

The logo for Traveller Solidarity Alliance features a large, light grey circle on the left and a teal-colored wheel with spokes on the right. The text 'Traveller Solidarity Alliance' is centered over the intersection of these two shapes.

Traveller Solidarity Alliance

Shadow Report submitted in response
to Ireland's Joint 5th to 9th Periodic
Report to the United Nations
Committee on the International
Convention on the Elimination of All
Forms of Racial Discrimination.

Dr Anna Hoare
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Traveller Solidarity Alliance

Voicing issues, encouraging debate, enabling challenge

Traveller Solidarity Alliance is a dedicated platform for the voices of all who are committed to equality, justice, human rights and cultural recognition for Gypsies and Travellers.

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Shadow Report submitted in response to Ireland's joint 5th to 9th Periodic Report to the UN Committee on The International Convention on the Elimination of All Forms of Racial Discrimination.¹

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Abstract

This shadow report is submitted in response to Ireland's 5th to 9th Periodic Report to the UN Committee (UNCERD) in 2018, the submission of which by Ireland is welcomed.

The report concerns inequality in Travellers' access to standard social housing (dwellings) that arises from Ireland's housing and equality legislation. Second, it addresses the wider implications of this inequality. Local quota systems for Travellers and "reserved" or "designated Traveller houses" on housing estates may encourage unofficial enforcement or deterrence, in the form of threats or attacks against Travellers and their homes. Rationing and segregation foster a perception that housing is a concession rather than a right for Travellers, and that Travellers are less entitled to housing than non-Travellers.

Under the *Equal Status Act 2000*, and the *Housing (Miscellaneous Provisions) Act 2009*, Travellers, and no other ethnic group, are identified as a class of household to whom a locally devised housing allocation system can be applied. The *Equal Status Acts 2000-2015* afford an exemption to housing authorities in respect of equal treatment of Travellers. The legislation requires housing authorities to set quotas of houses and to set aside "reserved houses" for designated "classes" of household which include Travellers. This allows authorities to house Travellers in particular housing estates and not others, for example, in certain streets, or even specific houses, known as "designated Traveller houses". The use of these provisions to segregate and ration housing to Travellers on the basis of ethnicity, regardless of any other characteristics or needs, reflects long-established practices, which are wholly incompatible with Ireland's commitment to equality.

The report cites case study examples of practices that are permitted under the legislation, and of their discriminatory and isolating effects. Furthermore, the targeting of dwellings intended for, or allocated to Traveller families has been regularly reported in the press, and the report contends that laws that permit segregation and ethnic quotas are a principle underlying cause of the threat of victimisation and vandalism.

The report submits that the exemption of housing authorities from providing equal treatment to Travellers under the *Equal Status Act 2000* is incompatible with CERD Articles 2, 4 and 5, and with the *Irish Human Rights and Equality Commission Act 2014*, which places a duty on public bodies to eliminate discrimination. The report urges the Government of Ireland to (i) rescind all provisions relating to the classification of Travellers in social housing allocation schemes, and (ii) rescind the exemption of housing authorities from affording equal treatment to Travellers with regard to standard housing.

The proposed reforms do not impact on Travellers' rights to choose culturally appropriate housing in the form of sites or group housing schemes under the specific provisions of the *Housing (Traveller Accommodation) Act 1998*. However, the constraints Travellers face against exercising this choice in practice, and the lack of determination by housing authorities to provide such accommodation for Travellers, have been widely documented.

¹ The author wishes to acknowledge the contributions made to the research on which this report is based by Travellers, Traveller representatives, activists, local advocates, council officers and councillors, and to thank everyone who assisted with the research.

