

# **Agenda for Democracy**

**Alliance Party Proposals for the  
Review of the Agreement**

**Alliance**  
The Alliance Party of Northern Ireland

**7 January 2004**



## AGENDA FOR DEMOCRACY

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### Summary

1. Alliance proposes the following Preamble to be adopted on the revision of the Agreement. This is a modification of the current Declaration of Support:
  - The Governments and Parties offer this revision of the Agreement to the people to consolidate the progress in building new relationships within Northern Ireland, between north and south, and between these islands, begun five years ago.
  - We share a vision of an open free and fair, peaceful and stable society, based firmly on liberal democratic norms.
  - We recognise the real diversity that exists across these islands, and pledge to respect the human rights, equal citizenship and free choice of identity by all individuals, minorities and communities.
  - We equally recognise the common bonds that exist among our people, and pledge to work together for the common good, to improve community relations, and to build a shared, non-sectarian society.
  - We state our total and absolute commitment to the use of exclusively peaceful and democratic means for resolving differences on political issues, and renounce all forms of paramilitarism, and the use or threat of violence to achieve political and other objectives.
  - We affirm our commitment to the integrity of the rule of law, and to creating a culture of lawfulness.
  - We fully acknowledge that the tragedies of the past have left a deep and profoundly regrettable legacy of suffering. We can best honour the memory of all victims by promoting reconciliation and mutual respect, by implementing this revision of the Agreement in good faith, and by taking full advantage of the opportunities that new dispensation has given to us all.
2. Alliance proposes that, rather than restricting the people to the stark choice between maintenance of the union or the creation of a united Ireland, the Principle of Consent could be used to test the level of popular support for other constitutional futures for Northern Ireland, which may be devised in the future.
3. Alliance proposes a reduction in the size of the Assembly, to about 80 MLAs, to come into effect at the next scheduled election of the Assembly.
4. Alliance proposes that these MLAs would be elected in approximately 12 Assembly constituencies, each returning 6-8 MLAs by STV.
5. Alliance proposes the introduction of an Assembly voting system for cross-community matters based on a weighted majority, free from communal or sectarian designations.
6. Alliance proposes that the Executive should be formed by negotiation among parties endorsed by a weighted majority vote in the Assembly to ensure a cross-community composition.

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7. Alliance proposes that the number of Executive Departments be reviewed, in order to achieve greater efficiency and effectiveness, and taking into account the current Review of Public Administration.
8. Alliance proposes a review of the composition of the Executive and responsibilities of the Government Departments. Alliance advocates that a single Department would have major responsibilities for Equality and Community Relations.
9. Alliance proposes that criminal justice and policing functions, when devolved, are placed within a single dedicated Department as part of an Executive working to collective responsibility.
10. Alliance proposes replacing the current Office of First Minister and Deputy First Minister with a much more streamlined office, with appropriate functions being reallocated to dedicated Departments.
11. Alliance proposes that a full Departmental Scrutiny Committee be established to scrutinise the functions of OFMDFM (or any successor body).
12. Alliance proposes that the Assembly as a whole, on the basis of a weighted majority vote, be granted the power to negate a Ministerial decision.<sup>1</sup>
13. Alliance proposes that paragraph 13 of the Joint Declaration (2003) should be incorporated into the Pledge of Office.
14. Alliance proposes a Single Transferable Vote election among Assembly Members as the fairest system of allocating chairs and vice chairs. Under this system, a succession of counts of an STV ballot would be conducted among MLAs to work out a rank order of party choices of posts.
15. Alliance proposes that the Assembly be granted tax-varying powers.
16. Alliance proposes that the First Minister, Deputy First Minister, Taoiseach and Tanaiste present a joint report on the work of the North-South Ministerial Council, in the Assembly and Oireachtas annually, and are subject to questions from legislators.
17. Alliance proposes that the Assembly and Oireachtas be required to establish a North-South Parliamentary Tier, which would be open to all parties, and to which each jurisdiction would send equal numbers of participants.
18. Alliance proposes increasing the scope of North-South co-operation, on the basis of practical benefits.
19. Alliance proposes that the Agreement explicitly articulates the vision of a shared and integrated society, where people can live and learn, work and play, together in safety.
20. Alliance proposes that within the context of the review of the Agreement, the contracting parties should commit themselves to devising and implementing the policies to put this vision into practice.

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<sup>1</sup> While this proposal may be seen as weakening the powers of Ministers, it should be considered alongside other proposals to strengthen the cohesiveness of the Executive. All proposals are designed to encourage and advance a coherent, effective approach to governance.

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21. Alliance proposes the creation of a positive duty upon all Government Department and Public Agencies to promote good community relations.<sup>2</sup>
22. Alliance proposes that all policies should be required to undergo an assessment of Policy Appraisal for Sharing over Separation (PASS).
23. Alliance proposes that the NIHRC should be given a clear remit to devise a Bill of Rights to protect individuals, and persons belonging to minorities and communities.
24. Alliance proposes that the NI Human Rights Commission draws up a Charter of Freedom from Sectarianism.
25. Alliance proposes that the passage of a Single Equality Act becomes a specific policy commitment within the review of the Agreement.
26. Alliance proposes that clear and unambiguous duties should be placed on public bodies to deliver their services and to keep their property free from paramilitary, political and sectarian flags and emblems.
27. Alliance proposes that a methodology of equality monitoring should be developed that reflects the genuine diversity and pluralism within Northern Ireland society.
28. Alliance proposes the creation of a victims' forum to allow victims to place their personal experiences onto an official public record.
29. Alliance proposes that all parties renew and clarify their commitments to work to the removal of illegally held weapons, based on a short timescale.
30. Alliance proposes, that an STV election be used among Assembly members to determine the political membership of the Policing Board. Furthermore, independent members should be appointed with the objective of making the board more broadly based.
31. Alliance proposes the end of the use of 50:50 recruitment quotas. We would suggest that targets for Catholic recruitment can and should be set, and a strong programme of affirmative action measures should be used to achieve a more representative police service.
32. Alliance proposes that the Republic of Ireland should have a Police Ombudsman with powers equivalent to the office in Northern Ireland.
33. Alliance proposes that consideration be given to the creation of specific offences concerning the erection of flags or other emblems and the painting of murals associated with proscribed organisations.
34. Alliance proposes that any paramilitary involvement in any offence should be considered as an aggravating factor in sentencing.
35. Alliance demands that paramilitary organisations lift all the threats against those whom they have 'exiled' from Northern Ireland.

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<sup>2</sup> The Review of Public Administration recognises that: "Organisations within the public sector can provide forums in which people from all sections of society can come together to work for the good of their communities. They can thus be an important focus at local level for developing ways of working that encourage people to work together to establish priorities and to seek agreement and consensus for the public good. By being pro-active and accessible to all sectors of the community, they can also help to develop a sense of identity and inclusion, particularly for those groups who may previously have felt marginalised."

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36. Alliance proposes that further periodic Comprehensive Reviews into the operation of the Agreement should take place at least once every ten years.
37. Alliance proposes that, in addition, the two Governments, either acting alone or at the request of a weighted-majority cross-community vote in the Assembly, should have the power to convene further reviews to consider specific issues that may arise.

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### Foreword

In 1969, Northern Ireland was plunged into violent conflict. Since 1994, the level of violence has significantly reduced, but it has not yet gone away.

Alliance has always held the view that the violence was not the problem in itself, but was rather a symptom of a deeply divided and unstable society. Before 1969, there was 'peace'. But in reality there was a failing political system that could continue no longer.

During the 'Troubles', the paramilitaries were all too often described as 'madmen', 'psychopaths', 'evil', and even more inaccurately, 'mindless'. These terms represented a fundamental denial of reality. The paramilitaries were politically motivated. In their violent tactics and lack of electoral support, they were no different from their predecessors, who, as history shows, all too often achieved retrospective endorsement for their actions.

Notwithstanding the above, Alliance has always believed that the circumstances in Northern Ireland did not remotely justify the campaigns of violence. The loyalist and republican terror was ethically indefensible. After 1969, powers were removed from local councils, there was major progress in policing, Stormont was closed down in 1972, and fair employment legislation was put in place.

From the early 1970s onwards, the overwhelming threat to the human rights of the people came from the paramilitaries.

In 1973, Alliance participated in the short-lived power-sharing Executive.

After a series of somewhat half-hearted Governmental initiatives to build power sharing out from the centre, there was a change of strategic direction from the late 1980s. The two Governments decided that the only way to end the violence was to incorporate the paramilitary-linked parties, in particular Sinn Féin, into the heart of the political system. The 1998 Agreement can be seen as the practical outworking of this approach.

