Irish Traveller Movement Report

In response to Ireland's third examination under the International Covenant on Economic Social and Cultural Rights

(September 2014)

The Irish Traveller Movement is a national membership organisation representing Travellers and Traveller organisations across Ireland founded in 1990. One of its core principles and objectives is to challenge the racism that Travellers face in Ireland, promoting integration and equality within Irish society. It is thus with over 23 years of experience of policy analysis that we report to the Examination of Ireland under the International Covenant on Economic Social and Cultural Rights.

The position of Travellers in Irish society

The position of Travellers and the human rights violations they are subject, is highlighted consistently by international and Irish human rights bodies. Travellers face particular obstacles to the enjoyment of their human rights and across a broad range of social indicators Travellers fare poorly compared to the settled majority.

Endemic individual and institutional racism experienced by Travellers is reflected in their outcomes in terms of unemployment, health inequality, low educational attainment, poor and inadequate living conditions. Travellers' experience of access to relationships of care, respect and solidarity with the wider society are often characterized by tension, disrespect and abuse.

Travellers who benefitted less from years of economic success have been disproportionately impacted as a result of austerity imposed following Ireland's economic collapse. Research carried out by Brian Harvey for Pavee Point in 2013,[1] called 'Travelling with Austerity - Community Development & Impacts of Cuts on Travellers', identified that between the years 2008 and 2013, the following cuts were imposed on the Traveller sector:

Programmes for Travellers

Interagency activities -100%

Traveller education -86.6%

Traveller accommodation -85%

Equality -76.3%

National Traveller organisations -63.6%

FAS Special Initiative for Travellers -50%

National Traveller Partnership -32.1%

Traveller SPY youth projects -29.8%

Health -5.4%

[1] Harvey B., 2013, Travelling with Austerity. Report by Pavee Point retrieved from http://www.paveepoint.ie/tempsite3/wp-content/uploads/2013/10/Travelling-with-Austerity_Pavee-Point-2013.pdf (accessed 17 June 2014)

Programmes and funding lines of importance to Travellers

Equality and rights agencies -69%

Local & Community Development Programme -42.3%

Initiatives against drugs -32.5%

These cuts have had devastating effect on services and supports to the Traveller community and have no doubt further marginalized a community already socially, economically and culturally excluded in Ireland.

Education and Skills

While some progress had been made in Education in recent years, almost all Traveller-specific educational supports have now been withdrawn[2] and the Traveller-specific education budget has been cut by 87%.[3] A significant gap exists between the participation and attainment of Traveller children as compared with their settled counterparts. Although there are over 8,000 Travellers in mainstream education, the statistics provided by the Census of 2011 demonstrate some startling comparisons;

- Only 3% of Travellers continued their education past 18 compared with 41% of the settled population
- 17% of Travellers have no formal education compared to 1.4% of the majority population

The Irish Traveller Movement Independent Law Centre is involved in a case presently awaiting a decision in the Supreme Court challenging the use of the parent rule in school enrolment policies. These proceedings raise significant issues of law in relation to a school's admission policy insofar as it favours children who can demonstrate a particular pedigree. Under the admissions policy at issue, children whose fathers have not attended the school are treated less favourably than children whose fathers have. Although this issue arises in the specific context of a child who is a member of the Traveller community where the level of educational attainment historically is accepted to be considerably lower than in the population as a whole thereby making it far less likely that the child can satisfy the pedigree based criterion that his father have attended the school, such a pedigree based criterion in an admissions policy raises issues of far more general concern impacting also, for example, on members of the newly established immigrant community where there may not necessarily be the same historic educational disadvantage.

[2] http://www.irishtimes.com/news/social-affairs/secondary-schools-failing-traveller-children-pavee-point-claims-1.1474882

[3] See concerns raised by ITM in 2011 submission http://itmtrav.ie/uploads/publication/ITM_Position_Paper_Traveller_Education_Cuts.pdf

Draft legislation following this case being taken introducing a curtailment of the parent rule in schools was given a qualified welcome by the Irish Traveller Movement in its submission to the Joint Oireachtas Committee on Education[4] it was stated

"The ITM commends the Minister on some elements of the Bill but we submit it has not gone far enough and that further research is required to determine exactly what the practical effect would be of the proposed changes on the most marginalised children in Irish society, including Travellers."

State Report Paras 417 & 444 - 448

Senior Traveller Training Centres

While the Irish Traveller Movement recognised that the Senior Traveller Trainings Centres (STTCs) needed to be reviewed to establish the best outcomes for adult Traveller learners, there were concerns about how the rapid closure of centres would impact on older Travellers.

As part of the so-called integration, the Department never clarified how Travellers were to be targeted for the Back to Education Initiative (BTEI) places, what resources were put into place into ensuring that BTEI courses and trainers had the capacity to positively promote diversity and inclusion within BTEI programme, or how these places were actually to be prioritised for Travellers. Indeed no data has been made available to ascertain how successful this has been in ensuring that Travellers who previously accessed STTCs had been in securing BTEI places. BTEI guidelines reportedly specify that in order to receive an allowance on BTEI you must qualify for Youthreach, which makes it inaccessible to older Travellers, many of whom traditionally accessed the STTCs.

Travellers in education

Report and Recommendations for a Traveller Education Strategy (2006)

Traveller organisations, including the Irish Traveller Movement, committed extensive resources into ensuring that the genuine concerns of Traveller parents and learners were to the forefront of this document; however, from its initial launch in 2006 progress has been almost non-existent. The initial failure of the document can be garnered from its title: "*Report and Recommendations* for a Traveller Education Strategy" (emphasis added). Traveller groups were under the impression that the investment in time would lead to a clear document/strategy that would map out short, medium and long-term goals which would be led up by the Department of Education (with the participation of key stakeholders) who would report back to the Advisory Committee on Traveller Education.

With the process for the Traveller Education Strategy ending in 2005 and a considerable delay in publishing the Report (almost 11 months later), Traveller groups were informed that the document now could only be a series of Recommendations as the Minister and the Department would ultimately determine the future of Traveller education. This change in the import of the Report undermined its import from delivering fundamental reform in relation to

[4] http://itmtrav.ie/uploads/publication/ITM_Submission_to_Joint_Oireachtas_Committee_on_Education.pdf

Traveller education, developed in partnership with Traveller groups on the basis of extensive consultation with Travellers across the country into a series of aspirations that may or may not be enacted, based solely on the whims of the Minister of Education and senior departmental officials.

Not only was the document that was delivered considerably less than was originally planned for but the Advisory Committee on Traveller Education (ACTE) was promptly disbanded, with no reporting mechanism in existence in relation to the report and recommendations for a Traveller Education Strategy until 2009 and only on the foot of extensive lobbying of Traveller organisations.

Information on what progress, if any, has been made in relation to the Traveller Education strategy has been piecemeal and indeed the only real tangible outcomes has been to remove 86.6% of the Traveller Education budget (€76.5m to €10.2m) under the rubric of "inclusion" while failing to resource any changes in other areas. Indeed the recurring mantra from the Department has been that "inclusion" has and is working (with no data to prove or disprove this) while at the same time baulking at providing any resources that might promote inclusion within the Irish Education system for Travellers.

It is quite clear that the draconian removal of these resources has little (if anything) to do with a well thought out approach about how to genuinely ensure inclusion for Travellers in the education system. These cuts were only once openly attributed by the Department to 'savings required under the National Recovery Plan', itemizing a specific example of the contribution of the Traveller community for debts incurred by the elite during the banking excesses during the Celtic Tiger.

While the Irish Traveller Movement long campaigned for inclusion in education, with resources allocated based on educational need and not ethnic identity, we were highly critical of the instantaneous removal of supports for Traveller children in primary and post-primary education. The official mantra in relation to these draconian cuts was that they were done in the name of "inclusion" as per the Report and Recommendations for a Traveller Education Strategy.

