

Justice and Human Rights

Justice and Human Rights

An Alliance Submission

to

Strands 1, 2, and 3

November 1997

Justice and Human Rights

Justice and Human Rights issues are of immediate relevance to Strand 1 of these Talks, but also raise significant questions which are very relevant to the other two strands. Accordingly this paper primarily addresses Strand 1 matters, but refers to relevant aspects of other strands where appropriate. It is based on the Alliance Strand 1 proposal of an elected Assembly with a cross community Executive drawn from, and supported by, the Assembly on the basis of a weighted majority vote.

Principles

Justice and Human Rights issues are clearly central to these Talks and to the success of any Agreement reached here. They impact on all sections of the community, where individuals, irrespective of background, should be able to live their lives free from the fear of crime and violence, free from the fear of discrimination, and free from the fear of undue interference by the authorities. It is essential that any new institutions emerging from these Talks should be seen to uphold the highest standards of justice and to comply with internationally recognised standards. It is also important that such institutions should enjoy the widest possible support and respect throughout the community, and that those who have the task of upholding the rule of law should have the full support of public representatives.

A Department of Justice

It is clearly necessary to achieve the widest possible sense of 'ownership' in respect of policing and justice structures, and the fullest public engagement in shaping the priorities of such institutions. It is equally essential that the police and the courts are seen to be independent, impartial, and free from political interference. In order to meet the need for public and political engagement with the administration of justice we believe that there is a strong case for the creation of a Department of Justice, with a Minister and an associated Assembly Committee, as part of any new Northern Ireland arrangements. Such a Department

could have a substantial legislative and policy making role in respect of, ordinary criminal law and sentencing, criminal compensation, victim support, prisons, probation, legal aid, the court service, the legal professions and civil law reform.

The Department and Committee might also have a remit in respect of wider human rights obligations and issues. It would not have any role in operational policing matters but it should receive Annual Reports from the Chief Constable and should be involved in shaping policing priorities through the approval of an Annual Policing Plan submitted by the Chief Constable.

This proposal may seem radical to some. We see it as a challenging but necessary step towards bringing about the important goal of a broadly agreed approach to policing and justice matters.

Security

We would not envisage substantial authority over security and anti-terrorist matters being devolved at an early stage, but it would be essential that the Executive, would have a significant role in shaping security policy. That could be facilitated by regular contact on security matters between HMG and the Secretary of State on the one hand, and a Northern Ireland Executive on the other.

Given the shared interest of all three jurisdictions in combating terrorism, which is of course a cross-border, indeed an international phenomenon, we would also see security as being a matter which should be within the remit of the Tri-partite Body we have proposed in our Strand 2/3 paper, involving the two governments and the Northern Ireland Executive.

Cross-border Co-operation

The border poses particular problems for effective policing within the island of Ireland. Agencies of justice are restricted by the border. Those involved in terrorism, organised

crime, and drug smuggling are not. Policing is therefore a significant area for mutually beneficial cross-border co-operation. We would see a potential role for a joint intelligence or anti-terrorist co-ordination body, or for a form of cross-border regional crime squad dealing with serious crime.

Legislation

We welcome the British Government's announcement of a review of emergency legislation and of its intention to replace the Emergency Provisions Act and the Prevention of Terrorism Act with a single UK-wide Act. While anti-terrorist legislation will no doubt continue to be necessary it is important that such measures should deviate from the ordinary standards of justice and policing no more than is strictly necessary to combat the realistic threat. Internationally recognised standards must also be respected in a consistent fashion across the jurisdictions.

Human Rights

We have long advocated the incorporation of the European Convention on Human Rights in UK domestic law. We warmly welcome the British Government's decision to so incorporate the Convention, which has high international standing, well respected institutions and a substantial body of well developed case law, and to which both Britain and the Republic have been signatories for many years.

The similar incorporation of the Convention in Republic of Ireland domestic law, would send a very clear signal that all three jurisdictions were committed to upholding the same high standards of human rights protection and ensure that the same internationally recognised standards of human rights protection were available in all three jurisdictions, with the possibility of appeal to the European Court of Human Rights ensuring consistency of application.

Within Northern Ireland, the Standing Advisory Commission on Human Rights should have an enhanced role in promoting education and research on human rights issues, and should be required to lay reports before the Northern Ireland Assembly, as well as the Secretary of State at Westminster. In a cross-border context a similar body might be established in the South to keep under review the protection of Human Rights in the Republic, and a mechanism created whereby the two bodies could co-operate on the protection of human rights across the island.

Discrimination

Adequate and appropriate mechanisms to combat discrimination should be maintained in any new arrangements, but we want to explore the further development of a human rights culture which would move beyond the current mechanisms and approaches which have been combating discrimination through the present separate agencies. Efforts should also be made to harmonise the anti-discrimination provisions in the various jurisdictions. The key guiding principle should be the protection of individual rights for every single person, rather than the classification of group rights which will inevitably leave some people out.