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Speaking at the Seanad

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Cathaoirleach,

It is a great honour to be invited to address this House today and one which I greatly appreciate. I am particularly struck by the fact that you have made human rights the theme for this session, and it is in that context – parliament and human rights – that I will make my observations today. I will also, Cathaoirleach say a few personal words about this House and its future.

Cathaoirleach, occasionally it is necessary to demystify human rights. Sometimes the language around human rights is complicated, even condescending. Sometimes ‘human rights speak’ can almost be a foreign language, designed to exclude rather than include people.

This should never be. The essence of human rights is very simple. They are the basic, fundamental and crucial elements of all our lives that ensure we can live the best lives possible.

If we look at any of the rights protected by the U.N. Declaration of Human Rights and the international conventions that flow from it, we see, not a list of rights to be somehow given to us, but the very basics that should exist in all societies – rights to life, health and education among others. In an ideal world we should not even need to talk about achieving human rights. They would already be inherent in society, allowing us to live our lives in freedom and dignity.

But we do not live in an ideal world. Human rights need legal definition and enforceability if they are to be meaningful. They should be neither vague nor mystifying. Our human rights are quite simply all the rights laid out in Articles 40-44 of our constitution and any jurisprudence which flows from that, and the human rights in all of the UN and European conventions to which we as a country have subscribed. No mystery. No obscurity. Our human rights are

spelled out for us in black and white. And they are not optional. They have the force of law. Our law and international law.

And we must never accept that there is anything conditional about human rights – that if they only apply to those who keep within the confines of what we find personally acceptable, then we have, in that decision, denied the most fundamental principle of all “*All human beings are born free and equal in dignity and rights*”. Human rights must be universal.

Being in favour of human rights for all can often result in a criticism levelled at human rights - that they somehow give rights to people who are 'undeserving'. After the recent riots in England, there was discussion in many newspapers about not letting 'human rights' get in the way of charging and convicting alleged rioters. But if we do not uphold the human rights of everyone, equally, and in accordance with the law, we put at risk all human rights. This does not mean those who step outside norms of behaviour must not face the consequences of their actions. Rather, it provides a framework of protection for all in how such consequences are pursued.

Linking with the Oireachtas is a key part of the work of the Irish Human Commission. Human rights have to be at the heart of the work of any parliament. Parliaments are not only a fundamental pillar of democracy but of course have the possibility to play an active role in human rights protection and to demonstrate a country's commitment to human rights. Parliaments across the world have a wide range of powers to directly ensure the protection of human rights, these include the right to put questions to ministers and government officials, to request written reports and documents, to hold public hearings with statutory bodies and civil society organisations, to undertake

field visits especially to prisons and detention centres and to ensure follow-up to the recommendations made by human rights bodies nationally and internationally.

In the Oireachtas, the role of committees is particularly important. I have previously recommended the establishment of a human rights committee that would undertake inquiries on human rights issues, consider government Bills with significant human rights implications for further examination and consider action taken by the Government to deal with judgements of the European Court of Human Rights. Such a Committee could potentially be important for legislators in relation to situations where Irish legislation is deemed incompatible with the European Convention on Human Rights Act. While it is unfortunate that we do not have a full human rights committee as exist in other parliaments around the world, nonetheless all committees of the Oireachtas should take human rights into account in their work. Human rights cut across almost every issue that the Oireachtas deals with and it is essential that human rights are therefore not confined as merely a justice or foreign affairs issue.

I would also like to take this opportunity to encourage that there be more debates on important human rights issues. For example, Ireland will come under scrutiny on the 6th of October at the United Nations Human Rights Council. This is a ground-breaking occasion, and will be the first consideration of Ireland's entire human rights record by the Council. It is an important opportunity for Ireland to clearly demonstrate its commitment to human rights and fundamental freedoms. The Commission has contributed a report to the U.N. for this process. We made 35 recommendations for areas in need of improvement. These issues included:

1. the need for a National Action Plan on Human Rights;
2. the need for strong independent human rights infrastructure;
3. a call for ratification of key U.N. treaties; (Disability Migrant Workers)
4. the need for protection of the most vulnerable in the economic crisis;
5. the need for reform of the justice and penal system in certain areas, including the conditions in prisons;
6. the need for stronger protections against racial discrimination and the situation of Travellers;
7. the need for reform of the immigration and asylum system.

An Oireachtas debate on this issue, and Oireachtas follow-up to the recommendations that the Human Rights Council will make are vital to the integrity of this process. There is no way parliament should be absent from this process and this House should take a lead role in ensuring this does not happen. You have the standing and the people to do so.

