

8 April 1998

SINN FÉIN
RESPONSE
TO DRAFT PAPER
FOR DISCUSSION

FROM
INDEPENDENT
CHAIRMEN

DECLARATION OF SUPPORT

5. We acknowledge the substantial differences between our continuing political aspirations. However, **we will endeavour to strive in every practical way towards reconciliation and rapprochement within the framework of democratic and agreed arrangements.** It is accepted that all of the institutional arrangements - an Assembly in Northern Ireland, a North/South Ministerial Council, implementation bodies, a British-Irish Council, and a British-Irish Intergovernmental Conference - are interlocking and mutually supportive and that all will enter into force at or around the same time.

Note: delete point 6.

CONSTITUTIONAL ISSUES

1. The participants endorse the commitment made by the British and Irish that, in a new British-Irish Agreement replacing the Anglo-Irish Agreement, they will:
 - (i) recognise that it is for the people of the island of Ireland alone, and without external impediment, to exercise their right of self-determination on the basis of consent, to bring about a **sovereign** united Ireland, if that is their wish;
 - (ii) acknowledge that while a substantial section of the people in Northern Ireland share the legitimate wish of a majority of the people of the island of Ireland for a **sovereign** united Ireland, the present wish of a majority of the people of Northern Ireland, is to maintain the Union.
 - (iii) affirm that if, in the future, the people of the island of Ireland exercise their right of self-determination on the basis set out in section (i) above, to bring about a **sovereign** united Ireland, it will be a binding obligation on both Governments to introduce and support in the respective Parliaments legislation to give effect to that wish;
 - (iv) affirm that whatever choice is freely exercised by a majority of the people of Northern Ireland, the power of the government **there** shall be exercised with rigorous impartiality on behalf of all the people in the diversity of their identities and traditions and shall be founded on the principles of full respect for, and equality of, civil, political, social and cultural rights, of freedom from discrimination for all citizens, and of parity of esteem and of just and equal treatment for the identity, ethos, and aspirations of both communities;
2. The participants **have noted** that the two Governments have accordingly undertaken, in the context of this comprehensive political agreement, to propose and support changes in, respectively, the Irish Constitution and in British legislation relating to the constitutional status of Northern Ireland.
3. The Irish Government is wholly committed to its equality of treatment and parity of esteem of Irish Citizens. Accordingly the Government will take the necessary legislative and/or constitutional steps which will entitle:
 - **Members of Parliament in Northern Ireland elected to sit at Westminster to sit in the Daíl if they wish, and**

- Irish citizens in Northern Ireland to vote in presidential and other referenda, if they wish.
4. In the same spirit the British Government will take the necessary legislative steps to enable this to happen.

Accordingly the British Government will repeal;

- Northern Ireland Assembly Disqualification Act 1975, Section 1 (1) (e)
- House of Commons Disqualification Act 1975, Section 1 (1) (e)

ANNEX A

**DRAFT CLAUSES/SCHEDULES FOR INCORPORATION IN BRITISH
LEGISLATION**

1. (1) It is hereby declared that Northern Ireland in its entirety remains part of the United Kingdom **but shall cease to be so with** the consent of a majority of the people of Northern Ireland voting in a poll held for the purposes of this section in accordance with Schedule 1.

(2) If the wish expressed by a majority in such a poll is that Northern Ireland **in its entirety** should cease to be part of the United Kingdom and form part of a united Ireland, **then, on a date to be appointed by the Secretary of State no later than six months after the declaration of the result of such a poll, the provisions of Schedule 2 shall become operative together to give effect to that wish together with such provisions as may be agreed between Her Majesty's Government of the United Kingdom and the Government of Ireland.**
2. The Government of Ireland Act 1920 is hereby repealed.
3. The provisions of this act shall have effect notwithstanding the provisions of the Acts of Union 1800 or any other previous enactment or rule of law and no power to be exercised under this act shall be deemed to be restricted by any previous enactment.

SCHEDULE 1

POLLS FOR THE PURPOSE OF SECTION 1

1. The Secretary of State **shall** by order direct the holding of a poll for the purpose of Section 1 on a date specified **in the year 2000 and at 5 yearly intervals thereafter.**

SCHEDULE 2

1. Sovereignty in the entirety of Northern Ireland shall pass from Her Majesty's Government of the United Kingdom to the Government of Ireland.

