

Requirements for New Structures

A Submission by the SDLP to the Inter-Party Talks

June 1991

Introduction

1. The Secretary of State, in the House of Commons on the 26th March, stated that it is "common ground between all the parties that hope of achieving a new and more broadly based agreement rests on finding a way to give adequate expression to the totality of relationships" within Northern Ireland, within the islands of Ireland and between the two Governments. In the course of the exchanges which have taken place over the past two weeks the SDLP has been indicating, both explicitly and implicitly, a number of the key requirements which the Party believes must underlie and inform any new arrangements and structures which might be agreed by those involved in the present political talks. The SDLP has noted that other parties to the talks have, likewise, been indicating requirements which they believe should inform any agreement.

2. It is against this background, therefore, that the present paper attempts to identify in precise terms and with reference to the presentations and discussions that have taken place to date, the set of requirements which the SDLP believes must be met by any new arrangements if they are to respond effectively to the scope and nature of the problems and to have a real prospect of widespread acceptability.

3. As far as the SDLP is concerned, the basis for these requirements is, of course, defined directly and closely by the realities identified in our analysis of the nature of the problem, as set out in our earlier paper and by the overall objectives for the talks outlined in our opening statement. In that statement we made clear our view that the goal of the talks is to accommodate two sets of legitimate rights - the right of unionists and nationalists to effective political and symbolic expression of their identity - and that as long as the legitimate rights of both unionists and nationalists are not accommodated together in new political structures acceptable to both, the situation in Northern Ireland will continue to give rise to conflict and instability. Clearly, these factors must underlie and under-pin the architecture of any new arrangements,

4. Once broad agreement has been reached on a set of requirements, the common objective would be to design arrangements which best conform to those requirements. This approach - seeking to fit institutions to the needs of the situation - appears to us to be more logical and to carry a better prospect of success than concentrating at this stage on particular institutional blueprints.

Requirements for New Structures

(i) Capable of providing Peace and Stability

5. It is clearly a fundamental requirement of any new institutions and structures that they should be capable of providing a stable political framework, within which lasting peace and prosperity can be promoted.

Note (a)

This requirement can be linked to Paragraphs 4,5 & 6 of our analysis document where we draw attention to historic instability in Anglo-Irish relations, to how the Anglo-Irish Agreement has contributed to a new and more positive basis to those relationships. We have noted the same desire to persist in the submissions and exchanges from the other parties to the talks and welcome this.

(ii) Based on Democratic Process, founded on Consensus

6. Equally fundamental, is the principle that any new structures must be based on the democratic process. As we make clear in our analysis document, this means, in the circumstances of a divided society, arrangements which command consent on both sides of the divide and decision making procedures based on such consent.

Note (b)

This requirement is linked to our comments in Paragraphs 15, 18 & 19 where we reiterate our commitment to the political process and where we refer to the need in a divided society to seek political progress through the consent of the different traditions of which it is composed. The SDLP frequently uses the phrase "accommodation of differences" to signal this aspect of the requirement.

While other parties have stressed a commitment to the democratic process the SDLP believes that the operation of that process is understood differently, notably by the two unionist parties. In their respective submissions and in their contributions to discussion it would appear that a commitment to traditional majoritarianism, slightly modified for some limited purposes, is still clearly evident. This commitment to majoritarianism would appear to arise from a failure to appreciate the nature of the identities held by people in Northern Ireland and is most evident in the manner in which phrases like "Ulster people", "citizens of Ulster", "majority", "minority" "the much smaller number who hold a different view" are used in the two unionist documents.

It has been a long held principle of the SDLP that in a divided society such as ours consent for political arrangements and structures will only be forthcoming through the involvement of both sides of the divide on a basis other than traditional majoritarian procedures. While the unionist parties seek consent from the nationalist community for new structures they do not appear to the SDLP to be seeking it on a basis and through means that meet the test of this requirement.

(iii) Parity of Esteem

7. It will be essential to the successful establishment and operation of new structures and institutions that they be based on parity of esteem between the two traditions. As our analysis paper points out, it was the absence of such parity in a society defined exclusively by the aspirations and loyalties of one tradition which went so much to the heart of the problem in the decades between 1921 and 1985. The Anglo-Irish Agreement is based on the principle of parity and it is essential that this principle underpin and underlie any new institutions which may now emerge. This principle would necessarily involve mutual recognition of the validity and legitimacy of both traditions and their right to full expression. This principle also incorporates respect for the civil and religious liberties of both communities, as well as for the concept of cultural and linguistic diversity.

