



**NGO Alliance Shadow Report**

**In Response to the Irish Government's First  
National Report to CERD under the  
United Nations International Convention on the  
Elimination of All Forms of Racial Discrimination**

**November 2004**

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## Foreword

The NGO Alliance consists of over 40 independent Non-Governmental Organisations (NGOs) working in Ireland on issues such as anti-racism, community development, and human rights. All of the groups have a common interest in the prevention of racial discrimination, and in working together on anti-racist principles and action. The Alliance was formed in direct response to the World Conference Against Racism in Durban in August 2001, and the need for Irish NGOs and civil society to engage with the process of developing a National Action Plan Against Racism in Ireland. The Alliance produced a Joint Submission to the Government on the implementation of its commitments following from the World Conference.<sup>1</sup>

This Shadow Report has been produced as a result of the concerns of the NGO Alliance that the Government's First Report to the Committee which monitors the International Convention on the Elimination of All forms of Racial Discrimination does not reflect the reality of racism in Irish society today. This is particularly important because this is Ireland's first report to the Committee.

It is important to note in this context that at the time of the writing of this report<sup>2</sup> the Irish Government had yet to publish its National Action Plan Against Racism, let alone taken steps to implement it.

This Shadow Report is the product of a consultation process undertaken by the Alliance during late 2003 and in 2004. Submissions to the Shadow Report from members of the Alliance were subsequently compiled by an Editing Committee.

It is intended that this Shadow Report will also be of use as a campaigning and lobbying tool for NGOs working against racial discrimination in Ireland. In this context, the Alliance looks forward with great interest to the Concluding Observations and Recommendations of the Committee on the Elimination of Racial Discrimination.

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<sup>1</sup> *Implementing commitments from the World Conference Against Racism, South Africa 2001: recommendations from the NGO Alliance for Ireland's National Action Plan Against Racism.* NGO Alliance, 2002.

<sup>2</sup> November 2004.

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This report is a compilation of efforts by a broad range of anti-racist, community and human rights non-governmental organisations (NGOs). The participating organisations are each concerned with some but not all of the issues covered in this report, and the views expressed do not necessarily reflect the policies and positions of each of the contributing organisations. Rather, the report reflects a collective vision of human rights and anti-racism in Ireland.



Photographs kindly provided by the Immigrant Council of Ireland

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## Executive Summary

1. As a result of Ireland's dualist system of laws, the Convention is not directly enforceable through the courts in Ireland. Vindication of the rights contained in it is thus dependent on the will of the Government. This is significant in view of the fact that the Minister for Justice, Equality and Law Reform has stated that he does not believe that economic, social and cultural rights are justiciable (para 4). The Committee must consider why, if the Government believes that the rights enshrined in the Convention are sufficiently important for Ireland to ratify, it has refused to give the Convention full effect in Irish law. The Government's argument that there is no need for full incorporation of the Convention into Irish law, since domestic law provides all the protections necessary under the Convention, must in particular be considered in light of the views of the Minister on economic, social and cultural rights.
2. The NGO Alliance is of the view that the Government's First Report to the Committee was produced without sufficient consultation, and that little attempt was made by the Government to disseminate information on the Convention. It is further concerned that it was drawn up on the basis of an incomplete picture of Black and minority ethnic groups in Ireland, and the racism they suffer. This is as a result of Government's failure to gather the necessary data via the Census and other Government statistical tools and its failure to undertake adequate research and monitoring of racism in Ireland. In addition, it has not properly recognised the intersection of racism and other discrimination, such as discrimination against women, and it has refused to recognise Travellers as an ethnic group, which has serious implications for their protection under the Convention.
3. To date, little real attempt has been made by the Government to curb racism in the media and to prohibit incitement to hatred. The promised review of the Prohibition of Incitement to Hatred Act, 1989 has not taken place. Debate on some Government policies has been conducted in a manner that has fuelled racism in Ireland, and little attempt has been made to censure politicians whose statements have inflamed the situation.
4. The Government has also done little to introduce positive discrimination programmes to correct the lack of representation of Black and minority ethnic groups in political life, the courts system, the police or the civil and public service. In addition, the Government has failed to adequately resource Black and minority ethnic-led organisations and sustainable anti-racism initiatives.
5. Government policies have acted to segregate asylum seekers from the community by sending them to designated accommodation units around the country and refusing them the right to work. This has isolated them from the rest of society, and helped to foster resentment against them as 'spongers.' Segregation of Travellers has been the result of a failure to implement agreed programmes for Traveller accommodation. Many remain living in totally inadequate and unhealthy roadside conditions. There is also a long history of Travellers having problems with access to hotels, bars, restaurants, etc., which further isolates them.
6. One of the main planks of the Government's anti-racism policy is the Equal

Status Act, 2000. However, this Act does not cover Government functions. Public servants carrying out functions of the State have in most cases received very little or no anti-racism training, and there have been consistent reports of problems of racist attitudes in such areas as the judiciary, local government and the prison service.

7. A failure to gather adequate data on racist incidents has led to significant underestimation of their impact on victims and society in general. Victims of racist incidents have expressed lack of confidence in the manner in which the police respond to racist incidents. The police complaints mechanism is widely recognised, including by the Government, as inadequate to meet the needs of victims of police malpractice, and the Equal Status Act, 2000, does not cover most police functions. While the police are beginning to set up a system of liaison with Black and minority ethnic groups, this system is insufficiently resourced, and there is a serious lack of anti-racism training within the force. The Immigration Act, 2004 introduced new requirements for foreign nationals to register and carry identification at all times, unlike Irish citizens. It gave the right to police to stop foreign nationals and ask for such identification at any time, further alienating them from the police.
8. Irish children whose parents are migrants are liable to be removed from the State with their parents, who are no longer allowed to apply for residency in the State, following a Supreme Court ruling in early 2003 and a change in Government policy. This is resulting in the effective deportation from the State of Irish children with mixed ethnic and national backgrounds.
9. For other migrants, the lack of an Immigration Appeals Tribunal and a 14-day time limit for foreign nationals to apply for judicial review on matters concerning their immigration status and on asylum matters, are of major concern. There have also been many concerns raised about the lack of transparency in the asylum determination process, and the failure to give proper anti-racism training to those who administer it. This lack of transparency is also a feature of decisions on family reunification, and on decisions concerning leave to remain in Ireland.
10. In spite of the recommendation from the National Economic and Social Forum, the Government's anti-poverty strategy does not include provision for equality proofing of its policies, which would include ethnic origin as one of its grounds. Little data has been collected on poverty levels of foreign nationals in Ireland, and little attempt has been made to ensure the representation of Black and minority ethnic groups in all Government fora where service needs are discussed. Unemployment and general poverty levels among Travellers are particularly high, and further positive action on this, in keeping with the principles of the Convention, is urgently needed.
11. The Government still does not have a comprehensive immigration policy or adequate immigration legislation. Immigration policy is piecemeal and market-driven, aimed at attracting temporary workers to fill shortages in the labour market. As a result, there is no proper integration policy in place for migrants, and there are persistent complaints of discrimination against them in relation to labour legislation and consistent non-compliance with regulations by employers. This situation is made worse by the fact that work permits are held by employers, not workers. In addition, workers with professional qualifications

gained abroad often have difficulties getting them recognised in Ireland. There is a particular concern about migrants who are dependent spouses and have no entitlement to residence in their own right, and who may be subject to domestic violence.

12. Members of Black and minority ethnic groups have reported discrimination in trying to find and access affordable accommodation in the private rented sector. Asylum seekers have repeatedly complained about the quality of accommodation provided under the dispersal and direct provision system. There is a serious and persistent problem with the lack of suitable accommodation for Travellers, in spite of Government research and legislation on this issue.
13. Lack of suitable accommodation is a major cause of the serious health problems experienced by members of the Traveller Community. For all members of Black and minority ethnic groups the lack of culturally appropriate healthcare is a problem, particularly for women whose childcare responsibilities bring them into regular contact with the health services.
14. Most schools in Ireland still reflect the ethos of the majority Catholic church, and give preference to children from Catholic families. This presents problems for migrant and other parents who are not Catholic. The schools curriculum still does not adequately reflect the diversity of current Irish society, which makes it even more difficult for migrant children to integrate. Language support teaching for migrant children who do not have English as a first language is insufficiently resourced. Access to grants at third level is currently restricted to Irish and EU citizens, and asylum seekers cannot attend third level colleges. The education levels in the Traveller community are generally very low, and are an ongoing cause for concern.
15. The Government not only fails to acknowledge the seriousness of racism in Ireland today, but on occasion seeks to deny its existence. In addition, policies it has introduced have acted to increase racism, and statements it has made have reinforced the perception that many migrants are 'bogus asylum seekers' or are here for 'citizenship shopping' (para. 179, 181). The Government's failure to show political leadership in the fight against racism in Ireland is a major cause of concern to the NGO Alliance. In our view, not only has the Government failed to honour its obligations under the Convention, but, in the manner in which it has engaged in some crucial debates, and in attempting to create waves of populist sentiment, it has acted in a manner that significantly undermines values of equality and non-discrimination in Irish society. In this context, we are particularly disappointed that the Government's First Report has sought to mask the reality of racism in Ireland with a series of policy aspirations.



## Key Recommendations

### 1) *Who is covered by the Convention and how they are covered*

(Main text: para 10-13, 27-32)

The Government has refused to recognise Travellers as an ethnic group, which has serious implications for their status under the Convention. Travellers have identified themselves as an ethnic group, outlining the criteria that support this. Their view is based on objective evidence, and supported by court decisions made on Traveller ethnicity in the UK. This view is also endorsed by the Irish Human Rights Commission. The Government should recognise Travellers as an ethnic group.

While the Convention allows for distinctions to be made by states between citizens and non-citizens, the Committee has stated in the recently published CERD General Recommendation 30 on discrimination against non-citizens that such distinctions must not result in the undermining of the basic prohibition of discrimination. The NGO Alliance notes that not all fundamental rights under the Constitution attach to non-citizens. Furthermore, certain legislation currently in force discriminates against non-citizens; for example, in relation to access to third level education, and in the requirement that non-citizens must carry identification at all times.

#### RECOMMENDATION:

- The Government should recognise the Traveller Community as an ethnic group.
- The Government should recognise the rights of non-citizens under the Convention as outlined in CERD General Recommendation 30.

### 2) *Data collection, research and monitoring*

(Main text: para 14-23, 38-41, 65, 76, 79, 97, 101-102, 111, 128, 144)

The major sources of data for social statistics in Ireland are censuses and household surveys. Data collected in this way in Ireland is not disaggregated by ethnic origin. There is therefore a lack of adequate data on what Black and minority ethnic groups there are in Ireland, how many members of them there are, and what their needs are.

Government research on racist attitudes in Ireland and the effectiveness of Government policies in combating racial discrimination is similarly lacking. Surveys undertaken by NGOs, the media, academics and the EU show increasing levels of racism and hostility towards Black and minority ethnic groups, at all levels of society. There is a need for proper co-ordination of research to ensure collection of baseline social and economic data on Black and minority ethnic groups, data on systems, organisations and structures impacting on equality, data on changing social attitudes, and data on the development of resources within Black and minority ethnic communities. This data should also be disaggregated by gender. Recommendations resulting from the collection of data of this kind must be seen to result in changes in Government policies.

#### RECOMMENDATION:

- The Government should develop and implement a strategy to ensure the collection of proper social statistics on Black and minority ethnic groups in Ireland.
- The Government should draw up and implement a plan to co-ordinate research and monitoring of racist attitudes and racial discrimination in Ireland.
- Recommendations resulting from this research and monitoring must be reflected in changes in Government policy.

### 3) *Representation and full participation*

(Main text: para 7-9, 42-44)

Anti-racism initiatives and agencies working against racism have seen their funding seriously reduced in recent times. Much is made in the Government's First Report of the importance of the Equality Authority and the National Consultative Committee on Racism and Interculturalism (NCCRI) in its anti-racism strategy, but both have had their funding cut, and the NCCRI has far too few staff for the tasks it is given.

The chronic underfunding of Black and minority ethnic-led organisations has resulted in difficulties in the development of adequate staffing and professionalism. The Government has failed to recognise that the development of such organisations, and their participation in the development of Government anti-racism policies, is essential to their success. The Government does not have adequate mechanisms in place to ensure proper consultation with Black and minority ethnic-led organisations in the policy-making process.

#### RECOMMENDATION:

- The Government should ensure adequate funding of Black and minority ethnic-led groups.
- It should also ensure adequate funding of organisations and agencies working against racism, and proper support for sustainable anti-racism initiatives.
- The Government should ensure full consultation and participation of Black and minority ethnic groups in its anti-racism policy.

### 4) *Anti-racism proofing, institutional racism and racism in the administration of justice*

(Main text: para 24-26, 32-37, 72-100, 104, 170-172)

Under its National Anti-Poverty Strategy (NAPS), the Government has introduced a requirement that its policies be poverty-proofed. A recommendation was made by the National Economic and Social Forum, which monitors NAPS, that this be expanded to include equality-proofing, which would include ethnic origin as one of the grounds, and should focus particularly on the intersection of racism and other discrimination, such as gender discrimination. The Government rejected this.

The Government's First Report makes little mention of institutional racism, even though current equality legislation does not cover Government functions. Submissions of members of the NGO Alliance to this Shadow Report are unanimous in highlighting the need to address the problems of racism within the administration of Government in Ireland, and particularly within the administration of justice. Concerns have been expressed at the failure of police to respond adequately to racist incidents, and at the lack of adequate anti-racism training at all levels of the justice system, including the courts system and the prison system.

Immigration legislation, which is aimed at controlling the entry of foreign nationals to Ireland rather than at providing a comprehensive immigration policy, gives immigration officers and police powers over foreign nationals which have alienated many of them from the police. Attempts to address this are under-resourced and given insufficient weight within the police system.

The administrative systems whereby decisions are made on the status of foreign nationals in Ireland are perceived by both applicants

and NGOs as lacking transparency, and in some cases reliant on the discretion of the Department of Justice, Equality and Law Reform, rather than on clear and well-recognised, objectively testable criteria. The lack of an independent Immigration Appeals Tribunal is a major cause of concern in this regard.

#### RECOMMENDATION:

- The Government should acknowledge the existence of institutional racism within the administration of Government in Ireland.
- It should introduce statutory-based equality proofing of all legislation and Government policy, which should focus in particular on racism, and the intersection of racism and other discrimination, for example gender discrimination. Such obligation should commence with extending the current equality legislation to cover all Government departments and services. In particular, it should take direct and practical steps to eliminate institutional racism in the administration of justice. This should include adequate professional anti-racism training of all agents involved in the administration of justice.
- An independent Immigration Appeals Tribunal should be set up, which operates in a transparent manner, and on the basis of clear criteria.

#### 5) *Segregation and access to services*

(Main text: para 50-61, 104-108, 117-125, 130-134, 138-143, 158-169)

A large number of organisations that are part of the NGO Alliance have highlighted the problems caused by the segregation of asylum seekers from the rest of Irish society by means of the dispersal and direct provision systems. This system has acted in many cases to feed the growth of racism by reinforcing the belief that asylum seekers, who are forbidden to work, are 'spongers.' For the asylum seekers, it has meant that their access to services such

as legal representation, healthcare, education, religious services and appropriate food has been limited.

A similar problem with access to services has been experienced by the Traveller Community, who are in many cases segregated from the rest of society as a result of the failure of Government to implement an appropriate Traveller accommodation programme as outlined in their own research and legislation. Too many Travellers are still living in unsafe, unhealthy and poorly maintained accommodation. As a result, Traveller health status and educational standards are well below what they should be in a country as wealthy as Ireland.

#### RECOMMENDATION:

- The Government should act to end the segregation of asylum seekers and Travellers from the rest of the community.
- It should replace the dispersal and direct provision system for asylum seekers with the provision of community-based housing and the restoration of social welfare benefits on a par with the rest of the population.
- It should ensure delivery of the required Traveller accommodation by obliging local authorities to deliver on their five-year plans for Traveller accommodation. Mechanisms should be put in place to ensure that no Traveller accommodation is sited in unhealthy or dangerous locations.

#### 6) *Political leadership*

(Main text: para 4-6, 70-71, 81, 177-183)

There is currently a view in Government that there is very little or no racism in Ireland at present, and that therefore this is not a problem that should be high up the Government's agenda. This view has been articulated in the statements of Ministers (para. 179-181). Furthermore, some Government policies and some statements made by politicians have

served to fuel racism, rather than contain it (para 180-181). Similarly, statements made by some Government Departments, particularly on the subject of asylum, have served to exacerbate resentment against foreign nationals in Ireland (para. 181). It is extremely important that Government Ministers should show leadership on the issue of racism in Ireland, and that Government officials and politicians at all levels should acknowledge their responsibility in challenging racism and engendering a positive view of the presence, contribution and rights of Black and minority ethnic groups in Ireland.

In order to foster this process, the Government, in consultation with Black and minority ethnic groups and relevant NGOs and other agencies, should evaluate the impact of racism at all levels in Irish society. The information thus gathered should be distributed throughout the administrative and political system in Ireland, together with appropriate professional training on how to mitigate its effects. This initiative must be properly resourced, and given the priority it deserves on the Government's agenda.

#### RECOMMENDATION:

- The Government should publicly acknowledge that there is a growing problem of racial discrimination in Ireland.
- The Government should evaluate the impact of racism at all levels in Irish society and devise appropriate practical responses to it in consultation with Black and minority ethnic community groups and relevant NGOs and other agencies.
- Politicians and Government officials should acknowledge their responsibility in challenging racism and engendering a positive view of the presence, contribution and rights of Black and minority ethnic groups in Ireland.
- Effective sanctions should be taken against politicians and Government officials who use discriminatory or inflammatory language.

## Introduction

1. Thirty-two years after signing the United Nations International Convention on the Elimination of All Forms of Racial Discrimination in 1968, Ireland finally ratified it in December 2000. This move, however belated, is welcomed by the NGO Alliance, as is the Government's First Report to the Committee that monitors this Convention (CERD). The NGO Alliance also welcomes the fact that Ireland has made a declaration that it will be bound by Article 14 of the Convention, which gives the right to individuals to complain directly to the Committee if their Convention rights have not been vindicated adequately in Ireland.
2. Limitations have been placed on the effectiveness of the Convention in Ireland as they have on other human rights law treaties and conventions that Ireland has acceded to.<sup>5</sup>
3. As a result of Ireland's dualist system of laws, even though Ireland has ratified the Convention, it is not directly enforceable in Irish domestic law. Thus, while the Convention may have some persuasive effect in the Irish courts, full vindication of the rights it contains must depend on existing Irish laws, and on the Irish Constitution of 1937 that underpins them.
4. In view of the fact that there are significant differences between what is contained in the Convention and the rights enumerated under Irish law, the attitude of the Government towards the vindication of such rights is vital. In this context, it is important to note that Mr. Michael McDowell, Minister for Justice, Equality and Law Reform, whose Foreword appears in the Government's First Report, has stated the following:
 

*I firmly believe that it is for the legislature to decide whether minimum guaranteed standards of social and economic justice should be established in law... civil and political rights form a corpus of rights that are undoubtedly suitable for protection in a system based on adversarial trial before an independent judiciary which is the cornerstone of the Common Law state. The same cannot be said for economic rights.*<sup>6</sup>
5. This is in contrast to the Concluding Observations on Ireland of the UN Committee on Economic, Social and Cultural Rights, which in May 2002 affirmed that "all economic, social and cultural rights are justiciable," and, "irrespective of the system through which international law is incorporated into the domestic legal order (monism or dualism), following ratification of an international instrument, the State party is under an obligation to comply with it and to give it full effect in the domestic legal order."<sup>7</sup>
6. Since the Minister, who has also on several occasions attacked what he describes as the culture of 'human rights speak,'<sup>8</sup> has made clear his firm belief that it is the

<sup>5</sup> For example Ireland has given only three international human rights instruments further effect in Irish domestic legislation. The Refugee Act 1996 (as amended) incorporated the 1951 Geneva Convention relating to the Status of Refugees and the 1967 Protocol. The Criminal Justice (United Nations Convention Against Torture) Act, 2000 incorporated the UN Convention Against Torture 1984 in part but not in its entirety. The European Convention on Human Rights (ECHR) Act 2003, gave further effect to the ECHR 1950, but did not incorporate it. Adopting an interpretative framework, all organs of the State are required to carry out their functions in a manner which is compatible with obligations under the ECHR. However, unlike the United Kingdom Human Rights Act 1998, Irish judges will not be able to issue remedies and relief under the ECHR Act 2003. Judges can only issue a 'declaration of incompatibility' that is then referred to the Taoiseach (prime minister) for his/her consideration. The Government has stated that it does not intend to ratify Protocol 12 of the ECHR. Ireland is not a signatory to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

<sup>6</sup> Beesley, Arthur. (24 May 2003) *McDowell attacks 'rights-based society'*, Irish Times.

<sup>7</sup> Para 23

<sup>8</sup> Beesley, op. cit.

Government, and not the law, which the people of Ireland must rely on to ensure that their economic and social rights are vindicated, the Government's First Report must be viewed in this light. The Committee must consider why, if the Government believes that the rights enshrined in the Convention are sufficiently important for Ireland to ratify, it has refused to bring the Convention fully into Irish law.



This is an African Pentecostal Church meeting, photograph taken in Dublin 2004. Photograph kindly provided by Abel Ugba, Department of Sociology, Trinity College Dublin, from his Ph.D. research on the religious practices of African migrants living here.

## General Comment

### Consultation

*“A key part of building an inclusive, intercultural society is developing mechanisms for dialogue and interaction,”*

a conclusion of those consulted by the Government for *Diverse Voices*.<sup>9</sup>

7. The NGO Alliance does not believe that the Irish Government undertook sufficient consultation processes before producing its First Report to the Committee.
8. No consultation with non-governmental organisations (NGOs) occurred before the Government produced its draft report. The completed draft report was presented to selected NGOs at one information meeting, which was held in July 2003. Some NGO concerns were documented during this meeting, though no explanations for the document were forthcoming. Instead the meeting consisted mostly of presentations of the different Government organisations working in the field. No further consultation took place. The short time for questions merely consisted of these being recorded, with no attempt to engage the concerns in any manner.
9. There also appears to have been no attempt to draw on the considerable experience which has been built up in recent years in this area in Northern Ireland, particularly by the Northern Ireland Equality Commission. The methodology of widespread consultation on equality issues has been used for five years in Northern Ireland and many valuable lessons learned.

### RECOMMENDATIONS:

1. The Government should set up a mechanism for regular consultation with members of Black and minority ethnic groups, and with the NGO sector.
2. In order to develop measures to eliminate racial discrimination, the Government should examine best practice in other jurisdictions which is in keeping with international standards as set down by both regional and international monitoring bodies.

### Discrimination Against Non-Citizens

*“This Convention shall not apply to distinctions, exclusions, restrictions or preferences made by a State Party to this Convention between citizens and non-citizens,”*

International Convention on the Elimination of All Forms of Racial Discrimination, Article 1, para 2.

*“Article 1, paragraph 2, must be construed so as to avoid undermining the basic prohibition of discrimination,”*

CERD General Recommendation 30, para 2.

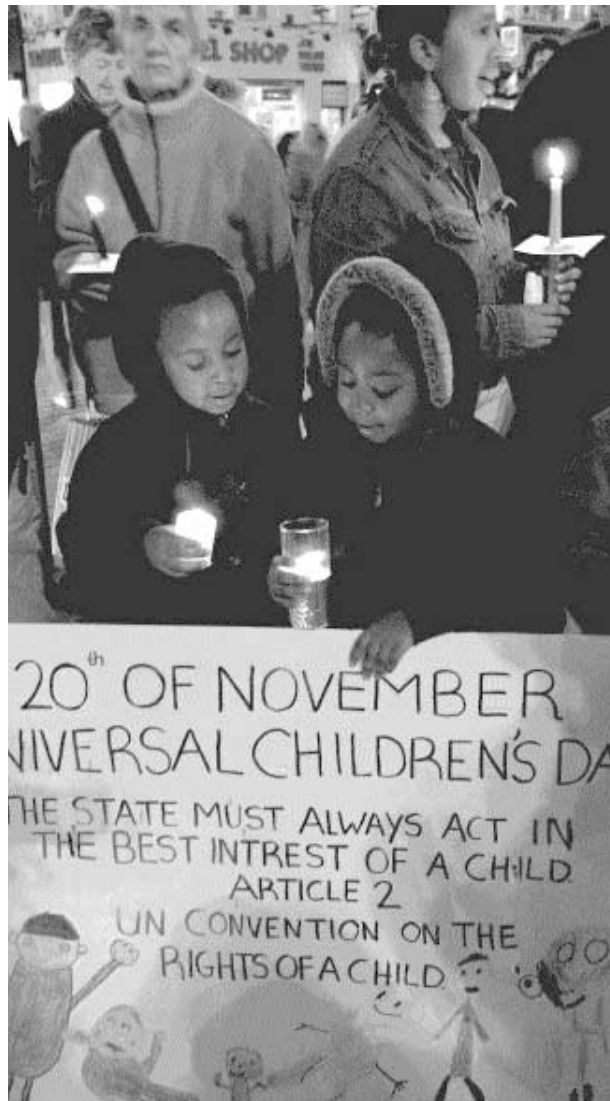
10. By means of General Recommendation 30, the Committee has made a very recent<sup>10</sup> and very strong statement concerning the degree to which it expects States to interpret the Convention in such a way as to give protection from discrimination to non-citizens, as well as citizens. This includes not only migrants, refugees, and asylum seekers, but also

<sup>9</sup> Annex 28 to the Government’s First Report.