More broadly, the Oireachtas also has a key role to play in supporting the IHRC. The IHRC has repeatedly called to be directly linked to the Oireachtas, rather than a Government Department. This call has been echoed by international organisations and by civil society. Such a link would not only be in keeping with international best practice, but would also acknowledge that human rights impact on all areas of law, policy and practice in Ireland and not merely issues within the justice sector. Linking the IHRC directly to the Oireachtas would allow for more direct engagement with the work of the Commission and would express Ireland's ongoing commitment to the promotion and protection of human rights. It is foreseen that the merged Irish Human Rights and Equality Commission would be linked to an Oireachtas Committee and I look forward to having this formal link.

But this should be a two way process. The Commission can support parliamentarians in their work. One of the primary functions of the IHRC is making recommendations on the compliance of legislation with international human rights standards and the human rights standards contained in the Constitution. The Commission publicises and disseminate all its recommendations, including to the Oireachtas. We have seen our recommendations cited in Oireachtas debates, and would encourage Oireachtas members to continue to actively use our recommendations when there are debates on pieces of legislation, so that Irish legislation reflects the commitment Ireland has made at the international level to human rights. We welcome hearing from any member of the Oireachtas if we can provide information or guidance on an issue, and hope that Oireachtas members will encourage legislation to be referred to the Commission for our comments. This House has a very particular capacity to make considered and careful analysis of legislation and whether proposed laws are in compliance with human rights standards should be a question asked with regularity by you.

I would also encourage Oireachtas members to monitor the follow-up and implementation of Commission recommendations. I would welcome a regularly scheduled debate on the IHRC Annual Report, which is laid before the Houses each year. I would also encourage the Oireachtas to support IHRC recommendations in relation to international conventions, and to support the implementation of the recommendations of international treaty bodies themselves.

As I well know being a Senator is an ever learning process. You have to master issues on an almost universal scale – economic, fiscal, social, cultural – and in the midst of all this it is very essential that all parliamentarians have an understanding of human rights. And may I put on record at this point my thanks for the support shown by so many Senators to the Irish Human Rights Commission over some very difficult times and the willingness of so many members to engage so positively used key human rights issues.

The Commission is committed to promoting human rights among civil and public servants. We see this as key to ensuring the long-term sustainable

creation of a human rights based society. Since April 2010, we have been running a project, with philanthropic support, to provide human rights education and training directly to the civil and public service. As part of this project, we published a Guide on human rights for the Civil and Public Service, 5,000 copies of which have been distributed to date, including copies to every Garda station. Since the end of last year we have been rolling out direct human rights training for civil and public servants. In so doing we have been stressing the practical benefits to the civil and public service of engagement with this training, including through minimising legal risk. We are heartened by the positive attitude of many Departments and State services to engaging with human rights training, and we look forward to working in partnership with the civil and public service in taking this work forward. In this context may I mention in particular An Garda Síochána.

May I conclude my observations on human rights by referring to one great and often untapped source of help – the existence here of a committed, dynamic and skilful civil society. In the Human Rights Commission we greatly value not just the friendship and support of civil society but the insights and expertise they so generously offer. I am delighted to see representatives of some such

groups here today and just as they help us in our work, so too can they help the work of this House. They are a valuable resource waiting to be tapped.

Cathaoirleach, may I now turn to a subject close to my heart – the current situation of the House.

Some of my happiest and most fulfilling hours were spent in this Chamber and in the work of the House. Many of the friendships made, on all sides of the House were enduring and enriching.

But this is a difficult time for all associated with the House.

There can be no doubt that the Seanad has to an extent lost its way and, I suspect, much of its confidence over the past few decades and has become an easy target – too easy perhaps.

The current problems are attributable to no single cause. All institutions grow old and stagnate if not constantly renewed and critically reassessed. Over the years the Seanad did little of either. We can, if we wish, blame for this the complacency of too many members, the absence for too long of any genuine will to reform, the comfort of living in a cocoon. All of us who served in earlier times must share this responsibility.

But it takes two to tango. Efforts at reform, and there were some, were met by a wall of indifference from successive governments. No government in my experience took the Seanad seriously. There were no votes in Seanad reform, no pressure to change. If governments thought about the Seanad – and they didn't very much – they saw it as existing to facilitate government, not to be an independent source of influence or to add value to political life. It wasn't hostility – just indifference – in many ways even worse.

In fairness, voices were raised and 11 different reports urging change appeared over the years. And I have to say the report of the committee chaired by then Senator Mary O'Rourke in 2004 was a serious and honest attempt to carve out a distinctive role for a modern Senate. Sadly, and to my

mind inexplicably that report was not seriously acted upon. It was a crucial mistake and made the case for abolition that much easier to make.