Note (c)

This requirement arises out of comments in Paragraphs 7-13 of the SDLP's analysis document where we argue for "full and mutual expression to those two different identities" which lie at the heart of division in Northern Ireland and between North and South. This requirement has been argued for throughout many of the contributions made by SDLP delegates. While contributions from unionist delegates have, at times, implied their acceptance of this requirement in principle, they have not spelled out what they might mean by it. While different "loyalties" are mentioned in Mr. Paisley's document, p. 20, there is no consideration given as to whether respect for them might be necessary, let alone encouraged. A reference to the need to deal with "community rights" in Mr. Paisley's submission, p. 23, is the only explicit reference to issues related to what the SDLP understands by parity of esteem. As indicated above, the SDLP believes that esteem in this context is not a negative concept, rather it points to the need to hold in due and public respect aspects of the heritage and identity of all cultural traditions.

(iv) Equity of Treatment

8. Parity of esteem as an underlying principle must, of course, be followed through in practice in any new institutions by equity of treatment for both traditions. These institutions must be capable of demonstrating such equity in themselves and in their practical operation, if they are to command the necessary widespread support and respect.

Note (d)

This requirement may seem self-evident, but in our context it is necessary that it be stressed because of the legacy of injustice experienced within our communities. In the SDLP's Analysis it is underlined in Paragraph 28 (effects of the Anglo-Irish Agreement) and in the lengthy section Paragraphs 40 -48 which deals with human rights.

Exchanges within the talks so far have revealed a general commitment to the principle of equality, though at times sharp divisions as to how equality should be achieved and guaranteed have also emerged. The SDLP welcomes the references to a Bill of Rights which appear in Mr. Paisley's submission, in Mr. Molyneux's submission and in that by Dr. Alderdice of the Alliance Party. The SDLP has long since signalled its support for a Bill of Rights, but is careful to point out that expectations can be raised unduly as to the benefits which a Bill of Rights on its own might bring. The political context is all important.

Discussion revealed the British government's preference for an almost exclusively legislative approach to the protection of human rights, signature of the European Convention on Human Rights notwithstanding. Entrenchment of a Bill, the co-existence of a Bill of Rights alongside emergency legislation, access to human rights courts were among the matters raised and noted for more detailed discussion.

v) Recognition of the Totality of Relationships

9. It has been demonstrated irrefutably that progress on Northern Ireland can only take place within the context of the totality of Anglo-Irish relationships. It goes without saying, therefore, that a fundamental requirement of any new arrangements will be that they evolve from, and develop within the context of, that process.

Note (e)

In the SDLP's basic analysis the need to accept this framework is presented as essential to any new structures. As stated in this analysis, an inherent factor in this framework "is the right of the Irish government to involvement in the affairs of Northern Ireland". While the SDLP welcomes the widespread acceptance by other parties that progress can only be made through a satisfactory resolution of all the relationships contained by this framework, initial submissions and discussion have revealed significant differences as to how this totality of relationships is understood, both in principle and in practice.

(vi) The European Community Dimension

10. Our analysis document suggested that the way in which the European Community was evolving had the most profound implications for the political and economic future of Member States and regions, including this island. It is clearly essential that any new arrangements which may emerge from the current process must reflect this reality to the most effective and fullest extent possible. There is widespread acceptance within both traditions that the European Community is a relatively benign framework and that their future prosperity will be increasingly determined by developments at European level. The conflict of identity that is at the heart of the Northern Ireland problem would undoubtedly be eased by increased emphasis on this shared European identity.

Note (f)

The SDLP has frequently alluded to the example of reconciliation and partnership which is exemplified within the European Community. Our analysis document draws attention to this in Paragraphs 33-38. Submissions by other parties to the present political talks have also referred to relationships with the European Community, and while a positive attitude to the European Community can be detected in some of these submissions and in the exchanges which have followed there are also marked differences of approach and perception.

The two unionist parties have indicated a reserve towards European integration. Mr. Molyneux perceives the main political effect to be one which would reduce the authority of national parliaments to "little more than that of county council" and so fears for the effect on "any new design" which might emerge from the present initiative. The DUP leader expressed similar concerns, alluding negatively to the growing volume of EC legislation which is now being implemented throughout the Community. These attitudes marked a difference of approach and perception from those advanced by the SDLP and, also, by the Alliance Party

Nonetheless, there did emerge in discussion a general desire to maximise representation for the people of Northern Ireland in the institutions of the European Community. On this basis there may be, in practice, a considerable amount of common ground between the parties with respect to this requirement.