Nearly six years on, as we contemplate the repeated collapses of the former Executive, the fifteen months without an Assembly, and the evidence of continuing political and community polarisation, we must – if this comprehensive review is to serve any real purpose – address not merely certain structural issues, but also the reasons why the expectations of 1998 have not been realised.

Alliance's proposals for the Review are rooted in the party's key values. In the preparation of this paper, Alliance members were asked what issues mattered most to them. Three major themes emerged:

- Opposition to sectarianism, racism, segregation, and all forms of arbitrary division
- Opposition to violence and a commitment to exclusively democratic methods
- Commitment to human rights, 'fair play', and social justice

Unsurprisingly, the 'constitutional issue' is not a defining matter for Alliance. In keeping with the three core values, Alliance believes that the people's consent is paramount and that the legitimate interests of all are safeguarded.

***Opposition to sectarianism.*** The root of Northern Ireland's problems lies in the severe and deeply unhealthy division in our community, which manifests itself in politics, in

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housing, in schooling, in work, in sport and in social life. A pervasive sense of 'them' and 'us', of 'our community' and 'their community', suffuses our whole society.

Sectarianism is not just about certain Protestant clergy fulminating against the Catholic Church. Nor is it largely about stone throwing at 'interfaces'. It exists primarily in terms of attitudes towards others. Prejudice is literally about prejudging people. As long as we cling to two mutually exclusive 'identities', our conflict is likely to rumble on.

Despite the foregoing, there has been a long local tradition of intermarriage. In the 2001 census, 14% of people did not declare any religious allegiance. The 2001 'Life and Times' survey showed well over 30% of people refusing to be identified as either 'nationalist' or 'unionist'. The majority of people strongly favour the availability of integrated education, and mixed housing, employment and social opportunities.

The achievement of a genuine and lasting peace requires not just an elite-oriented political arrangement, but also a systematic, fully resourced root and branch policy programme to promote the development of a shared and integrated society.

***Commitment to democracy and non-violence.*** Since its formation in 1970, Alliance has consistently and vigorously opposed the use of violence. While there were very serious issues that had to be addressed, no objective observer could credibly argue, either then or now, that the wrongs were so bad, or that democratic means of redress were so unavailable, that paramilitaries were justified in killing people.

Alliance has always believed that the paramilitary campaigns were ethically indefensible. In the context of all the reforms of recent years, and in a world which sorely wants to see the back of all forms of terrorism, people are entitled to demand the disbandment of all paramilitary organisations forthwith.

***Human Rights.*** Alliance sees people as individual citizens with rights and responsibilities, rather than as members of distinct and mutually exclusive religious or ethnic groups. The party has always taken a progressive stand on civil liberties issues.

In 1971, Alliance strongly opposed the introduction of internment. It has always stressed the need for police accountability, and has been a long-time advocate of a Bill of Rights. Alliance for many years called for race relations legislation to be implemented locally.

If human rights are to apply to some, then they must apply to all. Alliance therefore regards it as unacceptable that the Irish Government is currently unwilling to introduce the same protections for its own citizens that it so strongly advocates in Northern Ireland.

***Constitutional issues.*** Alliance, unlike the nationalist and unionist parties, does not define itself on the border/constitutional issue.

Alliance's underlying values, and policies are in essence independent of the 'constitutional' question. If there were to be a united Ireland, Alliance would remain a staunch advocate of exclusively democratic and non-violent methods and the protection of human rights. We would remain totally opposed to all forms of sectarianism, racism and segregation.

Thirty-five years after the start of the current 'Troubles', nine years after the original ceasefires, and nearly six years after the Agreement, it is now long past time for Northern Ireland's leaders to leave behind an increasingly pointless conflict, and get on with creating a genuinely peaceful, healthy and modern society. The ideas presented in this paper show how we can achieve this.



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### 1 Introduction

- 1.1.1 The Agreement represented an historic accommodation among the various political traditions in Northern Ireland, north and south, and all of these islands.
- 1.1.2 The major strength of the Agreement continues to lie in its creation of a set of political institutions with cross-community legitimacy within a deeply divided society.
- 1.1.3 The opponents of the Agreement continue to fail to produce any alternative that is capable of generating similar support across the community.
- 1.1.4 While we recognise that the Agreement has many strengths, there are some flaws. Several years on, it is possible to view the Agreement and its implementation from a clearer and more critical perspective. Over the past five years, these deficiencies and flaws in the Agreement have come into much clearer focus.
- 1.1.5 Continued arguments among the parties to the Agreement, as well as the failure to rise above narrow sectarian concerns to work for the common good, has undermined the implementation of the Agreement. Most crucially, there has been a deterioration in community relations, and an increase in sectarianism, racism and segregation on the ground. Regrettably, the Agreement has played a major role in contributing to an institutionalised sectarianism in Northern Ireland.
- 1.1.6 Rather than trying to create a new political culture for Northern Ireland in which all parties compete over a common agenda and seek to work in the common interest, the Agreement has entrenched a system of intra-ethnic competition within two separate Unionist and Nationalist polities.
- 1.1.7 At the outset, the Agreement was generally seen as 'win-win' by its supporters. Sadly, it is today regarded in zero-sum terms, with a gain for one section of the community being perceived as a loss by another. The extremes on either side are able to exploit the 'them' and 'us' mentality, either by arguing that the perceived moderates on each side have been selling out 'their community' or by claiming that they can negotiate a 'fairer deal'. The sectarian voting rules in the Assembly institutionalise this competition, through setting up 'winner takes all' fights within both unionism and nationalism to see who is entitled to claim the top two posts of First and Deputy First Minister, or to claim an effective veto over policy outcomes.
- 1.1.8 Fortunately, the Agreement does provide the terms for its own review. Bearing in mind the charged and pressurised atmosphere in which the Agreement was fashioned, it is sensible to review its terms and structures, and to learn the lessons of experience.
- 1.1.9 Within the context of the forthcoming Comprehensive Review (written into the Agreement), some changes to the political structures and wider policy commitments are now inevitable, provided that any such alterations are consistent with its underlying principles. These fundamentals include: human rights, equality of opportunity and equality of citizenship, entrenchment of the Principle of Consent, power-sharing devolution, accountable north-south structures, and commitments to democracy and non-violence.

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- 1.1.10 Theoretically, it is possible to design political structures to make it possible for parties to co-exist within the same government without actually having to deal directly with each other. Such measures may be superficially attractive as a short-term fix, but would not provide long-term peace and stability, never mind the strong and effective government that Northern Ireland needs.
- 1.1.11 Alliance is firmly committed to the principle of power sharing. We strongly advocate a move away from the rigid, consociational form of power sharing contained in the original Agreement towards more flexible and integrated versions of power sharing more appropriate for an evolving and diverse society. Ultimately, our objective is to fashion Northern Ireland as a model European liberal democracy.
- 1.1.12 Any political structures must address the deeply divided nature of Northern Ireland, yet they must be sufficiently flexible to allow for positive change in our political culture. While there is no guarantee that any set of political structures will be workable, there are certain institutional designs that are much more likely to be successful.
- 1.1.13 However, it is important that discussions do not focus exclusively on political structures, but address the wider problems in society which create the context for the current political impasse.
- 1.1.14 The deep divisions in Northern Ireland society, and the associated community relations problems were neglected in the Agreement.
- 1.1.15 For some, the Agreement is about managing institutionalised differences and communities in Northern Ireland. This approach holds that separate but equal communities can be managed through some form of 'benign Apartheid'. However, no matter how skilful, conflict management cannot be constantly maintained. With few or no common bonds or overarching loyalties to a set of shared values, once there is a major crisis, it is relatively easy for 'separate communities' to go their separate ways.
- 1.1.16 Community relations issues must be fundamental to this Review. This entails the articulation of a vision of shared society, and turning this aspiration into practical reality through producing the necessary changes in policy, and being prepared to defend integration where it occurs. The Review also presents an appropriate opportunity to discuss and develop some fundamental aspects of a shared society, e.g. human rights, equality and social justice.
- 1.1.17 These revised proposals for making the Agreement work better are designed to take Northern Ireland forward over the next 20–25 years. They build on the template provided by the Agreement.
- 1.1.18 For Alliance, the Agreement is not the ceiling of our ambitions, but rather a foundation on which to build. Alliance does not view the Agreement as the end-point of a process, but as a tool to help us to reinforce peace and stability, to entrench liberal democracy, and to build a united community and a shared, non-sectarian society.

