



An Chartlann Náisiúnta National Archives

Reference Code: 2021/106/36

Creator(s): Department of Justice

Accession Conditions: Open

Copyright: National Archives, Ireland. May only be reproduced with the written permission of the Director of the National Archives.

COPY TO:

"Paths to a Political Settlement: Realities, Principles and Requirements"
Final Paper of the Drafting Committee of the Forum for Peace and Reconciliation
Statement by Forum Chairperson, Judge Catherine McGuinness

MR. O'DONNELL

MR. HICKEY

MR. BROSNAN

MR. FAY

MR. BAILEY

The Forum is today releasing a Paper entitled "Paths to a Political Settlement: Realities, Principles and Requirements".

The Paper is the culmination of an intensive series of debates and exchanges inside the Forum. The Terms of Reference of the Forum, a consultative body comprising 12 party groups drawn from North and South, indicated that its purpose was to "assist in identifying and clarifying issues which could most contribute to creating a new era of trust and co-operation on the island". Accordingly, one of the first issues it looked at following its inception in October 1994 was the concept of a common understanding of the problems we face, and of the principles which might underlie their resolution, as intermediary steps along the path to an overall settlement. Each Forum party presented policy statements on the idea - subsequently published under the title "Paths to a Political Settlement in Ireland" - and debated and examined them in detail in the Forum. To explore the extent to which, arising from these statements and debates, common ground existed between the various party positions, a Drafting Committee of the Forum, comprising two senior representatives from each of the 12 Forum delegations, and chaired by myself, was established. The Committee began its work last May and the result of that work is the Paper being released by the Forum today. The Paper sets out a list of (a) key Realities which require to be addressed if a lasting political settlement is to be achieved in Ireland and (b) the Principles and Requirements which should characterise such a settlement.

A word firstly about the status of the Paper. As I indicated, the Forum is a consultative body and therefore the mission being undertaken by the Drafting Committee had to be within that context. While parties were committed to securing, ideally, a document agreed in every detail, the primary objective was the exploring of positions and options and the gaining of a deeper understanding by the parties of each other's approaches on the central realities and principles. I recognised fully that when it came to core issues there was every likelihood that, within the context of the Forum's consultative remit, establishing a single, common position would be problematic and that every

party had the right ultimately to insist that these were more properly matters for decision in formal all-party talks. In the event, this eventuality came to pass. While overall there was full agreement in the Committee on the text as it stands in respect of all the Realities and most of the Principles and Requirements, two parties, and for quite different reasons, were of the view that in respect of one issue - how agreement and consent to the outcome of all-party talks are to be measured - final decisions on its resolution were more properly a matter for formal talks and that they were unable to accept the text as it stands on that issue. I stress that in respect of all other issues agreement was reached on a common approach.

I believe that the work of the Drafting Committee has been a very valuable out-working of the Forum's mandate to clarify and explore issues at the heart of the problem. Much common ground was established between the parties on crucial issues and a deeper understanding was achieved of the issues in respect of which differences remain. I want to pay warm tribute to the members of the Drafting Committee. The issues we were dealing with were of fundamental importance and each delegation approached the task on hand in a totally constructive and positive spirit and with absolute commitment to establishing the maximum possible level of agreement. From the outset, there was a full sense that what was being sought was a collective analysis of 12 parties rather than the imposition on the others of the viewpoint of any one and there was a refreshing absence of partisan point-scoring. It has been a deeply instructive, educational exercise whose legacy will certainly endure. For me personally, it brought home again the absolute value of a sustained, systematic process of dialogue.

It is intended to hold a public Plenary session of the Forum in two weeks time at which each party will make statements on the Paper. More generally, the Forum parties look forward to debating the Paper and its approaches with others not involved in the Forum on as wide and comprehensive a basis as possible.

