

SOCIAL DEMOCRATIC AND LABOUR PARTY

RIGHTS, FREEDOMS AND SAFEGUARDS

Submission to Strand 2: Agenda Item 5

Human Rights

The Northern Ireland problem has had the most profound implications for the whole issue of human rights, particularly in the legal, security and policing areas.

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Rights and Safeguards

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Indeed extraordinary security measures have taken place that call into question the effectiveness of the normal safeguards of our legal process. This has led to the suspension of the normal rights of the accused, the denial of access to legal aid, the denial of access to the courts and the denial of access to the press. This has led to the use of extraordinary methods that were thought to be in breach of the European Convention on Human Rights, the trial and punishment of people on the evidence of photographs, the use of phone tapping and bugging by secret members of the security forces in domestic circumstances.

While some progress has been made in recent years to address these problems, the basic analysis remains valid, and will do so as long as the basic issues of political devolution remain unresolved.

In the specific area of human rights, the UK Government must seek to ensure that strong and effective measures are put in place to protect fundamental rights. In this regard the question of a British Bill of Rights must be examined, in the context of which internationally accepted principles of human, civil and political rights should be identified and appropriate means for their application agreed.

Policing

In this context, the policing issue is of crucial significance. A policing service operating on the basis of reciprocity is one of the hallmarks of a properly functioning civil society. This consensus can only be achieved through political devolution and the political process. It is essential that the current political talks address not only how we govern ourselves with the consent of all sections of the community, but also how we will police our society, address its ills, protect the full civil and economic opportunity available.

One of the serious problems of Northern Ireland since the ceasefire 12 years ago is that there has never been a time when the policing services of the law have

SOCIAL DEMOCRATIC AND LABOUR PARTY

JUSTICE, RIGHTS AND SAFEGUARDS

Submission to Strand 1: Agenda Items 5 & 6

Human Rights

1. The Northern Ireland problem has had the most profound implications for the whole issue of human rights, particularly in the legal, security and policing areas. As the New Ireland Forum Report stated: "Law and order in democratic societies depend on a basic consensus about society itself and its institutions. Present security policy has arisen from an absence of political consensus. In Northern Ireland extraordinary security actions have taken place that call into question the effectiveness of the normal safeguards of the legal process. This has led to harassment of the civilian population by use of abnormally wide powers of arrest and detention, exercised not for the purpose of bringing suspects before a court of justice and making them amenable to a process of law, but for the purpose of gathering information and unjustifiably invading the privacy of a person's life...This has had the consequence that the availability of the legal remedy of habeas corpus in Northern Ireland is in practice extremely limited. It has also at times led to the use of internment without trial combined with inhuman interrogation methods that were found to be in breach of the European Convention on Human Rights; the trial and conviction of people on the evidence of paid informers; the use of plastic bullets; and killings by some members of the security forces in doubtful circumstances."
2. While some progress has been made in recent years to address these problems, the basic analysis remains valid, and will do so as long as the key issue of political consensus remains unresolved.
3. In the specific area of human rights itself, negotiations must seek to ensure that strong and effective measures are put in place to protect fundamental rights. In this regard the question of a Bill of Rights must be examined, in the course of which internationally accepted principles of human, civil and political rights should be identified and appropriate means for their application agreed.

Policing

4. In this context, the policing issue is of crucial significance. A policing service operating on the basis of consensus is one of the hallmarks of a properly functioning civil society. That consensus can only be achieved through political debate and the political process. It is essential that the current political talks address not only how we govern ourselves with the consent of all sections of the community, but also how we will police our society, enforce its laws, protect the individual and maintain community stability.
5. One of the abiding realities of Northern Ireland, since its creation 75 years ago, is that there has never been a time when the policing service of the day has

commanded widespread support from all sections of the community. We must, therefore, reassess from first principles the policing requirements of a divided society enjoying the beginnings of peace. The SDLP views the creation of a policing service, wholeheartedly supported by all sections of the community, as one of the most essential and valuable goals of the political process.

6. The policing problem is itself a deep-seated political problem which goes to the very heart of the political crisis in Northern Ireland. The SDLP has made clear that this issue is intimately associated with the talks process; it cannot be resolved in isolation. As the New Ireland Forum Report stated, the security situation is a symptom of the conflict, not the cause of it. Thus, the policing and political problems of Northern Ireland are intertwined and interlocked; we cannot solve one without the other; if we fail to solve one, the other is incapable of resolution.
7. In advocating fundamental changes in policing, the SDLP fully acknowledges the enormous price in human terms, paid by many policemen and women and their families through the years of conflict and violence. In one sense, it is ironic that peace demands a comprehensive reconsideration of policing services; however, this in no way diminishes the toll exacted from members of the policing service in the past.
8. The SDLP is conscious of the need to create a policing service which, for the first time ever, can command the support of both the Unionist and Nationalist communities. To be meaningful, that support must be much more than verbal declarations; it must also be much more than getting the religious head count right. Support implies people from mainstream Nationalist and Unionist areas joining a police service with a sense of pride, not guilt, and without censure from their community. It means serving and protecting that community as an indigenous part of it, and in turn being protected by the community; it means the active involvement of Nationalists as well as Unionists in policing, in a way which has not been possible since Northern Ireland was created. For Nationalists it is the granting of allegiance, for the first time, to a system of policing with which they can identify politically and ideologically.
9. That is the quantum leap that the Nationalist community must make; however there are equally daunting challenges facing the Unionists community. The deep emotional bond that is felt by many in the Unionist community for a police service that they see as 'theirs', must accommodate a policing service which is part of the entire community. The historic and symbolic legacy which has wedded policing almost exclusively to a Unionist perspective, must give way to a new ethos which the entire community can identify with, and share in.
10. It remains true today that Nationalists are unlikely to be a sizeable part of any policing service whose function is to uphold a constitutional arrangement which they would wish to change; nor are they likely to join a police service which is rooted in, and overlaid with, symbols and trappings which are alien to them, and which they see as the preserve of one section of the community. In this context, the process of identification between the Nationalist community and any new policing

service will be reinforced by appropriate recognition of the North-South dimension and a political settlement addressing the totality of relationships affecting our communities.

