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THAT THE CAUSE OF HUMAN RIGHTS IS BEST SERVED BY A COMMITMENT TO
DEMOCRACY AND INTERNATIONAL LAW

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I want to start by building on Cherie's discussion of definitions, and in particular by focusing on what is perhaps the key phrase in the proposition, the one that 'democracy' and 'international law' are being asked to service, namely 'human rights'. Cherie talked of human rights as setting the conditions for 'the flourishing of the individual.' This is absolutely right. Our subject stands at its core for an ineradicable intuition about the dignity of each and every person. Every culture everywhere has strands within it that promote the visibility of all of the people within its range or under its hegemony: these are human rights strands. In the West, the idea began as a Judeo-Christian one but became secularised at the time of the Enlightenment. Today in the West, churches work side-by-side with secular organisations for the better protection and promotion of human rights; the motivations of these various actors may be different – with the first seeing the hand of God in their work, the second the power of ethical humanism – but the beneficial consequences for human rights remain the same.

Important though our Western commitment to human rights is, and central though it invariably appears in our expositions of the subject, it is vital to appreciate that a commitment to individual flourishing, to human rights, is hardly an exclusive attribute of Western culture. Far from it. Other places have different narratives, developing and protecting the same set of insights about human dignity and respect for individual worth. Often these are religiously-inspired themes, but as is the case in the West they do not need to be.

In its modern form, respect for human rights, wherever it is to be found, demands a tolerance that refuses to punish the different among us simply on account of our being different. It requires a pluralism that denies that the only properly functioning society is one in which everyone shares the same set of views. Broad-mindedness is therefore an important part of human rights, but only in the sense that acceptance of the permissibility of other views is required: there is no obligation to share or approve those views, merely to accept that it is not necessarily wrong to hold them. Expressed in this way, human rights is a truly universal idea, and readily capable of being seen as such.

But the advocate of an exclusivist moral position, one who believes certain people to be inherently better than others, on account of their gender, their colour, or the God in which they believe – such people, from whatever culture or country, have no place in the human rights community. In particular religious fundamentalism, from whatever source – Islamic, Hinduist, Christian, or Zionist -, is inevitably an enemy of the pluralism and tolerance, the insistence on human flourishing, that are the hallmarks of a truly committed human rights culture. Once we see certain categories of people as second-rate, as inferior, as wrong or defective, we soon stop seeing them as people at all. When this happens the journey to horrific human rights abuses – to torture and genocide – is already well underway.

It will be obvious from all of this, and from what Cherie Booth has said earlier as well, that the idea of human rights is not only about civil and political rights, though these are – for reasons I shall return to in a moment – vitally important. It is also about social and economic rights, about the rights so graphically set out in the final sections of the Universal Declaration in 1948: the right to be educated and trained, the right to work, to take a holiday from time to time, to work reasonable hours, to have some support when you are sick, in other words the right to lead a decent life. Because there is no dignity in poverty, the struggle to end or at least greatly to alleviate - world hunger is at the core of today's struggle for human rights. A recent UNICEF report, launched last month by Mary Robinson at our Centre for the Study for Human Rights in the LSE, showed that over one billion children in the world today suffer from severe deprivations of basic human needs, and 674 million of these suffer from absolute poverty.

But how can such huge issues be tackled? Have we defined our commitment to human rights so broadly that we find the task of tackling the issues we have identified simply too overwhelming? Are we to retreat into our ethical ivory towers, aghast at the state of the world, but feeling quite unable to do anything about it? This is where the rest of today's motion comes into play – democracy and international law. It is as obvious today as it was in 1948 that the rights set out in the Universal Declaration were neither available to nor easily obtainable for the vast majority of the world's population. But this did not mean that the Declaration was a uselessly utopian document. Look at the way the document is constructed. Its first chunk of articles set out a range of fundamental civil and political rights, of civil liberties if you like, which no state could have had any excuse for flouting in 1948, much less today: the rights to life, equality before the law, expression, assembly, and so forth. There is no financial cost involved in respecting these human rights; on the contrary it is expensive to infringe civil and political rights, requiring as it does paid thugs to torture, a huge police force

to impose repression, a massive prison service, a gruesomely competent execution system, and so on. Now in contrast to these civil and political rights, the social and economic rights set out in the last third of the Declaration (which I have already mentioned) do seem more aspirational in nature - and they are certainly more expensive.

But between these two sets of rights, acting as the culmination of the first and the platform for the second, is the vitally important right to participation in democratic government, set out in Article 21:

1. Everyone has the right to take part in the government of his country, directly or through freely chosen representatives
2. Everyone has the right of equal access to public service in his country.
3. The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

Now Cherie Booth is right to say that it has taken some time for the idea of a right to democratic governance to enter into the vocabulary of international law, and this has been despite its appearance right at the heart of the Universal Declaration. The reason for this lies, as with much of our recent history, in the Cold War. The idea of democratic governance was rejected by a very powerful bloc which had a large influence on the way that international affairs and international law were then (and for many years afterwards) conducted. Even the Universal Declaration saw a number of abstentions for this reason, despite its manifest unenforceability and therefore relative innocuousness. So democracy drifted off the international human rights agenda. Despised by Soviet-bloc jurists and diplomats as a bourgeois trick, it even came to be neglected by international law experts from the West. To our activist human rights lawyers, developing ever-increasingly sophisticated versions of international human rights, with increasingly demanding assumptions about resource allocation and economic priorities, the nation state – whether democratic or undemocratic – has often seemed to stand in the way of progress, to act as a barrier between the progressive ideas of human rights and the people these ideas are meant to serve. The end result has been a wonderful oeuvre of human rights standards, ideal from the perspective of the well-educated experts who drafted them, but precious little knowledge of these standards on the ground, minimal acceptance of them by governing elites, and only the most attenuated recognition of their enforceability in the national courts that are still – for the vast majority of people in the world – the courts that matter, if any courts matter at all.

