

# **Meath Peace Conference, St. Columbans College, Navan**

**Monday 26 April 1999**

## **Introduction - Scene Setting**

The world is ever changing and the world is never without problems to solve. It is, however, often easier to define a problem than it is to secure a solution. In this ever-changing world there are from time to time new paradigms. One such paradigm, I believe, was the break up of the USSR. A major result of this break up was that the threat to peace and stability within Europe is now more within States than between States.

The solution of 'within-State' conflict has often been referred to as 'group accommodation' or 'minority protection'. In order to try to solve a problem the underlying dynamics of the intrinsic difficulty need to be clearly understood. A former senior member of the SDLP, Mr Austin Currie - now a member of Dail Eireann - described our problem in Northern Ireland as follows:

“Fundamentally the Northern Ireland conundrum is one of conflicting national identities between those who believe themselves Irish and those who believe themselves British. There are religious, social, cultural, political and other dimensions to the problem but they are only dimensions of that central issue.”

## **Concept of 'Minority'**

The word 'minority' is often used in reference to Northern Ireland. This is a word that I personally do not like because it carries an implication of being somewhat less in importance. The Council of Europe has referred to a national minority as a group of persons within a State “who display distinctive ethnic, cultural, religious or linguistic characteristics” and are “motivated by a concern to preserve together that which constitutes their common identity.” Such a national minority is to be “sufficiently representative, although smaller in number than the rest of the population of that State or a region of that State.” This reflects more truly my concept of a minority – merely smaller in number than other groupings within a State.

## **Approach to the Problem**

How has Unionism tried to create a future towards the new millennium? An election to the 'Northern Ireland Forum for Political Dialogue' was held in June 1996. In my Party's election manifesto we stated that 'Rights' were, “the fundamental building block in any agreement regarding the future governance of Northern Ireland”. All parties refer to the importance of 'rights' and 'equality'. I emphasise that this is no less the case with the Ulster Unionist party.

Indeed, the basic requirements for order in any democratic society today are found within international Human Rights law. In the context of Northern Ireland there is no

more important issue to be addressed than how we organise our society with respect to human rights. This corpus of rights embraces a number of categories: civil, political, economic, social, religious and cultural. The question is how can we manage the differences that exist in Northern Ireland in ways consistent with democratic values and human rights.

This pledge reflects much more than a personal obligation on my part, or my party's, rather it is an obligation on all involved to subscribe to international norms. The Irish Government some years ago convened a 'Forum for Peace and Reconciliation'. Like similar fora elsewhere, this Forum heard evidence and commissioned studies. One study document stated that:

"The human rights to be protected are defined by established conventions drawn up by international agreement. As such they form part of international law and must not be thought of as subject to bargaining between parties."

In addition the document stated that:

"Decisions on what should constitute fundamental human rights can no longer be regarded as a matter for people in individual States to decide as best they can. The substance of fundamental human rights is now determined by international consensus..."

In order to address the problems that we face in Northern Ireland and to create a better future it is necessary to have a clear framework such as that found within international human rights law. It is such a coherent approach that will give a consistent thread to words and deeds. Without a clear framework, policy will veer first this way and then an other.

Finally, I wish to make something abundantly clear, from a Unionist viewpoint the legitimacy of Irish Nationalism is not rejected in the sense that it is entitled to wish for a united Ireland.

The Unionist and Nationalist viewpoints have equal legitimacy as viewpoints but legally they are entirely different. Northern Ireland, as part of the United Kingdom, is the legal position accepted by international law whereas the status of the Nationalist viewpoint is that of a legitimate right to wish for a change in Northern Ireland's position within the United Kingdom.

## **Principles of International Human Rights Law**

Let me look briefly at the principles enshrined in the array of international agreements and conventions agreed at both European and wider international levels with the aspiration of guaranteeing the rights of citizens within States and the obligations of States towards their citizens.

The international agreements now in place represent the collective wisdom of all involved and have been based on the often bitter experience of the realities of differing allegiances within a State – the intrinsic problem in Northern Ireland.

The latest such international agreement is the 'Framework Convention for the Protection of National Minorities' which became operable in May 1998 and it consolidates previous international instruments dealing with such issues. The Council of Europe describes this Convention as "the first ever legally binding multilateral instrument devoted to the protection of minorities." Dr. Abjorn Eide has described it as:

"It is the first multinational 'hard law' [legally binding on States that ratify] instrument devoted in its entirety to the protection of minorities, and it contains much more detailed provisions on such protection than any other international instrument."

Some of the principles in the Convention are these: freedom of peaceful assembly and religion; access to the media for national minorities in order to promote tolerance and to permit cultural pluralism; usage of personal names in the minority language; and the right to display minority language signs of a private nature visible to the public.

Overall, the main principles contained within international law, relevant to our problem, are [comment in *italics*]:

- the starting point to peaceful and constructive solutions is to be found within the State via a functioning democracy;

*(the process has centred round a complete package of relationships and not building from within Northern Ireland, as a first stage)*

- where there is aggressive nationalism, borders are to be recognised and respected by way of the institutions of government. Dr Eide stated:

"The Framework Convention on Minorities of the Council of Europe therefore consolidates a principle basic to all international instruments in this field: group accommodation must be effected within the limits of existing territorial integrity of States unless all parties agree to a voluntary territorial change."

