

Republican Prisoners and the International Committee of the Red Cross (ICRC)

Republican Prisoners Roe 4

Maghaberry Jail

November 2015

An analysis of the process of negotiation with the International Committee of the Red Cross and
Republican Prisoners in Maghaberry jail

In June 2014 the Prisoner Ombudsman as part of yet another detailed investigation into Republican prisoner (RP) complaints made an overarching recommendation that the Independent Assessment Team (IAT) conduct a Stocktake into the implementation of the August 2010 Agreement. To quote the Ombudsman, Tom McGonigle, during a follow-up meeting with Roe 4 Republican prisoners, this was designed to "*remove the ambiguity from the 2010 Agreement*". The Independent Assessment Team who had formerly been called the *Facilitators* and who had been central to the August 2010 Agreement, now under the direction of David Ford, accepted the task and duly conducted the Stocktake. After considerable discussion and investigation by the former Facilitators, the IAT, the Stocktake document was concluded in September 2014 and formally published in November of that year. Republican prisoners although sceptical stated publicly that we were willing to give the Stocktake a *fair wind* as was stated in our statement '*A Response to the Stocktake Report*' (Republican Political Prisoners, 16/11/2014). However, after attacks on the Stocktake in Stormont, the closure of the Stair Grille between Roe 3 and 4 landings that further impeded movement, and plans by the jail to build a birdcage-like structure on the landing becoming apparent, RPs made clear that we could no longer give credence to the Stocktake. That process having now been subverted was therefore redundant. This was summarised in a further statement entitled '*Stocktake Subverted*' (Republican Political Prisoners, 19/11/2014). At a subsequent meeting with the former Facilitators (IAT) they unequivocally stated to RPs that the work undertaken by the jail (Birdcage structure) as a direct outcome of the Stocktake was "*certainly not what we had envisaged*". Similar comments were also made by the Prisoner Ombudsman's Director of Operations, George Richardson, upon viewing this steel cage structure and other regressive changes.

Whilst the Stocktake was attacked by the usual suspects on the Stormont floor and at its 'justice committee' in particular, the DUP had however specifically referenced the International Committee of the Red Cross (ICRC), robustly criticising the decision to propose it as *Chair* of any possible new Forum involving RPs and NIPS (*Hansard*, November 2014). At that justice committee meeting the Director General of NIPS, Sue McAlister, immediately buckled under this political pressure, and as a result of this former Board of Visitors (BOV) member Tom Millar was unilaterally appointed as 'Chair' - without consultation. This appointment was instantly rejected by Republican prisoners making absolutely clear we would only engage in the so-called *Forum* under the *Chairmanship* of an external, independent body. Tom Millar, given his former membership of a body that had historically rubberstamped brutality against Republican prisoners, could never be viewed as 'neutral' or be considered as *independent*. Around six months after the justice committee debacle, a leading ICRC representative was again cited as an option before finally being appointed as 'Chair', but only after consultation with all stakeholders. However, Republican prisoners mentioned at the time to all those involved that the DUP who had vigorously opposed the ICRC as Chair was now suspiciously silent on this subsequent appointment. This was to become significant later when it became apparent that Sue McAlister and those acting under her had no intention of progressively dealing with all outstanding issues.

Although the Stocktake was now a failed enterprise as far as Republican prisoners were concerned, the idea of a new *Forum* with the ICRC as the independent Chair was discussed. The ICRC was acquainted with Republican prisoners and with Roe House having been in some months earlier in their wider remit around humanitarian issues. Although sceptical, RPs believed there was some merit in this initiative under the chairmanship of the ICRC to resolve the three core issues of Controlled Movement, Forced Strip-Searching and Isolation of Republican prisoners.