SCHEDULE 3

INTERPRETATION

1. "Majority" means a simple majority of those voting in accordance with the Poll established for the purpose of Section 1.

SCHEDULE 4

REQUIREMENT FOR A POLL

1. The question for consideration by the electorate in the Poll shall be:
"Do you wish that Northern Ireland in its entirety should cease to be part of the United Kingdom and form part of a united Ireland?"

Strand One

DEMOCRATIC INSTITUTIONS IN NORTHERN IRELAND

The Assembly

2. An Assembly with 6 members elected by PR (STV) from each of the 18 existing Westminster constituencies and with a top-up of 10.
3. The Assembly will exercise full legislative and executive authority in respect of those matters currently within the responsibility of the six Northern Ireland Government Departments, with responsibility for all other powers, except defence, the crown and foreign policy to be devolved over a set period. In addition, a new Department of Equality will be established.

Safeguards

5. (d) arrangements to ensure key decisions are taken on a cross community basis. This will require that any key decision would only pass if it is supported by a 70% majority of those members present and voting which includes majorities of those who identify themselves (at the outset) as Nationalists and Unionists respectively.

Key decisions requiring cross-community support would be designated in advance (eg election of presiding officer, standing orders, budget allocations, employment equality, cultural issues) and/or be triggered by a right of petition exercised by a significant minority 15% of Assembly members.

Operation of the Assembly

6. The Chair and Deputy Chair of the Assembly will be elected on a cross-community basis, as set out in paragraph 5(d) above.

Executive Liaison Committee

16. The Ministers will constitute a Cabinet.

Relations with other institutions

25. Arrangements to represent the Assembly as a whole, at Summit level and in dealings with other institutions, will be in accordance with paragraph 17. Otherwise, representation to be by the **Minister** of the relevant departmental committee. **In the case of the North/South Ministerial Council, Ministers will participate in accordance with the duty of service.**

Review

31. After a period of **2 years** there will be a review of these arrangements, including the details of electoral arrangements and of the Assembly's procedures, with a view to agreeing any adjustments necessary in the interests of efficiency and fairness.

STRAND TWO

NORTH/SOUTH MINISTERIAL COUNCIL

1. Under a new British/Irish Agreement dealing with the totality of relationships, and related legislation at Westminster and in the Oireachtas, a North/South Ministerial Council to be established to bring together those with executive responsibilities in Northern Ireland and the Irish Government, to develop consultation, co-operation and action within the island of Ireland - including through implementation on an all-island basis - on matters of mutual interest within the competence of the administrations, North and South. **The Ministerial Council will exercise executive and harmonising powers as well as consultative functions.**
3. The Council to meet in different formats:
 - (i) in plenary format **four times** a year, with Northern Ireland representation (led by the First Minister and Deputy Minister) and the Irish Government led by the Taoiseach;
 - (iii) in an appropriate format to consider institutional or cross sectoral matters (including in relation to the EU) and to resolve disagreement. **In the event of failure to agree by the Northern side, the matters shall be referred to the Secretary of State who at his/her discretion may substitute his/her agreement.**
8. Any further bodies in addition to those specified in the Annexes, and other developments of these arrangements, **to be by agreement between the two governments. The Ministerial Council will have the power to recommend to the two Governments that matters already designated should be moved on the scale between consultation, harmonisation and executive action.**
12. The Council to be supported by a standing joint Secretariat, staffed by members of the Northern Ireland Civil Service and the Irish Civil Service. **There will also be provision for ministerial appointment to senior positions from non-traditional channels.**
14. The Northern Ireland Assembly and the Oireachtas **will** develop a joint parliamentary forum, bringing together equal numbers from both institutions for discussion of matters of mutual interest and concern.
15. **The Northern Ireland Assembly and the Oireachtas will** establish an independent consultative forum appointed by the two administrations, representative of civil society, comprising the social partners and other members with expertise in social cultural, economic and other issues.