## **2 Preamble/Declaration of Support**

### **2.1.1 Alliance proposes the following Preamble to be adopted on the revision of the Agreement. This is a modification of the current Declaration of Support:**

- The Governments and Parties offer this revision of the Agreement to the people to consolidate the progress in building new relationships within Northern Ireland, between north and south, and between these islands, begun five years ago.
- We share a vision of an open free and fair, peaceful and stable society, based firmly on liberal democratic norms.
- We recognise the real diversity that exists across these islands, and pledge to respect the human rights, equal citizenship and free choice of identity by all individuals, minorities and communities.
- We equally recognise the common bonds that exist among our people, and pledge to work together for the common good, to improve community relations, and to build a shared, non-sectarian society.
- We state our total and absolute commitment to the use of exclusively peaceful and democratic means for resolving differences on political issues, and renounce all forms of paramilitarism, and the use or threat of violence to achieve political and other objectives.
- We affirm our commitment to the integrity of the rule of law, and to creating a culture of lawfulness.
- We fully acknowledge that the tragedies of the past have left a deep and profoundly regrettable legacy of suffering. We can best honour the memory of all victims by promoting reconciliation and mutual respect, by implementing this revision of the Agreement in good faith, and by taking full advantage of the opportunities that new dispensation has given to us all.

## **3 Constitutional Issues**

### **3.1 Northern Ireland's Constitutional Status**

- 3.1.1 Alliance reiterates its support for the Principle of Consent.
- 3.1.2 Throughout the world, but especially within Europe, sovereignty is becoming increasingly recognised as neither absolute nor indivisible. Within the context of an evolving European Union, and advancing globalisation, interdependence and transnationalism, borders are progressively becoming less significant and less politically important.
- 3.1.3 A polarised argument over the constitutional status of Northern Ireland is neither in the interests of Northern Ireland nor these islands. In particular, a succession of 'border polls' would have a divisive effect on community relations.
- 3.1.4 Alliance will promote what the people of Northern Ireland hold in common in order to counteract the forces that tend to separate and pull the people of Northern Ireland apart.

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- 3.1.5 Alliance seeks to develop multiple and interlocking relationships between all of the jurisdictions in these islands.
- 3.1.6 Alliance will promote Northern Ireland as a distinct region within a developing Europe.
- 3.1.7 At present, the Agreement only allows two possible outcomes under the Principle of Consent, i.e. either continuation of the United Kingdom or a united Ireland. This is a very narrow choice reflecting an outmoded approach to sovereignty. If alternative options were to be designed, they should be allowed to be advocated and put before the people, if there was substantial evidence that there may be sufficient popular support for such changes. In an Agreement that seeks consensus, constitutional options should not be so starkly incompatible.
- 3.1.8 **Alliance proposes that, rather than restricting the people to the stark choice between maintenance of the union or the creation of a united Ireland, the Principle of Consent could be used to test the level of popular support for other constitutional futures for Northern Ireland, which may be devised in the future.**

## 4 Strand One

### 4.1 Size of the Assembly

- 4.1.1 There is considerable public unease at the relative level of public expenditure in Northern Ireland. One major contributory factor to this unease is the size of the Assembly. At 108 members, there are substantially more MLAs per head of population than the comparable situation in Scotland, Wales, the Republic of Ireland and the UK as a whole.

Legislative Body	Size of Population Represented	Number of Elected Representatives	Number of People per Elected Representative
Northern Ireland Assembly	1, 685,267	108 (80)	15,604 (21,065)
Scottish Parliament	5,062,011	129	39,240
National Assembly for Wales	2,903,085	60	48,385
Westminster Parliament	58,789,194	659	89,210
Dail Éireann	3,917,203	166	23,598

(NB. Population Figures are taken from the 2001 Census)

- 4.1.2 **Alliance proposes a reduction in the size of the Assembly, to about 80 MLAs, to come into effect at the next scheduled election of the Assembly.** This would better reflect the population of Northern Ireland, and provide more efficient and cost-effective Government.
- 4.1.3 In a deeply divided society, it is particularly important that election results reflect the views of the people. The Single Transferable Vote system of Proportional

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Representation is by far the fairest, as it balances proportionality with constituency representation. However, the use of STV in smaller multi-member constituencies does tend to create a slight imbalance towards larger parties, and in particular the largest party regionally.<sup>3</sup> The initial decision to return six members from each Westminster constituency, rather than the assumed five, reflected a desire to ensure greater diversity in representation. This attempt largely failed, but as a side-effect created a large and unwieldy Assembly. The creation of a smaller number of larger multi-member constituencies would better address both of these problems. The implementation of this proposal would require a Boundary Review. **Alliance proposes that these MLAs would be elected in approximately 12 Assembly constituencies, each returning 6-8 MLAs by STV.**

### 4.2 Designations and Voting System

- 4.2.1 Alliance has had concerns with the designations and voting system for the Assembly since Good Friday 1998.
- 4.2.2 There are four particular problems with the current system:
- the institutionalisation of sectarian division
  - a lack of equality of votes between MLAs
  - an inability to adjust to changing demographic and political circumstances
  - the ability of minorities effectively to hold the process to ransom
- 4.2.3 There was a certain inevitability that a crisis would happen, considering all of the above faults.
- 4.2.4 For example, in November 2001, over 70% of Assembly MLAs voted for David Trimble (UUP) and Mark Durkan (SDLP) as First Minister and Deputy First Minister, yet this proved insufficient. In any other (democratic) legislative body in the world, it would have been sufficient. This vote also highlighted the discrimination against those who do not designate as ‘unionist’ or ‘nationalist’, as well as the voters who put them there.<sup>4</sup>
- 4.2.5 The election result of November 2003 has also brought to the fore the impractical rigidities of the current system, which is a barrier to the re-establishment of power-sharing devolution.
- 4.2.6 ***The Institutionalisation of Sectarian Divisions.*** At the heart of the problem lies the requirement for Assembly members to designate themselves as unionist, nationalist or other. Although this was proposed as a way to ensure cross-community consent, it actually contributes to reinforcing sectarian divisions.

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<sup>3</sup> This is borne out most clearly in the 1998 Assembly Election, where the UUP won 28 seats to the SDLP’s 24, despite the SDLP being the largest party in terms of the share of the popular vote.

<sup>4</sup> The failed attempt to elect a First and Deputy First Minister is not the only example of this problem. There are other examples where over 70% of Assembly members voting for a motion that failed to go through because one or other of the cross-community thresholds was not reached. Indeed, in a vote on a change in Standing Orders in March 1999, over 75% of MLAs voted in favour, but the measure fell because there was not 40% support from Nationalists; the SDLP exercised a *de facto* veto.

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- 4.2.7 Right from the top down, the message is given that Northern Ireland society is rigidly divided into separate communities, and that people can be neatly pigeon-holed into separate categories. Designations imply that this society will be forever divided, requiring continual and skilful conflict management, rather than becoming a united, though diverse, community, with common goals and shared interests.
- 4.2.8 In any event, Alliance does not believe that a reference to ‘both communities’ accurately reflects the current reality in Northern Ireland. While Alliance accepts that the population of Northern Ireland is deeply divided on grounds of ethno-nationalist identity, and to a lesser extent religion, these differences are both constructed and exaggerated. This ‘two communities’ or ‘both communities’ language fails to acknowledge that a significant number of people cannot be labelled as unionists or nationalists, Protestants or Catholics. Some people come from mixed marriages, are part of ethnic minorities, or choose not to be described in such terms, preferring a more multicultural and pluralist self-identification. It also ignores the reality that many Protestants and Catholics, and unionists and nationalists, often have more in common with people across the perceived ‘divide’ than they do with each other.
- 4.2.9 ***The absence of equality of votes among Assembly Members.*** The current system discriminates against those Assembly members who choose not to designate as either unionist or nationalist, and also the voters who put them there.
- 4.2.10 First, through describing those who do not align or wish to align with unionism or nationalism as ‘others’, they are treated in a negative manner, implying that they are misfits who do not meet the pre-ordained conventional wisdom that everyone should be a unionist or a nationalist.
- 4.2.11 Second, under the present system, on key cross-community votes in the Assembly, the votes of those representing cross-community parties (designated as others) carry less weight. All MLAs have one vote, but some votes are more equal than others, by being counted twice.
- 4.2.12 This problem was exemplified in the aforementioned failure to elect a First and Deputy First Minister duo in November 2001, even though over 70% of the Assembly voted ‘yes’. It took an extraordinary intervention by the Secretary of State and a change to Standing Orders to allow three Alliance MLAs to temporarily redesignate. These three MLAs voted ‘yes’ in a second division, but this time their votes were counted as ‘unionist’ votes, and the candidates for First Minister and Deputy First Minister were elected.
- 4.2.13 Votes from the centre can only count in a negative sense in the system of 50:50:50 parallel consent. Under the 60:40:40 method, votes from the centre are counted in the 60% overall, but the votes of designated unionists and designated nationalists are counted twice, as they are considered for the respective 40% threshold as well as the 60% threshold overall.
- 4.2.14 The current system contradicts well-established democratic principles, as well as evolving European human rights laws and anti-discrimination standards.

