

# Office of the Independent Chairmen

Castle Buildings Stormont Belfast BT4 3SG Northern Ireland  
Telephone 01232 522957 Facsimile 01232 768905

## SUMMARY RECORD OF INAUGURAL CROSS-STRAND MEETING - MONDAY 2 MARCH 1998 (14.15)

CHAIRMEN: Senator Mitchell  
Mr Holkeri

THOSE PRESENT: British Government  
Irish Government

Alliance  
Labour  
Northern Ireland Women's Coalition  
Progressive Unionist Party  
Social Democratic and Labour Party  
Ulster Democratic Party  
Ulster Unionist Party

1. The Chairman opened the meeting, referring to the memorandum dated 26 February which had outlined that the session would discuss Rights and Safeguards, the first of three subjects listed under the cross strands heading in the Procedural Motion of 24 September 1997. He stated that, the memorandum also indicated, following consultation, that participants should be elected delegates, and that representation would be on a two plus two basis. The British Government had circulated a paper to facilitate discussion, and the Chairman called on it to speak to its paper.

2. The British Government said Rights and Safeguards had been discussed in Strands One and Two on 9 and 10 February, and these meetings had been successful. Any lasting settlement must incorporate references to Rights and Safeguards. The British Government referred to two papers it had circulated. At the core of the its position on Rights and

Safeguards was a Human Rights Bill and the incorporation into domestic law of the European Convention on Human Rights (ECHR). It would also need to consider whether it would be necessary to supplement these measures with specific provisions tailored to suit circumstances in Northern Ireland. Areas to which such additional measures would apply included policing, parades and employment equality. The British Government suggested that consideration should be given to inviting academics and non-Governmental organisations to address the talks. It was essential that Rights and Safeguards operated in a fair and impartial manner. What was needed was a settlement based on a recognition by the people of Northern Ireland that they believed that the incorporation of human rights represented a vital addition to a lasting settlement.

3. The Irish Government said it had consistently taken the view that the best way to address the Rights and Safeguards issue was through a cross-strand approach. While many issues relating to this area had a specific Northern Ireland focus, there was clearly an all-Ireland dimension. In the "Propositions" document, the two Governments expressed the view that an overall agreement should include provision to safeguard the rights of both communities in Northern Ireland and that there should be 'appropriate steps to ensure an equivalent level of protection in the Republic'. The Irish Government said its position was that the systematic, effective and entrenched protection of human rights - civil, political, economic and social - should underpin the establishment and operation of agreed institutions and structures in a comprehensive settlement. This approach was set out in its Strand Two paper on Rights and Safeguards on 7 November 1997.

4. The Irish Government said the perception that basic civil and political rights had been infringed in the past in Northern Ireland was

undoubtedly a force for instability and conflict. However, they had to move on and firmly focus on the future. The area of Rights and Safeguards covered a very broad remit. The Irish Government had taken the position that it would be more productive if they concentrated on the legal dimensions of the matter, and in particular: (1) the identification of what rights needed to be better protected; (2) how those rights could best be formulated and most effectively entrenched; (3) arrangements for monitoring and enforcement, including through a Human Rights Commission or Commissions; and (4) ways in which a human rights culture could be fostered throughout society.

5. There were, of course, differences in the legal positions, North and South. In the Irish Government's jurisdiction there was a written Constitution that contained a series of fundamental rights, which were subject to interpretation by the Supreme Court, and could only be changed by referendum. The Irish Government said that, while it was committed to the position that, to the greatest extent possible, human rights should be assured and protected on an equal basis throughout the island of Ireland, this did not mean that it was necessary to adopt precisely the same methods in each case. What was needed was to ensure there was a common standard throughout the island of Ireland.

6. The Irish Government recalled that there had been some discussion at a Strand Two meeting in February of the desirability of incorporating the European Convention on Human Rights into domestic legislation in the Republic. The Irish Government said it had listened carefully to the views expressed on that occasion, and was currently taking a fresh look at the matter. If such a step were necessary in the context of an overall settlement then the necessary legislation would be forthcoming. The Irish Government stated that the rights already available to Irish citizens

under the Irish Constitution, legislation and common law fully corresponded to, and in places exceeded, those available under the Convention. These rights were justiciable in the domestic courts. The Irish Government had also been party to the European Convention for 40 years and Irish citizens could take cases to Strasbourg. Very few such cases had been upheld in those years. The Irish Government looked forward to hearing the parties' views on the Rights and Safeguards area and, in particular, whether they would support the adoption of a human rights Charter or Covenant which would represent a set of political commitments by the democratic representatives of the people of Ireland. This would underpin the range of human rights and institutional safeguards legally enshrined in any agreement.