The removal of the Visiting Teacher Service for Travellers (VTST) in 2011 of a system whereby 40 positions created and maintained links between Traveller families and schools saved the State €2.4m. The VTST was the primary source for gathering information on Traveller access and participation in education. With the removal of this system, the Department no longer has any mechanism to ascertain what levels Travellers are participating within the education system, and more worryingly, what impact the severe cuts to Traveller supports are having on Travellers' educational experience.

The VTST was the primary link between schools and families. With its sudden removal, some families who had tenuous links with their schools were left with no direct link or information on how to access book loans and grant schemes. They also played a crucial role in supporting families without experience of post-primary education to ease the transition to a new school environment.

The VTST frequently supported parents to ensure that schools enrolled Traveller students, often through the means of a Section 29 appeal under the Education Act 1998 (ie. an appeal

of a school's decision to refuse to enrol a Traveller child). Without that support, the ITM is aware of Traveller children being refused access to the school of their choice without local supports to bring about an appeal.

In the absence of the VTST, a targeted support aiming to improve access for Travellers in education, our members, local Traveller groups are noting a decrease in Traveller participation in education, especially in relation to post-primary education. The advances in Traveller participation in post-primary, albeit slow progress, risks being undermined due to the dramatic cuts to Traveller specific resources

Higher education

Given that Traveller students tend not to identify their ethnicity at college, there are few ways of accurately ascertaining the number of Travellers in third level education. The VTST gathered the most reliable statistics on Travellers transferring after Leaving Certificate (final second level school examination) but in their absence, there is little way of collating how many Travellers are in third level. Anecdotal evidence suggests that the fall-off in Traveller participation in post primary has impacted on the small numbers that would transfer each year.

Interventions by higher education institutions specifically for Travellers are almost non-existent. A bursary is provided for Travellers at the Royal College of Surgeons encouraging Travellers to apply for courses available at the college has provided a proven working model that has as yet failed to be mainstreamed or adopted by other institutions despite the chronic need for such targeted measures to encourage Travellers to attend college at third level.

Since 2005 there have been no specific targeted funding streams for Travellers attending third level education, which is remarkable when their absence from Higher education is noted nationally and internationally, and even more so given that Travellers are one of the named targeted groups for Access programmes of the Higher Education Authority (HEA).

Given the relatively few numbers of Travellers engaged in Third level education, the provision of bursaries (fees, accommodation, transport etc.) would be a small financial cost to the Exchequer, yet would provide an immense boost to a community that has had little positive engagement from Higher Education institutions. The positive capital in terms of role models for younger Travellers would be immense and could provide a stimulus for younger Travellers to stay in education.

Third level education can be daunting for students, even more so for minority ethnic students. Given the small number of Travellers in higher education and the lack of historic participation of the community, it can be even more difficult. Some Travellers who do participate in Higher Education do so at the price of denial of their ethnicity. ITM as a membership organisation was aware of these challenges and created an innovative peer support space called Supporting Travellers in College (STIC) in order to have a space whereby Traveller learners could support and learn from each other. While funding was received from the HEA in relation to this initiative and was most welcome, it was a small amount that did not cover the staff support required and the budget did not provide adequate resources for travel costs to bring Travellers together from educational institutions from

across the country. This initiative ceased due to lack of funding to bring Travellers together and also as funding for the education worker in ITM, who had responsibility for facilitating this initiative was also lost.

Colleges of Education : Intercultural and Diversity Training

Prejudice and discrimination among teachers and a lack of understanding of Traveller cultural can create difficulties for Travellers in education.

Comprehensive training modules on equality and diversity which effectively challenge bias and prejudice and equip teachers to address discriminatory attitudes and behaviour must be included in initial teacher training courses.

If teachers are not aware of the unconscious prejudice and stereotypes that they carry and are not empowered with tools to allow them to reflect on these, it can result in negative outcomes for the young people in their classroom. The need for intercultural and equality training among education professionals has also be identified as a key area by the former National Educational Welfare Board (now Tusla).

Affirmative Action

There is a need for affirmative action to include Travellers in the delivery of education across all levels of education. Travellers should be encouraged and supported to pursue careers in education as teachers and teaching assistants at preschool, primary, post primary level and third level.

Having members of the Traveller community involved in the education system would have a multitude of benefits including: providing positive role models for young Travellers, challenging prejudice and stereotypes in the education system, building trust between Traveller parents and the education system and finally providing much needed employment for young Travellers.

Recommendation: Overarching Themes/Priorities with regard to Traveller Education are State recognition of Travellers as an ethnic minority, the introduction of an ethnic identifier across all levels of education, the development of an implementation plan for the Report and Recommendations for a Traveller Education Strategy, with measurable actions, outcomes and committed resource, Intercultural and Diversity Training, and Affirmative Action measures

Traveller Ethnicity

State Report Para 478 References CERD/C/IRL/3-4, paragraphs 8-11

Ethnicity denial of Travellers in the Irish State remains since written and oral concerns noted at the time of the last report "*the continued failure of the Government to recognise Traveller ethnicity"*.

There is no legal recognition of Travellers' distinct culture as defined by ethnicity acknowledgement, a measure which would offer more adequate protection, address Travellers' right to self-identify and protect against political whim unfairly affecting their right to full domestic and international legal protection.

Travellers satisfy the standard legal and sociological criteria for recognition as an ethnic group[5]. Domestically, the Irish Human Rights Commission and Equality Authority have both recommended that the Government recognise Traveller ethnicity.[6] The British and Northern Irish authorities have recognised Travellers as an ethnic group, separate from non-Traveller Irish people. The State's denial is therefore contrary to the *equivalent* human rights protections guaranteed under the Good Friday Agreement – and means that a Traveller in Northern Ireland is a member of an ethnic group whereas a Traveller residing ten miles across the border in the Republic of Ireland - is not.

The Irish government has failed to provide a comprehensive reason for continued refusal to grant ethnic status to Travellers and has never satisfied the burden of proof - to recognise their right to self – identify. International human rights bodies (UN CERD and Advisory Council on the Council of Europe Framework Convention on the Protection of National Minorities) have consistently reminded the Irish State of the application of the *principle of self-identification* in addressing requests of Irish Travellers to recognise their ethnicity.

In its defence the State has relied on justification for its position by stating that the Traveller Community is considered a separate ground for the purpose of equality legislation. However Travellers' protection under the international human rights framework and others is not guaranteed, nor comprehensively protected under the domestic legal framework.

Equality legislation which transposed the EU Race Directive applied all of the protections of the Directive across all of the nine grounds contained in the legislation, including the ground of membership of the Traveller community. The State contends that all of the protections afforded to ethnic minorities in EU directives and international conventions apply to Travellers because the Irish legislation giving effect to these international instruments explicitly protects Travellers."[7] However, the practical effect of the legislative protections has been found weak and subject to domestic political whim. For example, in 2003 the Irish Government weakened the practical effect of the Equal Status Act 2000 in a manner that had

[5] Mandla v Dowell Lee [1983] 2 A.C> 548, H.L.(E), O Leary v Allied Domecq (unreported 29 August 2000). See also reference papers at FN 2.
[6] http://www.ihrc.ie/download/pdf/traveller_ethnicity_recognition_january_2012.pdf
http://www.equality.ie/en/Publications/Policy-Publications/Traveller-Ethnicity.html
[7] Republic of Ireland (2012), Houses of the Oireachtas, Parliamentary Debates, (54485/12). 11 December 2012 Minister Alan Shatter responding to oral question posed by Dessie Ellis T.D.

a disproportionate effect on Travellers[8]. The venue for dealing with cases involving access to licensed premises (a flashpoint for discrimination against Travellers) was moved from the Equality Tribunal to the District Court, resulting in changes to the manner in which cases were dealt with including complainants being potentially liable to legal costs and cases being heard in public. This has had a serious effect on the number of cases taken by Travellers under the Act.

In the application of international human rights instruments and European Union Directives there is further ambiguity. For example, lack of recognition means that Travellers are not automatically covered under the EU Race Directive[9] the legal instrument where ethnicity is the material basis for legal protection, as the Irish Government is not automatically required to provide protection for Travellers under the domestic implementing legislation.