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- 4.2.15 Specifically, it runs counter to Article 3(1) of the Council of Europe's Framework Convention of the Protection of National Minorities.<sup>5</sup>
- 4.2.16 Furthermore, it arguably violates Articles 9, 10 and 11 of the European Convention on Human Rights, regarding freedom of thought, conscience and religion; freedom of expression; and freedom of assembly and association.
- 4.2.17 ***Blocking and inability to adjust to political and demographic change.*** Alliance wishes to see this society move away from cultural identity politics towards a more familiar European system based on social and economic issues. However, there is a real deterrent to electors backing parties which are not based on the old sectional politics as the votes of their public representatives will count for less than those of unionists or nationalists.
- 4.2.18 It would be perverse if increased support for cross-community parties made it more difficult to win a 'cross-community' vote in the Assembly.
- 4.2.19 ***The system gives minorities disproportionate power and the ability to block decisions.*** Finally, the system is highly inflexible and so creates unnecessary hostages to fortune. By requiring that the election of a First Minister and Deputy First Minister is supported by at least 50 per cent of both those designating as unionist and those designating as nationalist, the potential is created for a small number of MLAs to frustrate the greater will of society to see progress.
- 4.2.20 ***Requirements for an Assembly Voting System.*** There are several requirements for an Assembly voting system:
- It must address the deeply divided nature of Northern Ireland society and its political system. The need for checks and balances in the devolved administration of Northern Ireland is clear, particularly bearing in mind the legacy of Unionist-dominated rule under the Stormont Parliament. This clearly indicates that a system ensuring cross-community consent is essential.
  - However, in doing this, it is important to avoid entrenching divisions, and pigeon-holing people (including MLAs) into rigid categories. Introducing non-discriminatory voting procedures will allow the will of the people to be truly expressed and allow the Agreement to contribute to the development of a more pluralist, stable society.
  - The system should be flexible enough to accommodate demographic and political change. It is important not to become captives of history. The present arrangements were designed to prevent nationalists becoming the victims of a monolithic unionism. However, the context has changed more rapidly than anticipated. In practice, the system has allowed the anti-Agreement minority to hold the entire process to ransom. This is not in the interests of anyone, including nationalists.

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<sup>5</sup> "Every person belonging to a national minority shall have the right freely to choose to be treated or not to be treated as such and no disadvantage shall result from this choice or from the exercise of the rights which are connected to that choice." This Convention has been ratified by the UK Government. The NI Human Rights Commission is currently advising that 'minority' should be interpreted as applying to 'all communities'.

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- It must be democratic: the votes of all members of the Assembly must be counted and have equal value in any and every division. This is important for legal and human rights considerations.
  - It must be transparent and not unnecessarily complex nor cumbersome to operate.
- 4.2.21 It is crucially important that, in our deeply divided society, significant matters in the Assembly are decided on a cross-community basis. However, the two versions in the Agreement are not the only possible systems.
- 4.2.22 It is clear that only a system of **weighted majority voting, free from designations**, fulfils all the requirements and avoids the pitfalls identified above.
- 4.2.23 The system would therefore address the spirit and intent of the cross-community voting in the Agreement, while overcoming the current weaknesses. No vote could be carried on the basis of unionist or nationalist votes alone, without support from across the community.
- 4.2.24 Careful consideration should be given to what would be the appropriate threshold of the weighted majority should be. Alliance believes that, it is most appropriate to set the **threshold for the weighted majority between 60 and 65%.**<sup>6</sup>
- 4.2.25 **Alliance proposes the introduction of an Assembly voting system for cross-community matters based on a weighted majority, free from communal or sectarian designations.**

### 4.3 The Executive

- 4.3.1 In almost every democracy, like-minded parties, or those at least prepared to co-operate together, form a voluntary coalition that has either simple or weighted majority support within the legislature, and operates on the basis of collective responsibility.
- 4.3.2 The Agreement does not provide for such a government. Instead, it institutes an involuntary form of coalition government in which parties are allocated portfolios on the basis of their comparative strength in the Assembly, irrespective of their compatibility.
- 4.3.3 This approach leads to a Balkanised Executive, in which ministers exercise considerable authority in their own area of responsibility, with little sense of working to fulfil a common set of interests or to address cross-cutting issues. Some checks and balances do exist. Ministers are expected to exercise their Ministerial authority in line with an agreed programme for government and budget. Furthermore, ministers cannot act in breach of the law, equality or human rights provisions; their decisions are open to judicial review; and they can be removed

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<sup>6</sup> It is worth noting that there is no guarantee that any voting system will work in isolation. There is a complex interplay of a number of factors that determine whether political institutions can be maintained and regarded as legitimate. There are of course some voting systems that can make the political institutions more likely to work than others. Weighted majority voting may be more flexible and robust enough to deal with a greater number of election results than the current system, but there could be circumstances in which it cannot function.



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- from office for breach of the Pledge of Office, provided there is a successful cross-community vote in the Assembly. However, these standards have not been enforced with sufficient rigour to overcome the weaknesses in the system.
- 4.3.4 For instance, while there is a requirement upon ministers to agree upon an annual programme of government and a budget, the Agreement is unclear about what happens when they are unable to or fail to do so, or generally under-perform. If a Minister is ejected from office for a breach of the Pledge of Office, the Nominating Officer of that party can nominate someone else from the party who would adopt a similar approach or stance on the issues.
- 4.3.5 In fact, it is difficult, if not impossible, to remove the entire Executive from office. Even if it were possible, under the current involuntary coalition model, a similar or even identical Executive would be returned, consisting of the same parties in the same strength.
- 4.3.6 This approach to executive formation risks breeding complacency or even corruption. It is not a good environment for policy innovation or economic efficiency. There is no real accountability between the electorate and Ministers. If people like a particular policy advocated by a certain party and choose to vote for it in greater numbers, there is no guarantee that that party will actually gain the appropriate Department, and be in a position to deliver on the policies in question. Conversely, if the electorate do not like the policies pursued by a certain party in government, unless there is a massive drop in their support which prevents them from qualifying for a place in government at all, there is no guarantee that they will be denied access to the Department with responsibilities for those policies.
- 4.3.7 An Executive should be formed through a *voluntary* power-sharing coalition. It is possible for parties to negotiate a balanced executive, with an agreed programme for government, based on collective responsibility. This would be required to achieve a cross-community weighted-majority vote in the Assembly in order to come into effect. No party would have an automatic right to be in the Executive. However, in the event of the Executive losing the confidence of the Assembly, or the electorate changing the balance between the parties at the next election, it would of course be possible to form a different Executive. Similarly, if there is a major disagreement on a fundamental issue between Executive parties that cannot be resolved, or a major breach of faith by one party, the coalition can be broken up and a new one formed.
- 4.3.8 This approach to Executive formation will provide more efficient, effective and cohesive government. It will encourage greater co-operation among parties, and better promote the concept of a single Northern Ireland polity.
- 4.3.9 **Alliance proposes that the Executive should be formed by negotiation among parties endorsed by a weighted majority vote in the Assembly to ensure a cross-community composition.**

### 4.4 Government Departments.

- 4.4.1 The Agreement only specifies that there shall be up to ten Departments; it does not specify that there must be ten Departments. There is a growing consensus that 10 Government Departments, plus the Office of First Minister and Deputy First

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Minister, is excessive. The division of functions among the various Departments is not logical in every instance. Furthermore, there are major discrepancies between the sizes of the Departments. The initial rationale for 10 Departments seems to have been to ensure a proportional balance between the parties. Today, if anything, the strange workings of d'Hondt mean that a distribution of 10 would be skewed in favour of one party. Alliance is concerned that the number and functions of Executive Departments are excluded from the current Review of Public Administration. In return, any decision on the split of responsibilities among Departments should be a factor in influencing the shape of reforms in other areas of the public sector.

