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OD(81)33
12 June 1981

COPY No 45

CABINET
DEFENCE AND OVERSEA POLICY COMMITTEE

NORTHERN IRELAND PRISONS SITUATION

Memorandum by the Secretary of State for Northern Ireland

Background

1. The first four hunger strikers have died. Of the next four, the first will reach a critical point in early July. The deaths of the next two will coincide with the traditional July Orange marching season and we could be facing a very difficult situation. Thereafter there could be an indefinite series of deaths. The other 415 protesters are now all on a clean protest, refusing to work or to wear prison clothing.

2. The hunger strikers are demanding "political status", spelt out in five demands (more visits and letters; free association; freedom to choose work - including no work; restoration of lost remission without conforming to prison rules; and the right to wear their own clothing at all times). Our position in resisting these rests on two principles:

- (a) We cannot give political or special status for a particular group of prisoners, ie no differentiation
- (b) we cannot surrender control in the prisons.

3. The five demands taken as a whole cannot be reconciled with our principles. If the strikers persist with them, and their nerve holds, there will be more deaths. Few people in Northern Ireland or elsewhere either want or expect the Government to abandon its principles; but many do think that there is an alternative to the present impasse. If we give currency to the belief that we are not interested in any alternative, we run two risks:

- (i) we shall lose - indeed, we are already beginning to lose - the support of parts of the Catholic community, and this must make the immediate task of the Security Forces in dealing with terrorism far more difficult;
- (ii) we shall lose all the ground we have so painstakingly gained over the last three years - an improved security situation, an enhanced respect for the even-handedness of the police, the partial detachment of the mass of

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the Catholic population from tacit acquiescence in the activities of terrorist extremists.

This means that we cannot lightly dismiss any reasonable alternative to continued impasse or surrender by the strikers. In my view the moderate Protestants, if the possibility is handled sensitively, will understand and accept that this is so.

4. Are we really going to have to face an indefinite run of deaths? There can be no certain or simple answer to this. There is no clear evidence to suggest the contrary. Much will surely turn on the extent to which opinion in the Catholic community in Northern Ireland, and broader opinion in the world at large, backs them up. With such support, the pressure on the chosen prisoners (or volunteers), from their fellow prisoners and from those who control their organisations, to begin and persist in fasting to death may prove too strong to resist, even though conflicting pressures from families and parish priests may often go the other way. We must never forget that to the Provisionals the prison protest is not an end in itself: it is part of a wider campaign designed to render the Province ungovernable and to exacerbate the feelings of the GB inhabitants to the point where the UK Government comes under pressure to withdraw. This all means that the Provisionals will not lightly let up on the hunger strike.

5. In facing up to this we must do all we can to try to achieve the following objectives:

- (a) through effective publicity to make the Provisionals understand that we will not concede their demands;
- (b) to edge the 400 protesting prisoners nearer to complete conformity, thus reducing what they stand to gain from the hunger strike; and
- (c) to check the process of alienation in the Catholic community, and to recover lost ground, by demonstrating our interest in ideas which could break the impasse in a way acceptable to us.

I consider these three in turn.

Publicity

6. Although media interest in the hunger strikes has now declined it will pick up again as the next death approaches. We must maintain our efforts to ensure that HMG's position is fully understood, particularly in Europe, and we must counter the hostile propaganda in parts of the United States. So far HMG's position has been well understood abroad, and has gained much support in editorial comment (although intensive factual reporting of, eg street disturbances is always bad for us). There is a false perception that we are not winning internationally, and this we must counter. (I am arranging for my colleagues to be supplied with examples of the material being used for this purpose). Talks have already taken place with the Chancellor of the Duchy of Lancaster, and inter-departmental discussions are going forward and a coherent plan is in hand. This will involve -

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inter alia - commitment in terms of Ministerial and official time and effort abroad.

Protesting Prisoners

7. The protesters have ended their "dirty" protest, and some 400 of them are in clean, furnished cells, refusing to wear prison-issue clothing or to do any work. For these breaches of prison rules they are punished by the loss of certain privileges and of some of their remission (but the losses are less severe than for the "dirty" protest).