Article 21 of the Council of Europe's Framework Convention stated:

"Nothing in the present framework Convention shall be interpreted as implying any right to engage in any activity or perform any act contrary to the fundamental principles of international law and in particular of the sovereign equality, territorial integrity and political independence of States."

*(Ireland's constitution will change only when there is implementation of the structures of government, including North/South implementation bodies: we thus accepted a conditional recognition of the border, which is not the norm)*

- where there is dissension within a region of a State regarding the validity of that State, autonomous regional government is to be developed and it is expected that institutions will be created within that State in order to protect all ethnic groups.

*(Sinn Fein, as the political representative of the Republican movement, has a conditional right to be in the government of Northern Ireland along with other political parties. Sinn Fein representatives will thus be able potentially to discharge responsibility at Executive/Cabinet level on behalf of the Northern Ireland Assembly. We support the maximum level of participation of all major groups. It is not enough to merely subscribe formally to international norms: there is no place in a functioning democracy for equivocation on violence or the threat of violence. The right to be in government carries with it a responsibility: the responsibility to demonstrate absolute commitment to peace, democracy and therefore stability.)*

- where there is tension, and a lack of trust, across borders co-operation is encouraged and expected to be built up slowly from the base of already existing regional government;

*(we accepted the development of cross-border co-operation in advance of an already existing regional government)*

- where there are States that have an ethnic affinity with a group of people in a neighbouring State, their interest is in ensuring that their kin flourish under conditions of good government in that neighbouring State and not to have a say in its government. It has long been recognised by the international community that in order to preserve (or secure) peace and stability States “will refrain from any intervention, direct or indirect, individual or collective, in the internal or external affairs falling within the domestic jurisdiction of another participating State, regardless of their mutual relations.” (Helsinki Final Act 1975)

*(The UK Government could state that it is the sovereign authority regarding Northern Ireland since it, in the final analysis, makes the decisions: this in law is correct. However, to be required to consult the Dublin government which has a “recognised concern and role in Northern Ireland” and “to make determined efforts to resolve any differences between the two governments” is not a State acting with political independence. Thus, the Irish Government maintains a special interest in Northern Ireland via the British/Irish Intergovernmental Conference on matters not devolved to the Northern Ireland Assembly)*

- the right to self-determination consists in a right to have an inclusive, representative and democratic government which can freely pursue economic, social and cultural development. The political status of the territory is already settled and self-determination refers to a right to democracy and respect for human rights. Council of Europe’s Framework Convention supports this position.

*(there is provision for cessation by Northern Ireland from the United Kingdom which can take place, at a minimum of seven-year intervals, by way of referendum)*

In short, by measuring ‘The Belfast Agreement’ against international principles it demonstrates, I believe, the extent to which the Unionist community has tried to reach an accommodation.

Finally I believe, in this context of International human rights standards and the present impasse in political development, Professor Brice Dickson as Chief Commissioner of the new Human Rights Commission could make a significant contribution. I note, and welcome, that he is committed to ensuring that international standards are applied in Northern Ireland.

Under his statutory role to promote understanding and awareness of the importance of human rights in Northern Ireland I pose three questions to him.

1. Mitchell McLaughlin has indicated that Sinn Fein is endeavouring to create the conditions by which decommissioning can take place: he wishes to see an open democratic and inclusive society. **Does Professor Dickson agree with Dermot Ahern, Cabinet Minister in the Dublin Government, that these conditions are now in effect and thus decommissioning should commence?**
2. More generally, since within International human rights standards effective protection for all groups within society must be within the rule of law and also respecting the territorial integrity of States there can be no place for an illegal organisation which uses, or has a potential to use, terrorist violence for political ends. **Does Professor Dickson agree that, in line with international standards, the decommissioning of illegal arsenals of war should now commence?**
3. Also, since the effective protection for all groups is to be within the rule of law democratic government and a linkage with illegality is non compatible. **Does Professor Dickson agree that a political party with inextricable linkages with illegality cannot participate in government?**

These three questions are fundamental to the present difficulty. They are not questions about Unionism versus Nationalism; they are not questions about Unionism putting demands upon Republicanism; they are not even questions about the implementation of the Belfast Agreement. They are much more fundamental than that. These questions go to the very heart of democratic values. They are about all in society subscribing to accepted international standards. I genuinely ask Professor Dickson, at this sensitive time, to give clear guidance on these all-important matters.

## **Conclusion**

‘The Belfast Agreement’, agreed on 10 April 1998, reflects more fully than any other settlement the guiding principles provided by the international community to stabilise a divided society. In accepting ‘The Belfast Agreement’ Unionism has, I believe, not shirked its responsibility in endeavouring to provide a political framework within which all democrats can feel at home. We have, I believe, gone that extra mile to reach an honourable settlement. We have tried to create a future towards the new millennium.

**Dermot Nesbitt**