ANNEX A

List of specified areas where the Council to use best endeavours to reach agreement on the adoption of common policies [para 5 (ii)]

Agriculture

- research, training and advisory services
- development of the bloodstock and greyhound industries

Education and Training

- tourism training
- education for students with special needs
- education for mutual understanding
- teacher qualifications and exchanges
- **mutual recognition of other educational and professional qualifications**
- higher and further education
- combating educational disadvantages
- **curriculum and examinations**

Health

- general hospital services and accident/emergency planning.
- food safety

Industrial and Trade Matters

- management development services to industry
- trading standards
- public purchasing
- supervision of credit unions

- occupational health and safety

Marine and Waterways

- inland fisheries
- fish health
- fisheries education, research and training

Energy and Transport

- geological survey
- energy projects
- road and rail issues

Environment

- physical planning and development strategy
- road safety

ANNEX B

List of specified areas in which Council is to take decisions on action for implementation separately in each jurisdiction [para 5 (iii)] *[terms in brackets are not agreed.]*

Agriculture

- Animal and plant health

Education and Youth

- Education and training programmes

Social Welfare/Community Activity

- entitlements of cross-border workers and fraud control
- support for voluntary community activity

The Environment

- environmental protection, waste management and pollution control
- wildlife conservation
- Urban and Rural development

Culture, Heritage and the Arts

- heritage protection and restoration
- cultural promotion abroad

Health

- disease registries, clinical trials and high cost, high technology areas
- post-graduate medical teaching and training

- health promotion strategies

Marine and Waterways

- agricultural and marine matters including research and drainage

Sport

- promotion and support of joint activities and strategic planning of facilities.

Science and Technology

- promotion of scientific and technological research and its application

ANNEX C

List of Implementation Bodies in specified areas in which the Council is to take decisions on action at an all-Island and cross-border level [paras 5 (iv) and 7.] *[Items through Inland Waterways Body are agreed; all items thereafter are not agreed.]*

- Operation of the EU Common Agricultural Policy on an all-Ireland basis through an agency which will interact with the appropriate bodies in the EU and be responsible otherwise to the Council.
- Operation of the EU Common Fisheries Policy on an all-Ireland basis, through an Agency which will interact with the appropriate bodies in the EU and be responsible otherwise to the Council.
- An all-Ireland Inward Investment Agency merging the IDA and IDB.
- A Training and Employment Agency merging FAS in the South and TEA in the North.
- An Inland Fisheries Commission operating on an all-Ireland basis.
- A Youth Affairs Council operating on an all-Ireland basis.
- A Valuation and Ordnance Survey Agency
- A Lands & Registry of Deeds Agency
- An Electricity Supply Agency
- A Mineral & Energy Resource Agency
- A Peat Development Agency
- A Radiological Protection Agency
- Land policy
- a Tourism Body, covering promotion, marketing, research and product development for the island as a whole;
- an Environmental Protection Body, covering co-operation on environmental protection, pollution, water quality and waste management and related matters in cross-border areas, as well as the development of a strategic approach for the island as a whole.

- an EU Programmes Implementation Body covering work on the North/South INTERREG programme, the Special Programme for Peace and reconciliation and LEADER II (or its successor)
- a Transport Planning Body covering the co-ordination and development of the major transport services in Ireland, consideration of strategic issues in relation to road and rail networks and ports.
- an Inland Waterways Body covering the joint development and management of inland waterways.
- an Irish Language Promotion Body, promoting the use of the Irish Language to include an element of advice and support for Irish-medium education, supplementing and supporting the efforts of the voluntary support and co-ordination agencies in this latter sphere.
(NOTE: We support the Irish language Promotion Body. It is in line with paragraph 31 of the Joint Framework Document. Failure to establish this Body would be a retreat from the commitments given in the JFD.)
- a Trade Promotion and Indigenous Company Development Body, supporting the development of indigenous enterprise and companies in the industrial and services sectors, including industrial training and the promotion of exports and of innovation and scientific and technological research and development. [It would be the objective to retain the facilities which Northern Ireland exporters can avail of UK Department of trade and Industry]. **(NOTE: We support the Trade Promotion and Indigenous Company Development Body. It is in line with commitments given in paragraph 31 of the JFD.)**
- an Arts Body, with functions in regard to promotion of the arts discharged in the Republic by an Chomhairle Ealaíon (The Arts Council) and in Northern Ireland by the Arts Council of Northern Ireland. **(NOTE: We support the establishment of an Arts Body.)**

STRAND THREE

British-Irish Council

We do not believe there is any need for such a body.