<sup>10</sup> General Recommendation 30 was issued in August, 2004, after the Government’s First Report was submitted to the Committee.

“undocumented non-citizens and persons who cannot establish the nationality of the State on whose territory they live.”<sup>11</sup>

11. Under the Irish Constitution several key rights are described as attaching to citizens.<sup>12</sup> As a result, there is significant uncertainty attached to the level of constitutional protection that a non-citizen can expect in relation to fundamental rights.<sup>13</sup>
12. Certain recent Government policies and actions will diminish the rights of non-citizens in Ireland. These include the holding of a referendum in June 2004 to remove the right to Irish citizenship from children born to non-Irish citizen parents. The decision to apply in effect a retrospective policy of deportation of migrant parents of Irish children has been implemented to date without due regard to the family and educational rights of those children (see para. 94-98). Other policies that diminish the rights of non-citizens include the obligations put on non-citizens to register and carry identification under the Immigration Act 2004 (see para. 85, 171), and the denial of access to further/higher education grants on the basis of nationality (see para 157).
13. All the policies and measures outlined in the Government’s First Report should be considered in light of General Recommendation 30.



The Coalition Against the Deportation of Irish Children (CADIC) organised a candlelight vigil on International Children’s Day, 20 November 2004.

Picture kindly provided by the ICCL. Photograph taken by Paul Ryan.

<sup>11</sup> CERD General Recommendation 30, Preamble.

<sup>12</sup> In particular Article 40 refers to “all citizens” being equal before the law, and to the vindication of the life and person of “every citizen.”

<sup>13</sup> Binchy, William. (May 2004) *Citizenship and the international remit of Constitutional protection*, Faculty of Law: Trinity College Dublin.



## Article One

*“States parties should include in their periodic reports, in an appropriate form, socio-economic data on the non-citizen population within their jurisdiction, including data disaggregated by gender and national or ethnic origin,”*

CERD General Recommendation 30, para. 1(5).

*“The inclusion of a question on ethnicity was considered to be a sensitive issue and it was feared that the controversy it might cause would have a detrimental effect on census response rates,”*

First National Report by Ireland, comment on the 2002 Census, p.8, para. 9.

### *Data on Black and minority ethnic groups in Ireland*

14. Before any government can design and implement policies to eliminate racial discrimination, it must have an accurate picture of the national or ethnic origin of its population.
15. Among other organisations, the Government was asked by the Central Statistics Office (CSO)<sup>14</sup>, the Equality Authority<sup>15</sup> and the National Consultative Committee on Racism and Interculturalism (NCCRI)<sup>16</sup> to include a question on ethnicity in the 2002 census<sup>17</sup>. The Government refused to do this on the grounds that collecting information on ethnicity was too ‘sensitive’ a matter for inclusion in the census of population. Accurate and up to date statistical information on Black and minority ethnic groups living in Ireland is therefore not currently available.
16. As well as a periodic census of population, the Government also conducts a survey of the workforce, entitled the Quarterly National Household Survey.

However, in this survey the data is not disaggregated in such a way as to show the country of origin of the majority of work permit holders, asylum seekers, and refugees who are listed under a ‘rest of the world’ category. Neither does it include members of Black and minority ethnic groups residing or detained in institutional settings.

17. The importance of these two sources of information is emphasised by the National Statistics Board:

*The major sources of data for social statistics are censuses, household surveys and information obtained as a by-product of administrative systems. In some countries, such as Norway and Sweden, where there are highly developed registration systems, including population registers, administrative sources are a central part of the social statistics information system. In others, such as Ireland, where administrative sources are less developed and population registers do not exist, a much greater reliance is placed on censuses and surveys to meet social data needs.<sup>18</sup>*

<sup>14</sup> [www.cso.ie](http://www.cso.ie)

<sup>15</sup> Established under the Equal Status Act 2000, the Equality Authority has responsibility for overseeing the implementation of the Act. [www.equality.ie](http://www.equality.ie)

<sup>16</sup> The National Consultative Committee on Racism and Interculturalism (NCCRI) was established in 1998 as an independent expert body focusing on racism and interculturalism. It is an expert body established to provide an ongoing structure to develop programmes and actions and provide advice to address racism and support cultural diversity in Ireland. It is core funded by the Department of Justice, Equality and Law Reform. [www.nccri.com](http://www.nccri.com)

<sup>17</sup> Various letters, released under the Freedom of Information Act.

<sup>18</sup> National Statistics Board (April 2003) *Developing Irish social and equality statistics to meet policy needs: report of the Steering Group on Social and Equality Statistics*, National Statistics Board, p. 19.

18. Many groups and individuals were consulted by the Government as part of its work on the, as yet, unpublished National Action Plan Against Racism. The results of this consultation are included in the publication, *Diverse Voices*.<sup>19</sup> Those consulted for this document highlight the “the lack of, or gaps in, available data generated through the Census of Population and other national programmes.”
19. Groups representing Irish Travellers have also criticised the collection of data via the census. They estimate that there was an undercount of 20 per cent of Travellers in the last census. As has been pointed out by Pavee Point Travellers’ Centre<sup>20</sup>, this undercount will have a seriously negative impact on the provision of healthcare and accommodation for Travellers.
20. Another group which does not feature in the statistics are Irish-born people of differing or dual cultural heritage, many of whom have been in Ireland for over sixty years.<sup>21</sup>
21. This lack of any serious effort to gather adequate data on what Black and minority ethnic groups there are in Ireland, how many members of them there are, and what their needs are, has led the NCCRI to conclude that the current available range of data sources is an indicator “of the low or uneven priority that has characterised policy responses to the needs of Black and minority ethnic groups in Ireland.”<sup>22</sup>
22. It should also be noted that even the statistical data which is available has not necessarily been included in the Government’s First Report. No adequate

statistical overview is given of the growth of immigration into Ireland in recent years, even though this is crucial to the subject matter of the report. Likewise, the Report provides no adequate statistical overview of developments in the asylum and refugee field, either in absolute terms or in a comparative perspective.

23. In view of the lack of data on Black and minority ethnic groups in Ireland, it is hard to know how the Government can accurately assess the degree to which the policies and initiatives it has outlined in its First Report are countering the problems of racial discrimination which they may face. In the words of the Equality Authority, “the availability of appropriate quantitative and qualitative data is essential to the pursuit of equality.”<sup>23</sup>

#### RECOMMENDATIONS:

1. A question on ethnicity should be included in the next census.
2. Other means of collecting data on Black and minority ethnic groups in Ireland should be examined and implemented as a matter of urgency. Black and minority ethnic groups should be represented on the National Statistics Board.

<sup>19</sup> Annex 28 to the Government’s First Report.

<sup>20</sup> [www.paveepoint.ie](http://www.paveepoint.ie)

<sup>21</sup> For example, Harmony (1986-1999), an intercultural anti-racist family organisation had a mailing list of over 200.

<sup>22</sup> NCCRI. (2002) *Migrants, minorities and employment in Ireland: exclusion, discrimination and anti-discrimination: RAXEN3 report to the European Monitoring Centre on Racism and Xenophobia*, NCCRI: Dublin, p. 18.

<sup>23</sup> *Ibid.*, p.18.

## *Intersection of racism and other discrimination*

**“States parties are requested to describe, as far as possible in quantitative and qualitative terms, factors affecting and difficulties experienced in ensuring the equal enjoyment by women, free from racial discrimination, of rights under the Convention,”**

CERD General Recommendation 25, para 6.

24. Whilst members of Black and minority ethnic groups may experience racism, there is a growing recognition that individual members of racialised groups may experience an intersection of racism and other discrimination such as sexism, ableism, ageism, homophobia, class prejudice and economic disadvantage.
25. A general recommendation adopted by the CERD Committee in March 2000<sup>24</sup> recognised the gender-related dimension of racial discrimination and acknowledged that women and men experience, and are affected by, racial discrimination, in different ways. Women may be targeted in specific ways for verbal and physical racist abuse: e.g. Muslim women for wearing the veil, or women perceived as diluting national culture. This abuse generally remains unreported and invisible to authorities. Women subject to racial discrimination may experience economic disadvantage and social exclusion. Their experience of violence in the domestic sphere may also be invisible. Women are particularly vulnerable in the domestic employment area and in trafficking and exploitation in the sex industry.
26. Failure to have mechanisms in place for disaggregated data collection which identifies gender breakdown has implica-

tions for culturally appropriate service delivery to Black and minority ethnic women. Concern was expressed at a recent seminar<sup>25</sup> of Black and minority ethnic women that their ‘invisibility’ via official statistics, surveys, census data and Ireland’s First Report to the Committee on the Elimination of Racial Discrimination means that the very existence of Black and minority women in Ireland is denied at the same time as they are scapegoated and portrayed negatively in the media as sources of cheap labour or cheap sex.

### **RECOMMENDATION:**

Data on Black and minority ethnic groups and the racism they experience should be disaggregated by gender.

## *Travellers as an ethnic group*

**“The Government’s view is that Travellers do not constitute a distinct group from the population as a whole in terms of race, colour, descent or national or ethnic origin,”**

First National Report by Ireland, p13, para 27.

27. As the CERD Committee has made clear:
- The ways in which individuals are identified as being members of a particular racial or ethnic group or groups... shall, if no justification exists to the contrary, be based upon self-identification by the individual concerned.*<sup>26</sup>

The Irish Traveller Community most definitely sees itself as an ethnic group. The Irish Traveller Movement, which is a network of over 80 organisations and individuals working with Traveller communities, defines Travellers as follows:

*Travellers are an indigenous minority who, historical sources confirm, have been part of Irish society for centuries. Travellers long shared history, cultural*

<sup>24</sup> CERD General Recommendation XXV.

<sup>25</sup> *Black and minority women organising together*, seminar hosted by AkiDwa (Sisters from Africa) and Amnesty International and held in the Islamic Cultural Centre of Ireland, Dublin, October 2004

<sup>26</sup> CERD General Recommendation VIII, para 1.

*values, language, customs and traditions make them a self-defined group, and one which is recognisable and distinct. Their culture and way of life, of which nomadism is an important factor, distinguishes them from the sedentary (settled) population.*<sup>27</sup>

28. Objective evidence also backs up the claim of Irish Travellers to be a separate ethnic group. The characteristics outlined by the Irish Traveller Movement fit within the definition of ethnicity laid down by the House of Lords in *Mandla v. Lee*.<sup>28</sup> On the basis of this decision, British courts have recognised Irish Travellers as a separate ethnic group within Britain.<sup>29</sup> Travellers have also been recognised as an ethnic group by the Race Relations (Northern Ireland) Order of 1997, leading to the wholly anomalous situation of Travellers being recognised as an ethnic group in one part of the island of Ireland, and not in the other.<sup>30</sup>
29. There is also an obvious parallel to be drawn between Travellers and Roma. The Committee has expressed its particular concern for the Roma by devoting General Recommendation No. 27 to this subject. It calls for: “determined political will and moral leadership” to protect the Roma against discrimination and calls for states to: “respect the wishes of Roma as to the designation they want to be given and the group to which they want to belong.”
30. As the Irish Human Rights Commission has pointed out,<sup>31</sup> the failure of the Government to recognise Travellers as an ethnic group may have implications for their protection under the Convention. The Convention not only prohibits racial discrimination, but by means of Article 1(4) and 2(2), it also requires govern-

ments to take positive action to assist members of marginalised ‘racial groups.’ A failure to recognise Travellers as an ethnic group means that special measures such as those called for under these articles cannot be designed. This, when coupled with the failure to collect accurate data on Travellers, means that no policy initiatives that seek to alleviate their position are possible under the Convention.

31. While discrimination against Travellers is prohibited by the Employment Equality Act (EEA) 1998, and the Equal Status Act (ESA) 2000, there is no statutory obligation upon public authorities to take account of their distinct identity, culture and traditions when making decisions that affect them. This is particularly important in the areas of accommodation and education.

#### RECOMMENDATIONS:

1. The Government should recognise the Traveller Community as an ethnic group.
2. By virtue of this recognition, the Government should undertake a survey of what specific measures are necessary to alleviate the particular kinds of discrimination faced by members of this community.

<sup>27</sup> [www.itmtrav.com](http://www.itmtrav.com)

<sup>28</sup> *Mandla v. Dowell Lee* [1983] 2 A.C. 548, H.L. (E).

<sup>29</sup> *O’Leary & Others v. Allied Domecq & Others*, unreported 29 August 2000. Central London County Court.

<sup>30</sup> See Castellino, Joshua (2003) *The de-recognition of Travellers as an ethnic group*, Irish Centre for Human Rights, NUI Galway. See also submission to Joint Committee on Foreign Affairs Sub-Committee on Human Rights. [www.irlgov.ie/oireachtas](http://www.irlgov.ie/oireachtas)

<sup>31</sup> Irish Human Rights Commission (March 2004) *Travellers as a minority ethnic group under the Convention on the Elimination of Racial Discrimination: a discussion paper*, Irish Human Rights Commission: Dublin. The NGO Alliance endorses this report. The Irish Human Rights Commission was established in July 2001 under the Human Rights Commission Acts 2000 and 2001. It was set up as a direct result of the Good Friday Agreement of 1998 which provided for the establishment of a Human Rights Commission in this jurisdiction and for a Human Rights Commission in Northern Ireland. [www.ihrc.ie](http://www.ihrc.ie)

## Article Two

*“People who are guests in Ireland should not be obstructing or causing hassle to Gardaí and his friends should be told that as well,”*

*Judge Coughlan, on sentencing a Nigerian asylum seeker, who was stopped on the way to hospital with his sick child, and did not have an identity card to show Gardaí. The sentence was two months in prison for obstruction.<sup>32</sup>*

### *Obligations of public authorities, national and local, to engage in no act or practice of racial discrimination against persons, groups of persons or institutions*

32. The Equal Status Act 2000 and the Employment Equality Act 1998 are the centre-pieces of the Government's legislation against racial discrimination. The Employment Equality Act outlaws discrimination in employment, vocational training, advertising for jobs and collective agreements; the Equal Status Act outlaws discrimination in the provision of goods and services and other opportunities to which the public generally have access. The grounds on which discrimination is prohibited are: gender, marital status, family status, age, disability, race, sexual orientation, religious belief and membership of the Travelling Community
33. However, it is important to note that the Equal Status Act 2000 does not include coverage of government functions.<sup>33</sup> Amendments have been made to this Act to bring it into line with the EU Race Directive<sup>34</sup>, but not all the provisions of this Directive have been included in the amended Act. For example, Paragraph 1 of Article 3 of the Race Directive provides that the Directive shall apply to all persons as regards both public and private sectors including public bodies in relation to: (e) social protection, including security and health care; (f) social advantages; (g) education; (h) access to and supply of goods and services which are available to the public, including housing. This is one of the most significant features of the Race Directive and, if implemented fully, would mean that functions of the State should be included in the definition of “service” in the Equal Status Act.
34. Those public servants engaged in carrying out functions of the State have in many cases received very little or no anti-racism training. The Government's First Report<sup>35</sup> outlines details of the establishment of a framework committee, the NCCRI Training Unit, an Anti-Racist Workplace Week and a few publications relating to training guidelines and the promotion of equality in the workplace. However, as with many other initiatives outlined in the report, there is no analysis of the adequacy, effectiveness or resourcing of such measures. The NCCRI's train-

<sup>32</sup> Doyle, Diarmuid (17 October 2004) 'Commonsense in our courts would be a new and wonderful thing', Sunday Tribune.

<sup>33</sup> All actions by public authorities, etc. offering services are covered, but Government-funded or managed actions are not. For example, the Equal Status Act does not cover the funding scheme from the Department of Education and Science on English language teaching for bilingual and multilingual students because it is not considered a 'service' as defined by the Act. The Equality Authority had recommended that the definition of service should be expanded to include all Government actions upon the transposition of the Race Directive.

<sup>34</sup> EU Race Directive 2000/43/EC.

<sup>35</sup> P. 42, para165-169.

ing is of a high professional standard, is extremely valuable and offers a good model for training elsewhere. However, the NCCRI unit consists of one person, even though its aim is to 'develop strategies to ensure that Government departments, statutory bodies and other organisations gain the required awareness and skills to meet the challenges associated with living and working in a multi-ethnic society.'<sup>36</sup>

35. The need for anti-racism training for members of local government was highlighted by remarks by councillors in Co. Longford about 'banning coloured people and teaching manners to asylum seekers,' because 'the town has too many foreigners and... they should not be allowed rent new homes.'<sup>37</sup> Another County Councillor proposed that Longford County Council 'call on the Departments of Enterprise and Justice to cease giving employment visas to non-nationals.'<sup>38</sup> County Councils are now in the process of producing five-year corporate plans, and yearly operational plans. These plans should include provision for anti-racism training for County Councillors and Council officials, as well as a requirement for anti-racism proofing of all local authority laws and policies.
36. Concern has also been expressed at the lack of awareness in the Irish Prison Service<sup>39</sup> of the needs of prisoners from Black and minority ethnic backgrounds, including those awaiting deportation.<sup>40</sup> Irish prison rules have not been revised for over half a century. A revised text has been in preparation for nine years, and until it is published, it is not known

whether it will address this question. Repeated requests from Amnesty International and academic researchers for access to Irish prisons to do research on racism have been turned down by the Department of Justice, Equality and Law Reform.<sup>41</sup>

37. Anti-racism needs to be mainstreamed at all levels of institutions, organisations and society rather than focused on one week or one section.

#### RECOMMENDATION:

The Government should sponsor mandatory anti-racism, equality and intercultural communication training for those in public office to build racial awareness and to ensure that all public officials, at both local and national level, are mindful of the need for respect of the principles of equality and non-discrimination. This training must be carried out by professional qualified practitioners. In order to maximise the effectiveness of such training it should be supported by a whole-organisation approach which promotes equality and an ethos of interculturalism.

#### *Data collection, research and monitoring*

**"Ireland is currently one of the EU countries which does not collect data on a number of areas pertinent to the fight against racism,"**

Government Commissioned Review of All Existing Surveys.<sup>42</sup>

<sup>36</sup> [www.nccri.com](http://www.nccri.com) Current total staff is 7, shortly to be reduced to 6.

<sup>37</sup> Evening Herald, 22 February 2003.

<sup>38</sup> Longford Leader, 24 January 2003

<sup>39</sup> [www.irishprisons.ie](http://www.irishprisons.ie)

<sup>40</sup> Refugee Project (2004) *Submission to the Shadow Report*.

<sup>41</sup> Lentin, Ronit & McVeigh, Robbie (2003) *There is no race problem in our prisons: racism in Irish prisons*, research project for Amnesty International/The Irish Penal Reform Trust: Dublin, p.23.

<sup>42</sup> Garner, S & White, A (2001) *Racist attitudes in Ireland: baseline research for the anti-racism awareness-raising programme: a report prepared for the Department of Justice, Equality and Law Reform*, unpublished report.

38. Article 2 (c): “Each State party shall take effective measures to review governmental, national and local policies...”
39. The Government’s First Report mentions<sup>43</sup> that it commissioned a review of all existing surveys of attitudes towards ethnic minorities and surveys of minority experiences of discrimination. It was completed in 2001 but remains unpublished. The review identified 22 mainly one-off surveys of racist attitudes in Ireland, most of them recent. Almost all of these were carried out by NGOs, the media, academics or the EU. Only one survey was actually undertaken by a Government funded initiative, the Citizen Traveller Campaign. The Review of all Existing Surveys concluded that Ireland currently does not collect data on a number of areas pertinent to the fight against racism. It also concluded that:
- ▼ The degree of hostility expressed toward minority groups has increased and is particularly strong in relation to certain groups, including Black people, Roma, refugees and asylum seekers.
  - ▼ Profiles of respondents show that hostility is evident at all levels of society, both rural and urban.
  - ▼ Negative attitudes experienced by Black and minority ethnic groups now appear to be an everyday feature of many people’s lives.<sup>44</sup>
40. In order to further understand the implications of such findings, the Equality Authority has highlighted the need for Ireland to develop four different data types: a) Baseline social and economic data on the situation of Black and minority ethnic Groups; b) Data on systems, organisations and structures which have an impact on progress towards equality; c) Data on the way in which social attitudes are changing over time; d) Data on

the development of resources within Black and minority ethnic communities.<sup>45</sup>

41. The continuing gap between research recommendations and resultant policy change has also been highlighted as a matter of concern.<sup>46</sup>

#### RECOMMENDATIONS:

1. Mechanisms should be established to collect the kinds of data outlined by the Equality Authority. This data should be disaggregated by gender.
2. The Government should draw up an overall plan to co-ordinate research and monitoring on racism in Ireland. Legislation should be introduced to ensure that the recommendations resulting from this process result in changes in Government policy.
3. Participatory models of research should be used and must include members of Black and minority ethnic groups.

### *Support of Black and minority ethnic-led organisations and anti-racism initiatives*

**“It is a big blow for everyone involved as we have now become dormant and cannot move forward. It is vital to mainstream the programme so that all children can benefit,”**

Colette Murray, Early Childhood Programme, Pavee Point, after the discontinuation of Government funding for the project.<sup>47</sup>

42. In November 2003, the budget for equality support measures was cut for the second year running by the Minister for Justice, Equality and Law Reform. The budget of the Equality Authority<sup>48</sup>, the main statutory body that promotes the implementation of equality legislation,

<sup>43</sup> P.9, para 11. <sup>44</sup> Garner & White. *ibid.*, p.9. <sup>45</sup> *Migrants, minorities and employment in Ireland: RAXEN3 report*, p. 20. *op. cit.*.

<sup>46</sup> Cotter, Gertrude (2004) *A guide to published research on refugees, asylum-seekers and immigrants in Ireland*, Integrating Ireland: Dublin. The study also highlighted the need for research on policy itself e.g. immigration policy, and the need for specifically targeted research to cover specific groups.

<sup>47</sup> Valayden, Diren ‘Gov’t cuts funds for anti-racism programme’ [www.spirasi.ie/news1.shtml](http://www.spirasi.ie/news1.shtml)

<sup>48</sup> See Note 15.

had been cut by 5% in 2002. In 2003, it received a reduction of only €5,000 in its budget, but allowing for inflation, this meant an actual funding cut of about 2.5%. Various monitoring and consultative committees on equality have seen their budgets greatly cut, but none so much as the Anti-Racism Awareness Campaign, the allocation of which was cut by 63% in 2002 and a further 76% in 2003.<sup>49</sup>

43. Support for the development and growth of staffed, professional, Black and minority ethnic-led organisations is essential in order to address racism. The chronic underfunding of Black and minority ethnic-led organisations in Ireland is therefore of serious concern. While the Government has provided very limited grants through the Know Racism Campaign, organisations led by members of Black and minority ethnic groups have, in the main, only received small or medium-sized short-term grants.<sup>50</sup> Moreover, in 2004 no money from the European Refugee Fund, allocation of which is controlled by the Government through the Reception and Integration Agency, went to Black and minority ethnic-led organisations.

44. This underfunding has prevented migrants and refugees from responding to the needs of their own communities, and from participating in decision-making, and in campaigning and lobbying. Examples of the effect this has had include:

- ▼ The Association of Refugees and Asylum Seekers Ireland,<sup>51</sup> operates on minimal funding and has only one full-time staff member.

- ▼ The African Refugee Network,<sup>52</sup> recently closed down for lack of funding.
- ▼ AkiDwa (Sisters from Africa)<sup>53</sup> has received no core funding to date.

#### RECOMMENDATIONS:

1. The Government should adequately fund Black and minority-led groups as a priority.
2. Anti-racism initiatives must receive core funding on a long-term basis.
3. A programme of professional training for Black and minority ethnic leaders should be put in place.
4. The Government should support the establishment of a programme of community-based anti-racism activities within schools, youth clubs and sports clubs.

#### *Positive measures to eliminate racial discrimination*

**“Positive action measures should be considered to ensure that the diversity of public representatives is more reflective of the diversity in Ireland,”**

a conclusion of those consulted by the Government for *Diverse Voices*.<sup>54</sup>

45. Articles 1 (4) and 2 (2) of the Convention provide for the implementation of special measures to combat racial discrimination. The Committee has frequently, through its Concluding Observations to State Reports, called on states to implement such measures in order to improve the situation of those who have suffered historically from discrimination, and to promote *de jure* and not merely *de facto* equality.

<sup>49</sup> Amnesty International (2004) *Submission to the Shadow Report*, Amnesty International.

