it and then you, the public authorities, have to somehow go to make sense of all this stuff. And I think one of our problems is going to be if we did go for a bill of rights how do we avoid that extra layer of bureaucracy and law that you're talking about.

Leigh Lewis

Let me bring some other people who’ve been waiting to come in, Asif wants to come in, I can see Yvonne wants to come in. Before our time runs out I really want to have gathered the views that people want to get…and David wants to ask a question but Asif first please.

Asif Afridi

Just about the rights and responsibilities -- I think there’s a lot of political heat about it and I guess for me the best response wouldn't be to write down a specific list of responsibilities. It would be about explaining in more simple terms how human rights work. Who…who has them, how they work - - that kind of thing. So you know a big responsibility for me would be to recognise some rights are qualified, might need to be limited in certain situations in a proportionate way in the interests of the common good.

But a simple way of saying that for example is to say well we have responsibilities to recognise we
are interdependent. We enjoy our rights because of others. And in the same way there are simple ways to introduce concepts like human rights are universal, interdependent, indivisible, inherent you know it’s those kinds of things that I think we – people need to understand better I suppose to influence debate on this. I think to go down the route of listing slavishly you know a list of responsibilities I think politically might make sense but it would really obfuscate us from the track that we’re trying to gain here with human rights.

Leigh Lewis Thank you – Yvonne please.

Yvonne Davies I think it is really difficult talking about responsibilities because your ability to be responsible is often derived from your cultural upbringing so it’s interesting the faith groups see responsibility around faith and the teachings of the church. Some people may not have that faith, when you’re brought up in poverty I think coping mechanisms are devised for the way life has to be lived which isn’t necessarily attractive to the mainstream. So I think once we start talking about responsibilities we’re very much talking about how people have been culturally educated and I think it’s the work the government is doing, by focussing on families who have particular multi-layered issues, actually is very good. And providing that holistic support that families can begin to take on the mores of the community in which they live is brilliant.
Having an aspirational list as what would you see as a model performance if you like – I think that would be brilliant. I do think people should vote. I think it’s dreadful that people don’t vote but it’s about helping people to aspire to succeed rather than condemning them because they’re a failure. And there’s a slight difference there. I do have some real nervousness around a British bill of rights because I am suspicious I’m afraid. I’m probably an old cynic but I am very suspicious that some of the waste of resources that we see, which I personally condemn in Strasbourg are driving the desire to move away from it altogether. And what I would like us doing is driving down those costs and saying we’re not prepared to participate in the waste that we see rather than the - and it would be the cost of putting something in place in the UK which we would have all the groups round the table at each other’s throats saying what they wanted in and what they didn’t want in.

So I’d rather work with what we’ve got in minimising the waste of resources and out or energies into that.

Leigh Lewis

David wants to ask a question. It is just worth saying that one thing because it's not been said and not directly relevant, but the Commission has already tendered some advice to government about the workings of the Strasbourg court.
Whatever anybody may think about it in principle it's working with a vast backlog of cases. It's not ideal in anyone's book. David, you want to pose a question.

David Edward I'd simply like to...to interject into a question which Feizal raised almost at the very beginning which is allocation of resources. Now we've talked about obligations – the obligations on the rights of individuals having to be reconciled with the rights of other individuals. But how is there, is there a problem we've discussed about all, a number of rights there might be. How do you define the extent to which such rights can exist if there simply aren't the resources to fulfil them for everybody. And that seems to be the question about a right to housing and so on. How do you – what is the measure of the state's obligation in those circumstances? And I don't know the answers, that's why I'm asking the question.

Jason Millard ...question and comment and my legal brief has left the room (laughter). I just wanted to draw people's attention -- I'm a little bit tongue in cheek I think in view of the last comments I think very relevant to the list of contributions to the second session today. From faith and voluntary groups, business and trade unions, those representing women, children, the elderly, disabled, minority groups, gay, lesbian, bisexual and transgender groups, gypsies and travellers. In my head that went nice people, ill people, very old and very
young people, mental people, gays – oh god gypsies. The unemployed, the working class…. And every time I do any kind of conference seminar, any kind of work that involved you know so called hard to reach groups. I'm going -- they're not hard to reach – we’re here, it’s always in that order. And I think bit tongue in cheek in terms of that but I think there is very much an underpinning kind of philosophy around human rights that you know all men are born equal but some men are born less equal than others and oh we’ve forgotten the women, oh we haven’t done the travellers people, oh god there’s kids. And it seems to be a very sort of pyramid philosophy that is supported by a very pyramidal hierarchical structure.

