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Str 1(98) 15th Mtg

Northern Ireland Negotiations

STRAND ONE, FIFTEENTH MEETING
25 MARCH 1998

Minutes

The fifteenth meeting of Strand One commenced at 1445 hrs on 25 March. The meeting was chaired by Mr Murphy, with Alliance, Labour, NIWC, PUP, Sinn Fein, SDLP, UDP and UUP all present. There was one three and a half hour session addressing criminal justice and policing matters.

2. The minutes of the twelfth and thirteenth meetings of Strand One held on 4 and 9 March respectively were approved.

Criminal Justice

3. **Mr Murphy** introduced the British Government paper on Criminal Justice. He suggested there were additionally three key issues to be addressed by participants. These were whether, in principle, responsibility for criminal justice matters should be devolved, were there elements of the criminal justice system which ought not to be devolved and in the event that devolution should not take place (or not immediately) what role should an Assembly have in regard to criminal justice or Home Department matters.

4. The **PUP** said that the lack of confidence in the criminal justice system extended to include parts of the unionist community as well as the nationalist community, and led to the need for a revamped system. Change was needed to secure greater involvement in, ownership of, and allegiance to the system from the community. All elements of the justice system should be devolved, but only once trust had been developed in an Assembly.

5. The **NIWC** welcomed the preparation of principles for the criminal justice system. They were however concerned at the absence of discussion of a Bill of Rights in the paper. They asked how the principles could be enforced if they were legislated upon. The **NIWC** noted they would provide a view later on the devolution of criminal justice matters, but raised concerns about the lack of reference to emergency legislation in the paper, and the absence currently within the judiciary of any female judges.

6. **Labour** proposed a root and branch examination of the criminal justice system, and suggested a particular focus on the applicability of an investigative rather than an adversarial system, and the potential for greater openness. They supported the devolution of criminal justice matters.

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7. **Alliance** supported the immediate devolution of criminal justice matters to a Department of Justice, although they did not believe that such a department should also cover security or emergency legislation. The central feature of any criminal justice system was the rule of law which they defined as the implementation of democratically-made clear, equal laws, by impartial independent people.

8. The **UUP** indicated they were opposed to the devolution of criminal justice matters on the grounds of efficiency. They advocated an Assembly committee to address reserved matters which would have Home Department functions as among its most important tasks.

9. The **UDP** supported the devolution of criminal justice matters and favoured gradual change in relation to the wider criminal justice system focusing particularly on appointments.

10. The **SDLP** also supported devolution of criminal justice matters, but believed an independent commission was required first to develop a new approach to criminal justice and policing matters. That commission should report in 12-18 months and have its findings implemented in total by the Government before devolution to an Northern Ireland administration. The **SDLP** expressed concern that confidence had been diminished because the emergency legislation amounted to a distortion of normal law. They also believed that it would be proper to introduce an independent public prosecution role similar to that existing in Scotland.

11. **Sinn Fein** argued that the current criminal justice system needed a radical overhaul. The paper produced by the Government failed to take account of a range of concerns, such as the existence of diplock courts, the removal of the right of silence and the existence of the operation of lethal force. They suggested the criminal justice system suffered from an inherent bias, an unrepresentative judiciary and a lack of accountability. The whole ethos of the system and the existence of emergency legislation needed to be reviewed. They opposed the devolution of criminal justice on the basis that a local administration would not be likely to make the sort of changes they believed would be required. They proposed that the criminal justice system should operate in an all-Ireland context. They said they were prepared to discuss the idea of an international commission.

Policing

12. **Mr Murphy** noted that the meeting of Strand 1 on 9 March had had an initial discussion about policing. He said there were three questions for Talks participants to respond to, in addition to any points they may like to make more widely about policing or criminal justice. They were how policing could be resolved within the remaining timeframe of the Talks, whether the suggestion of an independent commission was supported and if participants would like a further paper outlining proposals for the role and remit of such a commission.