8. My aim will be, through the inducement of adjustments in the scale of punishment, to try to move the protesters, step-by-step, nearer to a fully conforming regime. I shall continue to pursue this as occasion offers, and will make such moves public; but I do not think it likely that these moves will on their own bring the hunger strike to an end.

The hunger strikers and the community

9. Of the "five demands", one (more visits, letters, etc) is not at issue; and three (free association, no work and restoration of lost remission without conforming to prison rules) would conflict with our principles. This leaves the right to wear their own clothing. To concede this would not be inconsistent with our principles provided it was extended to all prisoners and the clothing itself was subject to approval by the prison authorities.

10. To take this step now would probably not end the hunger strike; but it would be seen - not least by some of the Government's severest critics on the prisons question - as a significant step towards a lowering of tension in the Maze, and thus in the Northern Ireland community. It would be yet further evidence that HMG, firm on fundamental principles, is not inflexible. This could do us nothing but good with the Catholics in Northern Ireland.

11. But there is one most powerful short-term objection to making such a change now: it could easily be misread as a sign of the Government's weakness in the face of the hunger strike, and as such could actually encourage the hunger strikers to continue in pursuit of the remaining demands. If we wished to make this kind of move, the best way to do it would be for the change to be recommended by an independent body of sufficient standing. (we could do it on our own initiative only if we were satisfied that it would complete our victory over the hunger strike).

12. The European Commission of Human Rights (ECHR) is outstandingly the best qualified independent body for this purpose, given its reputation, its judgement in our favour in the past, (it is with us, not the Provisionals, on fundamental issues), the way it has conducted itself in Northern Ireland, and its continuing involvement. It is very difficult to foresee developments here and I will report the latest position when we meet. Failing the ECHR it would be possible to consider involving other bodies (eg International Committee of the Red Cross; the United Nations) although such involvement could carry disadvantages.

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13. There is another way of coming at the problem. Regardless of the outcome of the hunger strike, we shall have to face before long important decisions about the Northern Ireland prisons and there is a strong case for having the issues considered by a body of experts independent of the Government and of the prisons administration. The problems to be dealt with would be:

- (a) the transfer of the "special category" prisoners next year from the compounds to cellular accommodation, which would imply some change of regime for them;
- (b) the problem of the long-term regime appropriate for Northern Ireland's unique prison population (see Annex) including the question of release dates for terrorist life prisoners;
- (c) whether, and if so what, permanent machinery should be instituted to give the authorities continuing advice on prison administration.

14. If such a Departmental Committee is to be set up (as would certainly be desirable at some stage) the questions arise: should it be set up now? and if so, should it be charged, additionally and urgently, to produce an interim report recommending what, if any, early adjustments should be made (always consistent with HMG's principles) in:

- (i) the current regimes for all prisoners, conforming and protesting; and
- (ii) the scales of punishment applied for persistent breaches of prison rules?

(A draft of possible terms of reference and some notes on the possible composition of such a body are in the Annex).

15. There are three broad choices open to us:

- (a) we could postpone setting up the Committee at least until the hunger strike trouble is over and preferably until the PIRA declare a ceasefire. In either case it plays no part in our immediate problem;
- (b) we could announce its appointment now, but say it is to deal only with the longer-term problems (but could we withstand the pressure that might then appear to refer the short-term difficulties to it?)
- (c) we could announce it now and also impose on it the immediate task indicated in para 14 above.

16. These questions call for a difficult judgement. If we adopt course (c) it would be unlikely, I judge, to cause the hunger strikers

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immediately to end their fast (although that possibility could not be ruled out). What it probably would do is to go some way to convince moderate Catholic and Protestant opinion in the Province (and broader world opinion beyond) that HMG was genuinely concerned to break this impasse (though unwilling to make concessions offensive to its principles); and moderate opinion, perhaps through the Dublin Government and Catholic church leaders, might itself bring pressure to bear on the hunger strikers and those behind them to end - or at least suspend - the strike to see what recommendations were produced. But even if the strike did not end, we should have got ourselves into a position in which, in spite of a succession of deaths from early July, we could claim to be acting responsibly.