And again my concern is that that you know racism, very naughty we don’t do that anymore. Beating up women, very naughty we don’t do that anymore. Having a laugh at somebody in a wheelchair oh you know that's okay sometimes isn’t it. People with ginger hair or a gay guy or a (unclear) walking down the road – what again I'm not seeing from the suggestions that we've had today or from existing legislation is how we kind of flatten that out if that’s the right word and not have in terms of funding and access to legal support and so on and so forth. It concerns me greatly that we're not resolving those kind of hierarchies and inequalities within the groups that are demarcated as in equal if that makes sense.
Anthony Lester  

That’s fair. The equality acts go to enormous lengths to list the protected groups and they do so in a totally equal way. Too equal, for example the views of churches in terms of the intersection between sexuality and religion, when it comes to things like adoption and who you can hire and fire and so on and so forth. The debate on those being fraught but I really think it is not the case that sexual orientation and discrimination is treated less seriously than race discrimination or gender discrimination, I really don’t think so. And I’m entitled to say that because I’ve been involved in this throughout all the legislation that’s occurred and the great breakthrough in 2010 in my view was to produce totally equal treatment of those vulnerable groups. We didn’t do it for the workers, for class, for political organisations but across the board. It really is an attempt to do exactly what you wanted.

Jason Millard  

I think then it that case there is more work and this goes back to a comment I made I think this morning in terms of how that is put across into the broader community and again a greater understanding of what all this legislation is about. Again I’m not disagreeing with your experience at that end of things. My experience out in the community is it’s not equal; its not working.

Something very, very simple: if I call somebody the - I wont use the term but a racially abusive
word - I will get picked up on it. If I call somebody a (unclear) or a chavvy people will laugh. I know that's a very tiny simplistic example but there is a you know this human rights and equalities is a sliding scale from people like yourself at that end right the way through in my head people out on the streets or at home going about their business. For me there is something missing in how that experience is being translated.

Leigh Lewis I think the point reinforces just how important perceptions are because I think I can honestly say that on behalf of the Commission here there was no sense that we were having a priority order but nevertheless.

Jason Millard I'm not suggesting this.

Leigh Lewis What you're saying is that perceptions can be otherwise.

Jason Millard Perceptions can be everything. And get in the way of the truth.

Herpreet Kaur Kundi Just building on that and from my experience especially since I've been in the west midlands and engaging with local communities as well its not the hierarchy its just that certain sections of the community just don’t have access to the information and that’s a problem and I'm saying that from a cultural point of view.
Herpreet Kaur Kundi  
So the perceptions are created and incorrectly sometimes because they don’t know where to go for example. They don’t know there’s a telephone number they can call or an internet website where they can… Absolutely they just don’t know but the legal rights may or may not exist they just don’t know how to access it and it’s the lack of education.

Female Voice  
Because I think to be very blunt about it I think if people don’t know that these things exist, don’t know how to access them or what to do with them then to all intents and purposes they don’t exist.

Female Voice  
They don’t exist – exactly.

Leigh Lewis  
Andrew was trying to catch my eye again.

Rt Reverend Watson  
I mean just picking up on that and responding to Lord Lester a little bit after you – I’ve been giving it some more thought. I wonder is there a serious mismatch between rights on the one hand and those who are taking responsibility to see those rights, either because of resources or whatever else. And we’ve hard of a lot of cases of people in care homes who are badly treated. They have rights but no one is taking responsibility to see those rights enforced. Then it seems to me that gives it additional strength to the argument that some kind of wider sense of responsibility
within human rights legislation, I'm not being
drawn on exact parallels again but some sense of
that so that actually I, Joe Bloggs, as a normal
citizen actually am responsible, have some
degree of responsibility. And if I go and visit my
mother in a care home or a stranger, or a
parishioner or a stranger in a care home and I see
things are not being done there actually I do have
responsibility to take some action. I may not be
the authority but the authority may not have the
resources to do that properly.

Again I think that’s where there’s a mismatch. It
seems to me that seems a rather obvious way, in
a way it’s only symbolic I agree, it would mean
huge numbers of people behave differently. One
wouldn’t now but it’s just sort of laying down a
marker.