It was agreed with the Chair that before RPs would agree to enter a new Forum, an acceptance by the Jail Administration was first necessary of what the proposed process was intended to achieve. RPs gave detailed documents and 'position papers' outlining explicitly what was required to finally resolve all outstanding issues. At every request for information from the Chair as regards the views of RPs on any given question or scenario RPs gave detailed written responses. It is our understanding that at no time did the jail administration give any clear or unambiguous response either verbally or in writing to such requests. This was in and of itself a clear sign of bad faith and lack of genuine intent to seriously address the fundamental issues.

In a series of pre-forum bilateral discussions the Chair confirmed that he would consult with Republican prisoners and the jail authorities separately by way of testing each side's commitment to the process. Those involved would not formally meet until *pre-forum* talks concluded. Issues outside of the three core matters at the heart of all tensions were to be dealt with after the central issues were agreed upon. RPs were of the view that to do otherwise would only allow others to distract from the main purpose of the present process i.e. to get the August 2010 Agreement back on track and bring it to its intended conclusion. The ICRC broadly concurred with this view and advanced its programme of work accordingly.

Typically the jail responded to the process with much rhetoric about being committed, ready and willing to finally deal with all outstanding issues. RPs were regularly told by all those genuinely concerned groups and individuals visiting Roe House that the 'mood music' was very positive and that the jail administration appear sincere. This was nothing new, Republican prisoners had heard this same *language* used prior to every process of engagement pre and post the August 2010 Agreement. Sadly, on each of those occasions the jail authorities subsequently procrastinated, using one contrived excuse after another, offering nothing of substance in the end. Our concerns were further validated by accounts emanating from the jail that they wouldn't move until 'threats and intimidation' had ceased. RPs stated repeatedly that talk of threats and intimidation was a red herring; that none existed and the only tensions in Roe House were those which arose as a result of Controlled Movement. This was then exacerbated by jail and POA orchestrated aggression. Indeed whilst this pre-forum process was ongoing on 10 August 2015, two Republican prisoners were assaulted, handcuffed and forcibly removed from their cells. Along with a multitude of petty and vindictive instances RPs were increasingly *charged* for verbally challenging belligerent jail staff who took it upon themselves to further restrict movement on the landings. RPs pointed out that the increase in such actions was no coincidence and was in fact designed to subvert attempts at resolution. Every engagement by RPs challenging senior security governors about this upsurge in aggression was then described as 'threats and intimidation' and used by the jail to 'run down the clock' as regards the ICRC's Chairing of this latest process; a process that had a *de facto* six-month timeframe.

Deliberately contrived tensions becoming a constant recurrence was regularly pointed out to the Chair, the Prisoner Ombudsman and politicians. In fact these same individuals and groups actually witnessed such instances with disbelief leading up to and during the Stocktake process. This was to continue right through the *Pre-Forum* discussions. Issues that were solely of the jail's own making now had to be challenged verbally and in writing in the form of complaints and then passed to the Prisoner Ombudsman. Republican prisoners bluntly stated to the Chair that the jail administration was deviously creating tensions to distract from the current process in order for RPs to react. This

would then give the jail the excuse they craved so as they could justify refusing to progress the current initiative and thus blame Republican prisoners for the stagnation. These same incidents are now in the hands of legal teams because of the jail refusing to investigate or, in a large number of cases, even accept complaints in relation to those incidents. To this day the jail administration continues to stubbornly refuse to fully implement repeated Prisoner Ombudsman recommendations that actually relate to such complaints; even after "accepting" those same recommendations previously, and regardless of the cost to the public purse when inevitable judicial reviews have to be initiated.