Meanwhile successive Irish Governments when responding to international requests have repeatedly submitted that Travellers are protected by the domestic provisions implementing the Race Directive and other anti-racism legislation. As Travellers are not recognised as an ethnic group, where issues of interpretation of the Equal Status Acts arise and where guidance from CJEU jurisprudence under the Race Directive is necessary, Travellers may not be in a position to rely upon CJEU jurisprudence under the Directive to interpret the Equal Status Acts. Potential difficulties arise where individual Travellers might seek to place direct reliance on the Directive in domestic proceedings, or to seek to impugn the State's transposition of the Directive.[10] This reliance was challenged[11] and while the applicability of the Directive was not considered by the Courts in that instance, there is a lack of legal clarity on the issue.

It is submitted that based on the objective evidence available, a domestic court, or indeed the Court of Justice of the European Union, would find that Travellers are indeed protected by the Race Directive. Therefore the Irish State would find itself seeking to exclude the protections of EU equality law to an identified national minority that experiences, and is vulnerable to, significant levels of discrimination[12]

Furthermore, when any new legislation is introduced to protect minorities the Oireachtas can decide to include or exclude Travellers as they wish. This is not an unfounded fear; both the Press Council and Prohibition of Incitement to Hatred Bill did not initially include Travellers in their protections until long campaigns by Traveller groups successfully lobbied for their inclusion.

[8] s. 19 Intoxicating Liquor Act 2003 changed the venue for Equal Status Act cases from the Equality Tribunal to the District Court.
[9] Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin
[10] IHRC, Submission on the Recognition of the Traveller Community as an Ethnic Minority, January 2013
[11] http://www.courts.ie/judgments.nsf/6681dee4565ecf2c80256e7e0052005b/d0a44d0fbe3f1c5a802578e8002e4c36?OpenDocument&Highlight=0,Stokes
[12] Irish Traveller Movement submission to Joint Oireachtas Committee on Justice and Defence, February 2013 (http://itmtrav.ie/publication/submissions, retrieved 18 March 2014)

In April 2014 the Joint Oireachtas (Parliamentary) Committee on Justice, having considered the matter made three recommendations including that either the *Taoiseach or Minister for Justice and Equality make a statement to Dáil Éireann confirming State recognition*, that the *Government would inform relevant international bodies of that decision* and that a *time-limited dialogue would be undertaken with Traveller representative groups about possible new, or amendments to existing legislation*, now required.

The upper house of Parliament's Seanad Public Consultation Committee (June 19th 2014) published a report on Ireland's Compliance with the International Covenant on Civil and Political Rights and said "*The Committee requests the State adopt the recommendations of the cross-party parliamentary report (Oireachtas Justice Committee) on Traveller Ethnicity."*

Clear in their continued concerns the UN Human Rights Committee in examining Ireland under ICCPR (International Covenant on Civil and Political Rights) (July 24th 2014) in its concluding observations commented *"The Committee regrets the lack of progress in implementing its previous recommendations to recognize Travellers as an ethnic minority."*

Recommendation: The Government should immediately recognise Travellers as an ethnic minority group

Traveller Economy and Employment

State Report paras 91-97

The Traveller economy has historically played a significant role within the community through self-employment and entrepreneurship which involved extended members of families working together and organising themselves as a work unit, travelling, providing services or goods to the wider community. The Traveller economy principally focuses on a number of key areas; horses, recycling, and markets. It is noted that the Task Force Report on the Travelling People in 1995 noted that "If developed, the Traveller economy could play a significant role in enabling increased numbers of the Traveller community towards financial independence." It is noted that the Report made a number of recommendations that have not been implemented including the provision of transient sites for casual transient traders, Travellers should be identified as one target group in the licensing of casual trading, the design and construction of Traveller specific accommodation should include economic areas.

As is set out elsewhere in this document, the State failed to provide transient sites to facilitate nomadic Travellers including nomadic traders, this coupled with the fact that the State introduced draconian evictions legislation effectively illegalising nomadism rendered nomadic trading impossible for many Travellers.

Both the Casual Trading Act, 1995 and the Control of Horses Act, 1996 had a severely negative impact on Travellers` economic activities, neither piece of legislation was adequately poverty proofed at any stage. Restrictive accommodation provision, where local authorities refuse to provide work space beside accommodation space (as is culturally

appropriate) and the ongoing attacks on nomadism exacerbate this problem. As a result, only a minority of Travellers have remained economically active within the Traveller economy.

Within the mainstream labour market, Travellers continue to find it very difficult to access employment. Travellers are discriminated against both directly (i.e. refusal to hire or provide services) and indirectly (i.e. poor education, health and accommodation status of Travellers). Opportunities within the labour market have not replaced decreasing opportunities for self-employment within the Traveller economy, leaving many Travellers long-term unemployed and living on social welfare. Innovative and supported strategies are required to develop Traveller access to training and labour market opportunities.

Census 2011 indicates that unemployment in the Irish Traveller community stands at 84.3%, an increase from 74.9% in 2006. It is noted that Micheál Mac Gréil in his book "Pluralism and Diversity in Ireland" found that 41% of the 1,014 people surveyed are not willing to employ a Traveller.[13]

The Traveller community faces extreme hostility and prejudice due to the wider discriminatory practices within the workplace. Legislation introduced to prohibit discriminatory practice in the work place does not address the wide spread exclusion of the Traveller Community. It has long been noted that positive discrimination in relation to Traveller employment is required.

A report carried out by Equality Authority Published in 2008 (*Positive Action for Traveller Employment*) highlighted a selection of positive initiatives in place and demonstrated how increased opportunity to access the labour market had a positive development in relation to Traveller employment. Unfortunately as a result of austerity and the disproportionate impact of austerity on Traveller specific measures, positive discrimination and employment initiatives have been significantly curtailed.

Recommendations:

Introduce strategies to improve Travellers in training and employment opportunities and to provide supports in employment, urgently introduce a National Strategy for Traveller Employment to address poor economic status of Traveller Community, reverse the significant cuts to training and employment support to the Traveller Community, introduce positive actions initiatives to increase Traveller visibility in private and public services, support the Traveller economy.

Traveller Accommodation

State Report Paras 593 - 601

It is critical that the annual count figures not be considered in isolation. While the reduction in the number of families living on unauthorised sites without access to basic facilities is to

[13] Mac Gréil Michaeál, Pluraliam and Diversity in Ireland, Prejudice and Related Issues in Early 21st Century Ireland, 2011

be welcomed, the reduction is not indicative of a success in the provision of Traveller accommodation. The figures reflect the influence of the introduction of criminal and other legislation resulting in families being forced out of their nomadic way of life; the National Traveller Accommodation Consultative Committee (NTACC) Annual Reports in 2002 and 2003 highlight this issue. The amendment to the Public Order Act in 2002 is largely responsible for the decrease in the number of families living in unauthorised sites, a decline in nomadism and the increase and continuation of families sharing accommodation. The 2002 NTACC Annual Report illustrates the commencement of the decline: '*The number of families on unauthorised sites decreased over the same period, from 1,017 families at the end of 2001, to 939 families in 2002*'.[14] The 2003 NTACC Annual Report further notes the decline in families living on unauthorised sites while noting the increase in the number of families sharing accommodation:

"The Committee is pleased by the decrease in the number of families living on unauthorised sites, down to 788 units at the end of 2003 from 939 units at the end of 2002. It is appreciated, however, that while the number of Traveller families living on unauthorised sites decreased this year, the number of Traveller families living in temporary sites and those sharing facilities increased in the same period. These families remain in need of suitable accommodation and this issue must continue to receive ongoing attention."[15]

It is important to note that while the number of families living on unauthorised sites has decreased, in recent years there has been a marked increase in the number of families sharing accommodation. The difficulties and concerns relating to families sharing accommodation were highlighted as far back as the 2007 NTACC annual report:

'*It would be worrying if the number of families sharing all types of accommodation continued to increase, as sharing, by its nature, puts pressure on already limited resources and can worsen living conditions*'.[16]

The 2010 NTACC Annual Report comments on the number of families sharing housing:

'*The number of families sharing housing also showed an increase in 61 families and now stands at 451 families. While some of those sharing are doing so in perfectly acceptable conditions there are also those who are sharing overcrowded accommodation and these families, and those on unauthorised sites, should continue to be prioritised by local authorities*'.[17]

Despite the concerns expressed by the NTACC, the annual count figures show the number of families sharing accommodation has increased steadily from 451 families in 2010 to 663 families in 2013. The concerns set out in the NTACC reports relating to the number of families sharing accommodation continue to affect Travellers with many families living in cramped conditions, with a number of generations living together creating tensions and stress.