<sup>50</sup> *Ibid.*

<sup>51</sup> An independent organisation working through a combination of education and awareness-raising tactics, lobbying and networking. Also provides support, information and advice to refugees and asylum seekers. As an anti-racism organisation, ARASI works to safeguard the human and civil rights of refugees and asylum seekers.

<sup>52</sup> Organisation aiming to support refugees and asylum seekers from Africa in Ireland. Activities include free English classes, information technology introduction, information giving, women’s support group, general information for refugees and asylum seekers, counselling services, multi-cultural activities, exhibitions, and anti-racist education.

<sup>53</sup> Work focuses on development education and cultural understanding, human rights and influencing policy from a gender perspective.

<sup>54</sup> *Diverse Voices*, p. 26.



46. Positive discrimination is permitted under both the Employment Equality Act and the Equal Status Act, but there is no statutory obligation upon public authorities to engage in any positive measures.<sup>55</sup> As a result, there is little evidence of public sector bodies or private companies implementing positive action policies. The Government's First Report<sup>56</sup> gives only one example of where 'it feels such measures are necessary'. This is in relation to the granting by the Minister of certificates under the provision of Section 33 of the Employment Equality Act 1998 in respect of work experience for disadvantaged groups, 'for example refugees'. There is no analysis or information in relation to the effectiveness of this scheme or numbers of people who have benefited. In addition, there is a notable lack of reference to instances of the provision of positive action initiatives in relation to members of Black and minority ethnic groups, such as migrants. For example, the recent efforts by the Irish Civil Service Commission to target Travellers to sit the civil service examinations has not been followed with respect to other groups.
47. Given the existing under-representation of women at upper levels in business, academia and in the Dáil (Irish parliament), lack of implementation of positive action measures has particular implications for Black and minority ethnic women. Specific gender-related provisions or targets should be introduced in any positive action programmes.
48. The process of ensuring members of Black and minority ethnic groups become part of all aspects of Irish life could be greatly assisted by promoting awareness of the different cultures which are now represented in Ireland. The Committee has highlighted the need to "take measures to enable non-citizens to preserve and develop their culture."<sup>57</sup> This aspect of the Convention has received scant attention in the Government's First Report. The Arts Council, which is the Irish State's principal instrument of arts funding and an advisory body to Government on arts matters,<sup>58</sup> has as one of its aims the promotion of equality and diversity in the arts. It aims to do this by: "ensuring the rights to equal treatment established by equality legislation and accommodating diversity."<sup>59</sup> However, while the Arts Council has shown itself to be very open to working with all members of the community in Ireland, and has set up a number of successful projects with members of the Traveller community, it has not to date done the same with members of other Black and minority ethnic groups. It should be asked by the Government to investigate the possibility of doing so.
49. As an indication of the need for positive action policies, it should be noted that:
- ▼ There are no members of either House of the Oireachtas (Parliament) from a Black and minority ethnic background.
  - ▼ With the exception of a small number of members of the Irish Jewish community,

<sup>55</sup> The Equal Status Act 2000, and the Employment Equality Act 1998 permit affirmative action on the grounds of race.

<sup>56</sup> P. 51, para 219.

<sup>57</sup> CERD General Recommendation 30, para. 37.

<sup>58</sup> The Arts Council/ An Chomhairle Ealaíon is an autonomous body established in 1951 to stimulate public interest in and promote the knowledge, appreciation and practice of the arts. Operates under the Arts Acts of 1951, 1973, and 2003. Commissions and publishes research and information and undertakes a range of development projects, often jointly with other public sector or non-governmental agencies. [www.artscouncil.ie](http://www.artscouncil.ie)

<sup>59</sup> [www.artscouncil.ie](http://www.artscouncil.ie)

there are no members of the judiciary from a Black and minority ethnic background.

- ▼ There are virtually no members of An Garda Síochána (police) from a Black and minority ethnic background.
- ▼ There are very few contributors to the Irish media from a Black and minority ethnic background, and none of them in high profile positions in the mainstream media.
- ▼ There are very few members of either the civil service or the public service from a Black and minority ethnic background, except in the health services.

#### RECOMMENDATIONS:

1. The Government should examine international examples of affirmative action policies and special measures to combat racial discrimination and promote better participation by members of Black and minority ethnic groups.
2. In particular, it should examine the introduction of statutory reservations for members of Black and minority ethnic groups in third level, in the public sector and in local government.<sup>60</sup>
3. The Arts Council should commission research into the cultural needs of Black and minority ethnic groups new to Ireland.

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<sup>60</sup> It is understood that this would involve a revision of the Local Government Act 2001. It should also be noted that this practice of reservation has been utilised in other jurisdictions as an effective means of combating racism. Examples include India, the Saami Parliament in Finland (see <http://www.samediggi.fi>) and the government of South Africa (see <http://www.gov.za>).

## Article Three

**“They expect more than 100 people from different cultural backgrounds to co-habit like bread and butter!”**

**“We are allowed no visitors, not even fellow asylum seekers from other centres,”**

voices of asylum seekers in direct provision, from *Refugee Lives*.<sup>61</sup>

### *Segregation – Asylum Seekers*

50. The Reception and Integration Agency<sup>62</sup>, an executive agency of the Department of Justice, Equality and Law Reform, is responsible for sending asylum seekers to designated accommodation units all around the country. This policy has isolated asylum seekers from the rest of the community and from others of their own nationality, sometimes including members of their own families. The segregation of asylum seekers, in many cases away from major population centres, has meant that they are unable to interact or engage properly with other members of Irish society. In addition, the location of these accommodation centres has led to controversy at times.<sup>63</sup> There is a perception that neighbourhoods will be ‘flooded’ with non-nationals, most of whom are ‘bogus’ asylum claimants, only in Ireland to ‘sponge’ off the welfare system.<sup>64</sup> Such attitudes are not easily dispelled when contact between asylum seekers and the rest of the Irish community is limited. Denial of the right to work compounds the segregation of asylum seekers from society, and serves to increase the perception of them as ‘spongers.’
51. Asylum seekers themselves have repeatedly stated that the accommodation provided under the dispersal programme is unsuitable to their needs.<sup>65</sup> Very often, converted hostels or tourist accommodation, designed for short stays, have become long-term homes for asylum seekers. The physical and psychological well-being of asylum seekers has been affected by unsuitable and often overcrowded accommodation, where lack of privacy is a major problem, and where some asylum seekers find themselves having to eat food which they regard as unsuitable. As reported in a study by Comhlámh,<sup>66</sup> asylum seekers in such accommodation suffer from feelings of powerlessness, depression, boredom and isolation. These feelings of isolation are compounded by the fact that asylum seekers who go out of the hostels into the community have reported instances of racial harassment, often in the form of being spat at or called names.<sup>67</sup>
52. The effect of the system on women in particular has been highlighted by Comhlámh<sup>68</sup> and by the National Women’s Council of Ireland, which states that as women are often more responsible

<sup>61</sup> Comhlámh (2001) *Refugee lives: the failure of Direct Provision as a social response to the needs of asylum seekers in Ireland*, Comhlámh: Dublin, p. 34. [www.comhlamh.org](http://www.comhlamh.org)

<sup>62</sup> [www.ria.gov.ie](http://www.ria.gov.ie)

<sup>63</sup> O’Brien, Tim (5 December 2003) ‘Asylum-seekers never housed in 19 million euro properties’, Irish Times. This article describes how objections from local residents and legal challenges have led to properties acquired by the state to house asylum seekers being left vacant.

<sup>64</sup> NCCRI (2002) *Analytical study on racist violence: EUMC RAXEN3 report on Ireland*, NCCRI: Dublin, p. 29.

<sup>65</sup> Comhlámh (2001), *op. cit.*; FLAC (2003) *Direct discrimination: an analysis of the scheme of Direct Provision in Ireland*, FLAC: Dublin.

<sup>66</sup> Comhlámh, (2001), *op. cit.*.

<sup>67</sup> *Ibid.*

<sup>68</sup> *Ibid.*

for children's needs as well as their own, they are in a particularly vulnerable position.<sup>69</sup> Many experience isolation and lack of the extended family support framework that they would have in their native countries. The adverse effects of hostel life on pregnant women, and young children, has been highlighted by the Irish Refugee Council.<sup>70</sup>

53. A particularly vulnerable group is that of separated children seeking asylum in Ireland. Between January and October 2004, 496 separated children arrived in Ireland. Total numbers have risen from 32 in 1999 to 2,717 in March 2003. Of these, 70% were aged 14<sup>71</sup> and over at the time of entry, and 95%<sup>72</sup> were not identified on arrival at port or airport. Concern has been expressed that separated children do not receive the same protection afforded to other children under the Child Care Act 1991.<sup>73</sup> The hostel accommodation and level of care provided for separated children is inferior to that provided to other children in the care of the State and would not meet the national standards for children's residential centres. Adequate counselling and support services have not been provided for these vulnerable children.<sup>74</sup> In 2003, one social worker was allocated for every 41 separated children, as against one social worker for every 10 Irish children.<sup>75</sup> In addition, there is a growing number of incidences of separated children being reported missing from care placement while in the care of the East Coast Area Health Board, which until recently cov-

ered the Dublin area. Nearly 250 separated children have disappeared from the care of the health boards in the Dublin area since the beginning of 2001, 48 of whom have disappeared this year.<sup>76</sup> There is a fear that some of these children may end up being exploited for work or sexual purposes.

54. There is a complaints system for those in the dispersal system, set up by the Reception and Integration Agency following consultation with NGOs, but there is a deep distrust among asylum seekers of how this system works. The perception among asylum seekers is that using the complaints procedure does not result in grievances being properly addressed, and that attempting to do so can sometimes have adverse effects on complainants.<sup>77</sup> Many accommodation centres are operated by private owners, the vast majority of whom do not have their own equality/anti-racism policy or a grievance procedure. The Free Legal Advice Centres (FLAC) has stated that asylum seekers who are dissatisfied with their accommodation are often afraid to complain in case this will have a detrimental effect on their asylum application.<sup>78</sup> FLAC also notes that as a result of the dispersal programme, asylum seekers often have to travel long distances for meetings with legal representatives, interviews with the Office of the Refugee Applications Commissioner, etc.
55. As well as problems caused by unsuitable segregated accommodation, asylum seekers in the dispersal system have also

<sup>69</sup> National Women's Council of Ireland (2004) *Submission to the Shadow Report*, National Women's Council of Ireland: Dublin.

<sup>70</sup> Fanning, Bryan, Veale, Angela & O'Connor, Dawn (2001) *Beyond the pale: asylum-seeking children and social exclusion in Ireland*, Irish Refugee Council: Dublin.

<sup>71</sup> Office of the Refugee Applications Commissioner (ORAC). Independent statutory body set up to consider applications for a declaration as a refugee at first instance.

<sup>72</sup> Veale, Angela, Palaudaries, Laila & Gibbons, Cabrini (2003) *Separated children seeking asylum in Ireland*, Irish Refugee Council: Dublin, p7.

<sup>73</sup> Children's Rights Alliance (2004) *Submission to the Shadow Report*, Children's Rights Alliance.

<sup>74</sup> *Ibid.*

<sup>75</sup> Veale, Palaudaries & Gibbons (2003), *op. cit.*

<sup>76</sup> Leahy, Pat (21 November 2004) '250 children vanished from health board care,' Sunday Business Post.

<sup>77</sup> Irish Refugee Council (2004) *Submission to the Shadow Report*, Irish Refugee Council: Dublin.

<sup>78</sup> FLAC (2003) *Direct Discrimination: An Analysis of the Scheme of Direct Provision in Ireland*, FLAC: Dublin.

to contend with the fact that under the direct provision system, they are no longer entitled to social welfare payments in line with the rest of the community. Apart from their accommodation and food, they are entitled instead to weekly 'comfort money' of €19.10 per adult and €9.60 per child. The report by FLAC<sup>79</sup> outlines how many of the needs of asylum seekers are not being met under the direct provision system. These include items such as bus tickets, phone cards, toiletries, clothing and food suitable to their dietary needs.

56. In 1992, 39 people applied for asylum in Ireland, while in 2002, 11,634 applied. The numbers seeking asylum in Ireland are now falling, with only 7,483 applying in 2003. It is estimated that approximately 65% of asylum seekers in Ireland since 1992 have been men, and 35% women. Of the 10,325 who applied in 2001, 53% were aged between 18 and 35 years, 22% were aged 18 years or under, and less than 1% were over 55 years of age. Between April 2000 and 30 September 2003, 29,191 people were accommodated in direct provision. There are currently 63 direct provision centres in the country.
57. The inadequacies of the direct provision system may help to explain why large numbers of asylum seekers are dropping out of the asylum system (up to 40%). According to FLAC, Community Welfare Officers have expressed concern about the number of asylum seekers with no income or means of support who end up sleeping on floors, or other places of extreme poverty. If an asylum seeker drops out of the asylum system, their asylum application is deemed abandoned.

#### RECOMMENDATIONS:

1. The dispersal and direct provision system should be replaced by provision of community-based housing and the restoration of social welfare benefits on a par with the rest of the population.
2. In dealing with vulnerable groups such as separated children the best interest of the child should be foremost, in keeping with State obligations under the Convention on the Rights of the Child.
3. Other vulnerable groups such as pregnant women should be provided with adequate services and facilities, in keeping with the basic standards of the Irish Constitution, and respecting the dignity and worth of the individual.
4. Up to date information and statistics should be made freely and easily available in the public realm to counter misinformation in the press with regard to 'floods' of asylum seekers. When misinformation is portrayed as 'fact' in the media the Government has a duty to counter this with accurate information.

<sup>79</sup> FLAC (2003) *op.cit.*

## Segregation - Travellers

**“If the Traveller family is allowed to move in, the price of our houses in the estate will go down...there are no circumstances in which we will allow the Traveller family move in here,”**

local resident in County Clare, Irish Times,  
November 27, 2003.

58. The continuing objections to the siting of Traveller accommodation in proximity to the settled community is one of the main reasons why the 3,100 units of accommodation recommended in 1995 by the Report of the Task Force on the Traveller Community<sup>80</sup> have not been delivered. To date, 251 units of Traveller specific accommodation have been provided while 757 houses have been provided. The Traveller accommodation crisis means that nearly 1,000 Traveller families still live on the roadside, without access to water, sanitation or electricity.<sup>81</sup> Many other Travellers live in official accommodation that is poorly serviced and maintained, and often situated in unhealthy or dangerous locations. The siting of this accommodation in such areas is, in many cases, a result of the failure of local authorities to resist the pressure from the settled community for Travellers not to be accommodated close to them.
59. The 1998 Traveller Accommodation Act obliged local authorities to produce five-year plans for delivering Traveller accommodation. However, the absence of sanctions for failing to implement these plans has meant that there has been little

progress in achieving what was set out in them.

60. The Irish Government has been criticised for its failure to deliver adequate housing for the Traveller Community by the UN Committee on Economic, Social and Cultural Rights. It urged Ireland to: “enhance its efforts a) to provide as early as possible alternative accommodation for the 1,200 Traveller families who are living in roadside encampments without adequate facilities...and b) to meet its target of providing all necessary Traveller accommodation by 2004.”<sup>82</sup> Ireland has also been criticised in this regard by the Council of Europe’s Advisory Committee on the Framework Convention on the Protection of National Minorities.<sup>83</sup>
61. The problems of accommodating Travellers have been exacerbated by an undercount of their numbers in the last census. The Irish Traveller population was estimated in the 2002 census to be 24,000 (0.6% of the total population). However, groups representing Travellers estimate that there was an undercount of the Traveller population in this census of approximately 20%. Pavee Point estimates there are 30,000 Travellers in the country.<sup>84</sup> An estimated 774 families on the roadside in 2001 were without access to emergency services.<sup>85</sup>

<sup>80</sup> Taskforce on the Travelling Community (1995) *Report of the Task Force on the Travelling Community*, Government Stationary Office.

<sup>81</sup> [www.paveepoint.ie](http://www.paveepoint.ie)

<sup>82</sup> E/C.12/1/Add.77, 5 June 2002, para 32.

<sup>83</sup> Advisory Committee on the Framework Convention on the Protection of National Minorities, Opinion on Ireland, Strasbourg, 22 May 2003, ACFC/INF/OP/I(2004)003, paras. 133 and 134: “the Advisory Committee considers that much remains to be done in the implementation of the Framework Convention, in particular in areas covering accommodation, education, employment, health care, and access to certain goods and services by members of the Traveller community. Gaps also remain between central policy and its successful implementation at local and national levels. ... The Advisory Committee is especially concerned about the accommodation situation of Travellers and the slow progress in meeting targets for providing additional accommodation, including halting sites.”

<sup>84</sup> Pavee Point (17 November 2003) ‘*Census 2002: the results*’, Pavee Point Newsletter, Issue 17.

<sup>85</sup> Visser, Anna (2004) *ENAR Shadow Report, 2003: Ireland*, ENAR: Vienna.

**RECOMMENDATIONS:**

1. A National Traveller Accommodation Agency should be established to ensure delivery of the required Traveller accommodation. Local authorities should be obliged to deliver on their five-year plans for Traveller accommodation.
2. Mechanisms should be put in place to ensure that no Traveller accommodation is sited in unhealthy or dangerous locations.
3. Mechanisms should be put in place to ensure that Traveller accommodation is not segregated from the rest of the community.
4. An accurate census of the Traveller community should be undertaken as a priority.



On the road; a nomadic lifestyle. Photograph kindly provided by Pavee Point Travellers' Centre.

## Article Four

**“We have uncountable numbers of Nigerians in Ireland. Their native country has two main resources: oil and fraud. A sizeable number of its departing sons and daughters have taken the various skills acquired at home with them into exile; and an increasingly popular home of choice for Nigerians is Ireland,”**

Kevin Myers, Opinion Column, Irish Times,  
22 October 2003.

### *Media and racism – prohibition of incitement to hatred*

62. Ireland currently has no official press complaints mechanism. Individuals who are defamed by the media can take the matter to Court, but there is no redress against the deliberate defamation of a particular community over a period of time by a process of labelling and misinformation. Immigrants, asylum seekers and Travellers are all groups that have suffered in this way. There is an immediate need in Ireland for a Press Council to regulate the press and prepare a Press Code of Conduct, including powers to investigate complaints in relation to breaches of that Code. Consultations on the setting up of such a Council are underway, but at the time of writing this report, the Council is still not in place. During the course of these consultations the Minister for Justice, Equality and Law Reform has rejected the notion that a Press Council should have a role in monitoring equality.<sup>86</sup>
63. In 1989 the Prohibition of Incitement to Hatred Act was passed, but there were so few successful prosecutions under it that in September 2000 it was acknowledged
- ing as it should. A review of the provisions of this Act was announced, but to date, there has been no outcome.
64. Those groups and individuals consulted by the Government for *Diverse Voices*,<sup>87</sup> called for the review of the Prohibition of Incitement to Hatred Act to be completed as a matter of urgency. This review should include consideration of the public dissemination of written or pictorial images that may not be covered by the present Act. *Diverse Voices* also calls for the dissemination of racist material on the internet or via e-mail to be specifically outlawed. The 2002 RAXEN<sup>3</sup> report on racist violence notes that the NCCRI had at that time identified at least six racist websites with a specific focus on Ireland, purporting to represent groups such as the Irish National Front and the Irish Fascist Party, although it is not clear where these sites were based.<sup>88</sup>
65. It is beyond doubt that the media has a fundamentally important role in perpetuating myths and misinformation which can directly feed racism as well as helping to create conditions in which racism is more possible. Speculative, exaggerated and offensive press reporting of the

<sup>86</sup> See Seanad Debates, 10 December 2003, <http://www.irlgov.ie/debates-03/frame.htm> See also Leahy, Pat (December 14, 2003) ‘McDowell rejects Press Council equality role’, Sunday Business Post. At a Law Society Conference, the Minister stated “If I thought for a minute it would have that function [to promote equality], I would bring the whole file to the shredder,” Carol Coulter (11 October 2004) Irish Times.

<sup>87</sup> *Diverse Voices*, p 14, 28-29.

<sup>88</sup> *Analytical study on racist violence: RAXEN3*. p32. *op. cit.* RAXEN is the European Network on Racism and Xenophobia. It is one of the key tools of the EU Monitoring Centre on Racism and Xenophobia (EUMC) to provide the European Union and its Member States with information and research on the phenomena of racism, xenophobia and anti-semitism. The network is composed of 25 National Focal Points (NFP). The Equality Authority and the NCCRI are the Irish National Point (NFP).



entitlements of asylum seekers are particularly important in this regard. An example of this, quoted in the RAXEN3 study on racist violence, is of a Cork radio station which gave substantial airtime to outraged listeners complaining about:

- ▼ An asylum seeker said to have bought a car using a cheque made out in his name by the local health board.
- ▼ A woman reported as being in a shop laden with sweets and food for a child's birthday supposedly paid for by the immigration authorities.
- ▼ Speculation about the potential health risks posed by the children of asylum seekers attending local schools.<sup>89</sup>

The Integrating Ireland survey of research on refugees, asylum seekers and immigrants calls for the "ongoing monitoring of media coverage of immigrant and asylum issues."<sup>90</sup> This call was echoed by those consulted for *Diverse Voices*.<sup>91</sup>

66. Similarly, the entrenched anti-Traveller sentiments which are an established part of Irish life are heightened by some media reporting. This is particularly the case in matters to do with the siting of Traveller accommodation or temporary halting sites.
67. State-run and supported radio and TV stations are prominent in the Irish media. While they have played a positive and constructive role in reporting and analysing emerging issues and themes of racism, the state-sponsored TV channel<sup>92</sup> in particular, appears to have very few presenters, announcers, editors, directors etc., from the new Black and minority ethnic groups who have arrived in Ireland in recent years, and none who appear on a regular basis.
68. It is not only the impact of Irish-based media that is of concern. British tabloid newspapers are also circulated in Ireland with the same or only slightly altered headlines, some of which can be emotive and xenophobic.
69. There have recently been two major debates in the media during which frequent reference was made to the 'problem' of migrants in Ireland. The first was prior to EU enlargement and was in light of Ireland's position on free access to the labour market for citizens of the new accession countries. The second was during the lead up to the citizenship referendum in June 2004. The negative stereotyping of the immigrant population during this debate was evident in the fact that an overwhelming majority of the Irish population voted to deny citizenship to children born in Ireland if their parents were not Irish themselves. Subsequent polling found that an anti-immigrant sentiment was given as the rationale for their vote by 76% of voters.
70. These debates have been influenced by the persistent usage by elected politicians, Government spokespersons, officials and the media, of emotive and factually erroneous terminology, especially the phrase "bogus" or "illegitimate" asylum seekers. Example of this are the references by the Minister for Justice, Equality and Law Reform to "citizenship tourism" as a justification for the recent referendum on the right to Irish citizenship.<sup>93</sup>
71. Although a voluntary Anti-Racism Protocol against using provocative or racist language during electioneering was introduced at the last election, politicians who clearly breached it suffered no ill-effect to their careers, and were not effectively discouraged from such actions

<sup>89</sup> *Ibid.*, p. 31.

<sup>90</sup> Cotter (2004), *op. cit.*, p. 39.

<sup>91</sup> *Diverse Voices*, pp. 28-29.

<sup>92</sup> Radio Telefís Éireann (RTÉ). [www.rte.ie](http://www.rte.ie)

<sup>93</sup> Beesley, Arthur (11 March 2004) 'Referendum to be held to restrict citizenship rights', Irish Times.

by party discipline. An example of this was the Cork member of the Irish parliament who during the 2002 election campaign spoke about asylum seekers as follows: “we are against the spongers, the freeloaders, the people screwing the system... the majority of them are here for economic reasons and they are thumbing their noses at Irish hospitality.”<sup>94</sup> He was re-elected comfortably, and subsequently given the Chairmanship of one of the Oireachtas (Parliament) Committees by the current government. Effective mechanisms should be put in place so that elected politicians who make racist statements can be properly disciplined by the Oireachtas.

#### RECOMMENDATIONS:

1. The review of the Prohibition of Incitement to Hatred Act, 1989 should be completed as a matter of urgency, and the Act amended accordingly.
2. A Press Council should be set up as a priority, with powers to investigate breaches and disciplinary procedures for those who break a Press Code of Conduct, particularly in relation to negative stereotyping of Black and minority ethnic groups.
3. State radio and television stations should draw up plans and implement adequately resourced procedures to ensure proper representation of Black and minority ethnic groups among their staff.
4. Politicians who break the Anti-Racism Protocol should be disciplined by the Oireachtas (Parliament). In addition, mandatory training should be provided to members of the Oireachtas on issues such as non-discrimination and equality.

<sup>94</sup> *Analytical study on racist violence: RAXEN*, p. 29. *op. cit.* The T.D. concerned was Mr. Noel O’Flynn.

## Article Five

**“Many of the rights and freedoms mentioned in article 5, such as the right to equal treatment before tribunals, are to be enjoyed by all persons living in a given State,”**

CERD General Recommendation 20 (3).

