

## **Kernow: The Cornish Reality Rising**

By Philip Hosking

Nationality exists in the minds of people, its only conceivable habitat. Outside peoples minds there can be no nationality, because nationality is a way of looking at oneself not an entity *an sich*. Common sense is able to detect it, and the only human discipline that can describe and analyze it is psychology. This awareness, this sense of nationality, this national sentiment, is more than a characteristic of a nation. It is nationhood itself.

The creation of the European Union, along with other pan-European bodies such as the Council of Europe, has produced a need for greater regionalization, decentralization and subsidiarity in the organization of a European politic. In tandem with this new regionalism both the European Union and Council of Europe have developed human rights legislation specifically aimed at the protection of minority groups, their languages and their cultures. Taken together the above developments seem to promise a much brighter future for the national minorities and historic nations, which abound on the European continent. (For more on the national minorities of Europe please visit the website euro-minority: <http://www.eurominority.org/version/eng/>)

**It's not that Cornwall  
became part of England  
it's just that the English  
forgot Cornwall was not  
part of their country.**

The Cornish are an ethnic group and historic nation of the southwest of Great Britain. They have their own lesser-used Celtic language, related to Breton and Welsh, more distantly to Scottish, Manx and Irish Gaelic. Alongside the Cornish language can be found specific sports and sporting tradition; Cornish music, dance and cuisine and a distinct political culture. These phenomena are all bound up together with a popular self-perception as being other than English, as being Cornish Britons.

The ethnic data from the 2007 Cornish schools survey showed that 27% of children consider themselves to be Cornish rather than British or English. The results from the 2001 UK population census show over 37,000 people hold

a Cornish identity instead of English or British. <sup>1</sup> On this census, to claim to be Cornish, you had to deny being British, by crossing out the British option and then write 'Cornish' in the "other" box. This does not represent a mere clerical error or poorly thought through wording. This represents a denial of the right of the Cornish to describe themselves in terms of their identity. It might seem trite to complain about something that happened years ago, but the 2001 census will remain relevant until the next one (in 2011). How many more people would have described themselves as Cornish if they did not have to deny being British or if there had been a specific Cornish tick box? How many people knew that writing 'Cornish' in the "other" box was an option? This was extremely poorly publicized. How many ticked British but feel Cornish-British would have been closer to the truth.

**O**ver the last few years various Cornish groups and individuals have been campaigning for the Cornish to be recognized for protection under the Council of Europe's (CoE) Framework Convention for the Protection of National Minorities (FCNM). Such recognition would be a powerful tool to ensure correct treatment and protection of the Cornish national minority and its culture. The UK's Commission for Racial Equality (CRE) in its shadow report on the FCNM produced on the 30th of March 2007 <sup>2</sup> advised the government that the treaty could be extended to protect Cornish culture and also raised concerns about the lack of legal equality for minorities in the UK. Recently the Council of Europe has also suggested that the FCNM could be extended to include the Cornish <sup>3</sup>.

This officially sanctioned silence on the existence of a Cornish identity must stop. Why will the government not ask the Office of National Statistics to include a Cornish tick box on the 2011 census? The 'Life in the United Kingdom' handbook, required reading for all who wish to immigrate to the UK, quotes the census heavily when describing the regions and ethnic diversity of the UK. Why are the Cornish not mentioned once? Why has UK government so far blocked all attempts at ensuring the Cornish are recognized under the FCNM and ignored the advice of the CRE and CoE?

Some have decided that enough is enough and are now in the process of collecting funds for a court action to challenge the governments' decision to exclude the Cornish from the FCNM. The purpose of the fund is to pay much of the costs involved in pursuing a legal action against the UK Government. The action is necessary after government's constant, dogmatic, and wholly irrational, refusal to include the Cornish within an international treaty designed to, among other things, introduce educational pluralism in their traditional homeland and thus bring to an end the forced assimilation of the Cornish people. That treaty is the Council of Europe Framework Convention for the Protection of National Minorities. For the latest news on the Cornish Fighting Fund visit the website: <http://www.cornishfightingfund.org/index.php>

With the arrival of the New Labour government in the United Kingdom in the mid 90's a process was engaged that resulted in devolved governmental

bodies being given to Scotland, Wales and Northern Ireland. At this time the government also made the offer of devolution to any 'English region' that could prove an interest. Following a popular campaign for a Cornish assembly supported by a petition of 50,000 signatures the government reneged on its promise adding that only what it considered to be a "region" could be offered an assembly. For them Cornwall was but a subdivision of a larger and somewhat artificial Southwest region. For many Cornish residents however Cornwall is one of the six Celtic nations of the European Atlantic arc and a constitutional royal duchy.