[14] NTACC Annual Report 2002
[15] NTACC Annual Report 2003
[16] NTACC Annual Report 2007
[17] NTACC Annual Report 2010

In the annual count of 2013 it was noted that 2,717 families were living in private rented accommodation. This is not accommodation that is provided by the State,but accommodation that is owned by private landlords and rented with the assistance of rent supplement. The NTACC in its 2008 Annual Report indicated that families living in private rented accommodation do not have security of tenure: '*Families accommodated with the assistance of rent supplement are not so secure*'.[18] The security of tenure is further undermined in a property market where house prices and residential rents are increasing rapidly and dramatically, particularly in large urban centres where large numbers of Travellers reside. Even where a family living in private rented accommodation have accrued so-called Part 4 rights under the Residential Tenancies Act 2004, entitling them to a four year tenancy, the tenancy can be terminated if the landlord is selling the house.

The number of Traveller families who were without accommodation according to the annual count in 1999 was 1,207[19]; the number of families without accommodation as per the annual count[20] in 2013 and who are sharing accommodation or living on unauthorised sites is 1,024. This does not reflect a significant improvement in relation to the accommodation of Travellers.

Local authorities have failed to provide Traveller specific accommodation in accordance with their own targets. The number of Traveller families living in private rented (owned by private landlords) accommodation has increased and the number of families living in Traveller specific accommodation has steadily decreased over the past decade. This is the result of Travellers being forced out of their nomadic way of life by a combination of a lack of Traveller specific accommodation and legislation which criminalises (and otherwise renders impossible) nomadism in Ireland. Travellers have been forced to abandon nomadism. State funded research establishes that failings on the part of local authorities, and not changes in the way of life of Travellers, have driven down the number of families opting for Traveller specific accommodation.

The 2008 Annual Report of the NTACC indicates the following in relation to the increase in the number of Travellers living in private rented accommodation: '*Following the trend of 2006 and 2007, the accommodation option recording the largest increase in 2008 was again the private-rented sector, up a further 373 to 1,516 families. It has to be noted that this is occurring in the context of the slower rate of provision of local authority standard housing and Traveller specific accommodation in some areas*'. The NTACC report rightly attributes the increase in private rented accommodation to the failure of local authorities to provide Traveller specific accommodation.

In the year 2000 the Minister for Housing and Urban Renewal was advised: '*While there are difficulties with some of the mechanisms used to calculate the current and future requirements, the overall figure of in excess of 3,600 units, having regard to the increase in the population overall, appears to be satisfactory in terms of the number of units [of*

[18] NTACC Annual Report 2008
[19] Department of Environment Annual Count 1999
[20] Department of Environment Community and Local Government Annual Count 2013

Traveller accommodation] nationally'.[21] It is noted that the State has failed to provide the number of Traveller specific units, this effect of this failure is compounded by the fact that as the State indicates there has been an increase in the number of Traveller families living in Ireland.

Furthermore, as discussed earlier, a need was identified by the authorities several years ago for 1,000 units of transient accommodation, today there is not one single site in Ireland with an operating unit of transient accommodation. Those that are described as transient accommodation including 47 units are actually being used as emergency sites and do not operate as transient sites. This failure to provide transient accommodation together with the introduction of draconian evictions legislation has in effect, criminalised nomadism rendering it impossible for Traveller families to be nomadic.

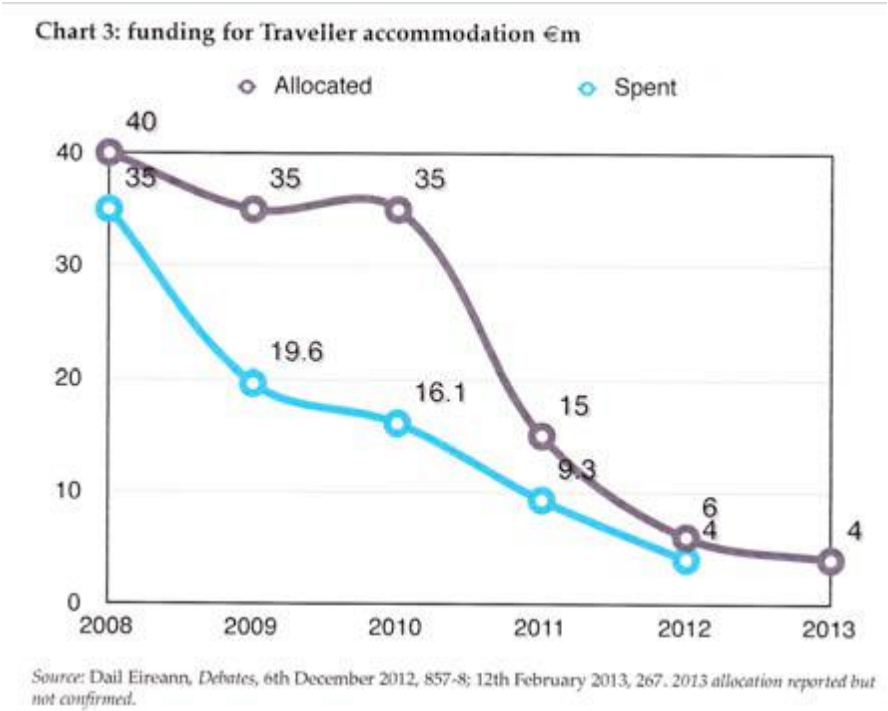
The fact that the majority of Travellers do not reside in temporary accommodation is not necessarily as a result of a lack of desire to live a nomadic lifestyle, but rather the fact that the State has rendered nomadism impossible through draconian evictions legislation and a failure to provide operating and functioning transient accommodation. A reduction in nomadism is also a result of assimilationist policies dating back to the Commission on Itinerancy Report in 1963. The failure to provide transient sites together with draconian evictions legislation has rendered it impossible for Travellers to be nomadic.

The spend on Traveller specific accommodation;

The budget allocated for Traveller accommodation has fallen from an estimated €40 million in 2008 to €3 million in 2014, a decline of 93%. Substantial parts of the (now meagre) allocation are unspent. The following table[22] was included in Brian Harvey's Report Travelling to Austerity illustrates the decrease in the capital Traveller accommodation budget from 2008 to 2013. The impact of these cuts was exacerbated as from 2007-2012, €50 million of the Traveller accommodation budget was under spent by local authorities. The ITM's views of the reasons are further set out in this report.

[21] Report to the Minister for Housing and Urban Renewal by the National Traveller Accommodation Consultative Committee on the 5 Year Traveller Accommodation Programmes Adopted by Local Authorities in 2000

[22] Harvey B., 2013, Travelling with Austerity. Report by Pavee Point retrieved from http://www.paveepoint.ie/tempsite3/wp-content/uploads/2013/10/Travelling-with-Austerity_Pavee-Point-2013.pdf (accessed 17 June 2014)



The proportion unspent was set out in the report and is reproduced below.

Table 5: Proportion Traveller accommodation budget spent[23]

Year	Spent	Unspent
2008	88%	12%
2009	56%	44%
2010	46%	54%
2011	62%	38%
2012	66%	34%
Figures rounded.		

This gives an average figure of 63.6% of the budget spent, or, conversely, 36.4% unspent. If we measure the total cut according to the amount actually spent then the overall reduction is higher. This underspend has occurred at a time when the 2011 national housing needs survey found that 1,824 Traveller households are in need of accommodation.