2 February 1996

Paths to a Political Settlement in Ireland: Realities, Principles and Requirements

Final Paper of the Drafting Committee of the Forum for Peace and Reconciliation

Preamble

The peace process has provided an historic opportunity for a new start for the people in Northern Ireland, on the island as a whole and in relations between the peoples of Ireland and Britain. It has already transformed the daily lives of people in Northern Ireland. It has opened up the possibility of negotiating a lasting political settlement that would be based on parity of esteem and inclusiveness. And it promises the hope that conflict and a security-dominated way of life can be replaced with co-operative structures and new relationships, on a basis of trust. But the beginning of peace has also brought anxiety and uncertainty - both about its permanence and about the risks and requirements of compromise. Healing the pain and grief of those who have suffered, overcoming the legacies of the past, building trust and reconciliation, and establishing a lasting political settlement and a fair and inclusive society represent formidable challenges that must urgently be addressed.

The Forum for Peace and Reconciliation was established as part of this process. One of the initial issues which it looked at was the concept of a common understanding of the problems we face, and of the principles which might underlie their resolution, as intermediary steps along the path to an overall settlement. Accordingly, each Forum party presented policy statements on the idea - subsequently published under the title "Paths to a Political Settlement in Ireland" - debated and examined them in detail in the Forum and explored whether, arising from these statements and debates, an agreed position between the parties was possible. The result of that process is this document, setting out (a) the key present realities which require to be addressed and (b) the principles and requirements which should characterise an acceptable political accommodation.

In framing its approach to the twin objectives of the document, the Forum was guided by the reality that there is no commonly accepted analysis, historical or otherwise, of the roots of

division and mistrust. Each tradition has its own perspective on history, in common with its own aspirations for the future. The minimal treatment in the document of the historical origins and causes of the conflict reflects the extreme sensitivity of this issue. Notwithstanding the differing historical perspectives, however, it is the Forum's view that progress is possible towards a lasting accommodation.

The document was prepared without the direct input of the main unionist parties, who, so far, have felt unable to take up the invitation to membership of the Forum. However, the Forum, through its process of inclusive dialogue, has had the benefit of the views of many significant groups and organisations whose membership is drawn primarily from the unionist and loyalist traditions. The Forum parties have sought to reflect and take full account of these perspectives in drafting this document. They look forward to a constructive dialogue, embracing as wide and comprehensive a cross-section as possible of the communities North and South, on the approaches proposed in the document.

Present Realities

Arising from its discussions on the nature of the problem, the Forum has identified the following key realities as, in its view, requiring to be addressed:

- (a) The most urgent and important challenge facing the people of Ireland, North and South, and the British and Irish Governments together, is to remove the causes of conflict, to overcome the legacy of history and to heal the divisions which have resulted.
- (b) The peace process provides an unprecedentedly favourable climate in which to face this challenge. The opportunity now available needs to be grasped to the full.
- (c) Most of the divisions within Northern Ireland and within the island, which are a persisting source of pain and distrust, are part of the enduring historic legacy of wider British-Irish relations. The origins and context of those divisions, therefore, transcend Northern Ireland itself and encompass the totality of relationships involved - ie. those

within Northern Ireland, within the island of Ireland as a whole and between the peoples of these islands.

- (d) In terms of the way ahead, a central role rests with the Irish and British Governments. Building on the evolution of agreed arrangements and positions - starting with the Sunningdale communiqué, followed by the 1980 Summits, which placed the relationship on a formal footing, and leading over time to the deepened level of co-operation represented by the Anglo-Irish Agreement, the Joint Declaration, the Joint Framework Document and the Twin-track Approach - the two Governments have accepted that they have a responsibility to lead the process of overcoming the divisions of the past and the search for a new accommodation acceptable to all. Both Governments having acknowledged their responsibility, it will be essential that they discharge it actively and fully. In the Joint Declaration, the British Government, having declared that it has no selfish strategic or economic interest in Northern Ireland, has accepted that its role will be to encourage, facilitate and enable the achievement of agreement among the people of Ireland through a process of dialogue and co-operation and that it will legislate for any such agreement, while the Irish Government has committed itself to the principle that the democratic right of self-determination by the people of Ireland as a whole must be achieved and exercised with and subject to the agreement and consent of a majority of the people of Northern Ireland.
- (e) The Forum also notes that the Irish Government has said that no individual party can have a veto over negotiations and discussions over their outcome, and the British Government has said no group or organisation has a veto over the policy of a democratically elected government. The two Governments have also agreed that in political dialogue no outcome is either predetermined or ruled out and that other positions, apart from theirs, will be given full consideration in all-party talks.
- (f) The engagement of the political parties, together with the two Governments, in all-inclusive talks, commencing at the earliest possible date, will also be crucial to the achievement of a comprehensive agreement. The political parties will bring to the talks

their own analysis and positions on the political and constitutional changes required for the achievement of a new accommodation acceptable to all. To ensure their success, such talks will require careful, sensitive and urgent preparation.