But that report also made clear that the problems of the house were rooted in its founding philosophy as much, maybe even more than in the culpability of successive members. And if you will indulge me a moment in history I will try to make that point. It is essentially a tale of two Senates.

The Free State Senate of 1922 had clarity both as to what it should do and who its members should be. The simple view of the day was that legislation should never be rushed, that it should be carefully and expertly scrutinised, and that was the Senate's job.

There was also the view that the post-Revolutionary Dáil might well be lacking in business or other expertise and this Senate could well provide.

And the third and most crucial element was reconciliation and reassurance – to tell the Protestant and unionist community that they were part of the new nation and had a major role to play.

It met, and met handsomely all of these requirements. It took its job seriously and took its scrutiny role so seriously that it frequently annoyed Ministers who resented having to spend so much time defending their legislation. But their interventions were usually wise and often ahead of their time.

And in terms of its composition it was radically different to the other House. The former Unionists were very well represented. Names like Jameson and Guinness, the Countess of Desart, the Earls of Mayo and Granard, Sir John Keane and the McGillacuddy of the Reeks sat side by side with Mrs Tom Clarke, widow of Tom Clarke, and Joseph Connolly, the first Senator to hold ministerial office. And of course, the presence of William Butler Yeats and Oliver St. John Gogarty. A formidable and diverse membership.

However, and this remains the root of the problem about the new 1937 Seanad. There was neither ambition nor clarity in its conception. Mr de Valera famously said '*a bad Senate was better than no Senate*' and sadly that is what happened. Your own committee on Seanad reform in 2004 did not put a tooth in it. This was Mary O'Rourke's committee and it noted two key things:

'The Seanad has no distinctive role in the Irish political system'

'Its arcane and outdated system of nomination and election diminishes Senators' political legitimacy'.

It was a brave report and these two observations get to the heart of the matter with two key questions:

What is the Senate to do – how does it make a valuable contribution to the political life of the country and who should be in it – and how should they get there.

These are two questions you must wrestle with as Referendum day approaches. It is a great responsibility and a huge challenge. But, bear one

thing in mind – the Irish people are fairminded. They don't like being told what to do. They are indifferent, not hostile to this House and if they see a House united in its determination in showing it has a real and relevant contribution to make, determined to give value, then I believe anything is possible.

And I believe a good case can be made. There is much that is good in the traditions of this House. This House has produced some outstanding Senators who did change and enhance public life. In my own time there was Mary Robinson and Catherine McGuinness, courageous and far-sighted reformers; John A Murphy and Joe O'Toole, both fearless and iconoclastic; Ken Whitaker and Maurice Hayes, probably the two finest public servants in the history of the State, Seamus Mallon, one of the bravest men I have ever met, and the late Eoin Ryan and Jim Dooge, superb legislators – and perhaps the most memorable of all, the late Gordon Wilson who stood for generosity and forgiveness, even in the worst days, especially in the worst days of the Troubles.

This is just a small list of truly outstanding people who served in this House – all of whom made a real difference. They set a standard, a bench mark of which any assembly could be proud.

This House today is different to any in which I served. When I look around I see vitality and a sense of commitment which makes me envious. In a way I wish I were part of it. There is an energy here which if harnessed and focussed – and focus is all important – could be highly persuasive.

And diversity. There is the beginning of real diversity here. A beginning, but a genuine one. And in welcoming diversity I am not undervaluing the key role of our political parties. I am a believer in the centrality of parties in our politics. Without distinctive coherent parties there would be chaos. We need them to give us coherent choice and the leadership to deliver change. There is no conflict between diversity and a coherent party structure.

And as one who had the honour to be leader of this House I am conscious of the changes already begun under the leadership of Senator Maurice Cummins.

I am conscious too that it is only the beginning. There is no shortage of good ideas. It is not my role to outline or elaborate here today what you would do, It's your job – and your opportunity to be both imaginative and resolute in effecting change, always remembering that your core role is as unchanged today as it was in 1922 – scrutinising and improving legislation, and doing so in one interest only – that of the people of Ireland.

If any lesson is to be learned from our ongoing crisis it is that the absence or the failure of scrutiny was at the heart of so much that went wrong. Not just scrutiny of legislation or regulation but failure to see the bigger picture, failure to stand back from the helter of events to ask some fundamental and probing questions. Just as all our major institutions were found wanting, so too were these houses. It must never happen again, and this House with its capacity for reflection its capacity at times to be prophetic and its potential to forge direct links with the diversity of civil society has the potential to meet this need.

So, in conclusion may I repeat just one point. The Irish people are fair-minded. There is no ingrained hostility to this house. The case is yours to make. You can make it a good case.

I wish you well and I thank you for the privilege of inviting me here today.

Cathaoirleach, thank you.