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13. **Sinn Fein** suggested that both the papers on policing and criminal justice recognised the failure of the past and present systems. They proposed a new all-Ireland police service accountable to the community as part of a democratic settlement. Their preference to see the RUC disbanded was well documented. The RUC did not fulfil a police service to all the community and needed to be more representative. **Sinn Fein** supported a commission which should oversee the disbandment of the RUC, and have a statutory remit. There should be no political appointments, but representatives of the British and Irish Governments, the European Court of Justice and experts on human rights and international academics on the commission.

14. The **PUP** said that the police service should not be subject to political direction as the Garda Siochana was. The proposal for a commission was one upon which they were unpersuaded. They were willing to examine a further paper from the Government. They were concerned the commission may not deal with practical issues, and suggested a key issue was the way the police identified with the local community. They proposed a liaison arrangement for every police station to tie into the community in which it worked.

15. The **NIWC** noted in relation to the minutes on 9 March that they were not opposed to the establishment of quotas, but had questioned how it would fit into the overall context of government policy in which PAFT was an established part. They were concerned that the commission was being presented as a fait accompli, but agreed they would examine any further document produced. They asked any such document should make the commission's remit more specific. **Mr Murphy** commented that the idea of an independent commission was merely a suggestion and not a recommendation, and that press coverage should not be interpreted as signalling the issue had been resolved, because it was for Talks participants to reach an agreement.

16. **Labour** said the police service needed to be seen as a community service. They supported the idea of an independent commission and a further British Government paper. **Alliance** emphasised the important role they envisaged for an Assembly. It was important local politicians took responsibility for policing through a Department of Justice or an Assembly Policing Committee. They were not persuaded of the need for a commission, which they believed signalled a lack of confidence in local politicians to resolve the issues. A commission would also mean an Assembly would start its work with no knowledge of the shape or outcome of the policing service.

17. The **UUP** described the Sinn Fein contributions as detached from reality. They said that the current problems of policing were experienced on a world-wide basis. The nature of terrorism in Northern Ireland made the type of community policing the UUP believed to be desirable impossible to achieve. The RUC had been more scrutinised and investigated than any police service. The single biggest contribution to improving policing would be the removal of terrorist violence from the equation, because that would allow significant important change to take place.

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18. Although the RUC was not a perfect institution, there was no requirement for radical change. Improvements to training and to the responsiveness to the community were examples where change would be desirable if circumstances permitted it. The UUP advocated an independent body between Government and the RUC to avoid political control, but suggested the current Police Bill was reducing the role of the Police Authority. They were unconvinced and unenthusiastic about the prospect of a commission, and believed, in any case that any investigation would better be conducted by those with a knowledge of the British policing system rather than international experts.

19. The UDP said they believed policing should be devolved immediately. They did not see the value in a commission. They believed it was necessary to increase the acceptability and accountability of the police service, but for that to happen nationalists and republicans needed to engage in the current liaison arrangements, even if they were viewed as inadequate.

20. The SDLP said they were strongly of the view that an independent international commission would assist in the resolution of the difficult policing issues. They advocated that the remit of such a commission should cover: the structures and organisation; the case for a unitary, unitary and regionalised or autonomous regionalised police service; the ethos and symbols appropriate for a new political agreement; the recruitment, policies and practices of the police service; arrangements for training; arrangements for increased accountability over the police service; and the scope for increased co-operation with the Gardai Siochana.

21. The SDLP also suggested that politicians must take responsibility for policing, but not exercise direction. In times of crisis, it was appropriate for politicians to override the doctrine of operational independence. Any police service needed to be accountable to the community. The SDLP asked for a further round table discussion on policing before the conclusion of talks.

22. Mr Murphy thanked the participants for a constructive debate on both criminal justice and policing matters. He noted the timing of a future Strand One discussion was a matter for the Business Committee to arrange. He noted the general desire of participants to see a greater level of detail about what any commission might do, and agreed to produce a paper in due course.

Strand One Secretariat

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