(vii) Innovative

11. The two communities in Northern Ireland have traditionally perceived themselves as locked into a zero sum relationship; as long as they interact within the narrow ground of Northern Ireland, it will be difficult to change this perception. Rather than simply reassembling elements of earlier "solutions", there is much to be said for a conscious attempt to introduce some new factors into the equation. In practice this must inevitably involve looking beyond traditional models. In this regard, the European dimension highlighted in section (vi) above seems of particular relevance and interest.

Note (g)

While the present situation is not ideal, the SDLP believes that the inter-governmental consultative process and the mechanisms for inter-action set out in the Anglo-Irish Agreement have marked a significant step forward. The SDLP has already acknowledged that this is not a view shared by the unionist parties and that there is no unanimity about how best to move forward. The submissions by both Mr. Paisley and Mr. Molyneux together with the exchanges which have taken place have only reinforced the wide gap which still exists in this crucial area. The SDLP hopes that, as the process of dialogue continues, support will grow for the concept of new thinking and new approaches which will create the kind of dynamism necessary if confidence in the political process is to be developed and deepened.

(viii) Confidence-Building

12. The basic distrust between the two traditions is qualitatively different from the partisan rivalries in normal democracies. New arrangements must provide for such positive interaction in pursuit of common interests as will lead, in time, to the breakdown of suspicion and distrust and their gradual and steady replacement by mutual confidence and trust. To succeed, such new arrangements must be open and transparent and will require the full participation of both traditions.

Note (h)

This requirement arises in general from our overall analysis and should be self-evident. It is especially implicit in our comments on human rights and on the social economic situation, Paragraphs 40-45, 46-55. A positive and joint approach to human rights abuses and to the social and economic ills in our society would, undoubtedly, lend considerable confidence to any new arrangements.

In the submissions and in the exchanges which have taken place, the question of security loomed large in ways pertinent to this requirement. The marked tendency in the two unionist submissions to stress an absence, or at most only the most tenuous relationship between the effects new and agreed political structures and arrangements might have on recourse to politically motivated violence, stood in sharp contrast to the SDLP's argument that new arrangements, widely endorsed by the people of the whole island, would have significant effects on such violence. The SDLP did not argue that violence will cease once new structures are in place, but did make the point that without new and agreed structures it would not be possible to effectively bring violence to an end. In the view of the SDLP the wider framework of relationships beyond the confines of Northern Ireland is particularly pertinent in meeting this aspect of this requirement.

General agreement existed with respect to the likely effect cooperation between the parties in the areas of economic and social development would have on the confidence people would place in new arrangements and new structures. Favourable mention was made in discussion of several joint initiatives on economic and social matters already engaged in by leading politicians from all parties at the table.

(ix) **Durable and Capable of Evolving**

13. It is important that the new arrangements should create a sense of confidence, that they are not simply a short term expedient. They must be durable, yet flexible and capable of development to accommodate the dynamic of change within the "totality of relationships" between the peoples of these islands.

14. As indicated above, the stabilising requirement must not exclude the capacity to evolve. As experience of the new arrangements grows, and as trust is developed- and indeed as external circumstances change - then the option must be there for change to be achieved by agreement of all involved. It is suggested, therefore, that a review period be established which would (a) be long enough for the new arrangements to become fully operational and to allow people to experience their workings over a fairly sustained period and (b) at the same time, provide scope for adaptation and change at some future date if that was the general wish.

Note (i)

These twin requirements are in many respects self-evident since any new arrangements should be capable of enduring while at the same time having the capacity to evolve to meet new challenges and new demands. Again we would draw attention to the European Community's experience where institutions have quite obviously demonstrated both their durability and their capacity to evolve, Paragraphs 33-39 in our analysis document.

We note that while all parties are ad rem on the need for durability, we are likely to differ considerably on what "capable of evolving" means in practice. It is clear, for instance, that the unionist parties place considerable emphasis on the need to ensure that any outcome (along the lines of their preferred options) would in essence be permanent and not open to subsequent negotiation. This has been particularly strongly argued for in Mr. Molyneux's submission. It would seem to the SDLP axiomatic, however, that as the situation evolves and changes any arrangements would need to be such as to be capable of adaptation accordingly.