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## A Role for Elections in All-Party Negotiations - Questions to be Addressed

This paper sets out a number of questions raised by the possible introduction of an electoral element into all-party negotiations. Some of these issues would arise irrespective of whichever model was chosen, while others are specific to particular variants.

### Issues of Principle

1. A fundamental nationalist objection to holding elections within Northern Ireland as a lead in to political negotiations is that to do so privileges the unionist perception that the key frame of reference is Northern Ireland itself, a point which is at the heart of disagreement between nationalists and unionists.
2. In consequence, there would be an implication that the legitimacy of the entire negotiating process, and of consideration of all of the relationships involved, was derived from within Northern Ireland. Likewise, the internal dimension of the problem would appear in principle, and would be likely in practice, to have primacy over other matters. (This is borne out by the proposals tabled by the unionist and Alliance parties).
3. Conversely, an interlocking three-stranded process fully involving both Governments is of particular importance to nationalists because it explicitly does not favour one perception, or agenda, over any other. Those proposing any form of electoral element must therefore be obliged to demonstrate how it could be fully integrated into three-stranded negotiations which recognised the integrity of each strand. Any suggestion that negotiations on Strand 2 and 3 issues would somehow be subsumed into the deliberations of an elected body would not be countenanced either by the nationalist parties or by the Irish Government..

### Timescale

4. Agreement on some form of electoral test would presumably be reached, if at all, only at the end of preparatory talks. Even with "the wind in our sails", the drafting and enactment of the necessary legislation, and the election campaign itself, would surely take up a number of months. This would allow a dangerous and unhelpful vacuum to develop as well as thwarting the achievement of our firm aim of launching all-party negotiations by the end of February.

### The mandate argument

5. While it is possible that elections might reveal radically new patterns of support within the two communities - which itself could pose difficulties - the probability surely is that the picture would not change particularly from recent elections.
6. The argument that participation in elections would of itself necessarily clarify where parties stood on issues such as consent and non-violence appears ill-founded: it is more likely that any existing ambiguities would simply be maintained. Only if such participation, or the taking up of any resultant places in an elected body, were made contingent on subscription to certain principles would the idea of a fresh mandate carry the weight which unionists appear to place on it. This would amount to the creation of a new set of pre-conditions, which might constitute a further barrier to progress.

#### Effects of Elections

7. On the basis of past experience, any form of election would be likely to reinforce the divisions between the two communities and lead to the adoption of hardline positions from which parties could find it difficult to retreat.
8. Some sort of "non-aggression pact" to moderate the negative effect of elections would not only be hard to guarantee but also sits ill with the unionist view that the purpose of elections would be to see clearly where parties stood and consequently to equip them with a mandate.
9. It is possible that, irrespective of the electoral system adopted, the loyalist parties would not poll well enough to win representation, which would lessen the fully inclusive nature of negotiations and might have destabilising effects at the present juncture.

#### Effects of different types of electoral system

10. The choice of electoral system would be problematic. Some variant of the list system would in principle seem better adapted to the selection of negotiators. On the precedent of the European elections, a single Northern Ireland-wide constituency might well help the SDLP as against Sinn Féin. It would also be the most likely way in which the loyalist parties might secure representation. On the other hand, given the Paisley factor, it might also weaken the UUP as against the DUP. It could also, on the available precedents, harm the prospects of Alliance Party.
11. If there were to be a constituency-based election, this might favour Alliance and the UUP. It might also enhance the prospect that Sinn Fein would secure a higher proportion of the nationalist vote.
12. A constituency-based system returning 90 successful candidates would inevitably lead to a surplus of under-employed representatives from the larger parties.

#### Issues raised by a Convention

13. The election of a Convention in advance of a comprehensive settlement would inevitably remind nationalists of unhappy precedents (Stormont, as well as the 1974/5 Convention and the 1982-6 Assembly) and arouse their anxieties. A Convention would in consequence be extremely difficult to sell to the nationalist community.
14. The conduct of negotiations through an elected body is likely to be unwieldy and to deprive leaders of the flexibility and room for manoeuvre which will be required.
15. It is also very difficult to see how the Governments could interact with a Convention on the authoritative basis necessary, in particular for the discussion of Strand 2/3 issues. The proposals of both the DUP and the Alliance Party in this regard appear to suggest consultation rather than full-scale negotiation.
16. A further difficulty would be that the involvement of an elected body in Strand 2/3

issues would implicitly suggest that it should present an agreed position to the two Governments, which again suggests that these issues are primarily for resolution among the Northern parties. As well as raising fundamental issues of principle, this approach would appear less likely to yield agreement than the arrangements adopted in 1992. It would almost certainly delay the start of discussions with the two Governments on Strands 2 and 3, and would also run counter to the "nothing is agreed" principle.

Issues raised by UUP proposal

17. David Trimble appears to favour a "Forum-type" Assembly which could debate and investigate issues in advance of negotiations proper. This would clearly fall a very long way short of the full-scale talks which are urgently required and which the two Governments regard as necessary. It is hard to see how nationalists could regard a proposal of this kind as other than a stalling tactic designed to postpone negotiations until after Westminster elections, at the earliest - which is what Trimble has publicly suggested is the most likely course of events.

Implications of Electoral Indexation

18. Electoral indexation has many of the disadvantages of a Convention per se, albeit in a less pronounced form. Electoral indexation would logically lead to a demand for the application of the majoritarian principle to decision-taking within the negotiations themselves. Even a qualified majority system could encourage the taking up of rigid and conflictual positions, and the forcing of issues to a vote, and could hamper the search for consensus.
19. To submit the outcome of negotiations to some sort of vote by an "electoral college" - which would be a logical demand for Unionists to make - would again implicitly acknowledge that the negotiations as a whole derived their legitimacy from within the internal context.
20. Paradoxically, electoral indexation, while continuing to pose serious problems for nationalists, could also prove unacceptable to unionists. Would David Trimble be prepared to accept the concept of electorally indexed negotiations when he has consistently made clear that he sees a confidence-building Assembly as a step towards talks, and not a substitute for them?
21. Would the DUP accept a tight linkage between elections and a three stranded approach centrally involving the two Governments when their Convention idea is clearly predicated on the primacy of the internal dimension, even in considering the other relationships?
22. There is also a danger that if elections were defined simply as a means of determining entry into three-stranded negotiations involving the two Governments, the two Unionist parties might feel impelled, in the heat of an election battle, to challenge, or run against, a scheme which differed so substantially from their own suggestions.

3 January 1996