In relation to monies spent by the State, in the Final Report of the Fourth NTACC, there was discussion around asking the 'Value for Money Unit' within the Department of the Environment and Local Government to carry out a value-for-money study on Traveller accommodation. Ironically, due to a failure to allocate resources to the project within the Value for Money Unit it was not possible to carry out this study.[24] The issues of value for money in the development of Traveller specific accommodation have been raised by

[23] Id.
[24] NTACC Final Report of the Fourth NTACC

Traveller organisations for many years, the State has invested resources in Traveller accommodation, however concerns have been raised by Traveller organisations relating to the cost per unit of Traveller specific accommodation and the fact that there were concerns that the State was not investing resources in the most effective manner possible. The State cannot rely upon their own failure to ensure that value for money is attained in State expenditure when Travellers and Traveller organisations have been calling on the State to ensure that best value for money is obtained and it, in turn, refuses to examine these concerns.

The lack of sanctions on local authorities failing to provide Traveller accommodation

In reality, underspending by local authorities is fundamentally due to a lack of will, including political will, on the part of local authorities to provide Traveller accommodation and thereby fulfil their obligations under the Covenant. This is clear from domestic court judgments concerning the provision of Traveller Accommodation. Cases also demonstrate lack of sanctions, both legislative and judicial for local authorities who underspend. The courts remain powerless under the current legislation. The Local Traveller Accommodation Consultative Committees (LTACCs), NTACC or other similar agency could easily be empowered to impose further sanctions where directed resources in areas are not spent and Traveller accommodation is found to be inadequate. This would result in a focussed strategy which would ensure that all resources allocated for Traveller specific accommodation be applied in full for that purpose. It would be a fair and reasonable manner of ensuring that local authorities effectively carry out their statutory functions.

Issues with the State's operation of Traveller specific accommodation

The Report of the Housing Agency and the National Traveller Accommodation Consultative Committee on 'Why Travellers leave Traveller-specific accommodation'. KW Research & Associates (2014)[25] concluded that Travellers have left Traveller specific accommodation mainly due to issues relating to site location, lack of support from local authorities, and hostility from local residents and the wider community. At page 31 of the report, the authors note that local authorities and Travellers agree that Travellers leave these sites for four main reasons: feuding and intimidation; issues related to site location, design and management; poor relations with the local authority; and particular personal circumstances.

The current design of Traveller sites (which effectively eliminated any opportunities for Travellers to engage in self-employment) contributes to a lack of accommodation, increasing stress levels on sites. This in turn leads to feuding amongst the Traveller Community. The Local Authorities' response appears to be to isolate members of the Community and in extreme circumstances to close the site. The serious substandard condition of the sites is not being addressed by authorities. According to the report, both local authorities and Travellers believe that relationships between local authorities and Travellers at a local level are generally poor. Some Travellers believed that things were being set up to fail, in order to facilitate a process of assimilation and fragmentation of Traveller culture. Travellers believe that there should be clear documented protocols outlining how transfers and relocations within Traveller specific accommodation should be handled. Travellers consulted for the report by KW Research referred to directly above note the overall rise in the total Traveller

[25] KW Research & Associates, April 2014, Why Traveller leave Traveller specific accommodation, A research report, available at http://www.environ.ie/en/PublicationsDocuments/FileDownLoad,37993,en.pdf.

population and the levels of overcrowding and sharing occurring within the Traveller Community. The Community who were consulted said that they were so desperate for suitable accommodation that they ticked all of the options on their housing application, not just their preference.

Travellers often opt for private rented accommodation as a means of escaping the difficulties encountered on local authority halting sites particularly younger Travellers. The Travellers interviewed said that they believed that if the issues identified in relation to halting sites were addressed, the attractiveness of private rented accommodation would be significantly diminished. The report indicates that Travellers recognise that private rented accommodation is often not the answer to their housing needs and is not considered a long term solution for many Traveller families.

Social Workers

It is noted that the State has indicated that it spends €6.4million per annum "to 90% fund the salaries of social workers who work with Travellers on accommodation issues." It is noted that the ITM has previously raised concerns in relation to the provision of social workers in local authorities and the level of qualification of individuals working as social workers with local authorities.

Evictions Legislation

Over the last two decades, the Government of Ireland has steadily introduced housing legislation that obliges local authorities to provide halting sites and other accommodation for Travellers, the Government has failed to deliver the accommodation needed[26] At the same time, Ireland has passed increasingly regressive evictions legislation, whereby speedier and harsher forced evictions are permitted against Travellers living by the roadside or in other informal situations. These eviction laws have been passed and used despite the fact that the Government has singularly failed to implement housing legislation to provide adequate and formal halting sites and other accommodation to Travellers. Here follows an outline of the principal relevant legislation currently in force.

'Criminal Trespass Legislation': Public Order Act 1994 (as amended)

In 2002, the Government of Ireland amended the Criminal Justice (Public Order) Act 1994 ('Public Order Act') in order to facilitate the eviction of persons 'entering and occupying land without consent'. The legislation permits the police (Gardaí) to direct individuals to immediately leave land and remove all objects they had brought onto the land. While earlier housing legislation had restricted evictions if no alternative accommodation was available, such conditions are not included in the Public Order Act. The amendment is known colloquially as the 'criminal trespass legislation'.

[26] See, in particular, section 13, Housing Act 1988 and the later Housing (Miscellaneous Provisions) Act 1992 as amended by the Housing (Traveller and Accommodation) Act 1998 and the Housing (Miscellaneous Provisions) Act 2002.

Section 19C of the Public Order Act, as amended by section 24 of the Housing (Miscellaneous Provisions) Act, 2002, now reads:

(1) A person, without the duly given consent of the owner, shall not—

(a) enter and occupy any land, or

(b) bring onto or place on any land any object, where such entry or occupation or the bringing onto or placing on the land of such object is likely to—

(i) substantially damage the land
(ii) substantially and prejudicially affect any amenity in respect of the land,
(iii) prevent persons entitled to use the land or any amenity in respect of the land from making reasonable use of the land or amenity,
(iv) otherwise render the land or any amenity in respect of the land, or the lawful use of the land or any amenity in respect of the land, unsanitary or unsafe,
(v) substantially interfere with the land, any amenity in respect of the land, the lawful use of the land or any amenity in respect of the land.

(2) A person who contravenes subsection (1) shall be guilty of an offence.

(3) Where a member of the Garda Síochána [police officer] has reason to believe that a person is committing or has committed an offence under subsection (1) the member—
(a) may demand of the person his or her name and address,
(b) may direct the person to leave the land concerned and to remove from the land any object that belongs to the person or that is under his or her control, and
(c) shall inform the person of the nature of the offence in respect of which it is suspected that person has been involved and the statutory consequences of failing to comply with a demand or direction under this subsection.

A person who refuses to provide their name or address to or comply with the direction of a police officer is guilty of an offence (section 19D). Section 19E enables the police to arrest such a person without a warrant[27] while section 19F empowers the police to remove, store and dispose of the person's property, which, in the case of nomadic Travellers, includes their home.[28] If an affected person is able to retrieve their property, a fee is charged for the

[27] Section 19E provides that: 'A member of the Garda Síochána may arrest without warrant a person— (a) who fails or refuses to give his or her name and address when demanded under section 19C(3)(a) or gives a name or address which the member has reasonable grounds for believing is false or misleading; (b) who fails to comply with a direction given under section 19C(3)(b); or (c) whom the member finds committing an offence under section 19C(1).'