### *Right to equal treatment before tribunals and other organs administering justice*

72. Despite the Constitutional guarantees of equality before the law, foreign nationals<sup>95</sup> can find themselves at a disadvantage before certain tribunals and other organs administering justice. The Irish Government has limited access to judicial review procedures for foreign nationals through the Illegal Immigrants (Trafficking) Act 2000. Section 5 of this Act provides that applications for judicial review of a decision regarding the immigration status of a person must be made within 14 days (not working days) of the notification of the person of the decision. This is in contrast to the normal time period for application for judicial review, which is six months.
73. This limits, and in practice can effectively deny, the right of access to judicial review proceedings for foreign nationals. For example, within 14 calendar days an individual has to understand the full meaning of the decision issued to them and find a solicitor to give them advice. If a solicitor agrees to take on a case a barrister must be instructed and papers issued for judicial review to the High Court within the 14 days. There is no access to legal aid for judicial review, and

therefore there are cost implications for applicants. As a result, High Court actions are only a real option for a few. Individuals wishing to take judicial review proceedings must have substantial resources to cover solicitor/barrister's fees. Moreover, many solicitors will not take a case for judicial review unless the applicant has the resources to cover the State's costs in the event that the applicant loses.

74. In Ireland there is no Immigration Appeals Tribunal to re-examine decisions taken by the Minister for Justice, Equality and Law Reform and his officials. Again, judicial review to the High Court is the only recourse that migrants have, and this is limited because of the 14-day requirement and the cost implications. Recent proposals to establish an Appeals Tribunal received the following response in the Senate from the Minister for Justice, Equality and Law Reform:

*there is no question of my surrendering the Executive discretion in relation to immigration and residency matters to an unaccountable quasi-judicial body... it is not for three great and good people to decide, so that this House cannot afterwards ask why, they allowed Saddam Hussein to come and live in County Kerry.*<sup>96</sup>

<sup>95</sup> The Government uses the term 'non-national,' defined as persons from outside Ireland and other Member States of the European Economic Area. In the view of the NGO Alliance, the term 'non-national' is a negative de-humanising term.

<sup>96</sup> Seanad debates, 3 December 2004, [www.oireachtas.ie](http://www.oireachtas.ie) Full quote as follows: "There is no question of my surrendering the Executive discretion in relation to immigration and residency matters to an unaccountable quasi-judicial body. That is not going to happen. If it were to happen the power of the Irish State to decide who comes into Ireland and who does not - whether Saddam Hussein does or does not come into Ireland - would be removed from the Government. That is a power for Government. It is not for three great and good people to decide so that this House cannot afterwards ask why they allowed Saddam Hussein to come and live in County Kerry. Only one institution makes that decision and that is the Executive of the State and it is accountable to the Oireachtas for the way in which it discharges those functions."

75. Under the Ombudsman for Children Act 2002, children who are refugees, asylum seekers and immigrants are excluded from turning to the Ombudsman for Children for help in relation to actions “taken in the administration of the law relating to asylum, immigration, naturalisation or citizenship.”<sup>97</sup>
76. There has been in the past no quantified data on racial incidents or racial violence in general because such information was not being collected either through Garda (police) crime statistics or through national crime surveys.<sup>99</sup> The Gardaí have now drawn up and approved a definition of what constitutes a racist incident. This definition has been adapted from the MacPherson approach in Britain. The new Garda information system, PULSE, has been adapted to record racial incidents, but none have appeared in Garda Annual Reports to date, although they should be included in the 2003 report (not yet available). Even when these figures do start appearing in these reports, it is clearly not adequate to have to wait until an annual report, which is often late, is published. Figures on racial incidents and racial violence should be published quarterly.

### RECOMMENDATIONS:

1. The time for application for judicial review for foreign nationals should be the same as for Irish nationals. The statute of limitation should not be allowed to act to defeat judicial review of decisions in the realm of immigration and asylum.
2. An independent Immigration Appeals Tribunal should be set up.
3. The Ombudsman for Children Act 2002 should be amended so that asylum seeking children, separated children and migrant children can avail of the protection of the Ombudsman for Children.

### *The right to security and of person and protection by the State against violence or bodily harm*

*“I feared for my life but it just seemed like fun to the men attacking me... it wasn't like they were attacking another human being but as if they were beating and cutting into something that they thought of as an animal or something,”*

Sani Mashiyi, a 26-year old technician from South Africa, after an assault in Dublin, 2004. <sup>98</sup>

77. In spite of the lack of statistics, known high profile racist attacks in the last few years include: <sup>100</sup>
- ▼ The fatal assault on a 29-year old Chinese student, Zhao Liu Tao, on 27 January, 2001 in Beaumont, Dublin.
  - ▼ The fatal assault on Leong Ly Min, a 50-year old man of Vietnamese-Chinese origin, in Temple Bar in Dublin in August 2002.
  - ▼ The assault on Lila Dorgan, a French woman of Moroccan extraction, outside her home in North Main St., Cork, on 24 September, 2000. She was hospitalised for two weeks after the assault and told she would be unable to have children.
  - ▼ The assault on David Richardson, in Pearse St., Dublin, on 11 June, 2000. He was stabbed several times and had to undergo extensive surgery. The incident arose out of racial taunts directed at the Richardson family.

<sup>97</sup> Section 11.1 (e) (i).

<sup>98</sup> Burke, John (15 August 2004) ‘It was as if they were beating an animal’: anti-racism groups concerned at rising number of attacks on non-nationals on Dublin’s northside’, Sunday Tribune.

<sup>99</sup> *Diverse Voices*, p. 15.

<sup>100</sup> *Analytical study on racist violence: RAXEN3*, pp. 24-25. *op. cit.* See also: O’Keeffe, Cormac (10 November 2004) ‘Alarm as racist attacks reach highest level’, Irish Examiner.

- ▼ The assault on an African national, who was left in a critical condition after being kicked in the head by teenagers in Dublin's Temple Bar on 4 October, 2004.
  - ▼ The assault on a Lithuanian, Kytautas Sukas, who was left with permanent brain damage after a vicious assault in Dublin's north inner city on 25 September, 2004.
78. Some examples of other fairly typical, less high profile instances of racist assaults or harassment include:
- ▼ A Yemeni man hospitalised following an attack in Tralee, Co. Kerry, by assailants blaming him for the attack on 11 September 2001.
  - ▼ A Nigerian mother-of-two, Shola Aina, fled her house in Navan, Co. Meath, on 17 October, 2004, after acts of vandalism on her home and racist letters.
  - ▼ Two extended Traveller families living in two temporary sites in two different areas that were attacked by persons driving agricultural machinery. In one instance, in Balbriggan, Co. Dublin, a muck spreader was driven into a campsite and trailers and people were sprayed with its contents.<sup>101</sup>
79. In May 2000, the NCCRI established a voluntary procedure for reporting racist incidents in Ireland. The majority of such incidents have been forwarded by NGOs working with Black and minority ethnic groups. NCCRI publishes a report every six months of the incidents logged, but as it has pointed out, these reports do not seek to provide a comprehensive list of every racist incident in Ireland, but are aimed rather at providing an overview of racist incidents reported to NCCRI, and highlighting the key issues involved. Between May 2001 and October 2003 the NCCRI recorded 242 racist incidents, relating to the three main areas of: 1) assaults, abuse and harassment; 2) delivery of public and private services; 3) misinformation and circulation of offensive material. The last six months (May-October 2004) have seen 70 incidents, which is the largest single number of incidents since recording began in 2001.<sup>102</sup>
80. There are indications that the level of racist violence in Ireland is to a degree shaped by relevant current political events. For example, there was a significant, though temporary, increase in racist violence reported after the 11 September attacks on the US in 2001. There was also an increase in reports of verbal abuse to pregnant Black women, irrespective of their nationality or status, following a sustained public debate about the automatic citizenship rights of all children born in Ireland prior to the 2004 referendum on this subject.<sup>103</sup>
81. Particular problems for women from Black and minority ethnic groups often centre around domestic violence.<sup>104</sup> The State fails to provide women who are victims of domestic violence married to Irish/EEA/Swiss/nationals and refugees with adequate protection against violence and bodily harm. Forcing third-country nationals to remain in abusive relationships, the Minister for Justice can withdraw residency status if a husband/wife leaves their Irish/EEA/Swiss partner.
82. Equally, women and children who have been trafficked cannot approach government officials with certainty that they will be protected and not punished by immediate deportation. No mechanisms have been put in place to encourage and protect trafficked women and children if they come forward and co-operate with government officials. There are no 'safe houses' in Ireland for victims of trafficking.
83. Many of the sources used in the 2002 RAXEN3 Report on Racist Violence high-

<sup>101</sup> See RAXEN3 *ibid*, pp. 25-28.

<sup>102</sup> [www.nccri.com](http://www.nccri.com)

<sup>103</sup> ENAR Shadow Report, pp. 26-27. *op. cit.*

<sup>104</sup> Longford Women's Link (2004) *Submission to the Shadow Report*.

lighted perceptions that the Gardaí are inconsistent in their response to reported complaints by Black and minority ethnic groups, including complaints of racial violence. The problems highlighted include:

- ▼ Concern that complaints are not taken seriously when reporting racist incidents.
- ▼ Cultural insensitivity.
- ▼ Concern that complainants are not kept informed about progress in relation to their case.
- ▼ The quizzing of complainants about issues entirely unrelated to the particular case.<sup>105</sup>

### RECOMMENDATIONS:

1. Each Garda officer should be trained in the monitoring and logging of racist incidents.<sup>106</sup>
2. No foreign national forced to leave an abusive relationship should lose their right to residency as a result.
3. Positive measure should be put in place to encourage women and children who are trafficked to report this to Government officials. These should include the establishment of a 'safe house' and ratification of the forthcoming Council of Europe Convention on the Victims of Trafficking. No foreign national woman or child who has been trafficked into the country and who reports this to Government officials should be deported as a result.

## Policing

**“Law enforcement officers should receive intensive training to ensure that in the performance of their duties they respect as well as protect human dignity and maintain and uphold the human rights of all persons without distinction as to race, colour or national or ethnic origin,”**

CERD General Recommendation XIII, para 2.

84. Many of the organisations involved in the NGO Alliance broadly welcomed the establishment of the Garda Racial and Intercultural Office in 2000.<sup>107</sup> However, the remit of the Office is vast and includes co-ordinating, monitoring and advising on all aspects of policing in the area of ethnic and cultural diversity. Like many other Government measures mentioned in its First Report, the Garda Racial and Intercultural Office is severely under-funded and consists of just two officers with no administrative support. With a national remit, the Garda Racial and Intercultural office must support approximately 11,300 members of the Gardaí at present.<sup>108</sup> The NGO Alliance does not believe that the Minister for Justice, Equality and Law Reform<sup>109</sup> and the Garda Commissioner<sup>110</sup> have dedicated enough resources to allow the Office to fulfil all its functions.
85. One of the most positive developments in policing in recent times has been the appointment in 2001 of 146 Ethnic Liaison Officers in Garda districts and areas throughout the country<sup>111</sup>. However, when these Ethnic Liaison

<sup>105</sup> *Analytical study on racist violence: RAXEN3. op. cit. p. 45.*

<sup>106</sup> Only individuals who have had training with the Garda Racial and Intercultural Office have been trained in logging racist incidents at present.

<sup>107</sup> See <http://www.garda.ie/angarda/racial.html>

<sup>108</sup> Government's First Report, p.19, para 50. Concern about staff shortages in this office was expressed by those interviewed by Longford Women's Link and by the Irish Council for Civil Liberties.

<sup>109</sup> The Minister for Justice, Equality and Law Reform is responsible for allocating resources to An Garda Síochána.

<sup>110</sup> The Garda Commissioner is responsible for the management of the Gardaí.

<sup>111</sup> Not all of those appointed have since remained in these posts as a result of staff transfers.

Officers were being appointed, the Garda Commissioner initiated no special recruitment programme and offered no special guidance. As a result many superintendent Gardaí appointed Immigration Officers as Ethnic Liaison Officers. Approximately 20% of Ethnic Liaison Officers are Immigration Officers.<sup>112</sup> The NGO Alliance believes that this combination of duties does not make for positive relations with the community. Members of Black and minority ethnic groups are unlikely to feel comfortable about reporting racist incidents to Immigration Officers who are charged with directly monitoring their immigration status. Further, Immigration Officers and other members of the Gardaí have under law some powers to operate in a discriminatory fashion, which damages their credibility as Ethnic Liaison Officers among Black and minority ethnic groups. By way of example, section 12(1) of the Immigration Act 2004<sup>113</sup> allows members of the Gardaí to stop anyone they “reasonably believe to be a non-national” and request their personal identity documents. In practice this means members of the Gardaí may stop people from Black and minority ethnic groups, even those with Irish nationality, in public areas and demand to see documentation. A similar problem is experienced by those travelling to Ireland, since those who are perceived as being ‘visibly’ different or ‘not Irish’ are constantly stopped by immigration officers at ports, airports and on trains from Northern Ireland and asked to show a passport, while White people

are more rarely stopped.<sup>114</sup>

86. The NGO Alliance is also concerned that the work of Ethnic Liaison Officers is not given the respect within An Garda Síochána which it deserves. Many have to perform their Ethnic Liaison role alongside ordinary functions, and for promotional purposes within the Gardaí, more value is placed on summons and prosecutions.
87. For the majority of Gardaí, anti-racism and interculturalism training currently only reaches a select few. This is as a result of failing to adopt a whole organisation approach. The Government’s First Report indicates<sup>115</sup> that new recruits in the Gardaí undergo some training in human rights. However, the Garda Racial and Intercultural Unit does not deliver a mandatory module to new recruits on anti-racism and interculturalism. It is essential that comprehensive human rights and anti-racism/intercultural training is mainstreamed throughout all Garda educational programmes, and constitutes an integral part of all training focusing on the exercise of police powers.
88. The need for anti-racism training of gardaí was graphically illustrated when a partial transcript of two gardaí interviewing a robbery suspect was acquired by the Irish Times.<sup>116</sup> According to the transcript, if the suspect did not co-operate, the two gardaí threatened to put him in a cell “with a big black person,” who would be likely to rape him.

<sup>112</sup> Reilly, Catherine (November 2004) ‘Conflict of interest for liaison officers’, Metro Eireann. Concern about this was also expressed by those interviewed by Longford Women’s Link.

<sup>113</sup> Section 12(1) Every non-national shall produce on demand, unless he or she gives a satisfactory explanation of the circumstances which prevent him or her from so doing – a valid passport or other equivalent document, issued by or on behalf of an authority recognised by the Government, which establishes his or her identity and nationality, and in case he or she is registered or deemed to be registration certificate.

(2) A non-national who contravenes this section shall be guilty of an offence.

(3) In this section “on demand” means on demand made at any time by any immigration officer or member of the Garda Síochána.

<sup>114</sup> Dominican Justice Office (2004) *Submission to the Shadow Report*. See also publications and reports of Harmony, note 19.

<sup>115</sup> P.57, para 241.

<sup>116</sup> (11 July 2003) ‘What the interviewing gardaí said to robbery suspect’, Irish Times.

89. A 2001 survey of the views of members of Black and minority groups published by Amnesty International found that 34% had experienced racism from immigration officers (who are part of An Garda Síochána) and 25% had experienced racism at the hands of the An Garda Síochána.<sup>117</sup> In addition, 69% of those surveyed thought that the Gardaí were not doing enough to combat racism, and 54% did not feel confident about reporting a racist incident to the Gardaí.
90. It is also significant that there are virtually no members of An Garda Síochána from Black and minority ethnic groups. Justice Morris, a senior judge and chairperson of a recent tribunal into particular allegations of Garda corruption, noted in his interim report:

*An Garda Síochána has not yet made any effort to recruit from religious or ethnic minorities. It may be that the conditions of entry make membership of An Garda Síochána a less than attractive career to some minority groups. This is a matter that can be looked at by the Department of Justice, Equality and Law Reform in consultation with the Garda Commissioner. Now, it may reasonably be thought, is the time to make provision for the future of our increasingly multi-ethnic society.*<sup>118</sup>

The NGO Alliance welcomes moves by the Department of Justice to adjust some of the entry requirements to make recruitment more attractive to members of Black and minority ethnic communities, but believes that more fundamental changes must take place in order to recruit and

## *Police Complaints Mechanism*

**“We conclude that the existing mechanism dealing with complaints against members of An Garda Síochána is structurally inadequate and does not command the full confidence of members of the public,”**

Irish Human Rights Commission.<sup>119</sup>

retain such members.

91. The Government’s First Report notes<sup>120</sup> that complaints against the police are handled by the Garda Síochána Complaints Board which investigates complaints from the public against the police. However, the Garda Síochána Complaints Board is widely regarded as ineffective, lacks any kind of public credibility and is not viewed as independent because members of the Gardaí investigate the complaints.<sup>121</sup> In 2002, only 2% of complaints actually resulted in any form of sanction against members of the Gardaí.<sup>122</sup> As the quote above illustrates, the Irish Human Rights Commission is among those bodies that have indicated concern about the Garda Síochána Complaints Board. The Commission has further stated that the Garda Síochána Complaints Board: “fails to satisfy the procedural protection requirements of the European Convention on Human Rights as outlined in its recent jurisprudence on Article 2 and 3 of the Convention.”<sup>123</sup>
92. Although the Equal Status Act 2000, outlaws discrimination in relation to the provision of goods and services, only certain Garda functions are covered by it. These

<sup>117</sup> Amnesty International (Irish section) (2001) *Racism in Ireland: the views of Black and ethnic minorities: a report by FAQs Research for Amnesty International*, Amnesty International: Dublin. 2001.

<sup>118</sup> *Report of the Tribunal of Inquiry, Set up Pursuant to the Tribunal of Inquiry (Evidence) Acts 1921-2002 into Certain Gardaí in the Donegal Division, July 2004.*

<sup>119</sup> *A proposal for a new Garda complaints system*, Irish Human Rights Commission, December 2002, p.3.

<sup>120</sup> P.57, para 245.

<sup>121</sup> See for example, Walsh, Dermot (1998) *The Irish police: a legal and constitutional perspective*, Roundhall, Sweet and Maxwell: Dublin, pp. 265-269.

<sup>122</sup> ICCL Press Release (November 2003) ‘ICCL welcomes Garda Complaints Board call for independent investigation’. [http://www.iccl.ie/criminalj/policing/03\\_gcbreport.html](http://www.iccl.ie/criminalj/policing/03_gcbreport.html)

<sup>123</sup> *A proposal for a new Garda complaints system*, p.3. *op. cit.*



include a Garda witnessing a passport application, giving directions or taking a complaint. The Equality Tribunal has decided that the investigation and prosecution of crime are state functions carried out by the Gardaí for the benefit of the public and society as a whole and not a service.<sup>124</sup>

93. Reforms within the Garda Síochána Bill 2004<sup>125</sup> will not address many of the issues outlined above. Police training and recruitment to the service are not adequately provided for in the Bill, and it fails to include an obligation upon members of the Gardaí to carry out their functions in a non-discriminatory manner. Moreover, although section 16(1) provides that the Minister for Justice, Equality and Law Reform ‘may’ draw up a Code of Ethics, the Code will not be fully enforceable. Members of the public will not be able to make a complaint to the new Garda complaints body outlined in the Bill against a member of the Gardaí if he/she does breaches the Code of Ethics. There seems little point in investing time and resources developing a Code of Ethics when it is not a disciplinary offence for Gardaí to breach it.

#### RECOMMENDATIONS:

1. The Garda Racial and Intercultural Unit should be adequately staffed, and integrated fully into the management structure of An Garda Síochána.
2. A specific recruitment programme should be put in place to hire Ethnic Liaison Officers. Immigration Officers should not be appointed as Ethnic Liaison Officers. Garda Ethnic Liaison Officers should receive in-depth training, and their performance should be monitored.
3. It is essential that comprehensive human rights and anti-racism/intercultural training is mainstreamed throughout all Garda educational programmes, and constitutes an integral part of all training focusing on the exercise of police powers.
4. All functions of the police service should be carried out having regard to the human rights of all persons and without discrimination on the grounds of race, gender, religion, age, sexual orientation, disability, family status or any other ground. An enforceable Code of Ethics should also outline this.

<sup>124</sup> See for example the Equality Officer’s Preliminary Decision Number: Dec – S2001-011, File Ref: ES/2001/074. Date of Issue: 17 October 2001.

<sup>125</sup> Published in 2004, the Garda Síochána Bill 2004 marks the first time Ireland’s national police service will be reformed since its inception in 1922. The new Bill covers all aspects of Garda management and practice, as well as including provisions for the setting up of a Garda Síochána Ombudsman Commission to deal with police complaints.

***The right to free movement and residence within the border of the State***

**“I went there about four times before and I assumed it was just to sign my name again. I didn’t have any money with me. I left my baby with a neighbour after breakfast, with just two Pampers and some baked beans for his lunch. When I got there, they told me I was going to go to Nigeria that night,”**

A Nigerian woman, deported without her Irish citizen child, August 2004.<sup>126</sup>

94. Until July 2004, all children born on the island of Ireland had a constitutional right to Irish citizenship. A referendum to amend the Constitution on this was held in June 2004. Following this amendment, the automatic right to citizenship under the Constitution was restricted to children at least one of whose parents is Irish. Citizenship for all children at birth was granted under the Irish Nationality and Citizenship Act 2001, but the Nationality and Citizenship Bill, 2004, which will shortly be enacted by the Oireachtas (parliament) will change the law so that only children born to non-Irish parents who have been resident in Ireland for a specified time will be entitled to citizenship.
95. Until February 2003, migrant parents from outside the European Union (EU) could apply for residency in Ireland on the basis of their parentage of an Irish citizen. This followed a judgement of the Supreme Court<sup>127</sup> to the effect that the guarantee in the Irish Constitution of a right to family life entitled migrant parents to remain in the State with their Irish children, unless there were exceptional circumstances to deny them residency. By
- 2003, approximately 10,145 migrant parents had been granted residency on this basis. In addition, others who were in a similar situation were encouraged to withdraw their asylum claims on the basis of a guaranteed right of residency as parents of an Irish child.
96. On 19 February 2003, following a second Supreme Court ruling,<sup>128</sup> which accepted that the Government could also consider the need to preserve the integrity of the asylum and immigration system as a ground for refusing residency to migrant parents, the Government abolished the process by which foreign national parents could apply for residency on the basis of the birth of an Irish child. The Department of Justice, Equality and Law Reform stopped processing any outstanding residency applications. In July 2003, the Minister for Justice announced that all applications which had not been processed by 19 February 2004 would not be considered, and that all families would be sent letters indicating his intention to deport them, in accordance with section 3 of the Immigration Act 1999. On receipt of these letters, the families have the option to apply for leave to remain on humanitarian grounds. In making their submission for leave to remain, the families are not entitled to state legal aid, and most do not have sufficient funds to obtain the services of a private lawyer.
97. The Government has issued 3,239 deportation notices to migrant parents of Irish children, resulting in 384 deportation orders. Of these deportation orders, 240 are for Nigerian nationals, and 54 are for Romanian nationals, many of whom are Roma. There is no statistical evidence available on the number of Irish children who have left the State with parents issued with deportation orders, or who have been left in the State by parents on

<sup>126</sup> Holland, Kitty (31 August 2004) ‘Nigerian wants son to stay in Ireland’, Irish Times.

<sup>127</sup> *Fajujonu v. Minister for Justice*, I.L.R.M. 234, Irish Supreme Court 1989.

<sup>128</sup> *L and O v. Minister for Justice, Equality and Law Reform*, Irish Supreme Court unreported, 23 January 2003.

deportation.<sup>129</sup> The Coalition Against the Deportation of Irish Children (CADIC)<sup>130</sup> estimates that 16 family units with Irish children have been removed from the State to Nigeria and Romania. In some circumstances the Minister for Justice, Equality and Law Reform has sought Irish passports for Irish children and visas from the Nigerian Embassy against the wishes of parents to allow the children in question to enter Nigeria.<sup>131</sup> CADIC is also aware of cases where the Minister failed to respect Irish children's right to family life in the deportation process.<sup>132</sup>

98. This policy affects children who are Irish but whose parents are of other ethnic and national backgrounds. They are being effectively deported by the Government, and their rights under law are not being respected as the rights of other Irish children who have Irish parents are. For example, the Department of Justice, Equality and Law Reform has failed to uphold section 3 of the Guardianship of Infants Act, 1964, and section 24 of the Child Care Act, 1992, which provide that paramount consideration be given to the welfare and best interests of the child in any matter that affects them. At a minimum, this would mean conducting a Child Impact Review. This is also in violation of Article 2 of the Convention on the Rights of the Child, 1989, which provides that all children should be treated equally, irrespective of their parents' legal status.

## RECOMMENDATIONS

1. No Irish child should be forced to leave the country of his or her origin for reasons of his or her parents' nationality.
2. Migrant parents of Irish children who applied under a legitimate procedure for leave to remain prior to its removal in February 2003 should have their applications processed without delay. This process must deal with the outstanding applications in a manner which is fair, transparent and efficient.
3. For all Irish children born post February 2003 a fair and transparent process should be put in place for those with migrant parents.