- (g) Violence, from whatever source and whatever its rationale, served - particularly in Northern Ireland, but also as between North and South - to deepen divisions, reinforce the barriers of fear and hatred, retard cross-community contact and reconciliation, and has impeded the search for agreement. It caused immense human suffering. For many, the burden of that suffering remains a living and profoundly difficult reality. A compassionate acknowledgement of that reality and a commitment to devote sufficient resources to necessary treatment and support programmes will be important elements of building a true process of reconciliation. Moreover, the cost of violence in economic terms was also on an enormous scale.
- (h) By the same token, the ceasefires announced in Autumn 1994 have profoundly altered the situation in Northern Ireland and represent a strongly positive contribution to the process of establishing an agreed settlement. The bringing about of the ceasefires was made possible through the climate created by the commitment of the two Governments to a common approach on core issues, by the work of many individuals and groups within the republican and wider nationalist communities and within the loyalist and wider unionist communities, and by the support and influence of the United States and the European Union. In a more general sense, tribute should also be paid to the many groups and individuals, including within the Churches, who during the years of conflict maintained and developed links across the community divisions, seeking to break down barriers of mistrust and misunderstanding. At a wider level, the ceasefires, and the new climate which they have helped create, have given rise to a deep determination throughout Ireland, North and South, that the advances that have been made must be consolidated and built upon.
- (i) Conflict and division now in Northern Ireland primarily result from profound disagreement on its status and on what shape a durable political settlement should take.

The absence of consensus on these issues gives rise to many other divisions, including on policing, the administration of justice and also on social, cultural and economic issues. There is however a more open acknowledgement than in the past of the depth and complexity of divisions that exist and a greater awareness of the need to address them.

- (j) The profound disagreement amongst the people of Ireland on the constitutional status of Northern Ireland derives from the fact that the two major traditions there define their identities, allegiances and aspirations in terms which transcend Northern Ireland, viz looking broadly to Britain and Ireland. The Joint Declaration acknowledges that there can be no stability under a system rejected on grounds of identity by a significant minority and there is widespread acceptance of the need for both traditions to feel secure about their future.

- (k) The issues of self-determination and consent are fundamental. While it is a view shared by a majority of the people of this island, though not by all its people, that the Irish people as a whole have a right to national self-determination, the exercise of self-determination is a matter for agreement between the people of Ireland and must be based on consent. There is not full agreement about how the principles of self-determination and consent should be exercised. Given their central role in the process overall, the approach reflected in the agreed position of the two Governments on this crucial matter is of particular importance. The British Government recognise that it is for the people of Ireland alone, by agreement between the two parts respectively and without external impediment, to exercise their right to self-determination on the basis of consent freely and concurrently given. North and South, to bring about a united Ireland if that is their wish; the Irish Government accept that the democratic right of self-determination by the people of Ireland as a whole must be achieved and exercised with and subject to the agreement and consent of a majority of the people of Northern Ireland. This integrated approach by the two Governments to the issues of self-determination and consent has been accepted by the majority - though not all - of the political parties, North and South, representing a large majority of the people of Ireland as a whole. Two further realities apply in this regard: (1) Northern Ireland's current constitutional status reflects and relies

upon the present wish of a majority of people there and (2) nationalist support for the above approach to the principle of consent does not imply that the existing status of Northern Ireland commands nationalist consent.