7. Alliance said it had set out its position in Strands One and Two. The party welcomed the statement by the Irish Government regarding incorporation of the ECHR into domestic legislation. Alliance was sceptical about a Human Rights Covenant or Charter, and it needed to be persuaded that such a move would be worthwhile. There was already a wide range of international conventions, such as the ECHR. If an Irish covenant were to be drafted, Alliance would be concerned that it did not create another standard that would not be fully compatible with the existing corpus. However, Alliance would not rule out the proposal at this time.

8. Labour said it was in a listening mode. It was reeking its brain over what further rights needed to be established. For most people, it is enforcement of human rights that counts. Human rights are meaningless unless they are enforced. Ultimately a question of trust. Labour said it could see a potential need for a human rights court for individual cases.

Court costs are high; the ordinary person cannot normally afford to avail himself of current opportunities to have recourse to the justice system.

9. The NIWC asked the British Government if it was suggesting two separate charters of rights, or one on a cross-border basis, along the lines of the Irish Government's proposal. The party said the issue of monitoring and enforcement of rights had arisen in Strand One. It was aware that there was a discussion of these issues outside the talks and referred to a question in the House of Commons by Norman Godman about the SACHR report. The party noted that the Secretary of State had met SACHR on 20 February to discuss its employment equality review, and asked for an update on this meeting. The NIWC said Rights and Safeguards had not been adequately addressed in Strand One. There should be a discussion of these issues in the wider community, and welcomed the British Government's proposal that NGOs be invited to give their views. However, it regretted that the opportunity had not been seized to foster a discussion in the community. The party observed that there were only a few weeks left in which to reach agreement. All were agreed on a Bill of Rights, but there needed to be discussion of its content.

9. The NIWC said it would welcome the establishment of an independent human rights commission, for which international examples would be useful. It welcomed the Irish Government's statement about incorporation of the European Convention on Human Rights into domestic law, and noted that other European states with written Constitutions had taken this step. It believed what was important was not that most cases taken by Irish citizens to the Court in Strasbourg had failed, but the fact that some had succeeded. The Constitution should not be above the jurisdiction of the courts, and instanced the example of the case taken by Senator David Norris. The party also drew attention to the fact that the

Republic still maintained on its statute books the power to intern without trial, whereas this power was to be rescinded in Northern Ireland.

11. The PUP said it was an advocate of a Bill of Rights for Northern Ireland. The protection of Rights and Safeguards with the Republic was based on internationally agreed charters or bilateral co-operation. Referring to the British Government's paper, it said the protection of rights in the Republic was a matter for its people alone and, while it wished them well, it was not for them to create rights in that jurisdiction. Questioning the Irish Government, it said the implication of its comments was that everything in the Republic was so wonderful that there was little left to do in the area of human rights. The party said that if it was so minded it could drive a coach and horses through the observance of human rights in the Republic.

12. The SDLP exhorted delegates not to rehearse Strand One arguments in a cross-strand issues format. The adequacy of proposals should be judged by the rights they attested. The party said a common framework should apply to the agreement as a whole; if there were different rights in different strands it would be difficult to see the basis of a rights culture at the heart of a settlement. The SDLP envisaged the possibility of decisions in one strand being subject to scrutiny in another if it had a more developed set of rights, which would give rise to unwelcome strand-hopping. There was accordingly a need for a common standard even if, as the Irish Government had said, it was not necessary to have precisely the same means.

13. The SDLP saw value in the suggestion for an all-island rights charter or covenant. It observed that the idea had arisen from the previous round of talks in response to Ian Paisley's comment that a

Northern Ireland Bill of Rights was predicated on Northern Ireland remaining in the UK, and any change in this status would leave Protestants unprotected. The SDLP said it was possible that in the future Northern Ireland may opt by consent for reunification; therefore it was important that they create rights that would apply equally for Unionists in such an eventuality as for Nationalists at the present time. The party said that rights were a political expression of identity, which was why the SDLP did not believe in a purely internal settlement in Northern Ireland, just as it would not believe in a purely internal all-Ireland settlement should a majority vote for unification. This was one aspect of the guarantee which a charter could provide.

