



Sinn Féin submission to multi-party talks

For a Future as Equals - Justice Issues, Rights and Safeguards

A Sinn Féin Submission to Strands One and Two of the peace talks

10 November 1997

Preamble

Nationalists in the North of Ireland have suffered a compound set of denials of rights. Cultural rights have been systematically trampled upon, national and economic rights have been denied, rights of democratic participation have been withheld, individual rights have not only been curtailed, but curtailed in a discriminatory and frequently brutal fashion. The root cause of these violations has been partition, resting as it does on the denial of the right of the people of Ireland as a whole to national self-determination. The communal experience has been, in the words of the late Paddy McGrory that of 'living in an alien and hostile environment... strangers in their own land'.

The six county state has never been able to afford its citizens the justice and equality fundamental to a peaceful and democratic society. The consequence has been a cycle of repression, conflict and resistance.

Unionists cannot be solely held responsible for this. Britain's policy created a sectarian state. Since the collapse of Stormont the British government has failed to effectively tackle economic and structural political discrimination against Catholics and the continuing cultural discrimination which denies Irish children their right to be taught through the medium of Irish. It is British policy which today labels nationalists as inferior and second class.

The excesses of the British state in defence of the northern statelet have been well documented.

Every major human rights agency in the world, from Amnesty International to Helsinki Watch, have accused Britain of torture, summary execution and extensive violations of human rights. London holds the distinction of having been found guilty before the European Court of Human Rights more often than any other signatory since 1950. The British governments role in the north has perhaps best been summed up by human rights lawyer and anti-apartheid campaigner (now a Minister in the South African government) Kadar Asmal who remarked: "The British government has shown scant regard for international opinion and international and domestic legal standards.....My contention is that the United Kingdom is behaving and has behaved in the north in the same way that colonial powers exerted their sovereignty in the old fashioned empires".

This then is the reality of the northern statelet. Over 75 years on a life support of oppression, injustice and inequality, it is a history of failure. It was a unionist one-party state which rejected basic principles of democracy, justice and equality.

Equality should now be at the heart of the British government's decision making and it must underpin our deliberations. It cannot be simply an illusion. It must be a fact. We need a wholehearted commitment to ensuring political, social and cultural rights to freedom from discrimination for all citizens, on parity of esteem and on just and equal treatment for the identity, ethos and aspirations for all our people.

The responsibility for this rests primarily with the British government - a government which has placed human rights in other countries at the top of its international agenda.

As we seek to restructure relationships this equality ethos needs to map out how we can ensure equality in employment, in economic investment, for the Irish language and culture, in education and for political representatives. It must tackle the difficult issue of cultural symbols, of flags and emblems and of policing.

Equality is not a threat to unionists. It means civil and political rights for unionists as well as nationalists and republicans. Whether it is the right to march, or the right to worship or the right to vote - these are civil, religious and political rights which must be guaranteed and protected.

Inequality and social exclusion are the enemies of peace. We need a partnership, based on equality, which will empower and improve the quality of life of citizens by being open, inclusive and democratic.

In the search for a just settlement, parity of esteem, equality of treatment, and full human rights protection must be guaranteed. These are rights, not privileges. Here Sinn Féin sets out what parity of esteem, equality of treatment, and meaningful protection of rights entail.

1. Group rights

2. Individual rights

3. Mechanisms for the protection of rights.

Sinn Féin tables these proposals without prejudice to the outcome of the negotiations on the constitutional issues in the process.

Sinn Féin's views on constitutional issues are contained in the paper submitted on 17/10/97.

I. Group Rights

1.1 Right to democratic participation

- Oaths or declarations of allegiance for holders of office in the legal profession, policing service, civil service, for jury service or for service as a public representative should be replaced by neutral

formulations.

- Legislation should be enacted to ensure that all local elected representatives hold Council mayoralties, committee chairpersonships and appointments to outside bodies on a proportionate basis.

- Legislation which interferes with the democratic process, including measures placing restrictions on the candidature of prisoners or ex-prisoners should be repealed.

- All citizens of Ireland living on the island of Ireland should be entitled to the same voting rights including a right to elect representatives to the D-il.

- A thorough review of the operation and powers of QUANGOS should be carried out in the context of the development of new democratic structures.

- Pending such a review, the Irish Government should be given the power, as of right, to appoint an appropriate number of representatives to the entire range of QUANGOS in a transparent and gender-balanced manner.