Over the last three centuries Cornwall has gone from being on the leading edge of the industrial revolution to being one of the poorest regions of Europe. In recent history Kernow has qualified for Objective One Funding from the EU as have many regions of the former communist block. Kevin Cahill, an author and investigative journalist for the Sunday Times, wrote about the economy of Cornwall. In the Killing of Cornwall, <sup>4</sup> he notes that the London Treasury extracts £1.95 billion in taxes out of Cornwall's GDP of £3.6 billion. The Treasury returns less than £1.65 billion, so there is a net loss to Cornwall of 300 million pounds, where the total earnings figure is 24% below the national average.

**T**oday little has changed with Cornwall still qualifying for European funding. Low wages, unskilled 'Mc Jobs', poverty, social problems, drugs, and rocketing housing prices are the often hidden face of the optimistically named "English" Riviera. Coupled with this Cornwall have seen the 'centralization' of services, institutions and government bodies, followed by the skilled jobs they entail, out of the Duchy. This process has been much to the benefit of various undemocratic and faceless 'South West of England' unelected governmental bodies and *quangos*.

To begin to address the above problems many in Cornwall, including Cornish nationalists Mebyon Kernow, have called for decision-making powers to be devolved to a Cornish body of governance. Cornwall Council's Feb 2003 MORI Poll showed 55% in favor of a democratically elected, fully devolved regional assembly for Cornwall, (this was an increase from 46% in favor in a 2002 poll). In 2000 The Cornish Constitutional Convention launched a campaign that resulted in a petition signed by 50,000 people calling for a fully devolved Cornish assembly. The campaign generated support from across the political spectrum in Cornwall. To date it has been the largest expression of popular support for devolution in the whole of the United Kingdom. The UK government has ignored all requests for greater Cornish home rule. For information and updates on the campaign for a Cornish assembly you can visit their website at: <http://www.cornishassembly.org/>

So it must be asked why the government is being so stubborn when it comes to giving the Cornish any form of devolution or recognition? Perhaps the answer rests in our constitutional subsoil.

Even if the UK government, Duchy authority, or history curriculum are loathed to touch the subject, Cornwall does in fact have a distinct constitutional history as a Duchy with an autonomous parliamentary legal system called the Stannaries. If you ask about the constitutional nature of the Duchy, if you are not ignored, then you will be told that the Duchy is a “*well-managed private estate which funds the public, charitable and private activities of The Prince of Wales and his family. The Duchy consists of around 54,648 hectares of land in 23 counties, mostly in the South West of England.*”<sup>5</sup> However this seems to fly in the face of the 19th century the legal arguments of Duchy officials, which defeated the UK Crown's aspirations of sovereignty over the Cornish foreshore. The Duchy of Cornwall at that time argued that the Duke had sovereignty of Cornwall and not the Crown. On behalf of the Duchy in its successful action against the Crown, which resulted in the Cornwall Submarine Mines Act of 1858,<sup>6</sup> Sir George Harrison (Attorney General for Cornwall) made this submission:

*That Cornwall, like Wales, was at the time of the Conquest, and was subsequently treated in many respects as distinct from England.*

*That it was held by the Earls of Cornwall with the rights and prerogative of a County Palatine, as far as regarded the Seignory or territorial dominion.*

*That the Dukes of Cornwall have from the creation of the Duchy enjoyed the rights and prerogatives of a County Palatine, as far as regarded seignory or territorial dominion, and that to a great extent by Earls.*

*That when the Earldom was augmented into a Duchy, the circumstances attending to it's creation, as well as the language of the Duchy Charter, not only support and confirm natural presumption, that the new and higher title was to be accompanied with at least as great dignity, power, and prerogative as the Earls enjoyed, but also afforded evidence that the Duchy was to be invested with still more extensive rights and privileges.*

*The Duchy Charters have always been construed and treated, not merely by the Courts of Judicature, but also by the Legislature of the Country, as having vested in the Dukes of Cornwall the whole territorial interest and dominion of the Crown in and over the entire County of Cornwall.*

In the book "The Cornish Question"<sup>7</sup> by Mark Sandford that was published by the Constitutional Unit, School of Public Policy, University College London in 2002 it states that - "*The existence of the Duchy of Cornwall was once of constitutional significance, but is now essentially a commercial*

*organization*". Considering that this commercial organization is the largest landowner in Cornwall and claims to be nothing but a private estate and company, you would think it reasonable to expect there to be an official date of change-over from an official body of constitutional significance into a purely private commercial organization.

The charters that created the Duchy, the first of 1337<sup>8</sup> being published in 1978 as Statutes in Force Constitutional law, give the Duke the powers of: "The King's Writ and Summons of Exchequer" throughout Cornwall. These powers of the Duke of Cornwall represent the powers of government and they are certainly not what you would expect from a simple private landed estate something. Research reveals that the public-spirited Crown Estate provides cultural support and housing for the public everywhere in the UK except Cornwall. It is also subject to the Freedom of Information Act. The Duchy of Cornwall is the analogous body in Cornwall but, in a departure from its historical role, it now claims to be a private estate with exemption from the Freedom of Information Act 2000. A stratagem designed to deter investigation into Duchy constitution and Cornish history perhaps?