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Endorsements

Traveller Solidarity Alliance wishes to thank the following individuals and organizations who have endorsed the content of this report:

Bridget Casey, Manager, CENA Culturally Appropriate Homes

Margaret Casey, Tipperary Rural Travellers Project

Dr Hannagh McGinley, NUI Galway

Senator David Norris

Northside Travellers Support Group, TravAct, Dublin

Anne Marie Quilligan, Limerick Institute of Technology

Bernard Sweeney, Managing Director, TraVision Media Group

1. International Convention on the Elimination of All Forms of Racial Discrimination

Relevant Articles

Article 2

(a) Each State Party undertakes to engage in no act or practice of racial discrimination against persons, groups of persons or institutions and to ensure that all public authorities and public institutions, national and local, shall act in conformity with this obligation;

(c) Each State Party shall take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists.

Article 4

State parties:

(a) Shall declare an offence punishable by law all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, as well as all acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin.

(c) Shall not permit public authorities or public institutions, national or local, to promote or incite racial discrimination.

Article 5

States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights:

(iii) The right to housing.

2. Relevant legislation

Cited below are those sections of the relevant legislation that have the effect of perpetuating discrimination against Travellers with regard to access to standard local authority dwellings, and dwellings provided by Approved Housing Bodies based on local authority nominations.

2.1 Equal Status Act 2000

Section (6) of the **Equal Status Act 2000** provides an exemption to housing authorities to allow “different treatment” of certain ‘classes’ of household including Travellers with regard to the provision of housing:

“(6) Nothing in subsection (1) shall be construed as prohibiting—

(a) a housing authority, pursuant to its functions under the Housing Acts, 1966 to 1998, from providing, in relation to housing accommodation, different treatment to persons based on family size, family status, marital status, disability, age or membership of the Traveller community.”

2.2 Housing (Miscellaneous Provisions) Act 2009, Section 22 (5)

Section 22 (5) requires a housing authority to make an “allocation scheme”, determining the order of priority of specified “classes” of household.

“a housing authority shall make provision in its allocation scheme for the proportion of dwellings in any part or parts of its administrative area which may be reserved for all or any of the following purposes:

(a) allocation to particular classes of household;

The “particular classes of households” in 22 (5) (a) are those to whom “different treatment” may be given, whose characteristics are cited in the **Equal Status Act 2000** (see above), and include “membership of the Traveller community”.

3. The Traveller classification

3.1 The term “Traveller” in the legislation cited above – as, for example, “*membership of the Traveller community*” - is not defined in the legislation in question, except in the contextual implication that *all* Travellers are held to constitute a “class”. It must therefore be understood as a conventional or colloquial use of the designation “Traveller”.

3.2 In that sense, its effect in law is wholly different from that of the term “traveller” (sic) as defined in the **Housing (Traveller Accommodation) Act 1998**, where the definition is linked explicitly to a “*specific accommodation requirement*”: that of a site for a caravan. The definition of the 1998 Act S2(1) is : -

(i) “traveller” means a person to whom section 13 of the Act of 1988 (as amended by this Act) applies.”

Where an applicant seeks accommodation that is culturally appropriate to a nomadic, or formerly nomadic, way of life, the meaning of “Traveller” in the 1998 Act is linked specifically to the “provision of sites for caravans”, as set out in section 13 of the **Housing Act 1988 (updated to 12 March 2019)**.

The relevant sections are cited below.

3.3 The powers of Housing Authorities to provide social housing under the **Housing Act 1988 (updated to 12 March 2019)** may include providing standard local authority housing and also the provision of sites for caravans.

The **Housing Act 1988 (updated to March 2019)** states at section 13 (1): -

“Provision of sites for caravans”

13.-1 “This section applies to persons belonging to the class of persons who traditionally pursue or have pursued a nomadic way of life.”

To summarise, the term “traveller” (sic) in the **Housing (Traveller Accommodation) Act S2 (1)** here means someone who has a specific accommodation need or requirement that arises in relation to a nomadic way of life, or a former nomadic way of life, as provided for under section 13 of the 1988 Act: the “provision of sites for caravans”.