14. Equally, the SDLP recalled that, in the previous talks, the DUP had proposed that constitutional change reflect not only the reality of two jurisdictions, but the existence of two traditions each having particular rights. The party argued that a charter which transcended the strands was one way to protect the rights of all, as it would be affirmed by both Governments and the parties to an agreement. The party read from paragraph 53 of the Framework Document. These provisions should apply equally in each of the strands, along with a duty of service. There should be a common standard for rights and safeguards, and discussion in the cross strand format should move on to the nature and extent of those rights. They could then refer discussion to the individual strands, as appropriate.

15. The UDP said adequate protection mechanisms needed to be created to reflect the needs of people throughout the British Isles, tailored to suit the respective jurisdictions. There should, however, be a commonality of approach, as in the wider context of the European Union. The party called for a dedicated Northern Ireland Bill of Rights, and said

the ECHR should be incorporated into domestic law. People should then examine which supplementary measures would be necessary. Such structures were being negotiated, and participants would need to address the issues of confidence and balance in this context.

16. The UUP said it had produced, and would circulate, a paper on rights and safeguards. It noted that the British Government had said its base line was the ECHR, yet it had identified parades, policing and employment equality as further rights to be protected. The party said the British Government had adopted an asymmetrical approach to the SACHR report on employment equality. It was dismayed to learn that the British Government had met SACHR, yet one of its representatives had been waiting since June for a meeting to discuss his minority report. It said he, and the party, had been ignored by the Secretary of State. The UUP said that the Council of Europe was universally accepted as the best method of dealing with rights and safeguards as it had a legal process of enforcement. The party cited both the ECHR and the European Framework Convention for the Protection of Minority Rights, but noted that the British Government had mentioned neither in its paper. The UUP observed that the British Government had described rights as being at the heart of a settlement, but described its approach to this topic as 'pathetic'.

17. The UUP said constitutional Nationalists and Unionists were agreed that the problem they were dealing with was that communal identity and allegiances did not correspond with the state. There were other problems, but these were secondary to this. The UUP believed this problem should be addressed through the mechanisms of the Council of Europe. It said New Agenda had pointed to the importance of the international consensus on the protection of human rights and national



minorities. Yet there was nothing of this in the British Government paper. The party recalled that the British Government had put human rights at the heart of its foreign policy and said this should also be true of its domestic policy. The British Government had ratified the European Framework Convention for the Protection of National Minorities on 15 January but had not mentioned this fact. It said this Convention contained a long list of rights, all of which needed protection in Northern Ireland, and asked why the two Governments were ignoring it. The UUP believed the Convention should be the guiding principle for additional rights.

18. The UUP said the European Union model was inappropriate for Strand Two arrangements as they were dealing with regions rather than sovereign states. It said the Framework Document spoke of the rights of the two communities being balanced, but to accord equality to a national minority in the way proposed at paragraphs 19 - 20 flew in the face of international conventions. The two Governments said rights were central to the achievement of a settlement, yet they were only paying lip-service to the issue, as the Framework Document referred to 'adequate compliance' with such norms. The UUP believed there should be a single, fair and equitable framework and not double standards. The party said it wished to reach a settlement, but from what it had heard from the two Governments this seemed unlikely.

19. The British Government said there were a number of different rights, and its paper did not represent the totality of its position on this subject. As discussed in Strand One, there would be a need for supplementary measures once the ECHR had been incorporated into law. The European Framework Convention for the Protection of National Minorities was important, as was the European Charter for the

Preservation of Lesser Used or Minority Languages, particularly given the existence of such languages in Scotland and Wales. The paper was not exhaustive, and had dealt with the subject in terms of the meeting's cross-strands format. The British Government observed that what one person regarded as rights to be protected were for another person contentious and open to dispute. The important consideration was where a citizen could go for redress if his or her rights had been infringed. This was a Strand One Issue. It also arose in Strand Two, with proposals for a rights charter. The British Government said a further important point was that an individual might not regard himself as part of a minority even if he was so regarded by another, and noted that Nationalists did not see themselves as the minority in Northern Ireland. This was not the legal position, nor that of the British Government, but it was the position of Nationalists, and this had to be recognised. International Conventions provided guidelines, and these could prove useful in their deliberations.

