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Title: Memorandum to the Taoiseach, Liam Cosgrave, TD, from Dermot Nally, Assistant Secretary, Department of the Taoiseach, concerning findings in the Strasbourg Report on the detention and treatment of internees in Northern Ireland

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STRASBOURG REPORT

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Briefly, the report says -

- (1) that detention without trial was "strictly required by the exigencies of the situation";
- (2) that detention was operated without discrimination;
- (3) that the use of the five techniques (sensory deprivation with a view to producing psychological unbalance in a person) constituted inhuman treatment and torture in breach of Article 3 of the Convention;
- (4) that in certain specified cases this inhuman treatment occurred;
- (5) that compensation, sometimes involving very substantial sums, has been paid to the victims in accordance with law and that these procedures are available to all others who consider themselves to have been illtreated;
- (6) that the Commission considers that important measures have been taken to meet the complaints of the applicant Government in particular as regards the individual victims who have been cited in the application; and
- (7) ^{that} the applicant Government have stated that they are unable to regard these measures, with those being considered for the future, as satisfactory and are not ready to discuss them with a view to a settlement. The Commission has, therefore, found that no friendly settlement has been reached between the parties.

Reading this report, as a layman, I do not think that we come out of it as well as is sometimes implied. However, there are other considerations, apart altogether from this, which I think should be taken into account.

The first is the effect which prolonged argumentation or public discussion between the two Governments can have on the whole of field of Anglo-Irish relations. These are reasonably good at present, with an acknowledged identity of interest. The Strasbourg Report, in itself, could not, of course, destroy the quality of these relations but it could certainly contribute to that end if it were seen as part of an official campaign, carried on by the Government here, in addition to an unofficial campaign of, say, bombing in Britain. You will recall that Mr. Wilson has said time and again that he can maintain present British policies, and in particular a strong British security presence in Northern Ireland, for as long as he can continue to rely on public support in the UK. In the past, he has always implied that British public opinion was not really greatly interested in Northern Ireland and that this, in itself, was a considerable help to him in maintaining this attitude. He has said that if British opinion became interested - as a result, for example, of an escalation of violence in the UK - then his own reading of the situation would be that they would be inclined to press for a pull-out - leaving ^{it} to ourselves to fight it out, as best we could. I think that prolonged bickering or argument over the Strasbourg report could well contribute to a very considerable worsening of Anglo-Irish relations, and

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possibly, to the sort of feeling among the British that they should simply pull out of the place altogether and leave the Irish to do their own fighting and security work, whatever the consequences.

The second point is that for reasons which are somewhat difficult to discern, the British often take a point of view which is of considerable advantage to this country, without any statutory or, apparently, moral necessity to do so. Their payment of £1-2 million in subsidy on imported Irish cattle is an example of this but there are many others, particularly in areas involving the transfer of information or technology, with which I have become personally acquainted over the years. This sort of advantage accrues to us as a result of a comparatively friendly atmosphere between the two countries. Again, it is probably attaching too great an importance to the Strasbourg report to say that it could destroy this form of advantage, which is often unmeasurable. However, it could well sour relations between the countries to a very considerable extent.

The third point is that there is no advantage to be gained to the individual applicants who were the cause of the case. They can pursue their rights in the courts, and many have done so, being awarded very substantial compensation. There is nothing further which can be got for them in Strasbourg.

It may be argued that we, as a Government, should seek to compel the British to operate some form of ^{human} rights jurisdiction in Northern Ireland. In this, I think we may well be on weak ground. Their human rights legislation is, I should think, without a detailed comparison, at least as advanced as ours, at present. They have an ombudsman type structure to investigate administrative complaints in central and local government. They have a court system which, whatever its past faults, appears now to operate with reasonable impartiality. They are ^{an} adherent of the European Convention on Human Rights, etc. In any event, I think that if we have suggestions to make to them in the field of human rights, they will not be slow, in the present attitude, to adopt them - and will do so with a great deal more grace than if we appear to be twisting their arms, as a result of the Strasbourg case.

Finally, I think that it could well be salutary to look at what the case has cost and may well cost this country in purely financial terms. I have no precise figures but I have very little doubt that we have already spent cash to the tune of £100⁰⁰⁰ £300,000 on it, without, as indicated, any very tangible additional advantage to the persons, with whom we purport to be concerned.

In short, my inclination would be to publish the report, following whatever formalities are necessary to this end, and take whatever steps are possible to dispose of the case quickly and cleanly.

TU

20th February, 1976.