

Executive Summary

of the CERD Alternative Civil Society Report
for Ireland 2019



In the aim of full implementation of ICERD, this Alternative Report provides the Committee information on the situation and concerns of civil society in Ireland. During 2019, the Irish Network Against Racism (INAR) carried out consultations across Ireland, including formal submissions from NGOs, experts and members of the public, as well as public consultations in Dublin, Cork, Limerick and Galway. A full list of contributing organisations is at the end of the report.

Protections against Racism: Articles 2, 4 and 6

With recent surveys showing that positive attitudes in Ireland to immigration in Ireland are now lower than the Western European average, it is essential that the State demonstrates leadership in the fight against racism. There is a need for a more robust human rights structure around racism, to include a renewed and inclusive **National Action Plan Against Racism**, an independent agency with powers to oversee State action in this area and address racism through discrimination recording functions, publication of key statistics, training and coordination of high profile campaigns and events to address racism. The Migrant Integration Strategy published by Government in 2017 is welcome, but does not go far enough on anti-racism, and ignores the maturity of Ireland as a diverse society and our indigenous ethnic minority- Irish Travellers.

The establishment of the **Irish Human Rights and Equality Commission** in 2014 has provided a strong voice on equality and there is much potential for development of its role in holding public authorities to account for discrimination in policy and practice, as well as support of civil society in seeking justice. Human rights training is needed across the public sector, and it should be introduced with an effective approach to embedding the **Public Sector Equality and Human Rights Duty**. The Public Sector duty should be a core consideration in the work undertaken by all Government bodies and agencies in respect of the matters raised in this report. Enforcement of the Duty may be carried out by a number of bodies, but must be in place to give it adequate standing in policy and practice, and increase the trust of the public in its function.

Additional new legislation since 2011 includes the Criminal Justice (Female Genital Mutilation) Act 2012 and International Protection Act 2015. Access to the labour market was established (in limited circumstances) through the transposition of the 2018 EU Reception Conditions Directive into Irish law. We look forward to publication of the **review of the Incitement to Hatred Act 1989** by Government which was promised in 2011 as well as in earlier human rights hearings. The Direct Provision (DP) system for supporting International Protection applicants also remains largely without a legislative footing, and continues to be expanded, 19 years after its establishment as a temporary measure. New legislation is urgently needed to address hate crime and online hate speech, as well as to formally recognise *Traveller*¹ ethnicity in law. Preventive and concerted action, as outlined by the **Durban Declaration and Programme of Action**, is necessary to ensure that

1 *Irish Travellers* are an indigenous nomadic ethnic minority.

racism is tackled in every aspect of Irish society, and that there is a strong anti-racist basis for interculturalism.

There is now compelling evidence for the State to withdraw its **reservation on Article 4**, which requires states parties to outlaw incitement to racial discrimination or violence, or the propagation of ideas of racial superiority, and to prohibit organisations that promote or incite discrimination. There are two key concerns: (1) The spreading of prejudice and stereotypes about refugees and asylum seekers among the general public, particularly young people, through websites and social media, as well as increased attacks through e-mails or on social networks on people who defend the rights of minorities, including activists from non-governmental organisations; and (2) The increase in expression of anti-refugee, anti-Traveller and anti-Roma sentiment, which is openly supported by some politicians, including members of parliament, as well as the increase in racially motivated violence against African and Muslim communities. The increase in **online hate speech** in Ireland is a cause for deep concern. Hate speech is not prohibited in Ireland. The State must take responsibility for addressing online hate speech in Ireland.

Key issues in Ireland today

The recognition of **Traveller ethnicity** by the Irish State on 1 March 2017 was momentous and provides a key opportunity for a changed relationship between Travellers and the State. Policies and practices which force assimilation are increasingly understood as problematic, and there is growing understanding of Traveller history and culture. Nonetheless there are extremely serious failures in housing, education and health provision for Travellers. Increased efforts to ensure participation in public life and resourcing of the supports identified by the State as essential will create a significant impact if effected.

Ireland has yet to standardise **ethnic data collection practices** and incorporate an ethnic identifier across all routine administrative systems, causing challenges for policymakers in assessing equality issues. Disaggregated data is needed on education, health and employment outcomes as well as crime.