<sup>129</sup> A Department of Justice official quoted by the Children's Rights Alliance questioned whether it would be a "proportionate use of resources to keep records of this nature".

<sup>130</sup> A narrowly targeted coalition of several Irish NGOs formed in July 2003, whose aim is to prevent the forced removal of Irish children from the State in violation of their rights under national and international instruments.

<sup>131</sup> This was noted in a case in the High Court.

<sup>132</sup> For example, the deportation of two Irish children without their father. The mother had no personal belongings with her, and the young baby became ill during transit.

## Permanent Residence Rights

**“Every time you re-apply for renewal you do not know for sure that you will get it. It is difficult to settle and make a long-term commitment,”**

**“Who is going to promote you if they do not know if you will be in the job in twelve months from now?”**

from *Voices of Immigrants*, Immigrant Council of Ireland.<sup>133</sup>

99. For migrants in general, there is a need to provide secure permanent residence that does not require a person to change nationality. At present, Ireland is out of line with other EU countries in that a person must be here for ten years before applying for permission to remain without condition as to time. However, this is not an entitlement, and is granted on a discretionary basis. Secure permanent residence in Ireland that does not require a person to change their citizenship, should be granted as a matter of right and should be available after a shorter period of time.
100. The need to update legislation relating to immigration and residency is recognised by the Irish Government. Clear criteria regarding a person’s entitlement to citizenship also need to be specified as currently citizenship is granted at the ‘absolute’ discretion of the Minister for Justice, Equality and Law Reform. A lack of clear criteria and transparency in the citizenship process is indicated by the fact that the Department of Justice, Equality and Law reform has been requesting Muslims applying for naturalisation to sign affidavits saying that they will not marry a second time while still legally married to the first spouse.<sup>134</sup>

## RECOMMENDATIONS::

1. A process for granting permanent residence as of right, within a reasonable period of time, and without changing nationality should be put in place.
2. Clear criteria for the granting of citizenship should be published.

## Economic, Social and Cultural Rights

**“If we don’t consciously factor in the diversity that makes up our society at all stages of service planning we run the risk of ending up with services designed as if all people were white, settled and middle class,”<sup>135</sup>**

Gearóid O’Riain,  
Pavee Point Travellers’ Centre.

### General comment: *Poverty and Black and minority ethnic groups*

101. In this area of policy making, as in others, lack of adequate data on which to base decisions makes it extremely difficult to provide services which ensure that Black and minority ethnic groups are not further marginalised. As has been pointed out by the National Statistics Board:

*Where data systems are inadequate or non-existent, it is practically impossible to take an evidence-based approach to policy making. In areas of social policy where access to data is limited, and pressures of time are acute, policy decisions sometimes have to be made on the basis of anecdotal (rather than statistical) evi-*

<sup>133</sup> Kelleher, P. & Kelleher, C. / *Voices of immigrants: the challenges of inclusion*, Immigrant Council of Ireland, 2004.

<sup>134</sup> A copy of such a request was faxed to the offices of the Irish Council for Civil Liberties (ICCL) by a member of the public.

<sup>135</sup> Letter from Gearóid O’ Riain, Pavee Point, to An Taoiseach, Bertie Ahern, 14 May, 2001 (released under the Freedom of Information Act).

*dence and on the direct experience and knowledge of the policy maker.*<sup>136</sup>

102. The adverse consequences of the State's failure to gather necessary information is particularly evident in relation to the situation of foreign national residents. The Government's own *Review of the National Anti-Poverty Strategy (2002)* states: "very little quantitative information is available about the socio-economic situation of foreign-born residents in Ireland. It is not possible, therefore, to define specific targets for this group as a whole or for a particular ethnic group at this stage."<sup>137</sup>
103. There is a growing need to ensure that broader Government economic and related policy has a positive impact on the needs of Black and minority ethnic groups. Key planning instruments such as the successive National Development Plans, the Annual Budget and the Social Partnership Agreements should seek to have a stronger and more consistent impact on poverty, including poverty experienced by Black and minority ethnic groups. These instruments should be monitored for their impact on Black and minority ethnic groups.
104. One of the main policy mechanisms by which the Government aims to tackle poverty is the National Anti-Poverty Strategy (NAPS)<sup>138</sup> under which Government policies are poverty-proofed. The UN Committee on Economic, Social and Cultural Rights, in its Concluding Observations on Ireland in 2002, urges Ireland to: "integrate human rights into NAPS," and states that Ireland "has a legal obligation to integrate economic, social and cultural rights into NAPS."<sup>139</sup> The National Economic and Social Forum (NESF)<sup>140</sup>, which is one of the main institutional structures set up under NAPS, monitors and evaluates how NAPS is working. The NESF has recommended that the poverty-proofing which is part of NAPS be expanded to include equality-proofing, which would include ethnic origin as one of the grounds. However, it was decided that this would extend beyond the remit of NAPS and would have significant resource implications.<sup>141</sup> In 1999, the Department of Justice, Equality and Law Reform set up a research project to develop the concept of equality-proofing, followed by the setting up of a working group in 2000. A progress report of this working group was due in 2004, but has not been published to date.
105. Even when there is a forum where the service needs of Black and minority ethnic groups might be discussed, it is not always the case that they are represented. For example, when it was decided to implement direct provision, the government made a deliberate decision to exclude asylum seekers from the scope of the National Anti-Poverty Strategy (NAPS). At the same time, major changes to the social welfare system have meant that since November 1999, asylum seekers are no longer entitled to the same social welfare entitlements as Irish citizens. Asylum seekers are instead housed in designated accommodation units, which provide food and lodging, and are then only entitled to weekly 'comfort' money, which has not been raised over the years in line with infla-

<sup>136</sup> National Statistics Board (April 2003) *Developing Irish social and equality statistics to meet policy needs: report of the Steering Group on Social and Equality Statistics*, National Statistics Board, p. 22.

<sup>137</sup> Department of Social, Community and Family Affairs (2002) *Building an inclusive society: review of the National Anti-Poverty Strategy under the terms of the Programme for Prosperity and Fairness*, Department of Social, Community and Family Affairs, Government Stationary Office, p.18.

<sup>138</sup> <http://www.welfare.ie/publications/naps/>

<sup>139</sup> Para. 31.

<sup>140</sup> [www.nesf.ie](http://www.nesf.ie)

<sup>141</sup> Combat Poverty Agency (2000) *Planning for a more inclusive society: an initial assessment of the National Anti-Poverty Strategy*, Combat Poverty Agency, p.63.

tion, unlike other social welfare payments.

106. Poverty levels for some migrants and asylum seekers have worsened with the introduction by the Department of Social and Family Affairs of the Habitual Residence Condition (HRC) in May 2004. This is a set of conditions determining whether those entering the State are eligible for social welfare supports such as Child Benefit, disability allowances and unemployment assistance. The HRC seeks to determine whether an applicant's 'centre of interest' is in Ireland. Of particular concern is the fact that since its introduction families entering direct provision have not been entitled to Child Benefit which is supposedly a universal payment. This gives rise to a situation where some families seeking asylum, and indeed some children within the same family – those born before May 2004 – receive Child Benefit while other families and children do not. This is discriminatory, deepening poverty and hardship for many of these families and creating inequalities between asylum seekers.
107. The levels of general poverty experienced by members of the Traveller Community in particular have been highlighted by the UN Human Rights Committee. In its Concluding Observations on Ireland in 2000, the Human Rights Committee expressed its concern "about the generally lower living standards of members of this community, their lower levels of participation in national political and social life and their high levels of maternal and infant mortality." It called on the state to "take positive action to overcome discrimination... and in particular to improve their access to health, education and welfare services, including accommodation, and their participation in political and public life."<sup>142</sup>

108. Likewise, the UN Committee on the Rights of the Child, in its Concluding Observations on Ireland in 1998, highlighted the "difficulties still faced by children from vulnerable and disadvantaged groups, including children belonging to the Traveller community, children from poor families and refugee children, as to the enjoyment of their fundamental rights, including access to education, housing and healthcare."<sup>143</sup>

#### RECOMMENDATIONS:

1. All key Government planning instruments in the fight against poverty should be proofed for their impact on Black and minority ethnic groups.
2. Black and minority ethnic groups should be represented in all fora where their service needs are being discussed.
3. Child Benefit should be restored to asylum-seeking families.

<sup>142</sup> Para. 21.

<sup>143</sup> Para. 14.

***The right to work, to free choice of employment, to just and favourable conditions of work, to protection against unemployment, to equal pay for equal work, to just and favourable remuneration.***

**“Even with a work permit, we get paid less than others, as little as £3.00 an hour for a job that goes for £5.00,”**

**“Even with a university degree, life is still a struggle. Getting a good job is very, very difficult,”**

both the voices of refugees, taken from *Refugee Lives.*<sup>144</sup>

109. As the economy grew in the 1990s, Ireland was one of the last EU countries to change from a country of net emigration to a country of net immigration. In order to mobilise sufficient labour for sustainable economic growth, Ireland pursued an active policy of encouraging immigration. Irish State agencies established a programme to promote Ireland as a work destination abroad. Between 1996 and 2002, the population in Ireland increased from 3.6 million to 3.9 million people (CSO 2003). Gross immigration reached 66,900<sup>145</sup> in the twelve-month period leading up to April 2002. Approximately one-third of immigrants were Irish nationals, one third were nationals from the EU or the USA and one third came from outside the EU and the USA.<sup>146</sup>
110. Even now there is still no comprehensive Government policy on immigration and no adequate immigration legislation. In

February 2002, the Government committed itself to “developing a new immigration legislative framework within which fair and sensible immigration policies to meet the changing needs of Irish society can be developed and implemented”. Three years later such a framework has not yet been produced.<sup>147</sup> Currently Irish immigration policy is piecemeal, market-driven and aimed at attracting temporary workers to fill shortages in the labour force. Ireland has not signed the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, and it is not part of the policy of the current Government that it should do so. Members of the NGO Alliance have stressed the link between Ireland’s lack of a clear and comprehensive immigration policy and the growth of racism here.<sup>148</sup>

111. In particular, the integration of immigrants should be an essential part of immigration policy, since it has a vital bearing on how immigration affects immigrant communities and the receiving country. There is no Government agency for integrating migrant workers or their families. The Reception and Integration Agency, under the Department of Justice Equality and Law Reform, has responsibility only for refugees and asylum seekers. Its focus is reception and it is limited in its approach. Not only is there no focus on integration for migrant workers or others coming to live in the State, but in many cases there is very little statistical information available on them. The RAXEN3 report on employment 2002, states that: “there is very little indication that disaggregated data on the ethnic profile of workplaces is being pro-

<sup>144</sup> Comhlamh (2003), *op. cit.*, p. 33.

<sup>145</sup> Net immigration for the period was 41,300.

<sup>146</sup> McWilliams, D (14 December 2003) ‘Lights are on, but is there anyone in the government’s offices’, Sunday Business Post.

<sup>14</sup> *Building an inclusive society: Review of the National Anti-Poverty Strategy under the terms of the Programme for Prosperity and Fairness*, p.18.

<sup>148</sup> NGO Alliance Consultation Meeting 11 November 2004.

duced.” This RAXEN report then goes on to say that because of the paucity of data, there are gaps in the study, including, “the full extent and trends in respect of cultural diversity in the workplace in Ireland and the full extent and trends of discrimination in the workplace.”<sup>149</sup> There is a need for the data from the Department of Enterprise, Trade and Employment to be published and disaggregated by gender and ethnic origin, as well as by country of origin.

112. According to the Equality Tribunal, complaints about discrimination in employment in relation to race almost doubled from 43 in 2002 to 85 in 2003.<sup>150</sup> During 2003, 30% of all cases under the Employment Equality Act related to race discrimination. This meant that race emerged as the main ground for claims of discrimination at work in 2003.<sup>151</sup>
113. Many of these complaints may be linked to growing concern that labour legislation and regulations are not being complied with by all employers. Workers on work permits are particularly vulnerable to exploitation because the employer holds the work permit<sup>152</sup>. As The National Women’s Council has pointed out,<sup>153</sup> this problem is not helped by the lack of information given to migrant workers on labour rights. They have highlighted domestic workers as being particularly vulnerable to employer abuse. The Department of Enterprise Trade and employment does not record or publish data on the number of complaints made by immigrant workers.<sup>154</sup>
114. In 2003, workers from countries outside the enlarged EU held 65 % of work permits<sup>155</sup>. There is concern that the permits of these workers may not be renewed now that ten new countries have become members of the EU. It is also uncertain as to whether labour legislation relating to unfair dismissal covers these situations. In addition, it is likely to be more difficult for new applicants from outside the EEA/Switzerland to secure permits.
115. In Ireland, as is the case internationally, there is a gradual, but distinct trend towards the feminisation of the migrant population and many women are entering as workers in their own right. This is reflected in the percentage of new work permits allocated, with the percentage of males decreasing from 72 per cent in 1999 to 63% in 2003.<sup>156</sup>
116. A particular problem which affects many women migrants is that dependent spouses who are on work permits are not entitled to residence in their own right, or to work, and may face deportation if they separate from their spouse. Women whose residence permits are based on the status of their spouse and who are subjected to domestic violence are in a vulnerable position. When they leave their spouse they have ‘no legal status’. It is important that immigration policy does not force women to choose between maintaining their legal status or seeking personal safety.
117. With regard to asylum seekers, the majority of them are forbidden by law from working, even though some of them have been waiting years for a decision on their case. Asylum seekers surveyed by Comhlámh<sup>157</sup> and many other

<sup>149</sup> *Migrants, minorities and employment in Ireland: RAXEN3*, p. 19. *op. cit.* 20.

<sup>150</sup> Coulter, Carol (25 June 2004) *20% Increase in complaints to Equality Tribunal*, Irish Times.

<sup>151</sup> Coulter, Carol / *Many complaints against public bodies*, Irish Times, 20 May, 2004.

<sup>152</sup> MacEinri, Piaras & Walley, Paddy (2003) *Labour migration into Ireland*, The Immigrant Council of Ireland: Dublin.

<sup>153</sup> National Women’s Council of Ireland (2004) *Submission to the Shadow Report*, National Women’s Council: Dublin.

<sup>154</sup> Highlighted by RTE Prime Time Investigative special on Migration – March 2004

<sup>155</sup> Ruhs, M. (2003) *Emerging trends and patterns in the immigration and employment of non-EU nationals in Ireland: what data reveal*, Policy Institute: Trinity College Dublin.

<sup>156</sup> *Ibid.*

<sup>157</sup> Comhlámh (2003), *op. cit.*



- organisations have all expressed the view that they want to work rather than depend on social welfare, and that they feel that the fact that they are not allowed to does much to fuel feelings of resentment against them by the Irish people. This view is backed up by the findings of a recent poll carried out for the government funded Know Racism campaign, which found that over 66% of Irish people feel that 'anyone should be allowed to live in Ireland if they work and pay their taxes.'<sup>158</sup> The Irish Congress of Trade Unions, along with the Irish Refugee Council, and many others refugee support groups have all expressed the view that asylum seekers who have been in Ireland for six months should be allowed to work. This point was also highlighted in *Diverse Voices*.<sup>159</sup>
118. Many recognised refugees have expressed frustration at the difficulty of getting professional qualifications obtained in their countries of origin recognised in Ireland. As a result, those that do find work are very often working in other areas from those in which they trained, usually at a much reduced salary. Many of the organisations which represent the professions and which authorise members to practice simply do not have a mechanism by which non-EU nationals may get their qualifications recognised.<sup>160</sup> There has been little attempt by the government to tackle this problem.
119. A study published by the Equality Authority in 2003 found that among the six main barriers for refugees and members of other Black and minority ethnic groups accessing the labour market, discrimination was the second most important.<sup>161</sup>
120. Very few cases on Traveller employment have been heard by the Office of the Director of Equality Investigations. In 2002, only three such cases were heard. This is because according to Census 2002, 73% of Traveller men are unemployed, compared to 9.4% of the general population. Pavee Point published a piece of research entitled: *Job Vacancies...Vacant Jobs Traveller Inclusion in the Mainstream Labour Market*, (2002).<sup>162</sup> The key issues highlighted by the research were:
- ▼ Travellers' interest in successfully accessing employment.
  - ▼ Travellers accessing employment by hiding their Traveller identity.
  - ▼ Implications of the lack of recognised skills and low levels of education among Travellers.
  - ▼ Discrimination in the marketplace.
  - ▼ More pro-active measures needed to address exclusion.
121. As the above figures indicate, a proactive approach is necessary on behalf of employers to include Travellers in the labour market. The Irish Civil Service Commission, for example, targeted Travellers in an outreach project to encourage Travellers to sit civil service exams. Ten Travellers went on to complete the Clerical Officer exam in November 2002.
122. Pavee Point has also said that efforts should be made to recognise the 'Traveller Economy,' which is the term used to describe work the Travellers initiate themselves. Scrap metal recycling, market trading and horse dealing would be examples of this type of work. The most important point to note about the Traveller economy is how the work is organised. The key features are:

<sup>158</sup> Holland, Kitty (27 February 2004) *Research reveals negative attitudes to asylum-seekers*, Irish Times.

<sup>159</sup> *Diverse Voices*, op. cit., p. 18.

<sup>160</sup> For example, this is currently the case with the Veterinary Council.

<sup>161</sup> WRC Social and Economic Consultants (2003) *Accommodating diversity in labour market programmes*. Equality Authority: Dublin. In order of priority the six were: language skills, discrimination, job search culture, qualifications and experience, lack of information and appropriate childcare.

<sup>162</sup> [www.paveepoint.ie](http://www.paveepoint.ie)

- ▼ Nomadism - where mobility makes marginal activity viable.
- ▼ A focus on income generation rather than job creation.
- ▼ The extended family as the basic economic unit.
- ▼ Home base and work base is one and the same.
- ▼ Flexibility – often in response to market demands.

123. Barriers and challenges facing the Traveller economy stem from a lack of recognition of the skills acquired through this way of working and its contribution to the mainstream economy. The lack of acknowledgement of Traveller culture within public policy results in both direct and indirect discrimination. For example, changes in the law on street trading and horse ownership had a particularly adverse effect on the economic life of Travellers in comparison with other groups.

124. Traveller organisations and other locally based initiatives have developed employment opportunities for Travellers. These include youth and community work; childcare and classroom assistants and in particular primary healthcare. A number of Traveller organisations also supported the establishment of enterprises through which Travellers progressed from training courses into employment. The EU Community Initiative EQUAL explored the development of Traveller men's skills and the Traveller economy.

125. Recent cutbacks to Active Labour Market Programmes and other supports to the community sector created great uncertainty among Traveller and other community based organisations as to their ability to develop long-term and sustainable responses. Access to adequate funding and resources for the

community sector is crucial as it is a main point of access for Travellers seeking second chance education and training and employment.

#### RECOMMENDATIONS:

1. The Government should establish a comprehensive immigration policy based on the needs of migrant workers as well as on the needs of Irish employers.
2. The Government should set up an Integration Agency for migrants to Ireland.
3. The Government should collect data on the ethnic profile of the workforce disaggregated by gender and country of origin.
4. Work permits should be issued to non-EU workers in a transparent and non-discriminatory manner. Work permits should be held by the worker, not the employer.
5. The spouses or partners of migrant workers should have residence in their own right, and should be allowed to work.
6. Labour legislation should be properly enforced.
7. Asylum seekers should be allowed to work after six months.
8. The Government should take measures to ensure that the qualifications of refugees and other migrants are recognised by the relevant professional bodies in Ireland.
9. Pro-active policies to assist Travellers to find work should be put in place, and properly funded on a long-term basis.

## *The right to housing*

**“We try to rent some house before but landlord prefer Irish and not non-Irish,”<sup>163</sup>**

a Ukrainian worker

126. Black and minority ethnic groups, including migrant workers, have been reporting growing problems with accessing accommodation in the private rented sector, due to the lack of affordable accommodation, the failure to enforce minimum standards and discrimination in the allocation of what suitable properties are available.<sup>164</sup>
127. The authors of the Clann Housing<sup>165</sup> and Focus Ireland<sup>166</sup> submission to the National Action Plan Against Racism state that those interviewed “spoke of the poor and below standard quality of rented accommodation they had been offered. They held the strong belief that it is offered to them because they are refugees.”<sup>167</sup> In addition, there is evidence that accommodation agents are exploiting these vulnerable groups, for example, by offering to find them accommodation at exorbitant fees. Some research has concluded that foreign nationals may be particularly vulnerable to financial abuse by landlords and that foreigners tend to pay more for equal quality accommodation than local citizens. A recent study on migrant workers concluded that some migrants feel discriminated against. They feel that landlords have a preference for Irish tenants.<sup>168</sup>
128. In spite of this perception on the part of the immigrant community, there is also a feeling among certain sections of the host community that “refugees are getting all the houses.” The Integrating Ireland survey points out that since at a local level housing is one of the areas which causes greatest resentment among host communities, some basic and simple research is needed to explore the realities and explode the myths surrounding these assumptions.<sup>169</sup>
129. This resentment is accentuated by the lack of affordable social housing. The UN Committee on Economic, Social and Cultural Rights, in its 2002 Concluding Observations, urged Ireland to: “accelerate its social housing programmes in order to reduce the waiting time for social housing.”<sup>170</sup>
130. With regard to Travellers, as the Irish Traveller Movement has pointed out, “it has been asserted and widely publicised that Travellers are forced to live in conditions well below what have become normal, acceptable and taken for granted standards for the majority of Irish people.”<sup>171</sup> The 2002 Concluding Observations of the UN Committee on Economic, Social and Cultural Rights call on Ireland to: “a) provide, as early as possible, alternative accommodation for the 1,200 Traveller families who are living in roadside encampments without adequate facilities... b) meet its target of

<sup>163</sup> ENAR shadow report 2003, pp. 16-17. *op. cit.*

<sup>164</sup> See for example Smith, Suzanne & Mutwarasibo, Fidèle / *African in Ireland: developing communities*, African Cultural Project, 2000. See also ENAR shadow report pp. 16-18, *op. cit.* See also *Diverse Voices*, p. 23.

<sup>165</sup> Established in 1998 with the specific remit of addressing the housing needs of refugees and to promote integration into Irish society. Now closed down for lack of funding.

<sup>166</sup> Objectives are: to respond to the needs of people out-of-home and those at risk of becoming homeless, provide emergency accommodation, and campaign and lobby on these issues.

<sup>167</sup> ENAR Shadow Report, pp. 16-17 *op. cit.* See also *Diverse Voices*, pp. 23-24

<sup>168</sup> *Ibid.*

<sup>169</sup> Cotter (2004) *ibid.*, p. 35.

<sup>170</sup> Para. 32.

<sup>171</sup> [www.itmtrav.com/accommodation.html](http://www.itmtrav.com/accommodation.html)

providing all necessary Traveller accommodation by 2004.”<sup>172</sup>

131 As well as the need to ensure that the accommodation provided is of a standard comparable with the rest of the population, there is also a need to ensure that the kind of accommodation is culturally appropriate. Following the enactment of the Housing (Miscellaneous Provisions) Act, 2002, Pavee Point Traveller’s Centre has stated<sup>173</sup> that the Government has turned Nomadism, which is fundamental to Traveller culture, into a crime. This Act made trespass, previously a civil offence, into a criminal offence. Currently, camping on private or public land is punishable by one month in jail, a €3,000 fine and the confiscation of property. This means that Travellers living on the roadside, who are awaiting accommodation and have nowhere else to go, are criminalised.

132. A study produced by the Irish Traveller Movement cited more than 150 evictions of families either living on their own or in small groups between June 2002 and October 2003. Most of those evicted were on local authority accommodation waiting lists. Under Section 24 of the Act, Gardaí can direct families to move on without the need for formal documentation, such as a court order or summons. This lack of documentation means that the use of the legislation is hard to monitor.<sup>174</sup> As the Irish Traveller Movement has pointed out, “there is no evidence the Act is being used against any other group in Irish society, and it appears that the Act is being used exclusively against Travellers.”<sup>175</sup>

133. As the Task Force Report on the Traveller Community has made clear, Traveller accommodation needs to include three categories: group housing, permanent halting sites, and transient sites.<sup>176</sup> However, much of the thinking behind the provision of Traveller accommodation, particularly at local level, continues to be based on assimilation approaches, whereby the favoured solution for local authorities is to ‘settle’ Travellers in houses.<sup>177</sup>

134. The problem of the resistance of local communities to Traveller accommodation in proximity to them and the failure of local authorities to confront this problem has been outlined under Article Three. The fact that nearly 1,200 Traveller families still live on the roadside without access to water, sanitation and electricity is sufficient indication of the failure of Government to tackle properly the problem of sub-standard accommodation.<sup>178</sup>

## RECOMMENDATIONS:

1. The Government should enforce the minimum standards of rented accommodation.
2. The Government should act to increase the supply of affordable housing for low income groups.
3. The Government should conduct research on the accommodation needs of Black and minority ethnic groups and publish the results.
4. The Government should review the provisions of the Housing (Miscellaneous Provisions) Act, 2002.