20. The Irish Government said a broad range of rights derived from the Constitution, and a further set derived from interpretation of the Constitution by the Supreme Court. The key question was that of enforcement by an impartial police force and judicial system. The Irish Government stated that it was looking anew at the question of incorporating the ECHR into domestic law. Internment without trial originated in the 1939 Offences Against the State Act. It pointed to a recent opinion poll which found that a majority favoured the retention of this provision to deal with any armed response by fringe groups seeking to overturn a settlement. The Irish Government said the Constitution was a good document which had withstood challenges to it, yet was flexible enough to accommodate amendment, and would continue to do so. It said that a charter or covenant should transcend the three strands and incorporate the ethos and traditions of the two communities, as it had

suggested in its paper of 7 November. This would constitute a set of political commitments by the representatives of the people of Ireland.

21. Alliance said people needed to be careful by what they meant by rights. It said there were certain fundamental rights pertaining to the legal process, such as the right to a fair trial, due process of the law, freedom of speech and assembly, and these were contained in the ECHR. There was a further category of broader rights, which might be termed political rights, such as the rights of communities, groups and political bodies. Participants were attempting to deal with this group in a legal manner but this would not work. These rights were negotiable, and were more properly dealt with by the political process.

22. Alliance said the proposal for a charter or covenant was actually a political series of questions, and there was merit in setting out ideals and rejecting violence. However, there were a number of problems with a declaration of this kind. The party asked whether it would have any legal standing and, if it did, whether it would take account of existing rights provisions. Alliance also cautioned against reinventing the wheel. The rights issue was a complicated one, and it was not always appropriate to apply the same solution to each situation.

23. The SDLP said it was necessary to be more precise about what was being proposed. The party recognised the strength of the European Convention, and the UUP's assertion that the ECHR was rooted in a justiciable process. It had, however, been formulated 40 years ago, and the human rights debate had since moved on. Many covenants had been adopted by states which had not observed their letter; therefore it was necessary to look at particular individual circumstances, and how the ECHR would be supplemented and these rights enforced. The party

looked forward to the UUP paper. It said the issue of the European Framework Convention for the Protection of National Minorities had been addressed. It applied in situations where there was a clear constitutional and political agreement as to the jurisdiction. The negotiations had enshrined the principle of consent as the means by which this problem would be resolved in their own situation. The party asked whether the UUP recognised the principle of consent as the basis of the negotiations. If it did not then everyone was back at square one. If it accepted the principle of consent then everyone should move on to address the rights agenda. 'Minority' rights were addressed more than adequately by the principle of consent.

24. The UUP responded to several points. It referred to the British Government's earlier comments and said it accepted the British Government's answer that some of the issues regarding rights were better addressed in Strand One and/or Strand Two and these had been expressed in general terms in the British Government's paper. However the British Government had also specifically indicated a range of other rights measures such as policing, parades and employment equality and the party couldn't therefore accept the root of the Government's logic. The UUP said it was quite obvious that certain rights had been mentioned but some had been excluded. It didn't accept therefore the basis of the British Government's earlier comments that the paper was not exhaustive and that it was simply pointing out the cross-strand issues which needed to be looked at.

25. On a second point relating to the British Government's comments, the UUP said that while people might not regard themselves as being part of a minority, the Framework Convention on the treatment of natural minorities stated that it was not a group right but individual rights which

had to be considered and individuals were free to choose whether they regarded themselves as being in a minority or not. While individuals had that right it was up to others like the participants to put the mechanisms in place to honour this position. Turning to comments from the Irish Government, the UUP said that the Irish Constitution of 1937 was quite a good document save for a couple of unwelcome Articles. The party said Articles Two and Three of the Irish Constitution was a derogation of the international position. Furthermore the party said the Free State de-facto accepted Northern Ireland by the 1925 Act and reneged on this commitment with the 1937 Constitution. In relation to the second point raised by the Irish Government, the party said it wasn't the one who had raised the issue of the Irish Constitution, but the Republic's Government was, by implication of the wording of the second half of the Framework Document to which it was a co-signatory, turning a nelson's eye to international law. The party said it wished the Irish Government would reciprocate in considering rights issues in its jurisdiction in a manner which mirrored its obvious concerns about policing, parades and employment equality issues on behalf of nationalists beyond its jurisdiction.