[28] Section 19F reads in part:
(1) Where a person fails to comply with a direction under section 19C(3)(b), a member of the Garda Síochána may remove or cause to be removed any object which the member has reason to believe was brought onto or placed on the land in contravention of section 19C(1) and may store or cause to be stored such object so removed….
(4) An object removed and stored under this section shall be given to a person claiming possession of the object if, but only if, he or she makes a declaration in writing that he or she is the owner of the object or is authorised by its owner to claim it or is, for a specified reason, otherwise entitled to possession of it and, at the discretion of the Commissioner, the person pays the amount of any expenditure reasonably incurred in removing and storing the object.
(5) The Commissioner may dispose of, or cause to be disposed of, an object removed and stored under this section if—
(a) the owner of the object fails to claim it and remove it from the place where it is stored within one month of the date on which a notice under subsection (3) was served on him or her, or
(b) the name and address of the owner of the object cannot be ascertained by reasonable enquiry.

removal and storage. The penalties for violation of the law include imprisonment and fines. Section 19G(1) provides that 'A person guilty of an offence under this Part shall be liable on summary conviction to a fine not exceeding €3,000 (now €4,000, under section 22 in conjunction with schedule 2 of the Intoxicating Liquor Act, 2008) or to a term of imprisonment not exceeding one month or to both.'

The legislation also effectively provides for a presumption of guilt. The court is to assume that the person lacked consent to remain on the land as required by section 19C. Section 19G(2)(1) states that: 'In any proceedings for an offence under this Part it shall be presumed until the contrary is shown that consent under this Part was not given.' During any criminal proceedings, a defendant is also largely prevented from raising any claim under civil law with respect to the ownership of the land.[29]

It is widely believed by Traveller groups that the legislation was specifically aimed at Travellers and came about as a direct result of an illegal encampment on the banks of the river Dodder in Dublin in 2001. In 2001 during Parliamentary debate in the Dáil and Seanad, in reply to a question concerning whether or not he had met '…a delegation from South Dublin County Council to discuss the illegal Traveller encampment at the Dodder [in Dublin in 2001]…', the Minister for the Environment and Local Government asserted that he had and that: "The council representatives [had] outlined the difficulties encountered by the authority as a result of the large scale unauthorised encampments by Travellers…". The Minister then concluded that, "[t]he necessity for any changes in the legislative provisions regarding unauthorised encampments….will be considered".[30]

The amendment was strongly criticised by its minority opponents in the Dáil (parliament), who pointed to the draconian nature of this legislation and its correlation to the insufficient provision of Traveller accommodation under the weak provisions of the 1998 Act: "The Housing (Traveller Accommodation) Act, 1998, provided for the adoption by local authorities of five year plans to accommodate Travellers within their catchment area...That legislation was to provide for sufficient Traveller accommodation within a five year timeframe. The Act was passed in 1998. We have now reached the latter end of that timeframe. Of the 2,200 purpose provided Traveller accommodation places on halting sites or group housing schemes, only a little over 100 have been provided to date. The principal problem of illegal or unauthorised Traveller encampments remains due to the provision of insufficient accommodation, notwithstanding the passing of the required legislation."[31] Furthermore, the criminal trespass legislation was rushed through the Dail (parliament) as was noted by sitting members of the House "This is an incredible way to attempt to progress legislation in Dáil Éireann. It is highly insulting to the elected representatives of all the Irish

(6) Where the Commissioner becomes entitled to dispose of or cause to be disposed of an object under subsection (5) and the object is, in his or her opinion, capable of being sold, the Commissioner shall be entitled to sell or cause to be sold the object for the best price reasonably obtainable and upon doing so shall pay or cause to be paid to the person who was the owner of the object at the time of its removal, where the name and address of the owner can be ascertained by reasonable enquiry, a sum equal to the proceeds of such sale after deducting there from any expenditure reasonably incurred in its removal, storage and sale.

[29] Section 19H states:

(1) Notwithstanding any statutory provision or rule of law to the contrary, the jurisdiction of the District Court shall not, in summary proceedings in relation to an offence under this Part, be ousted by reason solely of a question of title to land being brought into issue.

(2) Where in summary proceedings in relation to an offence under this Part a question of title to land is brought into issue, the decision of a justice of the District Court in the proceedings or on the question shall not operate as an estoppel in, or a bar to, proceedings in any court in relation to the land.

[30] http://debates.oireachtas.ie/dail/2001/11/27/00186.asp

[31] Dáil Éireann - Volume 551 - 27 March, 2002, Housing (Miscellaneous Provisions) (No. 2) Bill, 2001: Report and Final Stages (Mr Eamon Gilmore). http://www.oireachtas-debates.gov.ie/D/0551/D.0551.200203270010.html

people to present such a far-reaching measure that most of us received a few hours before the debate and to attempt to ram it through the Dáil, after a few hours of discussion."[32]

It is noted that the UN Human Rights Committee in its concluding observations in 2008 and 2014 under the International Covenant on Civil and Political Rights expressed concerns in the relation to the criminalization of trespassing on land in the 2002 Housing Act which disproportionately affects Travellers. The Committee recommended that legislation be amended to meet the specific accommodation requirements of Traveller families.

'Section 10 Notices': Housing (Miscellaneous Provisions) Act 1992 as amended by the Housing (Traveller and Accommodation) Act 1998 and the Housing (Miscellaneous Provisions) Act 2002

Specific legislation for the removal of *temporary* dwellings was introduced in Section 10 of the Housing (Miscellaneous Provisions) Act 1992. 'Temporary dwelling' is defined to mean 'any tent, caravan, mobile home, vehicle or other structure or thing (whether on wheels or not) which is capable of being moved from one place to another, and (a) is or was used for human habitation, either permanently or from time to time, or (b) was designed, constructed or adapted for such use'.

In 1998, this Act was amended by the Housing (Traveller Accommodation) Act 1998 to ensure Travellers had access to sufficient alternative accommodation in the event of an eviction as prescribed for in the legislation. It was further amended in 2002 by the Housing (Miscellaneous Provisions) Act 2002 to provide more precise clarification in section 10, subsection (c), and, additionally, to extend the circumstances under which a housing authority may serve notice under that subsection to cases where only the 'use and enjoyment' of nearby amenities are affected. Section 10 now permits evictions of Travellers in the following circumstances:

(1) Where, without lawful authority, a person erects, places, occupies or otherwise retains a temporary dwelling in a public place[33] and such temporary dwelling—

(a) is within a five mile radius of any site provided, managed or controlled by a housing authority under section 13 of the Act of 1988 (as amended by the Housing (Traveller Accommodation) Act, 1998), or any site provided or managed under section 6 and the temporary dwelling concerned could, in the opinion of the housing authority within whose functional area such temporary dwelling has been erected, placed, occupied or otherwise retained, appropriately be accommodated on that site, the housing authority may serve a notice on that person requiring that person, within a specified period, to remove the said temporary dwelling to the said site,

(b) is, in the opinion of the housing authority concerned—

(i) unfit for human habitation due to lack or inadequacy of water supply, sanitation or other essential services, or

[32] Dáil Éireann - Volume 551 - 27 March, 2002, Housing (Miscellaneous Provisions) (No. 2) Bill, 2001: Report and Final Stages (Mr Joe Higgins) http://www.oireachtas-debates.gov.ie/D/0551/D.0551.200203270010.html

[33] This is defined in Section 10(14) as: 'any street, road or other place to which the public have access whether as of right or by express or implied permission and whether subject to or free of charge and any property or other land owned or occupied by or leased to a public authority'.