- Proportional representation should be introduced for all elections to public office.

1.2 Economic rights

1.2.1 Freedom from Discrimination

- Public bodies, including the Civil Service, which do not have balanced profiles should be subject to legislative programmes which include the use of quotas to correct the imbalance.

- Policy Appraisal and Fair Treatment guide-lines should be put on a statutory basis with meaningful goals and timetables.

- Pending the establishment of properly democratic structures, the Irish Government should have the power, as of right, to appoint an appropriate number of people in a balanced and transparent manner to QUANGOS.

- In working environments associated with the exercise of public authority (including Local Council offices, courts, police service sites and civil service offices, and QUANGOS), where British cultural symbols are displayed, equal prominence should

be given to nationalist symbols.

- In all other worksites, neutral working environments should be rigorously created or maintained.
- In fair employment monitoring, specific initiatives should be put in place to tackle the problem of "glass ceilings" blocking nationalist career advancement.

1.2.2 Economic Development

- Parity of esteem should be applied in rectifying all areas of economic deprivation.
- The right to development of disadvantaged areas (which are predominantly nationalist) must be upheld.
- Targeting Social Need initiatives should be stringently implemented with clear targets and timetables.
- Western counties of the North, West Belfast and the border areas need rapid development, according to planned timescales, with local investment authorities established on an all-Ireland basis where appropriate - with proportionate nationalist representation.
- It is essential that an all-Ireland Economic Authority be established to plan economic development on a rational basis.
- There must be an equal distribution of domestic and international development funding to ensure that the funds are not squandered in areas where there is no need.

1.3 Cultural rights

1.3.1 Irish language

- The Irish language community must enjoy parity of esteem with English speakers.
- An ombudsman should be set up with power to accept and prosecute complaints from members of the Irish speaking community.
- The Irish language should be given official status and this status should be reflected in appropriate legislation.

- The Irish-speaking community should be able to deal with all levels of government and local government administration in their own language.

- The British government should promptly introduce all necessary legislation to afford the Irish language equal status before the courts with the English language.

- The British government should ratify the European Charter for Regional or Minority Languages and move to bring about a position of equality for Irish and English speakers within the Six Counties.

- The Department of Economic Development (DED) should establish an investment fund for Irish language enterprises.

- The British government should provide immediate funding for the production of Irish language programmes for TeilifÁS na Gaeilge.

1.3.2 Education and Irish culture

- Irish medium education should be available as of right at all levels for those who wish to avail of it.

- An all-Ireland Education Board should be established on a statutory basis and with adequate powers and funding to co-ordinate the promotion and provision of Irish-medium education throughout the island.

- Not only should students be free to choose Irish to fulfil the modern language requirement in the curriculum in English medium schools, but each school should be free to make the same choice.

1.3.3 Funding for Irish cultural organisations

- Funding for Irish cultural and sporting organisations from public bodies should be made available according to appropriate agreed criteria. These would be established following a review of existing arrangements that will involve full nationalist participation.

- This would necessarily involve an examination of the ethos of existing funding bodies.

- Funding should be directed in particular to projects which promote Irish as a living language rather than one with a certain historical interest.

1.3.4 Irish culture in public life

- Parity of esteem requires that where British cultural symbols are invoked in public life (such as flags, images of the Queen etc.), equivalent Irish cultural and political symbols should be given equal prominence.
- An Irish-language version of all forms in regular use by the public should be provided if the forms are not already bilingual. Official documentation in widespread use should be produced bilingually as is presently the case in Wales
- Public authorities should be required to adopt a bilingual approach to public signs as happens in the Twenty-six Counties, in Wales and in parts of Scotland.
- An independent commission with appropriate nationalist representation should be established in order to examine the ethos of BBC(NI) and UTV and to ensure an adequate balance between a nationalist and unionist ethos.
- The Department of the Environment (DoE) has already recognised the value of existing communities as being central to planning decisions. In preparing structure and local plans the needs of the Irish language community should be taken into account.

1.4 The Right to Security

Nationalists and all other citizens have a right to live in peace and security, free from fear and intimidation. In addition to initiatives set out elsewhere in this document, this requires that the following steps be taken:

- A review should be established with appropriate nationalist representation to examine and make proposals to end patterns of private firearm ownership which favour one community.
- Public monitoring initiatives should be established to measure the incidence of sectarian attacks and harassment, and to devise programmes to eliminate such intimidation.
- Pro-active measures designed to uphold the right to worship free from intimidation and fear should be initiated.