<sup>172</sup> Para. 32.

<sup>173</sup> [www.paveepoint.ie](http://www.paveepoint.ie)

<sup>174</sup> Humphreys, Joe (24 November 2003) ‘Use of law against Travellers ‘unjust,’ Irish Times.

<sup>175</sup> *Ibid.*

<sup>176</sup> [www.itmtrav.com/accommodation.html](http://www.itmtrav.com/accommodation.html)

<sup>177</sup> [www.paveepoint.ie](http://www.paveepoint.ie)

<sup>178</sup> *Ibid.*

## *The right to public health and medical care*

**“Due to our position in society today women are the main carers of children, the sick and old people. Because of this role we have cause to meet more people in the health services. We have, on the whole, found this to be a traumatic and terrifying experience. This is mainly due to lack of understanding and covert racism,”<sup>179</sup>**

AkiDwa – Sisters from Africa.

135. The UN Committee on Economic, Social and Cultural Rights, in its Concluding Observations on Ireland in May 2002, recommended that Ireland: “revisit the recently published National Health Strategy with a view to embracing a human rights framework in that strategy, in line with the principles of non-discrimination and equal access to health facilities and services.”<sup>180</sup>
136. There is a lack of statistical data on the health status of Black and minority ethnic groups.<sup>181</sup> However, a recent report on healthcare for members of Black and minority ethnic groups published by the Eastern Regional Health Authority has highlighted the following issues to be addressed:
- ▼ Higher levels of psychological distress
  - ▼ Difficulties with medical cards
  - ▼ Inappropriate use of health services
  - ▼ The particular vulnerability of women

Among the key areas identified to overcome these problems are support of community development among Black

and minority ethnic groups, the development of an interpreting service, and the provision of appropriate information on healthcare and the health services. Interculturalism and anti-racism training for staff is also a key recommendation.<sup>182</sup>

137. In order to address the problems highlighted in this and other reports, the Irish Health Services Management Institute and the NCCRI have been working on producing policy and practice guidelines for the health care sector. The awareness in the health services of the need to avoid the ‘one cap fits all’ approach to healthcare provision, and the emphasis on a ‘whole organisation’ approach to ensuring culturally appropriate service provision is to be welcomed. In this regard, the large numbers of foreign nationals now employed in the Irish healthcare sector may have been a decisive factor in ensuring such an approach.
138. There remain major problems in healthcare provision for members of Black and minority ethnic groups, however. As pointed out by FLAC,<sup>183</sup> there is a strong link between the quality of housing and a person’s health. The overcrowding and enforced passivity faced by asylum seekers in Direct Provision have negative effects on their mental health, which in turn may show in the form of physical symptoms.<sup>184</sup> In addition, asylum seekers may already be suffering trauma from their experiences before arriving in Ireland. Language problems and a lack of cultural awareness among health providers make the treating of such symptoms more difficult.
139. An *Irish Times* report of 2 September 2004<sup>185</sup> highlighted some of the healthcare needs associated with direct provi-

<sup>179</sup> Crawley, Marie & O’Meara, Louise (2002) *Gender equality and work with refugees*, Department of Justice, Equality and Law Reform, Gender Equality Unit, Government Stationary Office.

<sup>180</sup> Para. 35.

<sup>181</sup> This has been highlighted by Cáirde, a non-government organisation working to reduce health inequalities amongst ethnic minorities. [www.cairde.org](http://www.cairde.org)

<sup>182</sup> *A regional strategy for ethnic minorities*, Easter Regional Health Authority, 2004. See also: *Health strategy for minorities*, Irish Times, 24 September, 2004.

<sup>183</sup> *Submission to the Shadow Report*, FLAC, 2004. *op cit.*

<sup>184</sup> *ENAR shadow report*, pp. 21-22. *op. cit.*

<sup>185</sup> Wall, Martin / *Report criticises healthcare at Mosney*, Irish Times, 2 September, 2004.

sion and dispersal. The flagship Mosney accommodation centre for asylum seekers, which is one of the largest in the country and houses 800 people, was condemned in a highly critical report by the North Eastern Health Board. The Government was accused of not putting the funding or the staffing in place to provide the necessary health and social services. As a result, the report claims that:

- ▼ Childhood immunisations programmes were not being implemented in a timely manner.
- ▼ Infant nutrition was being adversely affected.
- ▼ There was insufficient GP cover.
- ▼ There were problems with ante-natal care of pregnant asylum seekers.
- ▼ There were insufficient resources for the community welfare service clinic.

140. Health service provision should particularly consider the needs of asylum-seeking women, who have specific problems in this area. As the quote at the start of this section illustrates, many of them have found the experience of using the health services to be on occasion both traumatic and terrifying. In particular, the absence of female doctors in many rural areas where asylum seekers have been sent under the dispersal programme may be a barrier to many refugee and asylum-seeking women having access to adequate and appropriate healthcare. The National Women's Council of Ireland has also highlighted the need for greater information on entitlements, and the need to ensure culturally appropriate service delivery, including support for culturally specific health practices.<sup>186</sup>

141. The facts with regard to Traveller health speak for themselves. Pavee Point has stated that:

- ▼ Infant mortality is three times greater than the national average.
- ▼ Traveller men have a life expectancy of 65 years, 10 years less than the national average.
- ▼ Traveller women have a life expectancy of 65 years, 13 years less than the national average.
- ▼ Travellers have higher death rates for all causes of death among the settled community.
- ▼ In a five-year period, for every settled child that died of a cot death, 10 Traveller children died of a cot death.<sup>187</sup>

142. As is very apparent, Traveller health is significantly worse than the health of those living in the settled community. In particular, a large majority of Traveller children live in conditions that are below the minimum required for healthy child development. Apart from the excessively high infant mortality rates, Traveller children also have significantly lower birth weights than those for the settled community.<sup>188</sup> The poor conditions in which many Travellers live are an important factor in this. There is also a problem for Travellers in many areas in finding a GP who will register them as patients, since only a small number of GPs are providing services to Travellers. A lack of education and training materials relevant and meaningful to Travellers has also been identified as a problem.<sup>189</sup>

143. The Government responded to this by establishing a National Traveller Health Strategy in 2002, and an all-Ireland Traveller health status and needs assessment study was due to commence in

<sup>186</sup> National Women's Council of Ireland (2004) *Submission to the Shadow Report*.

<sup>187</sup> *ENAR shadow report*, p. 21. *op. cit.*.

<sup>188</sup> Department of Health and Children (2002) *Traveller health: a national strategy 2002-2003*, Department of Health and Children: Government Stationary Office, p. 52.

<sup>189</sup> [www.paveepoint.ie](http://www.paveepoint.ie)

2004. This initiative is most welcome. A similar targeted approach based on adequate research, needs to be put in place to ensure other Black and minority ethnic groups have their healthcare needs met.

## RECOMMENDATIONS:

1. Comprehensive statistics on the health status of Black and minority ethnic groups should be collected as a priority. A needs assessment study of the health needs of Black and minority ethnic groups should then be drawn up on a countrywide basis. This should be done in consultation with Black and minority ethnic groups. Community groups and NGOs representing Black and minority ethnic groups must be adequately resourced to enable them to take part in this process.
2. All sections of the health service should draw up policy and practice guidelines for service provision for Black and minority ethnic groups.
3. Health service personnel should undergo anti-racism awareness and training.
4. Asylum seekers should not be sent under the dispersal programme to areas of the country where their health needs cannot be met.
5. The National Traveller Health Strategy should be implemented as an urgent priority. The Traveller Health Policy Unit in the Department of Health and Children should be moved from the disability section of the population health division. The All Ireland Traveller Health Status and Needs Assessment Study needs to commence as a matter of urgency.

144. The 2002 RAXEN3 study on education states that, “there is very limited official education data related to the specific focus of this study due to the limited dis-

## *Right to education and training*

**“It was considered that paying grants to all-comers could place intolerable strains on the student support system and might act as an incentive for non-EU nationals to come to the State,”**

Minister of State, Mr. Willie O’Dea, TD, speaking in the Dáil (Irish Parliament), May 2004.<sup>190</sup>

aggregation of data on ethnic grounds.” This study goes on to say that data in relation to Black and minority ethnic groups and education in Ireland is very limited from a number of perspectives, including the system of categorisation, the accessibility of existing data and the lack of data beyond data relating to enrolment.<sup>191</sup> The study also says that, “to date there has been limited policy focus on the education needs of ‘non-nationals’ in the education system although this is beginning to change.”<sup>192</sup> This is particularly surprising in view of the fact that the sheer numbers of new pupils from migrant families will have a major impact on the Irish education system in years to come, especially in urban areas where migrant workers are more likely to be.

145. The education system in Ireland is failing to address the very real needs and rights of families who are not members of the dominant religious culture, particularly black and minority ethnic children from diverse religious backgrounds. The vast majority of Irish schools remain under the ownership and management of the Catholic Church, due to the State’s abrogation of its responsibility to develop an inclusive state system of primary education. There are guarantees with regard to education given in the Irish

<sup>190</sup> Dáil Debate, Equality Bill 2004 [Seanad]: Second Stage (Resumed), 20 May 2004.

<sup>191</sup> NCCRI (2002) *Analytical study on education: EUMC RAXEN3: report on Ireland*. NCCRI: Dublin, pp. 16, 20. See also *Diverse voices* pp. 24-26.

<sup>192</sup> *Ibid.*, p. 19.

Constitution,<sup>193</sup> but under an exemption granted to them in the Equal Status Act,<sup>194</sup> Irish schools managed by religious groups are legally entitled to give preference to children, families and teachers of their particular religion. Included in the exemption is the right to discriminate in favour of a particular religion in teacher recruitment and, because of the lack of any inclusive secular alternatives, this has implications for all minorities in Ireland, in terms of employment equality. Parents in most situations have no real choice regarding their children's education; for the vast majority of families the only school in their local area is legally obliged to give preference to a particular religious faith,<sup>195</sup> despite being funded by the State, and run to an overwhelming extent by lay people. These schools, funded by the State, do allow access to children of other faiths and cater for their needs to the best of their ability. However, this does not take away from the fact that these are schools run from a particular faith perspective and give preferential access to members of their own faith community.

146. Educate Together<sup>196</sup> runs some multi-denominational primary schools, but these constitute only 1% of primary schools in the country. All permanent primary schools are funded by the State to the same extent. However, multi-denominational schools face much greater obstacles from their inception. The education system is not a level playing field for all prospective new schools. Multi-denominational schools are set up by voluntary groups of parents who

have few resources or experience and have to raise funds to meet the considerable financial costs involved in merely submitting the application for opening a new school.

147. An urgent structural change is needed in the education system to allow for the development and support of schools that are not under religious patronage. The Government needs to legislate and provide funding for the setting up of schools that are fully inclusive and legally obliged to welcome all children, whatever their social, cultural or religious background may be.

148. Within the school system, the Department of Education and Science operates a deficit model of education and language support for Black and minority ethnic learners. The education system indirectly discriminates against Black and minority ethnic learners by forcing them to study through the medium of English, and failing to provide sufficient English language support. Emphasis is placed on what Black and minority ethnic learners do not know rather than what they do know. There is also a lack of English language support for pre-school age children.

149. The Department of Education and Science has been providing funding directly to schools since 1999 to support the language needs of Black and minority ethnic students. However, funding is only available for two years, even though best practice indicates that bilingual and multilingual students require additional years of support to reach cur-

<sup>193</sup> Article 42.3.1 The State shall not oblige parents in violation of their conscience and lawful preference to send their children to schools established by the State, or any particular type of school designated by the State.

Article 42.4 The State shall provide for free primary education and shall endeavour to supplement and give reasonable aid to private and corporate educational initiative, and, when the public good requires it, provide other educational facilities or institutions with due regard, however, for the rights of parents, especially in the matter of religious and moral formation.

<sup>194</sup> Section 7

<sup>195</sup> This is provided for by the 1998 Education Act.

<sup>196</sup> Educate Together is the representative organisation of the Educate Together schools and associations throughout the Republic of Ireland. These schools are multi-denominational, co-educational, child-centred and democratically run. [www.educatetogether.ie](http://www.educatetogether.ie)



rent academic standards.<sup>197</sup> Moreover, research indicates that the funding only provides for one or two withdrawal classes a week for students and is insufficient to cover assessment, induction classes and supported integration into mainstream tuition.<sup>198</sup>

150. The designated support agency for English language support teachers, Integrate Ireland Language and Training (IILT),<sup>199</sup> is severely under-funded, given its enormous remit. Difficulties with language support teaching include:
- ▼ Support teachers are usually only on temporary contracts, so vacancies can be hard to fill.
  - ▼ No English language needs assessment framework for the sector.
  - ▼ Shortage of appropriate language teaching materials.
  - ▼ No accredited language training certificates/modules and no training on language-aware teaching methods.
  - ▼ No dual language textbooks in key languages and no support of Black and minority ethnic students' other languages.<sup>199</sup>
151. Lack of literacy and basic education support is currently the biggest gap in provision for bilingual/multilingual students. A recent survey of unaccompanied refugee children revealed that a considerable number experience difficulties reading (19%) and writing (20%) in their first language. The survey also indicated that 21% of unaccompanied refugee children are not attending any form of education.<sup>200</sup> The training IILT is able to provide to English language support teachers does not focus substantively on literacy and basic education issues for Black and minority ethnic students.
152. There are currently no Black and minority ethnic groups represented in the IILT management structure. Moreover, some of the IILT's educational materials targeted towards teachers has been criticised as inappropriate for the sector, and falling into the realm of 'cultural tourism.'<sup>201</sup>
153. The IILT does run language programmes for adult refugees and other individuals granted leave to remain. However, its programmes indirectly discriminate against women because the IILT fails to provide childcare facilities, despite participants being forced to attend classes for 20 hours per week. Many women with family responsibilities are unable to make this commitment, and generally do not attend.
154. Currently, migrant workers cannot officially access English language classes either through the Vocational Education Committees (VECs)<sup>202</sup> or other providers. This is proving a problem for many EU accession state nationals who may be able to speak two or more languages but may not have English. This causes difficulties accessing employment and integrating into the receiving country.
155. The range of anti-racism and intercultural measures within the education system in general lack coordination and focus. There are no special grants or funding

<sup>197</sup> Coelho, E. (1998) *Teaching and learning in multicultural schools: an integrated approach*, Multilingual Matters: Canada; Gravelle, M. (2000) (ed.) *Planning for bilingual learners: an inclusive curriculum*. Trentham Books: UK; Gravelle, M. (2001) *Supporting bilingual learners in schools*, Trentham Books: UK.

<sup>198</sup> See for example, Keogh, A.F. and Whyte, J. (2003) *Getting On: The Experiences and aspirations of immigrant students in second level schools linked to the Trinity Access Programme*, Children's Research Centre: Trinity College Dublin; Ward, Tanya (2004) *The Education Needs of Separated Children*, CDVEC/County Dublin VEC/Dun Laoghaire VEC.

<sup>199</sup> [www.iilt.ie](http://www.iilt.ie)

<sup>200</sup> Ward, Tanya (2004), *op. cit.*

<sup>201</sup> *Ibid.*

<sup>202</sup> VECs are local state education providers with responsibility for providing education at second level, and adult/further education.

allocated to these measures from the Department of Education and Science and the 'Whole School Project' mentioned in the Government's First Report has lost several staff members due to lack of funding. There is no anti-racism and intercultural unit in the field of education to support measures of this nature. In general, anti-racism/interculturalism training for teachers is organised on an *ad hoc* basis by teachers' unions or by teacher training colleges. There is no mandatory module on anti-racism and interculturalism for teachers on teacher training programmes. Human rights education is also absent from mainstream curricula on teacher training programmes.

156. Two separate sets of guidelines for intercultural education are currently being drawn up for the primary and post-primary sectors. However, there are two main flaws with these guidelines: firstly, there is no follow-up mechanism built into them to ensure that they are implemented; secondly, they are designed to support the existing curriculum, rather than a re-constituted one which would reflect the new ethnic diversity in Ireland. In light of the increasing and accelerating diversity of Irish society it is not enough that themes of anti-racism and interculturalism be introduced as add-on components in a random, haphazard fashion during a child's formative years. These themes need to be fully integrated into the school curriculum as part of an overall human rights education. The education system itself needs to be overhauled to become genuinely rights-based. Under the UN Convention on the Rights of the Child, which Ireland ratified in 1992, the Government committed itself to including human rights education in the curriculum, but unfor-

tunately this has yet to happen.

157. For those students who wish to progress beyond second level, access to grants at third level is currently restricted to Irish and EU citizens.<sup>203</sup> The Equality Tribunal has judged this to be contrary to the Equal Status Act's prohibition of discrimination based on race (which includes nationality),<sup>204</sup> and the Tribunal recommended that the Department of Education and Science should amend its grant scheme. Instead of doing this, the Government used the Equality Act 2004, which partly transposed the EU Race Directive<sup>205</sup>, to include a new exemption allowing the Minister for Education and Science to discriminate on the basis of nationality in relation to further/higher education grants. The Minister of State, Mr. Willie O'Dea, TD, justified this amendment by stating incorrectly that, "No other Member State has such a wide system of student support and it was considered that paying grants to all-comers could place intolerable strains on the student support system and might act as an incentive for non-EU nationals to come to the State."<sup>206</sup> This statement ignores the fact that migrant workers are taxed at the same rate as nationals and therefore should be entitled to the services funded by their taxes.
158. While asylum seekers are allowed to undertake some language training, they are denied access to third level education. The Government's First Report states that: "access to third-level education for asylum seekers is on the basis of payment of the economic fee."<sup>207</sup> In fact, asylum seekers cannot attend third level education, even if they pay the economic fee, since the third level education sector will not register them because they do not have a residence permit or inter-

<sup>203</sup> This includes recognised refugees and third country nationals married to Irish and EU citizens.

<sup>204</sup> *Two complainants v- the Department of Education and Science* (Dec 2003 - 042/043).

<sup>205</sup> 2000/43/EC, Race Directive.

<sup>206</sup> Dáil Debate, Equality Bill 2004 [Seanad]: Second Stage (Resumed), 20 May 2004.

<sup>207</sup> P. 74, para. 347.

national student visa. In addition, where this obstacle can be overcome, asylum seekers and refugees are still charged at the rate of 'international students' by Irish universities, even in situations where their residence in Ireland meets the criteria to be categorised as resident and therefore entitled to preferential fee rates. The position is particularly difficult for children of asylum seekers and unaccompanied refugee children who progress through the Irish secondary school system, and then are unable to go on to third level.

159. Survey results show that asylum seekers in Ireland have generally high levels of education from their countries of origin, with the exception of the Roma.<sup>208</sup> Problems of lack of knowledge of English remain high for about 50% of asylum seekers, both adults and children.<sup>209</sup>
160. Those asylum seekers whose refugee status is recognised by the Government are provided with free language provision, and with access through the social welfare system to training through the employment agency, FÁS.<sup>210</sup>
161. Among the Black and minority ethnic groups who go through the asylum process, education has been identified as a particularly important concern for the Roma community. The need to work with them on issues such as cultural sensitivities around the education of women was recognised in a recent study.<sup>211</sup>
162. For the Irish Traveller community, the 2002 census found that of the 13,680 Travellers aged 15 years and over who were counted, 7,491 had primary education only. A further 1,444 had progressed to lower secondary level. Only 338 had finished secondary education. Third level qualifications were held by 197 of them.<sup>212</sup> However, the serious undercount of Travellers in this census casts doubt on these figures. The National Traveller Education Officer estimates that in 2002/2003, 40% of all Traveller children attended mainstream post-primary schools, and 51% of Traveller pupil were retained to junior certificate level, as against 94.3% of the settled population.<sup>213</sup> As the education report submitted to the Monitoring Committee of the Task Force on the Traveller Community in November 2002 has stated: "it is acknowledged that the drop-out rate for Traveller children has been unacceptably high."<sup>214</sup>
163. The Report of the Task Force on the Traveller Community has highlighted school attendance, parental involvement, Traveller Nomadism, intercultural education and teacher training as issues needed to alleviate these problems. It emphasises the need for an intercultural curriculum that respects all cultures, avoids racist interpretations in texts and includes information on Black and minority ethnic groups.<sup>215</sup> The Department of Education and Science has produced guidelines on Traveller education in primary schools and in secondary schools,<sup>216</sup> but, once again, they lack a follow-up mechanism built into them to ensure that they are implemented.

<sup>208</sup> NCCRI (2002), *op. cit.*.

<sup>209</sup> *Ibid.*

<sup>210</sup> Ireland's National Training and Employment Authority. [www.fas.ie](http://www.fas.ie)

<sup>211</sup> Ward, T. (2004), *op. cit.*.

<sup>212</sup> ENAR Shadow report. *Op. cit.*.

<sup>213</sup> [www.paveepoint.ie](http://www.paveepoint.ie) Fact sheets: education and cultural rights.

<sup>214</sup> *Ibid.*

<sup>215</sup> [www.itmtrav.com/education.html](http://www.itmtrav.com/education.html)

<sup>216</sup> Department of Education and Science (2002) *Guidelines on Traveller education in primary schools*, Government Stationary Office; Department of Education and Science (2002) *Guidelines on Traveller education in second-level schools*, Government Stationary Office.

**RECOMMENDATIONS:**

1. The Government should collect disaggregated data on Black and minority ethnic groups in the education system.
2. Adequate English language and mother-tongue supports should be provided to enable Black and minority ethnic children to participate fully in mainstream education.
3. The Department of Education and Science should set up a properly staffed anti-racism and interculturalism unit. Anti-racism public awareness campaigns aimed at children should be run on an ongoing basis throughout the education system and youth services.
4. Anti-racism training should be provided for all education providers at all levels.
5. The primary and secondary school curriculum should be re-constituted to reflect ethnic diversity in Ireland. This should be done in consultation with representatives of Black and minority ethnic groups. Schools should be required to incorporate intercultural strategies in their school plans to ensure a whole school approach to interculturalism. Mechanisms should be put in place to ensure the guidelines on intercultural education and on Traveller education are implemented.
6. Access to third level education grants should be the same for all foreign nationals legally resident in Ireland as it is for Irish citizens.
7. The National Traveller Education Strategy needs to be published and implemented.

*The right of access to any place or service intended for use by the general public, such as transport, hotels, restaurants, cafés, theatres and parks.*

**“The young boys and girls coming up now, they don’t know what to do. They’re living in houses, and they’re going out with settled people... If they want to get into a pub with settled people, they have to deny they’re a Traveller. And nobody should have to do that. That’s not good for the mind,”**

a Traveller, quoted from an article on Traveller suicides.<sup>217</sup>

164. The Equal Status Act 2000 prohibits discrimination on nine grounds including race, ethnic origin or membership of the Traveller Community. The Government’s First Report cites the Equal Status Act as covering “all goods and services which are available to the public generally, whether on payment or not and irrespective of whether provided by the public sector or private sector.” The number of complaints brought under the ‘race ground’ is the single greatest increase in cases brought under the Act.
165. The Act has been extensively used in particular by the Traveller Community to challenge persistent and historic discrimination in relation to access to social and recreational amenities. The Traveller Community continues to make up the largest single category of people facing discrimination under the Equal Status Act, with 41% of all claims coming from it. The complaints refer to access to schools, accommodation, shops and licensed premises.<sup>218</sup>

<sup>217</sup> McNerney, Sarah (29 August 2004) ‘Another grim wagon in the Black caravan procession: special report: Traveller suicides’, Sunday Tribune. P.74, para 350.

<sup>218</sup> Coulter, Carol (20 May 2004) ‘Many complaints against public bodies’, Irish Times.

166. Complaints about discrimination by licensed premises and hotels by Travellers made up a large proportion of complaints under the equal status legislation. Section 19 of the Intoxicating Liquor Act 2003 removed the jurisdiction of the Equality Tribunal to hear these cases and transferred this jurisdiction to the District Courts. This move was made in response to complaints from vintners to the Government over the number of successful cases brought by Travellers concerning discrimination in access to their premises. The move to the District Court makes the equality legislation significantly less accessible and user friendly for those who experience discrimination.
167. There have also been some complaints that those who are perceived as being 'visibly' different or 'not Irish' have experienced discrimination in accessing some licensed premises, particularly night clubs.<sup>219</sup>
168. FLAC has stated that as a result of the Dispersal and Direct Provision policies of the Irish government, asylum seekers are not able to access adequately the services they need in the areas of legal assistance, medical/psychological/psychiatric services, religious observance, culturally or religiously appropriate foods, and community and linguistic support. FLAC states that "there is certainly no evidence of a government strategy being in place to ensure that asylum seekers have access to essential services and that their basic rights are protected."<sup>220</sup>
169. The Committee has already expressed concerns about the UK system of dispersal and direct provision, on which the

Irish system is based. The Committee found that the dispersal system could hamper the access of asylum seekers to expert legal and other necessary services such as health and education. It recommended that the UK implement a strategy ensuring that asylum seekers have access to essential services and that their basic rights are protected.<sup>221</sup>

#### RECOMMENDATIONS:

1. Section 19 of the Intoxicating Liquor Act 2003 should be repealed.
2. The Government should put in place a strategy to ensure proper access of asylum seekers to essential services, particularly in the areas of legal assistance, health and education.