26. Moving on to Alliance's comments, the UUP said that the contents of the European Convention on Human Rights were legally binding in terms of international law. While the rights of groups were not recognised in the Framework Convention, the party said the aspect that was legally binding on the British Government, in respect of the Convention, was that it had to report in a year's time on how it had implemented the principles of the Convention. It was therefore not mechanisms that the British Government had to consider but principles. Turning to earlier SDLP comments, the UUP said that one had to remember that on the one hand the Irish Government was politically supportive of the aspirations of

northern nationalists, while the British Government had no selfish or strategic reason for remaining in Northern Ireland. Furthermore the British Government was on record as saying that, should a majority of the citizens of Northern Ireland so wish to change its constitutional status, it would put in place the legal situation to reflect this change of attitude. The UUP said, however, that while it was an aspiration of the nationalist community to change the constitutional position of Northern Ireland, the present position was that that actual situation had yet to occur. Unionists were presently in the position of upholding the constitutional position of Northern Ireland. Nationalists had the right to seek to change it so the party wished the Government to follow the principles of the Framework Convention. With regard to the principle of consent referred to by the SDLP, the UUP said that this principle was the right of the citizens of Northern Ireland alone to determine the constitutional status of it by referendum. However what was being debated here were institutional linkages between North and South and this had nothing to do with the principle of consent. The UUP enquired as to whether copies of the Framework Convention had been sent to the participants.

27. The British Government confirmed that copies of the Framework Convention had been circulated with the most recent Strand One minutes. The NIWC said that it had received its copy the previous week. The party continued and asked why, when the issue of a covenant or charter of rights was discussed in the process, it always seemed to be taken up and supported by the SDLP alone. The NIWC said both it and Labour were also in favour of a covenant. The party read from paragraph 51 of the Framework Document and said it believed it was important for the process to obtain some view of a declaration or covenant of rights. The party said it took issue with Alliance's earlier comments regarding the need for a declaration of fundamental human rights. The NIWC said it

didn't wish to see any more fundamentalism. The process had to get away from this position and consider a declaration of rights on the basis of principles or pledges to enable both parties and the public to pledge themselves to follow such principles.

28. Referring to earlier Irish Government comments, the NIWC said securing rights was not about following opinion polls. Rights were about individuals making choices. In this analogy the NIWC said everyone was likely to be in difficulties when they were faced with issues such as abortion if rights were about individuals making choices. The party said it didn't believe it was helpful for the Irish Government to say that abortion "couldn't happen in its jurisdiction". Issues such as abortion, divorce and contraception carried enormous problems and the situation whereby the right of information was about as far as people were prepared to go required further consideration. The NIWC said this was why setting out principles were important. The subject of rights had to be moved on in the debate because it was simply covering old ground and there was insufficient time for this. The NIWC said reference had been made by the British Government to using academics and NGO's to advise the participants on rights issues, but when would this feed into the process in the remaining time and how could it take these views forward - through further cross-strand meetings or another sub-committee? The NIWC said that since the scheduling of Liaison Sub-committees was now occurring in parallel with Strand meetings, it wondered whether a further Sub-committee could be established to take forward the rights issues and schedule meetings on a similar basis to the other Liaison Sub-committees. Undoubtedly some mechanism was needed to take these matters forward.

29. The PUP said it believed the cross-strand meeting wasn't achieving much. It also caused the party problems since no-one had yet convinced it

of the need to have such a charter or covenant of rights. The PUP said that if the process was relying on sufficient consensus to establish a charter or covenant, it wouldn't achieve it. The party said it believed that promoting rights issues and seeking to protect them on an individual basis was only perpetrating sectarianism. The SDLP had spoken of two traditions and so had the British Government. The real issue was that a Bill of Rights would be used for copper fastening individual rights in Northern Ireland. The PUP said the Irish Government needed to look at the European Charters which it had defaulted on in terms of the protection of rights. The party said this reminded it of the story about there being two Anglo Irish Agreements: one which had a front cover which referred to an agreement between Great Britain and Ireland and the second which referred to an agreement between Great Britain and Northern Ireland and Ireland. The question was why did they have to be different?