Leigh Lewis

Now I have a number of people who are trying to
catch my eye and I'm trying to (unclear) them all.
Peter has been trying to catch my eye, James has
been trying to catch my eye, Eleanor has been
trying to catch my eye and Lisa has been trying to
catch my eye. I'm going to bring you in, in that
order. Can I ask people to be relatively brief
please.

I just want to say on this issue of responsibilities I
think one of our purposes today was to come and
listen. It was not to tell people what the answer
was, if only we knew. And I think as
Commissioners we need just to go back recognising that although there were very differing views in the room, quite a significant number of people here raised the issue of responsibilities. No one is setting it in the context that rights should be contingent, directly contingent on responsibilities. But nevertheless a significant number of people saying that the word has some importance and the concept behind it has some importance. Peter, please.

Peter Hay

I thought I'd try and have a go at the issue of resources because I suppose nowhere is a more brutal frontier of that than adult social care. And so hugely contested as a broken system that we still await a white paper that was due in Spring. I know the weather's a bit funny and seasonal but even a bit of prevarication on it…

Leigh Lewis

Can I say as a former career mandarin that spring could extend to July.

Peter Hay

A few mandarins mucking with the weather. The other thing I want to say (unclear) run away with the impression that all people who work in the care sector are merrily abusing people. I resent that allegation actually. One in three of us has experienced members of our family being in care, that includes care homes and we do not have evidence of widespread abuse. And I think we should be really clear about that in relation to how we do it because I think that in turn makes it really
difficult when we expose what is unacceptable practice and how we do that.

In relation to resources I just want to reflect on some examples where I was wickedly moving services when resources were growing because we have actively changed what goes on in social care here in Birmingham. And two very quick reflections on that. I was the wicked director that stopped meals on wheels provision and in order to (unclear) choice in the market. When we looked at that in terms of equality the very poorest and most needy sections of this city were getting no meals on wheels. It is the same thing when we look at respite for learning disability, the poorest parts of this city get less service than the more sharp elbowed parts of this city.

And we face the tension between the rights of people to claim that care homes were their home while almost simultaneously de-commissioning 28 care homes and replacing them with new. We've just published the research that actually showed that movement was good and led to better outcomes. That only proves that we did it in a transparent way that allowed that to be the case. So it gets even tougher even that those were bitter fights, even at the good times, to do that in a context where resources are tight. And I think that’s going to be a real challenge. I'm with John, I think there is something about the Human Rights Act which is about empowering people who don’t
have a voice and who are at the margin of society against because I still have a lot of power, I'm still spending 250 million pounds a year on adult social care and one and a half billion pounds in Birmingham. We are very powerful and we should be open to challenge and I think that is really important in that balance between rights and responsibilities and what we’re trying to set out.

I also don’t think we can have a context where the resource climate is very, very difficult indeed, local government has borne the brunt of that and two billion pounds in two years has come out of adult social acre and is less than the average rate of decrease across country services. It’s been protected but it’s somewhat different to the words of ministers when they tell us nothing happens.

We were talking earlier about the concept of timing in the house. So there were a number of things there. But we've got that huge challenge of resource removal. You can't say to people you should have demented 5 years ago when we had money. We still have to do this somehow, nobody sets out to plan to keep people without their homecare or indeed worse to be lying in beds that haven't been changed and all those kinds of things. But how are people empowered to challenge that well (unclear) or is it being planned the right way to do it. And there’s this huge balance between lawful action and removing resources which at the end of the day councillors
have to do. They have to set the balance budget with impact and how that impact is relayed. And I also think it’s about how it’s done with staff that have that value somehow embedded into how they apply it because it doesn’t have to become a combative war zone. It should be about how it’s done properly and respectfully.

And as you know from this morning's comment, I am more worried about the binary nature of the rights and responsibilities conversation that we do expect rights to people who have lost their mind and those kinds of things and can't question that. I thought this afternoon’s question was pushing at broader things that made that bad duty, common good... There were lots of things that were expanding that concept I think and I think rights and responsibilities is too narrow a prism to put it. And similarly it’s about how do we get a mindset that puts those rights as we apply them and seek to apply them. I think it’s very-very difficult to do. But you can't makes rights and resources conditional, but somehow you have to use, and I think that is the work of the Equalities and Human Rights Commission in looking at how rights are being used in the home care setting, a really important contribution to how actually they could be the friend of both sides in how they apply what they’ve got to do.