<sup>219</sup> Dominican Justice Office (2004) *Submission to the Shadow Report*, Dominican Justice Office: Dublin.

<sup>220</sup> FLAC (2004) *Submission to the Shadow Report*, FLAC: Dublin,

<sup>221</sup> A/55/18: UN General Assembly Official Records 55<sup>th</sup> Session, Supplement N. 18. See also CERD/C/304/Add.102.

## Article Six

**“States parties are under an obligation to report fully upon legislation on non-citizens and its implementation,”**

CERD General Recommendation 30, 1(5).

### *Effective protection and remedies through competent national tribunals and other state institutions*

170. Recent changes in immigration legislation have been restrictive in nature, aimed at controlling borders and curbing abuse rather than promoting the rights and entitlements of immigrants. Much of the legislation involves penalising smugglers, imposing sanctions on employers and carriers, and updating procedures for removing foreign nationals from the State. Ireland has no Immigration Appeals Tribunal for immigrants who want to appeal against decisions made under this legislation.
171. The Immigration Act 2004, despite introducing far reaching powers, entirely neglected to offer any measures for either internal or independent monitoring of their use. Amongst other inequitable provisions, this Act makes it a criminal offence if a ‘non-national’ does not inform the state of another ‘non-national’ residing with them. This is not an offence if an Irish or EU citizen neglects to provide such information. Furthermore, the Act will reinforce problems of segregation, as it requires landlords to keep special registers of ‘non-nationals’ resident on their properties. ‘Non-nationals’ are also required to carry identification papers, report on other ‘non-nationals’ with whom they are resident, notify authorities of any change of address and register themselves within 48 hours of arrival in a new district.
172. The Government’s First Report omits any discussion of the asylum determination system. While the details of how Ireland interprets its obligations under the Refugee Convention may not be within the remit of CERD, any perceived discrimination or bias in the way in which this law is implemented may be. Major areas of concern in this respect include:
- ▼ The lack of transparency and refusal to allow any monitoring of the decisions of Immigration Officers at borders with regard to permission for leave to land in Ireland.
  - ▼ The reasoned decisions of the Office of the Refugee Applications Commissioner (ORAC) are never published, and only a selected few of the decisions of the Refugee Appeals Tribunal (RAT)<sup>222</sup> are published. This means that the system lacks transparency and independent scrutiny. The need for such scrutiny is highlighted by the high number of claims found to be invalid at first instance and subsequently found to be valid on appeal.
  - ▼ The lack of comprehensive anti-racism training for staff in ORAC and RAT.
  - ▼ The failure of ORAC, RAT or the Garda National Immigration Bureau to draw up gender guidelines and implement proper training in this area.
  - ▼ The fact that general asylum policy treats separated children over 14 as *de facto* adults. The asylum system should be made more child-friendly, and child pro-

<sup>222</sup> [www.gov.ie/refappeal/](http://www.gov.ie/refappeal/)

tection training should be given to officials executing deportation orders.

- ▼ The failure to set up the Refugee Advisory Board as provided for under the Immigration Act 1999. This Board, which is to be independent in the exercise of its functions, would advise on the operation of the refugee determination system and recommend changes to it. Representatives of refugees and asylum applicants are to serve on it.
- ▼ The lack of transparency in the decision making process with regard to those allowed leave to remain in Ireland, in particular the parents of Irish children who abandoned asylum claims on the understanding that they would be allowed to remain in Ireland with their children.
- ▼ The lack of transparency over decisions made on family reunification.
- ▼ The Illegal Immigrants (Trafficking) Act 2000, which reduced to 14 days the period allowed for asylum seekers to apply for a judicial review, whereas other members of the Irish community are allowed six months in which to apply.

#### RECOMMENDATIONS:

1. Immigration legislation should be reviewed, in light of a comprehensive immigration policy, to ensure the rights and entitlements of migrants, in line with the Convention.
2. Section 9(4) of the Immigration Act, 2004 should be repealed.
3. An independent Immigration Tribunal should be set up.
4. The asylum determination process should be reformed to ensure transparency and independent scrutiny.
5. The Refugee Advisory Board should be set up immediately.

## Article Seven

**“Recommends that State parties establish national commissions or other appropriate bodies...to educate the public about the obligations of States parties under the Convention,”**

CERD General Recommendation XVII 1(d).

### *Dissemination of information about the Convention*

173. The Government has done little to ensure awareness among the general public of the fact that Ireland is a party to the Convention. Even less is generally known about the right of individual petition under Article 14.

174. There is a need for an information campaign to highlight the provisions of the Convention through the education system, the media and the NGO community. This campaign should be particularly targeted at Black and minority ethnic groups.

175. The Government has also done little to inform Government Departments, statutory agencies and Local Government of their obligations under the Convention. There has been no programme of training on the rights outlined by the Convention for Government officials.

176. Disseminating information about the Convention is part of the work of the Irish Human Rights Commission.<sup>223</sup> Currently, the Commission has only eleven staff, one of whom works on human rights awareness. The Commission should be properly staffed and financed so that it can carry out its remit of increasing awareness of the provisions of the UN Conventions which Ireland is a party to, and assisting individuals and

groups in their efforts to vindicate the rights which these Conventions protect.

### RECOMMENDATIONS:

1. The Government should give the Irish Human Rights Commission the staffing and resources it needs to increase awareness of the provisions of UN Conventions that Ireland is party to, and assist individuals and groups in their efforts to vindicate their rights under these Conventions.
2. The Government should institute a programme of training on the Convention for Government officials.

<sup>223</sup> Under the Acts setting up the Commission, it must “promote understanding and awareness of the importance of human rights in the State and, for those purposes, to undertake sponsor or commission, or provide financial or other assistance for, research and educational activities.” [www.ihrc.ie](http://www.ihrc.ie)



## Political Leadership

**“I do believe that Ireland is not a racist country. I mean, like every country there are racists in Ireland, but I think that if you look at the way that Ireland has responded to immigration generally, having gone from an emigrant country to an immigrant country within a very short period of five years, I think there has been remarkable racial harmony in Ireland,”<sup>224</sup>**

Minister for Justice, Equality and Law Reform,  
July 2004.

177. The Irish Government has failed to proactively portray a strong vision of an intercultural, equalitarian society in which racial discrimination is not accepted or condoned at any level. Despite the increase in reported racial violence, and the murders of individuals specifically because of their ethnic origin, the Government has not responded swiftly to investigate the climate of racial hatred and discrimination out of which these incidents have emerged.
178. By contrast, in Northern Ireland, following an escalation of racial violence over several months, the Office of the First Minister and Deputy First Minister held a special meeting in Dungannon in September 2004, with local community groups, the police and other statutory agencies and representatives of Black and minority ethnic groups to devise a practical strategy to support the communities under threat. The House of Commons also sent a Select Committee to Northern Ireland to take direct evidence of the situation.
179. The lack of political leadership to combat racism is disappointing, but there is also evidence that the public positions taken by members of the Government on refugee and immigration issues are themselves leading to a climate where intolerance and prejudice towards certain groups among the overall Black and minority ethnic population are gaining currency. The Government’s handling of the recent Referendum on Citizenship is a clear example. The Minister for Justice, Equality and Law Reform, Michael McDowell, TD, introduced the proposed referendum as an effort to prevent “citizenship tourism.”<sup>225</sup> The coining of such negative, yet media friendly, phrases as ‘citizenship tourism’ and ‘citizenship shopping’ contributed to a simplistic and stereotyped debate of what was a very complex and serious constitutional issue. This shows a great lack of sensitivity by Government to the reality facing asylum seekers, refugees and other migrants on the streets of Ireland, allowing many ordinary Irish people to assume that the majority of people from other ethnic backgrounds whom they see everyday have arrived in Ireland purely to obtain citizenship for their next child. Even the Tánaiste (Deputy Prime Minister), Mary Harney, TD, admitted that the referendum would stir up “undesirable feelings”.<sup>226</sup>
180. The President of the Human Rights Commission, Maurice Manning, expressed concern about the holding of the referendum, in the light of the lack of consultation with the HRC and the All-Party Committee on the Constitution. Given that the Government’s justification for the Referendum centred on the motivation of parents coming to Ireland, attributing to them the desire to have a baby born in Ireland solely for the pur-

<sup>224</sup> (July 2004) ‘McDowell: Ireland not racist,’ Metro Eireann.

<sup>225</sup> Beesley, Arthur (2004) *op. cit.*.

<sup>226</sup> Beesley, Arthur (24 March 2004) ‘Rabbite stands over criticism of immigrant poll’, Irish Times.

pose of citizenship, it is worrying that the President of the Human Rights Commission is quoted as saying that “the commission believes that the data offered is insufficient to allow anyone to draw inferences as to the motives of foreign national parents to the extent argued by the Government.”<sup>227</sup> The Government’s First Report itself, in paragraph 12 of the Executive Summary, specifically links the question of racial violence with “the presumption that non-nationals choose to have children in Ireland for the sole purpose of attempting to gain residency.” If the Government was aware of this link, why did it not show leadership in deferring any referendum until it had investigated the possible negative impact on women from Black and minority ethnic backgrounds of a high profile debate focusing on this very ‘presumption’?

181. With regard to asylum, the consistent message coming from the Government is that the vast majority of asylum seekers are ‘bogus,’ and have only come to Ireland for economic reasons. The Department of Justice, Equality and Law Reform has stated on its website that: “the reality is that the asylum system currently operating internationally is being extensively abused with large numbers of persons seeking protection under the Geneva Convention for the sole purpose of evading legitimate immigration controls in order to gain a foothold in countries for economic reasons.”<sup>228</sup> Comments by the Minister for Justice Equality and Law Reform such as: “the asylum system is being substantially abused, with more than 80% of asylum applicants found not to be entitled to refugee status... that suggests that 80% of asylum are coming here for different reasons and they’re mainly eco-

nomic,” are regularly made.<sup>229</sup> Comments from Government Ministers to the effect that those fleeing persecution have a right to seek asylum, and that Ireland has a legal obligation to them are rare. The resulting effect on public opinion was made clear by research carried out for the Government-funded Know Racism Campaign in 2004: 54% of Irish people believe most asylum seekers are bogus, while 18% have witnessed racist abuse. Some 71% of people agreed with the statement ‘Ireland has its fair share of asylum-seekers and should not take any more.’<sup>230</sup>

182. Although institutional racism is mentioned briefly in the body of the First Report, it is surprising, given the general acceptance of this concept at Government level in the UK, that the concept of institutional racism is not articulated by the Minister in his Foreword. His setting of the scene for the Government’s First Report concentrates on the question of very recent inward migration, with little reference to an existing Black and minority ethnic population which has been here for decades or any reference of second generation Black and minority ethnic Irish people. Racism is linked purely to migration, and not seen as part of a pre-existing climate of intolerance and prejudice.
183. The Minister for Justice, Equality and Law Reform has on a number of occasions repeated the statement that was highlighted at the start of this section, to the effect that Ireland is not a racist country. While the Government continues to fail to monitor the effects of its policies on Black and minority ethnic groups, as well as to undertake the necessary research to understand their needs, it remains possible for Ministers to deny

<sup>227</sup> Tyrrell, Fiona (26 May 2004) ‘Human rights body again raises concerns over vote’, Irish Times.

<sup>228</sup> Background briefing note: asylum matters ([www.justice.ie](http://www.justice.ie)).

<sup>229</sup> Haughey, Nuala (18 July 2002) *Minister pledges to deport bogus asylum-seekers*, Irish Times; Doyle, Kilian (19 November 2003) *McDowell meets UN over ‘bogus’ asylum claims*, Irish Times.

<sup>230</sup> Holland, Kitty (27 February 2004) ‘Research reveals negative attitudes to asylum-seekers’, Irish Times.

the existence of racism in Ireland. Such a Government cannot be said to be “combating prejudices which lead to racial discrimination,” and fulfilling its obligations in “promoting understanding, tolerance and friendship among nations and racial or ethnic groups,” as outlined in Article Seven of the Convention.

### RECOMMENDATIONS:

1. The Government should publicly acknowledge that there is a growing problem of racial discrimination in Ireland.
2. The Programme for Government of this and future Governments should contain a specific commitment to avoiding actions and policies which may serve to exacerbate racial tensions.

## *Implementation of the Convention*

**“It is the obligation of the State Party concerned to ensure the effective implementation of the Convention and to report thereon under article 9 of the Convention,”**

CERD General recommendation 20 (5).

*Implementation of the Convention*

184. As has been made clear at the start of this Shadow Report, the NGO Alliance believes that in order to ensure that all the rights under the Convention are fully vindicated in Ireland, the Government should have brought the Convention fully into Irish domestic law. The Government’s refusal to do so is based on the premise that existing legislation and Constitutional protections

are sufficient to ensure protection of the rights outlined in the Convention. As this Report shows, the NGO Alliance is of the view that this is not the case. The First Report lists various laws, initiatives and programmes which it claims implement the rights outlined in the Convention. At the same time, it frequently fails to give information as to their adequacy in addressing the needs of particular groups of people. Accordingly, it is often difficult and sometimes impossible to assess whether the State’s initiatives are adequate to address specific problems, since the information needed to make such assessments is often not included in the First Report.

185. The Convention calls for ‘immediate and effective measures’ to combat racial discrimination. It is the view of the NGO Alliance that the Government’s First Report fails to show that the measures taken by the Government are combating racial discrimination in the manner that the Convention outlines.

# *Appendices*

## Appendix A

### *List of organisations involved in the NGO Alliance*

#### **Access Ireland Refugee Social Integration Project**

Dominick Court, 41 Lower Dominick Street,  
Dublin 1

T 01 878 0589

E [info@accessireland.ie](mailto:info@accessireland.ie)

W [www.accessireland.ie](http://www.accessireland.ie)

Access Ireland is a training and community development NGO that promotes the integration of refugees and has a special focus on minority ethnic health and social well-being issues. The project runs a Cultural Mediation programme and a training and integration programme for refugee women.

#### **Africa Solidarity Centre**

Terenure Enterprise Centre, 17 Rathfarnham  
Road, Terenure, Dublin 6

T 01 490 3237

E [info@africacentre.ie](mailto:info@africacentre.ie)

W [www.africacentre.ie](http://www.africacentre.ie)

Africa Solidarity Centre is an independent voluntary membership organisation that is committed to supporting African immigrants and the promotion of positive Africa-Ireland links.

#### **African Refugee Network**

90 Meath Street, Dublin 8

T 087 970 8680

E [africanrefugeenetwork@oceanfree.net](mailto:africanrefugeenetwork@oceanfree.net)

Organisation aiming to support refugees and asylum seekers from Africa in Ireland. Activities include free English classes, IT introduction, information giving, women's support group, general information for refugees and asylum seekers, counselling

services, multi-cultural activities, exhibitions, and anti-racist education.

#### **AkiDwA**

19 Belvedere Place, Dublin 1

T 01 855 2143

E [akidwa@eircom.net](mailto:akidwa@eircom.net)

AkiDwA (meaning sisters from Africa) is a network of African women living in Ireland. Founded in August 2001 with an aim to respond to and address the existing and changing needs of African women living in Ireland irrespective of their national or ethnic origin, religious beliefs and socio-economic or legal status. AkiDwA mainly works on development and human right issues based on a gender perspective.

#### **Amnesty International Irish Section**

48 Fleet Street, Dublin 2.

T 01 677 6361

E [info@amnesty.ie](mailto:info@amnesty.ie)

W [www.amnesty.ie](http://www.amnesty.ie)

Amnesty International's vision is of a world in which every person enjoys all of the human rights enshrined in the Universal Declaration of Human rights and other international human rights standards.

#### **ARASI**

213 North Circular Road, Phibsboro, Dublin 7

T 01 838 1142

E [arasi\\_@eircom.net](mailto:arasi_@eircom.net)

W [www.arasi.org](http://www.arasi.org)

ARASI (The Association of Refugees and Asylum Seekers in Ireland) is a Peer Led Voluntary Community Support Network impacting at a community level by

supporting the integration processes for refugees and reception structures for asylum seekers.

### **Cáirde, Challenging Ethnic Minority Health Inequalities**

19 Belvedere Place, Dublin 1

T 01 855 2111

E [info@cairde.ie](mailto:info@cairde.ie)

W [www.cairde.ie](http://www.cairde.ie)

Cáirde is a rights-based community development organisation whose objective is to build the capacity of minority ethnic groups to identify their own needs and develop an awareness of the policy context within which services are planned and delivered and to build the capacity of ethnic minority groups to engage with statutory service providers and planners so that genuine processes of consultation and participation are initiated between ethnic minorities and the policy system. Cáirde has developed two core initiatives, Healthwise Community Impact (HCI) and Women's Health Action (WHA).

### **Children's Rights Alliance**

13 Harcourt Street, Dublin 2

T 01 405 4823

F 01 405 4826

E [info@cra.iol.ie](mailto:info@cra.iol.ie)

W [www.childrensrights.ie](http://www.childrensrights.ie)

The Children's Rights Alliance is a coalition of 79 non-governmental organisations concerned with the rights and needs of children. The Alliance works to secure the full implementation in Ireland of the principles and provisions of the UN Convention on the Rights of the Child.

### **Comhlámh, Development Workers in Global Solidarity**

10 Upper Camden Street, Dublin 2

T 01 478 3490

E [info@comhlamh.org](mailto:info@comhlamh.org)

W [www.comhlamh.org](http://www.comhlamh.org)

Comhlámh's vision is of a just and sustainable world. We are a membership based organisation who educate to campaign on develop-

ment justice issues, with a focus on global trade, migration and development co-operation. Comhlámh's Anti-Racism Project raises awareness of and challenges racism in Ireland and in its broader global context.

### **CORI Justice Commission**

Bloomfield Avenue, Off Morehampton Road, Dublin 4

T 01 667 7363

E [justice@cori.ie](mailto:justice@cori.ie)

W [www.cori.ie/justice](http://www.cori.ie/justice)

CORI Justice Commission is a Social Partner in the Community and Voluntary Pillar of Social Partners. Its main areas of work are Public Policy, Enabling and Empowering, Spirituality, Advocacy and Communications.

### **Council on Social Responsibility of the Methodist Church in Ireland**

63 Lynwood, Dundrum, Dublin 16

T 01 298 7446

E [rcochran@eircom.net](mailto:rcochran@eircom.net)

The Council on Social Responsibility is the official body established by the Methodist Church in Ireland to research, report on and make recommendations to the Church on social, ethical and political issues arising in Ireland and internationally. It is also the authorised body to reflect Methodist thinking and perspectives on such issues to external organisations.

### **Dominican Justice Office**

All Hallows College, Gracepark Road, Drumcondra, Dublin 9

T 01 857 4654

E [justiceop@eircom.net](mailto:justiceop@eircom.net)

The Dominican Justice Office is a joint initiative by Dominican Sisters and Friars which promotes justice and equality through education, research and involvement in projects and social justice issues such as anti-racism, social exclusion and homelessness.

**DORAS Luimni (Development Organisation for Refugees and Asylum Seekers)**

c/o Mount St. Alphonsus  
 South Circular Road, Limerick  
 T 061 310328  
 E [dorasluimi@eircom.net](mailto:dorasluimi@eircom.net)

DORAS Luimni supports and advocates on behalf of refugees and asylum seekers.

**Dunlaoghaire Refugee Project**

c/o 45 South Park, Foxrock, Dublin 18  
 E [dunlaoghairerefugee@ireland.com](mailto:dunlaoghairerefugee@ireland.com)

The DRP is a registered charity working with asylum seekers in the Dunlaoghaire/Killiney area, concerned with sourcing placements for such people on educational/training courses, providing social outreach, and acting as a liaison between asylum seekers and the authorities on a variety of matters when requested and where appropriate.

**Educate Together**

H8a Centrepoint, Oak Drive, Dublin 12  
 T 01 429 2500  
 E [info@educatetogether.ie](mailto:info@educatetogether.ie)  
 W [www.educatetogether.ie](http://www.educatetogether.ie)

Educate Together, a non-profit organization, is the national representative body for multi-denominational schools in Ireland. It aims to meet a growing need for schools that recognize the emerging diversity of Irish life and the modern need for democratic management. Educate Together schools are set up and developed by groups of parents in a local area who wish to send their children to a national school that is multi-denominational, child-centred, co-educational and democratically run. Educate Together schools are legally obliged to respect the rights of each child, irrespective of the child's social, cultural or religious background.

**FLAC (Free Legal Advice Centres)**

13 Lr Dorset Street, Dublin 1  
 T 01 874 5690  
 E [info@flac.ie](mailto:info@flac.ie)  
 W [www.flac.ie](http://www.flac.ie)

FLAC is an independent human rights organisation dedicated to the realisation of equal access to justice for all. It campaigns through advocacy, strategic litigation and authoritative analysis for the eradication of social and economic exclusion. FLAC coordinates a countrywide network of legal advice centres (some operated directly by CICs) and operates a telephone information line.

**Human Rights for Change**

c/o Irish Centre for Human Rights, NUI Galway  
 E [info@humanrightsforchange.org](mailto:info@humanrightsforchange.org)  
 W [www.humanrightsforchange.org](http://www.humanrightsforchange.org)

Human Rights for Change is a group of human rights activists and international legal scholars who seek to promote the protection of human rights through reporting and documenting human rights issues, increasing awareness through the dissemination of information, advocacy and lobbying, creative action, education, monitoring the media and by providing legal assistance, in particular to NGOs in the developing world. This group believes that global inequalities and imbalances can be redressed through the protection and promotion of universal human rights.

**Immigrant Council of Ireland**

2 St. Andrew Street, Dublin 2  
 T 01 674 0200  
 E [info@immigrantcouncil.ie](mailto:info@immigrantcouncil.ie)  
 W [www.immigrantcouncil.ie](http://www.immigrantcouncil.ie)

The Immigrant Council of Ireland (ICI) is a national, independent, non-governmental agency that responds to the emerging needs of immigrants in Ireland, promotes and campaigns for the rights of immigrants and works towards the elimination of all injustice and discrimination in the area of immigration. ICI embraces cultural and ethnic diversity and promotes respect, social justice and human rights.

**Integrating Ireland**

10 Upper Camden Street, Dublin 2  
 T 01 478 3490  
 E [info@integratingireland.ie](mailto:info@integratingireland.ie)  
 W [www.integratingireland.ie](http://www.integratingireland.ie)

Integrating Ireland is an independent network of community and voluntary groups working in mutual solidarity to promote and to realise the human rights, equality and full integration in Irish society of asylum seekers, refugees and immigrants.

**Irish Chinese Information Centre**

63 Fitzwilliam Square, Dublin 2  
 T 01 611 4666  
 E [chanmullen@yahoo.com](mailto:chanmullen@yahoo.com)

An organisation which provides information and support for the Chinese community in Ireland.

**Irish Council for Civil Liberties (ICCL)**

Dominick Court, 40-41 Lower Dominick Street, Dublin 1  
 T 01 878 3136  
 E [iccl@iol.ie](mailto:iccl@iol.ie)  
 W [www.iccl.ie](http://www.iccl.ie)

Established in 1976, the ICCL is an independent broad based NGO that works to promote and defend human rights and civil liberties. The ICCL was founded by, among others, Mary Robinson, former UN Commissioner for Human Rights, Kader Asmal and Donal Barrington. The ICCL also acts as the secretariat to the Equality Coalition which is an alliance of NGOs that campaign on equality issues.

**Irish Refugee Council**

88 Capel Street, Dublin 1  
 T 01 873 0042  
 E [refugee@iol.ie](mailto:refugee@iol.ie)  
 W [www.irishrefugeecouncil.ie](http://www.irishrefugeecouncil.ie)

The Irish Refugee Council (IRC) is an independent non-governmental organisation (NGO) which was set up in 1992. It has its head office in Dublin and a sub-office in Ennis. The work of the IRC on a national level

includes policy, research, legal, networking and information components while the Ennis sub-office deals with the broad range of issues affecting the local refugee community. The IRC is committed to interculturalism, to facilitating the participation of refugees and asylum-seekers at all levels in the organisation and to following the principles of community development.

**Irish Trade Union Trust (ITUT)**

Liberty Hall, Dublin 1  
 T 01 878 7272  
 E: [itut@iol.ie](mailto:itut@iol.ie)

Irish Trade Union Trust (ITUT) is the Social Solidarity arm of SIPTU. ITUT is active in the areas of Anti-Racism/Diversity, Disability, Adult Literacy, Retired Members, and Welfare Rights Information.