30. The PUP said the nationalist community was a minority within the United Kingdom. They would remain a minority if the principle of consent was worth its salt. However the Irish Government had said more than it meant to when it had stated that abortion "would not happen in its jurisdiction". The Party said the debate had focused earlier on Protestants being in a minority in Ireland but away from all of this everyone was present around the table to either reach a settlement or not. In this regard the PUP said it was far from convinced about the integrity and honesty of the British Government paper circulated prior to the meeting. While discussions in Strand Two appeared to be moving positively, the cross-strand debate had been poisoned by the document at a time when continuing with Strand Two would have been a more worthwhile task.



31. Labour said the most fundamental right was the right to life. In the last 90 years everyone had seen many hundreds killed because of violence. The party said one commitment would be to put the Mitchell Principles into such a covenant or charter and hence take the gun out of Irish politics for good. There would be no more violence and politics could be pursued by peaceful and democratic means. It would of course still be possible for people to pursue their rights provided they respected the rule of law and so long as they were prepared to say this. At the end of the day Labour said what was required was for people to adopt the Mitchell Principles themselves.

32. The PUP said it would be too difficult for both jurisdictions to sign up to a commitment like this. But surely it was a case where harmonisation of rights could be achieved across Ireland. The difficulty was that at the core of this debate was the attempt to harmonise rights across two judicial systems. The SDLP said it was uneasy with the PUP's comments although it was no bad thing to feel uneasy. The PUP said the SDLP was using one liner put downs. The SDLP said it had no intention to upset the PUP with its comments. It had to be remembered that no one had looked at a Declaration or Covenant in detail. The party said any Declaration could be dismissed. History had provided many examples of this occurring but one needed to view such a Declaration in the context of the comprehensive approach which the process was trying to adopt. The SDLP said any Declaration rested on the principle of consent. The party said it took note of the fears and apprehension expressed which in many ways summed up the siege mentality so often referred to. However attempts to take cognisance of this were required when principles were developed and voted on from the present electoral bases. The SDLP said if there was any change in those then surely unionists would want to negotiate such change using the principles as a basis. If the Convention

were were these principles would be logged and the party hoped that it would be possible, in any settlement, for these to be bolstered by both Governments and the participants. That was the significance of a Convention. If there were further details to be included in so far as any sections of the Convention could relate to justiciable matters in a Bill of Rights these could be added to those commitments made in the Convention in both jurisdictions. The SDLP said that the realisation that these commitments could be achieved in both parts of the island could also bolster any agreement reached. At the end of the day there was a need for the process to look at the political contents of a Convention, at the European Convention on Human Rights as well as other agreements together with home produced material to enable such principles to be worked up. This activity couldn't be completed in six weeks but the party was hopeful that a start could be made within this timescale. The SDLP said it hoped the PUP would suspend any adverse judgement on this proposal until everyone saw what came out of this preparatory work..

33. The UUP said it agreed with the PUP regarding its earlier comments on the wisdom of holding a cross-strand meeting. The party referred to its paper, which had just been circulated to the participants, and in particular page four, paragraph 11 which it quoted as "it must be clearly understood that a right is extended to an individual (not to groups) to act either separately or in community with others". Also, Article 3 stated that a person "shall have a right freely to choose to be treated or not to be treated as a member of a national minority". The UUP said it wasn't just a case of saying that there must be good rights. It had to be remembered that parallel rights had responsibilities and that the rights of the individual were accommodated within a jurisdiction. The party said it was a bit like saying unionists were in Sodom and over there was the promised land. The party said it perceived that the Governments were

saying that it was up to unionists to choose the promised land but in reality there wasn't a choice. That was what the Framework Document was saying and unionists could not support this.

34. The Chairman asked for further comments. The NIWC asked the UUP for clarification regarding its paragraph 11 on page four of its paper. What did "in community with others" mean? Was this a reference to communal rights? The NIWC asked did this mean that if an individual took a right on behalf of a community then that community benefited from it? The UUP said it meant that a person could act as a individual or with others in consort. The party said, however, this was a fudge of an EU position. The Framework Convention was only laying down principles. It was for the participants to see how they could formulate their principles since there was no legal recourse available to the Framework Convention. The NIWC asked the UUP whether its explanation of paragraph 11 meant that a group was not excluded from benefiting from an individual's pursuit of rights. The UUP said this was the case.