- 4.4.2 It is clear that Northern Ireland is over-governed relative to other comparative jurisdictions. The Review of Public Administration is therefore essential to reduce unnecessary bureaucracy. In addition, Alliance believes that any reforms should reflect a number of key principles.
- First, public bodies must be responsive to the needs of communities. Services should be delivered as close to the people concerned while taking into account efficiency and effectiveness.
  - Second, the reform of public bodies should take on board the need to promote integration and better community relations. Administrative boundaries should not be created so as to reinforce separation in society, but rather to promote mixing of people.
  - Third, reform of public administration must be governed by pragmatism rather than ideology. Alliance will not take an ideological position in favour of either the use of the public or the private sector, but will support whatever approach is the most appropriate for delivering the best quality services in each circumstance.
- 4.4.3 **Alliance proposes that the number of Executive Departments be reviewed, in order to achieve greater efficiency and effectiveness, and taking into account the current Review of Public Administration.**
- 4.4.4 There is also concern at the current split of responsibilities between Government Departments and centralisation of functions within the Office of First Minister and Deputy First Minister. The role of OFMDFM could be changed and functions transferred to other relevant Departments.
- 4.4.5 **Alliance proposes a review of the composition of the Executive and responsibilities of the Government Departments. Alliance advocates that a single Department would have major responsibilities for Equality and Community Relations.**
- 4.4.6 Alliance looks forward to the eventual devolution of policing and criminal justice to the Northern Ireland Assembly. Such local ownership of this machinery would go a long way to enhancing popular confidence in them. However, a security dimension has been a central feature of the conflict in Northern Ireland. It is important that these powers are delivered in an appropriate context and the necessary structures for accountability are in place.
- 4.4.7 Alliance does not believe that any of the structures offered in the Joint Declaration provides an ideal way forward. In the absence of collective responsibility, the

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criminal justice and policing functions are far too politically sensitive to be given to one particular party through one Minister heading up a single Department. They are far too inter-related to be split between two Departments. The current OFMDFM structure, either in terms of the current office or of a replica for these particular functions, has proven to be far too unwieldy.

- 4.4.8 By contrast, the dangers of placing these functions within a single Department of Justice would be substantially mitigated if that Department was part of an Executive working on the basis of collective responsibility. The Minister in question would be allocated their portfolio as part of inter-party negotiations, they would serve with the confidence of the Assembly, they would operate to collective responsibility, and could be removed from office (either with or without the collapse of the entire Executive) in the event of a major breach of faith.
- 4.4.9 **Alliance proposes that criminal justice and policing functions, when devolved, are placed within a single dedicated Department as part of an Executive working to collective responsibility.**

### **4.5 Office of First Minister and Deputy First Minister**

- 4.5.1 The current Office of First Minister and Deputy First Minister has not functioned as anticipated. Often the two post-holders have clashed or otherwise disagreed, frustrating progress on a number of issues, most notably a new strategy for improving community relations. The size of the office has mushroomed, as more and more functions have become over-concentrated within this office. The duplication of certain structures, such as special advisers, has further frustrated action.
- 4.5.2 **Alliance proposes replacing the current Office of First Minister and Deputy First Minister with a much more streamlined office, with appropriate functions being reallocated to dedicated Departments.**
- 4.5.3 The First Minister would fulfil the normal functions of a chief minister, chair meetings of the executive, and provide a representational service. A Deputy First Minister would deputise for the First Minister.
- 4.5.4 ***Scrutiny of the Office of First Minister and Deputy First Minister (or any successor)***. At present, while there is a Statutory Committee to scrutinise each of the current ten Departments, there is no equivalent committee for the Office of First Minister and Deputy First Minister. It is instead monitored by the Committee of the Centre, whose remit only covers some of the OFMDFM functions. OFMDFM has taken on the appearance of a full Department of Government, as more and more functions have been concentrated within it.
- 4.5.5 **Alliance proposes that a full Departmental Scrutiny Committee be established to scrutinise the functions of OFMDFM (or any successor body).**

### **4.6 Ministerial Accountability**

- 4.6.1 Substantial concerns have been expressed that Ministers have been able to exercise considerable Executive authority within their own areas of responsibility

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without effective challenge. This situation runs contrary to the notion of a cross-community Government with widespread ownership of decisions. The Executive did not prove effective in creating collective responsibility, where all Ministers work together to deliver a common agenda. Ministers took a number of decisions that did not appear to have widespread support amongst other Ministers, let alone the Assembly. Hence, there is a need for a more equitable sharing of power between the Executive and the Assembly.

- 4.6.2 **Alliance proposes that the Assembly as a whole, on the basis of a weighted majority vote, be granted the power to negate a Ministerial decision.**<sup>7</sup>

### 4.7 Pledge of Office

- 4.7.1 There is a major problem in reconciling the principle of exclusively peaceful and democratic means and the competing 'principle' of inclusivity.
- 4.7.2 The past six years (and arguably the four years leading up to the Agreement) have shown that the correct balance has not been found, nor have the mechanisms to address resultant problems. Ceasefires have been allowed to become far too narrowly defined, and too often violence has been ignored or downplayed so as not to disturb the commitment to inclusivity. A large number of paramilitary activities, such as beating, exiling, shooting and murder were treated as being beyond the scope of a 'ceasefire'. For too long, 'ceasefires' were regarded as merely cessations of activities directed against the state, economic targets, or (usually) the perceived 'other side'. Fundamental damage has been done to the rule of law and the Agreement has been undermined. It is not acceptable for parties to be in Government and also have links to 'private armies'.
- 4.7.3 It is only recently that the Governments have pushed for a clear, unambiguous choice between the path of democracy and path of continued violence. The definition of violence in paragraph 13 of the Joint Declaration is useful. However, it has not yet been accepted by any of the paramilitaries. Furthermore, the Governments do not regard this as the definition of a ceasefire, which they perceive as something narrower.
- 4.7.4 While in some respects it does not go far enough, paragraph 13 of the Joint Declaration should be the basis of any definition of an end to all paramilitary activity:
- “Paramilitarism and sectarian violence ... must be brought to an end, from whichever part of the community they come. We need to see an immediate, full and permanent cessation of all paramilitary activity, including military attacks, training, targeting, intelligence gathering, acquisition or development of arms or weapons, other preparations for terrorist campaigns, punishment beatings and attacks and involvement in riots. Moreover, the practice of exiling must come to an end and the exiled must feel

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<sup>7</sup> While this proposal may be seen as weakening the powers of Ministers, it should be considered alongside other proposals to strengthen the cohesiveness of the Executive. All proposals are designed to encourage and advance a coherent, effective approach to governance.

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free to return in safety. Similarly, sectarian attacks and intimidation directed at vulnerable communities must cease.”

- 4.7.5 **Alliance proposes that paragraph 13 of the Joint Declaration (2003) should be incorporated into the Pledge of Office.**
- 4.7.6 Alliance believes that the creation of the International Monitoring Commission will substantially improve this situation. It was for this reason that Alliance first presented proposals for such a body to the Prime Minister and Taoiseach on 4 July 2003. The principle purpose of the IMC is to shine a spotlight on any continued dark deeds of the paramilitary organisations. It is hoped that such international exposure will persuade any recalcitrant party back into line.
- 4.7.7 Alliance supports the reforms made to the sanctions scheme from the Agreement and Northern Ireland Act (1998). We hope that these do not have to be deployed, but must be there as a credible deterrent. These reforms also envisage the creation of an Assembly Implementation Committee to deal with alleged breaches of offices. This is intended to be a different body from the Implementation Group consisting of the parties to the Agreement. There is a need for clarification of the basis of the proposed Assembly Implementation Committee.

### 4.8 Assembly Committees

- 4.8.1 The current d’Hondt mechanism for the allocation of places in the Executive and Committee Chairs and Vice-Chairs is unfair; d’Hondt is flawed as a proportional system.<sup>8</sup> The greater the number of parties involved, the more likely it is that distortions will occur. It also significantly favours the larger parties. The 50:50 split between Unionists and Nationalists on the previous Executive was a pure fluke, but many people believe it was a matter of design. Further distortions can occur if one or more parties refuse to take their seats. Even more anomalies are potentially present arising from the November 2003 election than were apparent following the June 1998 election.<sup>9</sup>
- 4.8.2 **Alliance proposes a Single Transferable Vote election among Assembly Members as the fairest system of allocating chairs and vice chairs. Under this system, a succession of counts of an STV ballot would be**

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<sup>8</sup> D’Hondt is an electoral mechanism that use divisors to allocate seats to the party with the highest divisor vote at each stage of the count until all seats are allocated.

<sup>9</sup> For example, based on the actual Election results of November 2003, the DUP and UUP were each entitled to three seats each, and the SDLP and Sinn Fein to two seats each, on a ten-member distribution. Despite, the overall Nationalist representation in the Assembly remaining the same, and a growing Nationalist vote overall, they would have lost one seat to Unionism. In the event, that the three defectors from the UUP ranks had remained as independents, then the UUP would have one fewer seat, and Sinn Fein would gain one more. With the addition of three defectors to the DUP, this system would give the DUP 4 seats, and the UUP, Sinn Fein, and SDLP two seats each. Within the Policing Board, under these figures, if Sinn Fein still refused their places, the DUP could have five seats, the UUP three seats, and the SDLP two seats. An 8:2 Unionist:Nationalist split is politically unsustainable and would not occur under an STV vote among MLAs. It is perverse that radically different balances between the parties can be generated, depending upon whether there are 7, 8, 9 or 10 places to be allocated. After the anticipated defections, on a distribution of ten seats, the DUP could have 4 places, and the UUP, SDLP and Sinn Fein two each, while on the basis of a distribution of 7, the DUP only achieve 2, like the UUP and Sinn Fein, with the SDLP on one.