(ii) likely to obstruct or interfere with the use of public or private amenities or facilities, or the maintenance of such amenities or facilities, or

(iii) likely to constitute or constitutes a significant risk to personal health, public health or safety,

and such temporary dwelling could, in the opinion of the housing authority within whose functional area such temporary dwelling has been erected, placed, occupied or otherwise retained, appropriately be accommodated on any site provided, managed or controlled under section 13 of the Act of 1988 (as amended by the Housing (Traveller Accommodation) Act, 1998), or any site provided or managed under section 6, the housing authority may serve a notice on that person requiring that person, within a specified period, to remove such temporary dwelling to the said site,

(c) is within a one mile radius of any site provided, managed or controlled by a housing authority under section 13 of the Act of 1988 (as amended by the Housing (Traveller Accommodation) Act, 1998), or any other traveller accommodation provided, managed or controlled by a housing authority under the Housing Acts, 1966 to 1998, or any traveller housing accommodation provided or managed under section 6 and the housing authority within whose functional area such temporary dwelling has been erected, placed, occupied or otherwise retained is of the opinion that, whether by reason of being one of a number of such temporary dwellings or otherwise, such temporary dwelling—

(i) is causing a nuisance or obstruction to the occupants of that site or traveller accommodation or to the occupants of any other dwelling or dwellings within a one mile radius of that site or that traveller accommodation, or

(ii) creates a risk to the quality of water, sanitary, electrical or other services associated with that site or traveller accommodation or any other dwelling or dwellings within a one mile radius of that site or traveller accommodation, or

(iii) obstructs or interferes with the use or enjoyment by any person of any public or private amenity or any public or private facility or the maintenance of any such amenity or facility, within a one mile radius of that site or traveller accommodation,

the housing authority concerned may serve notice on that person requiring that person, within a specified period, to remove the said temporary dwelling,(iii) creates a risk to the quality of water, sanitary, electrical or other services associated with that site or traveller accommodation or other dwellings within the vicinity of that site or traveller accommodation but where the site specified in a notice under paragraph (a) or paragraph (b) is a site provided by a housing authority other than the housing authority serving such notice or a body standing approved for the purposes of section 6, such notice shall not be served until the consent of the housing authority or body concerned to such service has been obtained.

In summary, a housing authority (in most instances the local authority) can evict Travellers living in caravans in three circumstances under section 10(1) of the Act. First,

if the caravan of the Traveller is located within 5 miles (8.05 kilometres) of an approved halting site that the housing authority believes could accommodate the Travellers (Section 10(1)(a)). Second, if the site on which the caravan is currently located is unfit for human habitation, obstructs a public or private amenity or constitutes a health and safety risk. However, the eviction cannot be carried out if the Traveller cannot 'appropriately be accommodated' on an official halting site (Section 10(1)(b)). Third, if the Traveller caravan is located within 1 mile (1.61 kilometres) of an approved halting site and the housing authority is of the opinion that the occupants of the caravan are causing nuisance to or a risk to water supplies or public facilities of any dwellings within a one-mile radius, or are interfering with the use or enjoyment of private or public facilities within a one-mile radius (Section 10(1)(c). It is notable that no provision exists for the provision of alternative accommodation under the third scenario.[34]

The Section 10 notices must contain the following information:

a) the location of the site to which the temporary dwelling relates;
b) the location of the site to which the temporary dwelling is required to be removed, or where a notice is served under subsection (1)(c), that the temporary dwelling is required to be removed to at least a distance of one mile from the specified site;
c) the period, being not less than 24 hours from the time at which the notice is served, within which the requirements of the notice are to be complied with; and
d) the statutory consequences of failure to comply with the requirements of the notice.

The authority may enforce the provisions of the notice[35] and the owner of the caravan can retrieve the vehicle upon proof and payment of a fee for the reasonable costs of the removal and storage.[36] A housing authority may dispose of a caravan after one month unless it is recovered or placed on a lawful site (Section 10(9)). Section 10(10) permits the housing authority 'to sell the temporary dwelling for the best price reasonably obtainable' and remit any proceeds to the owner after the deduction of costs reasonably incurred the removal, storage and sale and 'any expenditure incurred by that or another housing authority in the provision of the temporary dwelling'. Section 10(12) provides penalties of fines not exceeding £1,000 or imprisonment up to one month or both in circumstances if a person fails to remove their temporary dwelling in accordance with a notice or obstructs a housing authority in carrying out their functions under section 10.

[34] Indeed, Section 10(c) is closely modelled on the original 1992 provisions whereby caravans could be removed without the offer of alternative accommodation. The only substantive difference is that the distance from a halting site was reduced from 5 miles to 1 mile.

[35] Section 10(5) (again, as amended by the Housing (Traveller Accommodation Act, 1998, section 32, provides:
Where, in the opinion of the housing authority, the requirements of a notice under subsection (1) have not been complied with in all or any respects, then, without prejudice to any other provisions of this section, the authority may, without further notice, remove or procure the removal of the temporary dwelling—
(a) to the site specified in the notice or, where a notice is served under subsection (1)(c), to a location that is not less than one mile from the site referred to in that subsection, or
(b) where they are for any reason prevented from so doing, to another location for storage by or on behalf of the authority….

[36] Section 10(8).

Roads Act 1993

The police and other authorised persons can evict Travellers under the Roads Act 1993. The relevant sections of the law are comparable to the Public Order Act, although the roads legislation is less detailed. Section 69 of the Roads Act 1993, states that:

(1)(a) Any person who without lawful authority erects, places or retains a temporary dwelling on a national road, motorway, busway or protected road shall be guilty of an offence.
(b) Any person who without lawful authority or the consent of a road authority erects, places or retains a temporary dwelling on any other prescribed road or prescribed class, subclass or type of road shall be guilty of an offence.
(c) Aconsent under paragraph (b) may be given by the road authority subject to such conditions, restrictions or requirements as it thinks fit and any person who fails to comply with such conditions, restrictions or requirements shall be guilty of an offence.
(2) An authorised person may remove a temporary dwelling from a national road, motorway, busway, protected road or any other prescribed road or prescribed class, subclass or type of road.
(3) An authorised person may store, or procure the storage of, a temporary dwelling removed by him under subsection (2).
(4) Where the name and address of the owner of a temporary dwelling removed and stored under this section can be ascertained by reasonable inquiry, the road authority concerned or the Commissioner shall serve a notice upon the owner informing him of the removal and storage and of the address of the place where the temporary dwelling may be claimed and recovered, requiring him to claim and recover it within one month of the date of the service of the notice and informing him of the statutory consequences of his failure to do so.
(5) A temporary dwelling removed and stored under this section shall be given to a person claiming the temporary dwelling if, but only if, he makes a declaration in writing that he is the owner of the temporary dwelling or is authorised by its owner to claim it and, at the discretion of the road authority concerned or the Commissioner, pays the amount of the expenditure reasonably incurred in removing and storing the temporary dwelling.
(6) The road authority concerned or the Commissioner may dispose, or procure the disposal, of a temporary dwelling removed and stored under this section if—
(*a*) the owner of the temporary dwelling fails to claim it and remove it from the place where it is stored within one month of the date on which a notice under *subsection (4)* was served on him, or
(*b*) the name and address of the owner of the temporary dwelling cannot be ascertained by reasonable inquiry.
(7) A temporary dwelling shall not be disposed of under this section within six weeks of the date of its removal under this section.
(8) The provisions of this section are without prejudice to the functions of a public authority under any other enactment.
(9) In this section—
"*authorised person*" means—
a person authorised in writing by a road authority for the purposes of this section;
a member of the Garda Síochána;
"*temporary dwelling*" means any tent, caravan, mobile home, vehicle or other structure or thing (whether on wheels or not) which is capable of being moved from

one place to another (whether by towing, transport on a vehicle or trailer, or otherwise), and—
(*a*) is used for human habitation, either permanently or from time to time, or
(*b*) was designed, constructed or adapted for such use,
but does not include any such temporary dwelling—
(i) used by a State authority, road authority, local authority or a statutory undertaker during the course of works on, in or under a national road, motorway, busway, protected road, or any other prescribed road or prescribed class, subclass or type of road, or
(ii) used in connection with a fire or other emergency.

The roads legislation allows the local authority to confiscate a caravan home without prior notice. It is sufficient under the Act that a notice later be displayed in the local Garda station. The legislation takes no account of the reasons for the presence of the temporary dwelling and there is no possibility or opportunity of providing a lawful excuse in advance of the seizure of the temporary dwelling. While the legislation states that it only applies to temporary dwellings located on the roadside without consent and consent may be applied for subject to conditions there is in fact no known mechanism for Travellers to apply for such consent and the Traveller organisations are unaware of any Traveller who has successfully applied for such consent.