- Loyalist parades intending to pass through nationalist areas, should be permitted to do so only when they have engaged in negotiations with and obtained the consent of the local community. Such consent should not be withheld unreasonably.
- In the absence of local negotiation, such parades should be re-routed.
- A new police service which is representative of the society it serves should be created (see section on 'Policing')

2. Individual Rights

2.1 Right to life

2.1.1 Plastic bullets

- Plastic bullets should be withdrawn permanently from use.
- A public inquiry should be established into killings caused by plastic and rubber bullets.
- Those responsible for the unlawful use of plastic and rubber bullets should be held accountable.
- Senior officers responsible for facilitating the discriminatory use of plastic bullets against nationalists should be refused entry to a future policing service.

2.1.2 The law governing the use of force

- The law on use of reasonable force should be changed by replacing the present criterion of 'reasonable force' with that of 'minimum force which is no more than is absolutely necessary'.

2.1.3 Killings by Agencies of the State

- Investigations into disputed killings by agencies of the state should be carried out in accordance with international standards.
- Those involved in such killings should be subject to the application of the law in accordance with international standards.

2.1.4 Inquests

Legislation governing inquests should be amended to provide for the following:

- Inquests should be opened promptly.
- They should have the power to bring in verdicts and to make recommendations.
- Family representatives should have full access to officially obtained evidence in order to prepare for the hearing.
- Legal aid should be available for legal representation by the families of the deceased at the hearing.
- Soldiers or others suspected of causing the death in question should be compellable witnesses.

2.1.5 The right to truth

- A public inquiry should be established to examine all unresolved deaths caused by members of the British Army and the RUC and, in that context, to examine the legal standards, both statutory and judicial which were employed.
- The inquiry's terms of reference should include an examination of command structures involved in decisions to carry out ambushes and the use of cover-ups in the aftermath of disputed killings.
- In view of the discredited nature of the Widgery Tribunal an independent international inquiry into the Bloody Sunday killings must take place forthwith.
- A full independent inquiry into collusion between security forces and loyalists should take place. This inquiry should have the power to compel the attendance of RUC and British Army witnesses and examine all relevant documentation.
- RUC officers found to have been involved in collusion should be dismissed from involvement in future policing.
- There should be an independent official inquiry, with full powers to summon witnesses and to examine relevant documentation, into the murder of defence solicitor Pat Finucane. Amongst other matters, this will involve an examination of the

degree of collusion between British intelligence agencies and loyalist paramilitaries.

2.1.6 Specialist units

- Specialist counter-insurgency RUC and British Army units should be withdrawn from use.
- Specialist British Army units should be withdrawn from Ireland immediately.
- Specialist RUC units should be disbanded pending the creation of a new police service within which any specialist units are properly monitored, managed and trained in human rights.

2.2 Freedom From Torture, Inhuman Or Degrading Treatment

- RUC interrogation centres should be closed immediately.
- Following a thoroughgoing inquiry into RUC CID and Special Branch procedures, those officers at all levels who have been involved in the development and implementation of regimes of physical and psychological ill-treatment should be made accountable.
- The Emergency Provisions Act and the Prevention of Terrorism Act should be repealed.
- An independent review of the record of prison officers should be carried out with all those found to have been involved in ill-treatment disciplined and denied access to employment in the prison service.
- Special Secure Units should be closed down permanently and all Irish political prisoners transferred back to Ireland pending release.

2.3 Right to liberty

- The practice of imposing de facto curfews during Orange marches must end.
- Those provisions of emergency law which allow for house arrest and detention on the street during stop, search and question should be repealed along with the rest of the legislation.
- Measures should be put in place to end security force harassment, particularly in rural areas. This will require the creation of appropriate complaints

and investigative mechanisms (see section on 'Policing').

- Early release mechanisms for those imprisoned as a result of the conflict - and particularly those 6 prisoners in England who have served over 20 years - should be established as soon as possible.

- The derogations from the European Convention on Human Rights and the International Covenant on Civil and Political Rights permitting 7 day detention under the Prevention of Terrorism Act should be withdrawn.

2.4 Freedom of Expression

- Entrenched safeguards against the imposition of political censorship of the electronic and print media should be put in place.

- Public signs should be in both the Irish and English languages.

- Official recognition should be given to the specific use of the Irish language in street names.