It is time therefore to revive and to nurture this old idea of a right to democratic governance. For it is this right that is the key to the delivery of the social and economic rights to which the human rights activist dedicates him or herself. The elected representatives of a people, properly and legitimately constituted as a result of a fair election, can be expected to have the interests of their own people at heart. They will want these social and economic rights for their people – but they will also want to know who is to pay for them. They will be able, indeed mandated, to balance ethical utopianism with practical affordability. The goals of human rights, so beautifully set out in the Universal Declaration, will be made real by a body representative of the very people at whom – in any particular region or state – those rights are aimed. Democracy gives people ownership of their own human rights and a practical route map for their concretisation. When Churchill said that ‘Democracy [was] the worst form of government except for all other forms that have been tried from time to time’ this was the old liberal in him speaking. In fact it is a truly great, a magical form of government, the best rather than the least worst.

It is also the most difficult to get right. A great weakness of international law has been that it has provided no democratic framework to facilitate the development of human rights standards, to rein in the international human rights activists where necessary, and to ensure the effective enforcement of the codes of rights that are agreed, properly connecting them (if needs be) to democratic judgments about resources. I agree with what Cherie Booth has said about the weaknesses the international system of enforceability. There is a beginnings of an agenda for change in the structures of United Nations decision-making. There is a vital need for a more democratic structure, one which better connects the people of the world to this organisation, the only truly global authority that we have. Lots of imaginative thinking is needed; but it is possible. The more international law is concretised in the will of the world’s peoples, the clearer it will be and the easier to enforce. At the moment, at times, it seems depressingly close to a kind of intellectual anarchy: as long as you can put up one lawyer to declare that what you are doing is legal you can – on the international stage – do what you want. The fig-leaf of international law that lies between a coherent world order and the violence of the jungle is flimsy indeed, and pretty close to falling off altogether.

But constructing a democratic framework must involve a critical look at the health of so called established democracies as well, least our familiarity with our own systems so blinds us to their deficiencies that we allow them to serve as models when they are anything but. I would make just three points here. First, democracy is about process; it is about a people collectively choosing the kind of way of life they want for themselves. It is not about this or that particular outcome, and it should never be thought that it is. Most member states of the

European Union have chosen a particular social democratic approach to self-government, one which balances the need for a market economy with strong societal support for all, not just the right to property and to accumulate wealth but also free health care, good schooling, social security and decent retirement health for all. We like the way we live on the whole, and would not choose the more market-oriented approach that we believe is evident in the United States. I happen to think that given the chance most people most places would vote for our kind of way of organising ourselves, but I might be wrong. A democratic decision can never be pre-ordained by an external power; if it is, it is not a democratic decision at all, merely a cover for what we used to call imperialism. (This can be very hard to take if it is only because of the external power that elections are taking place at all.)

Second, we need to be clear about how demanding the idea of democracy is: we must have the reality of a free and open process and not just the illusion of such a debate. Last week the UK Conservative Party selected a new leader. The top story was about how various millionaires would now return to funding the party. I read last week of Mr George Soros's intention to pour money into an anti-Bush election campaign, to counteract what he saw as the unfair advantage that the current sitting president has due to the funding he receives from big business. (I wonder sometimes why we don't just auction off the presidency: it would be so much cheaper and more transparent.) What kind of democracy are we talking about in each of these cases? What kind of lesson are we providing for new democracies abroad? We should expend our energies on voter registration, on getting out the vote, on enfranchising all of our people, giving them a sense that politics can change their lives. I doubt any properly functioning democracy would permit the disastrous levels of poverty we see not just in the developing world, but in the advanced industrial world as well. But if people don't vote, it is easy to stop seeing that they are there at all, and before long their very humanity drifts off our moral agenda.

Third, and finally, an effective more democratically-sensitive international legal order, working in tandem with properly constituted democratic representatives in the world's nations, would surely deliver the outcome that is at the core of the human rights mission, the flourishing of all mankind. One thing we know for sure is that isolationism is no longer an option for any country, even including the world's only (for now) superpower: unless a nation wants to turn itself into north Korea it might as well espouse the case for a flat earth as for isolationism. In the 4th century, the Emperor Julian thought he could turn back the tide of Christianity; he lasted just eighteen months, and Christianity returned stronger than ever. I think proponents of isolation and opponents of international law and global co-operation are like the Emperor Julian, and will eventually fail just as he failed.

The choice is not whether to avoid the world but what to do in it. The cause not only of human rights but of international security as a whole is best served by, on the one hand, a renewal of our commitment not just to democratic forms but to democratic truths as well, and on the other by a strong appreciation that our interests and well being are best served by committing ourselves to a proper system of international law - even one that causes us to have to do some things now and again that we would prefer not to have to do.

Through this twin commitment to democracy and international law, we still have time to forge a world dedicated not just to freedom but to justice as well, a place in which each and every one of us flourishes as never before: a world, in other words, of democracy, the rule of law and respect for human rights.