Planning and Development Act 2000

Planning authorities (local authorities) are authorised to demolish or remove structures, which would include caravans, under section 46 of the Planning and Development Act 2000, where these constitute 'unauthorised developments'.[37] Section 46 was left untouched by the substantial Planning and Development (Amendments) Act 2010. A notice must be served within seven years of the commencement of the unauthorised development,[38] specifying the location of the structure or land and the steps that will be required to be taken within a specified period, including the demolition, removal, alteration or replacement of any structure.[39] The notice must also invite any person served with the notice to make written submissions or observations to the planning authority, with at least 4 weeks from the date of service of the notice given for this purpose.

In considering whether to proceed with the action, which can include eviction of a Traveller, a planning authority, in deciding whether to confirm a notice pursuant to this section, shall consider:

a) the proper planning and sustainable development of the area,
b) the provisions of the development plan,

[37] Section 46(1) provides: (1) If a planning authority decides that, in exceptional circumstances-
(a) any structure should be demolished, removed, altered or replaced,
(b) any use should be discontinued, or
(c) any conditions should be imposed on the continuance of a use,
the planning authority may serve a notice on the owner and on the occupier of the structure or land concerned and on any other person who, in its opinion, will be affected by the notice.
[38] Section 46(2) states that subsection (1) 'shall not apply to any unauthorised development unless the notice under this section is served after seven years from the commencement of the unauthorised development.' This provision is somewhat confusing due to the use of the word 'after'. In the context, the word has been understood as 'within'.
[39] Section 10(3).

c) the provisions of any special amenity area order, any European site or other area designated for the purposes of section 10(2)© relating to the area, and
d) any other relevant provision of this Act and any regulations made thereunder.[40]

Notably, there is no requirement to consider the human rights of the persons involved.

Unlike the Public Order Act, a notice can be appealed within eight weeks of the date of service of the notice to the Board established under the Act.[41] Upon the withdrawal of the appeal or it being decided in favour of the planning authority, demolition, removal or other relevant action may proceed. If a person served with a notice fails to comply with the requirements of the notice he or she shall be guilty of an offence (Section 46(11)).

Furthermore, under section 160[42] of the 2000 Act the local authority may seek an injunction compelling a person to remove a temporary dwelling from land owned by them if it does not comply with planning requirements. It is very difficult for most Travellers to comply with these planning requirements. Many planning guidelines state that an applicant must be from the local area. Travellers who were or are traditionally nomadic will find this to be an insurmountable obstacle as they can only show a tie to the general locality in most circumstances but not the particular town. Grounds for refusal have also included the assessment that caravan homes are prejudicial to public health and injurious to public amenities. This is contradictory to the Housing (Traveller Accommodation) Act 1998, which allows for the provision of halting site accommodation for caravans by the State.

Local Government (Sanitary Services) Act 1948

The demolition of 'unsanitary structures' is permitted under the Local Government (Sanitary Services) Act 1948, upon the provision of an order/bye-law by a sanitary authority (in most cases, a local authority).[43] Non-compliance with the notice is an offence and a person shall be liable on summary conviction to a fine not exceeding €1,269.74.[44] A second or subsequent conviction under this provision in relation to the same temporary dwelling, "the Court may, in addition to or in lieu of imposing a fine, order the forfeiture of the temporary dwelling to the sanitary authority concerned and thereupon that authority may take possession of the

[40] Section 46(5).
[41] Section 46(6).
[42] 160(1) Where an unauthorised development has been, is being or is likely to be carried out or continued, the High Court or the Circuit Court may, on the application of a planning authority or any other person, whether or not the person has an interest in the land, by order require any person to do or not to do, or to cease to do, as the case may be, anything that the Court considers necessary and specifies in the order to ensure, as appropriate, the following: (*a*) that the unauthorised development is not carried out or continued; (*b*) in so far as is practicable, that any land is restored to its condition prior to the commencement of any unauthorised development; (*c*) that any development is carried out in conformity with the permission pertaining to that development or any condition to which the permission is subject. (2) In making an order under *subsection (1)*, where appropriate, the Court may order the carrying out of any works, including the restoration, reconstruction, removal, demolition or alteration of any structure or other feature.
[43] Section 31.
[44] The fine was increased to the amount of IR£1,000 by section 113 of the Environmental Protection Agency Act, 1992, amending section 31 of the Local Government (Sanitary Services) Act 1948. Article 1 of Council Regulation (EC) No. 2866/98 of 31 December 1998 confirmed that the conversion rate between the Irish punt and the euro was fixed at IR£0.787564 to €1, and so IR£1,000 equates to €1,269.74.

temporary dwelling and dispose of it by sale, destruction or otherwise as they think fit". This sanction, which may be – and has been – used to destroy a home carries no explicit statutory requirement to take into account human rights provisions. A sanitary authority may request a member of the Garda Síochána to assist them in the exercise of their certain powers. It is notable that the only requirement in relation to notification of the existence of an Order made by is that, 14 days after an order has come into force, the local authority (or sanitary authority) is required to publish a copy of the order in a newspaper circulating in the area. However, there does not appear to have any requirement to erect signage. Nor does there appear to be any requirement to give notice prior to issuing a summons and bringing a prosecution in court for breach of the order/bye-law. Alternatively, a court itself, rather than a local authority, can make an order itself prohibiting the erection of a temporary dwelling in a particular location, and failure to comply with that order becomes an offence.

Public Health (Ireland) Act 1878, as amended by the Environmental Protection Agency Act 1992

This Act allows the local authority to serve a notice on a person residing in a caravan in its functional area requesting that they 'abate the nuisance'. Failure to do so to their satisfaction may result in an application before the District Court.

Under Section 111, "[i]f the person on whom a notice to abate a nuisance has been served makes default in complying with any of the requisitions thereof within the time specified, or if the nuisance, although abated since the service of the notice, is, in the opinion of the [district council], likely to recur on the same premises, the [district council] shall cause a complaint relating to such nuisance to be made before a justice, and such justice shall thereupon issue a summons requiring the person on whom the notice was served to appear before a court of summary jurisdiction."

If a local authority considers that a temporary dwelling is causing a nuisance under the above Act they can apply to the court for an order to remove it. There is no requirement that the housing requirements of its occupiers be considered by the court and no provision is made to re-house those affected.

Where such a public health nuisance is found to exist, the district council has the power to issue an abatement notice or a prohibition notice or both. These notices can be served either on the creator of the nuisance, or on the owner or the occupant of the place from where the nuisance is emanating. If the notices are not complied with, the local authority will issue a fine. Alternatively, the local authority might complete the works in default and charge the owner or creator of the nuisance for the cost. It will do this in particular where the creator of the nuisance cannot be found and it is clear that the nuisance does not result from the owner's actions.

Recommendation: The State should review and repeal significant portions of the suite of evictions legisaltion used against Travellers, in particular the 2002 Housing Act, the State should introduce sanctions for housing authorities who fail to meet their targets under Traveller Accommodation Programmes revising the powers of Local and National Traveller Accommdation Consultative Committees empowering them to take action against local authorities who fail to deliver accommodation and / or underspend

their budgets and who fail to act on their advices following consultaion in particular in relaiton to the provision of Traveller accommodation. The State should conduct a value for money study relating to money spent on Traveller specific accommodation since the enactment of the Housing (Traveller Accommodation) Act 1998 and ensure that all social workers employed since the Act was enacted to deal with Travellers are fully professionally qualified social workers.

Social Welfare

State Report Para 191

All applicants for social protection in Ireland are required to meet the Habitual Residence Condition (HRC a set of criteria established to prove connection with the Irish State). As Travellers are a traditionally nomadic group, this condition clearly can prove to be difficult for Travellers to fulfill.

This condition is particularly discriminatory against marginalised nomadic people (Travellers and Roma) who already experience difficulty in accessing payments. It has a particular impact on domestic violence victims who may be even more reluctant to seek refuge from abuse where their access to payments is affected by this condition.

Recommendation: The Habitual Residence Condition should be reviewed to ensure that entire groups of people are not excluded from fairly accessing social welfare