British-Irish Intergovernmental Conference

9. The Conference shall also be a forum for the two Governments jointly to keep under review the workings of this agreement and to promote, support and underwrite the fair and effective operation of all its provisions and the new arrangements established under it. Where either Government considers that a breach of the agreement has occurred or that any part of the machinery embraced within it is not functioning properly, the matter shall be raised at the Conference, with a shared commitment by the two Governments to arrive at a common position or, failing that, to agree a procedure between them to resolve any difference. If they conclude that a breach has occurred, either Government may make proposals for remedy and adequate measures to redress the situation shall be taken. However, each Government shall be responsible for the implementation of such measures of redress within its own jurisdiction.
10. The Conference will also be responsible for convening a periodic and comprehensive review of the entire agreement, in all its aspects, conducted by an independent chair and involving both governments and all the parties. This to take place every 2 years.

RIGHTS, SAFEGUARDS AND EQUALITY OF OPPORTUNITY

Human Rights

1. The parties affirm their commitment to the mutual respect, the civil rights and the religious liberties of everyone in the community. Against the background of the recent history of communal conflict, the parties affirm in particular:
 - * the right of free political thought;
 - * the right to freedom and expression of religion;
 - * the right to pursue democratically national and political aspirations;
 - * the right to seek constitutional change by peaceful and legitimate means;
 - * the right to freely choose one's place of residence;
 - * the right to equal opportunity in all social and economic activity, regardless of class, creed, gender, **colour, language, disability and sexual orientation**
 - * the right to freedom from sectarian harrassment.
2. The British Government will complete incorporation into Northern Ireland Law of the European Convention on Human Rights (ECHR), with direct access to the courts, and remedies for breach of the Convention, including power for the courts to overrule Assembly legislation on grounds of inconsistency.

The British Government will ratify the Optional Protocol to the International Covenant on Civil and Political Rights.
3. **There will be** a statutory obligation on public authorities in Northern Ireland to carry out all their functions with due regard to the need to promote equality of opportunity in relation to religion and political opinion; gender; race; disability; age; marital status; dependants; **linguistic diversity** and sexual orientation. Public bodies **will** be required to draw up statutory schemes **to be overseen by the Department of Equality** showing how they **will** implement this obligation. Such schemes **will** cover arrangements for policy appraisal, public consultation, **impact assessment, access to information**, public access to services, monitoring and timetables. **see Annex 1.**

- Equality includes the full and equal enjoyment of all rights and freedoms. To promote the achievement of equality, legislative and other measures designed to protect or advance persons, or categories of persons, disadvantaged by unfair discrimination may be taken.

- The legal system should ensure equality of all before the law and an equitable legal process. Equality before the law includes laws, programmes or activities that have as their object the amelioration of the conditions of the disadvantaged, including those disadvantaged on the grounds of race, gender, or creed.

4. An international commission, containing constitutional experts from Canada, South Africa and Europe, should be established as a matter of urgency to draw up a Bill of Rights and to advise on the shape of a Human Rights Commission, its powers and the nomination of Commissioners. They should report within six months of the ratification of the agreement. Among the issues for consideration by the new Human Rights Commission will be:

- * the formulation of a general obligation on government and public bodies fully to respect, on the basis of equality of treatment, the identity, **including linguistic diversity** and ethos of both communities in Northern Ireland;

- * a clear formulation of the rights not to be discriminated against and to equality of opportunity in both the public and private sectors.

The British and Irish governments shall bring forward legislation enabling an all-Ireland constitutional court. This should be established as soon as possible after the commission reports and no longer than one year after the ratification of this agreement. The new constitutional court to adjudicate on alleged violations of the new Bill of Rights.

5. The role of the new Human Rights Commission to include keeping under review the adequacy and effectiveness of laws and practices, making recommendations to Government as necessary; providing information and promoting awareness of human rights; considering draft legislation in appropriate cases, bringing court proceedings or providing assistance to individuals doing so **and conducting enquiries into practices or a particular incident which raises concerns that Human Rights standards are being or have been breached.**

6. There should be a Department of Equality, whose functions will include the monitoring of the statutory obligation and the investigation of complaints of default.