I use science there in terms of crime and provider if that makes sense. Go back to that binary
distinction.

Leigh Lewis Peter thank you very much indeed. James.

James Howlin Thank you. I'll make it brief if I can and cover the rights and responsibilities, probably segue way a bit into the minority versus the majority, and also a bit on resources if I can.

Now I think it was Alison’s comment earlier this afternoon around the deserving versus the undeserving and what I see is certainly the universal nature because we are human and we do have those human rights. But as we’ve previously discussed, the balancing act between those rights that are not absolute rights but that we can, the state can interfere with the exercise of those rights and in particular from an immigration context that’s primarily around article 8 and balancing the public interest where that interference is proportionate in pursuing the public interest within that particularly around immigration. I think Bishop Watson’s comment on response to a comment from Len around UK rights was interesting and certainly the question around citizenship and given that we do have for new citizens a citizenship test but also new citizens have to take an oath, a pledge and set out to them what is expected of them as new citizens, British citizens. Whether that is something that could be incorporated if there was a bill of rights as to what those responsibilities are and what is expected
whether that's the right to vote and the exercise of that right to vote, or to you know uphold the laws of the land or whatever.

On resources is, again if I can reflect and immigration context, not so much on the application of those rights but more the defending the lawfulness of the interference of those rights. Whether that is through the judicial process, either in the UK or in Strasbourg and consumes an enormous amount of public resource whether that's immigration judges in the first tier or looking you know two years for a case to go through the upper tribunal to you know onwards and upwards of three years going to the court of appeal. I think Abu Qatada’s case has been in Strasbourg for around seven years. All of that has a cost to the taxpayer and consumes those resources that could be used elsewhere and that’s certainly something I’d be interested too if the Commission could look at that too.

Resources as well extend not just in terms of the legal process but particularly with asylum seekers as vulnerable in our care is you know support and housing and benefit and the effect that has on local authorities, the effect that has on central government in terms of providing that support is again something that we need to balance again with, the balance with the rights of the individual, the greater rights of society in general. Whether that’s to be protected from criminality, from
national offenders we’ve spoken about again today. Or whether that’s you know the protection, the wider public interest in terms of maintaining effective immigration control while still carrying out our international and European obligations from the relevant bits of legislation.

Leigh Lewis

Thank you very much indeed. Eleanor you wanted to come in?

Eleanor Linsey

Yes. Bear with me. I’m not sure how to approach this. Come back to rights and responsibilities and I think -- unlike some of my disabled campaigners -- I firmly believe in being part of the solutions and not just you know demanding rights but there is responsibilities. Having said that I think there is a problem when you talk about citizenship that disabled people, and I’m just speaking for disabled people here, need the support to be a citizen. So all the things that everybody else talks about citizenship, well then okay voting how would you go to vote if the voting station is not accessible you know. That kind of questions come up and one of the problems with the kind of the (unclear) talks about benefit, disability living allowance and all that. They seem like a handout but it isn’t because this is, this helps the person to be independent living. And independent living doesn’t mean living on your own. It means getting the support to have the right control just like the next person.
So for example to be a citizen there’s this, this and this. You want to go to work but how can you go to work if you don’t get the right support, you don’t have accessible transport, you don’t have, I mean you know so when you talk about rights and responsibilities then when you’re a disabled person, you have to balance that and that’s why as a campaigner I fight because I don’t believe in saying we’re the most vulnerable, the hardest hit or we’re the victims, it’s up to you to sort it out, it isn’t that is why you know go out on the streets and fight for the rights because the rights it affects the whole society in looking at, well you talk about human rights as a context. It’s also how do you want your country to be, do you want to have victims.

I mean I, I’m not actually born in England. You can tell from my accent I'm not born in England but I appreciate very much and I’m an immigrant, I remember in Strasbourg, living in Strasbourg that I actually had to swear my allegiance to the Queen you know to get my British passport. So you know it’s the sort of very important bit about being a citizen is that you have to have the support to be an equal citizen.