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**conducted among MLAs to work out a rank order of party choices of posts.**

4.8.3 These reforms should apply wherever the d'Hondt system is presently used.

### **4.9 Civic Forum**

4.9.1 Alliance notes favourably that a large part of Northern Ireland civic society is organised on a cross-community basis. Alliance believes that the Civic Forum has the potential to be a powerful voice against sectarianism and segregation, and to take a pro-active role in addressing these problems.

4.9.2 A possible role for the Civic Forum would be to grant it a statutory right to provide comments on proposed Assembly legislation.

### **4.10 Powers of the Assembly**

4.10.1 It is important to ensure that any legislature is held accountable for its spending decisions and ambitions. If the Assembly had tax-varying powers, it would have the ability to set and realise its own fiscal priorities and to promote economic growth, taking into account the differences between Northern Ireland and other UK regions and the significance of cross-border issues such as differential rates of taxation and grants.

4.10.2 **Alliance proposes that the Assembly be granted tax-varying powers.**

## **5 Strand Two**

5.1.1 The North-South structures have not proven to be as controversial in their operation as was anticipated in the negotiations leading to the Agreement. There are strong social, economic and environmental arguments for developing north-south co-operation. These include overcoming distortions created by partition, taking advantage of economies of scale in service provision, and agreeing common standards and inter-operability.

5.1.2 Such structures also provide a mechanism to recognise the Irish nationalist identity on the island of Ireland.

### **5.2 North-South Structures**

5.2.1 The NSMC has functioned reasonably well. However, Alliance wishes to see greater openness and transparency and a higher profile for the North-South Ministerial Council.

5.2.2 **Alliance proposes that the First Minister, Deputy First Minister, Taoiseach and Tanaiste present a joint report on the work of the North-South Ministerial Council, in the Assembly and Oireachtas annually, and are subject to questions from legislators.**

5.2.3 The NSMC has been undermined through the failure of the DUP Ministers to participate, and the UUP barring Sinn Féin Ministers from meetings. Alliance expects the creation of the International Monitoring Commission and the passage

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of the Northern Ireland (Monitoring Commission) Act 2003 will substantially improve this state of affairs.

- 5.2.4 There is further scope for involving backbench MLAs and members of the Oireachtas in North-South institutions. Despite an Alliance motion to the Assembly, no formal steps have been taken to establish a North-South Parliamentary Tier.
- 5.2.5 **Alliance proposes that the Assembly and Oireachtas be required to establish a North-South Parliamentary Tier, which would be open to all parties, and to which each jurisdiction would send equal numbers of participants.**

### **5.3 North-South Co-operation**

- 5.3.1 The number of North-South Implementation Bodies was arbitrarily set at six in the Agreement. The NSMC was invited to choose these from a suggested list of 12.
- 5.3.2 There is a case for creating new implementation bodies, by mutual agreement, where a sound case is put forward, based on practical benefit.
- 5.3.3 Nevertheless, it must be recognised that progress on a north-south basis often quietly occurs between agencies in an informal manner. One of the most significant economic problems in recent years, the outbreak of Foot and Mouth Disease, was dealt with on a North-South basis without any formal structures. **Alliance proposes increasing the scope of North-South co-operation, on the basis of practical benefits.**

## **6 Strand Three**

### **6.1 British-Irish Council**

- 6.1.1 Alliance supports the BIC as embodying the potential for multi-layered co-operation among the various jurisdictions on these islands.
- 6.1.2 The BIC remains a much under-used and under-developed aspect of the Agreement. Alliance believes that there is great potential benefit from all of the national and devolved governments and legislatures within these islands discussing matters of common concern, devising shared solutions, and taking advantage of mutual opportunities.
- 6.1.3 These institutions have not yet been developed to their full potential. Alliance believes that there should be an annual report published on the discussions and agreed actions of the British-Irish Council.

## **7 Rights, Safeguards, Equality of Opportunity and Community Relations**

- 7.1.1 Alliance believes that this section of the Agreement should be renamed with the term 'Community Relations' appended to it.

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- 7.1.2 Promoting better community relations or good relations was given scant attention within the Agreement.
- 7.1.3 The deep divisions in Northern Ireland remain the biggest challenge facing Northern Ireland. Sectarianism, racism and other forms of prejudice remain major problems. Deeply ingrained patterns of segregation persist, which carry huge human and financial costs.
- 7.1.4 Rather than these communal divisions being addressed and overcome, they have been further institutionalised. The dominant orthodoxy is that separate but equal communities can be managed through some form of 'benign Apartheid'. But, however skilful, conflict management cannot be indefinitely maintained. With few or no common bonds or overarching loyalties to a set of shared values, once there is a major crisis, it is relatively easy for separate communities to go their separate ways.
- 7.1.5 Unless the platform provided by the Agreement is used to build a shared, non-sectarian society, these divisions will eventually undermine the Agreement and cause its collapse. 'Benign Apartheid' is not only distasteful, it cannot work.
- 7.1.6 Therefore, improving community relations is the biggest challenge facing Northern Ireland.
- 7.1.7 **Alliance proposes that the Agreement explicitly articulates the vision of a shared and integrated society, where people can live and learn, work and play, together in safety.** This is consistent with the vision established within the NIO consultation paper on the future of community relations policy, *A Shared Future*.
- 7.1.8 **Alliance proposes that within the context of the review of the Agreement, the contracting parties should commit themselves to devising and implementing the policies to put this vision into practice.** In particular, the parties should commit themselves to delivering on commitments in the Agreement to promote mixed housing and integrated education.
- 7.1.9 It is possible for Government and public agencies to shape policies, practices and institutions to enable trust and good relations to be engendered, and to eliminate sectarianism and other forms of prejudice. However, changes in policy and law are liable to be subverted by fear. Therefore, they need to be backed up by an appropriate legal and security measures.
- 7.1.10 Alliance believes that government, statutory agencies and indeed civic society should actively encourage de-segregation and communal integration, and develop the appropriate policies. **Alliance proposes the creation of a positive duty upon all Government Department and Public Agencies to promote good community relations.**<sup>10</sup>

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<sup>10</sup> The Review of Public Administration recognises that: "Organisations within the public sector can provide forums in which people from all sections of society can come together to work for the good of their communities. They can thus be an important focus at local level for developing ways of working that encourage people to work together to establish priorities and to seek agreement and consensus for the public good. By being pro-active and accessible to all sectors of



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- 7.1.11 While the target and compliance driven approach adopted in the Agreement in relation to equality among all of the Section 75 categories may not be directly applicable, policy frameworks and assessment methodologies can be developed for public bodies to fulfil this duty. **Alliance proposes that all policies should be required to undergo an assessment of Policy Appraisal for Sharing over Separation (PASS).** This process must be of an equal standing to the current equality-proofing and human rights proofing that all new policies are required to undergo.
- 7.1.12 Alliance believes that it is important to emphasise the linkages that exist between the nature of society and the stability and effectiveness of the political institutions. The protection of human rights, provision of equality of opportunity, improvement of community relations, and maintenance of the rule of law are all crucial not only in their own respect, but for providing the necessary context for the smooth implementation of any revision of the Agreement.<sup>11</sup>

## 7.2 Human Rights

- 7.2.1 As a longstanding supporter of human rights, Alliance believes that Northern Ireland must have the best set of human rights protections possible, which could in turn be a model for parts of these islands and of Europe. Alliance supports and recognises the work of the Northern Ireland Human Rights Commission to date. Its work on the Bill of Rights project has been hampered by a very ambiguous mandate.
- 7.2.2 **Alliance proposes that the NIHRC should be given a clear remit to devise a Bill of Rights to protect individuals, and persons belonging to minorities and communities.**
- 7.2.3 Alliance believes that this mandate should be clarified to read that the NIHRC: “will be invited to consult and to advise on the scope and content for defining, in Westminster legislation, rights supplementary to those in the European Convention on Human Rights, to give the most appropriate protection to the individuals, and persons belonging to minorities and communities. The Commission shall draw as appropriate upon international standards, instruments and experience. These additional rights, taken together with the ECHR, will constitute a Bill of Rights for Northern Ireland.”
- 7.2.4 Given the particular problems of sectarianism and segregation facing Northern Ireland, **Alliance proposes that the NI Human Rights Commission draws up a Charter of Freedom from Sectarianism.** Such a charter would include:
- the right to live free from intimidation;
  - the right to live and work in a neutral, non-discriminatory environment;

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the community, they can also help to develop a sense of identity and inclusion, particularly for those groups who may previously have felt marginalised.”