11. Impartial policing to uphold the law, defend public institutions and protect fundamental rights, is essential to the well-being of any society. We must fundamentally reappraise how we deliver a policing service; its ethos, structures, its accountability, and the legal framework within which it operates. Through political discussion, dialogue and negotiation, we must agree a policing system which commands the support, the involvement and the allegiances of all the people of Northern Ireland.

Equality and Equity

12. The failure to create a social order based on principles of justice and equity has been central to the conflict in Northern Ireland. The SDLP as a party founded out of the maelstrom of the nineteen sixties civil rights campaign is determined that such principles should provide a bedrock for the settlement which negotiations are aimed at achieving. By these principles of equality and equity the SDLP means equality of opportunity, civil liberties and social justice for all. By equality of opportunity we mean the right to a good education, to have a fair opportunity of a job and a reasonable standard of living. While progress has been made in addressing some of the injustices and inequities of the past, much remains to be achieved. In education disparities continue to exist in the level of funding and support available to different schools. These must be tackled if all our young people are to be provided with just and fair opportunities to develop all of their talents. In employment, notwithstanding the work of the Fair Employment Commission, disparities between our communities persist to the point where the likelihood of a Catholic male being unemployed remains more than twice that for a Protestant male, while amongst the employed, Catholics remain considerably over-represented amongst the lower paid. Such disparities fuel resentment and suspicion. Means for their elimination must receive a high priority within our negotiations.

13. By respect for civil liberties we mean the right of all, no matter what their views, to full participation, subject only to the rule of law, in promoting and developing civic society. There must be no second class citizens, no sense that anyone, or any section of society is excluded from such participation because of their identity, or the identity, aspirations and traditions of one's community. By social justice we mean the right to a decent standard of living, to protection in employment and to adequate health-care. In this respect the SDLP will be urging that the principles in the Social Chapter of the European Union be endorsed within the context of a settlement.

Cultural Rights

14. The failure to ensure parity of esteem between our cultural traditions has been one of the most significant contributing factors to the conflict. Over the fifty years of unionist rule, unionist traditions alone received public acknowledgement, esteem and support, with the result that the cultural traditions, customs and language of the nationalist community were virtually non-existent in any official and public sense.
15. With regard to the Irish language in particular, not only was official recognition and support absent but, in addition, official hostility attempted to inhibit and constrain the use and development of the language.
16. In the past twenty years some progress towards addressing this failure has been achieved, but only in response to sustained campaigning by committed language activists and their organisations. None the less, a considerable amount remains to be done before meaningful esteem can be said to exist in the realm of cultural rights.
17. Both governments have stressed that '...any new political arrangements must be based on full respect for, and protection and expression of, the rights and identities of both traditions in Ireland and even-handedly afford both communities in Northern Ireland parity of esteem and treatment...' Given that the Irish language and culture is an essential element in the sense of identity of people from the nationalist tradition, this statement must receive practical expression in any settlement. Parity of linguistic and cultural esteem is a basic civil right which should be safeguarded. Indeed, international conventions of the United Nations, such as the UN Convention on Cultural Rights and the Council of Europe's Convention on the Rights of Minority Languages provide clear, widely respected criteria and guidelines as to what such respect and esteem should mean. The SDLP will be urging that these criteria and guidelines should form the basis for the approach to these issues in the course of our negotiations.
18. The respect and esteem for the Irish language and culture sought by the SDLP should not be seen as a threat to any individual or to the values and traditions of any community. On the contrary, esteem and respect for the language and culture of one community should be seen as adding to the cultural diversity and richness of all.

Legal System

19. Given the long history of emergency legislation, special powers and departures from generally accepted principles and practices in the administration of justice, which have been a feature of Northern Ireland's legal system, a major and comprehensive review of the system is long overdue. The SDLP believes that such a review should commence within the negotiations and that a settlement must contain a firm commitment to legal reform which will put the era of 'emergency' legislation finally behind us. In conducting this review the SDLP believes that the fullest possible use of internationally respected legal expertise be availed of.

SOCIAL DEMOCRATIC AND LABOUR PARTY

Rights and Safeguards

Submission to Strand 2 Agenda: Agenda Item 5

1. To ensure confidence in new North-South institutions and to enhance respect for human, civil, political and cultural rights it is essential that adequate safeguards for such rights are associated with these institutions in a manner which complements safeguards to be determined in the other strands.
2. The suggestion in the New Framework for an Agreement that a Covenant or Charter to enshrine and support such rights, is one that the SDLP endorses and one which should be part of a new settlement.
3. The existence of an extensive body of internationally agreed individual and communal rights provides the basis and guidelines for such a Covenant or Charter. In the course of the current negotiations relevant international rights covenants and charters should be reviewed in order to determine their particular relevance to the Irish context.
4. In addition to agreeing the actual body of rights to be endorsed, mechanisms which will foster, monitor and ensure implementation and enforcement of such rights throughout the island will also require examination and agreement.
5. At a political level a commitment to the principle of consent as it would apply to any change in the status of Northern Ireland and as set out in the Joint Declaration could also find expression in a Covenant or Charter.
6. Drawing on the Principles of Democracy and Non-Violence contained in the Report of the International Body, such a Covenant should also enshrine a solemn commitment to democratic and exclusively peaceful means of resolving political issues.