In an effort to move things forward the ICRC proposed to RPs and the jail administration that *outside observers* be brought in to verify any 'movement', 'progress' or 'threats and intimidation'. This concept received a positive response from RPs. The Chair then asked both sides to submit a list of possible 'neutral' individuals that would be acceptable to all and whom would have the capability to fully understand the issues around Roe House. After due consideration RPs gave the ICRC a number of names of well-known individuals including that of academics in the field of *Prison Reform*. None of those submitted by RPs - Monica McWilliams and Professor Phil Scratton for example - could be viewed as fellow travellers or supporters of the prisoners cause. The jail administration prevaricated before refusing to provide any names when formally asked to do so. Republican prisoners continued to ask for evidence of so-called 'intimidation' or 'threats' to be brought forward for all to see. RPs stated that we would be happy to allow observers from all backgrounds onto the Republican wing to review any progress and monitor any tensions. Neither the jail administration nor Sue McAlister accepted this suggestion from the ICRC Chair. **Questions that must therefore be asked of those in authority are: What was there to fear from such neutral individuals and academics observing Roe House during such a process? If your intention in entering that process was to resolve all issues why did you not fully engage? Why did you not put forward any proposals in writing the whole way through the process? Is your real motives political, security-led and to criminalise?**

Any notion of optimism regarding *good intentions* on the jail's behalf which may have remained after the assaults and provocation, were soon dashed with resolutions for minor issues being postponed for weeks. Republican prisoners had begun refusing lunch-time and evening meals in August 2015 over the closing of a hatch-door between the kitchen and landing which provided ventilation and a means for receiving food, this refusal of the two meals was to last for nine weeks. The hatch had previously been opened for most of the day, but a particularly bigoted 'Senior Officer' (SO) decided to take issue with it and demanded its closure. That decision was then rubberstamped by a notorious security governor. When this was raised as an issue, RPs proposed that the hatch be opened at certain times of the day as an interim measure. Although the ICRC Chair was conscious of attempts to 'distract' and 'run down the clock' it took its intervention to resolve this simple issue in deliberately created during the current process. After this intervention, the jail returned with an almost identical proposal to that brought forward by RPs; the issue was therefore resolved. To RPs, such prevarication and intransigence by the jail authorities in regards to this relatively minor issue was simply another demonstration of their overall intentions, or lack thereof.

Following this, intense discussions with Republican prisoners and the ICRC Chair were conducted over the course of a number of meetings. Similarly, we were made aware, that senior NIPS management inside and outside of the jail, the Stormont justice ministry and elements of the NIO were consulted, as well as other interested bodies. Based on this the ICRC produced a document

that contained a set of '*Draft Proposals*'. In regards to controlled movement, which was often the centre point of discussion, the chair proposed that steps be taken by NIPS and prisoners geared towards the full implementation of the August 2010 Agreement: there would be no 'verbal outbursts', and that a so-called 'non-aggression pact' would be formally agreed. The grille between Roe 3 and 4 would be opened commencing the first week of October 2015 with one additional prisoner out on the landing; and, an increase of one prisoner per landing each two weeks thereafter up to a maximum of seven by the end of November. Simultaneous steps were to include the regular presence of the Chair on the landings as well as some 'neutral observers'.

After a period of acclimatisation with all adhering to what had been agreed and subsequent to the implementation of the previous steps, further proposals would be made aimed at resolving outstanding issues. Republican prisoners raised several points including one which we believed required clarity; this was that all so-called 'aggression' and 'intimidation' should cease including that directed by the jail; and whilst we would commit to this we maintained that the issue of 'intimidation' or 'aggression' was a red herring, something which we were content to have independently verified by individuals and bodies who could monitor the landings. The proposals regarding the grille and one additional prisoner, from a Republican prisoner perspective were marginal; however, we accepted them as an interim measure to assist in progressively moving forward.

The jail immediately began to prevaricate, continually breaching deadlines as regards the ICRC draft proposals, postponing putting forward any realistic proposals of their own. All indications coming from the jail clearly signalled that they were intentionally stalling so as to 'run down the clock' on the current process. After further intense deliberations over a four-week period with Republican prisoners, the Chair asked for a frank and unambiguous response from those in authority, including the NIPS Director General, Sue McAlister. That response was given to the ICRC Chair in mid-November 2015 by Sue McAlister and Phil Wragg. They stated that they were not content with the *Draft Proposals* put forward by the Chair because they too closely reflected the aspirations of prisoners. They went further, stating that the draft proposals put forward by the Chair would only come about at the end of a process – not at the beginning - and that *that process* would not have a time-frame. Their 'counter offer' was that they would allow one extra prisoner out on the landing (bringing numbers up to five out) but that the landing grille would remain closed for the foreseeable future.