I’m just going to end in the sort of rights and responsibilities and we were talking about the sort of hierarchy. And very much into the kind of bag about responsibility is that you have to work. Now in my mind we just had the Jubilee and all the
young people that were you know under that bridge did they have a choice, they were you know just there because it was a bit of a responsibility for them to fit in because or their benefits were taken away. So when you're talking about rights and responsibilities and having a kind of - you have to have those, you have to realise your responsibility. We have to realise that it might come to that. Who are you going to put into place to kind of generate that kind of system where these people have to behave you know they said we're going to be, we have to work because or else we’re just scroungers. So that picture in the papers has come very strongly to me and because you know anyway I'm going to stop there.

Leigh Lewis

Eleanor thank you. You've put points powerfully as you did before and I'm really grateful to you.

I'm getting to the point where we're going to wrap up shortly but I promised Lisa the floor.

Lisa Payne

No, the moment's passed so you can wrap up.

Laughter

Barbara Bradbury

Can I just say -- I'm not sure when you talk about rights and responsibilities, who has the responsibilities? Is it the individual we’re talking about or are we talking about for instance the setting where I understand prison to me -- the
responsibilities are of the staff. Prisoners are regarded as vulnerable people. Same in care homes, they are vulnerable people. The responsibilities are to my mind are with the people that are engaged to look after them that's just my query.

Leigh Lewis  Edward?

Edward Faulks  I just wanted to say one thing about what I understood what people meant by responsibilities. People were asked in their interactions with the public in various different contexts about their perception of the effect of the Human Rights Act. And to some people they have got the impression that they have got rights without responsibilities and may be a misconception or a misunderstanding but those are arguably one of the negative factors behind the Human Rights Act. And I suppose the question that worried me a bit is if we are to have a further UK bill of rights, will that further entrench the idea that people have rights without responsibilities? Is that regardless of the fact that we’re all in favour of human rights, protecting people’s human rights, a rather negative factor.

Anthony Lester (unclear) in answer to Yvonne. Talking about resources and the management of resources and eliminating waste. The reason why the Strasbourg court has 150 thousand pending cases or did have is not because they're wasting resources.
It’s because they don’t have resources because unlike the Luxembourg Court they have extraordinarily few resources and the Committee of Ministers of the Council of Europe decided long ago zero growth in the budget so although I think there are many things that can be done in that court without spending more money I’m afraid that particular problem is unlikely to meet your point.

Yvonne Davies  Can I make a response? I absolutely agree with what you say and any system has to be resourced to run effectively. But I think we’ve created an adversarial system which inevitably puts people -- and the likelihood of some kind of compromise is impossible. So we expend massive resources fighting each other not talking to each other until the very last minute when actually very some kind of compromise happens. Not always, and what I’d like to see really is that cases are much more robustly reviewed and those cases that have merits proceed and those cases that don’t have merit get chucked out.

Anthony Lester  They’re doing that. They’ve done 99% on an industrial scale.

Yvonne Davies  And if they are the right cases I’ll be very happy.

Male Voice  Could we set up a separate court for Russia and that might speed things up?

Leigh Lewis  That’s not within our (unclear). Now I’m going to
just see if anyone is so burning to make a last point that if I close down without then doing it they will feel that we've forever trampled on their human rights. I think not. Look, it's ten to five and I sense we're in danger of trespassing on the goodwill of our audience. I think that has been an incredibly rich day and I think I can say without any doubt on the part of my fellow members of the Commission this has more than met our expectations. What we wanted from today was to come and hear at first hand and from a wide range of individuals and organisations for whom this subject is important in their day to day life and work.

And we couldn't, I think, have got more out of the day in that respect than we have. People have been really thoughtful about what they wanted to say to begin with, they've listened to other people, they've sparked off one another and we've had some really interesting issues and debates and arguments. I'm not going to try now at ten to five and say well I draw eighteen conclusions from the day or et cetera, et cetera. One thing I hope you will all do. There will be a final report from this Commission. I hope you will all read it and think you played a part in it because one thing I promised you, whatever we finally conclude will have been influenced by what you have said to us today. That is without a doubt.

And we are intending as well to put on our website
hopefully later this month or early next a further consultation document. So we’ll make sure that all of you know about that and that if you want to respond to that then you can.

But can I simply end on behalf of all of my fellow colleagues, Commissioners around the table, thank you so much for giving us of your time. And you really have helped us in our work so we owe a great debt of gratitude to you. Thank you very much indeed.

Applause

End