35. Following the Chairman's request for any further comments, the NIWC said it supported the SDLP's position with regard to developing principles. It said it hadn't heard the detail on the fears and anxieties which seemed to have surfaced in the debate with regard to the establishment and protection of rights in two jurisdictions. The PUP intervened to say that, in its view, nationalists wanted group rights within the UK but individual rights in a united Ireland. What was therefore being debated today was simply copper fastening sectarianism.

36. The NIWC said it had always supported the concept of a pluralist, multi-faceted society and this position hadn't altered. The party said perhaps it hadn't understood the PUP and UUP's problems about

committing themselves to developing rights principle and standards which then operated in two jurisdictions. It had to be remembered that there wasn't, as yet, a set of principles to agree but it was clear that any which were drafted would have to be sufficient and dynamic to cover any attitudinal change and to recognise the differences in Northern Ireland and between North and South. The NIWC said it was vitally important that such principles were developed on the basis that they would not provoke fears for anyone. It was likely therefore that some unique model would have to be developed to encapsulate the above conditions.

37. The UUP said it was not worried about groups or individuals. It was more concerned with the rights which individuals and groups had. The party referred to page five, paragraph 18 of its paper and said that paragraphs 19 and 20 of the Framework Document indicated a new approach that both Governments strongly commended. They advocated the "equal legitimacy and worth of both communities' aspirations and consequently there should be institutions in NI (and North/South) with emphasis on equal treatment for the identity ethos and aspirations of both communities. The UUP said this was the fundamental problem. What right could the party identify in respect of the Irish grouping in Northern Ireland? The SDLP had often spoken of giving a political expression of nationalist identity to northern nationalists and had added that there could be no stable or normal environment in Northern Ireland unless this occurred. The UUP asked that if the rights of the nationalist community were to be exercised through the Framework Document with decisions on policy and implementation etc based on a "balanced accommodation" then that provided the party with a concern over the right which the nationalist community could exercise in this situation.

38. The SDLP said perhaps there had been more negative than positive comment delivered during the session. The party said that its position on rights was that in any outworking of such principles referred to earlier it wanted to ensure that the rights of others were vindicated. For example if one looked at the Equality of Opportunity Legislation and following its bedding in, the party said it had been struck by the considerable number of the unionist community who had availed of its provisions - despite earlier opposition to the legislation from the unionist parties. The party had been delighted by this since it had said at the time that it didn't wish to see legislation introduced which was biased towards one community or the other. The SDLP said it believed that that legislation, while requiring some amendment, would continue to serve all of the people who felt their rights were not being upheld in this area. The party again said it wished to see the rights of the whole community vindicated. It most certainly wished to see the rights of the nationalist community vindicated in a political framework arising out of the talks process which also enshrined the principle of consent - itself fundamental to the constitutional and political way forward.

39. The SDLP said there was surely something in all of this which everyone could share in, yet there appeared to be questions arising in the debate today which created some doubt as to whether a shared view could be achieved. The party said it hoped it would be possible to move towards a more precise debate in an attempt to remove these doubts and ultimately bring forward proposals from the participants. Labour asked the UUP whether a party had the right to pursue its political objectives through peaceful means? The UUP said it supported this statement. Both unionists and nationalists had equally legitimate rights in political terms. The right of nationalists was to pursue by political means a change in the constitutional position of Northern Ireland. The party said there was no

denying this. But that right did not extend to a political linkage across borders which was then underwritten in an international agreement. The UUP said that nowhere was there to be found any comparable situation in terms of the provisions of international agreements similar to those which were contained in the Framework Document.

40. The SDLP asked whether the situation depicted in the Framework Document was specifically excluded in any other international agreements. The UUP said it wasn't excluded but if a majority of a region of a state didn't agree to such a framework then surely the Government of that state could not bring in such provisions as were in the Framework Convention into any international agreement. Labour intervened again to outline a further scenario regarding individual and group rights and how these could be pursued. The UUP said again that the issue here was how those rights were exercised. The proposal of providing equal legitimacy to unionist and nationalist rights as outlined in the Framework Document was simply an unique solution to a non unique problem. In going back to the issue of an equality agenda, the UUP said that this had to be looked at on the basis of equality within the state itself.