Given that the 2014 Stocktake itself recommended six out on each landing within a six-month timeframe (by May 2015) this could only be viewed as a complete insult to all of those who put such time and effort into this latest process. As part of this 'counter offer' the jail also stated that they wanted Republican prisoners to say they would "behave themselves" and reserved the right to reduce numbers back to four at any time if they were not happy with Republican prisoners' behaviour. Nothing was said of the persistent regression and constant petty vindictiveness from bigoted jail staff including well-known security governors. Nothing of the deliberate and intentionally provocative assaults and forced strip-searches throughout the Stocktake and pre-forum processes. Nothing of the hundreds of complaints that continue to accumulate and go unanswered regarding serious and systemic abuse directed at Republican prisoners. Nothing of the ignorance, abuse and frustrations that have to be endured by Republican prisoners' families while visiting; whom at times have to spend eight and ten hours each week on phones to simply to book a visit.

In sum: the Chair's draft proposals were viewed by RPs as a reasonable attempt to put momentum into a stagnated situation. As regards 'prisoner behaviour': Republican prisoners have never given such a demeaning commitment to "behave themselves"; nor would they. The jail authorities know this well. They fully understood when mooted such a proposal in those terms that it would be viewed as offensive. Any genuine atmosphere conducive to a progressive regime would only be created and solidified by both prisoners and staff. The jail again regurgitated the idea of a 'housekeeping forum' which had been *off the table* long before the current process began. Republican prisoners had already tested the *bona fides* of the jail, engaging in multiple 'house-keeping forums,' post the August 2010 Agreement, that invariably became mere 'talking shops' and instruments of distraction for the jail: promising much but delivering little other than "we'll get back to you with a response". RPs have been waiting years on some of those "we'll get back to you" responses. The time for 'housekeeping forums' will only ever come after a resolution of the core issues: Controlled Movement; Forced Strip-Searching; and Isolation.

Based on the jail's failure to accept the ICRC's draft proposals and the ridiculous nature of their counter-proposals, the ICRC concluded that there could be no consensus secured. Although the Chair did everything in his power to inject some sort of momentum into the process, it became quite clear to the ICRC Chair that no further progress could be made when faced with such obstinacy.

As far as Republican prisoners are concerned, if this process has achieved anything then it is the exposure of those who have deceitfully remained in the shadows pumping out rhetoric, half-truths and lies. These pretexts have formed the basis of the jail's refusal to move on key issues. Republican prisoners asked for any evidence of alleged threats to be produced. We asked for the extent of any alleged threats to be juxtaposed against every other landing in the jail, where physical assaults occur daily (unlike Roe House where not one single physical assault has ever occurred) and none of which are subject to controlled movement. We sought the presence of independent observers - as persons of neutrality - those with no *axe to grind* to verify who was really at fault. It seems that whoever is pulling the strings as regards Republican Roe House do not want scrutiny, and will only ever feign movement while remaining static in order to maintain the *status quo*.

Far from adopting a more realistic approach, regression has increased since the appointment of former Belmarsh security governor, Phil Wragg. This is against a backdrop of an Administration which portrays every voice raised against it as a "threat". That the source of these unsubstantiated threats is the POA and Prison Governors is not surprising given their historical opposition to the Steele Report and other modest British government efforts to reflect a modicum of political reality into prison policy.

Republican prisoners are not going away any time soon; neither will the core issues so long as political expediency is allowed to override the need to progressively address what are easily resolved but deliberately contrived issues. Criminalisation is at the heart of such policies. Republican prisoners will never accept such a badge. The ICRC Chair knows well who genuinely endeavoured to find a resolution during this entire process; and, equally, who did not.