RIGHTS, SAFEGUARDS AND EQUALITY OF OPPORTUNITY

Economic, Social and Cultural Issues

2. In the light of reactions to public consultation currently under way, the British Government will make rapid progress with:

(i) a new regional development strategy for consideration in due course by **the North/South Ministerial Council**, which would go beyond conventional land use and planning issues to include:

- * tackling the problems of a divided society, social cohesion, and the effects of partition on the border areas through rapid development, according to planned timescales, with local investment authorities established on a North/South basis where appropriate.
- * generating a dynamic region and promoting sustainable development;
- * protecting and enhancing the environment;
- * deciding on major new development;
- * producing new approaches to transport issues;
- * strengthening the physical infrastructure of the region;
- * developing the advantages and resources of rural areas; and
- * rejuvenating major urban centres;

•the equality ethos should also apply to the distribution of domestic and international development funding. Benefits need to be targeted at the geographical areas and social groups of most economic and social need. All future economic and development projects should be "equality-proofed".

(ii) a new economic development strategy for consideration in due course by **the North/South Council** which would provide for short and medium term economic planning linked as appropriate to the regional development strategy;

•a North/South Economic Authority to be established to plan economic development on a rational basis

(iii) measures on employment equality, including:

- * the extension of anti-discrimination legislation to the supply of goods, facilities and services;
- * the strengthening of other aspects of existing fair employment laws;
- * • repeal of the "national security exemptions" /political vetting through the repeal of section 42 & 57 of the 1976 Act.
- * Targeting Social Need initiatives should be stringently implemented with clear timetables and targets.

• **legal aid in cases of religious/political discrimination to be matters.**

* a range of measures aimed at combating unemployment, in particular youth and long-term unemployment, and at progressively eliminating the differential in employment rates between the two communities by targeting objective need.

3. All participants recognise the importance of respect, understanding and tolerance in relation to linguistic diversity, which is part of the cultural wealth of the people of the island of Ireland.

The British Government will in particular, in relation to the Irish language, pending the transfer of responsibility to a new Northern Ireland Assembly:

• **sign the European Charter for Regional and Minority Languages.**

* take **legislative** action to promote the language and introduce an **Irish Language Act forthwith, the provisions of which should bring the rights of the Irish speaking community into line with the rights of the said community in the south of Ireland and the Welsh speaking community in Wales.**

* **facilitate and encourage** the use of the language in speech and writing in public and private life;

* seek to remove, where possible, restrictions which would discourage or work against the maintenance or development of the language;

* **consult** users of the language in determining policy **in order to assess the impact of such policies on the Irish language community.**

* impose a statutory duty on the Department of Education for Northern Ireland to encourage and facilitate Irish medium education; and **impose a statutory duty on all public authorities to facilitate the right to use the Irish language with such authorities.**

* explore urgently with the relevant British authorities, and in co-operation with the Irish broadcasting authorities, the scope for achieving more widespread availability of Teilifís na Gaeilge in Northern Ireland **and to encourage and facilitate the provision of television programmes in Irish by means of substantial funding for Irish language broadcasting, through the Broadcasting Act.**

• **set up an ombudsoffice with power to accept and prosecute complaints from the Irish language community.**

The parties will seek to secure agreement that this commitment will be sustained by a new Northern Ireland Assembly.

4. All participants acknowledge the sensitivity of the use of symbols and emblems for public purposes. **Where British national or cultural symbols are displayed on public buildings or in working environments, equal prominence will be given to Irish national or cultural symbols. Provision for this will be made on a statutory basis. Arrangements will be made to monitor this issue by a Department of Equality.**

SECURITY

1. The Participants note that the development of a peaceful environment on the basis of this agreement **imposes on those responsible for security measures the responsibility to make real and speedy progress** to normalisation of security arrangements and practices.
2. The British government will make **speedy** progress towards the objective of as early return as possible to normal security arrangements in Northern Ireland, **in a peaceful environment** and with a published overall strategy, dealing with:
 - (i) the **removal** of the armed forces **including the RIR** from Northern Ireland.
 - (ii) the removal of security installations **and the closure of RUC interrogation centres including Castlereagh, Gough barracks and Strand Road.**
 - (iii) the removal of emergency powers in Northern Ireland and **Great Britain**
 - (iv) Other appropriate measures consistent with a move to normalisation **including the laws governing inquests and the use of lethal force, the restoration of the right to silence and the banning of the use of plastic bullets.**
 - (v) the **disbandment of the part time element of the RIR.**
4. An Independent Commission will be set up on ratification of the agreement to **reduce the proliferation of licensed weapons and will complete its work within 6 - 9 months.**