<sup>11</sup> Further information on the Alliance perspective on community relations is available in the Alliance Party Policy document, *Building a United Community* ([www.allianceparty.org/showpaper.asp?id=10](http://www.allianceparty.org/showpaper.asp?id=10)), and the Alliance response to *A Shared Future* ([www.allianceparty.org/showconsultation.asp?id=10](http://www.allianceparty.org/showconsultation.asp?id=10)).

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- the right to attend an integrated school; and
  - the right not to be labelled against your will.
- 7.2.5 While the Charter itself may not be enforceable, all of its elements should be covered by domestic equality legislation, and both domestic and international human rights protections. Such a Charter would provide a useful conceptualisation of such rights, making them readily accessible to those affected.
- 7.2.6 Alliance supports moves to create an all-Ireland Charter of Rights. Alliance believes that the purpose of such a Charter should be to standardise the protection of rights within the two jurisdictions on the island. This should include the Charter of Freedom from Sectarianism.
- 7.2.7 One particular priority for this Charter should be the growing problem of racism across the island. Such prejudice and its manifestations may be even more deeply ingrained than sectarianism.

### 7.3 Equality.

- 7.3.1 Alliance is committed to protecting the rights of, and ensuring equal opportunities for, every individual citizen. Equality is essential to giving everyone a stake in society. For Alliance, equality means equality of opportunity, equality of access, equality of treatment, equality under the law and equal citizenship.
- 7.3.2 Equality issues in Northern Ireland are overly associated with issues relating to religion and/or political identity. Furthermore, there is an underlying predisposition to prioritise redressing actual or perceived discrimination against Catholics/Nationalists. Alliance does not believe that there should be a hierarchy in equality. Discrimination or other inequalities on the grounds of gender, race, disability, sexual orientation and religion should be of equal concern. It is also wrong to proceed on the basis of a majority/minority analysis, as this signifies fixed blocs, and denies the reality of fluidity of identity and the mixing of people.
- 7.3.3 There is a strong case for the creation of a Single Equality Act, to combat discrimination or other forms of unfair treatment based on religion, gender, race, disability and sexual preference, or any perception of these factors. **Alliance proposes that the passage of a Single Equality Act becomes a specific policy commitment within the review of the Agreement.**
- 7.3.4 It is unclear under current equality legislation what specific duties are placed upon public bodies to deliver their services in a neutral manner, and to keep their property free from sectarian, racist, and homophobic symbols. The apparent duties arising out of the Fair Employment and Treatment Order (1998) remain untested. At present, a number of public agencies tolerate an unacceptable level of sectarian and paramilitary flags and emblems on their property. **Alliance proposes that clear and unambiguous duties should be placed on public bodies to deliver their services and to keep their property free from paramilitary, political and sectarian flags and emblems.**
- 7.3.5 With respect to how equality is handled in relation to religion and identity, Alliance is concerned that the over-emphasis on groups further institutionalises

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divisions. Alliance believes in treating all persons as equal citizens, but is opposed to institutionalising a false 'parity of esteem' between groups. Furthermore, the assumption of a majority/minority problem is not only simplistic in that it ignores existing diversity, but it assumes that discrimination is unidirectional.

- 7.3.6 Alliance has been a longstanding supporter of fair employment legislation and monitoring in order to ensure equality of opportunities and non-discrimination in the workplace. However, we have had concerns about the methodology used to categorise people in pursuit of these objectives.
- 7.3.7 In equality monitoring, as with other areas of public policy, respect must be given to individual rights. There should be an awareness that people can become constricted or even imprisoned by group labels. This religious or ethnic counting can reinforce single group identities by placing people within mutually exclusive categories.
- 7.3.8 The current system requires people to describe themselves as 'Protestant' or 'Roman Catholic' or, worse, members of 'the Protestant Community' or 'the Roman Catholic Community'. While many people do fit readily into one of two main communities, there are many who do not fit or wish to be fitted into such a worldview, including those in or of mixed marriages or relationships. There are a significant number of Protestants or Catholics who do not wish to be perceived as part of an exclusive Protestant or an exclusive Catholic community. In the 2001 Census, 14% of the population, approximately 250,000 people, opted not to be associated with a communal label.
- 7.3.9 It is also the case that very few Catholics describe themselves as 'Roman Catholics' which is the term used in most documentation.
- 7.3.10 At present, fair employment monitoring regulations do not permit people to opt out of being allocated to one or other communal classification. It is only those whose perceived communal background cannot be determined who are allocated to a third category. People are therefore labelled against their will.
- 7.3.11 Alliance is deeply concerned at the monitoring methodology used in Northern Ireland that is based upon the assumption that Northern Ireland is divided into 'two communities'. Alliance rejects the argument that the current methodology is the only one that can ensure fairness in employment monitoring.
- 7.3.12 **Alliance proposes that a methodology of equality monitoring should be developed that reflects the genuine diversity and pluralism within Northern Ireland society.** One possible approach would be to allow people to tick one of four boxes: 'perceived Protestant background', 'perceived Catholic background', 'Other', 'None'.

## 7.4 Victims

- 7.4.1 There is a wide range of victims in Northern Ireland. Alliance believes it is difficult for society to determine who is a victim and who is not a victim. This is essentially a matter for the individual. Similarly, different victims have different needs and perspectives.

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- 7.4.2 The needs and interests of victims have been substantially overlooked in and since the Agreement. There is a pressing need to give victims some belated sense of 'closure'. However, it must be acknowledged that anything that society as a whole may provide in many circumstances will not provide any sense of full redress or justice for the hurt, pain and suffering of victims and survivors.
- 7.4.3 The Truth and Reconciliation process has been adopted in many other situations, most notably South Africa. There are demands for similar mechanisms in Northern Ireland. The South African model had mixed success. Some people benefited from the truth being out in the open, but others felt a great sense of justice having been denied. Also, the process of producing authoritative accounts of the past was inevitably and heavily contested; the truth is inherently subjective. The South African model also benefited from being able to gain testimony from those responsible for crimes in return for amnesty (albeit not automatic).
- 7.4.4 For a number of reasons it is neither practical nor desirable to replicate this model in Northern Ireland. With the early release of prisoners, there is no incentive for those responsible for crimes to give accounts of their past deeds. Any attempt to produce a 'official history' of 'the Troubles' would be heavily disputed, and bound to end in failure.
- 7.4.5 There is scope for the establishment of a dedicated forum to allow victims (self-defined) to tell their stories, and have them placed on an official record.
- 7.4.6 **Alliance proposes the creation of a victims' forum to allow victims to place their personal experiences onto an official public record.**

### **7.5 Economic Development and Finance Issues**

- 7.5.1 The Agreement and its implementation hold out the prospect of Northern Ireland putting in place the first two prerequisites for a favourable environment in which businesses can operate - peace and stability. Economic growth and social justice are crucial for giving every citizen an important stake in the future.
- 7.5.2 By contrast, continued political deadlock and/or a return to violence will provide major disincentives to inward investment and tourism. There must also be a greater appreciation that the physical manifestations of communal segregation and paramilitarism, such as flags, murals, and kerbstone painting are not part of a normal society, and present a deterrent to investment.
- 7.5.3 However, nothing can be taken for granted. Deeper problems that remain within Northern Ireland society must be tackled. The Northern Ireland economy has to adapt to the new realities of the European and global economies, and to be competitive in the hi-tech future of the emerging 'new economy'. Economic Development policy must be one of the main priorities of the new Assembly.
- 7.5.4 The Agreement should acknowledge the clear link between peace and stability and economic development.
- 7.5.5 The finances of devolution have been placed in a precarious position. Dependent on a clearly outdated Barnett formula, and in the absence of tax-varying powers, the Northern Ireland Executive has struggled to identify additional sources of money. The increased use, or rather abuse, of the regional rate for increased public

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spending and to manage public debt, has highlighted the problems with what is clearly a regressive form of taxation. Other financial burdens, such as water charges, are set to be increased.

- 7.5.6 The people of Northern Ireland increasingly perceive themselves to be financially penalised for devolution. In the absence of meaningful achievements to date from the Executive, this perception erodes public confidence in devolution.
- 7.5.7 In the event that a devolved Assembly, with a power-sharing Executive, can be established in the near future, its position would be tenuous. No doubt, there would be many trying to undermine it, and seeking to capitalise on difficult decisions that it would be forced to take. It is important that the Governments help establish confidence in the Executive by putting its finances on a sound basis.

