

## STRAND TWO - RIGHTS AND SAFEGUARDS

### Paper Presented by the Irish Government

1. This paper by the Irish Government is primarily concerned with measures for the enhanced legal protection of human rights, both individual and collective. It will, of course, also be necessary to ensure that the framework of institutional and constitutional arrangements emerging from the negotiations contains agreed safeguards to protect the political interests, aspirations and identities of the different traditions which are represented. But these issues are perhaps best addressed in discussion in the various strands on institutional and constitutional matters.
2. Towards the end of this paper, however, the Irish Government takes up the suggestion made in *A New Framework for Agreement* (the Joint Framework Document) that democratic representatives from both jurisdictions in Ireland might adopt a Charter or Covenant which, while being more of a political than of a legal character, would nonetheless reflect and endorse the range of rights identified and safeguards established in the negotiations.

#### General Approach

3. The Irish Government believes that 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.
4. It also recognises that there is a large body of support, transcending the political divide, for the comprehensive protection and guarantee of fundamental human rights.
5. As is widely recognised, the substance of fundamental human rights is now determined by international agreement and there is an obligation on all States to protect them. To this extent the identification of the human rights to be protected is not a matter for bargaining. The Irish Government fully recognises the obligation upon it, in consequence both of the Constitution and of Ireland's international commitments, to continue to protect human rights quite independently of the course and outcome of these Talks. Basic human rights are in principle non-negotiable. However, some of the internationally recognized rights are formulated in the international covenants with greater precision than others. For some rights there is therefore a good deal of scope for individual States, and thus for the parties in the negotiations, to decide on the most appropriate formulation and the best means of implementation.
6. There is, of course, extensive existing provision for the protection of human rights, both in domestic law and under the various international instruments to which the Irish and British Governments are party, or which they have signed with a view to future ratification. The Irish Government nonetheless acknowledges that current arrangements, both legislative and administrative, must be comprehensively reviewed, and as necessary revised and extended, as an essential part of the process of creating a genuinely new political dispensation to which all can give their support and in which all can have



confidence, whether as individuals or collectively as members of a community or tradition. The absence of such widespread confidence in previous arrangements has itself been a major source of instability and conflict.

7. Furthermore, the Irish Government believes that, to the greatest extent possible, human rights should be assured and protected on an equal basis throughout the island of Ireland. Moreover, this should hold irrespective of whatever constitutional and institutional arrangements are agreed, either in the present Talks or at any future date.

#### Areas for Further Consideration

8. For its part, therefore, the Irish Government renews the commitment set out in paragraph 50 of the Joint Framework Document, that new political and institutional arrangements would "be complemented and underpinned by an explicit undertaking in the Agreement on the part of each Government, equally, to ensure in its jurisdiction in the island of Ireland, in accordance with its constitutional arrangements, the systematic and effective protection of common specified civil, political, social and cultural rights."
9. We intend to use these negotiations to fulfil our further commitment to "discuss and seek agreement with the relevant political parties in Northern Ireland as to what rights should be so specified and how they might best be further protected, having regard to each Government's overall responsibilities including its international obligations." We also renew our commitment to introduce appropriate legislation in our jurisdiction to give effect to any such measure of agreement.
10. It is clear in this regard that there are many specific issues, both of a political and of a technical nature, to be considered in the negotiations, including:
  - the enumeration of the full range of rights to be protected: civil and political; economic, social and cultural; and collective;
  - analysis of the current situations in the two jurisdictions in Ireland;
  - exploration of the ways in which identified rights might best be formulated and securely entrenched;
  - arrangements for monitoring and enforcement, including the possibility of international support or involvement; and
  - ways in which a human rights culture could be fostered, both in government and throughout civil society.
11. Given that rights and safeguards has also been identified as a cross-strands issue, there might be merit in the establishment of a Committee of the Plenary to take the matter forward, including where appropriate and as agreed with the assistance of external expert advisors.

#### Charter or Covenant

12. In addition to the enhanced protection of human rights in the legal order, the Irish

Government also believes that there could be value, as set out in paragraphs 51-53 of the Joint Framework Document, in the adoption by democratic representatives from both jurisdictions in Ireland of a Charter or Covenant which might *inter alia* reflect and endorse agreed measures for the protection of the fundamental rights of everyone living in Ireland. It could also pledge a commitment to mutual respect and to the civil rights and religious liberties of both communities.

13. The Charter or Covenant would represent a set of political commitments by the democratic representatives of the people of Ireland which would underpin the range of human rights and institutional safeguards legally enshrined in an agreement emerging from the present negotiations. While complementing the enhanced legal protection of human rights, it would also embrace key principles in all areas, including the constitutional and the institutional.