4. Discussion

4.1 Where an applicant to a Housing Authority (i) seeks caravan site accommodation and (ii) presents herself or himself as someone who has “traditionally pursued a nomadic way of life”, then being classified as a “Traveller” can be understood as referring to a “specific accommodation requirement”.

This is the clear meaning of the **Social Housing Assessment Regulations 2011 (S.I. no 84/2011)** Part 6: -

“Considerations relating to Provision of Social Housing Support”.

24. For the purposes of determining the form of social housing support appropriate for a qualified household, a housing authority of application shall, in its record of qualified households—

(b) classify any specific accommodation requirements of the household by reference to whether one, or more than one household member—

(ii) is a traveller within the meaning of section 2 of the Housing (Traveller Accommodation) Act (No. 33 of 1998).”

(bold type added)

The “traveller” (sic) classification here is thus tied specifically to the meaning given in the **Housing Act 1988**, in relation to the “provision of sites for caravans” (see section 3).

In short, it concerns a “specific accommodation requirement” which the Act allows for, and which the applicant who has “traditionally pursued a nomadic way of life” is entitled to seek.

4.2 To summarise, the ‘classification’ of Travellers permitted by the **Equal Status Act 2000** and the **Housing (Miscellaneous Provisions) Act 2009** is wholly different from that described by the **Social Housing Assessment Regulations 2011** and the **Housing (Traveller Accommodation Act) 1998**, where it refers to Travellers’ rights to seek caravan site accommodation under the Acts, as persons of who have “*traditionally pursued a nomadic way of life*”.

The “Traveller” classification of the **Equal Status Act 2000** and the **Housing (Miscellaneous Provisions) Act 2009, Section 22** does not relate or refer to a “specific accommodation requirement”. Rather, it classifies *all* Travellers as belonging to a “class of household” who may be treated differently from non-Travellers with regard to housing, irrespective of what kind of housing. Moreover, the **Housing (Miscellaneous Provisions) Act 2009** makes it clear that Traveller households are to be included in the allocation bands of Housing Allocation Schemes applied to standard housing, on the basis of ethnicity alone.

5. Duty to eliminate discrimination

5.1 The **Irish Human Rights and Equality Commission Act 2014** s.42 has introduced a new duty on public bodies:

42. (1) A public body shall, in the performance of its functions, have regard to the need to—
(a) eliminate discrimination,
(b) promote equality of opportunity and treatment of its staff and the persons to whom it provides services, and
(c) protect the human rights of its members, staff and the persons to whom it provides services.

It is submitted that this welcome addition of a public sector duty to have regard to the need to eliminate discrimination can only be meaningful if the classification of Travellers which permits “different treatment” under housing regulations and equality law in respect of standard housing, and the exemption of housing authorities from affording equal treatment to Travellers, are rescinded. Similarly, all national and local policy provisions, including unpublished quotas and systems of spatial segregation that disadvantage Travellers in relation to equal access and eligibility for standard housing must be rescinded.

These practices are incompatible with equal treatment in the provision of services and the need to eliminate discrimination as set out in the **Irish Human Rights and Equality Commission Act 2014**, and cannot be shown to serve any legitimate function with regard to equality of opportunity or housing policy. The Traveller classification however, can be used to restrict or deny Travellers access to housing that they would be entitled to if they were non-Travellers.

5.2 It is submitted that the Traveller “classification” in the **Equal Status Act 2000** and **Housing (Miscellaneous Provisions) Act 2009** is an anomaly. Traveller families require different forms of accommodation and living arrangements, which for some include standard housing. All the same material housing needs and pressures (overcrowding, unfit conditions, disability & health impacts, etc.) variously affect both Travellers and non-Travellers. These factors are accounted for in housing application assessments and allocation schemes. There is no justifiable reason why ethnicity should operate as a separate determinant for different treatment with regard to standard housing.