### **7.6 Decommissioning**

- 7.6.1 The commitments made in the Agreement to decommissioning still remain unfulfilled.
- 7.6.2 **Alliance proposes that all parties renew and clarify their commitments to work to the removal of illegally held weapons, based on a short timescale.**

### **7.7 Security**

- 7.7.1 Alliance believes that considerable movement on security normalisation has already occurred. It should be made clear consistently that steps towards normalisation should always be taken on the basis of security assessments, rather than as concessions towards Republicans and Loyalists. However, confidence building measures from paramilitary groups can radically improve such assessments. Furthermore, it is possible for Government to change its posture independent of such confidence building measures, in line with the changing nature of the terrorist threat, e.g. the decreased need for fixed observation posts.

### **7.8 Policing and Justice**

- 7.8.1 Alliance is fully committed to the highest standards of justice and the rule of law. There is a fundamental relationship between democracy, human rights and the rule of law.
- 7.8.2 Action is required at a number of levels:
  - The creation and maintenance of the required structures, and the provision of the necessary resources;
  - The proper enforcement of existing laws, and the application of new legislation; and
  - The creation and the maintenance of a culture of lawfulness.
- 7.8.3 Our vision of policing in Northern Ireland is of a single, integrated, professional police service which is representative of, responsive to, and carries the confidence of, the entire community.
- 7.8.4 Alliance gives its full support to the reformed police service, the Police Service of Northern Ireland, in upholding the rule of law. Alliance believes that considerable

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- progress has already been made in this area, through a succession of legislative and administrative changes, arising out of the Patten Report.
- 7.8.5 It is now important that these reforms are given time to bed down, with greater emphasis being placed upon application of the criminal law, the creation of appropriate legislation to better tackle crime, and the promotion of a culture of lawfulness.
- 7.8.6 However, there is scope for a review of the methodology used to fill the Policing Board, and the use of 50:50 recruitment quotas.
- 7.8.7 The use of d'Hondt has produced an unrepresentative policing board. The system skews representation in favour of the larger parties. Furthermore, the absence of Sinn Fein has entailed that a substantial Unionist-Nationalist imbalance in membership. A number of the 'independent' members also have clear party political affiliations. This has only served to further entrench the position of the dominant parties.
- 7.8.8 **Alliance proposes, that an STV election be used among Assembly members to determine the political membership of the Policing Board. Furthermore, independent members should be appointed with the objective of making the board more broadly based.**
- 7.8.9 While major efforts have been made over recent years to achieve a representative balance, the PSNI remains unrepresentative of the community in terms of the participation of Catholics, women, people from ethnic minorities, and gays and lesbians.
- 7.8.10 Alliance supports the objectives of greater representation of these sections of society. We support targets and affirmative action for Catholic and female recruitment. Alliance is concerned that the issue of a better gender balance in the police is frequently overlooked in the quest to achieve a better religious balance.
- 7.8.11 Alliance supports positive action in terms of identifying deficiencies in the participation of certain sections of the community, seeking to address obstacles to their inclusion, and making particular appeals to individuals from those sections of the community to join.
- 7.8.12 Considerable progress has been made in making the Police Service more representative of the community. Alliance would maintain that this is less to do with the use of these quotas than changes in political circumstances, and the long overdue support for the police from nationalist quarters.
- 7.8.13 The problem with achieving a balanced police service in the past has not been discrimination at the point of selection, but achieving sufficient applications from Catholics. A quota is a tool to deal with the former, while other measures can be developed to address the latter.
- 7.8.14 While we fully subscribe to the desire to make the police more representative of the community, in particular with increased Catholic recruitment, we believe that the use of quotas is contradictory to the ethos of an integrated service, is discriminatory, and in practice unnecessary. Alliance has major reservations regarding the use of quotas, or any other method of recruitment other than on the

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- basis of merit. This inevitably leads to individual cases of those of greater merit being passed over in order to maintain balance, and risks provoking a sense of grievance among those who are qualified but miss out.
- 7.8.15 The use of the quota artificially caps the number of police who can be recruited at any one time, at twice the total number of Catholics who meet the minimum criteria. While at present, this may not be an issue due to limited training capacity, there is an urgent need to process new recruits to increase the number of active officers in an under strength police service.
- 7.8.16 **Alliance proposes the end of the use of 50:50 recruitment quotas. We would suggest that targets for Catholic recruitment can and should be set, and a strong programme of affirmative action measures should be used to achieve a more representative police service.**
- 7.8.17 **Alliance proposes the devolution of policing and justice powers to the Northern Ireland Assembly, through a Department of Justice.** While we do not believe that local politicians should be interfering in the operational matters of the police, we do believe that such structures should substantially enhance democratic accountability and introduce a sense of cross-community and democratic ownership of the criminal justice system. However, the political context must be right, and the proper structures for accountability and cross-community ownership of decisions must be put in place. (This issue is addressed above under Strand One).
- 7.8.18 Alliance is concerned at the absence of a Police Ombudsman in the Republic of Ireland. **Alliance proposes that the Republic of Ireland should have a Police Ombudsman with powers equivalent to the office in Northern Ireland.**
- 7.8.19 In Northern Ireland at present, there are a number of areas where the law is clearly not being enforced to its full extent, often with detrimental consequences for community relations. Alliance believes that the police and other criminal justice agencies can be more pro-active in enforcing the law in a number of respects. However, there are some areas in which the current law is ineffective and needs to be changed.
- 7.8.20 Alliance believes that it is possible to cite actions likely to lead a breach of the peace in dealing with those engaged in these activities. The Terrorism Act (2000) does contain an offence of 'soliciting support for a proscribed organisations', which can be used in connection with symbols associated with paramilitary organisations. **Alliance proposes that consideration be given to the creation of specific offences concerning the erection of flags or other emblems and the painting of murals associated with proscribed organisations.**
- 7.8.21 Alliance reiterates its absolute opposition to efforts by paramilitary groups to police communities through beatings and shootings. The term 'punishment attacks' is a misnomer, and confers a degree of legitimacy upon these activities. These attacks are serious breaches of human rights, in that paramilitaries act as judge, jury and executioner, with no consideration for due process. These attacks are wrong in all circumstances, and in no sense should they be tolerated on the

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spurious grounds that they fill a vacuum pending the formation of a more legitimate police service. In terms of the criminal law, these actions constitute actual bodily harm or grievous bodily harm. There is a notable lack of prosecutions for offences in relation to these activities. Any conviction for these offences would not sufficiently take into account the organised and premeditated nature of paramilitary attacks, and the message that is being sent to the wider community of the apparent acceptability of paramilitary control of certain areas. **Alliance proposes that any paramilitary involvement in any offence should be considered as an aggravating factor in sentencing.** This approach could build on the anticipated introduction of Hate Crime legislation in Northern Ireland, which will make racism, sectarianism and homophobia aggravating factors in criminal activities.

### 7.9 Prisoners

- 7.9.1 Within the United Kingdom's jurisdiction, politically-motivated prisoners in relation to offences committed before 1998 have now fully benefited from the early-release scheme under the Agreement.
- 7.9.2 However, the Republic of Ireland has not yet complied with the aspect of early prisoner releases, as defined in the Agreement and applied in Northern Ireland. There can be no scope or any justification for such inconsistencies.
- 7.9.3 Alliance remains resolutely opposed to any amnesty for those who are called 'On the Run'. These individuals should be treated in a manner that is consistent with the intent of the Agreement. At a bare minimum, those wishing to avail of any scheme must return to the jurisdiction, be processed through the courts, and placed on licence, with a conviction where appropriate.
- 7.9.4 Alliance is most concerned that a large number of citizens are unable to live in Northern Ireland in safety having been 'exiled' by Republican and Loyalist paramilitaries, under threat of violence. These threats must be lifted forthwith.
- 7.9.5 **Alliance demands that paramilitary organisations lift all the threats against those whom they have 'exiled' from Northern Ireland.**

## 8 Validation, Implementation and Review

- 8.1.1 Five years on from the Agreement, it is clear that the Comprehensive Review is very necessary. Even if successful, it is far from certain that this Review will deal with all the apparent problems with the operation of the Agreement. Furthermore, other problems may arise in the future that have not have been anticipated. Therefore, it makes sense to have mechanisms for review when necessary.
- 8.1.2 **Alliance proposes that further periodic Comprehensive Reviews into the operation of the Agreement should take place at least once every ten years.**
- 8.1.3 **Alliance proposes that, in addition, the two Governments, either acting alone or at the request of a weighted-majority cross-community vote in**



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**the Assembly, should have the power to convene further reviews to consider specific issues that may arise.**