The position of ethnic minority and migrant **women** must be understood particularly in respect of labour market participation, discrimination in healthcare, and access to safety and services for victims of domestic violence. Gender and equality proofing should be built into policy processes from design stage.

The **International Decade for People of African Descent** provides an opportunity to examine significant concerns about the levels and severity of racist violence against people of African origin, as well as concerns about discrimination in policing, public services, education, employment and health. The ability to self-identify and the right to expression of identity, as well as the right to safety and protection from racism, are also highlighted by the position of **'Mixed Race'** survivors of Ireland's industrial schools and Mother and Baby Homes, to whom birth and adoption records (including birth names), and adequate recognition of the institutional racism, and torture, they experienced continues to be denied.

Ireland is almost alone in Europe in its **lack of Hate Crime legislation**, and leadership is needed to introduce the standards of recording, investigation and prosecution, as well as victim support, to bring Ireland into line with international good practice. Legislation is needed to increase confidence of victims and their communities in the criminal justice system. Information must be made public on training, guidance and recorded incidents.

Racial profiling by An Garda Síochána must be prohibited immediately, in line with previous CERD and ECRI recommendations, and guidance provided for identification stops, immigration checks and child protection. Victims concerned about their migration status must be able to safely report hate crimes.

Applicants for **International Protection** have benefited from some improvements introduced with the International Protection Act 2015, but key issues warrant attention, including access to legal aid, housing in Direct Provision, length of claims, and access to interpreters. Decision time limits are necessary as well as assessments for vulnerability and need of special procedural guarantees. There are inadequate supports for **unaccompanied children** both in foster care and aged out minors in Direct Provision.

There are some improvements in the **system of 'Direct Provision' (DP)** for asylum seekers since the UN CERD's last review, but the extensive use of 'emergency accommodation' has made those unavailable to a significant number. The range of rights which cannot be exercised makes the system not fit for purpose, including the right to security of person and protection from violence or bodily harm, and the suitability of the system to adequately ensure access to services and support integration. We call on the State to close down the current system of Direct Provision and replace it with a regulated, planned humane asylum system which focuses on integrating asylum seekers into society.

Family reunification is restricted severely by Irish immigration legislation, which discriminates on the basis of income and gives inadequate recognition to reunification needs of international protection applicants.

Child protection is an area where racial stereotypes come into play in ways that deeply affect family life. Ethnic minority children are disproportionately represented in the child protection system. Improvements in social work and policing responses to child protection must be based on appropriate guidance and evidence, and equality proofing of policies.

The effects of the 2004 constitutional referendum on citizenship have now become apparent, with threatened deportation of children born in Ireland and precarious access to services for **Irish-born children without citizenship**. These have prompted a change of attitudes amongst the Irish public which warrant a review of the present law and advice available to children in this position.

The **current housing crisis** in Ireland creates enormous challenges for vulnerable migrant and minority communities who experience discrimination in accessing private sector housing, and often experience poorer housing conditions and overcrowding. Travellers are particularly in need of safe and appropriate accommodation, experiencing the failure of local authorities to spend allocated Traveller accommodation budgets.

Discrimination in the public sector is highest in **healthcare**, but access to health is crucial for marginalised groups. It is essential that the State ensures immediate and adequate access to primary care, sexual and reproductive health care and mental health services, which are culturally and linguistically competent and adequately resourced, and addresses the issues of discrimination in access and treatment as well as differential outcomes.

Although **employment discrimination** is outlawed by Irish equality legislation, it remains a persistent feature of the labour market. Ireland continues to operate a guest worker model with few rights enshrined in law. Migrant workers (particularly women and the undocumented) are over-represented in low paid and precarious sectors of the labour market. As part of a new National Action Plan against Racism, the State should introduce targeted measures to strengthen access to the labour market to address discrimination

and progression, as well as measures to address exploitation. There are positive measures being undertaken in recruitment to public bodies.

The **education** policy of successive governments to promote plurality of patronage in schools in Ireland has resulted in the segregation of children along religious, ethnic and nationality lines. Minorities are concentrated in a small number of schools which are enormously diverse in ethnicity, nationality, language and cultures. There are low numbers of ethnic minority teachers. Equal access and employment in the education system requires guarantees of the right to Freedom of Conscience, religion and belief.