**Irish Traveller Movement**

4/5 Eustace Street, Dublin 2,  
 T 01 679 65 77  
 E [itmtrav@indigo.ie](mailto:itmtrav@indigo.ie)  
 W [www.itmtrav.com](http://www.itmtrav.com)

The Irish Traveller Movement (ITM) is a national network of organisations and individuals working within the Traveller community. ITM was established in 1990 and now has over 80 Traveller organisations from all parts of Ireland in its membership. The Irish Traveller Movement consists of a partnership between Travellers and settled people committed to seeking full equality for Travellers in Irish society. This partnership is reflected in all of the structures of ITM.

**Islamic Cultural Centre of Ireland**

19 Roebuck Rd, Clonskeagh, Dublin 14  
 T 01 208 0000  
 W [www.iccislam.org](http://www.iccislam.org)

In 1993 Sheikh Hamdan Ben Rashid Al-Maktoum, Deputy Governor of Dubai, United Arab Emirates agreed to finance the construction of a purpose built Mosque and Islamic Centre. It was officially opened in 1996..



**Islamic Foundation of Ireland**

163 South Circular Road, Dublin 8  
 T 01 453 3242/ 473 8276  
 F 453 2785  
 E [ifi@indigo.ie](mailto:ifi@indigo.ie)  
 W [www.islaminireland.com](http://www.islaminireland.com)

The Islamic Foundation of Ireland has been the official representative democratically elected body of Muslims in Ireland since its inception in 1959. It looks after the religious, educational and social needs of Muslims in Ireland.

**The Jesuit Centre for Faith and Justice**

26 Upper Sherrard Steet, Dublin 1  
 T 01 855 6814;  
 F 01 836 4377;  
 E [info@cfj.ie](mailto:info@cfj.ie)

The Jesuit Centre for Faith and Justice is an agency of the Irish Jesuits. It engages in social analysis and theological reflection in regard to social, economic and political structures, focusing especially on equity in Irish society; refugee and asylum issues; housing and homelessness; the criminal justice system.

**Longford Women's Link**

Willow House, Ardnacassa Avenue, Longford  
 T 043 41511  
 E [crea@longfordwomenslink.org](mailto:crea@longfordwomenslink.org)

Longford Women's Link recognises the isolation and barriers that exist for many women. They provide a safe, accessible and nurturing environment to enable women to make life-changes by building their confidence and self-belief. They seek to support women of all races and cultures to be part of their community.

**Louth African Women's Support Group**

2 Grange Close, Muirhevnamor, Dundalk, Co. Louth  
 T 042 933 8249  
 W [www.communityonweb.org/lawsg](http://www.communityonweb.org/lawsg)

We are a group of African women providing information and support to fellow women and their families. Founded in 2001 and

currently based in County Louth with a view to expanding into the rest of Ireland, we have successfully organised training for some of our members in media skills course through partnering with the Cross Border Centre in the Dundalk Institute of technology and the Dundalk Media Centre. A number of our members are currently studying in various courses at the Institute as well.

**Mercy Justice Office**

Mount St. Vincent's, O'Connell Avenue,  
 Limerick  
 T 087 908 9484  
 E [mercyjusticesc@ericom.net](mailto:mercyjusticesc@ericom.net)

The Mercy Justice Office raises awareness and lobbies on social justice issues.

**The Migrant Rights Centre Ireland**

3 Beresford Place, Dublin 1  
 T 01 888 1355  
 F 01 888 1086  
 E [info@mrci.ie](mailto:info@mrci.ie)

The Migrant Rights Centre Ireland is a national, rights based voluntary organisation. Through its direct work with migrant workers the MRCI seeks to contribute to the development of a sustainable, intercultural society which respects and promotes cultural diversity and empowers migrant workers to enjoy their rights and participate in all aspects of social, economic, cultural and political life in Ireland.

**'Nagle Community': Presentation Justice Network**

55 Kirwan Park, Mountmellick, Co. Laois  
 T 0502 44005  
 F 0502 44372  
 E [presnagle@jmin.iol.ie](mailto:presnagle@jmin.iol.ie)

The Presentation Justice Network is a network of Presentation Sisters and Associates working to promote social justice and human rights.

**National Women's Council of Ireland**

9 Marlborough Court, Marlborough Street,  
Dublin 1

T 01 878 7248

E [info@nwcsi.ie](mailto:info@nwcsi.ie)

W [www.nwcsi.ie](http://www.nwcsi.ie)

The NWCi is the national representative organisation for women and women's groups in Ireland. There are currently 160 women's organisations and groups from all parts of Ireland affiliated to the Council, and the NWCi represents over 300,000 women through its combined affiliate membership. Its vision is the creation of a society where women can participate equally in all aspects of social and economic life, and for 30 years it has consistently addressed important and controversial issues affecting women. The organisation was founded in 1973 as the Council for the Status of Women. In 1995 the organisation adopted a new name – the National Women's Council of Ireland (NWCi).

**New Horizon**

Harmony Community Development  
Program, Garden Vale, Athlone

T 090 647 6346

E [info@newhorizonathlone.org](mailto:info@newhorizonathlone.org)

New Horizon is a non-governmental organisation which is based in Athlone and provides support for asylum seekers and refugees. We run a wide range of activities such as English-language classes, computer training, arts and crafts, provision of information, housing assistance, asylum-interview preparation, translation services, sports days as well as social nights.

**Pavee Point Travellers Centre**

46 North Great Charles Street, Dublin 1

T 01 878 0255

E [pavee@iol.ie](mailto:pavee@iol.ie)

W [www.paveepoint.ie](http://www.paveepoint.ie)

Pavee Point Travellers Centre is a non-government organisation which is committed to human rights for Travellers. The group comprises Travellers and members of the

majority population working in partnership to address the needs of Travellers, who as a minority ethnic group experience exclusion and marginalisation.

**Refugee Project of the Irish Catholic Bishops' Conference**

Columba Centre, Maynooth, Co. Kildare

T 01 505 3157

E [refproject@iecon.ie](mailto:refproject@iecon.ie)

The Refugee Project is an initiative of the Irish Catholic Bishops' Conference. It has a lobbying and advocacy role in relation to asylum policy and procedures and facilitates the Churches' Asylum Network which draws together individuals and groups from seven Christian Churches working alongside and on behalf of asylum seekers and refugees in Ireland.

**Residents Against Racism**

12A Brunswick Place, Dublin 2

T 087 666 2060/087 797 4622

E [residentsagainstracism@eircom.net](mailto:residentsagainstracism@eircom.net)

Runs a 24 hour help line to give support and advice to people experiencing racism, especially State racism.

**RIS (Refugee Information Service),**

27 Annamoe Terrace, off North Circular Road,  
Dublin 7

T 01 838 2740

E [info@ris.ie](mailto:info@ris.ie)

W [www.ris.ie](http://www.ris.ie)

RIS, established in 1998, is a non-governmental organisation providing an information, advocacy and referral service to the refugee and asylum-seeking community. This free service is provided every week on an outreach, half-day 'clinic' basis in seven locations in north-inner city, south-inner city and west Dublin – all areas with large refugee/immigrant communities. The RIS also has an office in Galway city where two weekly clinics are held.

**Romanian Orthodox Church**

Parish Priest: Father Calin Florea, 91 Westend Village, Blanchardstown, Dublin 15  
 T 01 811 9269 / Mob: 087 614 8140  
 E [ingcalinflorea@yahoo.com](mailto:ingcalinflorea@yahoo.com)

The Romanian Orthodox Church in Ireland presently worships out of Belvedere College Chapel, Great Denmark Street, Dublin 1, courtesy of the Jesuit Fathers. Our Sunday Liturgy is from 10am to 1pm. Our weekly congregation numbers some 250 members. We are in touch with about 1,500 Romanian Orthodox around the country. We also have monthly Liturgies for our faithful in Cork, Galway and Tipperary. We are members of the Irish Council of Churches, The Dublin Council of Churches and the the Churches Asylum Network.

**SIPTU (Services Industrial Professional Technical Union)** Liberty Hall, Dublin 1

T 01 858 6300  
 E [info@siptu.ie](mailto:info@siptu.ie)  
 W <http://www.siptu.ie>

SIPTU is Ireland's largest Trade Union with over 200,000 members throughout the island. SIPTU represents workers in every industry and sector. SIPTU can be contacted through any of its nationwide network of Regional and Branch offices or through its Head Office:

**Southside Travellers Action Group**

Unit 5, Furze Road, Sandyford Industrial Estate, Dublin 18  
 T 01 295 7372  
 E [gmudzongo@yahoo.com](mailto:gmudzongo@yahoo.com)

STAG works in Dun Laoghaire Rathdown area, in promoting Traveller Human Rights. Current programmes address issues of racism, accommodation, education, women's training, enterprise, primary health, enterprise and youth work.

**SPIRASI,**

213, the North Circular Road, Dublin 7  
 T 01 8389664/01 8683504.  
 E [info@spirasi.ie](mailto:info@spirasi.ie)  
 W [www.spirasi.ie](http://www.spirasi.ie)

SPIRASI, founded in 1999 under the trusteeship of the Holy Ghost Fathers, and governed by an independent Board of Directors, offers a variety of directly delivered and partnership provided services. Our mission statement stresses that we work in partnership with others in welcoming refugee seekers, whatever their background, and we strive to work with them, including survivors of torture, and the host community in the promotion of self-reliance and integration by providing a range of supports and services. In practice, SPIRASI offers three directly delivered services to fulfil the vision of its mission statement. They include: 1) Centre for Health Information and Promotion (HIP) 2) Centre for the Education and Integration of Migrants (CEIM) 3) Centre for the Care of Survivors of Torture (CCST)

**Tallaght Intercultural Action (TIA)**

West Tallaght Resource Centre, 16 Glanshane Lawns, Tallaght, Dublin 24  
 T 01 452 2533  
 E [tallaghtinterculturalaction@eircom.net](mailto:tallaghtinterculturalaction@eircom.net)

An organisation which acts as a facilitator of local development in the Dublin suburb of Tallaght, populated by about 87,000 people. We are committed to diversity, plurality and equality. Our work involves the integration of foreign nationals into our communities.

**Vincentian Refugee Centre**

St Peter's Church, Phibsboro, Dublin 7  
 T 01 810 2580  
 E [refugeecentrephibsboro@eircom.net](mailto:refugeecentrephibsboro@eircom.net)

The Vincentian Refugee Centre is a Centre of welcome for asylum seekers, refugees and people with permission to remain in the State. The Centre gives information on social welfare, education, health and asylum and immigration law. It is the only organisation that sources private rented accommodation for refugees offering advocacy, follow up and mediation. It also facilitates a Women's Group and a Homework Club for separated children.

## Appendix B

### Glossary

#### *Definitions taken from: Guidelines on Anti-Racism and Intercultural Training. NCCRI, 2001*

##### Different types of Racism

Racism can be a direct or an indirect form of discrimination and can occur at an individual, institutional and cultural level.

- **Racism as a direct form of discrimination:** It is about unequal treatment. It occurs when a person is treated less favourably than another, in similar circumstances, because of his or her 'race', ethnicity, national origins, nationality or colour. Racial abuse constitutes a form of direct racism, but it can also be reflected in less immediately obvious ways, including recruitment, promotion and retention in the workplace.

- **Racism as an indirect form of discrimination:** It is about practices or policies, which may seem fair at first sight, but which in effect, either intentionally or more often unintentionally results in discrimination against some minority ethnic group or groups.

*Racism can occur at a number of levels, including:*

- **Individual racism:** Individual racism is understood as attitudes, beliefs and behaviour of individuals. For instance through verbal or physical attacks.

- **Institutional racism:** Institutional racism happens when the practices, policies and attitudes of institutions result in the systematic exclusion of some minority ethnic groups, again either consciously or unconsciously. It is a difficult type of racism to recognise and it can manifest itself in many areas of life including employment, education, accommodation and other opportunities to which the general public usually have access. Racism is often an institutional issue.

- **Cultural racism** happens when the values and/or beliefs systems of one ethnic group (or so-called 'race') are considered inherently superior and the values and belief systems of minority ethnic group are considered inherently inferior.

##### Anti-Racism Training

Anti-racism training seeks to challenge racism and to contribute to creating the conditions within an organisation which make it more difficult for racism to exist.

*Anti-racism training has three key purposes:*

- To challenge and change racist attitudes, beliefs and behaviour.
- To contribute to a broader range of policies and strategies to address racism and/or promote equality within the whole organisation.
- To promote the positive inclusion of minority ethnic groups and intercultural interaction between ethnic groups based

on the principles of equality, cultural awareness and respect.

Anti-racism training is not an end in itself but is a valuable tool in an overall package of measures to address racism and promote the inclusion of minority ethnic groups. The role of the trainer is to facilitate and where appropriate guide this process and to work towards not only changing attitudes, but also behaviour, practices, policy and ethos.

*Anti-racism training seeks to challenge racism by:*

- Dismantling assumptions, stereotypes and labelling.
- Providing an awareness of the outcomes and impact of racism.
- Recognising the power relations between the dominant group and the minority ethnic groups in society.
- Changing behaviour, practices and policies within an organisation.

Anti-racism training can serve as a way of providing participants with the necessary knowledge required for working with minority ethnic groups. It can also allow participants to acquire the skills and confidence to promote and implement equality and intercultural policies.

*Anti-racism training should be:*

- Integrated into all relevant staff training and human resource policy.
- Provided to everyone within an organisation, whether they are directly working with 'customers' or not.
- Incorporated into strategic, customer action and business plans of institutions.
- Part of staff development.

### **Ethnic Group and Ethnicity**

An ethnic group is a group of people sharing a collective identity based on a sense of common history and ancestry. Ethnic groups

possess their own culture, customs, norms, beliefs and traditions. Other relevant characteristics shared in common could be language, geographical origin, literature, or religion. An ethnic group can be a majority or a minority group within a larger community.

All people belong to one or more ethnic groups but are often unaware of their ethnicity if they are part of the dominant ethnic group. Ethnicity is a cultural phenomenon that is distinct from the concept of 'race', which has a perceived biological basis. Culture is learned and passed on from generation to generation, culture also evolves and changes and the recognition of this fluidity is important so as not to stereotype an ethnic group into one fixed set of expressions of its cultural identity. In a society that values interculturalism, changes in the cultural practices of an ethnic group come from the experience within the ethnic group and from its interaction with other ethnic communities, as distinct from change that is forced on the ethnic group by the values and 'norms' of the dominant ethnic group in the society.

### **Interculturalism**

Interculturalism suggests the acceptance not only of the principles of equality of rights, values and abilities but also the development of policies to promote interaction, collaboration and exchange with people of different cultures, ethnicity or religion living in the same territory. Furthermore interculturalism is an approach that sees difference as something positive that can enrich a society and recognises racism as an issue that needs to be tackled in order to create a more inclusive society. The concept of interculturalism has replaced earlier concepts of assimilation and multiculturalism.

### **Equality**

Equality is not about treating people the same, because different groups of people have different needs; different groups, including

minority ethnic groups experience discrimination in different areas of life and in different ways. Treating everyone the same can have the effect of being an indirect form of discrimination when it is clear that some groups have much greater needs than others. Equality is about securing equality of opportunity, equality of participation and equality of outcome.

*The Equal Status legislation (2000) prohibits discrimination on the grounds of:*

- Gender
- Marital Status
- Family Status
- Sexual Orientation
- Religious Belief
- Age
- Disability
- Race
- Membership of the Traveller Community

## Appendix C

### *Full List of Recommendations*

#### General Comment

1. The Government should set up a mechanism for regular consultation with members of Black and minority ethnic groups, and with the NGO sector.
2. In order to develop measures to eliminate racial discrimination, the Government should examine best practice in other jurisdictions which is in keeping with international standards as set down by both regional and international monitoring bodies.

#### Article One

1. A question on ethnicity should be included in the next census.
2. Other means of collecting data on Black and minority ethnic groups in Ireland should be examined and implemented as a matter of urgency. Black and minority ethnic groups should be represented on the National Statistics Board.
3. Data on Black and minority ethnic groups and the racism they experience should be disaggregated by gender.
4. The Government should recognise the Traveller Community as an ethnic group.
5. By virtue of this recognition, the Government should undertake a survey of what specific measures are necessary to alleviate the particular kinds of discrimination faced by members of this community.

#### Article Two

1. The Government should sponsor mandatory anti-racism, equality and intercultural communication training for those in public office to build racial awareness and to ensure that all public officials, at both local and national level, are mindful of the need for the respect of the principles of equality and non-discrimination. This training must be done by professional, qualified practitioners. In order to maximise the effectiveness of such training it should be supported by a whole organisation approach which promotes equality and an ethos of interculturalism.
2. Mechanisms should be put in place to collect the kinds of data outlined by the Equality Authority. This data should be disaggregated by gender.
3. The Government should draw up an overall plan to coordinate research and monitoring on racism in Ireland. Legislation should be introduced to ensure that the recommendations resulting from this process result in changes in Government policy.
4. Participatory models of research should be used and must include members of Black and minority ethnic groups.
5. The Government should adequately fund Black and minority led groups as a priority.
6. Anti-racism initiatives must receive core funding on a long-term basis.

7. A programme of professional training for Black and minority ethnic leaders should be put in place.
  9. The Government should support the establishment of a programme of community-based anti-racism activities within schools, youth clubs and sports clubs.
  10. The Government should examine international examples of affirmative action policies and special measures to combat racial discrimination and promote better participation by members of Black and minority ethnic groups.
  11. In particular, it should examine the introduction of statutory reservations for members of Black and minority ethnic groups in third level, in the public sector and in local government.
  12. The Arts Council should commission research into the cultural needs of Black and minority ethnic groups new to Ireland.
5. A National Traveller Accommodation Agency should be established to ensure delivery of the required Traveller accommodation. Local authorities should be obliged to deliver on their five-year plans for Traveller accommodation.
  6. Mechanisms should be put in place to ensure that no Traveller accommodation is sited in unhealthy or dangerous locations.
  7. Mechanisms should be put in place to ensure that Traveller accommodation is not segregated from the rest of the community.
  8. An accurate census of the Traveller community should be undertaken as a priority.

### Article Three

1. The dispersal and direct provision system should be replaced by provision of community-based housing and the restoration of social welfare benefits on a par with the rest of the population.
2. In dealing with vulnerable groups such as separated children the best interest of the child should be foremost in keeping with state obligations under the Convention on the Rights of the Child.
3. Other vulnerable groups such as pregnant women should be provided with adequate services and facilities, in keeping with the basic standards of the Irish Constitution, and respecting the dignity and worth of the individual.
4. Up to date information and statistics

### Article Four

1. The review of the Prohibition of Incitement to Hatred Act should be completed as a matter of urgency, and the Act amended accordingly.
2. A Press Council should be set up as a priority, with powers to investigate breaches and disciplinary procedures for those who break a Press Code of Conduct, particularly in relation to negative stereotyping of Black and minority ethnic groups.
3. State radio and television stations should draw up plans and implement adequately resourced procedures to ensure proper representation of Black and minority ethnic groups among their staff.



4. Politicians who break the Anti-Racism Protocol should be disciplined by the Oireachtas (Parliament). In addition, mandatory training should be provided to members of the Oireachtas on issues such as non-discrimination and equality.

#### Article Five

1. The time for application for judicial review for foreign nationals should be the same as for Irish nationals. The statute of limitation should not be allowed to act to defeat judicial review of decisions in the realm of immigration and asylum.
2. An independent Immigration Appeals Tribunal should be set up.
3. The Ombudsman for Children Act 2002 should be amended so that asylum seeking children, separated children and migrant children can avail of the protection of the Ombudsman for Children.
4. Each Garda officer should be trained in the monitoring and logging of racist incidents.
5. No foreign national forced to leave an abusive relationship should lose their right to residency as a result.
6. Positive measures should be put in place to encourage women and children who are trafficked to report this to government officials. These should include the establishment of a 'safe house' and ratification of the forthcoming Council of Europe Convention on the Victims of Trafficking. No foreign national woman or child who has been trafficked into the country and who reports this to government officials should be deported as a result.
7. The Garda Racial and Intercultural Unit should be adequately staffed, and integrated fully into the management structure of An Garda Síochána.
8. A specific recruitment programme should be put in place to hire Ethnic Liaison Officers. Immigration Officers should not be appointed as Ethnic Liaison Officers. Garda Ethnic Liaison Officers should receive in-depth training, and their performance should be monitored.
9. It is essential that comprehensive human rights and anti-racism/intercultural training is mainstreamed throughout all Garda educational programmes, and constitutes an integral part of all training focusing on the exercise of police powers.
10. All functions of the police service should be carried out having regard to the human rights of all persons and without discrimination on the grounds of race, gender, religion, age, sexual orientation, disability, family status or any other ground. An enforceable Code of Ethics should outline this.
11. No Irish child should be forced to leave the country of his or her origin for reasons of his or her parents' nationality.
12. Migrant parents of Irish children who applied under a legitimate procedure for leave to remain prior to its removal in February 2003 should have their applications processed without delay. This process must deal with the outstanding applications in a manner which is fair, transparent and efficient.
13. For all Irish children born post February 2003 a fair and transparent process should be put in place for those with migrant parents.
14. A process for granting permanent residence as of right, within a reasonable period of time, and without changing nationality should be put in place.

15. Clear criteria for the granting of citizenship should be published.
16. All key Government planning instruments in the fight against poverty should be proofed for their impact on Black and minority ethnic groups.
17. Black and minority ethnic groups should be represented in all forums where their service needs are being discussed.
18. Child benefit should be restored to asylum seeking families.
19. The Government should establish a comprehensive immigration policy based on the needs of migrant workers as well as on the needs of Irish employers.
20. The Government should set up an Integration Agency for migrants to Ireland.
21. The Government should collect data on the ethnic profile of the workforce disaggregated by gender and country of origin.
22. Work permits should be issued to non-EU workers in a transparent and non-discriminatory manner. Work permits should be held by the worker, not the employer.
23. The spouses or partners of migrant workers should have residence in their own rights, and should be allowed to work.
24. Labour legislation should be properly enforced.
25. Asylum seekers should be allowed to work after six months.
26. The Government should take measures to ensure that the qualifications of refugees and other migrants are recognised by the relevant professional bodies in Ireland.
27. Pro-active policies to assist Travellers to find work should be put in place, and properly funded on a long-term basis.
28. The Government should enforce the minimum standards of rented accommodation.
29. The Government should act to increase the supply of affordable housing for low income groups.
30. The Government should conduct research on the accommodation needs of Black and minority ethnic groups and publish the results.
31. The Government should review the provisions of the Housing (Miscellaneous Provisions) Act, 2002.
32. Comprehensive statistics on the health status of Black and minority ethnic groups should be collected as a priority. A needs assessment study of the health needs of Black and minority ethnic groups should then be drawn up on a country-wide basis. This should be done in consultation with Black and minority ethnic groups. Community groups and NGOs representing Black and minority ethnic groups must be adequately resourced to enable them to take part in this process.
33. All sections of the health service should draw up policy and practice guidelines for service provision for Black and minority ethnic groups.
34. Health service personnel should undergo anti-racism awareness and training.
35. Asylum seekers should not be sent under the dispersal programme to areas of the country where their health needs cannot be met.
36. The National Traveller Health Strategy should be implemented as an urgent priority. The Traveller Health Policy Unit in the Department of Health and Children should be moved from the

disability section of the population health division. The All Ireland Traveller Health Status and Needs Assessment Study needs to commence as a matter of urgency.

37. The Government should collect disaggregated data on Black and minority ethnic groups in the education system.
38. Adequate English language and mother-tongue supports should be provided to enable Black and minority ethnic children to participate fully in mainstream education.
39. The Department of Education and Science should set up a properly staffed anti-racism and interculturalism unit. Anti-racism public awareness campaigns aimed at children should be run on an ongoing basis throughout the education system and youth services.
40. Anti-racism training should be provided for all education providers at all levels.
41. The primary and secondary school curriculum should be re-constituted to reflect ethnic diversity in Ireland. This should be done in consultation with representatives of Black and minority ethnic groups. Schools should be required to incorporate intercultural strategies in their school plans to ensure a whole school approach to interculturalism. Mechanisms should be put in place to ensure the guidelines on intercultural education and on Traveller education are implemented.
42. Access to third level education grants should be the same for all foreign nationals legally resident in Ireland as it is for Irish citizens.
43. The National Traveller Education Strategy needs to be published and implemented.
44. Section 19 of the Intoxicating Liquor Act 2003 should be repealed.

45. The Government should put in place a strategy to ensure proper access of asylum seekers to essential services, particularly in the areas of legal assistance, health and education.

#### Article Six

1. Immigration legislation should be reviewed, in light of a comprehensive immigration policy, to ensure the rights and entitlements of migrants in line with the Convention.
2. Section 9(4) of the Immigration Act, 2004 should be repealed.
3. An independent Immigration Tribunal should be set up.
4. The asylum determination process should be reformed to ensure transparency and independent scrutiny.
5. The Refugee Advisory Board should be set up immediately.

#### Article Seven

1. The Government should publicly acknowledge that there is a growing problem of racial discrimination in Ireland.
2. The Programme for Government of this and future Governments should contain a specific commitment to avoiding actions and policies which may serve to exacerbate racial tensions.