We ask, would it be acceptable if any other ethnic group were subject to classification permitting “different treatment” in relation to housing on the basis of ethnicity? If, for example, housing authorities were exempt from affording equal treatment to housing applicants classified as “black”? Or if quota systems were applied to black housing applicants? Or if social housing arrangements restricted families of colour to certain estates or streets and not others, or to “designated” or “reserved” houses on an estate? We have no doubt that if such practices were applied to families of colour, they would command universal condemnation as self-evidently racist. Yet these are the practical, and presumably, the intentional effects of the legislation cited above as it affects Travellers.

6. Case studies

The following case studies, drawn from different parts of Ireland, illustrate the operations, and some of the consequences, of these laws and policies. Only first names have been used, and these have been substituted in the interests of confidentiality.

6.1 Harriet grew up in a house with her parents and siblings. She describes herself as a Traveller, but never lived in a caravan. After Harriet’s marriage to John, and when the birth of their first baby was expected, the couple applied to the council for accommodation- they wanted a flat or a house. Harriet was told they must move into an Emergency Site for Travellers in order to register for accommodation, and that the waiting time for a flat or house was four years. The family lived in a caravan in the Emergency Site for four years, where ancillary bathroom and kitchen facilities were provided in uninsulated, windowless shipping containers. Their second child was born. No offer of housing was made to the family. Harriet suffered from depression. After four years the family’s wait was extended and they were sent to a second Emergency Site to live in similar conditions. Harriet feared the effects of the Emergency Site on her children as they grew older, surrounded by wire fencing, security guards and surveillance cameras. At that time, after six years of living in Emergency Sites, Harriet’s parents pointed out vacant houses across the same estate where Harriet had grown up; some had been empty for up to six months. However, none of these houses was offered to Harriet and John and their children because they were not designated “Traveller houses”.

6.2 Thomas and Maxine had five children when they were offered a house on a local authority housing estate. The house they were offered was known as the “designated Traveller house” by local residents. It was the only one on the estate. After collecting the keys they found the house dirty and dilapidated. Pipes had leaked in the bathroom, bringing part of the ceiling below down. While the house lay empty local people had thrown rubbish, excrement, and the body of a dead dog into the back yard. Shocked by the condition of the house and fearful of the hostility of the neighbourhood the family immediately tried to return the keys. However, they were told that this was the only offer the council could make, because it was the only “designated Traveller house” available. They were forced to take up residence. Because the house was too small for the family, some of Thomas and Maxine’s children had to sleep in a trailer on a patch of grass outside the house, increasing their sense of vulnerability.

6.3 In one particular local authority estate, Travellers were only housed in certain houses at the ends of streets. This resulted in one, or at most two, Traveller families per street. This allocation system meant that local, settled residents knew how many Travellers were officially “supposed” to be housed in the estate and which houses they could occupy, and could take steps to enforce the perceived rules of the quota system, if so inclined. The

restriction of Traveller households to one, or at most two, per street was regarded as a legitimate concession to non-Traveller residents, who thus retained strong numerical dominance over their Traveller neighbours. On one occasion, the local authority tried to house a Traveller family made homeless by fire in a house that was not “reserved” for Travellers. This resulted in demonstrations by local people in defence of the quota and segregation system, until the offer of the intended house was withdrawn.

6.4 A County Council published its quota of standard housing for Travellers under the Housing Allocation Scheme in its Traveller Accommodation Plan, stating: “The Council will generally endeavour to accommodate a minimum of one traveller family in a grouping of ten housing units”. Another County Council published a similar allocation policy: “a minimum of one in eight houses in new Social Housing Schemes over eleven units in size, and one in five units in new Social Housing Schemes of up to ten units will be allocated to Traveller families”. According to local Travellers, the quoted proportion was not a “minimum” number, but an actual ratio of one Traveller family per ten houses, or one per eight houses, and this allocation was never exceeded.