- (l) Current attitudes to the constitutional status of Northern Ireland, therefore, may be summarised as follows: The present wish of a majority of the people in Northern Ireland is for no change in its constitutional status. Conversely, a substantial minority wish for a sovereign united Ireland, overwhelmingly on the basis that this objective is achieved by peaceful, democratic means. It is recognised that the option of a sovereign united Ireland, which is also the preferred option of a majority of the people in Ireland, does not command the consent of the unionist tradition, nor, as indicated, does the existing status of Northern Ireland, which is the preferred option of a majority of people there, command the consent of the nationalist tradition. Against this background, and addressing the totality of relationships involved, there is a need for new arrangements and for new structures not simply based on majoritarianism which, on the basis of a new and balanced constitutional accommodation, will reflect the reality of diverse aspirations, reconcile as fully as possible the rights of both traditions, promote co-operation between them, and afford each, on the basis of equality of treatment, secure and satisfactory expression and protection in all spheres of public life.
- (m) The divisions between the two communities in Northern Ireland, and between the two traditions on the island as a whole, have been perpetuated and accentuated by an absence, to a large extent, of mutual understanding, of contact and of dialogue between them. This absence of trust, which in some areas of Northern Ireland in particular is compounded by a mutual sense of threat, represents a major obstacle to the negotiation in good faith of an overall political settlement.
- (n) The lesson of history is that only through an even-handed and just compromise, achieved without violence or coercion and acceptable to both communities and to both traditions on the island, can a lasting and stable settlement be reached. While the accommodation of the two major traditions remains the primary requirement, such a settlement must also

take account of the minority of people, particularly in Northern Ireland, who define themselves as neither unionist nor nationalist in any traditional sense (the "third strand").

- (o) There are severe forms of deprivation in Northern Ireland within both communities. Historically, there has been particular discrimination against nationalists and Catholics which has meant the persistence of economic and social disadvantage. All this, apart from its intrinsic unacceptability, represents a barrier to the search for a lasting and comprehensive political settlement. The coming of peace will undoubtedly be of substantial economic benefit to Northern Ireland and the island of Ireland as a whole. The Forum's own study of the social and economic consequences of peace and economic reconstruction suggests that the "peace dividend" will be substantially greater in the context of a political settlement than in that of simple continuation of the ceasefires. It will be essential to ensure that the economic benefits of peace are fully realised, that they accrue to communities, families and individuals most severely affected by the conflict, that they promote social inclusion and that economic discrimination is redressed.
- (p) In North/South terms, the numerous common economic interests, the convergence between the structures of the two economies and the increasing inter-action in the context of peace between the business communities in both parts, in other economic spheres and indeed across a broad range of human activity, bear testimony in practical terms to the need for joint or common approaches.
- (q) Major economic, social and cultural changes have taken place in the South over recent decades. These have led to the creation of a more prosperous, diverse and pluralistic society, very different from that which existed prior to 1969. One consequence of this is a development in understanding among many towards the situation in Northern Ireland and a greater willingness to accept unionists in terms of their own self-perception.
- (r) The development of European integration will require new approaches between the two parts of the island to serve their economic interests. Participation in the process of European integration has been a significant ingredient in Ireland's recent political and

economic development. While the effects of membership have not been felt to the same extent in Northern Ireland, the European Union's supportive response to the ceasefires has served to highlight the positive potential of the European dimension. Already, co-operation on social and economic issues in the EU context has helped to bring people together across the divide in Northern Ireland. Common involvement in the European Union has injected new and constructive elements into relations between Ireland and Britain. European integration holds enormous potential for an accommodation in Ireland, both as a model for the resolution of deep-seated conflicts and as an incentive for a more co-operative approach to the many shared economic, environmental and social problems confronting the two parts of the island.

Principles and Requirements

Having identified and considered these Realities, the Forum proposes the following Principles and Requirements as necessary elements of a political accommodation and settlement - and the process of achieving them - acceptable to all the people of Ireland, North and South.

1. The first principle must be the right to peace, based on justice. Flowing from this right is the principle that the pursuit of all political goals, including the establishment of an overall political settlement, must be undertaken by exclusively democratic and peaceful means, characterised by dialogue and free from violence and coercion.
2. An essential requirement of an approach based exclusively on dialogue, negotiation and non-coercion will be the building of a true process of trust and reconciliation. Such an approach must take particular account of, and be sensitive to, the position of those who have suffered directly from violence and injustice - from whatever source. In building trust and reconciliation, appropriate action will also be important on the various issues relating to those who have been imprisoned in the context of the conflict.