41. The SDLP asked whether the UUP's remarks implied that nationalist political rights would be mediated upon by unionists before they could be given expression. The UUP said the rights of a nationalist minority had been considered by the Council of Europe. It had drawn these up and had had them defined by international consensus. The SDLP intervened to ask whether both Governments had the right to make political arrangements which did not have to be mediated upon by unionists in advance. The UUP said that as an international principle or practice, no country had the right to sever a region from its sovereign base. However, the British Government had effectively said that if

Scotland wished to leave the United Kingdom then it could go. Clearly Northern Ireland was also in this category in the eyes of the British Government so it was permitting a region of its sovereign state to leave. The SDLP said it hadn't received an answer to its last question and asked it again. The UUP said that if a grouping couldn't leave, then the reciprocal position was also true. One couldn't impose on one section of the community a means by which it was de-coupling itself from the sovereign state - yet this was what the Framework Document was saying. The SDLP said if there was no Framework Document did both Governments have the right to make political arrangements which did not have to be mediated upon by unionists in advance. The UUP said that when the Anglo Irish Agreement was established, this provided the Republic of Ireland with the right to interfere in the affairs of Northern Ireland and hence this represented a fundamental breach of international law. The SDLP intervened and stated that Unionists had tested the Anglo Irish Agreement in the Irish Courts, but if it was a fundamental breach of international law, why hadn't they tested it in UK Law? The SDLP asked its previous question again. The UUP replied that individual states should subscribe to international consensus. The Anglo Irish Agreement was a breach of international consensus and what was unacceptable was that the British Government entered into an agreement which said that a region of a state could be severed from the remainder of that state. The SDLP asked in the absence of the Framework Document and Anglo Irish Agreement etc, did the British Government have the right to make an agreement with the Republic of Ireland over affairs in Northern Ireland.

42. The UUP said it did have that right provided it exercised it within the territorial state. What was happening went beyond this position. The SDLP said Unionists had spoken about the Framework Document severing links if it was implemented. The party asked from what would it

sever links, given that it was the basis and linkage to enable North/South structures to operate. The UUP said it had been referring to political linkages rather than economic integration etc.

43. Labour said the debate had now left it reeling on the ropes. It recalled at the previous Business Committee urging participants to try to get to the focus of the problems during discussions. What was the point in going through all this legal argument when it was quite clear that the reality of the situation was that Northern Ireland had two communities and they were divided in their political aspiration, identity and culture? Labour said when the SACHR report was produced, certain Unionists decided to produce their own report and in so doing they were running away from reality. The party said the SDLP had asked questions about the rights of two sovereign Governments and it was plainly obvious that it was quite legitimate for both those Governments to involve the people in any political development phase. Labour said if the academic arguments continued then nothing would be achieved. In terms of the suggestion from the British Government regarding the input of academics and NGO's. Labour said this might be the only way of taking the issue forward, having listened to the debate today.

44. The UUP said it had not been advancing an academic argument. These were the practical politics of Europe. Labour intervened to say that there were those around the room who were trying to move the process forward by taking it out to the community and away from the politicians because there appeared to be more chance of success in going forward on this basis.

45. The Chairman said he wished to seek the views of the participants with regard to the need for a review Plenary. He outlined the options for



holding such a meeting and asked for views either now or at a later stage. Alliance said there was no need for a review Plenary at this point. Labour reserved its position. The NIWC said it didn't see a requirement for one at present. The PUP said there was no need for one this week, as did the SDLP. The UDP said it was open minded. The UUP said it would give its views later. Both Governments also stated that they would consult the Chairman later on the issue.

46. The SDLP said it believed that there was an agenda to be followed on cross-strand issues. Developing further thought on the issue of a Convention was one such matter and it didn't wish this to be lost in terms of further meetings. The Chairman said he wouldn't decide now on when the next cross-strand meeting would be but would solicit the views of the parties first. However none of this precluded another meeting taking place. The NIWC said there were still a number of questions to be answered within the respective strands on rights issues. Some of these needed to be provided in either bilaterals or at the next relevant Strand meeting and it wished to highlight this point for the benefit of the Governments.

47. The UUP said that there were other issues within the context of an overall agenda for cross-strand discussions such as the validation of an agreement and this should not be lost either. The Chairman stated that this issue was clearly one for a full meeting and believed it to be appropriate for discussion as soon as the process neared the time for reaching an agreement - which was to be in the next few weeks in any case. There being no further comment, the Chairman adjourned the session at 16.55 and said he would consult with the parties regarding

future scheduling issues in this format and the business to be taken forward.

Independent Chairmen Notetakers  
9 March 1998