6.5 Mary-Ann returned from England after her marriage broke down, and was living with her daughter in a trailer beside the road in a town where she had relatives. She went to the Housing Office to apply for accommodation. She stated: “They asked me if I was a Traveller. I said ‘No, I was settled. I was married to a Traveller but the marriage broke down.’ They said to me, ‘In that case we can offer you a house on XXXXX estate. We couldn’t offer you that house if you were a Traveller’.”

6.6 A house newly purchased by a County Council became the target of a public campaign by a local councillor who condemned the fact that it was to be allocated to a Traveller family. It was reported in the press that he advocated creating “an isolated community of them” and said “You wouldn’t want it beside you nor I wouldn’t want it beside me.” Within a short time of publicly predicting that the house would be “wrecked”, the house, which had yet to be occupied, was destroyed in a suspected arson attack.

6.7 A County Council voted in favour of a five year Traveller Accommodation Plan which listed new sites to be developed. A politician seeking election circulated a leaflet as part of her election campaign, describing the T.A.P. proposals as “very concerning for local residents living in the surrounding areas”. The leaflet, entitled “A waste of valuable resources”, stated: “It is time the council and its members realise it is your money they are spending and they must be held accountable.”

7. Conclusion

The legislation that permits “designating” particular houses, and setting quotas for Travellers as a “class” exempt from equal treatment allows rationing, discriminatory housing allocation, and segregation to continue according to local norms which may be deeply entrenched. As the examples indicate, these practices contribute to an intimidating climate for Traveller households in many housing estates. Some residents, with the encouragement or connivance of particular local politicians, evidently consider they have a right of veto over housing offers to Traveller families, particularly if offers are considered to breach an established local system, as well as a right of veto over proposals for new sites or group housing. Public statements by certain politicians imply that all forms of accommodation-houses, sites or group homes - are an especially costly and deeply resented concession by the settled majority to which Travellers have no expectation of rights at all.

The operation of the **Housing (Traveller Accommodation) Act 1998**, which requires consultation with local settled populations with regard to Traveller Accommodation Plans has

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been blighted for the same reasons. Consultation is too often seen as a right of veto by the majority, and inflammatory campaigning by local politicians against proposed sites for political gain is a time-worn, divisive technique that employs practices similar to those used to force councils to retract offers of houses to qualified Traveller households in need of housing.

As long ago as 1983, the *Report of the Travelling People Review Body* found it necessary to reiterate that Travellers “are individuals who are of Irish origin and have the same rights as other citizens of the state. The stereotyped traveller [sic] is no more a reality than the stereotyped stage Irishman.” The Report stated that “members of the Review Body are aware of many instances of bias against travellers [sic] in the allocation of tenancies of local authority houses.” (4.7)

We submit that the classification of Travellers as a “class of household” irrespective of specific housing needs in Housing Allocation Schemes; the exemption of housing authorities from affording Travellers equal treatment; and the use of rationing and “designated Traveller houses”, reflect attitudes from a time in Ireland’s history when internal segregation and explicit hierarchy were considered acceptable by the majority. In the 1950s and ‘60s, for example, condemned houses were sometimes given to Travellers to live in, because they were considered unfit for habitation.

Ethnic rationing, segregation and hierarchy have no more place in contemporary Ireland than giving people condemned houses to live in. These legally sanctioned norms and the violence and intimidation to which they give rise - including the manipulation of local housing policies in order to segregate or exclude Travellers - are incompatible with Ireland’s commitments under the **International Convention for the Elimination of Racial Discrimination**, and, we submit, in breach of Articles 2, 4, and 5.

This report therefore urges the Government of Ireland to rescind all legal provisions that permit ethnic classification and different treatment with regard to the allocation of standard social housing to Travellers. We further urge the Government to fully implement Article 4 without reservation, and actively to condemn and prohibit by law the incitement of hatred against racial and ethnic minorities, and the promotion and incitement of discrimination by public bodies and private individuals.

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