3. A new beginning, if it is to lead to a comprehensive, lasting resolution of the conflict, must adequately address the totality of the three central relationships involved - within Northern Ireland, within the island of Ireland and between the peoples of these islands.
4. It will be essential that the commitment of the Irish and British Governments to a common approach, as identified in paragraph (d) in "Present Realities" above, is met and that they work in close partnership and collaboration. In addition to their shared functions, each Government will have important separate roles in the process also, some of which were set out in the Joint Declaration and the two Framework Documents. Above all, both Governments must actively and fully honour their commitment to foster agreement and reconciliation, leading to a new political accommodation founded on consent and encompassing all the relationships involved.
5. The achievement of such a new accommodation will require the urgent establishment of an inclusive talks process - carefully and sensitively prepared - involving the political parties as well as the two Governments. Addressing all the relationships involved, the task of the process will be to secure agreement and the maximum degree of consensus on the nature and form of future constitutional, political and institutional arrangements and structures. Having regard, inter alia, to practical and legal requirements, the agreed outcome of this process will have to be ratified by the people of Ireland, North and South.
6. The objective of the talks process must be a new political dispensation, representing an honourable, democratic accommodation between the two major traditions with which both can live and which is based on consent and on full respect for the concerns, rights and identities of all. There must be a rejection of any concept of victory or defeat.
7. Agreement on an overall settlement will require, inter alia, a balanced accommodation of the differing views of the two main traditions, which takes full account of the conflict of identities and allegiances. In terms of specific constitutional legislation, the two Governments must, on a balanced and even-handed basis, discharge the commitments

they have undertaken respectively in this regard in paragraphs 20 and 21 of "A New Framework for Agreement". In particular, they must ensure that, in regard to the people of Northern Ireland, the constitutional changes proposed should be such as not to diminish in any way their existing citizenship rights and their birthright to be accepted as being British or Irish - or both - as appropriate and desired.

8. In determining the nature and extent of constitutional change, the issues of self-determination and consent will be crucial. The Forum believes that in this respect the following principles and requirements should apply:
- It is for the people of Ireland alone, North and South, to determine their own future by agreement and consent. While there continues to be disagreement on how the principle of self-determination is to be exercised, a substantial consensus has developed, as indicated in paragraph (k) in "Present Realities" above, around the approach reflected in the agreed position of the British and Irish Governments, viz: the British Government recognise that it is for the people of Ireland alone, by agreement between the two parts respectively and without external impediment, to exercise their right of self-determination on the basis of consent, freely and concurrently given, North and South, to bring about a united Ireland, if that is their wish: the Irish Government accept that the democratic right of self-determination by the people of Ireland as a whole must be achieved and exercised with and subject to the agreement and consent of a majority of the people of Northern Ireland.
 - Full account must be taken of the realities (a) that Northern Ireland's current constitutional status reflects and relies upon the present wish of a majority of people there and (b) that nationalist support for the above approach to the principle of consent does not imply that the existing status of Northern Ireland commands nationalist consent.
 - Securing an agreement which can earn and enjoy the allegiance of the different

traditions on the island will be a core task of the comprehensive, all-party talks described in paragraph 5 above. Should these talks result in an agreement, and if that agreement were democratically ratified North and South, then the result of that ratification process will represent a valid and legitimate exercise by the people of Ireland as a whole of their right to self-determination.

9. Agreed arrangements based on a new and balanced constitutional accommodation must reflect the reality of diverse aspirations, reconcile as fully as possible the rights of both major traditions, and promote co-operation between them. They must even-handedly afford both traditions parity of esteem and equality of treatment in all spheres. They must enhance and facilitate the development of a truly pluralist ethos throughout the island of Ireland. While the central requirement of a lasting settlement is the forging of an accommodation between the two major traditions, the construction of new arrangements and structures must, against the foregoing background, take due account also of the position of the minority of people, particularly in Northern Ireland, who define their identity in terms which are not reflected by either of those traditions.