17. But the perception could turn out rather differently. The remission of this urgent task to an outside body could be taken by the Provisionals as a signal that HMG's nerve was cracking and that all they had to do was to hold on to get their 5 demands. If so, moderate Catholic leaders would say that once again the Government had got itself into deeper trouble by ignoring their earlier advice to make one or two specific concessions. If, after further hunger strike deaths and the street violence associated with them, we accepted any recommendations by the Committee which could be read as concessions, but still the deaths continued, the same leaders would say that they were too few and too late and that more still must be done. Protestants might draw conclusions similar to those drawn by the Provisionals and say that the short-term review must be a dishonest device given the fundamental incompatibility of the Provisionals' position and the Government's (which no outside body could resolve) and the claims we have made for the quality of the prison regime (for which, accordingly, no short-term action is required).

Conclusion

18. Clearly there are problems whatever we decide. But I think the danger of losing the support of the Catholic community is now very real. Its response to the hunger strike deaths may not look wholly rational but it is nevertheless powerful, and we risk losing much of the progress towards normality achieved in the last few years at great cost if we ignore it. I conclude therefore that the Government must say once again where it stands before the next man dies, in early July. In so doing, I believe we should declare our intention to proceed as in paragraph 15(c). Presentation will be of great importance. Its purpose must be to explain to the Protestants that setting up the Committee is not surrender disguised; to the Catholics why the specific suggestions of their leaders cannot be adopted in the form proposed; and to the Provisionals that this is not a device for giving the protesting prisoners political status and their five demands.

H.A.

Northern Ireland Office
12 June 1981

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ANNEX to OD(81)33

PRISONS COMMITTEE

Preliminary shot at Draft Terms of Reference

To review the NI prison system and the arrangements for management and control, with particular reference to -

1. the composition of the prison population in NI as compared with prisoners in GB;
2. the particular problems which will arise when the "special category" prisoners in the Maze compound prison are moved to cellular accommodation in 1982; and
3. the continuing provision of independent and professional advice on prison policy and practice to the Secretary of State and the prison authorities;

and to make recommendations.

The Committee is asked to report as soon as possible and may submit an interim report if it thinks fit.

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Notes on composition

- A. The aim is to bring external advice to bear on Northern Ireland prison problems. For convenience the numbers should be kept small (not less than 3, not more than 5, one of whom might be an assessor).
- B. Should there be Northern Ireland representation? (The Bennett Committee had none). The demands of inter-communal balance would require two places; and there could be difficulty in identifying people of the right calibre; but it would lend the body more credibility in the Province.
- C. The chair should be taken by a judge.
- D. Other members should have experience of:
- (i) prisons administration and/or management;
 - (ii) psychiatric and other medical problems associated with long-term imprisonment.
- E. One member should, if possible, be a Roman Catholic.
- F. Some way should be found of tapping UK prison expertise.

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EXCEPTIONAL FEATURES OF THE NI PRISON SYSTEM AS COMPARED WITH GB

1. Out of a total of just over 1900 sentenced prisoners in NI there is a very high proportion of -

- (1) young prisoners - some 1100 (55%) are under 25 years of age as compared with 25% in GB.
- (2) prisoners sentenced to long fixed terms of imprisonment - some 700 (34%) have been sentenced to 10 years or more as compared with 1% in GB.
- (3) prisoners sentenced to life imprisonment - some 400 (21%) have been sentenced to life or "during the Secretary of State's pleasure" as compared with 4% in GB.
- (4) prisoners convicted of terrorist type offences who claim political motivation - some 1500 (77%) as compared with almost none in GB.

2. Northern Ireland has a very small prison system within which to move long sentence prisoners at appropriate times during their sentence. Only Maze, and Maghaberry when it opens in 1982, are wholly suitable for such prisoners. Magilligan is small and inconveniently located and Belfast does not provide suitable facilities.

3. Tension between the mainly Protestant prison officers and the Catholic prisoners who form a significantly higher proportion of the prison population (about 60%) than in NI generally (about 40%).

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