POLICING AND JUSTICE

1. Participants recognise that policing is a central issue in any society. They equally recognise that Northern Ireland's history of deep divisions have made it highly emotive, with great hurt suffered and sacrifices made by many individuals. They believe that this Agreement offers a unique opportunity to bring about a new political dispensation which will recognise the full and equal legitimacy and worth of the identities, allegiance and ethos of all sections of the community in Northern Ireland. They consider that this opportunity should inform and underpin the creation of a **new** police service representative in terms of the make-up of the community as a whole, **in terms of religion, political opinion, gender and racial or ethnic origin** and which, in a **peaceful environment** which require otherwise, should be routinely unarmed.
2. Participants believe it essential that policing structures and arrangements are such that the **new** police service is professional, effective and efficient, fair and impartial, free from partisan political control; accountable, both under the law for its actions and to the community it serves; representative of the society it polices, and operated within a coherent and **just, fair and representative** criminal justice system. Participants also believe that those structures and arrangements must be capable of maintaining law and order including responding effectively to crime and to any terrorist threat and to public order problems, as a police service which cannot do so will fail to win public confidence and acceptance. They believe that any such structures and arrangements should be capable of delivering a **new** policing service, in constructive and inclusive partnership with the community at all levels, and with authority and responsibility exercised at the lowest level possible, consistent with the foregoing principle. These arrangements should be based on principles of protection of human rights and professional integrity **capable of being** unambiguously accepted and actively supported by the entire community.
3. An independent Commission will be established to make recommendations for a **new police service** in Northern Ireland within the agreed framework of principles reflected in the paragraph above and in accordance with the terms of reference at Annex (A). The Commission to **include Irish and British government representatives, external representatives from the Council of Europe. The Commission to be free from political appointments and include legal experts and human rights specialists and** to be asked to consult widely and to report **to both the British and Irish governments** within 6 -9 months. **The recommendations will be implemented within ????**

The commission should be asked to consult on the desirability of creating localised police service.

The new police commission should be empowered to set up a police recruitment board/s, styled on the local European District Partnership model, to ensure the necessary balance of nationalist representatives. The two governments pledge themselves to ensure that the necessary legislation is introduced aimed at bringing about the necessary structural, legal, and disciplinary changes which would bring about such a new police service.

5. An Independent Review Commission will oversee a fundamental review and transformation of the Criminal Justice System. The Commission will be independent and include appropriate experts and non governmental organisations. The Commission will consult widely and report to both governments within 6 - 9 months.
6. The British government undertakes to implement the recommendations of the Commission within one year.

COMMISSION ON POLICING FOR NORTHERN IRELAND

Relevant Principles

Policing structures and arrangements should be such that:

- * the police service is professional, effective and efficient, fair and impartial, free from partisan political control; accountable, both under the law for its actions and to the community it serves; representative of the society it polices, **in terms of religion, political opinion, gender, race or ethnic origins**, and operates within a coherent, **fair, just and representative**, and criminal justice system;
- * these arrangements should be **based on International Human Rights norms** and professional integrity and should be **capable of being** unambiguously accepted and supported by the entire community.

ANNEX B

INDEPENDENT REVIEW COMMISSION OF THE CRIMINAL JUSTICE SYSTEM

Terms of Reference

Taking account of these points the review will address **all aspects of the Criminal Justice system including structure, management, resources, training in human rights, ethos, culture, symbols, accountability, gender and the status of the Irish Language in the courts** and will bring forward proposals for future criminal justice arrangements (other than policing and those aspects of the system relating to the emergency legislation which the Government is considering separately) covering such issues as:

- * the structure and organisation of criminal justice functions that might be devolved to an Assembly, **by agreement between both governments and with sufficient consensus between the communities** including the possibility of establishing a Department of Justice, while safeguarding the essential independence of many of the key functions in this area.