2.5 Right to a Fair Trial

- The Diplock 'courts' should be abolished and their statutory basis, the Emergency Provision Act, repealed.

- The privilege against self-incrimination should be restored in full, thus requiring the repeal of legislation abolishing the right to silence.

- There should be an amnesty for all those 'convicted' or facing 'trial' under the Diplock system (see section on prisoners).

- The use of Public Interest Immunity Certificates to cover up official wrong-doing should be outlawed.

- RUC intimidation of defence solicitors and of solicitors upholding the rights of nationalists must end, and appropriate complaints and investigative mechanisms created (see section on 'Policing').

- There should be a root and branch reconstitution of the legal systems (see section on 'Judiciary').

2.6 Freedom of Movement & Assembly

- The imposition of de facto curfews to force loyalist

parades through nationalist areas must cease, and the law amended to prevent such practices in the future.

- The power to impose exclusion orders should be rescinded, all such orders revoked and the Prevention of Terrorism Act repealed. This will also entail the removal of port monitoring powers.

- The de facto internal exile of nationalists who, because of harassment by the RUC and the British Army cannot enter the North, should end. This will require the creation of appropriate complaints and investigative mechanisms(see section on 'Policing').

- Those nationalists who cannot enter the North for fear of arrest and/or prosecution for 'offences' relating to the conflict should be granted an amnesty.

- Covert and overt surveillance by intelligence personnel should cease as part of the process of demilitarisation.

- Intelligence surveillance of nationalist parades and protests should cease immediately.

- The Emergency Provisions Act should be repealed including those sections permitting the sealing of border roads.

2.7 Freedom of Information

- As a contribution to the creation of new democratic structures, a review should be established to recommend mechanisms to develop transparency and accountability in public and security decision-making.

- The right to truth requires that relatives of those killed by the RUC or the British Army, or by loyalist paramilitaries suspected of acting in collusion with these or other intelligence bodies, have full access to official documentation in relation to the deaths.

2.8 Right to Privacy and Family Life

- Intelligence surveillance, which by its nature is intrusive of personal or family life should end.

- Interference with nationalist funerals, whether by surveillance or by visible RUC presence, should end.

- There should be no imposition of mandatory identity cards, whether under guise of an electoral requirement or otherwise.

2.8.1 Family Life and Prisoners

The following measures should be introduced pending early release and amnesty:

- A review of prison visits should be instituted to allow greater contact between prisoners and their families.
- Those prisoners with children should be permitted the opportunity to develop family relationships through the arrangement of child-only visits in suitable surroundings.
- Facilities for the enjoyment of conjugal relationships should be provided.
- Non-ambulant parole for 24 hours should be obtainable as a matter of course where there is clear evidence that the prisoner's relative is unable to visit the prisoner in jail.
- Political prisoners in England should be moved immediately to Ireland, to the jail closest to their families.
- Those political prisoners currently the subject of temporary arrangements should have their transfers made permanent.

2.9 Prisons issues

Negotiations concerning the modalities of release and amnesty for all political prisoners (whether 'convicted' or on remand) should begin immediately. Pending such release the following measures should be put in place:

- The Geneva Conventions (Amendment) Act should be brought into force and the relevant release provisions of the 1977 Protocols to the Geneva Conventions implemented.
- There should be an end to Working Out procedures for life sentence political prisoners.
- Arrangements should be put in place for political prisoners to access education and training facilities - on the prisoners' own terms - pending release.

- Special Secure Units in the English prison system should be closed permanently.

- A public information campaign should be funded to educate the business community about the importance of providing employment to political ex-prisoners.

- The family rights of prisoners should be upheld (see section on 'Right to Privacy and Family Life').

2.9.1 Provisions following release

- Adequate resources from public funds should be made available for programmes and services for ex-prisoners. The nature of these services and programmes should be decided upon and provided by political prisoners' own organisations. This should include adequate provision for employment and accommodation on release.
- Arrangements arising out of negotiations on political prisoner releases should include provisions which ensure that long periods spent in prison arising from the conflict do not adversely affect public pension rights for ex-prisoners, and which address imperatives flowing from the recent expansion of the private pensions system.
- 'Criminal' records arising from the conflict should be deleted as must the equivalent records of ex-internees.