In the Cornwall Submarine Mines Act 1858 it states that the Duchy of Cornwall is a '*territorial possession*' of Britain. So, sometime between 1858 and the present day, a territory of Britain transformed into a private commercial organization, when, if at all, did this happen? When Cornish MP Andrew George raised questions on the 16th June 1997 about the affairs of the Duchy he was told that there is an injunction in the House of Commons that prevents such questions being raised.

In my opinion these are questions that should be deemed important enough to be answered by someone in authority, whether that authority is a Government office or the Duchy of Cornwall. Claiming a national territory and making it your own private business whilst denying the indigenous population its history and identity is no small affair. An attempt has been made to separate the Duchy of Cornwall, which is not subject to English tax legislation, from the territory of Cornwall, the argument being that the Duchy has a separate existence to the geographical area of Cornwall and holds property outside the area. The argument is spurious and flies in the face of the Duchy case of 1856. It seems no coherent description of the Duchy is available and all attempts to obtain a clear picture of this strange Janus faced body have been ignored. The Duchy of Cornwall Human Rights Association website explores these Cornish constitutional issues in much greater detail: <http://duchyofcornwall.eu/>

In present day Cornwall the playing field is tilted against the indigenous Cornish identity. The impression promoted is that the Cornish nation has only ever been an insignificant sub-division of some awe-inspiring, all-powerful, fully homogenous, fixed, and eternal England. With the English education system encouraging English nationalism in Cornwall at the expense of the indigenous Cornish identity, the exploitation of Cornwall has been acceptable to the state while the absence from English law of the international right to an

enforceable equality before the law has protected the Duchy authority from an effective legal challenge. The result is that the Duke of Cornwall's fortune from Cornish assets continues to relieve England from paying tax to support the heir to the throne whilst all moves that would empower the Cornish, hence threatening the Duchy, have been stifled.

When the UK government and Duchy authority finally decide to be honest about the autonomous position of the Duchy of Cornwall within the UK perhaps then an open debate about Cornish devolution and our future governance can begin.

## Endnotes:

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<sup>1</sup> Cornish Ethnicity from the 2001 UK census, London School of Economics:

[http://www.lse.ac.uk/collections/BSPS/annualConference/2006\\_localgov.htm#generated-subheading3](http://www.lse.ac.uk/collections/BSPS/annualConference/2006_localgov.htm#generated-subheading3)

<sup>2</sup> The Commission for Racial Equality's shadow report on the FCNM (30th March 2007): <http://www.kernowtgg.co.uk/shadowreport.pdf>

<sup>3</sup> The Council of Europe FCNM Advisory Committee Opinion adopted on 6 June 2007 was published on 26 October 2007:

[http://www.coe.int/t/e/human\\_rights/minorities/2\\_FRAMEWORK\\_CONVENTION\\_\(MONITORING\)/2\\_Monitoring\\_mechanism/4\\_Opinions\\_of\\_the\\_Advisory\\_Committee/1\\_Country\\_specific\\_opinions/2\\_Second\\_cycle/PDF\\_2nd\\_OP\\_UK\\_eng.pdf](http://www.coe.int/t/e/human_rights/minorities/2_FRAMEWORK_CONVENTION_(MONITORING)/2_Monitoring_mechanism/4_Opinions_of_the_Advisory_Committee/1_Country_specific_opinions/2_Second_cycle/PDF_2nd_OP_UK_eng.pdf)

<sup>4</sup> The Killing of Cornwall, October 2001 Business Age Magazine: Kevin Cahill.

<sup>5</sup> The Duchy of Cornwall website: <http://www.duchyofcornwall.org/index.htm>

<sup>6</sup> The Duchy of Cornwall website: <http://www.duchyofcornwall.org/index.htm>

<sup>7</sup> The Cornish Question, Devolution to the South-West by Mark Sandford. September 2002, ISBN 1 903903 14 9:

<http://www.ucl.ac.uk/constitution-unit/unit-publications/94.html>

<sup>8</sup> The Charter of 1337, Ministry of Justice UK Statute Law Database

<http://www.statutelaw.gov.uk/content.aspx?LegType=All+Primary&PageNumber=1&BrowseLetter=A&NavFrom=1&parentActiveTextDocId=1517658&ActiveTextDocId=1517658&filesize=23737>

## About the Author:

Philip Hosking is a Cornish-Briton long-time activist living in Kernow promoting constructive recognition of the Kernow as a distinct political and cultural community. His writings and public pronouncements appear in numerous publications in Europe.