

Graduation 2009

Acceptance Speech by Honorary Graduate Nuala Mole

Thank you Francoise, thank you Chancellor

May I first add my congratulations to all the graduates, but especially to two of the AIRE Centre's former interns, who have received their degrees this morning and to the families and friends who have supported them throughout their studies.

I am very very honoured to receive this degree.

I am also delighted and privileged to receive it because it is recognition of achievements in the field of human rights which are - in truth - not mine at all but of all the wonderful young men and women who have worked at the AIRE centre for the past 15 years.

It is their dedication and commitment to making sure that people all across Europe enjoy in practice the rights which are theirs in theory which is really what is being celebrated by this honour here to day and so I am very pleased that two outstanding current members of the AIRE Centre's team, Navi Ahluwalia and Adam Weiss are here with me.

It is particular honour to have been presented for this degree by Professor Francoise Hampson – her own contribution to the field of human rights has been so important both in her academic writing her public work and her litigation before the ECHR – especially in the Turkish cases where her forensic and scholarly skills were matched only by the unfailing humanity and sympathetic concern which she brought to her hapless clients.

The Human Rights Centre here boasts not just the UK's but some of the world's top authorities on all the issues on which the AIRE Centre also works – torture and in human and degrading treatment, prisoners rights, international humanitarian law, asylum, children and family rights, as well as the increasingly important interface between EU law and international human rights law and the niche speciality that is the interface between tort law and the protection of human rights

It provides an a quite unrivalled human rights education and we are proud that many of its students and graduates bring their first class skills and knowledge to assist the vulnerable and marginalised for whose benefit the AIRE Centre exists.

My next reason for being so appreciative of an *academic* honour is that - in our work at the AIRE Centre - we have always been particularly grateful for being able to draw on the expertise of the top academics in the field - including those from this university - to assist us in our work, and to lend gravitas to our arguments.

Most of our work is challenging the violations to which states subject their own citizens – or more frequently foreigners who find themselves on their territory

But we have argued strongly that a state's responsibility does not stop at its borders.

The argument – so attractive to the Governments of Europe - that states cannot be held accountable under the European Convention for acts and omissions perpetrated by their armed forces outside their own territory is simply inconsistent with the experiences of the drafters who saw in the 1930's and 1940's the events which led to the adoption of the ECHR. Auschwitz was

not in Germany. We have also been involved – either assisting the lawyers or as third party intervenors - in the cases which seek to hold the UK accountable for the human rights violations which have occurred in Iraq.

Like all litigators we have defeats as well as successes. The AIRE Centre was unable to persuade the European Court that it should hold France accountable for the mutilation and death of Kosovan children because they failed to alert anyone to the fact that the French KFOR troops had found unexploded cluster bombs in an area where they knew children went to play.

We have been part of the litigation team which has brought the case of the Chagos Islanders to the ECHR – the islanders were expelled from their homes in the Indian Ocean to facilitate the establishment of the US base on Diego Garcia. Their expulsion not only violated the prohibition on inhuman and degrading treatment but was recognised by the English courts to have been totally illegal. Despite this they are still being denied both compensation and the right to return even to the islands the USA are not occupying.

Now the Council of Europe has 47 Member States soon we are told to be 48. It is of course understandable that the new member states in transition from a system where political ideology trumped the rule of law should have had the teething troubles which they have had. The problems which they bring to the Strasbourg Court are more often related to the failure to have in place efficient systems for the administration of justice, including criminal justice, rather than to gross and systematic violations of human rights. Chechnya is of course the obvious exception to this generalised statement.

Despite this we have in place at EU level a system –which includes the European Arrest Warrant and soon the Framework Decision for the Mutual Recognition of Criminal Judgments - operating across the 27 Member States of the EU. This system bypasses all the normal procedural safeguards in extradition and is predicated on the assumption that there are common standards operating across Europe both with regard to fair trial and prison conditions. This system automatically returns people from other EU states to stand trial in countries which are regularly found by the European Court to violate the ECHR in their administration of criminal justice and whose prison conditions both in pre-trial detention and after conviction have been condemned by both the European Court and the European Committee for the Prevention of Torture.

The same ill-founded assumption – of common standards - operates equally illogically under the Dublin Regulation to enable asylum seekers to be returned to other states for their asylum claims to be processed. In many cases both the procedures for determining asylum claims and the reception and detention conditions are totally unacceptable and fail to comply with the other guarantees set out in EU and human rights law.

At the AIRE Centre we are working in both our cross border criminal justice project and our ongoing asylum litigation before the ECHR to ensure that the rights of individuals cannot be ignored in this way

At another point on the EU law spectrum are the rights which EEA nationals and their family members of whatever nationality have to move freely around Europe in These rights are attended by mandatory procedural safeguards. The UK flagrantly breaches those legal requirements by failing to process applications within the prescribed time limits. This renders the affected individuals (particularly the non EEA national family members) unable to produce any document showing that they have the right to reside or work or receive welfare benefits.

This rapid *tour d'horizon* has I hope given you a flavour of the work which the AIRE Centre does and which is being celebrated by the great honour which the University has given me today as the Centre's director

I would like to thank all the AIRE Centre's clients who have trusted us to try to resolve their misfortunes and solve their problems – the victims of trafficking and of domestic violence, of racism and of maladministration. They have given us the opportunity to make their European rights practical and effective not theoretical and illusory

Finally I would like to thank my family some of whom are here today. The unfailing support of my husband, my children –and my grandchildren - has been invaluable - computer trouble shooting, proof reading- and just listening to my endless boring talk about the AIRE Centre's work.

And lastly yet another thank you to the University for this much appreciated honour.