3. Mechanisms for the Protection of Rights

3.1 Entrenchment of Rights

- A common raft of civil, political, social, economic, cultural, environmental, developmental and group rights (including those set out in this document) should be formulated on an all-Ireland basis and entrenched in a manner which is legally and constitutionally appropriate.
- The International Covenant on Civil and Political Rights and the European Convention on Human Rights should be incorporated into domestic law.
- The UK should ratify the Optional Protocol to the International Covenant on Civil and Political Rights.

3.2 Human Rights Commission

- The Standing Advisory Commission on Human Rights should be replaced by an effective and truly independent all-Ireland Human Rights Commission, the membership of which is representative of the society which it serves.

- The new Commission should have investigative and monitoring powers, and the power of intervention before local and international judicial bodies.

3.3 Judiciary

Immediate action is necessary to address the non-representation of nationalists (as opposed to Catholics) and women in the judiciary, and to counteract the unionist bias of Northern judges. Amongst the steps to be taken in this regard are the following:

- A Judicial Services Commission should be established to undertake a root and branch review of the judicial system and prosecutorial services.

- Rather than being solely concerned with equality of opportunity in respect of new appointments the Commission will devise a strategy to ensure on a continuing basis, that the judiciary as a whole is representative of all sections of society.

- The right of appeal to the House of Lords should be abolished.

- All judges should be required to undertake an agreed programme of human rights training calculated to sensitize them to individual and group rights.

- New declarations involving neutral formulations should replace current oaths and declarations used in court proceedings and legal advancement.

- Where British cultural symbols are displayed in courts, equal prominence should be given to nationalist symbols.

- The courts should be referred to collectively as the 'Courts of Justice' in substitution for the title 'Royal Courts of Justice'.

- The term Queen's Counsel should be replaced with that of Senior Counsel or an equivalent neutral

formulation.

- Transparency and accountability should be introduced into the operation of the office of the Director of Public Prosecutions.

3.4. Demilitarisation

- There should be a total demilitarisation of society.

- All British military operations, including those of the British Army, RUC and RIR, should cease.

- All British military building programmes should stop pending the dismantling of all British military installations.

- Surveillance equipment emitting radiation should be decommissioned.

- Noise pollution from helicopter hovering, low flights, and landings close to residential areas should cease.

- The Royal Irish Regiment should be removed permanently from contact with the civilian population pending the disbandment of its locally-deployed units.

3.5 Policing

A new police service which is representative of the society it serves should be created. The precise shape of new policing will be decided in the course of negotiations but the acceptability of any policing service(s) will be conditional on meeting the criteria identified below. In the interim, a Police Commission should be established to oversee the disbandment of the RUC and the creation of new policing service(s) and the following measures should be implemented immediately:

3.5.1 Immediate steps

- Fully independent investigative and complaints mechanisms with an appropriate statutory standard of proof should be immediately created.

- British political and cultural symbols should be removed from RUC barracks.

- The paramilitary trappings of the RUC evident in barracks and equipment should be removed.

- The Emergency Provisions Act and the Prevention of Terrorism Act should be repealed.
- A screening process should be initiated immediately to remove officers with a record of human rights abuse.
- RUC interrogation centres at Castlereagh, Gough Barracks and Strand Road, Derry should be closed.
- A bar should be placed on the creation of any such officially-sponsored unionist militias in the future.

3.5.2 Criteria for new policing service(s)

- Any new policing service(s) should be representative - at all ranks - of the community it/they serve/s. Employment in the new policing service(s) should be open to those with a variety of different political allegiances.
- New policing service(s) should reflect a civilian ethos.
- This ethos should inform staffing levels, uniform and equipment use.
- In police service sites, where British cultural symbols are displayed, equal prominence should be given to nationalist symbols.
- Every employee of the new policing service(s) should receive on-going human rights training.
- The new policing service should operate under real democratic accountability but without partisan political control.
- Appropriate mechanisms should be created to ensure meaningful consultation with local communities regarding the priorities of local policing.
- Participation in the former armed conflict should not debar applicants from recruitment to a new policing service.
- The newly created independent investigative and complaints mechanisms (see above) should apply to the new service(s).
- Staffing levels of a new police service(s) should

be such that the proportion of serving officers to the general population is equivalent to that obtaining in the twenty-six counties and Scotland.

3.6 Civil Service

- Oaths or declarations of allegiance required of civil service employees should be replaced by neutral formulations.
- Specific legislative programmes should be put in place to ensure that within a defined timescale, the composition of the civil service at all grades mirrors the general population.
- A review should be established to devise a structure for combating the unionist ethos of the civil service, and for creating a balanced political environment.