An Independent Review Commission will be established immediately after the signing of the Agreement, with representatives from the Irish and British Governments, international experts from South Africa, Canada and Europe, to carry out a thorough-going review of the Criminal Justice System including the issues listed about with a view to carrying about a complete transformation.

The Independent Review Commission will make its recommendations to both Governments within 6 - 9 months of ratification of the Agreement.

The recommendations will be implemented within

PRISONERS

1. Both Governments to put in place mechanisms to provide for an accelerated programme for the release of prisoners convicted of scheduled offences in Northern Ireland or, in the case of those sentenced outside Northern Ireland, similar offences, (referred to hereafter as qualifying prisoners). Any such arrangements to protect the rights of individual prisoners under national and international law.
2. A list of qualifying prisoners will be supplied by spokespersons for the prisoners.
3. Both Governments will complete a review process within a fixed time frame and set release dates for all qualifying prisoners. **The effect will be to secure the release of as many qualifying prisoners as possible by the end of July 1998 and all qualifying prisoners by the end of 1998.**
4. Both governments undertake to withdraw outstanding warrants for arrest and extradition with regard to scheduled offences in Northern Ireland, or similar offences outside Northern Ireland. No further warrants with regard to similar offences will be served.
5. The Governments will enact the appropriate legislation to give effect to these arrangements by the end of June 1998.
6. Pending the release of all qualifying prisoners the following measures will be implemented by the two governments immediately:
 - prisoners who have served over 20 years will be released.
 - all prisoners in England seeking transfer to Ireland will be transferred to Ireland.
 - Compassionate and normal prison parole will be made available to Irish prisoners sentenced in England.
 - Whole-life tariffs will be abolished.
 - The categorisation of prisoners transferred from England as 'restricted transfer' will be abolished.
 - The practice of strip-searching prisoners will cease.

7. All legislation disqualifying prisoners or ex-prisoners from standing in elections will be repealed.
8. Both governments undertake to abolish licence arrangements and erase all records of convictions of scheduled offences in Northern Ireland, or of similar offences outside Northern Ireland.
9. It shall be unlawful to discriminate directly or indirectly against any person on the grounds of that person having been convicted of any scheduled offence in Northern Ireland or of similar offences outside Northern Ireland.

IV. Proposed Statutory/Constitutional Basis for Revised “Policy Appraisal and Fair Treatment” Mechanism

General principles

Article 1

1. Government in Northern Ireland shall have a duty to promote democracy, openness, accountability, equality, justice, fairness, and respect for internationally agreed human rights standards.
2. These principles form the basis of the following Articles and shall inform their interpretation.
3. So far as it is possible to do so, primary legislation and subordinate legislation must be applied and operated in a way which is compatible with this and the following Articles.

Unlawful discrimination

Article 2

1. It shall be unlawful for a public authority to discriminate unfairly, directly or indirectly, against anyone in Northern Ireland on any ground such as race, gender, sex, pregnancy, marital status, political or other opinion, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language, birth, nationality, national origin, or other status.
2. The obligation to comply with paragraph 1 above is a duty owed to any person who may be adversely affected by a contravention of that paragraph, and any breach of that duty is actionable in Northern Ireland accordingly.
3. In an action brought by a person under this Article, whether or not damages are awarded, the court may grant such injunction as it considers to be proper in all the circumstances restraining the defendant from discriminating unlawfully.

Equality of opportunity

Article 3

1. Public authorities shall promote full and effective equality of opportunity between all parts of the community in Northern Ireland in all areas of economic, social, political and cultural life in which the public authority is involved. In particular, public authorities shall aim to ensure that economic inequalities between the Roman Catholic and Protestant sections of the community in Northern Ireland shall be progressively reduced.

2. It shall be the duty of every public authority to make appropriate arrangements with a view to securing that their various functions and responsibilities are carried out with due regard to the need to comply with the duties set out in paragraph 1.

3. An annual report shall be laid before each House of Parliament with respect to the measures and policies adopted to advance the duties set out in paragraph 1.

4. Without prejudice to paragraph 2, within three years of the coming into effect of this Act, and once every five years thereafter, it shall be the duty of every public authority to review the extent to which its various function and responsibilities are carried out with due regard to need to comply with the duties set out in para. 1

5. The measures adopted in accordance with paragraphs 1 and 2 shall not be considered to be an act of unfair discrimination prohibited in Article 2.