10. The consent of the governed is essential to the stability and legitimacy of any political arrangements. Institutions and structures forming part of new political arrangements must be accepted by both major traditions as essential elements of an overall settlement which is honourable and balanced, and must therefore enjoy widespread public support from within both traditions. In this context, and in the context of the totality of relations, it is widely accepted that there can be no exclusively internal Northern Ireland settlement. The precise structuring of relationships within Northern Ireland and their institutional expression will be a matter for the all-inclusive talks process. Equally, the securing of the endorsement and consent of both traditions will require the process to address relationships within Ireland and between Ireland and Britain. In this regard, institutions and structures will be needed which, while respecting both the requirements of identity and the diversity of the people of Ireland, would enable them to work together in all areas of common interest. Such structures would, of course, include institutional recognition of the special links that exist between the peoples of Britain and Ireland as part of the

totality of relationships, while taking account of newly forged links with the rest of Europe (see also paragraph 15 below). Such institutions must be democratically accountable and must in their functions be open and transparent.

11. The comprehensive, systematic, effective and entrenched protection of human rights - civil, political, economic and social - should underpin the establishment and operation of agreed institutions and structures. Human rights should be guaranteed, including, if necessary, internationally, on a basis of equivalence throughout all of Ireland, for example, by incorporation of the European Convention on Human Rights and Fundamental Freedoms into domestic law, irrespective of the constitutional context and of any possible future changes to it. Critical issues in this regard, particularly, but not exclusively, in relation to Northern Ireland, will be the administration of justice and policing - specifically, the development in each case of changes and reforms which will secure the unequivocal support, participation and confidence of all sections of the community. The cultural and linguistic diversity of the people of all traditions, North and South, should be safe-guarded and fostered as a source of enrichment and vitality.
12. Particular attention must be paid to the protection of the rights and identity of any community which in consequence of the applying of the principle of consent finds itself in a minority position, whether in the North, or in the South, or in the island as a whole. It should be the duty of the state in such a situation vigorously, imaginatively and sensitively to protect and promote the interests of such a community, while also upholding the equal rights of the majority tradition.
13. The achievement of greater and more equally-shared prosperity, the promotion of equality of opportunity and fair participation in education and the labour market, the eradication of discrimination, and the empowerment and inclusion of marginalised and deprived communities and groups, are not only vital in themselves, but also have the capacity to create a more stable social environment, in which new political arrangements are more likely to take root and command public confidence. These goals should be, and must be, vigorously pursued.

14. Mutual understanding and contact between individuals, groups, communities, organisations and institutions have an important role in the elimination of barriers of suspicion, in the creation of mutual trust and in the building of confidence and should be further promoted and supported, including financially. Education will have a particularly significant function in this regard. In the matter of schooling, parental choice should be respected and facilitated, including the preferences of those parents who choose integrated and Irish-medium education for their children. There is a need to extend and strengthen programmes that increase contact between pupils and teachers within Northern Ireland and between schools North and South and in Britain. In addition, greater emphasis must be devoted to exchange and mutual understanding programmes and to making the history and full cultural heritage of the people of the island in all their strands, and in its relationship with Britain and with the rest of Europe, available in all schools throughout Ireland.
15. New arrangements should also incorporate a strong European dimension. Changes are mooted in the character and nature of the European Union at political, economic, social and indeed many other levels which will have profound implications for its member states and regions. New approaches will be required to address the evolving common challenges and opportunities which these developments will hold for both parts of the island and for Ireland and Britain as partners in Europe. A further requirement, therefore, of new arrangements and structures emerging from a comprehensive settlement must be the capability of embracing such a process of evolving change.
16. Each of the foregoing principles and requirements would apply and have equal validity in all constitutional situations, and under all of the institutional frameworks, which may be envisaged.

Conclusion

The Forum parties believe that the opportunity that now exists to address the roots of conflict, to heal historic divisions, to create a lasting peace and to establish an honourable and enduring settlement acceptable to all is unprecedentedly favourable. But they acknowledge also that much

difficult work lies ahead if the obstacles that remain are to be overcome and if the potential that currently exists is to be realised to the full. It is essential that democratic solutions negotiated on this basis be not undermined by violence or the threat of violence. This requires a total commitment to dialogue, to seeking to understand the fears, concerns and aspirations of the others engaged in the process, and to a spirit of compromise and reconciliation.

For their part, the Forum parties pledge their own commitment to these Principles and Realities and earnestly ask all others involved to do the same. They look forward to a constructive dialogue on this document on as wide and comprehensive a basis as possible.

2 February 1996