Participation

Article 4

1. Public authorities shall endeavour to create the conditions necessary for the effective participation of all persons in Northern Ireland in cultural, social and economic life, and in public affairs.

2. In particular, public authorities shall bring forward measures and procedures to enable effective participation by those directly affected in the formulation and application of policy decisions by public authorities, and shall encourage and facilitate such participation.

Policy Appraisal and Impact Statements

Article 5

1. It shall be the duty of every public authority to prepare a statement of any significant impact that any proposed action by it may have on its ability to fulfil its duties under Article 2 and 3 ("impact statement").

2. It shall be the duty of every public authority to include in every impact statement information on:

(1) the aims and purposes of the proposed action;

(2) any significant impact that in its view the proposed action may have on its ability to fulfil its duties under Articles 2 and 3;

(3) alternatives to the proposed action,

(a) which may achieve the aims and purposes of the proposed action but may be less likely to have an adverse effect on its ability to fulfil its duties under Article 2 and 3, and

(b) which may achieve the aims and purposes of the proposed action but may be more likely to have the effect of enabling it to achieve better compliance with its duties under Articles 2 and 3;

(4) the justification for the rejection of any alternatives identified in paragraph 3;

(5) proposals to mitigate any unavoidable impact of the action which would be likely to have an adverse impact on its ability to fulfil its duties under Article 2 and 3, by recourse to accompanying social and economic measures; and

(6) a description of mechanisms to monitor the impact of the action, following its introduction.

Consultations

Article 6

1. The public authority shall ensure that an impact statement is made available to the public in good time to enable effective consultation to take place by the public authority with those directly affected by the proposed decision.

2. The Fair Employment Commission for Northern Ireland, the Standing Advisory Commission on Human Rights, the Commission for Racial Equality for Northern Ireland, the Northern Ireland Disability Council, and the Equal Opportunities Commission for Northern Ireland shall be consulted, where relevant, and may make its views public.

Policing -Terms of Reference

Taking account of these principles the Commission will inquire into policing in Northern Ireland and, on the basis of its findings, bring forward proposals for **establishing a new policing service capable of securing cross-community identification in a peaceful environment.**

Its proposal on policing should be designed to ensure that policing arrangements, including composition, recruitment, training, culture, ethos and symbols, are such that in a new approach Northern Ireland has a police service that can enjoy widespread support from and is seen as an integral part of the community as a whole, **in terms of religion, political opinion, gender and racial or ethnic origin.**

- * there are clear arrangements enabling local people, and their political representatives, to **exercise democratic accountability** (subject to safeguards to ensure police impartiality and freedom from partisan political control) and to establish publicly policing priorities and influence policing policies;
- * there are arrangements for accountability and for the effective, efficient and economic use of resources in achieving policing objectives;
- * there are means to ensure **international monitoring** and inspection of the police service **for a period of 2 years** to ensure that proper professional standards are maintained;

The Commission should focus on policing issues, but if it identifies other aspects of the criminal justice system relevant to its work on policing, including the role of the police in prosecution, then it should draw the attention of **the two Governments and the Independent Review Commission** to those matters.

The Commission to be established immediately following the ratification of this agreement with the aim of it starting work as soon as possible and **reporting to the two Governments within 6-9 months.**

The two Governments pledge themselves to ensure the necessary legislation is introduced aimed at bringing about the necessary structural, legal, and disciplinary changes which would bring about such a new police service.

The new police commission should be empowered to set up a police recruitment board/s, styled on the local European District Partnership model, to ensure the necessary balance of nationalist representatives.

Duty to Take Appraisal and Consultations into Account

Article 7

The impact statement and the results of any consultations on it shall be taken into account by the public body in any subsequent decision whether to proceed with the proposed action.

Duty to Give Reasons

Article 8

Following a decision to proceed with the relevant action, the public body shall publish the decision together with its reasons for doing so.

Powers to Make Regulations

Article 9

Without prejudice to previous provisions, Government in Northern Ireland shall by regulations make such provision as appears to it to be necessary or expedient to ensure that public authorities comply with their duties under this Act.

Policing -Terms of Reference

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